STATE OF CALIFORNIA – DEPARTMENT OF CORRECTIONS AND REHABILITATION
AND
CALIFORNIA PRISON HEALTH CARE RECEIVERSHIP

NOTICE OF DETERMINATION

TO: OFFICE OF PLANNING AND RESEARCH
1400 TENTH STREET, ROOM 212
SACRAMENTO, CA 95814

FROM: CA DEPARTMENT OF CORRECTIONS
AND REHABILITATION
1515 S STREET, SUITE 502S
SACRAMENTO, CA 95814

CA PRISON HEALTHCARE SERVICES
P.O. BOX 4038
SACRAMENTO, CA 95812-4038

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 of the Public Resources Code.

PROJECT TITLE:

DeWitt Nelson Youth Correctional Facility Conversion

STATE CLEARINGHOUSE NUMBER:

2008022133

PROJECT LOCATION:

Arch Road and Austin Road
San Joaquin County

DEPARTMENT CONTACTS:

Robert Sleppy/Nancy MacKenzie
Environmental Services Branch
CDCR Facilities Division
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Sacramento, CA 95827
(916) 255-1141/255-2159

Evelyn Matteucci
Prison Health Care Services
State of California
P.O. Box 4038, Suite 100
Sacramento, CA 95812-4038
(916) 323-1738

PROJECT DESCRIPTION:

The proposed Project includes the conversion and reuse of the existing DeWitt Nelson facility to a semi-autonomous adult male medical and mental health facility. The adjoining California Health Care Facility (CHCF) project is expected to provide primary administration and support for the proposed Project. The proposed Project would include housing, programming, healthcare facilities, inmate visiting and some support facilities. The Project would contain three new housing units and the potential renovation of four existing dormitory housing units for the proposed inmate population. The new housing units and four existing dormitories would house up to a maximum of 1,133 inmates. Perimeter security for the DeWitt Nelson facility would include a lethal electrified fence. A total of eight, 35-foot guard towers would be placed around the entire secured perimeter of the facility, one tower every 750 feet, including a tower located at the proposed sally port. An outdoor firing range would be constructed on approximately 5 acres of undeveloped agricultural property south of the DeWitt Nelson facility, north of Littlejohns Creek. The range would typically only be used by law enforcement personnel; it would never be open to the public. To promote greater efficiencies in the Project, the Project may be designed so that only one security fence will surrounding both the Project facilities and the adjacent CHCF. In addition, to meet the standards of the

American Correctional Association, the renovated dormitory housing units may be slightly expanded. Neither design choice will result in any different environmental impacts from those analyzed in the Draft and Final EIRs for the Project.

This is to advise that CDCR approved the above-described project on December 29, 2010, and has made the following determinations regarding the project, pursuant to CEQA Guidelines Section 15164:

1. The subject project will have significant effects on the environment.
2. An EIR was prepared and certified for the DeWitt Nelson Youth Correctional Facility Conversion (SCH No. 2008022133) pursuant to the provisions of the California Environmental Quality Act.
3. Mitigation measures were made a condition of the approval of the subject project.
4. A Mitigation Monitoring and Reporting Program was adopted for the subject project.
5. A Statement of Overriding Consideration was adopted for the subject project.
6. Findings were made pursuant to the provisions of the California Environmental Quality Act for the subject project.

This is also to advise that the California Prison Healthcare Receiver concurs in the Secretary's approval of the operation of those portions of the DeWitt Nelson Youth Correctional Facility Conversion for which the Receiver has oversight on December 29, 2010, and has made the following determinations regarding the project, pursuant to CEQA Guidelines Section 15164:

1. The subject project will have significant effects on the environment.
2. An EIR was prepared and certified for the DeWitt Nelson Youth Correctional Facility Conversion (SCH No. 2008022133) pursuant to the provisions of the California Environmental Quality Act.
3. Mitigation measures were made a condition of the approval of the subject project.
4. A Mitigation Monitoring and Reporting Program was adopted for the subject project.
5. A Statement of Overriding Consideration was adopted for the subject project.
6. Findings were made pursuant to the provisions of the California Environmental Quality Act for the subject project.

This is to certify that the final EIR with comments and responses and the record of project approval are available to the general public at: 9838 Old Placerville Road, Suite B, Sacramento, California.

Date Received for Filing:

Matthew L. Cate

MATTHEW CATE, Secretary
California Department of Corrections and Rehabilitation

J. CLARK KELSO, Receiver
California Prison Healthcare Receiver

RESOLUTION OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION ADOPTING THE CEQA FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVING THE DEWITT NELSON YOUTH CORRECTIONAL FACILITY CONVERSION PROJECT

WHEREAS, the California Department of Corrections and Rehabilitation (CDCR) is the lead agency, pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 *et seq.*) and State CEQA Guidelines (Cal. Code Regs., tit. 14 § 15000 *et seq.*), for the proposed DeWitt Nelson Youth Correctional Facility Conversion Project (the "Project"), to be located in San Joaquin County, California;

WHEREAS, the Project is located at the existing Northern California Youth Correctional Center, and involves the conversion and reuse of the existing DeWitt Nelson facility to an adult male medical and mental health facility;

WHEREAS, on February 14, 2006, Judge Henderson appointed a federal Receiver in the case of *Plata v. Schwarzenegger* and conferred upon him executive management of the California medical health care delivery system, specifically directing him to control, oversee, supervise, and direct all operational functions of the medical system. Receiver J. Clark Kelso was appointed by the district court in January 2008 to replace the former Receiver and has successfully worked cooperatively with CDCR to process and approve projects consistent with the court orders.

WHEREAS, CDCR has coordinated and cooperated with the Office of the Federal Receiver, Receiver Mr. J. Clark Kelso and California Prison Health Care Services, in planning the Project to include necessary medical and mental health care facilities;

WHEREAS, the Receiver has coordinated and cooperated with CDCR in the preparation of an Environmental Impact Report (EIR) for the DeWitt Nelson project pursuant to the CEQA. The EIR also evaluates the proposed Northern California Reentry Facility project under CEQA, which is a separate, independent project from the DeWitt Nelson project.

WHEREAS, the federal district court, in the *Coleman v. Schwarzenegger* litigation ordered CDCR to construct new health care facilities at several prison sites, including the DeWitt Nelson site. On September 24, 2009, the court ordered CDCR to prepare and submit "timetables for completion of each step" that must be taken in order for all *Coleman* projects to be "fully staffed and activated by the 2013 target date." On November 6, 2009, CDCR filed with the court a detailed long-range plan and activation schedule, which included DeWitt Nelson Youth Correctional Facility Conversion project (the "DeWitt Nelson project"). On January 4, 2010, the *Coleman* court ordered CDCR, to construct and activate the DeWitt Nelson project by 2013. The approved activation schedule, which was filed with the court on March 30, 2010, designates the DeWitt Nelson site as the location for proposed DeWitt Nelson Youth Correctional Facility Conversion project, indicates that 1,133 beds will be constructed, and describes the specific steps that must be taken to plan for, construct, and activate the DeWitt Nelson project.

WHEREAS, the Project will house a maximum of 1,133 adult inmates and is designed to alleviate overcrowding in California's prison system and reactivate presently unused state facilities;

WHEREAS, on August 16, 2010, CDCR filed a Revised Notice of Preparation of the Environmental Impact Report for the Project and CDCR held two public scoping meetings in Stockton on August 24, 2010;

WHEREAS, CDCR released a Draft Environmental Impact Report (DEIR) for the Project on October 6, 2010, and provided a 45-day public review period. On November 3, 2010, CDCR held two public hearings in Stockton;

WHEREAS, CDCR received 11 written and oral comments on the DEIR from organizations, individuals, and public agencies;

WHEREAS, on December 16, 2010, CDCR released the Final EIR for the Project (SCH # 2008022133). The Final EIR includes the responses to comments on the DEIR, and corrections and revisions to the DEIR, plus an attached technical appendix. The Final EIR incorporates the DEIR by reference; and identifies no new significant information or new significant impacts;

WHEREAS, the Final EIR, including the DEIR, identifies the significant environmental impacts of the Project, identifies feasible mitigation measures to reduce most impacts to a less than significant level, and identifies some impacts that cannot be mitigated to a less than significant level;

WHEREAS, the Secretary of CDCR has, by means of a Resolution dated December 29, 2010, certified that the Final EIR was prepared in full compliance with the terms of CEQA and the State CEQA Guidelines, was considered and reviewed by CDCR prior to its decision whether to approve or disapprove the Project, and reflects CDCR's independent judgment and analysis;

WHEREAS, the Secretary of CDCR has determined that the Project will result in the following benefits: (i) reactivating and reusing existing state facilities; (ii) reducing prison overcrowding; (iii) providing necessary inmate health care and medical care; (iv) creating and restoring jobs in the Stockton area; and (v) contributing to infrastructure upgrades;

WHEREAS, CDCR has made written Findings for each significant effect of the Project, and CDCR has determined that the benefits of the Project outweigh any significant and unavoidable impacts on the environment, as stated in CDCR's Statement of Overriding Considerations;

WHEREAS, CDCR has prepared a Mitigation Monitoring and Reporting Program (MMRP), which includes all feasible mitigation measures designed to avoid or reduce, to less than significant levels, the Project's significant adverse impacts on the environment, as well as a plan for reporting obligations and procedures;

WHEREAS, CDCR wishes to approve the Findings document, which includes the Statement of Overriding Considerations and the MMRP; and

WHEREAS, in light of CDCR's findings regarding the Project's benefits and adverse impacts on the environment, CDCR wishes to approve the Project;

NOW, THEREFORE, the Secretary of CDCR resolves as follows:

1. Findings, Statement of Overriding Considerations, MMRP. CDCR hereby approves and adopts the CEQA Findings of Fact and Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program (MMRP), attached hereto and incorporated herein by reference.

2. Approval of Project. CDCR hereby approves the DeWitt Nelson Youth Correctional Facility Conversion Project. The Project will only proceed if and when State funding becomes available for that Project. Mitigation measures associated with each Project component that are identified in the MMRP shall only be implemented at the time construction of the Project begins.

3. Notice of Determination. CDCR shall, jointly with the Office of the Federal Receiver, file a Notice of Determination with the State Office of Planning and Research within five working days after this approval.

ADOPTED this 29 day of December, 2010.

By: _____
Matthew Cate, Secretary

ATTEST:

By: _____
Chris Meyer, Senior Chief
Facility Planning, Construction, and Management

BE IT RESOLVED that the Receiver:

1. Concurs in the Project approval resolution adopted by the Secretary of CDCR, including the CEQA Findings of Fact and Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program;

2. Concurs in the approval of the operation of the proposed facilities for which the Receiver has oversight authority; and

3. Finds the facilities are consistent with and in furtherance of the Receiver's court-approved Turnaround Plan of Action.

ADOPTED this 29 day of December, 2010.

PRISON HEALTH CARE RECEIVERSHIP CORPORATION

By: _____
J. CLARK KELSO, Receiver

FINDINGS OF FACT
AND
STATEMENT OF OVERRIDING CONSIDERATIONS
FOR THE
DEWITT NELSON YOUTH CORRECTIONAL FACILITY CONVERSION
ENVIRONMENTAL IMPACT REPORT

Prepared by:

California Department of Corrections and Rehabilitation
Facility Planning, Construction, and Management
Facilities Management Division
Environmental Services Branch
9838 Old Placerville Road, Suite B
Sacramento, California 95827
Contact:
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Environmental Planning Section
916/255-3010

December 2010

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SECTION 1
STATEMENT OF FINDINGS

1.1 INTRODUCTION

a. Need for the Project

CDCR is mandated to construct the DeWitt Nelson Youth Correctional Facility Conversion Project (Project) in order to comply with a federal court order, subject to CEQA. CEQA requires CDCR to consider the significant adverse consequences of the proposed action prior to its approval along with the adoption of findings and mitigation measures, and the consideration of alternatives to the Project. The U.S. District Court for the Eastern District of California, in a case known as *Coleman v. Schwarzenegger* (*Coleman* litigation), determined that CDCR was not providing adequate mental health care to inmates, and subsequently ordered CDCR to construct new health care facilities at several prison sites, including the DeWitt Nelson site. On January 4, 2010, the *Coleman* court ordered CDCR to construct and activate the DeWitt Nelson project by 2013. The approved activation schedule for the Project, which was filed with the court on March 30, 2010, designates the DeWitt Nelson site as the location for the Project, indicates that 1,133 beds will be constructed, and describes the specific steps that CDCR must take to plan for, construct, and activate the Project.

The California Department of Corrections and Rehabilitation (CDCR) has confronted a problem of serious overcrowding in its adult facilities for a number of years. On October 4, 2006, faced with a prison population of 160,000 or approximately twice the design capacity of existing prisons, Governor Schwarzenegger declared a state of emergency for the prison system. Governor Schwarzenegger found that there were "conditions of extreme peril" that threatened "the health and safety of the men and women who work inside [severely overcrowded prisons] and the inmates housed in them."

In 2007, responding to the Governor's declaration of a state of emergency, the Legislature enacted and Governor Schwarzenegger signed into law AB 900, the Public Safety and Offender Rehabilitation Services Act of 2007, which the Legislature intended to serve as the vehicle for CDCR to build the needed facilities to: (i) reduce overcrowding; (ii) provide adequate medical, mental health, and dental facilities for inmates, as well as facilities to meet the needs of disabled inmates; and (iii) assist inmates in their last year of incarceration to make a successful transition to life outside the prison system.

The Project is an important step by CDCR towards achieving the Legislature's goals in AB 900. The Project involves the repurposing of the existing DeWitt Nelson Youth Correctional Facility, located within the Northern California Youth Correctional Center (NCYCC). The DeWitt Nelson facility was closed in July 2008 due to the reduction of the number of juvenile offenders sentenced to state facilities. For a complete project description please refer to Section 2, below, and to Chapter 3 of the Draft Environmental Impact Report (EIR) for the Project, which is attached hereto as Attachment B.

b. Project Goals/Objectives

CDCR's primary and fundamental objective of the Project is to help provide, in an expeditious manner, constitutionally adequate mental health care for California prison inmates consistent with the *Coleman* court orders. Other objectives of the DeWitt Nelson project are to:

- Implement the goals set forth in AB900 to increase male adult inmate prison capacity and associated support and program space to reduce overcrowding and improve living conditions for inmates.

- Locate the medical and mental health facility in a geographic area which effectively serves the state prison populations.

- Locate the medical and mental health care facility in proximity to a metropolitan area where there is access to a large employment base to serve the facility, including areas with potential training facilities.

- Utilize existing facilities, infrastructure, and available state-owned land to provide needed facilities at the lowest cost to taxpayers.

- Size the facility to achieve the most efficient and optimal patient care while ensuring a secure facility.

- Design the facility in a manner that is conducive to optimal care, including patient access to diagnostic and treatment center, patient support areas, and outdoor areas.

- Provide efficiencies of care and treatment by locating the facility in the vicinity of the approved California Health Care Facility (CHCF).

- Provide a high level of security to protect the safety of the patients, correctional and medical staff, and the surrounding community.

c. Cooperation with the Federal Receiver

CDCR has the principal responsibility to design, construct and operate the proposed project. CDCR is responsible for the selection of the subject project site, for securing the funding for the project, for their design and construction, and for operation of the completed facilities. As described above, CDCR will act as the lead agency under the California Environmental Quality Act for the Project by considering whether to: (i) separately certify the Final EIR for the proposed project, and (ii) separately approve the proposed Project.

The Office of the Federal Receiver (Receiver), currently Mr. J. Clark Kelso, also has an important role in the Project approval process. The Receiver is appointed by and responsible to the U.S. District Court, which has conferred upon him executive management of the California prison medical health care delivery system and directed him to control, oversee, supervise, and direct all operational functions of the medical system. The Receiver has coordinated and cooperated with CDCR in the preparation of this EIR; both CDCR and the Receiver anticipate that such cooperation and coordination for the provision of necessary medical and mental health care facilities will continue in the future. If CDCR certifies the Final EIR and approves the Project, the Receiver will consider taking the following steps for the Project:

- Adopting a resolution that: (i) concurs that the Final EIR for the Project complies with CEQA; (ii) certifies that the Receiver has reviewed the EIR for the Project; (iii) finds that the analysis of the potential effects on the environment resulting from the operation of the proposed medical and mental health facilities complies with CEQA.

- Adopting a resolution in which the Receiver will: (i) approve the operation of the proposed facilities for which he has oversight authority, and (ii) find that the facilities are consistent with and in furtherance of the Receiver's court-approved Turnaround Plan of Action.

Finally, if the EIR is certified and the project approved, CDCR and the Receiver will file a joint notice of determination (NOD) for the project.

d. CEQA Requirements for Findings

The California Environmental Quality Act, Public Resources Code §§ 21000 *et seq.* and the regulations implementing that statute, Cal. Code Regs. tit. 14, §§ 15000 *et seq.* (the "CEQA Guidelines") (collectively, the act and the CEQA Guidelines are referred to as "CEQA") require public agencies to consider the potential effects of their discretionary activities on the environment and, when feasible, to adopt and implement mitigation measures that avoid or substantially lessen the effects of those activities on the environment. Specifically, Public Resources Code section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." Section 21002 goes on to state that "in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof."

The mandate and principles announced in Public Resources Code Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. (See Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a).) For each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The three possible findings are:

(1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by the other agency.

(3) Specific economic, legal, social, technological, other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

(Public Resources Code Section 21081, subd (a); see also CEQA Guidelines Sections 15091, subd. (a).)

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 Golden Valley v. Board of Supervisors* (*Goleta II*) (1990) 52 Cal.3d 553, 565.)

The concept of "feasibility" also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 (*City of Del Mar*).) "[F]easibility" under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (*Ibid.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715 (*Sequoyah Hills*); see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001 [after weighing "'economic, environmental, social, and technological factors' ... 'an agency may conclude that a mitigation measure or alternative is impracticable or undesirable from a policy standpoint and reject it as infeasible on that ground'"].)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).) The California Supreme Court has stated, "[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*, 52 Cal.3d at p. 576)

Because the EIR identified significant effects that may occur as a result of the project, and in accordance with the provisions of the CEQA Guidelines presented above, CDCR hereby adopts these Findings as part of the approval of the Paso Robles Property Master Reuse Plan (Project). These Findings constitute CDCR's best efforts to set forth the evidentiary and policy bases for its decision to approve the Project in a manner consistent with the requirements of CEQA. These Findings, in other words, are not merely informational, but rather constitute a binding set of obligations that come into effect with CDCR's approval of the Project.

e. Organization of Findings

These Findings are organized into a number of sections: Section 1.1 provides the background and context of the Project and describes the need for these Findings; Section 1.2 includes a description of the Project and a discussion about why CDCR developed a project-specific EIR for the Project rather than a program EIR; Section 1.3 describes the CEQA environmental review process for the Project; Section 1.4 describes the record of documents for the Project; Section 1.5 describes the significant environmental impacts of the Project; Section 1.6 contains CDCR's general Findings about the Project; Section 1.7 contains CDCR's Findings regarding alternatives to the Project; Section 1.8 contains CDCR's Findings regarding the significant and unavoidable effects of the Project; Section 1.9 describes the Mitigation Monitoring and Reporting Program (MMRP) for the Project; and Section 2 contains a Statement of Overriding Considerations.

1.2 DESCRIPTION OF THE APPROVED PROJECT

For a complete project description please refer to Chapter 3 of the Draft EIR, which is attached hereto as Attachment B.

a. Project Location

The Project site is located less than two miles east of State Route 99 (SR 99) in unincorporated central San Joaquin County, California, immediately southeast of the Stockton city limits. It is approximately 6 miles northeast of the cities of Lathrop and Manteca, 21 miles northwest of Modesto, 17 miles northeast of Tracy, and 15 miles south of Lodi. Formerly a youth correctional facility, the DeWitt Nelson facility is located on the NCYCC property. The project site consists of 70 acres directly south of the CHCF site and is currently accessed from Newcastle Road, which intersects with Arch Road to the north. Littlejohns Creek is located approximately 700 feet south of the project site and is located immediately adjacent to an existing retention basin that currently receives drainage from the NCYCC and other surrounding properties; Forward Landfill is located immediately south of Littlejohns Creek.

b. Project Description

For a complete project description please refer to Chapter 3 of the Draft EIR, which is attached hereto as Attachment B. Please also refer to Section 1.7, below, which describes the features of Alternative 1 that are proposed to be incorporated as part of the Project. These changes are also described in Section1.1.1 of the Final EIR.

The proposed Project includes the conversion and reuse of the existing DeWitt Nelson facility to a semi-autonomous adult male medical and mental health facility. The adjoining California Health Care Facility (CHCF) project is expected to provide primary administration and support for the proposed Project. The proposed Project would include housing, programming, healthcare facilities, inmate visiting and some support facilities. The Project would contain three new housing units and the potential renovation of four existing dormitory housing units for the proposed inmate population. The new housing units and four existing dormitories would house up to a maximum of 1,133 inmates. Perimeter security for the DeWitt Nelson facility would include a lethal electrified fence. A total of eight, 35-foot guard towers would be placed around the entire secured perimeter of the facility, one tower every 750 feet, including a tower located at the proposed sally port. An outdoor firing range would be constructed on approximately 5 acres of undeveloped agricultural property south of the DeWitt Nelson facility, north of Littlejohns Creek. The range would typically only be used by law enforcement personnel; it would never be open to the public. To promote greater efficiencies in the Project, the Project may be designed so that only one security fence will surrounding both the Project facilities and the adjacent CHCF. In addition, to meet the standards of the American Correctional Association, the renovated dormitory housing units may be slightly expanded. Neither design choice will result in any different environmental impacts from those analyzed in the Draft and Final EIRs for the Project.

c. Operational Characteristics and Staffing

The Project would employ approximately 453 employees, including correctional officers, medical and mental healthcare professionals, and other support staff working around the clock in three 8-hour shifts. The project would operate 24 hours per day, 7 days per week.

d. Project EIR, Not Program EIR

CDCR has determined that the most effective type of EIR for the Project is a "project EIR." A project EIR is the "most common type of EIR" and "examines the environmental impacts of a specific development project." (State CEQA Guidelines Section 15161). Consistent with Section 15161, the EIR for the Project focuses on changes in the environment that would result from the proposed Project, as well as the combination of the Project with the Northern California Reentry Facility (NCRF) project, which is a separate project that is proposed in the same vicinity and at the same time as the DeWitt Nelson Project. The Draft EIR examines all phases of the Project "including planning, construction, and operation."

Another type of EIR available to lead agencies under CEQA is a "program EIR." As stated in Section 15168(a) of the State CEQA Guidelines, a program EIR *may* be prepared for "a series of actions that can be characterized as one large project," such as those that are related either geographically, as a chain of contemplated actions, in connection with rules, regulations or plans, or as "individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects." The decision whether to prepare a program EIR is within the lead agency's discretion, unless "an individual project is a necessary precedent for action on a larger project, or commits the lead agency to a larger project, with significant environmental effect." (State CEQA Guidelines Section 15165)

CDCR has determined that a program EIR, which would evaluate the potential impacts on the environment from the development of thousands of new beds throughout the state in one CEQA document, is neither necessary nor advisable. The planning and construction of projects under AB 900, including *Coleman* court-ordered projects, are each in different stages. For some projects the CEQA and/or construction process is complete, but other projects are not yet proposed and site selection has not begun.

Moreover, in order for CDCR to utilize funds under AB 900, it must first submit a site-specific project scope and budget estimate to the State Department of Finance. The Joint Legislative Budget Committee (JLBC) then reviews and comments upon each proposal. Through this iterative process the JLBC has already requested that at least one CDCR proposal be deferred. The scope and budget proposal for a particular project must also be accepted by the State Public Works Board (SPWB) and each project is evaluated before preliminary plans may be prepared. This process is conducted by the JLBC and SPWB, one project at a time, and each project is evaluated on its own merits. No project serves as a foundation for other projects and no project approval commits JLBC or SPWB to any future projects.

Furthermore, environmental impacts are unique to each project site; some projects may have impacts that are similar, whereas others may have impacts that differ substantially. CDCR's independent projects would occur in different air basins, watersheds, and local government planning areas. Since each site is unique, the projects will not have similar environmental effects that could be mitigated in similar ways. The facilities constructed under AB 900 will be independently managed and will serve a variety of purposes. The proposed Project analyzed in the Project's EIR, if approved, would function on its own regardless of whether other projects being considered are built. There is no known overlap of impacts between the proposed Project analyzed in the EIR and other projects contemplated under AB 900, including other *Coleman* projects. Because each project contemplated under AB 900 will serve an independent function and will be unrelated to the others in time, location, and potential environmental impacts, CDCR is not required to address all such projects in a program EIR.

1.3 ENVIRONMENTAL REVIEW PROCESS

CDCR has, pursuant to the requirements of CEQA, prepared an EIR to analyze the potential effects of the Project on the environment. As required by CEQA, CDCR has conducted a thorough public outreach effort during the environmental review process so as to ensure that governmental decision makers and members of the public are informed about the potential for significant adverse effects on the environment from proposed activities. Moreover, CDCR has sought to demonstrate to residents in the vicinity of the Project that CDCR has, in fact, analyzed and considered the ecological implications of its actions.

CDCR began its public outreach effort at the outset of the CEQA process. CDCR decided to prepare an EIR for the Project, and a Notice of Preparation (NOP) was distributed to the California State Clearinghouse at the Governor's Office of Planning and Research and circulated to other potentially interested public agencies and members of the public in August 16, 2010. The release of the NOP initiated a 30-day public comment period. The NOP notified the public that the Draft EIR would be prepared for the Project, and briefly described the elements of the Project and the scope of the environmental analysis that would be presented in the Draft EIR. The NOP also requested that public agencies and members of the public provide their comments on the scope and content of the Draft EIR that would be prepared. In addition, CDCR held two public scoping meetings on August 24, 2010. CDCR considered the comments received on the NOP in refining the scope of analysis for the EIR.

CDCR released the Draft EIR for the Project on October 11, 2010 with a 45-day review period pursuant to CEQA Guidelines §15105. CDCR held two public hearings to receive comments from agencies and members of the public on November 3, 2010. The review period closed on November 29, 2010. CDCR received comments from state agencies, local governmental agencies, and members of the public. Those comments, and CDCR's responses to those comments, are contained in the Final EIR.

CDCR also held meetings with public agencies to discuss the Project and its potential effects on the environment, specifically:

- November 12, 2010 meeting with representatives of Caltrans regarding traffic issues.
- November 29, 2010 meeting with representatives from the California Department of Fish and Game and the United States Fish and Wildlife Service to discuss biological resource issues.
- December 9, 2010 meeting with representatives from the San Joaquin County to discuss biological resource issues.

CDCR has, in fact, met with each public agency or member of the public that has requested a meeting to discuss the Project.

1.4 DESCRIPTION OF THE RECORD

For purposes of CEQA and these Findings, the record before the Secretary is composed of all non-privileged documents relating to the Project in CDCR's files on this matter, including, without limitation:

a. The Notice of Preparation prepared for the Project;

b. The Draft EIR for the Northern California Reentry Facility and DeWitt Nelson Youth Correctional Facility Conversion Projects, together with all appendices to the Draft EIR;

c. All comments or documents submitted by public agencies or by members of the public during or after the comment period on the Draft EIR or up to the Secretary's approval of the Project;

d. The Final EIR for the Northern California Reentry Facility and DeWitt Nelson Youth Correctional Facility Conversion Projects, together with all appendices to the Final EIR;

e. The Mitigation Monitoring and Reporting Program (MMRP) attached as Attachment A to these Findings;

f. All findings and resolutions adopted by the Secretary in connection with the Project and all documents cited or referred to therein;

g. All staff reports and presentation materials related to the Project, including internal reports and analyses prepared by consultants to CDCR;

h. All studies conducted for the Project and contained in, or referenced by, staff reports, the Draft EIR, the Final EIR or the MMRP;

i. All public reports and documents related to the Project prepared for or by CDCR, including, without limitation, all planning documents (e.g, CDCR's Population Reduction Plan), other public agencies, the *Plata* Receiver, or the federal courts.

j. All public reports and documents relating to the potential conversion of former Division of Juvenile Justice facilities to serve adult populations;

k. All documentary and oral evidence received and reviewed at public hearings, meetings and workshops related to the Project, the Draft EIR, the Final EIR or the MMRP;

l. All other public reports and documents relating to the Project that were used by CDCR staff or consultants in the preparation of the Draft EIR, the Final EIR or the MMRP; and

All other documents, not otherwise included above, required by Public Resources Code section 21167.6.

1.5 SIGNIFICANT ENVIRONMENTAL IMPACTS OF THE PROJECT

The EIR identifies significant impacts to a number of environmental resources, including air quality, biological resources (project), cultural resources (project), geology and soils (project), paleontological resources (project), hazardous materials (project), hydrology and water quality (project), noise (project), and transportation (project and cumulative). As described below (Section 1.8), mitigation measures are available to reduce each of these impacts to a less-than-significant level, and CDCR has adopted such measures.

The EIR also identifies significant and unavoidable impacts to a number of environmental resources, including cumulative air quality, contribution to cumulative climate change from greenhouse gas emissions (cumulative), certain transportation facilities (project and cumulative), wastewater treatment

and disposal (cumulative) and agricultural resources (project and cumulative). As described below (Section 1.8), CDCR has adopted all feasible measures to reduce these significant impacts, yet they remain significant after adoption of those measures.

1.6 GENERAL FINDINGS

a. Certification of the EIR

In accordance with CEQA, CDCR has considered the effects of the Project on the environment, as shown in the Draft and Final EIRs and the whole of the administrative record prior to taking any action on the Project. The Final EIR was presented to the Secretary and released for public review on December 16, 2010. The Secretary has reviewed and considered the Draft and Final EIRs and the information relating to the environmental impacts of the Project contained in those documents and has certified that the EIR has been prepared and completed in compliance with CEQA. A copy of the Secretary's resolution certifying the EIR is attached hereto as Attachment C. By these Findings, the Secretary ratifies and adopts the conclusions of the Final EIR as set forth in these Findings, except where such conclusions are specifically modified by these Findings. The Final EIR and these Findings represent the independent judgment and analysis of the Secretary.

b. Changes to the Draft EIR; No Need to Recirculate

In the course of responding to comments received during the public review and comment period on the Draft EIR, certain portions of the Draft EIR have been modified and new information has been added. No information has revealed the existence of: (1) a significant new environmental impact that would result from the Project or an adopted mitigation measure; (2) a substantial increase in the severity of an environmental impact; (3) a feasible project alternative or mitigation measure not adopted that is considerably different from others analyzed in the Draft EIR that would clearly lessen the significant environmental impacts of the Project; or (4) information that indicates that the public was deprived of a meaningful opportunity to review and comment on the Draft EIR. Consequently, CDCR finds that the amplifications and clarifications made to the Draft EIR in the Final EIR do not collectively or individually constitute significant new information within the meaning of Public Resources Code §21092.1 and CEQA Guidelines §15088.5. Recirculation of the Draft EIR or any portion thereof, is therefore not required.

c. Evidentiary Basis for Findings

These Findings are based upon substantial evidence in the entire record before CDCR. The references to the Draft EIR and Final EIR set forth in the Findings are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these Findings.

d. Findings Regarding Mitigation Measures

i. Mitigation Measures Adopted

Except as otherwise noted, the mitigation measures herein referenced are those identified in the Final EIR and adopted by CDCR as set forth in the MMRP.

ii. Impact After Implementation of Mitigation Measures.

Except as otherwise stated in these Findings, in accordance with CEQA Guidelines §15092, CDCR finds that environmental effects of the Project will not be significant or will be mitigated to a less than significant level by the adopted mitigation measures. CDCR has substantially lessened or eliminated all significant environmental effects where feasible. CDCR has determined that any remaining significant effects on the environment that are found to be unavoidable under CEQA Guidelines §15091 are acceptable due to overriding considerations as described in CEQA Guidelines §15093. These overriding considerations consist of specific environmental, economic, legal, social, technological, and other benefits of the Project, which justify approval of the Project and outweigh the unavoidable adverse environmental effects of the Project, as more fully stated in Section 2 (Statement of Overriding Considerations). Except as otherwise stated in these Findings, CDCR finds that the mitigation measures incorporated into and imposed upon the Project will not have new significant environmental impacts that were not analyzed in the Draft EIR.

iii. Relationship of Findings and MMRP to Final EIR

These Findings and the MMRP are intended to summarize and describe the contents and conclusions of the Draft and Final EIR for policymakers and the public. For purposes of clarity, some of these measures may be worded differently from the provisions in the Final EIR and/or some provisions may be combined. Nonetheless, CDCR will implement all measures contained in the Final EIR. In the event that there is any inconsistency between the descriptions of mitigation measures in these Findings or the MMRP and the Final EIR, CDCR will implement the measures as they are described in the Final EIR. In the event a mitigation measure recommended in the Final EIR has inadvertently been omitted from these Findings or from the MMRP, such a mitigation measure is hereby adopted and incorporated in the Findings and/or MMRP as applicable.

e. Location and Custodian of Records

Pursuant to Public Resource Code §15091, CDCR is the custodian of the documents and other materials that constitute the record of proceedings upon which the decision is based, and such documents and other materials are located at the offices of CDCR's Division of Facility Planning, Construction, and Management, which are located at 9838 Old Placerville Road, Suite B, Sacramento, California. Copies of the Draft and Final EIRs are also available at CDCR's website, www.cdcr.ca.gov.

1.7 ALTERNATIVES

NO PROJECT ALTERNATIVE

Consistent with the State CEQA Guidelines (Section 15126.6(e)), this EIR evaluates a No Project Alternative. Under the No Project Alternative, no development or other improvement associated specifically with the proposed DeWitt Nelson project would occur on the project site. Note, however, that utilities extension and other improvements associated with other proposed CDCR projects, both on and offsite, as evaluated under previous CEQA documents (e.g., the CHCF EIR) are still assumed to occur. Under the No Project Alternative, the existing DeWitt Nelson facility would remain unoccupied. No additional structures would be added to either project site. While CDCR would appropriately secure the existing facility, some vegetation may become overgrown, while other vegetation and trees may die due

to lack of irrigation. Building exteriors may become weathered and require repair. The project site would probably remain unlit during nighttime hours or have reduced lighting.

CDCR finds this alternative to be infeasible for legal, social and economic reasons. As stated in the DEIR, CDCR is mandated to construct the proposed DeWitt Nelson project in order to comply with a federal court order, subject to CEQA. The U.S. District Court for the Eastern District of California, in a case known as *Coleman v. Schwarzenegger* (*Coleman* litigation), determined that CDCR was not providing adequate mental health care to inmates, and subsequently ordered CDCR to construct new health care facilities at several prison sites, including the DeWitt Nelson site. On September 24, 2009, the court ordered CDCR to prepare and submit "timetables for completion of each step" that must be taken in order for all *Coleman* projects to be "fully staffed and activated by the 2013 target date." On November 6, 2009 CDCR filed with the court a detailed long range plan and activation schedule, which included DeWitt Nelson project (see Exhibit 12 to court filing). On January 4, 2010, the *Coleman* court ordered CDCR, to construct and activate the DeWitt Nelson project by 2013. The approved activation schedule, which was filed with the court on March 30, 2010, designates the DeWitt Nelson site as the location for the proposed project, indicates that 1,133 beds will be constructed, and describes the specific steps that CDCR must take to plan for, construct, and activate the DeWitt Nelson project.

Implementation of the No Project Alternative would not meet any of the objectives of the DeWitt Nelson conversion project, but, most notably, would not meet the project's primary and fundamental objective, which is to help provide, in an expeditious manner, constitutionally adequate mental health care for California prison inmates consistent with the *Coleman* court orders.

DeWitt Nelson Alternative 1: Meet American Correctional Associations (ACA) Space Standards/Combine Perimeter Security Fence

The first alternative to the proposed DeWitt Nelson project would meet the following: (1) renovate and enlarge the four existing DeWitt Nelson housing units to meet ACA space and program standards. This involves expanding the four existing units by approximately 38,000 square feet. The additions would be contiguous to the existing structures. (2) Provide a continuous secure perimeter fencing system that would encircle both the approved CHCF site and the proposed DeWitt Nelson facility with a single perimeter. This single perimeter option would remove the cross fencing currently shown on the site plan for the proposed project. (3) Locate the three new housing units in the upper northeast corner of the project site instead of building them directly east of the existing housing units. These new housing units would meet ACA space and program standards; some of the program space that would have been created by renovation of the former DeWitt Nelson educational buildings (south end of complex) would be absorbed into these new buildings. The changes that this alternative will result in include: (1) reduction in the amount of perimeter fencing, (2) consolidation of pedestrian sally ports [only one is now necessary], (2) relocation of employee and visitor parking to adjacent but unused area within southern edge of CHCF site, (3) abandonment and demolition of educational and vocational buildings on southern edge of site plan, and (4) use of the "gap" area for new housing development. The proposed site plan for the conversion of the existing DeWitt Nelson facility provides for the installation of a new double security fence perimeter with a lethal electric fence element around the entire facility. This perimeter would replace the existing Department of Juvenile Justice (DJJ) perimeter that can only be used for juvenile wards. The new perimeter would meet all CDCR adult correctional safety standards including the installation of armed observation towers (about 750 feet apart) and an outer patrol road. The CHCF would have an identical perimeter fence, towers, and outer patrol road.

It should be noted that since release of the DEIR, the project proposal has modified to include most of the features of Alternative 1. This change was fully described in the FEIR. The primary remaining difference between the proposed project and Alternative 1 is the precise alignment of the combined perimeter fence. Specifically, the east side of the Alternative 1 site plan runs north and south in a straight line, whereas, on the east side of the proposed DeWitt Nelson site plan, the fence on the east side of the site would first turn 90 degrees east at the south edge of the DJJ utility complex; at the point the fence reaches the eastern edge of the DJJ utility area the fence would then correspondingly turn 90 degrees north and run to the point of connection with the CHCF perimeter fence. Once connected the remaining section of cross fencing on the north side of the DeWitt Nelson perimeter could be removed along with the necessary sallyport(s). In contrast to the alignment of the combined perimeter fence in the proposed project, the alignment under Alternative 1 would require removal of the east end of the maintenance building in the DJJ utility area and slightly inhibits line of site for officers.

Implementation of Alternative 1 would result in impacts that are nearly identical to the proposed project. Therefore, Alternative 1 would not reduce or avoid any of the significant environmental impacts resulting from the proposed project.

DeWitt Nelson Alternative 2: Meet ACA Standards/Replace Existing Structures

Unlike the proposed DeWitt Nelson Conversion project, Alternative 2 would not renovate or otherwise reuse existing structures at the DeWitt Nelson Youth Correctional Facility; rather, the alternative would include 100% new construction and would allow for more compact development and more efficiency in long-term operations, while reducing the overall footprint of the project. The new structures, which would not change the total number of proposed beds and staff (there is a potential that fewer staff would be needed due to efficiencies), would be located in the upper northeast portion of the DeWitt Nelson project site between the approved CHCF Stockton project site and the existing DeWitt Nelson complex. This alternative would include a combined secure perimeter fence with the CHCF Stockton fence. The proximity to CHCF Stockton would enhance the efficiency of the movement of inmates between the two facilities. Under this alternative, the length of the combined secure perimeter fence would be substantially shorter than the total length of the separate CHCF Stockton perimeter fence and proposed DeWitt Nelson perimeter fence. Also, similar to Alternative 1, the overall layout and operation (including number of beds and staff) of the CHCF project would not be affected by this alternative. The Alternative 2 parking lot would be located near the CHCF Stockton parking lot.

Under the Alternative 2, the majority of the existing buildings in the former DeWitt Nelson Facility would be permanently abandoned because they are not needed to meet the objectives of the proposed project. To assure security of the grounds all the housing units and related administrative and support buildings would be secured so there could be no unauthorized entry. Under this alternative no entitlement for their renovation and reuse would be established through the current environmental review process.

The future use of these buildings would first depend on either approval by the State Public Works Board under the provisions of AB 900 of 2007 of an authorized scope, budget, and schedule for a defined project or passage of new legislation that would provide funding for a new project. These buildings cannot be reoccupied under the current provisions of the state building code unless they have been brought up to meet the latest standards of Title 24 including improvements to address a variety of public safety and access requirements.

Although it is likely that many of the construction-related impacts of Alternative 2 would be higher than the proposed DeWitt Nelson project, due to the additional site preparation necessary and the additional new construction, the increases would be slight because there is a trade-off between the renovation and the new construction. Therefore, construction impacts related to air quality, cultural resources, soil erosion, water quality, hazardous materials, and noise would be similar to the proposed DeWitt Nelson project. Alternative 2 would reduce the project's biological resource impacts from potential contact to the electrified fence and to nesting raptors and native trees (all of which would be mitigated to a less-than-significant level with the project). Alternative 2 would result in slightly fewer impacts to the environment, but would not substantially reduce or avoid any of the project's significant environmental impacts.

CDCR finds this alternative to be infeasible for economic reasons. Construction of a completely new facility is expected to cost substantially more than utilizing existing facilities. Also, the long-term cost of up-keeping the vacant DeWitt Nelson facilities in perpetuity is a consideration. Long-term liability costs are also a consideration. There is also cost associated with not using a developed property that could otherwise be sold or produce income. This alternative would attain the basic objectives of the project, although because it does not result in reuse of DeWitt structures, it would not fully meet an objective associated with utilizing existing facilities.

1.8 FINDINGS OF FACT

The Secretary of CDCR has reviewed the Final EIR for the DeWitt Nelson Youth Correctional Facility Conversion Project EIR, consisting of the DeWitt Nelson Youth Correctional Facility Conversion Project EIR Project Draft EIR (October 2010) and the DeWitt Nelson Youth Correctional Facility Conversion Project Responses to Comments on the Draft EIR (December 2010), together which form the Final EIR. The Secretary of CDCR has considered the public record on the project, which, in addition to the above documents and this Statement of Findings, is composed of the following element:

- Mitigation Monitoring and Reporting Program (MMRP) for the DeWitt Nelson Youth Correctional Facility Conversion EIR, December 2010. The MMRP meets the requirements of Section 21081.6 of the Public Resources Code by providing a monitoring plan designed to ensure compliance during project implementation with mitigation measures adopted by CDCR.

All relevant project documents are on file at CDCR, 9838 Old Placerville Road, Suite B, Sacramento, California, 95827.

Pursuant to Public Resources Code Section 21081, for each significant effect identified in the EIR, CDCR must make one or more of the findings described in Section 1.1 of this document.

After reviewing the public record, composed of the aforementioned elements, the Secretary of CDCR hereby makes the following findings regarding the significant effects of the proposed project, pursuant to Public Resources Code Section 21081 and Section 15091 of the State CEQA Guidelines. The numeric references for each impact refer to the impact/mitigation label included in the EIR.

AIR QUALITY

Significant Effect: Impact 4.1-1: Generation of Short-term Construction-Related Emissions of Criteria Air Pollutants and Precursors

Construction-related emissions are described as "short term" or temporary in duration and have the potential to represent a significant impact with respect to air quality. As discussed separately below, construction-related activities would result in project-generated emissions of criteria air pollutants (e.g., particulate matter,10 micrometers or less (PM_{10})) and precursors (e.g., reactive organic gases (ROG) and oxides of nitrogen (NO_X) from site preparation (e.g., demolition, excavation, grading, and clearing); off-road equipment, material delivery, and worker commute exhaust emissions; vehicle travel on paved and unpaved roads, and other miscellaneous activities (e.g., building construction, asphalt paving, application of architectural coatings, and trenching for utility installation).

Emissions of ozone precursors are primarily associated with off-road (e.g., gas and diesel) construction equipment exhaust. Worker commute trips and other construction-related activities (e.g., application of architectural coatings) also contribute to short-term increases in such emissions. Emissions of fugitive PM dust (e.g., PM_{10}) are associated primarily with ground disturbance activities during site preparation (e.g., grading) and vary as a function of such parameters as soil silt content, soil moisture, wind speed, acreage of disturbance area, and vehicle miles traveled (VMT) on- and off-site. Exhaust emissions from diesel equipment and worker commute trips also contribute to short-term increases in PM_{10} emissions, but to a much lesser extent.

Project-generated, construction-related emissions of ROG, NO_X, and fugitive dust were modeled using the SJVAPCD-recommended Urban Emissions Model 2007 Version 9.2.4 (URBEMIS) (Rimpo and Associates 2008) and the Road Construction Emissions Model, Version 6.3.2 (SMAQMD 2009a). URBEMIS and the Road Construction Emissions Model are designed to model construction emissions from land use development projects and the installation of linear infrastructure, respectively, and both allow for the input of project-specific information.

Ozone Precursor Emissions

Table 4.1-4 summarizes the modeled project-generated, construction-related emissions of ozone precursors. Construction-related air quality impacts were determined by comparing these modeling results with applicable SJVAPCD significance thresholds. As shown in Table 4.1-4, construction-related activities would result in project-generated unmitigated ozone precursor emissions (i.e., ROG and NO_X) of approximately 2.5 and 20.5 TPY in 2011, 1.5 and 8.2 TPY in 2012, and 3.4 and 5.1 TPY in 2013. Emissions of ROG during all three construction years and emissions of NO_X during 2012 and 2013 would not exceed SJVAPCD's significance threshold of 10 TPY for ozone precursors. However, emissions of NO_X in 2011 (i.e., 20.5 TPY) would exceed SJVAPCD's significance threshold of 10 TPY. Thus, emissions of NO_X from project construction could violate or contribute substantially to an existing or projected air quality violation, and/or expose sensitive receptors to substantial pollutant concentrations, especially considering San Joaquin County's nonattainment status for ozone. As a result, this impact would be **significant**.

Fugitive Particulate Matter Dust Emissions

SJVAPCD does not require projects to quantify the fugitive PM dust emissions associated with construction. Instead, SJAVPCD requires projects to comply with Regulation VIII, "Fugitive Dust PM_{10} Prohibitions," and implement applicable supplemental dust control measures. Nonetheless, for informational purposes and disclosure, Table 4.1-4 summarizes the modeling output data and stationary source threshold values for PM_{10} and $PM_{2.5}$. Though SJVAPCD has not adopted numerical CEQA mass emission thresholds for PM_{10} or $PM_{2.5}$, please note that annual unmitigated project-generated emissions would not exceed SJVAPCD adopted levels that trigger offsets for new stationary sources as part of the permit process. The DeWitt Nelson project would be legally required to comply with SJVAPCD's Regulation VIII; however, dust control measures that are contained in this regulation along with other applicable SJVAPCD-recommended controls (SJVAPCD 2002) are not currently part of the project description. Thus, emissions of fugitive dust from project construction could violate or contribute substantially to an existing or projected air quality violation, and/or expose sensitive receptors to substantial pollutant concentrations, especially considering San Joaquin County's nonattainment status. As a result, this impact would be **significant**.

Table 4.1-4
Summary of Modeled Annual Emissions of Criteria Air Pollutants and Precursors from Renovation and Construction of the DeWitt Nelson Project

Year	Emissions (TPY)			
	ROG[1]	NO_X[1]	PM_{10}	$PM_{2.5}$
Total Unmitigated Emissions—2011	2.5	**20.5**	12.3	3.3
Total Unmitigated Emissions—2012	1.5	8.2	0.6	0.5
Total Unmitigated Emissions—2013	3.4	5.1	0.4	0.3
SJVAPCD Significance Threshold	10	10	15[2]	10[2]

Notes: NO_X = oxides of nitrogen; $PM_{2.5}$ = fine particulate matter with an aerodynamic resistance diameter of 2.5 micrometers or less; PM_{10} = respirable particulate matter with an aerodynamic diameter of 10 micrometers or less; ROG = reactive organic gases; SJVAPCD = San Joaquin Valley Air Pollution Control District; TPY = tons per year

[1] ROG and NO_X are precursors to ozone.

[2] SJVAPCD has not adopted numerical CEQA mass emission thresholds for PM_{10} or $PM_{2.5}$; however, the modeling output data and stationary source threshold values are shown for information purposes and disclosure only. The threshold value shown here for PM_{10} (i.e., 15 TPY) represents the level at which SJVAPCD requires new stationary sources to provide offsets through the permit process. This is consistent with SJVAPCD's approach to the numerical CEQA mass emission thresholds for ROG and NO_X, which also represent the level that triggers offsets for new stationary sources. The value shown for $PM_{2.5}$ (i.e., 10 TPY) represents 70% of the value shown for PM_{10}, which is based on a comparison between the PM_{10} and $PM_{2.5}$ ambient air quality standards.

Bold indicates a threshold exceedance.

Refer to Appendix B to the Final EIR for detailed assumptions and modeling output files.

Source: Data modeled by Ascent Environmental in 2010.

Emissions of NOX in 2011 (i.e., 20.5 TPY) would exceed SJVAPCD's significance threshold of 10 TPY, and dust control measures that are contained in Regulation VIII along with other applicable SJVAPCD-recommended controls are not currently part of the project description. Thus, NOX and fugitive PM10 and PM2.5 emissions from project construction could violate or contribute substantially to an existing or projected air quality violation, and/or expose sensitive receptors to substantial pollutant concentrations, especially considering San Joaquin County's nonattainment status for ozone, PM10, and PM2.5. As a result, this impact would be **significant**. (Impact 4.1-1a)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measures that will reduce construction-related ozone precursor emissions impacts to less-than-significant levels:

> **Mitigation Measure for Impact 4.1-1a.** In order to reduce NO_X emissions, CDCR will comply with SJVAPCD's Rule 9510, "Indirect Source Review," as required by SJVAPCD based on the project's specifications. Rule 9510 applies to projects that would include 50 residential units, 2,000 square feet of commercial space, 25,000 square feet of light-industrial space, or 9,000 square feet of any space, as well as similar minima for other land use types. Rule 9510 requires that exhaust emissions for construction equipment greater than 50 horsepower used or associated with the development project shall be reduced by 20% of the total NO_X and by 45% of the total PM10 exhaust emissions, as compared with statewide average emissions estimated by ARB. These reductions can achieved through any combination of on-site emission reduction measures or off-site fees. In order to achieve these required reductions CDCR may reduce construction emissions on-site by requiring its contractors to (as stated in Rule 9510):
>
> - use less polluting construction equipment (compared to the statewide average as estimated by ARB), which can be achieved by utilizing add-on controls, cleaner fuels, or newer, lower emitting equipment;
> - provide commercial electric power to the project site in adequate capacity to avoid or minimize the use of portable electric generators;
> - substitute of electric-powered equipment for diesel engine–driven equipment equivalents (provided they are not run via a portable generator set); and
> - minimize idling time of construction equipment and trucks to a 5-minute maximum.
>
> To comply with Rule 9510, CDCR will submit an Air Impact Assessment (AIA) application to SJVAPCD prior to initiation of construction, with all related conditions expressed in construction bid documents. CDCR and/or its contractors will submit the AIA application as early as possible in the process. The AIA application will be submitted on a form provided by SJVAPCD and will contain, at a minimum, the contact name and address for CDCR (and/or its contractors), a detailed project description, an on-site emission reduction checklist, a monitoring and reporting schedule, and an AIA. The AIA will quantify NO_X and PM_{10} emissions associated with project construction. This assessment will include the estimated construction baseline emissions, and the mitigated emissions for each applicable pollutant for project construction, or each phase thereof, and will quantify the off-site fee, if applicable.
>
> The Indirect Source Review (ISR) rule provides a method of calculating fees to be paid to offset any NO_X and PM_{10} emission reductions that would not be achieved by implementation of on-site emission reduction measures such as selection of lower-emitting construction equipment and fuels. The monies collected from this fee will be used by SJVAPCD to reduce emissions in the air

basin on behalf of the project, with the goal of offsetting the emissions increase from project construction by decreasing emissions elsewhere. More specifically, the fees received by the SJVAPCD are used in SJVAPCD's existing Emission Reduction Incentive Program to fund emission reduction projects. CDCR will not begin any construction until the AIA application process is completed and the applicable off-site fee is paid to SJVAPCD for the applicable construction activity.

In addition to meeting the emission reduction requirements required by Rule 9510, CDCR shall enter into an emissions reduction agreement with SJVAPCD to reduce construction-related emissions of NO_X to less than 10 TPY. As part of this agreement, CDCR will pay fees into SJVAPCD's existing Emission Reduction Incentive Program. The monies collected from this fee will be used by SJVAPCD to reduce emissions in the air basin on behalf of the project, with the goal of offsetting the NO_X emissions increase from project construction by decreasing emissions elsewhere. To the extent feasible, preference shall be given to off-site emission reduction projects that are located in or in close proximity to the project site. If approved by SJVAPCD, CDCR may develop a single emissions reduction agreement that also fulfills the compliance requirements of SJVAPCD's ISR Rule (Rule 9510). CDCR will not begin any construction until the emissions reduction agreement is approved by SJVAPCD and the applicable off-site fee is paid to SJVAPCD for the applicable construction activity.

In order to reduce fugitive PM_{10} and $PM_{2.5}$ emissions, CDCR will require its contractors to provide sufficient equipment and personnel to comply with SJVAPCD's Regulation VIII, "Fugitive Dust PM_{10} Prohibitions," and implement all applicable control measures all seven days per week during project construction. Regulation VIII contains the following required control measures, among others, as provided by SJVAPCD's *Guide for Assessing and Mitigating Air Quality Impacts* (SJVAPCD 2002):

- All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover;
- All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant;
- All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking;
- With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition;
- When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained;
- All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is

expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.);

- Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant;
- Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday; and
- Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.

CDCR and/or its contractors will implement the following SJVAPCD-recommended enhanced and additional control measures, as provided by SJVAPCD's *Guide for Assessing and Mitigating Air Quality Impacts* (SJVAPCD 2002), for all construction activities to further reduce fugitive dust emissions:

- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from adjacent project areas with a slope greater than 1%.
- Apply additional watering to disturbed surfaces when winds exceed 20 mph.

Compliance with SJVAPCD's Rule 9510 would result in the required minimum 20% reduction in NO_X emissions from heavy-duty diesel equipment, as compared with statewide average emissions, and will result in actual emissions reductions in the SJVAB. (Implementation of Rule 9510 would also reduce ROG emissions and PM_{10} exhaust emissions from heavy-duty diesel equipment by 5% and 45%, respectively.) All or part of the reductions may result from the on-site equipment and fuels selected; the remainder would result from off-site reductions achieved by paying fees that would be applied to other SJVAPCD programs that reduce the same pollutants, but at other sources (*e.g.*, replacing the engines in various types of diesel-powered portable industrial equipment with either cleaner diesel engines or converting such equipment to electric motors). CDCR's establishment of an emissions reduction agreement with SJVAPCD would ensure the additional emissions reduction necessary to reduce construction-generated ROG and NO_X emissions to levels below 10 TPY. As a result, this impact would be reduced to a **less-than-significant** level.

Incorporation of dust control measures including those required by SJVAPCD Regulation VIII, along with other applicable SJVAPCD-recommended controls measures, would reduce fugitive PM emissions up to 75% and, according to SJVAPCD, would prevent such from violating or contributing substantially to an existing or projected air quality violation, and/or exposing sensitive receptors to substantial pollutant concentrations. As a result, this impact would be reduced to a **less-than-significant** level.

Cumulatively Significant Effect: Impact 4.1-1: Generation of Short-term Construction-Related Emissions of Criteria Air Pollutants and Precursors for the Combined DeWitt Nelson and NCRF Facilities

Construction and renovation activities associated with both the DeWitt Nelson and NCRF projects would include demolition, excavation, grading, trenching for utility installation, building renovation and construction, asphalt paving, and application of architectural coatings. Emissions of criteria air pollutants (*e.g.*, PM_{10}) and precursors (*e.g.*, ROG and NO_X) would be generated by off-road equipment, material

delivery, and worker commute; vehicle travel on paved and unpaved roads, and other miscellaneous activities.

Exact project-specific data (*e.g.*, construction equipment types and number requirements, and maximum daily acreage disturbed) were not available at the time of this analysis. Project-generated emissions were modeled based on general information provided in the project description and default model settings in order to estimate reasonable worst-case conditions.

Ozone Precursor Emissions

Table 4.1-6 summarizes the modeled project-generated, construction-related emissions of ozone precursors. Construction-related air quality impacts were determined by comparing these modeling results with applicable SJVAPCD significance thresholds. As shown in Table 4.1-6, construction-related activities would result in project-generated unmitigated ozone precursor emissions (i.e., ROG and NO_X) of approximately 4.2 and 34.2 TPY in 2011, 3.0 and 15.0 TPY in 2012, and 5.7 and 5.8 TPY in 2013. Emissions of ROG during all three construction years and emissions of NO_X during 2013 would not exceed SJVAPCD's significance threshold of 10 TPY. However, emissions of NO_X in 2011 (i.e., 34.2 TPY) and 2012 (i.e., 15.0 TPY) would exceed SJVAPCD's significance threshold of 10 TPY. Thus, emissions of NO_X from project construction could violate or contribute substantially to an existing or projected air quality violation, and/or expose sensitive receptors to substantial pollutant concentrations, especially considering San Joaquin County's nonattainment status for ozone. As a result, this impact would be **significant**.

Fugitive Particulate Matter Dust Emissions

SJVAPCD does not require projects to quantify the fugitive PM dust emissions associated with construction. Instead, SJAVPCD requires projects to comply with Regulation VIII, "Fugitive Dust PM_{10} Prohibitions," and implement applicable supplemental dust control measures. Nonetheless, for informational purposes and disclosure, Table 4.1-6 summarizes the modeling output data and stationary source threshold values for PM_{10} and $PM_{2.5}$. Though SJVAPCD has not adopted numerical CEQA mass emission thresholds for PM_{10} or $PM_{2.5}$, please note that annual unmitigated project-generated emissions would not exceed SJVAPCD adopted levels that trigger offsets for new stationary sources as part of the permit process. Both the DeWitt Nelson project and the NCRF projects would be legally required to comply with SJVAPCD's Regulation VIII; however, dust control measures that are contained in this regulation along with other applicable SJVAPCD-recommended controls (SJVAPCD 2002) are not currently part of the project description. Thus, emissions of fugitive dust from project construction could violate or contribute substantially to an existing or projected air quality violation, and/or expose sensitive receptors to substantial pollutant concentrations, especially considering San Joaquin County's nonattainment status for PM_{10} and $PM_{2.5}$. As a result, this impact would be **significant** (Impact 4.1-1c, fugitive PM_{10} and $PM_{2.5}$).

Table 4.1-6
Summary of Modeled Annual Emissions of Criteria Air Pollutants and Precursors from Renovation and Construction of the DeWitt Nelson and NCRF Projects

Year	Emissions (TPY)			
	ROG	NO_X	PM_{10}	$PM_{2.5}$
Total Unmitigated Emissions—2011	4.2	**34.2**	**15.0**	4.1
Total Unmitigated Emissions—2012	3.0	**15.0**	1.4	1.0
Total Unmitigated Emissions—2013	5.7	5.8	0.4	0.4
SJVAPCD Significance Threshold	10	10	15[1]	10[1]

Notes:
NO_X = oxides of nitrogen; $PM_{2.5}$ = fine particulate matter with an aerodynamic resistance diameter of 2.5 micrometers or less; PM_{10} = respirable particulate matter with an aerodynamic diameter of 10 micrometers or less; ROG = reactive organic gases; SJVAPCD = San Joaquin Valley Air Pollution Control District; TPY = tons per year

[1] SJVAPCD has not adopted numerical CEQA mass emission thresholds for PM_{10} or $PM_{2.5}$; however, the modeling output data and stationary source threshold values are shown for information purposes and disclosure only. The threshold value shown here for PM_{10} (i.e., 15 TPY) represents the level at which SJVAPCD requires new stationary sources to provide offsets through the permit process. This is consistent with SJVAPCD's approach to the numerical CEQA mass emission thresholds for ROG and NO_X, which also represent the level that triggers offsets for new stationary sources. The value shown for $PM_{2.5}$ (i.e., 10 TPY) represents 70% of the value shown for PM_{10}, which is based on a comparison between the PM_{10} and $PM_{2.5}$ ambient air quality standards.

Bold indicates a threshold exceedance.

Refer to Appendix B to the Final EIR for detailed assumptions and modeling output files.

Source: Data modeled by Ascent Environmental in 2010.

Emissions of NOX in 2011 (i.e., 34.2 TPY) and 2012 (i.e., 15.0) would exceed SJVAPCD's significance threshold of 10 TPY, and dust control measures that are contained in Regulation VIII along with other applicable SJVAPCD-recommended controls are not currently part of the project description. Thus, NOX and fugitive PM10 and PM2.5 emissions from project construction could violate or contribute substantially to an existing or projected air quality violation, and/or expose sensitive receptors to substantial pollutant concentrations, especially considering San Joaquin County's nonattainment status for ozone, PM10, and PM2.5. As a result, this impact would be **significant**. (Impact 4.1-1c)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measures that will reduce construction-related ozone precursor emissions impacts to less-than-significant levels:

CDCR will implement Mitigation Measure for Impact 4.1-1a.

Compliance with SJVAPCD's Rule 9510 would result in the required minimum 20% reduction in NO_X emissions from heavy-duty diesel equipment, as compared with statewide average emissions, and will result in actual emissions reductions in the SJVAB. (Implementation of Rule 9510 would also reduce

ROG emissions and PM_{10} exhaust emissions from heavy-duty diesel equipment by 5% and 45%, respectively.) All or part of the reductions may result from the on-site equipment and fuels selected; the remainder would result from off-site reductions achieved by paying fees that would be applied to other SJVAPCD programs that reduce the same pollutants, but at other sources (*e.g.*, replacing the engines in various types of diesel-powered portable industrial equipment with either cleaner diesel engines or converting such equipment to electric motors). CDCR's establishment of an emissions reduction agreement with SJVAPCD would ensure the additional emissions reduction necessary to reduce construction-generated ROG and NO_X emissions to levels below 10 TPY. As a result, this impact would be reduced to a **less-than-significant** level.

Incorporation of dust control measures including those required by SJVAPCD Regulation VIII, along with other applicable SJVAPCD-recommended controls measures, would reduce fugitive PM emissions up to 75% and, according to SJVAPCD, would prevent such from violating or contributing substantially to an existing or projected air quality violation, and/or exposing sensitive receptors to substantial pollutant concentrations. As a result, this impact would be reduced to a **less-than-significant** level.

Cumulatively Significant Effect: Generation of Emissions from Short-term Construction Activities

The SJVAB is in nonattainment status for PM10, and PM2.5. This is a result of past cumulative development in the basin, as well as transport of pollutants from other basins. New cumulative development, including the proposed DeWitt Nelson facility, would be required to comply with SJVAPCD measures that would reduce potential new construction emissions of these pollutants. However, adding construction of related projects to a cumulatively adverse condition would exacerbate air quality impacts. The contribution of the proposed DeWitt Nelson facility to this impact, individually and together with other cumulative development, though mitigated to the extent feasible (see Section 4.1), would be considerable. Therefore, this impact would be **significant and unavoidable**.

Finding

Changes or alterations, which substantially reduce but do not completely avoid the cumulatively significant effects on air quality, have been incorporated by CDCR into the project. While these mitigation measures would substantially reduce the significant effects of the project, the residual impact would continue to be significant. As described in Section 1.7, specific economic, legal, social or other considerations make infeasible the project alternatives that would reduce or avoid this impact. Therefore, the cumulative impact to air quality is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

As discussed in Section 4.1 of the DEIR, "Air Quality," the NCRF project would generate construction-related and operational emissions that exceed SJVAPCD significance thresholds. Although these impacts would be mitigated to a less-than-significant level with implementation of SJVAPCD-recommended mitigation measures, when taken in total with other related emissions and the nonattainment conditions in the basin, these emissions would have a considerable contribution to a cumulatively significant impact.

The only alternative capable of reducing or eliminating this impact is the no project alternative, under which the project would not be constructed. For the reasons described in Section 1.7, the no project alternative is not feasible.

Cumulatively Significant Effect: Project-Generated Greenhouse Gas Emissions and Cumulative Contribution to Climate Change Impacts

Inclusion of features in the design and operation of the proposed DeWitt Nelson facility and other cumulative development, including the NCRF project ,that would enable it to avoid, adapt to, and be resilient in the face of climate change-associated risks would reduce the extent and severity of climate change-related impacts to the project. However, the proposed DeWitt Nelson facility would be anticipated to generate GHG emissions, directly or indirectly, that may have a significant impact on the environment or conflict with AB32. As a result, this incremental increase in GHGs would be cumulatively considerable and **significant.**

Finding

Changes or alterations, which substantially reduce but do not completely avoid the cumulatively significant effects on air quality, have been incorporated by CDCR into the project. While mitigation measures (see below) would reduce GHG emissions of the project, the cumulative impact would continue to be significant. As described in Section 1.7, specific economic, legal, social or other considerations make infeasible the no project alternative, which would be the only alternative that could reduce or avoid this impact. Therefore, the cumulative impact to air quality is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

CDCR has adopted the following mitigation measures that will reduce GHG emissions, but not to a less-than-significant level.

Mitigation Measure for Cumulative Climate Change Impact. In order to reduce GHG emissions associated with the project, CDCR will implement all applicable and feasible Best Performance Standards (BPSs) recommended by SJVAPCD at the time renovation and construction plans are finalized by CDCR. SJVAPCD's current list of recommended BPSs is contained in Appendix J, "GHG Emission Reduction Measures - Development Projects" of SJVAPCD's December 2009 staff report called *Addressing Greenhouse Gas Emissions Impacts under the California Environmental Quality Act* (SJVAPCD 2009). Applicable, BPSs may include but are not limited to the following:

- Energy Star Roof. Install Energy Star labeled roof materials. Energy star qualified roof products reflect more of the sun's rays, decreasing the amount of heat transferred into a building Onsite Renewable Energy System. Project provides onsite renewable energy system(s) (e.g., solar panels).
- Renewable Energy Use. Install solar, wind, and geothermal power systems and solar hot water heaters.
- Solar Panels in Parking Areas. Install solar panels over parking areas.
- Use of Hybrid Powered and/or electric powered maintenance and transportation vehicles.

In addition, CDCR will develop and implement a voluntary employee trip reduction program that minimizes the percentage of employee commute trips in single occupancy vehicles. At a minimum, the program shall encourage employees to commute by some transportation mode than a single occupancy vehicle. California Health and Safety Code Section 40717.9 prohibits this mitigation measure from requiring that a minimum percentage of employee commute trips occur by some other transportation mode other than a single occupancy vehicle. This program shall be fully funded by CDCR and be developed in consultation with the San Joaquin Council of Governments; the San Joaquin Regional Transit District, and SJVAPCD. Measures that result in quantifiable trip reductions can also be counted as reductions in NO_X and PM_{10} emissions with respect to compliance with SJVAPCD's ISR rule. The program shall be managed by an on-site Employee Transportation Coordinator employed and appointed by CDCR. A designated Transportation Manager shall also be on duty during each shift to manage the program. The reduction program and its effectiveness shall be evaluated annually and reported to SJVAPCD. As part of the program, CDCR shall provide a display case or kiosk that presents all of the program information in a prominent area accessible to employees (e.g., break room or entrance). Elements of the employee trip reduction program may include, but are not limited to, the following measures:

- Provide carpool ride matching assistance for employees, assistance with vanpool formation, and provisions of vanpool vehicles.
- Provide a demarcated area exclusively for employee shuttles, carpools, vanpools, public transit, and cyclists that allows for more convenient and expedient access to and from the site during peak turnover periods (i.e., shift changes).
- Design and provide preferential parking for carpool and vanpool vehicles. Design features may include a separate parking lot for carpool and vanpool vehicles that is closer to the employee building entrance than the parking lot for single occupancy vehicles and/or covered parking spaces for carpool and vanpool vehicles.
- Make available free or discounted public transit passes to all employees if public transit service is expanded to serve the project site.
- Implement compressed work schedules for employees (e.g., 4 shifts per week for full time employees).
- Provide a covered area for the on-site employee shuttle stop or vanpool parking lot and an open-air covered walkway connection to the employee entrance of the building to provide summertime shade and protection from rain.

The reduction in mobile-source GHG emissions associated employee commute trips would depend on the mix of measures implemented to achieve a 25% reduction in single occupancy vehicle trips by employees. Even if mobile-source emissions were reduced by 25%, or 663 MT CO_2e/yr from the DeWitt Nelson facility and 581 MT CO_2e/yr from the NCRF facility, total operational emissions would be approximately 8,696 MT CO_2e/yr and 7,781 MT CO_2e/yr, respectively. Thus, implementation of the above mitigation would reduce GHG emissions, but not to a level that would not be cumulatively considerable. The only alternative capable of reducing or eliminating this impact is the no project alternative, under which the project would not be constructed. The reduced bed alternative would reduce this impact. However, for the reasons described in Section 1.7, these alternatives are not feasible.

Therefore, this impact would remain cumulatively significant and unavoidable and the project's contribution would be considerable.

BIOLOGICAL RESOURCES

Potentially Significant Effect: Impact 4.2-1, Impacts to Giant Garter Snake and Northwester Pond Turtle

The DeWitt Nelson projects would include the construction of a new stormwater retention basin. As discussed in Impact 4.2-1a, construction of the new retention basin would cause disturbances to and permanent loss of up to 4.5 acres of upland habitat that may be used by giant garter snake and/or northwestern pond turtle. However, construction of the new stormwater retention basin may also increase the amount of available aquatic habitat for these species. Nonetheless, the potential for injury or harm to giant garter snake and northwestern pond turtle as a result of project construction in the upland areas near Littlejohns Creek cannot be dismissed.

Disturbances and loss of marginal upland habitat associated with construction on the new stormwater retention basin in the area adjacent to Littlejohns Creek resulting from implementation of the DeWitt Nelson project could result in injury, or mortality of giant garter snakes and northwestern pond turtles. This would be a **potentially significant** impact. (Impact 4.2-1c)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce to less-than-significant levels effects to sensitive habitats.

> **Mitigation Measure for Impact 4.2-1a.** Consistent with the process outlined and encouraged by the San Joaquin Council of Governments (SJCOG) for the CHCF project, prior to the site preparation activities, CDCR will request concurrence from the SJMSCP Joint Powers Authority (JPA) that the DeWitt Nelson project site qualifies for third- party participation in the SJMSCP because the project is consistent with permitted activities as defined in SJMSCP Section 8.2.2.c, "Major Impact Projects." Upon receipt of the concurrence letter, CDCR will pay the Natural Lands and Agricultural Habitat Lands Fee (adjusted for inflation annually by the Joint Powers Authority) as defined in SJMSCP Section 7.4.1.2, "Agricultural Habitat Lands, Non-Vernal Pool Natural Lands, and Multipurpose Open Space Lands." Fees will be paid as compensation for permanent loss of habitat for not only giant garter snake but also all other species covered under the SJMSCP, which would include raptor species such as Swainson's hawk. Compensation ratios differ by the type of land, as defined in the SJMSCP (i.e., Agricultural Habitat Lands and Natural Lands, or Multipurpose Open Space Lands), that will be permanently lost as a result of the project. The SJMSCP Joint Powers Authority will determine the fee amount to be paid based on the acreage of disturbance per habitat type. Final acreage calculations will be determined following final design of the proposed project, however it is anticipated to be approximately 4.5 acres. Additional disturbances to upland habitat for giant garter snake and northwest pond turtle

could occur during the construction phase of the DeWitt Nelson project. Therefore, the following avoidance and minimization measures will also be implemented.

- **Giant Garter Snake.** Consistent with the avoidance and minimization measures in the SJMSCP, CDCR will implement the following measures to reduce impacts on giant garter snake. Construction will occur during the active period for the snake, between May 1 and October 1. Between October 2 and April 30, the JPA, with concurrence of the Permitting Agencies' representatives on the Technical Advisory Committee (TAC), will determine if additional measures are necessary to minimize and avoid take.

- Limit vegetation clearing within 200 feet of the banks of potential giant garter snake aquatic habitat (i.e., Littlejohns Creek) to the minimal area necessary.

- Confine the movement of heavy equipment within 200 feet of the banks of potential giant garter snake habitat to existing roadways to minimize habitat disturbance.

- Prior to ground disturbance, CDCR's mitigation monitor representative or other appropriate representative shall provide all on-site construction personnel instruction regarding the presence of the SJMSCP Covered Species and the importance of avoiding impacts to these species and their habitats.

- In areas where wetlands, irrigation ditches, marsh areas, or other potential giant garter snake habitats are being retained on the site:

- Install temporary fencing at the edge of the construction area and the adjacent wetland, marsh, or ditch;

  - Restrict working areas, spoils and equipment storage and other project activities to areas outside of marshes, wetlands, and ditches; and

  - Maintain water quality and limit construction runoff into wetland areas through the use of hay bales, filter fences, vegetative buffer strips, to other accepted equivalents.

- CDCR's mitigation monitor representative or other appropriate representative shall arrange pre-construction surveys for giant garter snake (conducted after completion of environmental reviews and prior to ground disturbance) will occur within 24 hours of ground disturbance.

- Other provision of the USFWS *Standard Avoidance and Minimization Measures during Construction in Giant Garter Snake Habitat* will be implemented (excluding programmatic mitigation ratios which are superseded by the SJMSCP's mitigation ratios).

- **Northwestern Pond Turtle.** Consistent with the avoidance and minimization measures in the SJMSCP, CDCR will implement the following measures to reduce impacts on northwestern pond turtle. All mitigation listed below will be limited to construction within 200 feet of potential aquatic habitat.

- CDCR's mitigation monitor representative or other appropriate representative shall secure a qualified biologist to conduct a preconstruction survey for northwestern pond turtle within 24 hours before ground-disturbing activities. If pond turtles are found within the construction area, they will be relocated by the biologist to adjacent habitat that would not be disturbed by construction activity.

- If nesting areas for pond turtles are identified on the project site, then a buffer area of 300 feet will be established between the nesting site and the nearest aquatic habitat during the nesting period (April–November). These buffers will be indicated by temporary fencing if construction has begun or will begin before nesting periods are ended (the period from egg laying to emergence of hatchlings is normally April–November).

By restricting timing of ground disturbance within 200 feet of aquatic habitat to the giant garter snake's active season, surveying areas to be disturbed for garter snakes and pond turtles before earthmoving begins, and payment of mitigation fees to the SJMSCP Joint Powers Authority for disturbance to potential habitat, the mitigation measures for Impact 4.2-1a would minimize the potential for injury and mortality to these species. As a result, the project's impacts on giant garter snake and northwestern pond turtle would be reduced to a **less-than-significant** level.

Potentially Significant Effect: Impact 4.2-2, Project Impacts to Raptors

Implementation of the DeWitt Nelson project would result in the removal of all trees that could provide nesting sites for Swainson's hawk, white-tailed kite, and common raptors such as red-shouldered hawk, red-tailed hawk, great horned owl, and America kestrel that are protected under Section 3503.5 of the California Fish and Game Code as well as other laws. Project implementation could result in the loss of habitat for burrowing owls along with active and/or nesting burrows, because suitable habitat for burrowing owl occurs along the edges of agricultural fields and ruderal weedy fields on the project site and occupied burrows are known to occur nearby.

Several raptor species could nest on the project site. At the time of the July 27, 2010, reconnaissance field survey, a pair of white-tailed kites was observed with 2 juveniles near the trees in the eastern portion of the existing DeWitt Nelson facility. Large amounts of white wash could be seen on the leaves of one of the trees, which could be indicative of the nesting site for this pair. In addition, large stick nests were observed on the lighting platforms present around the track in the center of the existing DeWitt Nelson facility. No active Swainson's hawk nests were observed on the project site, but a pair of Swainson's hawks was observed interacting with the white-tailed kites and another was observed soaring over the project site during the field reconnaissance survey. Should trees be removed during the raptor breeding season (February–August), mortality of eggs and chicks would result if an active nest were present. In addition, project construction could disturb active nests near the project site, which could result in nest abandonment by the adults and mortality of chicks and eggs. The loss of an active raptor nest would be considered a significant impact.

The project would also result in removal of potential foraging habitat for raptors. The areas affected would include land that is currently covered by ruderal vegetation and agricultural fields, and located primarily in the southern and eastern portions of the DeWitt Nelson site. Approximately 21.5 acres of potential Swainson's hawk foraging habitat would be permanently removed. This loss of habitat would be confined to small areas supporting mostly low-quality foraging habitat. Temporary disturbance or loss of habitat may also occur as a result of construction on approximately 80 acres of the project site. The loss of

foraging habitat is considered less than significant because the quality of the foraging habitat that would be affected is considered low, and because higher quality foraging habitat for Swainson's hawk and other raptor species is present in areas adjacent to the DeWitt Nelson site. Therefore, the minimal loss of foraging habitat associated with implementation of the proposed project is not expected to have a substantial adverse effect on any raptor species.

The loss of nesting and foraging habitat for Swainson's hawk and other raptor species, including burrowing owl and white-tailed kite, would occur as a result of implementation of the DeWitt Nelson project, but would not result in a substantial adverse affect due to its low quality and the presence of additional higher quality habitat nearby. Project construction may disturb nesting raptor species located on or near the project site resulting in nest abandonment by adult birds and abandonment of chicks and eggs causing mortality. The potential loss of an active raptor nest would be considered a potentially **significant** impact. (Impact 4.2-2a)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce to less-than-significant levels effects to sensitive habitats.

> **Mitigation Measure for Impact 4.2-2a.** Consistent with the process outlined and encouraged by the San Joaquin Council of Governments (SJCOG) for the CHCF project, prior to the site preparation activities, CDCR will request concurrence from the SJMSCP Joint Powers Authority (JPA) that the DeWitt Nelson project site qualifies for third- party participation in the SJMSCP because the project is consistent with permitted activities as defined in SJMSCP Section 8.2.2.c, "Major Impact Projects." Upon receipt of the concurrence letter, CDCR will pay the Natural Lands and Agricultural Habitat Lands Fee (adjusted for inflation annually by the Joint Powers Authority) as defined in SJMSCP Section 7.4.1.2, "Agricultural Habitat Lands, Non-Vernal Pool Natural Lands, and Multipurpose Open Space Lands." Fees will be paid as compensation for permanent loss of habitat for not only giant garter snake but also all other species covered under the SJMSCP, which would include raptor species such as Swainson's hawk. Compensation ratios differ by the type of land, as defined in the SJMSCP (i.e., Agricultural Habitat Lands and Natural Lands, or Multipurpose Open Space Lands), that will be permanently lost as a result of the project. The SJMSCP Joint Powers Authority will determine the fee amount to be paid based on the acreage of disturbance per habitat type. Final acreage calculations will be determined following final design of the proposed project, however it is anticipated to be approximately 2 acres.
>
> The amount of nesting habitat required to be removed from the project site will be determined from final site plans, and the SJMSCP Joint Powers Authority will determine the total amount of the fees to be paid based on the acreage of disturbance.
>
> In addition, the following avoidance and minimization measures for Swainson's hawk and other tree-nesting raptors and burrowing owl will be implemented.

Swainson's hawk and Other Tree-Nesting Raptors. Consistent with the avoidance and minimization measures in the SJMSCP, CDCR will implement the following measures to reduce impacts on Swainson's hawk and other tree-nesting raptors:

- If trees and floodlights are removed or otherwise disturbed between September 1 and February 15, (i.e. outside breeding season), then no further mitigation will be required.

- If trees and floodlights are removed or otherwise disturbed between February 16 and August 31, then a qualified biologist will be retained to conduct preconstruction surveys for active raptor nests on and within 0.5 mile of the project site no more than 14 days and no less than 7 days before tree and floodlight disturbance activities. Surveys for Swainson's hawks will follow the guidelines provided in the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in the Central Valley* (DFG 2000). If no active nests are found, then no further mitigation will be required.

- If active nests are found, the qualified biologist will establish a buffer around the tree or floodlight where the active nest is located. No project activity will commence within the buffer area until the qualified biologist confirms that the nest is no longer active or that the young have fully fledged. For Swainson's hawk nests, DFG guidelines recommend implementation of 0.25- or 0.5-mile buffers, but the size of the buffer may be adjusted if a qualified biologist and DFG determine that it would not be likely to adversely affect the nest. Monitoring of the nest by a qualified biologist may be required if the activity has potential to adversely affect the nest.

Burrowing Owl. Consistent with the avoidance and minimization measures in the SJMSCP, CDCR will implement the following measures to reduce impacts on burrowing owl:

- In order to discourage burrowing owl occupation of the project site prior to construction, CDCR will first discourage use of the project site by ground squirrels, whose burrows are often used by burrowing owls, through the following methods:

  - CDCR will maintain the project site in a condition that prevents the establishment of ground squirrel and burrowing owl occupation of the project site (e.g., hand shoveling during non-nesting season).

  - Alternatively, if burrowing owls are not known on the project site and the area is an unlikely occupation site for red-legged frog, San Joaquin kit fox, or California tiger salamander. CDCR may disc or plow the entire project site to destroy any burrows. At the same time burrows are destroyed, ground squirrels should be removed through one of the approved methods described in Appendix A of the SJMSCP, *Protecting Endangered Species, Interim Measures for Use of Pesticides in San Joaquin County*, dated March 2000.

- If measures described above are not attempted or fail, the following measures will be implemented. These measures are consistent with procedures outlined in the *California Department of Fish and Game's Staff Report on Burrowing Owls* (DFG 1995).

  - CDCR will retain a qualified biologist to conduct focused surveys for burrowing owls in areas of suitable habitat on and within 250 feet of the project site.

Surveys will be conducted before project activity and in accordance with DFG protocol (DFG 1995).

- If no occupied burrows are found in the survey area, a letter report documenting survey methods and findings will be submitted to DFG, and no further mitigation is necessary. If occupied burrows are found, to the extent feasible, establish a buffer of 165 feet around the occupied burrow during the nonbreeding season (September 1–January 31) or 250 feet during the breeding season (February 1–August 31). The size of the buffer area may be adjusted if a qualified biologist determines consistent with DFG Guidelines, that adjusting the buffer size would not be likely to have adverse effects. No project activity will commence within the buffer area until a qualified biologist confirms that the burrow is no longer occupied. If the burrow is occupied by a nesting pair, a minimum of 6.5 acres of foraging habitat contiguous to the burrow will be preserved (fenced off with temporary fencing) until the breeding season is over.

- If occupied burrows cannot be avoided, during the non-breeding season conduct on-site passive relocation techniques, pursuant to DFG guidelines, to encourage owls to move to alternative burrows outside of the impact area. No burrows found by the survey to be occupied will be disturbed during the breeding season.

With the implementation of avoidance measures, nest surveys, and the payment of any necessary fees to the SJMSCP Joint Powers Authority as described in the mitigation measures for Impact 4.2-1a, direct effects on nesting raptors would be minimized and loss of nesting habitat would be compensated. Thus, direct and indirect impacts on raptor species would be reduced to a **less-than-significant** level.

Potentially Significant Cumulative Effect: Impact 4.2-2, Impacts to Raptors under the Combined NCRF and DeWitt Facilities

The combined NCRF and DeWitt Nelson projects would include the removal of nesting and foraging habitat for a number of raptor species, including Swainson's hawk, burrowing owl, and white-tailed kite.

All trees located within or immediately adjacent to the perimeter fence of the DeWitt Nelson facility may be removed as a result of this project. Trees located near the administrative buildings on the NCRF site may also be removed. Some of these large trees may provide nest sites for a number of raptor species known to occur on or near the project site. Nesting habitat for burrowing owl and foraging habitat for other raptor species will also be removed with the addition of new facilities. Temporary disturbances to these habitats may also occur as a result of construction activities on the project site.

The permanent loss of nesting and foraging habitat for Swainson's hawk and other raptor species including burrowing owl and white-tailed kite would occur as a result of implementation of the combined NCRF and DeWitt Nelson projects. Project construction may disturb nesting raptor species located on or near the project site resulting in nest abandonment by adult birds and abandonment of chicks and eggs causing mortality. This would be a **potentially significant** impact. (Impact 4.2-2c)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce to less-than-significant levels effects to sensitive habitats.

Implement Mitigation Measure 4.2-2a above, as described in "Impact 4.2-2, Project Impacts to Raptors"

With the implementation of avoidance measures, nest surveys, and the payment of any necessary fees to the SJMSCP Joint Powers Authority as described in the mitigation measures for Impact 4.2-1a, direct effects on nesting raptors would be minimized and loss of nesting habitat would be compensated. Thus, direct and indirect impacts on raptor species would be reduced to a **less-than-significant** level.

Potentially Significant Effect: Impact 4.2-3, Injury or Mortality of Special-Status Bat Species

Numerous vacant buildings on the DeWitt Nelson site could provide day roosts, maternity colony roosts, and/or hibernation roosts for pallid bat, a California species of special concern that is not a species covered by the SJMSCP. This species could be present at any time during the year. Pallid bats are common in the lower elevations throughout California and have been documented in San Joaquin County. Pallid bats are known to roost in abandoned or little-used structures in wall sections, behind fascia, in spaces between vaulted interior ceiling and roofing materials, and in similar enclosed spaces (Sacramento County 2007: Appendix A). Generally, the buildings located on the DeWitt Nelson project site do not provide high-quality roosting habitat for pallid bat due to their concrete block construction. However, air vents and open windows do provide access to building interiors and bats may find internal conditions suitable for roosting. Buildings on the project site would either be demolished or renovated, which could result in the disturbance of roosting bats. Based on the existing structure and condition of the buildings on the DeWitt Nelson project site, the potential for roosting pallid bats to occur is low. However, should any of these buildings support an active roost of pallid bats, injury or harm to bats may occur from direct physical injury to individuals during renovation or demolition activities or by loss of individuals due to untimely roost abandonment as a result of project activities (i.e, mortality to abandoned juveniles during the breeding season, or adults if forced to arouse and abandon a winter hibernacula when adequate food sources are unavailable).

Disturbance to roosting bats due to rehabilitation and/or demolition to buildings on the DeWitt Nelson project site could result in injury, or mortality of pallid bats. This would be a **potentially significant** impact. (Impact 4.2-4a)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce to less-than-significant levels effects to special status species.

> **Mitigation Measure for Impact 4.2-3a.** Prior to construction, surveys for roosting bats on the project site will be conducted by a qualified biologist. Surveys may consist of a daytime

pedestrian survey looking for evidence of bat use (*e.g.*, guano) and/or an evening emergence survey to note the presence or absence of bats. The type of survey will depend on the condition of the buildings at the time of demolition. If no bat roosts are found, then no further study is required. If evidence of bat use is observed, the number and species of bats using the roost will be determined. Bat detectors may be used to supplement survey efforts, but are not required.

If roosts of pallid bats are determined to be present and must be removed, the bats will be excluded from the roosting site before the facility is removed. A mitigation program addressing compensation, exclusion methods, and roost removal procedures will be developed in consultation with DFG before implementation. Exclusion methods may include use of one-way doors at roost entrances (bats may leave but not reenter), or sealing roost entrances when the site can be confirmed to contain no bats. Exclusion efforts may be restricted during periods of sensitive activity (*e.g.*, during hibernation or while females in maternity colonies are nursing young). The loss of each roost (if any) may need to be replaced, However, the need for roost replacement will be based on a number of factors (i.e., size of colony, evidence of significant use, etc) and will be determined in consultation with DFG. Should it be determined that roost replacement is necessary, the ratio of roost replacement would also be determined in consultation with DFG, and may include construction and installation of bat boxes suitable to the bat species and colony size excluded from the original roosting site. Roost replacement will be implemented before bats are excluded from the original roost sites. Once the replacement roosts are constructed and it is confirmed that bats are not present in the original roost site, the building may be removed or renovated.

Implementation of these mitigation measures would reduce the impact to a less-than-significant level.

Potentially Significant Cumulative Effect: Impact 4.2-3, Injury or Mortality of Special-Status Bat Species with Implementation of the NCRF and DeWitt Facilities

The combined NCRF and DeWitt Nelson projects would include the demolition and rehabilitation of several existing buildings, which could contain suitable roosting habitat for pallid bats. As discussed in Impact 4.2-3a and b, buildings would be renovated or demolished which could disturb active bat roosts if present, which could lead injury or harm to bats.

Disturbance to roosting bats due to rehabilitation and/or demolition of buildings on the NCRF and DeWitt Nelson project sites could result in injury, or mortality of pallid bats. This would be a **potentially significant** impact. (Impact 4.2-3c)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce to less-than-significant levels effects to special status species.

CDCR will implement Mitigation Measure for Impact 4.2-3a (above).

By ensuring absence of pallid bats from potential roosts before demolition and replacing lost roost sites, the mitigation measure for Impact 4.2-3a would minimize impacts on pallid bats. As a result, the project's impacts on pallid bats would be reduced to a **less-than-significant** level.

Potentially Significant Effect: Impact 4.2-5, Impacts of Lethal Electrified Fence on Wildlife

The DeWitt Nelson project includes installation and operation of a lethal electrified fence within the prison's secure perimeter, which would likely result in the death of an undetermined number of animals. Lethal electrocution would result when an animal touches two wires simultaneously or touches one wire and an electrical ground. Based on monitoring data collected at other existing lethal electrified fences at other CDCR facilities throughout the state, a number of native birds and mammals are likely to be killed on the lethal electrified fence. Birds are by far the most common wildlife group electrocuted, with mammals making up a relatively small percentage.

No CDCR facilities with a lethal electrified fence are located immediately near the project site, but Valley State Prison for Women (VSPW) and Central California Women's Facility (CCWF), both located in Chowchilla (approximately 90 miles south of Stockton on State Route 99), have lethal electrified fences and may provide a useful comparison of potential wildlife impacts resulting from installation of a lethal electrified fence at the project sites. Agriculture is the primary land use around VSPW, CCWF, and the DeWitt Nelson sites. Based on 8 years of mortality monitoring data collected at VSPW and CCWF, approximately 20 individuals of native birds and mammals were killed per year at each facility. Most of these are species protected under the MBTA and California Fish and Game Code. Approximately 10% of the native species killed at VSPW and CCWF are considered "sensitive" species; however, none of the species killed are protected by the ESA or CESA. Sensitive species include those that meet the definition of special-status described above (i.e., wildlife species identified by DFG as species of special concern), as well as common raptor species, and are covered by CDCR's Statewide Electrified Fence HCP. Mortality of sensitive species at VSPW and CCWF combined for 8 years between June 2002 and June 2010 included one American kestrel, three barn owls, eight great-horned owls, four red-tailed hawks, and nine loggerhead shrikes. No species listed as threatened or endangered or candidates for listing under the ESA or CESA were killed at VSPW or CCWF.

The lethal electrified fences at VSPW and CCWF are each 7,860 feet in length. The proposed lethal electrified fence at DeWitt Nelson would be 4,680 feet in length, or less than 60% of the total length of either VSPW or CCWF. Although expected wildlife mortality should not be strictly calculated on a per-linear foot basis due to considerations of surrounding land uses, adjacent habitat types, species behavior, and other ecological factors at a particular site, it is anticipated that mortality of native wildlife species from a proposed lethal electrified fence at the DeWitt Nelson project site would be less than 20 individuals per year on average. Of those, approximately 1 to 2 individuals are expected to be sensitive species.

Based on the geographic location, habitats on and adjacent to the site, and comparison with mortality data from VSPW and CCWF, sensitive species that could be killed by the proposed lethal electrified fence at DeWitt Nelson include barn owl, great-horned owl, burrowing owl, American kestrel, red-tailed hawk, and loggerhead shrike. Mortality of Swainson's hawk has never occurred at any CDCR facility as a result of operation of the lethal electrified fences. Although there is some suitable nesting and foraging habitat in the project vicinity, the possibility of Swainson's hawk being killed as a result of operation of a lethal electrified fence at the DeWitt Nelson site is considered to be very remote because flying into a narrow space (i.e., between two fences) is not consistent with the hawk's foraging and flight behavior. Common

native species likely to be killed by the lethal electrified fence for the DeWitt Nelson project include house finch, American crow, western kingbird, yellow-rumped warbler, Brewer's blackbird, Audubon's cottontail, and California ground squirrel. In addition, the Forward Landfill, located less than a mile away, is likely to attract various gull species to the project vicinity during the winter months and lethal electrified fence operation could result in mortality of California gull, ring-billed gull, and herring gull.

Mortality of sensitive and common wildlife species due to electrocution by contacting the proposed lethal electrified fence at the DeWitt Nelson site could result in a substantial reduction of the local populations of the local populations of the affected species over time. This would be a **potentially significant** impact. (Impact 4.2-5a)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce wildlife electrocutions to less-than-significant levels:

> **Mitigation Measure for Impact 4.2-5a.** CDCR will consult with USFWS and DFG regarding the DeWitt Nelson project and anticipated wildlife mortality and will take appropriate actions to minimize wildlife electrocutions to the extent feasible and compensate for impacts on native wildlife species. It is anticipated that this will be accomplished by following the mitigation approached in the Statewide Electrified Fence HCP, although the DeWitt Nelson project would not be covered by the HCP. A monitoring program consistent with the monitoring program established in the Statewide Electrified Fence HCP would be developed to document wildlife mortality and ensure compliance with Tier 1 and Tier 2 measures. The tiered mitigation approach used by the HCP to offset potential adverse effects on birds protected under MBTA and the California Fish and Game Code is outlined below.
>
> - *Tier 1:* These mitigation measures are designed to eliminate or reduce wildlife attractants near the prison perimeter by implementing specific maintenance and operation procedures. By making the perimeter less hospitable, wildlife will frequent this area less often, thus reducing their exposure to accidental electrocution. Tier 1 maintenance and operation procedures will include:
>
> - *Minimization of vegetation in the vicinity of the lethal electrified fence perimeter.* This will include removal of vegetation growing between and adjacent to chain link fences that surround lethal electrified fences and keeping the first 100 feet of vacant land outside the perimeter and patrol road free of vegetation. Landscaping vegetation near the lethal electrified fence will be minimized and will be trimmed or mowed to reduce its attractiveness to wildlife. Facility landscaping will be designed to provide as little cover and as few foraging and nesting opportunities as possible. Detailed information, including recommended landscape plantings that are less attractive to wildlife, can be found in the *Handbook to Reduce Wildlife Use* (CDCR1996).

- *Minimization of standing water near the fence perimeter.* Rainwater will not be allowed to stand in or near the perimeter for more than 24 hours after a storm. Localized recontouring, excavation of ditches, and placement of gravel will occur to prevent ponding. Weeds, grasses, or emergent vegetation will be removed from ditches regularly.

- *Timely correction of erosion gaps and spaces under fencing.* Inner and outer chain link fences will be inspected weekly to ensure that no gaps or spaces have formed. All eroded areas will be filled with soil or gravel as soon as feasible to prevent animals from entering electrified-fence areas.

- *Proper storage of materials and waste.* To the extent feasible, equipment, supplies, rubble, or pallets will not be stored (temporarily or permanently) within 200 feet of either side of the fence perimeter. Garbage cans and dumpsters will be covered at all times and emptied as often as required to prevent overflow. The area within 200 feet of the fence perimeter will be kept free of all trash, litter, and loose food waste.

- *Tier 2:* These mitigation measures consist of both exclusion and deterrent devices. Tier 2 measures to be installed on the proposed lethal electrified fence are listed below.

- *Vertical netting.* Past analysis of the locations of carcasses has shown that wildlife kills were typically the result of animals contacting the lowest nine wires, because wires are vertically closer together, resulting in more opportunities for birds to contact two lethal wires or a wire and a ground. CDCR shall install three-quarter-inch mesh vertical netting enveloping both sides of the lower section of the lethal electrified fence, which will prevent most birds from contacting the fence.

- *Anti-perching wire.* Several birds have been electrocuted as a result of contacting electrified wires while perching, or attempting to perch, on the grounding brackets and fence posts of the lethal electrified fence. Anti-perching wires, which consist of 2- to 4-inch pieces of stiff wire connected to an aluminum base, will be strategically attached to the tops of perching sites in and near the perimeter. Once installed, this wire will reduce the ability of birds to perch near the lethal electrified fence, thus reducing exposure to accidental electrocutions.

- *Tier 3:* These mitigation measures compensate for residual wildlife mortality impacts. CDCR will contribute funds to an existing non-profit organization that creates and manages habitat enhancement areas that would improve opportunities for reproductive success of birds likely to be adversely affected by the project. Birds likely to be adversely affected will be predicted based on the results of mortality monitoring at comparable CDCR facilities and based on birds expected to occur in the project vicinity based on surrounding habitat. Mechanisms for implementing the mitigation will be similar to those previously utilized by CDCR for the Statewide and Six Prison Electrified Fence Projects and may include additional funding for a project to which CDCR has already contributed as part of these existing projects. The San Joaquin Valley will be targeted, but mitigation could be implemented at federal, state, or private lands located anywhere in California if the lands support a large percentage of the species at risk of electrocution at the project site. The amount of funding contributed would depend on the acreage of habitat that would benefit from the mitigation. The mitigation acreage required would be determined

by CDCR(in coordination with USFWS and CDFG) based on the anticipated annual mortality of native birds and the area required to support an equivalent number of individuals of the species at greatest risk of electrocution.

- As an alternative to working with an existing non-profit organization, CDCR will request participation in the SJMSCP, and if participation is granted, CDCR will coordinate with SJCOG staff regarding appropriate mitigation for wildlife mortality associated with the lethal electrified fence. The process outlined above for calculating acreage of compensatory mitigation would remain the same.

With the implementation of tiered mitigation measures, impacts on wildlife would be reduced by minimizing the number of animals killed by the lethal electrified fence and compensating for unavoidable mortalities by preserving breeding habitat that will increase the reproductive success of affected species. As a result, this impact would be reduced to a **less-than-significant** level.

Potentially Significant Cumulative Effect: Impact 4.2-5, Impacts of Lethal Electrified Fence on Wildlife with the Combined NCRF and DeWitt Facilities

The combined NCRF and DeWitt Nelson projects include the installation and operation of two stand-alone lethal electrified fences, which would likely result in the death of an undetermined number of animals.

As described above, each lethal electrified fence is expected to result in the electrocution of less than 20 individuals per year, for a combined total of less than 40 individuals per year. Approximately 2 to 4 of these individuals are expected to be sensitive species. Sensitive species that could be killed by the proposed lethal electrified fences include barn owl, great-horned owl, burrowing owl, American kestrel, red-tailed hawk, and loggerhead shrike. Common native species likely to be killed by the lethal electrified fences include house finch, American crow, western kingbird, yellow-rumped warbler, Brewer's blackbird, Audubon's cottontail, and California ground squirrel.

Mortality of sensitive and common wildlife species due to electrocution by contacting the proposed lethal electrified fences at the NCRF and DeWitt Nelson sites could result in a substantial reduction of the local populations of the local populations of the affected species over time. This would be a **potentially significant** impact. (Impact 4.2-5c)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce wildlife electrocutions to less-than-significant levels:

CDCR will implement Mitigation Measure for Impact 4.2-5a.

With the implementation of tiered mitigation measures as described in the mitigation for Impact 4.2-5a, impacts on wildlife would be reduced by minimizing the number of animals killed by the lethal electrified fence and compensating for unavoidable mortalities by preserving breeding habitat that will increase the reproductive success of affected species. As a result, this impact would be reduced to a **less-than-significant** level.

Potentially Significant Effect: Impact 4.2-6, Consistency with Local Plan, Policies, and Ordinances.

CDCR, as a state agency, is a sovereign entity and is not subject to local plans and policy regulations. Local policies and ordinances through the *San Joaquin County General Plan 2010* protect sensitive biological resources in the vicinity of the CDCR property. These policies are indicative of the potential to result in locally significant biological resources impacts. The San Joaquin County code addresses protection of native oak trees. Specifically, county policies require a tree removal permit. Implementation of the DeWitt Nelson Conversion project could result in the removal of some mature native oaks and has the potential to adversely affect special-status species, including raptors, by decreasing suitable nesting habitat, as discussed previously under Impact 4.2-2. Tree removal would be required as part of this project to maintain high visibility within and surrounding the proposed facility. The County code applies to the removal of a native oak tree greater than 4 to 6 inches at dbh, depending on the species, or heritage oak (defined as greater than 32 inches dbh), and would consider removal of such trees significant. Although CDCR is not subject to local plans and policies, CDCR has considered such plans in determining whether a significant local impact would occur.

The DeWitt Nelson project was also evaluated to determine if it would conflict with conservation goals of the SJMSCP. The SJMSCP is a county-wide plan that provides a strategy for balancing the need to conserve open space with the need to accommodate a growing population in San Joaquin County. The SJMSCP is a voluntary plan for both local jurisdictions and project proponents. SJMSCP-covered species that could be affected by the project include Swainson's hawk, giant garter snake and northwest pond turtle. Project construction would not require the removal of any important habitat for these species as most of the development would occur in areas that are already highly disturbed. Any impacts that do occur would be mitigated either through participation in the SJMSCP fee program or by implementing the species-specific mitigation described above. Therefore, the DeWitt Nelson project would not conflict with the conservation goals of the SJMSCP.

Because native tree species provide important habitat for special-status species and removal of mature trees (trees greater than 4–6 inches at dbh) could degrade this habitat, the removal of mature native trees would be a **significant** impact. (Impact 4.2-6a)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce wildlife electrocutions to less-than-significant levels:

> **Mitigation Measure for Impact 4.2-6a.** A formal tree survey will be conducted on the DeWitt Nelson project site in order to determine the number and classification (i.e., native or heritage) of

all trees that may be removed. CDCR will implement the following measures to reduce impacts on native oak trees:

- Minimize the number of native oak trees to be removed to the greatest extent feasible (i.e., retain trees that would not result in safety or operational concerns)
- Replace all native oak trees removed by project construction activity consistent with the provisions outlined in section 9-1505.4 of the *San Joaquin County General Plan 2010.* Removal of any native oak of suitable size (i.e., 4–6 inches dbh) would be replaced at a 3:1 ratio. Heritage oaks would be replaced at a ratio of 5:1.
- Use trees from healthy commercial nursery stock and/or acorns from the tree removed when establishing new trees.
- Ensure that trees are established and maintained for at least 3 years.
- Plant trees as near as possible to the location from which they were removed. Potential on-site areas for replacement planting would be in the parking lot, near the firing range, or in other areas that would not interfere with operation of the lethal electrified fence, or alternatively, an offsite location will be identified, as near to the project site as feasible.
- Trees will be planted between October 1 and December 31, and no later than 12 months after the date of tree removal.

Alternatively, CDCR may consult with the County and the SJCOG regarding offsite replacement options where one or both of these entities will accept responsibility for the planting and maintenance of the replacement trees. If it is determined, in consultation with the County and SJCOG, that this is a viable option, mitigation requirements would be consistent with those listed above and additional measures may be required.

With the implementation of this mitigation, impacts on mature native oaks would be avoided and reduced because trees lost through construction activities would be replaced on site, where possible, or at the nearest feasible location. As a result, this impact would be reduced to a **less-than-significant** level.

CULTURAL RESOURCES

Significant Effect: Impact 4.3-2, Impacts to Unique Archaeological Resources

Although no "unique" or "historic" cultural resources (as defined in CEQA and the State CEQA Guidelines) have been documented on the DeWitt Nelson project site, the potential exists for unrecorded cultural resources to be unearthed or otherwise discovered at the project site during ground-disturbing construction activities. If such resources were determined to meet CRHR eligibility criteria, this impact would be significant.

The potential exists for previously unidentified unique archaeological remains to be discovered below the ground surface during implementation of the DeWitt Nelson facility. A unique archaeological resource could be adversely affected by the proposed project. This would be a significant impact on unique archeological resources. (Impact 4.3-2a)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce to less-than-significant levels effects to cultural resources:

> **Mitigation Measure for Impact 4.3-2a.** If cultural materials (e.g., unusual amounts of shell, animal bone, bottle glass, ceramics, structure/building remains) are inadvertently discovered on the project sites during project-related construction activities, ground disturbances in the area of the find will be halted and a qualified professional archaeologist will be notified of the discovery. The archaeologist will determine whether the resource is potentially eligible for listing in the CRHR. If additional as-yet-unidentified resources are determined to be eligible for listing, the archaeologist will develop appropriate avoidance measures and assist with project redesign and/or monitoring; or if construction cannot be planned to avoid impacts, the archaeologist will develop appropriate mitigation, which could include such actions as preservation in place, documentation of the find, or data recovery. Mitigation will be fully implemented before construction activities resume in the vicinity of the find.

Implementation of the above mitigation measure would reduce the impact to a less-than-significant level because if any resources are found during construction, CDCR would follow all procedures necessary to preserve or archive resources.

Significant Cumulative Effect: Impact 4.3-2, Impacts to Unique Archaeological Resources for the Combined NCRF and DeWitt Facilities

Although no "unique" or "historic" archaeological resources (as defined in CEQA and the State CEQA Guidelines) have been documented on either the DeWitt Nelson or the NCRF project sites, the potential exists for unrecorded subsurface cultural resources to be unearthed during construction-related ground disturbing activities. If such resources were determined to meet CRHR eligibility criteria, this impact would be significant.

The potential exists for previously unidentified unique archaeological remains to be discovered below the ground surface during implementation of the DeWitt Nelson and NCRF facilities. A unique archaeological resource could be adversely affected by the DeWitt Nelson and NCRF projects. This would be a **significant** impact on unique archeological resources. (Impact 4.3-2c)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce to less-than-significant levels effects to cultural resources:

> CDCR will implement Mitigation Measure for Impact 4.3-2a (above).

Implementation of Mitigation Measure for Impact 4.3-2a would avoid or capture archaeological values through data recovery, and would, therefore, reduce the impact to a **less-than-significant** level.

Significant Effect: Impact 4.3-3, Impacts to Human Burials

Although no evidence of prehistoric or early historic interments are known to be present on the DeWitt Nelson project site, there is a possibility that presently-undocumented human remains exist. California law recognizes the need to protect historic-era and Native American human burials, skeletal remains, and items associated with Native American interments from vandalism and inadvertent destruction. If any human remains were unearthed during project construction, this impact would be significant.

Although unlikely, it is possible that previously unidentified human remains may be uncovered during ground-disturbing activities of the DeWitt Nelson facility. This would be a **significant** impact on human remains. (Impact 4.3-3a)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce to less-than-significant levels effects to cultural resources:

> **Mitigation Measure for Impact 4.3-3a.** In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities, all such activities in the vicinity of the find will be halted immediately and CDCR or its designated representative will be notified. CDCR will immediately notify the county coroner and a qualified professional archaeologist. The coroner will examine all discoveries of human remains within 48 hours of receiving notice of the discovery. If the coroner determines that the remains are those of a Native American, he or she will contact the NAHC by phone within 24 hours of making that determination. CDCR or its appointed representative and the professional archaeologist will consult with a Most Likely Descendant (MLD) designated by the NAHC regarding the removal or preservation and avoidance of the remains and determine whether additional burials could be present in the vicinity.

Implementation of the above mitigation measure would reduce the impact to a less-than-significant level because if any human remains are found during construction, CDCR would follow all procedures necessary to inform descendants and follow the procedures to archive, rebury, or otherwise preserve resources, as required.

Significant Cumulative Effect: Impact 4.3-3, Impacts to Human Burials for the Combined NCRF and DeWitt Facilities

Although no evidence of prehistoric or early historic interments exists on either the DeWitt Nelson or NCRF project sites, there is a possibility that presently-undocumented human remains exist. California law recognizes the need to protect these remains and associated grave goods from vandalism and inadvertent destruction. If any human remains were unearthed during project-related construction activities, this impact would be a significant.

Although unlikely, it is possible that previously unidentified human remains may be uncovered during ground-disturbing activities of the DeWitt Nelson and NCRF facilities. This would be **significant** impact on human remains. (Impact 4.3-3c)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce to less-than-significant levels effects to cultural resources:

> CDCR will implement Mitigation Measure for Impact 4.3-3a (above).

Assuming that an agreement can be reached between the MLD and CDCR or its representative with the assistance of the archaeologist, the steps included in Mitigation Measure for Impact 4.3-3a would minimize or eliminate adverse impacts on the uncovered human remains, and thus would reduce the impact to a **less-than-significant** level.

GEOLOGY, SOILS, MINERAL RESOURCES, AND PALEONTOLOGY

Potentially Significant Effect: Impact 4.5-4: Potential Damage to Unknown, Potentially Unique Paleontological Resources

The DeWitt Nelson project site is currently developed with vacant buildings. Project-related earthmoving activities are not expected to be deep enough to encounter Pliocene-age rock formations that could contain fossils. However, the entire DeWitt Nelson project site is underlain by younger Pleistocene-age sediments of the Modesto Formation, which is considered a paleontologically sensitive rock unit under Society of Vertebrate Paleontology (SVP) guidelines (1995). The Pleistocene sediments overlay older Pliocene sediments. In addition to the 3 recorded vertebrate fossil localities and two unrecorded fossil localities in the project vicinity, specimens from sediments referable to the Modesto Formation have been reported at other locations throughout the Central Valley. The fact that vertebrate fossils have been recovered near the DeWitt Nelson project site and other recorded vertebrate fossil localities have been recorded throughout the San Joaquin Valley, and that all have been in sediments referable to the Modesto Formation, suggests that additional similar fossil remains could be uncovered during construction-related earthmoving activities at the project site. Therefore, vertebrate fossils could be damaged during

construction, including demolition, at the DeWitt Nelson project site. This impact would be potentially significant.

The DeWitt Nelson project site is underlain by younger Pleistocene-age sediments of the Modesto Formation, which is considered a paleontologically sensitive rock under SVP guidelines (1995). The potential exists for damage to vertebrate fossils during construction-related activities at the project site. This would be a **potentially significant** impact to paleontological resources. (Impact 4.5-4a)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce to less-than-significant levels effects to paleontological resources:

> **Mitigation Measure for Impact 4.5-4a.** Before the start of grading, excavation, or demolition, whichever comes first, at the DeWitt Nelson location, CDCR will retain a qualified paleontologist or archaeologist to alert all construction personnel involved with earthmoving activities, including the site superintendent, about the possibility of encountering fossils. The appearance and types of fossils likely to be seen during construction will be described. Construction personnel will be trained about the proper notification procedures should fossils be encountered. If paleontological resources are discovered during earthmoving activities, the construction crew will be directed to immediately cease work in the vicinity of the find and notify the CDCR Project Director. CDCR will retain a qualified paleontologist to evaluate the resource and prepare a mitigation plan in accordance with SVP guidelines (1996). The mitigation plan may include a field survey, construction monitoring, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by CDCR to be necessary and feasible will be implemented before construction or demolition activities can resume at the site where the paleontological resources were discovered.
>
> Implementation of this mitigation measure would reduce potentially significant impacts related to potential damage to unique paleontological resources to a less-than-significant level because construction workers would be alerted to the possibility of encountering paleontological resources, and if resources were encountered, fossil specimens would be recovered and recorded and would undergo appropriate curation.

Implementation of this mitigation measure would reduce impacts related to potential damage to unique paleontological resources to a **less-than-significant** level because construction workers would be alerted to the possibility of encountering paleontological resources, and if resources were encountered, fossil specimens would be recovered and recorded and would undergo appropriate curation.

Potentially Significant Cumulative Effect: Impact 4.5-4: Potential Damage to Unknown, Potentially Unique Paleontological Resources for the Combined NCRF and DeWitt Facilities

As discussed above, project-related earthmoving activities under both the proposed DeWitt Nelson and NCRF projects are not expected to be deep enough to encounter Pliocene-age rock formations that could contain fossils.

However, both project sites are underlain by younger Pleistocene-age sediments of the Modesto Formation, which is considered a paleontologically sensitive rock unit under SVP guidelines (1995). The Pleistocene sediments overlay older Pliocene sediments. Therefore, vertebrate fossils could be damaged during construction, including demolition, at the NCRF site and DeWitt Nelson site. This impact would be potentially significant.

The DeWitt Nelson and NCRF site and DeWitt Nelson site are underlain by younger Pleistocene-age sediments of the Modesto Formation, which is considered a paleontologically sensitive rock under SVP guidelines (1995). The potential exists for damage to vertebrate fossils during construction-related activities at the NCRF site and DeWitt Nelson site. This would be a **potentially significant** impact to paleontological resources. (Impact 4.5-4c)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce to less-than-significant levels effects to cultural resources:

CDCR will implement Mitigation Measure for Impact 4.5-4a (above).

Implementation of the Mitigation Measure for Impact 4.5-4a would reduce potentially significant impacts related to potential damage to unique paleontological resources, as described under Impacts 4.5-4 to a **less-than-significant** level because construction workers would be alerted to the possibility of encountering paleontological resources, and if resources were encountered, fossil specimens would be recovered and recorded and would undergo appropriate curation.

HAZARDS AND HAZARDOUS MATERIALS

Potentially Significant Effect: Impact 4.6-2, Exposure of Construction Workers and the Environment to Hazardous Materials

Construction-related activities, such as the use of equipment that contains hazardous materials (*e.g.*, diesel-fueled equipment), the excavation and transportation of contaminated soil, and the demolition and renovation of existing aged structures, could expose construction workers and the environment to hazardous materials. Development of the DeWitt Nelson project facilities would involve grading, excavation, and construction of several new facilities. Potential sources of hazardous materials that exist within the project footprint are described below.

Unknown USTs and Environmental Contamination

Unknown or undocumented underground storage tanks (USTs) may exist in the project area, and could be discovered during proposed construction and grading activities. Uncovering an undocumented UST could expose construction workers to contaminated soils, could damage equipment, or cause injury to construction workers. Furthermore, the presence of contamination in on-site soils could create a potentially significant environmental or health hazard if left in place. The developed and undeveloped land associated with the DeWitt Nelson project could also contain petroleum hydrocarbons, tetrachloroethylene (TCE), Semi-Volatile Organic Compounds (SVOCs), and fuel oxygenates from other past activities.

Aged Structures

Because of the age of the DeWitt Nelson buildings and structures, there is a possibility that lead-based paint (LBP) and asbestos containing materials (ACM) may be present in building materials. In addition, electrical switches, light ballasts, and transformers containing polychlorinated biphenyls (PCBs) may also be present. If allowed to deteriorate, these materials could result in localized lead and asbestos contamination. Further, any renovation activities would encroach upon structures containing these materials, which could cause a release to the environment. These materials could also become airborne during demolition and renovation activities and create a hazard for construction workers at the site. Exposure to asbestos and/or lead as well as PCBs could lead to adverse health effects.

Former Agricultural Land Uses

A Phase I ESA has not been prepared for the existing DeWitt Nelson facility; however, agricultural activities were and are currently common in the project area and these activities often involve application of pesticides, herbicides, and chemical fertilizers. Residual agricultural chemicals such as these may still exist as a result of past agricultural operations on-site and include chlorinated pesticides, carrier fluids (i.e., petroleum hydrocarbon based), and heavy metals. Implementation of the DeWitt Nelson project would require excavation and other earth-moving activities that may result in exposure of construction workers to hazardous agricultural chemicals. Additionally, buried agricultural structures, such as drainage pipelines, may exist below the ground surface. Excavation and grading activities may result in the unearthing of the structures, which could damage equipment or cause injury to construction workers.

Site soils and aged buildings could contain hazardous chemicals or materials. Because soils and on-site structures at the DeWitt Nelson site could contain unknown hazardous materials associated with the former auto-body shop on the site, as well as hazardous building materials such as LBP and ACM, as well as residual agricultural chemicals such as chlorinated pesticides, construction workers and the environment could be exposed to these materials during project construction and operation. This impact is considered **potentially significant.** (Impact 4.6-2a)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce potential exposure of construction workers and the environment to hazardous materials to less-than-significant levels.

Mitigation Measure for Impact 4.6-2a. CDCR will implement the following measures prior to and during construction, as appropriate:

a. To avoid health risks to construction workers, CDCR will prepare a Health and Safety Plan prior to initiating any demolition (or removal of building materials associated with renovation), grading, or other groundwork. This plan will outline measures that will be employed to protect construction workers and the public from exposure to hazardous materials during demolition and construction activities.

These measures could include, but would not be limited to, posting notices, limiting access to the site, air monitoring, watering, and installation of wind fences. Development contractors will be required to comply with state health and safety standards for all demolition work. If necessary, this will include compliance with OSHA and Cal-OSHA requirements regarding exposure to asbestos and lead-based paint.

b. Before demolition of any structures or initiation of grading or other groundwork, CDCR will investigate if soil and/or groundwater have been contaminated from past operations. This investigation will follow environmental site assessment (ESA) and/or other appropriate testing guidelines and will include, as necessary, analysis of soil and/or groundwater samples taken at or near potential contamination sites. If the results indicate that contamination exists at levels above regulatory action standards, then the San Joaquin County Department of Environmental Health (SJCDEH) will be notified and the site will be remediated in accordance with recommendations made by SJCDEH, Regional Water Quality Control Board (RWQCB), and California Department of Toxic Substances Control (DTSC). The agencies involved would depend on the type and extent of contamination. Remediation activities could include but would not be limited to the excavation of contaminated soil areas and hauling of contaminated soil materials to an appropriate off-site disposal facility, mixing of on-site soils, and capping (i.e., paving or sealing) of contaminated areas.

c. Based on the results and recommendations of the ESA-level investigation described above, CDCR will prepare a site plan that identifies any necessary remediation activities appropriate for proposed correctional facilities, including excavation and removal of on-site contaminated soils, and redistribution of clean fill material on the project site. The plan will include measures that ensure the safe transport, use, and disposal of contaminated soil and building debris removed from the site. The development contractors will be required to comply with the plan and relevant local, state, and federal laws for dewatering discharge. The plan will outline measures for specific handling and reporting procedures for hazardous materials, and disposal of hazardous materials removed from the site at an appropriate off-site disposal facility.

In addition, the following measures will apply to construction activities:

(1) The project contractor will notify SJCDEH if evidence of previously undiscovered soil or groundwater contamination (e.g., stained soil, odorous groundwater) is encountered during excavation. Any contaminated areas will be remediated in accordance with recommendations made by SJCDEH, RWQCB, and DTSC.

(2) Before demolition of any structure, or removal of building materials, CDCR will hire a qualified consultant to investigate whether any building materials to be removed contain lead or asbestos-containing materials that could become friable or mobile during demolition/construction activities. If found, the lead- or asbestos-containing materials will be removed by an accredited inspector in accordance with EPA and Cal-OSHA standards. In addition, all activities (construction or demolition) in the vicinity of these materials will comply with Cal-OSHA asbestos worker construction standards. The lead- or asbestos-containing materials will be disposed of properly at an appropriate off-site disposal facility.

With implementation of mitigation measures for Impact 4.6-2a, the DeWitt Nelson project's hazards and hazardous materials impacts would be reduced to a **less-than-significant** level because the contractor will prepare a site Health and Safety Plan; investigate the extent to which soil and/or groundwater has been contaminated from past operations; and prepare a site plan that identifies any necessary remediation activities appropriate for proposed land uses, including appropriate removal of any ACMs or LBPs, excavation and removal of on-site contaminated soils, and redistribution of clean fill material on the project site.

Potentially Significant Cumulative Effect: Impact 4.6-2, Exposure of Construction Workers and the Environment to Hazardous Materials for the Combined NCRF and DeWitt Facilities

Construction-related activities for the combined facilities and potential sources of hazardous materials that exist within the project footprints for the NCRF and DeWitt Nelson projects would be to the same as the activities and hazardous materials sources described above for the NCRF and DeWitt Nelson projects. Construction-related activities, such as the use of equipment that contains hazardous materials (e.g., diesel-fueled equipment), the excavation and transportation of contaminated soil, and the demolition and renovation of existing aged structures, could expose construction workers and the environment to hazardous materials. This would be a potentially significant impact.

Site soils and aged buildings could contain hazardous chemicals or materials. Because soils and on-site structures at the DeWitt Nelson and NCRF sites could contain unknown hazardous materials associated with the former auto-body shop on the site, as well as hazardous building materials such as LBP, ACM, and PCBs, as well as residual agricultural chemicals such as chlorinated pesticides, construction workers and the environment could be exposed to these materials during project construction and operation. This impact is considered **potentially significant**. (Impact 4.6-2c)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce potential exposure of construction workers and the environment to hazardous materials to less-than-significant levels.

CDCR will implement Mitigation Measure for Impact 4.6-2a above.

With implementation of mitigation measures for Impact 4.6-2a, the project's hazards and hazardous materials impacts would be reduced to a **less-than-significant** level because the contractor will prepare a site Health and Safety Plan; investigate the extent to which soil and/or groundwater has been contaminated from past operations; and prepare a site plan that identifies any necessary remediation activities appropriate for proposed land uses, including appropriate removal of any ACMs or LBPs, excavation and removal of on-site contaminated soils, and redistribution of clean fill material on the project site.

HYDROLOGY AND WATER QUALITY

Potentially Significant Effect, Impact 4.7-3: Long-term Water Quality Degradation

Implementation of the DeWitt Nelson project would increase the footprint of development at the project site, adding impervious surfaces, including a firing range, which could potentially increase the level of urban contaminants discharged into the stormwater drainage system. Some of the currently undeveloped land on the project site would be developed with permanent uses associated with the DeWitt Nelson project facilities, including buildings and a firing range with associated roadways and parking areas. The proposed development has the potential to increase the pollutant load of stormwater discharges as a result of proposed land uses. Anticipated pollutants associated with the project include trash, debris, heavy metals, and hydrocarbons from roadways and parking areas. In addition, potential pollutants associated with the project include sediment from pervious areas that would not be landscaped, pesticides from potential pest control activities, nutrients, fertilizers, oxygen-demanding substances from landscaped areas, and organic compounds from uncovered parking areas and roadways.

CDCR would comply with applicable federal and state stormwater management regulations. Specifically, CDCR would incorporate proper pollutant source controls, minimize pollutant exposure outdoors, and treat stormwater runoff through proper BMPs when source control or exposure protection is insufficient at reducing runoff pollutant loads.

Long-term operation of a firing range could cause long-term discharges of firing range-related contaminants (such as lead and other heavy metals) into the stormwater drainage system and/or groundwater. The firing range facility would be designed in accordance with the 2009 CDCR Design Criteria Guidelines (DCGs).

Design features proposed by CDCR that would protect water quality include the use of soil berm bullet traps, heavy-duty steel bullet traps, and a clay soil base for the floor of the firing range. The floor of the firing range would be graded with four inches of pea gravel over a clay base, which would trap bullet fragments and prevent the leaching of lead or other materials to the soils and groundwater beneath the range. CDCR would routinely inspect the floor of the firing range and collect any stray bullets or fragments consistent with applicable hazardous material handling requirements. The firing range would also include a total containment bullet trap that catches the bullets/fragments in a de-acceleration chamber and deposits them in a containment canister. The dust from the spent bullet would be filtered through a

dust collection vacuum unit creating a negative pressure environment in the de-acceleration chamber. All lead would be contained in the bullet trap and an appropriately certified contractor would remove the collected bullets and bullet fragments and dispose of them at an appropriate off-site disposal facility.

Operation of a firing range could cause long-term discharges of lead and other heavy metals into the storm drainage system or groundwater. Without firing range design features to address anticipated and potential pollutants from the project site, long-term water quality degradation would be considered a **significant** impact. (Impact 4.7-3a)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce long-term water quality degradation to less-than-significant levels.

> **Mitigation Measure for Impact 4.7-3a.** Before any construction-related ground disturbance, final firing range design plans will be completed to demonstrate that all runoff and overshot from the firing range would be appropriately captured at the firing range facility and would not result in contamination of nearby waterways and underlying groundwater aquifers. As part of the final design process, CDCR will coordinate with applicable state agencies (i.e., DTSC and RWQCB) to ensure that the proposed design plans are consistent with state requirements. CDCR will implement the following:
>
> - Final design will be consistent with the applicable CDCR DCGs for firing ranges (see DCG Appendix C.3, "Special Occupancies: Firing Ranges");
> - CDCR will develop and implement a firing range operation and maintenance plan that includes provisions for periodic range maintenance, periodic cleanup procedures (i.e., sweeping), and hazardous and non-hazardous waste disposal procedures, and periodic removal of lead and other materials from bullet traps, soil berms, and permeable floor areas;
> - CDCR will comply with applicable RWQCB and/or DTSC water quality permits and requirements, such as preparation of a SWPPP and site-specific WDRs, use of erosion and sediment-control BMPs, and implementing personnel training requirements and procedures; and
> - CDCR will implement applicable EPA Best Management Practices to prevent lead migration at Outdoor Shooting Ranges (see http://www.epa.gov/region2/waste/leadshot/) such as implementing methods for monitoring and adjusting soil pH and binding lead and controlling runoff to the maximum extent practicable.

Implementation of the mitigation measures for Impact 4.7-3 would reduce the significant impact related to long-term degradation of surface water quality from project-related contaminants to a **less-than-**

significant level because the project would involve the implementation of various design features to prevent lead and other heavy metals from contaminating nearby waterways and groundwater aquifers.

LAND USE AND AGRICULTURAL RESOURCES

Significant Effect: Impact 4.8-3, Convert Important Farmland to Nonagricultural Uses

The proposed DeWitt Nelson project would convert approximately 4.5 acres of Important Farmland to a nonagricultural land uses. This would be a **significant** impact. (Impact 4.8-3a)

Finding

Changes or alterations, which substantially reduce the significant effects to important farmlands, have been incorporated by CDCR into the project. While this mitigation measure would substantially reduce the significant effects of the project, the residual impact would continue to be significant. As described in Section 1.7, specific economic, legal, social or other considerations make infeasible the project alternatives that would reduce or avoid this impact. Therefore, the important farmland impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce impacts to important farmlands.

> **Mitigation Measure for Impact 4.8-3a.** Prior to operation of the DeWitt Nelson project, a perpetual agricultural conservation easement or deed shall be recorded on land that is consistent in quality, as characterized by DOC's Farmland Mapping and Monitoring Program, equal in acreage to the number of acres of Important Farmland converted by the proposed DeWitt Nelson Project (minimum 1:1 ratio). The total amount shall be 4.5 acres minimum.

Implementation of this mitigation would conserve at least 4.5 acres of existing Important Farmland. Although recording an agricultural conservation easement would limit future farmland conversion for the acres conserved, it would not result in the replacement of the 4.5 acres converted by the project, because no new farmland would be created. Therefore, the conversion of Important Farmland to a nonagricultural use for the DeWitt Nelson project, although reduced in severity, would remain a **significant and unavoidable** impact.

Significant Cumulative Effect: Convert Important Farmland to Nonagricultural Uses

According to the most recent agriculture census for San Joaquin County, conducted in 1997, 3,862 farms occupy approximately 809,000 acres of farmland in the county; this is approximately 90% of the county's 909,000-acre total land area. The percentage of agricultural land has fluctuated, according to recent agriculture censuses, from approximately 824,000 acres (91%) in 1987 to approximately 784,000 acres (86%) in 1992 and then back up again in 1997 to the acreages mentioned above. In 1997, total cropland in the county was approximately 559,000 acres, and in this area, approximately 519,000 acres were irrigated lands.

As projected in the SJMSCP, population in the county, including the city of Stockton, is expected to more than double by 2040, increasing to 1.26 million (SJCOG 2000), resulting in continued pressure to convert agricultural lands to nonagricultural use. The SJMSCP (SJCOG 2000) estimated that approximately 57,635 acres of agricultural habitat land will be converted from open space use between 2001 and 2051.

The Division of Land Resource Protection of the California Department of Conservation (DOC) estimates that the county had 624,515 acres of Important Farmland in 2004, further classified as 412,550 acres of Prime Farmland, 91,222 acres of Farmland of Statewide Importance, and 62,535 acres of Unique Farmland (DOC 2006). According to the DOC land conversion tables for the county, 11,140 acres of Important Farmland were converted to other uses between 1992 and 2004. Lands classified as Unique Farmland and Farmland of Local Importance actually increased during this period (likely attributable more to designation of existing farmland as unique or important rather than to new farmland being put into production). However, an overall loss of Important Farmland occurred as a result of conversions of Prime Farmland (23,453 acres) and Farmland of Statewide Importance (8,326 acres) to other uses. The county reports that 8,733 acres of farmland are slated for nonagricultural use in the near future; more than half of this is Prime Farmland.

As described in the Section 4.8 "Land Use and Agricultural Resources," the majority of the DeWitt Nelson facility would be located on Urban Built-up land, with the exception of the new retention basin, which would convert approximately 4.5 acres of Important Farmland. According to the EIR for the City General Plan (City of Stockton 2006:13-32), buildout of the City General Plan and other area development, including CHCF, would result in the conversion of up to 32,600 acres of Important Farmland. The EIR concludes that conversion of this farmland would be a significant and unavoidable impact. The proposed project would contribute to this conversion of farmland.

The loss of Important Farmland is considered a cumulatively considerable (i.e., significant) impact when considered in connection with the losses that would occur as a result of the proposed project; past farmland conversions; and planned future development proposed in the city, the surrounding cities, and the county as a whole. Mitigation is included requiring CDCR to record an agricultural conservation easement at a ratio of 1:1 acres (4.5 acres total) The CHCF Stockton project would also convert up to 70 acres of Important Farmland. Mitigation measures require a conservation easement of similar farmland at a ratio of 1:1 (acre conserved to acre converted).

Preserving agricultural lands in perpetuity through purchasing a conservation easement would ensure the continued protection of farmland in the project vicinity, partially offsetting project impacts. However, this measure cannot fully and feasibly mitigate the proposed DeWitt Nelson project's cumulatively considerable contribution to the loss of agricultural land in San Joaquin County to below a level that is not considerable, because no new farmland would be created; rather, existing farmland would be protected. Therefore, the proposed DeWitt Nelson project would contribute to an existing cumulatively considerable impact, and the project would result in a **significant and unavoidable** cumulative impact.

Finding

Changes or alterations, which substantially reduce the significant effects to important farmlands, have been incorporated by CDCR into the project. While this mitigation measure would substantially reduce the significant effects of the project, the residual cumulative impact would continue to be significant. As described in Section 1.7, specific economic, legal, social or other considerations make infeasible the

project alternatives that would reduce or avoid this impact. Therefore, the important farmland impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce impacts to important farmlands.

CDCR will implement Mitigation Measure for Impact 4.8-3a.

Implementation of this mitigation would conserve at least 4.5 acres of existing Important Farmland. Although recording an agricultural conservation easement would limit future farmland conversion for the acres conserved, it would not result in the replacement of the 4.5 acres converted by the project, because no new farmland would be created.

The conversion of 4.5 acres of Important Farmland associated with the DeWitt Nelson project, in combination with the conversion of 32,600 acres of Important Farmland expected to be converted under the buildout of the City of Stockton General Plan and other projects (including CHCF), as well as Important Farmland converted by other cumulative development in the region, would eliminate the viability of a significant amount of Important Farmland for agricultural production. Even with implementation of mitigation measures, the conversion of 4.5 acres of Important Farmland resulting from the DeWitt Nelson project, in combination with cumulative development, is a **significant and unavoidable** cumulative impact because conserving farmland elsewhere does not re-create the farmland that would be lost as a result of the proposed DeWitt Nelson project.

NOISE

Potentially Significant Effect: Impact 4.9-1, Short-Term Construction-Generated Noise Levels Exceeding Applicable Noise Standards or Resulting in Substantial Temporary Increase in Ambient Noise Levels.

Construction noise levels in the project vicinity would fluctuate depending on the particular type, number, and duration of usage for the various pieces of equipment. The effects of construction noise depend largely on the types of construction activities occurring on any given day, noise levels generated by those activities, distances to noise-sensitive receptors, and the existing ambient noise environment in the vicinity of the receiver. Construction generally occurs in several discrete stages, with each operation varying the equipment mix and the associated noise characteristics. These stages alter the characteristics of the noise environment generated on the project sites and in the surrounding community for the duration of the construction process. Construction of the DeWitt Nelson project is expected to begin in 2011 and would be completed in approximately 24 months. The proposed project is planned to be fully operational by mid to late 2013.

The site preparation phase typically generates the most substantial noise levels because of on-site equipment associated with grading, compacting, and excavation. Site preparation equipment includes backhoes, bulldozers, and loaders; excavation equipment such as graders and scrapers; and compaction equipment. Erecting large structural elements and mechanical systems could require the use of a crane for

placement and assembly tasks, which may also generate substantial noise. Although a detailed construction equipment list is not currently available, it is expected that the primary sources of noise would include backhoes, compressors, bulldozers, excavators, and other related equipment.

To assess noise levels associated with the various equipment types and operations, construction equipment can be considered to operate in two modes, mobile and stationary. Mobile equipment sources move around a construction site performing tasks in a recurring manner (*e.g.*, loaders, graders, dozers). Stationary equipment operates in a given location for an extended period of time to perform continuous or periodic operations. Thus, it is necessary to determine the location of stationary sources during specific phases, or the effective acoustical center of operations for mobile equipment during various phases of the construction process. Operational characteristics of heavy construction equipment are additionally typified by short periods of full-power operation followed by extended periods of operation at lower power, idling, or powered-off conditions.

Operational noise levels for typical construction activities would range from 74 to 85 dBA at a distance of 50 feet. Accounting for the usage factor of individual pieces of equipment, topographical shielding and absorption effects, construction activities on the project site would be expected to result in hourly average noise levels of 87 dBA L_{eq}, at a distance of 50 feet. Maximum noise levels generated by construction activities are not predicted to exceed 85 dBA L_{max} at 50 feet (FHWA 2006: 3).

The nearest off-site noise-sensitive receptors in the project vicinity are the single-family residential land uses located approximately 2,600 feet east of the acoustical center (the reasonable center of active construction equipment) of the DeWitt Nelson site, east of Austin Road. Noise from localized point sources (such as construction sites) typically decreases by 6 to 7.5 dBA with each doubling of distance from source to receptor. Conservatively assuming an attenuation rate of 6 dBA per doubling of distance, construction operations and related activities are predicted to generate exterior hourly noise levels of 52 dBA L_{eq} and 50 dBA L_{max} at the nearest off-site noise-sensitive receptor, when measured from the acoustical center of construction operations.

On-site noise-sensitive receptors include N.A. Chaderjian Youth Correctional Facility housing units located 1,000 feet west from the acoustical center of the Dewitt Nelson facility. Common outdoor activity areas for these housing facilities are oriented such that the direct line of sight to construction activities would be shielded by the facility housing units. The acoustical shielding provided by on-site buildings would result in a 5- to 8-dBA reduction in noise levels at the receptor. Resultant exterior noise levels at nearby on-site receptors would be less than 60 dBA L_{eq} at the housing units.

All buildings provide some exterior-to-interior noise reduction. A building constructed with a wood frame and a stucco or wood sheathing exterior typically provides a minimum exterior-to-interior noise reduction of 25 dBA with its windows closed, whereas a building constructed of a steel or concrete frame, a curtain wall or masonry exterior wall, and fixed plate glass windows of one-quarter-inch thickness typically provides an exterior-to-interior noise reduction of 30–40 dBA with its windows closed. Assuming an average exterior-to-interior noise reduction of 25 dBA (with windows closed; prison windows are not operable), interior noise levels would not exceed 45 dBA L_{dn} at off- and on-site noise sensitive receptors. Predicted interior construction noise levels would range from approximately 30 dBA L_{dn} to 35 dBA L_{dn} at both off- and on-site noise sensitive receptors.

In consideration of local noise control ordinances for the evaluation of potential impacts (as stated previously, state agencies like CDCR are not required to comply with the ordinances but may use them as

an indicator of project significance), noise levels associated with construction activities occurring between 6:00 a.m. and 9:00 p.m. on any day are exempt under the San Joaquin County Development Code. If construction activities occur during the more noise-sensitive hours (i.e., evening, nighttime, early morning) or if construction equipment is not properly equipped with noise control devices, project-generated noise levels from construction sources could exceed the applicable standards at nearby noise-sensitive receptors or result in a substantial temporary increase in the ambient noise environment.

Construction activities could result in a substantial (i.e., 3- to 5-dBA or greater) temporary increase in ambient noise levels at nearby on-site noise-sensitive land uses only (approximately +8 dBA). Existing ambient noise levels along Austin Road measured 67.9 dBA L_{eq} at 2 locations due to roadway traffic. Predicted project construction noise levels would be approximately 15 dBA lower than existing measured noise levels at off-site noise-sensitive receptors. Therefore, construction noise levels attributable to the project are not expected to dominate the noise environment at the nearest off-site sensitive receptor. If construction activities occur before 6:00 a.m. or after 9:00 p.m., project-generated noise levels would exceed the San Joaquin County noise standards at the single-family residential land uses east of Austin Road. As a result, this impact would be potentially significant.

Implementation of the proposed DeWitt Nelson project would result in short-term construction activities associated with renovation of existing structures and constructing new buildings. These construction activities could expose on-site sensitive receptors to a substantial, temporary increase in noise levels that exceed the applicable noise standards and/or result in a noticeable increase in ambient noise levels (i.e., 3- to 5-dBA or greater). This would be a **potentially significant** short-term construction-generated noise impact. (Impact 4.9-1a)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce the potential effects related to temporary construction-generated noise to less-than-significant levels:

> **Mitigation Measure for Impact 4.9-1a.** CDCR will implement the following mitigation measures to reduce noise levels generated by on-site construction equipment:
>
> - Construction equipment will be properly maintained per manufacturers' specifications and fitted with the reasonable noise suppression devices (e.g., mufflers, silencers, wraps). All impact tools will be shrouded or shielded and all intake and exhaust ports on power equipment will be muffled or shielded.
> - Construction equipment will not be idled for extended periods (e.g., 20 minutes or longer) of time in the vicinity of noise-sensitive receptors.
> - Fixed/stationary equipment (such as generators, compressors, rock crushers, and cement mixers) will be located as far as possible from noise-sensitive receptors.

- CDCR's mitigation monitor representative or other appropriate representative will appropriately notify nearby sensitive receptors of proposed noise-generating construction activities. The coordinator will manage any complaints resulting from the construction noise.

- Project noise-generating construction and related activities will occur typically between 6 a.m. and 9 p.m.

- If construction operations and related activities occur during more sensitive evening and nighttime hours (9 p.m. to 6 a.m.), CDCR will notify the four residences along Austin Road 48 hours in advance of nighttime construction activities. CDCR's mitigation monitor representative or other appropriate representative will offer to pay hotel accommodations for the duration of the nighttime construction for adjacent residents on properties within 500 feet of the NCRF project site. If residents choose to stay in their homes, CDCR will erect temporary noise barriers to minimize noise disturbances at nearby noise-sensitive land uses. Temporary barriers will be placed as close to the noise source or as close to the receptor as possible and break the line of sight between the source and receptor. Acoustical barriers will be constructed of material with a minimum surface weight of 2 pounds per square foot or greater, and a demonstrated Sound Transmission Class (STC) rating of 25 or greater as defined by American Society for Testing and Materials (ASTM) Test Method E90. Placement, orientation, size, and density of acoustical barriers will be specified by a qualified acoustical consultant when specific equipment configurations, locations, and operational details become available.

Implementation of the above mitigation measures and attaining general consistency with the provisions of the San Joaquin County Development Code would reduce construction-generated noise levels by 5–10 dB at noise-sensitive receptors in the project vicinity and would not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. Furthermore, operation of construction-related equipment in accordance with the construction-hours and noise-reduction provisions of San Joaquin County Development Code would be exempt from the provisions of the noise ordinance. As a result, this impact would be reduced to a **less-than-significant** level.

Potentially Significant Cumulative Effect: Impact 4.9-1, Short-Term Construction-Generated Noise Levels Exceeding Applicable Noise Standards or Resulting in Substantial Temporary Increase in Ambient Noise Levels for the Combined NCRF and DeWitt Facilities

Implementation of both the NCRF and DeWitt Nelson projects would generate construction noise levels simultaneously at 2 locations within the larger CDCR correctional facility footprint. However, the NCRF and DeWitt Nelson project sites are approximately 2,600 feet apart. Construction noise from the DeWitt Nelson site would be approximately 46 dBA L_{eq} and 47 dBA L_{max} at the NCRF site and similar noise levels would be expected from the NCRF site at the DeWitt Nelson site. At the midpoint between the 2 sites, combined noise levels would be approximately 55 dBA L_{eq} and 53 dBA L_{max}. Combined construction noise at the midpoint between the sites would not be greater than discussed above also. Therefore, the noise levels and impacts described above in Impacts 4.9-1a and b would be the same noise levels that would occur under the combined development conditions. Therefore, noise levels would be similar to the noise levels previously discussed above at on-site and off-site receptors.

As stated above under Impact 4.9-1a and b, noise levels associated with construction activities occurring between 6:00 a.m. and 9:00 p.m. on any day are exempt under the *San Joaquin County Development Code*. If construction activities occur during the more noise-sensitive hours (i.e., evening, nighttime, early morning) or if construction equipment is not properly equipped with noise control devices, project-generated noise levels from construction sources could exceed the relevant standards at nearby noise-sensitive receptors or result in a substantial temporary increase in the ambient noise environment. As a result, this impact would be potentially significant.

Implementation of the proposed project would result in short-term construction activities associated with renovation of existing structures and constructing new buildings. These construction activities could expose sensitive receptors to a substantial, temporary increase in noise levels that exceed the applicable noise standards and/or result in a noticeable increase in ambient noise levels (i.e., 3- to 5-dBA or greater). This would be a **potentially significant** impact. (Impact 4.9-1c)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce the potential effects related to temporary construction-generated noise to less-than-significant levels:

CDCR will implement Mitigation Measure for Impact 4.9-1a (above).

Implementation of the above mitigation measures and attaining general consistency with the provisions of the San Joaquin County Development Code would reduce construction-generated noise levels by 5–10 dB at noise-sensitive receptors in the project vicinity and would not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. Furthermore, operation of construction-related equipment in accordance with the construction-hours and noise-reduction provisions of San Joaquin County Development Code would be exempt from the provisions of the noise ordinance. As a result, this impact would be reduced to a **less-than-significant** level.

Significant Cumulative Effect: Cumulative Short-Term Construction-Related Noise Impacts

Implementing the DeWitt Nelson project, in addition to simultaneous construction of other cumulative development projects in the project vicinity, including the NCRF project and CHCF Stockton, would generate noise from construction activity and project-generated construction traffic. Implementing the proposed DeWitt Nelson project could make a considerable contribution to an overall significant effect on noise in the short term. Noise levels at the nearest off-site noise sensitive receptors are considered high, approximately 68 dBA L_{eq} and 57 dBA L_{eq} for residents along Austin Road and Arch Road, respectively. As stated in Impact 4.9-1, the few residences located along Arch Road are not expected to experience significant construction noise from the combined DeWitt Nelson and NCRF projects due to the distance from residences to construction sites, intervening building facades that would shield construction noise, and ground absorption due to the intervening grasslands ground cover. Furthermore, with the addition of the CHCF Stockton project, cumulative noise impacts would remain less than significant for sensitive receptors located along Arch Road.

The proposed combined DeWitt Nelson and NCRF project construction noise levels at noise sensitive receptors located along Austin Road are modeled to be between 50 dBA L_{eq} and 52 dBA L_{eq}. These modeled noise levels would be 16 dBA to 18 dBA lower than the existing noise levels at sensitive receptors located along Austin Road. From a cumulative basis, if all three proposed projects (NCRF, DeWitt Nelson and CHCF Stockton) are constructed simultaneously, cumulative construction noise levels at nearest off-site sensitive receptors would be dominated by construction noise levels attributable to the CHCF Stockton project. Construction noise levels ranging from 68 dBA L_{eq} to 74 dBA L_{eq} would be experienced at the nearest noise sensitive receptors to the CHCF Stockton site located on Austin Road (CHCF Stockton EIR 2008). Therefore, construction noise levels attributed to the cumulative construction projects would be considered significant only if the CHCF Stockton project is under construction at the same time as NCRF or DeWitt Nelson, or both. However, the noise from construction of the CHCF project is substantially higher than from either NCRF or DeWitt Nelson, or both, and the increase in noise from NCRF and DeWitt Nelson would not be considerable. Therefore, they would not result in a cumulatively significant noise impact during construction.

In addition, construction traffic noise would only occur for a limited time and would cease once construction is complete. Because construction activities and project-generated construction traffic would occur only during the exempt hours of 6 a.m. to 9 p.m. and would not occur on a permanent basis, implementing the proposed projects would not contribute to any overall effect of construction traffic noise that would be cumulatively significant in the short term.

Existing noise levels at the on-site noise sensitive receptors (wards at the adjacent N.A. Chaderjian Youth Correctional Facility, and O.H. Close Youth Correctional Facility) are considered relatively low, ranging from 45 dBA L_{eq} to 51 dBA L_{eq} at locations wards may occupy during recreational hours. Proposed project construction noise levels at these sensitive receptors are modeled to be 60 dBA L_{eq}, when accounting for distance and intervening structures. These modeled noise levels would be 9 dBA to 15 dBA higher than the existing noise levels at on-site sensitive receptors. From a cumulative basis, if all three proposed projects (NCRF, DeWitt Nelson and CHCF Stockton) are constructed simultaneously, cumulative construction noise levels at nearest on-site sensitive receptors would result in an increase in ambient noise levels. Construction noise levels of 64 dBA L_{eq} would be experienced at the nearest on-site noise sensitive receptors to the CHCF Stockton site (CHCF Stockton EIR 2008). The cumulative construction noise level that is expected to be experienced at the nearest noise sensitive receptors along Austin Road would be 66 dBA L_{eq}. Therefore, construction noise levels attributed to the cumulative construction projects would be considered significant. As a result, this impact would be cumulatively significant. Project-generated construction traffic would not contribute to any overall effects of noise at on-site noise sensitive receptors that could be cumulatively significant in the short term due to distances from roadways to possible on-site receptor locations and intervening structures.

The DeWitt Nelson project plus cumulative development would result in cumulatively considerable construction noise impacts for both offsite and onsite noise-sensitive receptors. The DeWitt Nelson facility would result in construction noise levels that would cumulatively combine with other cumulative projects such that they would exceed San Joaquin County Development Code construction or operational noise compatibility standards during non-exempt hours; and the projects would, in combination with cumulative development, result in a substantial increase in ambient noise levels at off-site and on-site noise-sensitive receptors. Therefore, cumulative noise impacts would be **significant** and the DeWitt Nelson facility's contribution would be considerable.

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce the potential effects related to temporary construction-generated noise to less-than-significant levels:

> CDCR will implement Mitigation Measure for Impact 4.9-1a (above).

Implementation of the above mitigation measure and attaining consistency with the provisions of the San Joaquin County Development Code would reduce construction-generated noise levels by 5–10 dBA at off-site and on-site noise-sensitive receptors and would not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the projects. Furthermore, operation of construction-related equipment, in accordance with the construction-hours and noise-reduction provisions of San Joaquin County Development Code, would be exempt from the provisions of the Code. As a result, this cumulative impact would be reduced to a **less-than-significant** level.

Potentially Significant Effect: Impact 4.9-4, Long-Term Increase in On-Site Noise Levels from Operation of Stationary Noise Sources.

The proposed DeWitt Nelson project could introduce several on-site stationary noise sources associated with the support and operation of the facility. Stationary noise sources associated with facility operations could include rooftop heating, ventilation, and air conditioning (HVAC) equipment; mechanical equipment; emergency electrical generators; and loading dock operations. Correctional facilities generally incorporate outdoor public address systems, multiple alarms, and outdoor recreation facilities for inmates. The noise levels associated with the operation of these sources are described separately below. All of these stationary sources would result in less-than-significant impacts related to long-term increase in on-site noise levels, with the exception of the proposed firing range.

CDCR has proposed a correctional officer training firing range at the southeast corner of the project site directly south of the DeWitt Nelson facility. Small arms fire is an impulsive noise that causes a higher level of annoyance as compared to more continuous noise sources (*e.g.*, traffic noise, mechanical noise). Impulsive sound is defined as a large peak or blast of sound that lasts usually less than one second and has a high peak noise level. Impulsive noise has an abrupt onset, rapid decay, and often a rapidly changing spectral composition. Other example sources of impulse sound include explosions, impacts, and the passage of supersonic aircraft (sonic booms), though none of these sources are proposed for the projects.

There are two major noise sources generated from small arms munitions firing. The first is the muzzle blast from the firing of a bullet. The second is the noise from the bow shock wave (also known as ballistic wave) generated by the bullet. The bow shock wave propagates out from the path of the bullet. Firing noise from single shots merged in bursts and concurrent firing of multiple weapons, as would occur at the proposed firing range, would result in short periods of intense firing followed by longer periods of silence. There may be an increased annoyance associated with this type of noise exposure pattern. Under

these conditions, the number of shots becomes less important than the decibel level of the typical (average) shot because as a fire range becomes active, the first few shots are perceived as individual events. As the firing range stalls are occupied by multiple users, the individual shots become blended as several shots are being fired simultaneously.

The proposed firing range would be used for practice and training of small and long arms by correctional officers from 7 a.m. to 7 p.m. periodically throughout the quarter. Officers would most frequently use .38 and 9mm pistols, shotguns, Mini-14 rifles, .40mm launchers (used for riot control rounds and chemical dispersion arms). The proposed pistol/shotgun firing range would include 15 ground level stalls and firing positions at distances of 7, 15, and 25 yards. Two upper levels without stalls at 10 feet and 20 feet above ground level and firing position distances of 25, 50, and 100 yards would also be constructed at the firing range. Bullet traps would be installed at appropriate distances and heights to prevent range bullets from leaving the designated firing area. In addition, 18-foot tall earthen berms surrounding the downfield range would also be constructed. The nearest noise sensitive receptors to the proposed firing range would be residents of the DeWitt Nelson facility approximately 600 feet north and the single family residence located approximately 2,500 feet northeast on Austin Road.

Firing range operations would vary from day-to-day but are assumed to be similar to other CDCR firing ranges currently in operation. The firing range would be most heavily utilized during quarterly and annual officer qualification courses. During qualifications a maximum day would include 5 courses of fire by 30 officers per course (150 officer's total). Each course would contain 36 rounds of .38 revolver and 25 rounds of 0.223 Mini-14's fired per officer (61 total rounds). A maximum total of 9,150 rounds per day could be fired (61 rounds/officer x 5 courses x 30 officers/courses). While other firing and training would occur at the proposed firing range, it is assumed for this analysis that the loudest noise levels would be generated during qualification days because the intensity of use during these days is higher than any other day.

Noise levels from the proposed firing range were modeled using the Small Arms Range Noise Assessment Model v2.6 (SARNAM2). SARNAM2 was developed by the United States Army Corp of Engineers for assessment of noise impacts created by firing ranges. Preliminary firing range design and firearms (as described above) were input into the model and resulting noise levels at the nearest sensitive receptors were calculated. Noise standards relevant to the firing range would be the stationary noise standards established by the San Joaquin County Noise Ordinance of 45 dBA L_{eq} and 65 dBA L_{max} for daytime hours. The firing range would not operate during nighttime hours.

SARNAM2 does not generate L_{max} noise levels. To assess L_{max} noise levels generated by the firing range, noise measurements conducted by AECOM at a similar firing range were used and noise levels were attenuated at 600 feet and 2,500 feet for assessment of noise exposure to the nearest sensitive receptors. L_{max} noise levels at 35 feet from the firing position were 93 dBA L_{max} for a 12-gauge shotgun, 105 dBA L_{max} for a .223 caliber rifle, 96 dBA L_{max} for a 0.38 caliber revolver, and 98 dBA L_{max} for a 9mm pistol.

As calculated by SARNAM2, noise levels at 100 feet, 600 feet, and 2,500 feet from the firing range would be 64 dBA L_{eq}, 49 dBA L_{eq}, and 29 dBA L_{eq}, respectively. See Exhibit 4.9-3 for a visual representation of the L_{eq} noise contours from the firing range under the project condition. L_{max} noise levels at 100 feet, 600 feet, and 2,500 feet, assuming an attenuation rate of 6 dBA per doubling of distance, would be 96 dBA L_{max}, 80 dBA L_{max}, and 67 dBA L_{max}, respectively. These noise levels would exceed the noise standards established by San Joaquin County for impulsive noise sources at nearby sensitive receptors. As a result, the noise impact from the proposed firing range would be significant.

Implementation of the DeWitt Nelson project would result in increases in on-site stationary-source noise associated with operation of the facility, particularly the proposed firing range. Firing range stationary noise sources would exceed the County's noise standards (hourly and maximum) and cause a substantial increase in ambient noise levels. This would be a **significant** impact. (Impact 4.9-4a)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce the potential effects related to long-term noise increases resulting from the firing range to less-than-significant levels:

> **Mitigation Measure for Impact 4.9-4a.** CDCR will implement the following mitigation measures to reduce stationary noise levels generated by the proposed firing range. See Exhibit 4.9-4 of the DEIR for a visual representation of the L_{eq} noise contours from the firing range with mitigation in place. Measures that reduce L_{eq} noise levels would also reduce L_{max} noise levels.
>
> - All structures including the guard tower and 100-yard firing position will be enclosed on the north wall and rooftop to ensure that no direct line of site or reflection from within the firing structure occurs between the muzzle (i.e., the firing end of the firearm) and any receptors located at the DeWitt Nelson facility or other on- or off-site receptors. The roof and north walls will extend a minimum of 6 vertical feet above the topmost firing position and a minimum of 10 feet horizontally (east-west) from the outermost firing positions.
>
> - The walls that enclose the structures will be made of material that are solid and are of standard wood/plaster or concrete construction design with a minimum absorption coefficient of 0.50 and a demonstrated STC rating of 20 or greater as defined by ASTM Test Method E90 to ensure a minimum noise reduction of 20 dB.
>
> - Berms surrounding the firing range will extend from as near to the firing range structures as feasible and will be a minimum of 18-feet in height. A combination of berm and wall may also be used.
>
> - The 100-yard firing range position will be located at the furthest feasible distance from the DeWitt Nelson facility and will not be less than 350 feet from the nearest noise sensitive areas of the DeWitt Nelson facility.

Implementation of the above mitigation measures and attaining general consistency with the provisions of the *San Joaquin County Development Code* would reduce firing range-generated noise levels by 20 dB at noise-sensitive receptors in the project vicinity. Modeled noise contours attributable to the firing range would no longer overlap the southeast portion of the DeWitt Nelson site to the northwest or the landfill property to the south. Further, on-site ambient noise levels would be below applicable standards. As a result, this impact would be reduced to a **less-than-significant** level.

Potentially Significant Effect: Impact 4.9-5, Potential for Incompatibility of Proposed On-Site Land Uses with the Ambient Noise Environment.

The state has established noise compatibility standards for prisons within Title 24 of the California Code of Regulations. The section states: "Housing areas (for inmates) shall be designed and constructed so that the average noise level does not exceed 70 decibels during periods of activity and 45 decibels during sleeping hours." (Part 1, Title 24, C.C.R 2001:_143)

Based on the noise monitoring conducted at the project site, average daytime noise levels currently range from approximately 42.1 to 51.1 dBA L_{eq}. There would not be a perceptible increase in traffic noise levels from Austin Road and Arch Road adjacent to the project site. Intermittent noise events associated with the proposed project's use of a PA system would be audible and have an effect on the noise environment, however, on-site receptors are considered users of the PA system. The proposed project is also located approximately 7,900 feet from the Stockton Municipal Airport and is more than 5,500 feet from the 60 dBA CNEL noise contour, when measuring from the southwestern property line of to the DeWitt Nelson Youth Correctional Facility. As a result, aircraft noise may be audible depending on varying environmental effects, but it is not anticipated to substantially contribute to the ambient noise environment on the project site. Based on the measurements of existing ambient noise levels obtained at the project site and assuming an average exterior-to-interior noise reduction of 25 dBA, predicted ambient interior noise levels would not exceed the state's recommended daytime or nighttime noise compatibility standards for prisons of 70 dBA L_{eq} and 45 dBA L_{eq}, respectively.

As calculated by SARNAM2, noise levels at 100 feet, 600 feet, and 2,500 feet from the firing range would be 64 dBA L_{eq}, 49 dBA L_{eq}, and 29 dBA L_{eq}, respectively. See Exhibit 4.9-3 for a visual representation of the L_{eq} noise contours from the firing range under the project condition. L_{max} noise levels at 100 feet, 600 feet, and 2,500 feet, assuming an attenuation rate of 6 dBA per doubling of distance, would be 96 dBA L_{max}, 80 dBA L_{max}, and 67 dBA L_{max}, respectively. These noise levels would exceed the noise standards established by San Joaquin County for impulsive noise sources at nearby sensitive receptors. As a result, the noise impact from the proposed firing range would be significant.

Implementation of the DeWitt Nelson project would result in increases in on-site stationary-source noise associated with operation of the facility, particularly the proposed firing range. Firing range stationary noise sources would exceed the County's noise compatibility standards (hourly and maximum). On-site noise-sensitive land uses associated with the DeWitt Nelson project would be exposed to noise levels exceeding applicable criteria. This would be a **significant** impact. (Impact 4.9-5a)

Finding

Changes or alterations have been required in, or incorporated into, the project by CDCR that mitigate or avoid the significant effects on the environment.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce the potential effects related to incompatible land use issues resulting from the firing range to less-than-significant levels:

CDCR will implement Mitigation Measure for Impact 4.9-4a.

Implementation of Mitigation Measure for 4.9-4a and attaining general consistency with the provisions of the *San Joaquin County Development Code* would reduce firing range-generated noise levels by 20 dB at noise-sensitive receptors in the project vicinity. Modeled noise contours attributable to the firing range would no longer overlap the southeast portion of the DeWitt Nelson site to the northwest or the landfill property to the south. As a result, this impact would be reduced to a **less-than-significant** level.

TRANSPORTATION

Significant Effect: Impact 4.11-1, Construction-Related Traffic Impacts

Construction of the proposed DeWitt Nelson facility is anticipated to begin in spring 2011. Construction work shifts would generally be between 6:00 a.m. and 6:00 p.m. Monday to Friday and could potentially include evening or nighttime construction. The construction staging area would be in the existing visitor parking lot.

Construction trip generation estimates were based on information provided by CDCR staff and consultants. During the peak construction period, construction activities would require up to 480 construction workers for the DeWitt Nelson project that would commute to the site on a daily basis. Average vehicle occupancy of one (1) person per vehicle was assumed for construction workers trips. In addition, construction vehicles would access the project site daily, some construction activities may occur on weekends. It is estimated that approximately 8 heavy vehicles would travel to the DeWitt Nelson site on a daily basis and during the peak periods of construction. For the purpose of this analysis, a passenger-car-equivalent (PCE) ratio of 3.0 was applied to the truck trips (1 heavy vehicle = 3 vehicles) to determine the total passenger vehicle trips equivalent (Caltrans 2000). Table 4.11-7 provides the trip generation estimates during the peak construction period.

Construction related traffic for the DeWitt Nelson project would result in significant impacts at the intersections of Newcastle Road & Arch Road during the A.M. peak hour and at Austin Road & Arch Road during the P.M. peak hour. During the peak construction period, the addition of construction vehicle traffic would cause the intersection of Newcastle Road & Arch Road to deteriorate from LOS B to LOS F during the A.M. peak hour. Similarly, the intersection of Austin Road & Arch Road would deteriorate from LOS A to LOS F during the P.M. peak hour.

Implementation of the DeWitt Nelson project would result in the deterioration of two intersections to unacceptable levels of service during construction. Therefore, this would be a **significant** impact. (Impact 4.11-1a)

Finding

Changes or alterations, which substantially reduce the significant effects to traffic, have been incorporated by CDCR into the project. Such changes or alterations are within the responsibility of other public agencies (San Joaquin County and City of Stockton) and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. While this mitigation measure would substantially reduce the significant effects of the project, the residual impact would continue to be significant. The no project alternative is the only alternative that would reduce or avoid this impact. As described in Section 1.7, specific legal considerations make infeasible the no project alterative. Therefore, the traffic impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce but not to less-than-significant levels transportation effects:

Mitigation Measure for Impact 4.11-1a.

Newcastle Road & Arch Road

The following mitigation measures have been identified to improve intersection operations. The project would contribute approximately 4% of the traffic to this intersection during the A.M. peak hour.

- Coordinate with the County to adjust the traffic signal timing to optimize the splits (balance of green and red signal time for each approach) during the A.M. peak hour.

Austin Road & Arch Road

The following mitigation measures have been identified to improve intersection operations. It is assumed that the installation of the traffic signal, as part of the CHCF project would be in place. The project would contribute approximately 26% of the traffic to this intersection during the A.M. peak hour, and approximately 25% of the P.M. peak hour traffic.

- Coordinate with the County to adjust intersection cycle length to 60 sec during peak hours.

Implementation of Mitigation Measure for Impact 4.11-1a would return the LOS of the intersections of Newcastle & Arch Road and Austin Road & Arch Road to acceptable levels. While feasible mitigation is available, the City and the County are the agencies that can and should implement this mitigation and it is unknown whether this mitigation would be implemented prior to operation of the project. While this mitigation would reduce the project's impact, for purposes of CEQA, this impact is concluded to be ***potentially significant and unavoidable*** in the event the mitigation is not implemented prior to operation of the project.

Significant Cumulative Effect: Impact 4.11-1, Construction-Related Traffic Impacts for the Combined NCRF and DeWitt Facilities

During the peak construction period, construction activities would require up to 100 construction workers for the NCRF project and 480 construction workers for the DeWitt Nelson project that would commute to the site on a daily basis. Construction related traffic for the DeWitt Nelson and NCRF projects, if constructed at the same time, would result in impacts at the intersections of Newcastle Road & Arch Road during the A.M. peak hour and at Austin Road & Arch Road during the P.M. peak hour. During the peak construction period, the addition of construction vehicle traffic would cause the intersection of Newcastle Road & Arch Road to deteriorate from LOS B to LOS F during the A.M. peak hour. Similarly, the

intersection of Austin Road & Arch Road would deteriorate from LOS A to LOS F during the P.M. peak hour.

Implementation of the DeWitt Nelson and NCRF projects would result in the deterioration of two intersections to unacceptable levels of service during construction if both projects are constructed at the same time. Therefore, this would be a **significant** impact. (Impact 4.11-1c)

Finding

Changes or alterations, which substantially reduce the significant effects to traffic, have been incorporated by CDCR into the project. In addition, such changes or alterations are within the responsibility of other public agencies, City of Stockton, and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. While this mitigation measure would substantially reduce the significant effects of the project, the residual impact would continue to be significant. The no project alternative is the only alternative that would reduce or avoid this impact. As described in Section 1.7, specific legal considerations make infeasible the no project alterative. Therefore, the traffic impact is considered significant and unavoidable. Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce but not to less-than-significant levels transportation effects. This mitigation measure would be implemented if both projects are constructed concurrently; if not, this mitigation measure is not needed:

Mitigation Measure for Impact 4.11-1c.

Newcastle Road & Arch Road

The following mitigation measures have been identified to improve intersection operations. The project would contribute approximately 23% of the traffic (to this intersection during the A.M. peak hour.

- Implement Mitigation Measure(s) for Impact 4.11-1a above for the intersection of Newcastle Road and Arch Road.

Table 4.11-13 lists the mitigated LOS. With this mitigation in place, the intersection would operate at LOS B during the A.M. peak hour. Thus, the impact would be reduced to a less-than-significant level based on adopted significance criteria.

Table 4.11-13 NCRF & DeWitt Nelson project – Mitigated Condition LOS Summary										
#	Intersection	Peak	Existing Condition		Existing + CHCF + NCRF/DeWitt Construction		Mitigated CHCF[d] + NCRF/DeWitt Construction		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
4.	Newcastle Road & Arch Road	A.M.	15.3	B	153.9	F	18.8	B	-135.1	No
		Midday	19.5	B	19.5	B	na	na	na	No
		P.M.	15.6	B	33.9	C	na	na	na	No

Notes: Intersections operating below acceptable LOS are in bold.
[a] Delay: in seconds per vehicle
[b] LOS: Level of Service
[c] Signalized Intersection
[d] This scenario assumes implementation of the CHCF project plus approved mitigation described in the certified EIR.
Source: DKS Associates, 2010.

Austin Road & Arch Road

The following mitigation measures have been identified to improve intersection operations. The project would contribute approximately 27 % of the traffic to this intersection during the A.M. peak hour, and approximately 26% of the P.M. peak hour traffic.

- Implement Mitigation Measure(s) for Impact 4.11-1a above for the intersection of Austin Road and Arch Road.

Table 4.11-14 of the DEIR lists the mitigated LOS. With this mitigation in place, the intersection would operate at LOS C during the A.M. peak hour, LOS B during the Midday and P.M. peak hour. Thus, the impact would be reduced to a less-than-significant level based on adopted significance criteria.

Table 4.11-14 NCRF & DeWitt Nelson Projects – Mitigated Condition LOS Summary										
#	Intersection	Peak	Existing Condition		Existing + CHCF + NCRF/DeWitt Construction		Mitigated CHCF[d] + NCRF/DeWitt Construction		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
8.	Austin Road & Arch Road	A.M.	7.9	A	21.5	C	6.3	A	-15.2	No
		Midday	7.9	A	7.9	A	11.4	B	3.5	No
		P.M.	7.8	A	76.7	F	12.7	B	-64.0	No

Notes: Intersections operating below acceptable LOS are in **bold**.
[a] Delay: In seconds per vehicle
[b] LOS: Level of Service
[c] Signalized Intersection
[d] This scenario assumes implementation of the CHCF project plus approved mitigation described in the certified EIR.
Source: DKS Associates, 2010.

Implementation of the above mitigation would return the LOS of the intersections of Newcastle & Arch Road and Austin Road & Arch Road to acceptable levels. While feasible mitigation is available, the City and the County are the agencies that can and should implement this mitigation and it is unknown whether this mitigation would be implemented prior to operation of the project. While this mitigation would reduce the project's impact, for purposes of CEQA, this impact is concluded to be ***potentially significant and unavoidable*** in the event the mitigation is not implemented prior to operation of the project.

Significant Effect: Impact 4.11-2, Impacts to Study Area Intersections and Roadway Segment

Implementation of the DeWitt Nelson project would result in the acceptable operation of the study area roadway segment; however, it would result in the deterioration of four study intersections to unacceptable operating conditions based on adopted thresholds of local agencies. Therefore, this would be a **significant** impact. (Impact 4.11-2b)

Finding

Changes or alterations, which substantially reduce the significant effects to traffic, have been incorporated by CDCR into the project. In addition, such changes or alterations are within the responsibility of other public agencies, Caltrans, the City of Stockton and/or the County of San Joaquin, and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. While this mitigation measure would substantially reduce the significant effects of the project, the residual impact would continue to be significant. The no project alternative is the only alternative that would reduce or avoid this impact. As described in Section 1.7, specific legal considerations make infeasible the no project alterative. Therefore, the traffic impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce but not to less-than-significant levels transportation effects:

Mitigation Measure for Impact 4.11-2b.

1. SR 99 SPUI & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than five seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 2.37% of the traffic to this intersection during the A.M. peak hour, 2.08% during the Midday peak hour and 2.10% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton to help fund implementation of this improvement. This improvement is not in the City's traffic impact fee program.

- Adjust traffic signal timing to optimize the splits and cycle length to 150 seconds during the A.M. peak hour.
- Adjust traffic signal timing to optimize the splits and cycle length to 100 seconds and coordinate the traffic signal with the intersection of Kingsley Road - SR 99 Frontage Road and Arch Road during the Midday peak hour.
- Adjust traffic signal timing to optimize the splits and cycle length to 135 seconds and coordinate the traffic signal with the intersection of Kingsley Road - SR 99 Frontage Road and Arch Road during the P.M. peak hour.

Table 4.11-31 of the DEIR lists the mitigated LOS. With this mitigation in place, the intersection would continue to operate at LOS F during the A.M., Midday, and P.M. peak hours but would not increase delay by more than five seconds. Thus, the impact would be reduced to a less-than-significant level based on adopted significance criteria.

Table 4.11-31
Dewitt Nelson Project – Mitigated Condition LOS Summary

#	Intersection	Peak	Background Condition		Project Condition		Mitigated Project Condition		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
1/2	SR 99 SPUI & Arch Road	A.M.	147.9	F	166.1	F	150.9	F	3.0	No
		Midday	113.0	F	123.2	F	115.1	F	2.1	No
		P.M.	116.9	F	122.6	F	118.3	F	1.4	No

Notes: Intersections operating below acceptable LOS are in bold.
a Delay: In seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates, 2010.

2. Kingsley Road – SR 99 Frontage Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than 5.0 seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 3.63% of the traffic to this intersection during the A.M. peak hour, 3.04% during the Midday peak hour and 3.08 % during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton to help fund implementation of this improvement. This improvement is not in the City's traffic impact fee program.

- Adjust traffic signal timing to optimize the splits and cycle length to 150 seconds during the A.M. peak hour.
- Adjust traffic signal timing to optimize the splits and cycle length to 100 seconds and coordinate the traffic signal with the SR 99 SPUI & Arch Road intersection, during the Midday peak hour.
- Adjust traffic signal timing to optimize the splits and cycle length to 135 seconds and coordinate the traffic signal with the SR 99 SPUI & Arch Road intersection, during the P.M. peak hour.

Table 4.11-32 of the DEIR lists the mitigated LOS. With this mitigation in place, the intersection would operate at LOS D during the A.M. peak hour and it would continue to operate at LOS F during the Midday and P.M. peak hours but would either decrease delay or would not increase delay by more than five seconds. Thus, the impact would be reduced to a less-than-significant level based on adopted significance criteria.

Table 4.11-32
Dewitt Nelson Project – Mitigated Condition LOS Summary

#	Intersection	Peak	Background Condition		Project Condition		Mitigated Project Condition		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
3.	Kingsley Road – SR 99 Frontage Road & Arch Road	A.M.	78.1	E	94.1	**F**	44.3	D	-33.8	No
		Midday	107.5	**F**	119.5	**F**	103.4	**F**	-4.1	No
		P.M.	116.8	**F**	140.5	**F**	118.1	**F**	1.3	No

Notes: Intersections operating below acceptable LOS are in **bold**.
a Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates 2010

3. Newcastle Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the background conditions or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 4.44% of the traffic to this intersection during the A.M. peak hour and 3.88% during the P.M. peak hour. This improvement is not in the County's traffic impact fee program. CDCR will monitor traffic at the above intersection for two years after the date on which the DeWitt Nelson Project begins operations. If, based on those traffic data, the level of service at any of the above intersections exceeds the threshold of significance, CDCR will fund/undertake the following mitigation:

- Adjust the traffic signal timing to a130 second cycle and optimize splits during the impacted A.M. and P.M. hours (balance of green and red time for each approach).

Table 4.11-34 of the Revised DEIR Traffic Section, included as Appendix A of the FEIR, lists the mitigated LOS. With this mitigation in place, the intersection would continue to operate at LOS F during the A.M. and P.M. peak hours but would not increase delay above background conditions. Thus, this impact would be reduced to a less-than-significant level. In calculating CDCR's "fair share" obligation towards traffic improvements, CDCR will credit its total "fair share" obligation by the amount it spends towards the above mitigation in excess of its percentage contributions to traffic congestion at those intersections.

Table 4.11-34
[DeWitt Nelson] Project – Mitigated Condition LOS Impact Comparison

#	Intersection	Peak	Background Condition		Project Condition		Mitigated Project Condition		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
8.	Newcastle Road & Arch Road	A.M.	40.7	D	57.3	**E**	53.4	D	12.7	No
		Midday	No Impact or Mitigation							
		P.M.	42.4	D	58.1	**E**	52.9	D	10.5	No

Notes: Intersections operating below acceptable LOS are in bold.
a Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates 2010

4. Austin Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the background condition or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 2.82% of the traffic to this intersection during the A.M. peak hour, 5.03% during the Midday peak hour and 5.13% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the County of San Joaquin to help fund implementation of this improvement. This improvement is not in the County's traffic impact fee program.

- Reconfigure the northbound approach on Austin Road to provide a dedicated left-turn lane.
- Provide the southbound right-turn lane with overlap phasing (to allow right turns to turn when opposing left turns go).
- Reconfigure the westbound approach on Arch Road to provide a shared thru-left and a dedicated right-turn lane.
- Adjust traffic signal timing to 130 seconds and optimize splits (the balance of red and green time for each approach).

Table 4.11-35 of the Revised DEIR Traffic Section, included as Appendix A of the FEIR, lists the mitigated LOS. With this mitigation in place, the intersection would continue to operate at LOS F during the A.M., Midday, and P.M. peak hours but would not increase delay above background conditions.

However, this mitigation may not be feasible given right-of-way constraints and utility relocation requirements. Appendix E to the Final EIR includes a comparison summary of the significance thresholds criteria including the project's relative contribution to the study intersections.

Table 4.11-35
Dewitt Nelson Project – Mitigated Condition LOS Summary

#	Intersection	Peak	Background Condition		Project Condition		Mitigated Project Condition		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
8.	Austin Road & Arch Road	A.M.	1061.9	F	1052.9	F	599.7	F	-462.2	No
		Midday	133.1	F	145.9	F	92.7	F	-40.4	No
		P.M.	131.6	F	167.6	F	122.6	F	-9.0	No

Notes: Intersections operating below acceptable LOS are in **bold**.
a Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates 2010

Implementation of the above mitigation measures would reduce the project's impacts to the intersection of SR 99 SPUI & Arch Road to a less-than-significant level. While feasible mitigation is available, Caltrans is the agency that can and should implement this mitigation and it is unknown whether this mitigation would be implemented prior to operation of the project. While this mitigation would reduce the project's impact, for purposes of CEQA, this impact is concluded to be ***potentially significant and unavoidable*** in the event the mitigation is not implemented prior to operation of the project.

Implementation of the above mitigation measures would reduce the project's impact to the intersection of Kingsley Road (Frontage Road) and Arch Road to a less-than-significant level. While feasible mitigation is available, Caltrans is the agency that can and should implement this mitigation and it is unknown whether this mitigation would be implemented prior to operation of the project. While this mitigation

would reduce the project's impact, for purposes of CEQA, this impact is concluded to be ***potentially significant and unavoidable*** in the event the mitigation is not implemented prior to operation of the project.

Implementation of the above mitigation measures would reduce the project's impact to the intersection of Newcastle Road and Arch Road to a ***less-than-significant*** level.

Implementation of the above mitigation measures would reduce the impact to a less-than-significant level at the intersection of Austin Road & Arch Road. While the payment of traffic fees would help fund the ultimate improvement of this intersection to its maximum extent, it is unknown whether the County would implement this mitigation as proposed and whether the County would be able to secure the appropriate right-of-way for the improvements. Therefore, while this mitigation, if implemented, would reduce the project's impact to a less-than-significant level, for purposes of CEQA, this impact is concluded to be ***potentially significant and unavoidable*** in the event the mitigation is not implemented prior to operation of the project.

Significant Cumulative Effect: Impact 4.11-2: Impacts to Study Area Intersections and Roadway Segment for the Combined NCRF and DeWitt Facilities

Implementation of both the NCRF and DeWitt Nelson projects, should both be constructed, would result in the deterioration of five study intersections to unacceptable operating conditions based on adopted thresholds of local agencies. Therefore, this would be a **significant** impact. (Impact 4.11-2c)

Finding

Changes or alterations, which substantially reduce the significant effects to traffic, have been incorporated by CDCR into the project. In addition, such changes or alterations are within the responsibility of other public agencies, Caltrans, the City of Stockton and/or the County of San Joaquin, and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. While this mitigation measure would substantially reduce the significant effects of the project, the residual impact would continue to be significant. The no project alternative is the only alternative that would reduce or avoid this impact. As described in Section 1.7, specific legal considerations make infeasible the no project alterative. Therefore, the traffic impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce but not to less-than-significant levels transportation effects. This mitigation measure would be implemented if both projects are implemented; if not, this mitigation measure is not needed:

Mitigation Measure for Impact 4.11-2c

1. SR 99 SPUI & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than five seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The projects would contribute 4.40% of the traffic to this intersection during the A.M. peak hour, 3.92% during the Midday peak hour and 3.89 % during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton to help fund implementation of this improvement. This improvement is not in the City's traffic impact fee program.

- Adjust traffic signal to optimize the splits and cycle length to 150 seconds and coordinate traffic signal with the intersection of Kingsley Road – SR 99 Frontage Road and Arch Road, during the A.M. peak hour.
- Adjust traffic signal to optimize the splits and cycle length to 125 seconds and coordinate the traffic signal with the intersection of Kingsley Road - SR 99 Frontage Road and Arch Road during the Midday peak hour.
- Adjust traffic signal to optimize the splits and cycle length to 130 seconds and coordinate the traffic signal with the intersection of Kingsley Road - SR 99 Frontage Road and Arch Road during the P.M. peak hour.

Table 4.11-38 of the DEIR lists the mitigated LOS. With this mitigation in place, the intersection would continue to operate at LOS F during the A.M., Midday, and P.M. peak hours but with less delay increase than the unmitigated condition. However, delay would still be increased by more than five seconds, therefore, the impact would be significant and unavoidable based on adopted significance criteria. No other feasible mitigation is available to reduce this impact because of the physical constraints of the interchange.

Table 4.11-38
NCRF and DeWitt Nelson Projects – Mitigated Condition LOS summary

#	Intersection	Peak	Background Condition		Project Condition		Mitigated Project Condition		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
1/2.	SR 99 SPUI & Arch Road	A.M.	147.9	**F**	187.4	**F**	177.7	**F**	29.8	**Yes**
		Midday	113.0	**F**	134.4	**F**	126.1	**F**	13.1	**Yes**
		P.M.	116.9	**F**	128.9	**F**	122.2	**F**	5.3	**Yes**

Notes: Intersections operating below acceptable LOS are in **bold**.
a Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates, 2010

2. Kingsley Road – SR 99 Frontage Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than 5.0 seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The projects would contribute 6.67% of the traffic to this intersection during the A.M. peak hour, 5.70% during the Midday peak hour, and 5.68 % during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton to help fund implementation of this improvement. This improvement is not in the City's traffic impact fee program.

- Adjust traffic signal timing to optimize the splits and cycle length to 150 seconds and coordinate the traffic signal with the SR 99 SPUI & Arch Road intersection, during the A.M. peak hour.
- Adjust traffic signal timing to optimize the splits and cycle length to 125 seconds and coordinate the traffic signal with the SR 99 SPUI & Arch Road intersection, during the Midday peak hour.
- Adjust traffic signal timing to optimize the splits and cycle length to 130 seconds and coordinate the traffic signal with the SR 99 SPUI & Arch Road intersection, during the P.M. peak hour.
- Adjust traffic signal timing to provide the north and south approaches on Kingsley Road with permitted and protected traffic signal phasing.
- Convert the southbound approach to a shared thru-left turn-lane and a dedicated right-turn lane.

Table 4.11-39 from the DEIR lists the mitigated LOS. With this mitigation in place, the intersection would operate at LOS C during the A.M. peak hour, LOS E during the Midday peak hour, and it would continue to operate at LOS F during the Midday and P.M. peak hours but would not increase delay by more than five seconds. Thus, the impact would be reduced to a less-than-significant level based on adopted significance criteria.

Table 4.11-39
NCRF and DeWitt Nelson Projects – Mitigated Condition LOS Summary

#	Intersection	Peak	Background Condition		Project Condition		Mitigated Project Condition		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
3.	Kingsley Road – SR 99 Frontage Road & Arch Road	A.M.	78.1	E	110.0	F	31.9	C	-46.2	No
		Midday	107.5	F	133.6	F	94.1	F	-13.4	No
		P.M.	116.8	F	162.3	F	117.7	F	-0.9	No

Notes: Intersections operating below acceptable LOS are in **bold**.
a Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates 2010

3. Newcastle Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the background condition or LOS D or better during the A.M., Midday, and P.M. peak hours. The projects would contribute 8.09% of the traffic to this intersection during the A.M. peak hour, 7.02% during the Midday peak hour, and 7.09% during the P.M. peak hour. This improvement is not in the County's traffic impact fee program. CDCR will monitor traffic at the above intersection for two years after the date on which the second of the two projects (DeWitt Nelson and NCRF) begins operations. If, based on those traffic data, the level of service at any of the above intersections exceeds the threshold of significance, CDCR will fund/undertake the following mitigation:

- Provide a dedicated eastbound right turn lane.
- Provide a dedicated northbound left turn lane.
- Adjust traffic signal timing to 130 seconds and optimize splits (the balance of red and green time for each approach).

Table 4.11-43 of the Revised DEIR Traffic Section, included as Appendix A of the FEIR, lists the mitigated LOS. With this mitigation in place, the intersection would operate at LOS D during the A.M., Midday peak hour and would continue to operate at LOS F during the A.M. and P.M. peak hours but would not increase delay above background conditions. Thus, this impact would be reduced to a less-than-significant level. In calculating CDCR's "fair share" obligation towards traffic improvements, CDCR will credit its total "fair share" obligation by the amount it spends towards the above mitigation in excess of its percentage contributions to traffic congestion at those intersections.

Table 4.11-43
NCRF and DeWitt Nelson Projects – Mitigated Condition LOS Summary

#	Intersection	Peak	Background Condition		Project Condition		Mitigated Project Condition		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
4.	Newcastle Road & Arch Road	A.M.	40.7	D	75.6	E	35.2	D	-5.5	No
		Midday	38.5	D	53.5	D	47.4	D	8.9	No
		P.M.	42.4	D	76.4	E	54.0	D	11.6	No

Notes: Intersections operating below acceptable LOS are in **bold**. Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates, 2010.

4. Logistics Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the background condition or LOS D or better

during the A.M., Midday, and P.M. peak hours. The projects would contribute 8.71% of the traffic to this intersection during the A.M. peak hour, 7.33% during the Midday peak hour, and 7.33% during the P.M. peak hour. This improvement is not in the County's traffic impact fee program. CDCR will monitor traffic at the above intersection for two years after the date on which the DeWitt Nelson Project begins operations. If, based on those traffic data, the level of service at any of the above intersections exceeds the threshold of significance, CDCR will fund/undertake the following mitigation:

- Provide a dedicated northbound left turn lane.
- Adjust traffic signal timing to 130 seconds for the Midday and PM peak hours and optimize splits (the balance of red and green time for each approach).

Table 4.11-44 of the Revised DEIR Traffic Section, included as Appendix A of the FEIR, lists the mitigated LOS. With this mitigation in place, the intersection would operate at LOS D during the A.M., Midday peak hour and would continue to operate at LOS F during the A.M. and P.M. peak hours but would not increase delay above background conditions. Thus, this impact would be reduced to a less-than-significant level. In calculating CDCR's "fair share" obligation towards traffic improvements, CDCR will credit its total "fair share" obligation by the amount it spends towards the above mitigation in excess of its percentage contributions to traffic congestion at those intersections.

Table 4.11-44
NCRF and DeWitt Nelson Projects – Mitigated Condition LOS Summary

#	Intersection	Peak	Background Condition		Project Condition		Mitigated Project Condition		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
5.	Logistics Road & Arch Road	A.M.	13.4	B	35.1	D	23.4	C	10.0	No
		Midday	43.9	D	61.9	E	49.5	D	5.6	No
		P.M.	29.1	C	61.8	E	51.5	D	22.4	No

Notes: Intersections operating below acceptable LOS are in **bold**. Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates, 2010.

5. Austin Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the background condition or LOS D or better during the A.M., Midday, and P.M. peak hours. The projects would contribute 3.12% of the traffic to this intersection during the A.M. peak hour, 5.52% during the Midday peak hour, and 5.65% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the County of San Joaquin to help fund implementation of this improvement. This improvement is not in the County's traffic impact fee program.

- Implement Mitigation Measure for Impact 4.11-2b (4) (above).

Table 4.11-45 of the Revised DEIR Traffic Section, included as Appendix A of the FEIR, lists the mitigated LOS. With this mitigation in place, the intersection would operate at LOS E during the Midday peak hour and would continue to operate at LOS F during the A.M. and P.M. peak hours but would not increase delay above background conditions.

Table 4.11-45
NCRF and DeWitt Nelson Projects – Mitigated Condition LOS Summary

#	Intersection	Peak	Background Condition		Project Condition		Mitigated Project Condition		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
8.	Austin Road & Arch Road	A.M.	1061.9	F	1058.3	F	603.4	F	-458.5	No
		Midday	133.1	F	148.3	F	94.4	F	-38.7	No
		P.M.	131.6	F	169.0	F	123.8	F	-7.8	No

Notes: Intersections operating below acceptable LOS are in **bold**. Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates, 2010.

Implementation of this mitigation would reduce the project's cumulative impacts to the intersection of SR 99 SPUI & Arch Road but not to a less-than-significant level. No other feasible mitigation is available to further reduce this impact. While some feasible mitigation is available, as described in this EIR, Caltrans is the agency that can and should implement this mitigation and it is unknown whether this mitigation would be implemented prior to operation of the project. This impact is concluded to be ***potentially significant and unavoidable.***

Implementation of the above mitigation measure would reduce the project's cumulative impact to the intersection of Kingsley Road (Frontage Road) and Arch Road to a less-than-significant level. While feasible mitigation is available, Caltrans is the agency that can and should implement this mitigation and it is unknown whether this mitigation would be implemented prior to operation of the project. While this mitigation would reduce the project's impact, for purposes of CEQA, this impact is concluded to be ***potentially significant and unavoidable*** in the event the mitigation is not implemented prior to operation of the project.

Implementation of the above mitigation measure would reduce the project's cumulative impact to a ***less-than-significant*** level at the intersection of Newcastle Road & Arch Road.

Implementation of the above mitigation measure would reduce the project's cumulative impact to a ***less-than-significant*** level at the intersection of Logistics Drive & Arch Road.

Implementation of the above mitigation measure would reduce the project's cumulative impact to a less-than-significant level at the intersection of Austin Road & Arch Road. While the payment of traffic fees would help fund the ultimate improvement of this intersection to its maximum extent, it is unknown whether the County would implement this mitigation as proposed and whether they would be able to secure the appropriate right-of-way for the improvements. Therefore, while this mitigation, if implemented, would reduce the project's impact to a less-than-significant level, for purposes of CEQA,

this impact is concluded to be ***potentially significant and unavoidable*** in the event the mitigation is not implemented prior to operation of the project.

Significant Cumulative Effect: Impact 4.11-3: Cumulative Intersection and Roadway Segment Impacts

Implementation of the DeWitt Nelson project under regional cumulative conditions (i.e., development of the project and other projects in the region over the long-term) would result in the deterioration of five study intersections to unacceptable operating conditions based on adopted thresholds of local agencies. In addition, it would cause the volume/capacity ratio for one roadway segment to increase above cumulative no project conditions. Therefore, this would be a **significant** cumulative impact and the project's contribution would be considerable. (Impact 4.11-3b)

Finding

Changes or alterations, which substantially reduce the significant effects to traffic, have been incorporated by CDCR into the project. In addition, such changes or alterations are within the responsibility of other public agencies, Caltrans, the City of Stockton, and/or San Joaquin County,, and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. While these mitigation measures would substantially reduce the significant effects of the project, the residual impact would continue to be significant. The no project alternative is the only alternative that would reduce or avoid this impact. As described in Section 1.7, specific legal considerations make infeasible the no project alterative. Therefore, the traffic impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce, but not to less-than-significant levels the cumulative transportation effects at study area intersections and roadway segment:

Mitigation Measure for Impact 4.11-3b.

1. <u>SR 99 SPUI & Arch Road</u>

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than five seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 2.97% of the traffic to this intersection during the A.M. peak hour, 2.32% during the Midday peak hour and 2.34% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton traffic to help fund implementation of this improvement.

- Adjust traffic signal to optimize the splits and cycle length to 150 seconds during the A.M., Midday, and P.M. peak hour.

Table 4.11-57 of the DEIR lists the mitigated LOS. With this mitigation in place, the intersection would continue to operate at LOS F during the A.M., Midday, and P.M. peak hours but would not increase delay

by more than five seconds. Thus, the impact would be reduced to a less-than-significant level based on adopted significance criteria. Appendix E includes a comparison summary of the analysis results including the project's relative contribution to the study intersections.

Table 4.11-57
Cumulative with DeWitt Nelson Project – Mitigated Condition LOS Summary

#	Intersection	Peak	2035 Cumulative No Project Condition		2035 Cumulative with Dewitt Nelson Project		Mitigated 2035 Cumulative with Dewitt Nelson Project Condition		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
3.	SR 99 SPUI & Arch Road	A.M.	245.5	F	269.6	F	225.7	F	-19.8	No
		Midday	197.0	F	204.8	F	163.0	F	-34.0	No
		P.M.	204.2	F	207.2	F	159.1	F	-45.1	No

Notes: Intersections operating below acceptable LOS are in **bold**.
a Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates 2010

2. Kingsley Road – SR 99 Frontage Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than five seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 3.35% of the traffic to this intersection during the A.M. peak hour, 2.76% during the Midday peak hour, and 2.80% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton to help fund implementation of this improvement.

- Adjust traffic signal to optimize the splits and cycle length to 150 seconds during the Midday and P.M. peak hour.

Table 4.11-58 lists the mitigated LOS. With this mitigation in place, the intersection would operate at LOS D during the A.M. peak hour and it would continue to operate at LOS F during the Midday and P.M. peak hours but would not increase delay by more than five seconds. Thus, the impact would be reduced to a less-than-significant level based on adopted significance criteria. Appendix E includes a comparison summary of the analysis results including the project's relative contribution to the study intersections.

Table 4.11-58
Cumulative with DeWitt Nelson Project – Mitigated Condition LOS Summary

#	Intersection	Peak	2035 Cumulative No Project		2035 Cumulative with DeWitt Nelson Project		Mitigated 2035 Cumulative with DeWitt Nelson Project		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
3.	Kingsley Road – SR 99 Frontage Road & Arch Road	A.M.	51.3	D	53.7	D	Na	na	na	No
		Midday	134.9	F	145.7	F	97.0	F	-37.9	No
		P.M.	139.7	F	166.0	F	110.2	F	-29.5	No

Notes: Na: not applicable, acceptable LOS.
Intersections operating below acceptable LOS are in **bold**.
a Delay: In seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates 2010

3. Newcastle Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the cumulative no project condition or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 3.77% during the P.M. peak hour. CDCR will monitor traffic at the above intersection for two years after the date on which the DeWitt Nelson project begins operations. If, based on those traffic data, the level of service at any of the above intersections exceeds the threshold of significance, CDCR will fund/undertake the following mitigation:

- Adjust signal timing to optimize splits during the P.M. peak hour.

Table 4.11-64 of the Revised DEIR Traffic Section, included as Appendix A of the FEIR, lists the mitigated LOS. With this mitigation in place, the intersection would continue to operate at LOS F during the Midday and P.M. peak hour but would not increase delay above cumulative no project conditions. In calculating CDCR's "fair share" obligation towards traffic improvements, CDCR will credit its total "fair share" obligation by the amount it spends towards the above mitigation in excess of its percentage contributions to traffic congestion at those intersections.

Table 4.11-64
Cumulative with DeWitt Nelson Project – Mitigated Condition LOS Summary

#	Intersection	Peak	2035 Cumulative No Project Condition		2035 Cumulative with Dewitt Nelson Project		Mitigated 2035 Cumulative with Dewitt Nelson Project Condition		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
8.	Austin Road & Arch Road	A.M.	No Impact or Mitigation							
		Midday	No Impact or Mitigation							
		P.M.	53.7	D	55.0	E	53.0	D	-0.7	No

Notes: Na: not applicable, acceptable LOS. Intersections operating below acceptable LOS are in bold.
a Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates 2010.

4. Austin Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the cumulative no project condition or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 5.50% of the traffic to this intersection during the A.M. peak hour, 3.60% during the Midday peak hour and 2.27% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the San Joaquin County t to help fund implementation of this improvement.

- Increase the intersection traffic signal timing cycle length to 120 seconds and optimize splits during the Midday and P.M. peak hours.
- overlap phasing for the southbound right-turn lane.

Table 4.11-65 of the Revised DEIR Traffic Section, included as Appendix A of the FEIR, lists the mitigated LOS. With this mitigation in place, the intersection would continue to operate at LOS F during the Midday and P.M. peak hour but would not increase delay above cumulative no project conditions. Appendix E includes a comparison summary of the significance thresholds criteria including the project's relative contribution to the study intersections.

Table 4.11-65 Cumulative with DeWitt Nelson Project – Mitigated Condition LOS Summary									
#	Intersection	Peak	2035 Cumulative No Project Condition		2035 Cumulative with Dewitt Nelson Project		Mitigated 2035 Cumulative with Dewitt Nelson Project Condition		Significant Impact
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
8.	Austin Road & Arch Road	A.M.	27.8	C	29.5	C	21.8	C	-6.0	No
		Midday	135.4	**F**	159.0	**F**	96.4	**F**	-39.0	No
		P.M.	425.1	**F**	497.9	**F**	389.5	**F**	-35.6	No

Notes: Na: not applicable, acceptable LOS. Intersections operating below acceptable LOS are in **bold**.
a Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates 2010.

5. Arch Road – East of Newcastle Road and west of NCRF West Driveway (Roadway Segment)

The following mitigation measures have been identified to improve the roadway operations and achieve a difference in volume-to-capacity ratio equal to or less than the 2035 Cumulative No Project condition during the A.M., Midday, and P.M. peak hours. CDCR will contribute appropriate fees based on trip ends generated by the project to the County of San Joaquin to help fund implementation of this improvement.

- Adjust traffic signal timing to optimize the cycle length to 100 seconds and optimize east and west splits during the Midday peak hour at the intersection of Logistics Drive and Arch Road.

- Adjust traffic signal timing to optimize the cycle length to 140 seconds and optimize east and west splits during the P.M. peak hour at the intersection of Logistics Drive and Arch Road.

Table 4.11-66 of the Revised DEIR Traffic Section, included as Appendix A of the FEIR, lists the mitigated LOS and volume-to-capacity ratio. With this mitigation in place, the roadway would continue to operate at LOS F during the Midday peak hour and LOS E during the P.M. peak hour in the eastbound direction. In the westbound direction, the roadway would continue to operate at LOS F during the A.M. peak hour and at LOS E during the Midday and P.M. peak hour but would not increase the volume-to-capacity level above cumulative no project conditions. Appendix E includes a comparison summary of the significance thresholds criteria including the project's relative contribution to the study intersections.

Table 4.11-66 2035 Cumulative plus DeWitt Nelson Project Peak Hour Volume-to-Capacity Analysis												
#	Roadway Segment		Volume-to-Capacity Ratio (V/C)									
			2035 Cumulative No Project Condition			2035 Cumulative with DeWitt Project Condition			2035 Cumulative with DeWitt Project Condition Mitigated			Significant Impact
			A.M.	MD	P.M.	A.M.	MD	P.M.	A.M.	MD	P.M.	Yes or No?
1.	Arch Road (west of NCRF West Driveway and East of Newcastle Road)	EB	0.28	0.88	0.89	0.34	**1.02**	0.87	0.34	0.86	0.83	No
		LOS	D	E	E	D	F	E	D	F	E	No
		WB	1.10	0.98	0.99	1.08	0.76	**1.06**	1.08	0.96	0.97	No
		LOS	F	E	E	F	E	F	F	E	E	No

Notes: Increases in V/C ratio are in bold for the designated peak hour.
Source: DKS Associates 2010.

Implementation of the above mitigation measures would reduce the project's cumulative impacts to the intersection of SR 99 SPUI & Arch Road to a less-than-significant level. While feasible mitigation is available, Caltrans is the agency that can and should implement this mitigation and it is unknown whether this mitigation would be implemented prior to operation of the project. While this mitigation would reduce the project's impact, for purposes of CEQA, this impact is concluded to be ***potentially significant and unavoidable*** in the event the mitigation is not implemented prior to operation of the project.

Implementation of the above mitigation measures would reduce the project's cumulative impact to the intersection of Kingsley Road (Frontage Road) and Arch Road to a less-than-significant level. While feasible mitigation is available, Caltrans is the agency that can and should implement this mitigation and it is unknown whether this mitigation would be implemented prior to operation of the project. While this mitigation would reduce the project's impact, for purposes of CEQA, this impact is concluded to be ***potentially significant and unavoidable*** in the event the mitigation is not implemented prior to operation of the project.

Implementation of the above mitigation measures would reduce the project's cumulative impact to the intersection of Newcastle Road and Arch Road to a ***less-than-significant*** level.

Implementation of the above mitigation measures would reduce the project's cumulative impact to a less-than-significant level at the intersection of Austin Road & Arch Road. While the payment of traffic fees would help fund the ultimate improvement of this intersection to its maximum extent, it is unknown whether the County would implement this mitigation as proposed and whether the County would be able to secure the appropriate right-of-way for the improvements. Therefore, while this mitigation, if implemented, would reduce the project's impact to a less-than-significant level, for purposes of CEQA, this impact is concluded to be ***potentially significant and unavoidable*** in the event the mitigation is not implemented prior to operation of the project.

Implementation of the above mitigation measures would reduce the project's cumulative impact to a less-than-significant level at Arch Road – East of Newcastle Road and west of NCRF West Driveway (Roadway Segment). While the payment of traffic fees would help fund the ultimate improvement of this intersection to its maximum extent, it is unknown whether the County would implement this mitigation as

proposed and whether the County would be able to secure the appropriate right-of-way for the improvements. Therefore, while this mitigation, if implemented, would reduce the project's impact to a less-than-significant level, for purposes of CEQA, this impact is concluded to be ***potentially significant and unavoidable*** in the event the mitigation is not implemented prior to operation of the project.

Significant Cumulative Effect: Impact 4.11-3: Cumulative Intersection and Roadway Segment Impacts for the Combined NCRF and DeWitt Facilities

Implementation of the NCRF and DeWitt Nelson projects along with long-term regional cumulative projects would result in the deterioration of five study intersections to unacceptable operating conditions based on adopted thresholds of local agencies. In addition, it would cause the v/c ratio for one roadway segment to increase above cumulative no project conditions. Therefore, this would be a **significant** cumulative impact and the project's contribution would be considerable (Impact 4.11-3c). This impact would only occur if both the DeWitt and NCRF projects are implemented.

Finding

Changes or alterations, which substantially reduce the significant effects to traffic, have been incorporated by CDCR into the project. In addition, such changes or alterations are within the responsibility of other public agencies, Caltrans, County, and the City of Stockton, and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. While these mitigation measures would substantially reduce the significant effects of the project, the residual impact would continue to be significant. The no project alternative is the only alternative that would reduce or avoid this impact. As described in Section 1.7, specific legal considerations make infeasible the no project alterative. Therefore, the traffic impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

CDCR has adopted the following mitigation measures that will reduce, but not to less-than-significant levels the long-term cumulative transportation effects at study area intersections and roadway segment. This mitigation measure would be implemented if both projects are implemented; if not, these mitigation measures are not needed:

Mitigation Measure for Impact 4.11-3c.

1. <u>SR 99 SPUI & Arch Road</u>

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than five seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 5.49% of the traffic to this intersection during the A.M. peak hour, 4.38% during the Midday peak hour, and 4.37% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton to help fund implementation of this improvement.

- Adjust traffic signal to optimize the splits and cycle length to 150 seconds during the A.M., Midday, and P.M. peak hour.

Table 4.11-66 of the DEIR lists the mitigated LOS. With this mitigation in place, the intersection would continue to operate at LOS F during the A.M., Midday, and P.M. peak hours but would not increase delay by more than five seconds. Thus, the impact would be reduced to a less-than-significant level based on adopted significance criteria. Appendix E includes a comparison summary of the analysis results including the project's relative contribution to the study intersections.

Table 4.11-66
Cumulative with NCRF and DeWitt Nelson Projects – Mitigated Condition LOS Summary

#	Intersection	Peak	2035 Cumulative No Project Condition		2035 Cumulative with NCRF/DeWitt Nelson Project		Mitigated 2035 Cumulative with NCRF/DeWitt Nelson Project Condition		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
3.	SR 99 SPUI & Arch Road	A.M.	245.5	**F**	290.6	**F**	248.8	F	3.3	No
		Midday	197.0	**F**	219.3	**F**	170.7	F	-26.3	No
		P.M.	204.2	**F**	210.3	**F**	161.9	F	-42.3	No

Notes: Intersections operating below acceptable LOS are in **bold**.
a Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates 2010

2. Kingsley Road – SR 99 Frontage Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than five seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 6.19% of the traffic during the A.M. peak hour, 5.20% during the Midday peak hour and 6.17% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton t to help fund implementation of this improvement.

- Adjust traffic signal to optimize the splits and cycle length to 150 seconds during the Midday and P.M. peak hour.

Table 4.11-67 of the DEIR lists the mitigated LOS. With this mitigation in place, the intersection would improve to LOS D during the A.M. peak hour and it would continue to operate at LOS F during the Midday and P.M. peak hours, but would not increase delay by more than five seconds. Thus, the impact would be reduced to a less-than-significant level based on adopted significance criteria. Appendix E includes a comparison summary of the analysis results including the project's relative contribution to the study intersections.

Table 4.11-67 Cumulative with NCRF and DeWitt Nelson Projects – Mitigated Condition LOS Summary										
#	Intersection	Peak	2035 Cumulative No Project		2035 Cumulative with NCRF/Dewitt Nelson Project		Mitigated 2035 Cumulative with NCRF/ Dewitt Nelson Project		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
3.	Kingsley Road – SR 99 Frontage Road & Arch Road	A.M.	51.3	D	58.8	E	39.8	D	-11.5	No
		Midday	134.9	**F**	159.4	**F**	98.8	**F**	-36.1	No
		P.M.	139.7	**F**	190.7	**F**	118.8	**F**	-20.9	No

Notes: Intersections operating below acceptable LOS are in bold.
a Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates 2010

3. Newcastle Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the cumulative no project condition or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 6.90% during the P.M. peak hour. CDCR will monitor traffic at the above intersection for two years after the date on which the second of the two projects (DeWitt Nelson and NCRF) begins operations. If, based on those traffic data, the level of service at any of the above intersections exceeds the threshold of significance, CDCR will fund/undertake the following mitigation:

- Provide a dedicated westbound right turn lane.
- Adjust signal timing to optimize splits during the P.M. peak hour.

Table 4.11-74 of the Revised DEIR Traffic Section, included as Appendix A of the FEIR, lists the mitigated LOS. With this mitigation in place, the intersection would continue to operate at LOS F during the Midday and P.M. peak hour but would not increase delay above cumulative no project conditions. In calculating CDCR's "fair share" obligation towards traffic improvements, CDCR will credit its total "fair share" obligation by the amount it spends towards the above mitigation in excess of its percentage contributions to traffic congestion at those intersections.

Table 4.11-74
Cumulative with DeWitt Nelson Project – Mitigated Condition LOS Summary

#	Intersection	Peak	2035 Cumulative No Project Condition		2035 Cumulative with Dewitt Nelson Project		Mitigated 2035 Cumulative with Dewitt Nelson Project Condition		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
4.	Newcastle Road & Arch Road	A.M.	No Impact or Mitigation							
		Midday	No Impact or Mitigation							
		P.M.	53.7	D	55.0	E	53.0	D	-0.7	No

Notes: Na: not applicable, acceptable LOS. Intersections operating below acceptable LOS are in bold.
a Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates 2010.

4. Austin Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the cumulative no project conditions or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 6.03% of the traffic to this intersection during the A.M. peak hour, 3.98% during the Midday peak hour and 2.49% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the County of San Joaquin to help fund implementation of this improvement.

- Increase the traffic signal cycle length to 120 seconds and optimize splits during the Midday and P.M. peak hours.

Table 4.11-75 of the Revised DEIR Traffic Section, included as Appendix A of the FEIR, lists the mitigated LOS. With this mitigation in place, the intersection would continue to operate at LOS F during the Midday and P.M. peak hour, but would not increase delay above cumulative no project conditions. Appendix E includes a comparison summary of the significance thresholds criteria including the project's relative contribution to the study intersections.

5. Arch Road – East of Newcastle Road and west of NCRF West Driveway (Roadway Segment)

The following mitigation measures have been identified to improve the roadway operations and achieve a difference in volume-to-capacity ratio equal to or less than the 2035 Cumulative No Project condition during the A.M., Midday, and P.M. peak hours. CDCR will contribute appropriate fees based on trip ends generated by the project to the County of San Joaquin to help fund implementation of this improvement.

- Adjust traffic signal timing to optimize the cycle length to 130 seconds and optimize east and west splits on Arch Road during the Midday peak hour at the intersection of Logistics Drive and Arch Road.

- Adjust traffic signal timing to the cycle length to 140 seconds and optimize east and west splits on Arch Road during the P.M. peak hour at the intersection of Logistics Drive and Arch Road.

Table 4.11-75
Cumulative with NCRF and DeWitt Nelson Projects – Mitigated Condition LOS Summary

#	Intersection	Peak	2035 Cumulative No Project		2035 Cumulative with NCRF/DeWitt Nelson Project		Mitigated 2035 Cumulative with NCRF/DeWitt Nelson Project		Significant Impact	
			Delay[a]	LOS[b]	Delay[a]	LOS[b]	Delay[a]	LOS[b]	Δ in delay	Yes/No?
8.	Austin Road & Arch Road	A.M.	27.8	C	29.9	C	22.8	C	-5.0	No
		Midday	135.4	**F**	161.0	**F**	97.7	**F**	-37.7	No
		P.M.	425.1	**F**	500.3	**F**	391.6	**F**	-33.5	No

Notes: na: not applicable, the intersection operates at acceptable LOS. Intersections operating below acceptable LOS are in **bold**.
a Delay: in seconds per vehicle
b LOS: Level of Service
c Signalized Intersection
Source: DKS Associates 2010

Table 4.11-76 of the Revised DEIR Traffic Section, included as Appendix A of the FEIR, lists the mitigated LOS and volume-to-capacity ratio. With this mitigation in place, the roadway would continue to operate at LOS F during the Midday peak hour and LOS E during the P.M. peak hour in the eastbound direction. In the westbound direction, the roadway would continue to operate at LOS F during the A.M. peak hour and at LOS E during the Midday and P.M. peak hour. Delay at this intersection would not increase above background conditions. Therefore, this cumulative impact would be reduced to a less-than-significant level. Appendix E includes a comparison summary of the significance thresholds criteria including the project's relative contribution to the study intersections.

Table 4.11-76
2035 Cumulative plus NCRF and DeWitt Nelson Projects Peak Hour Volume-to-Capacity Analysis

#	Roadway Segment		Volume-to-Capacity Ratio (V/C)									
			2035 Cumulative No Project			2035 Cumulative with NCRF and DeWitt Nelson Project			2035 Cumulative with NCRF and DeWitt Nelson Project Mitigated			Significant Impact
			A.M.	MD	P.M.	A.M.	MD	P.M.	A.M.	MD	P.M.	Yes or No?
1.	Arch Road (East of Newcastle Road and west of NCRF West Driveway and)	EB	0.28	0.88	0.89	**0.39**	**0.94**	0.87	0.39	0.87	0.77	No
		LOS	D	**E**	**E**	D	**E**	**E**	D	**E**	**D**	No
		WB	1.10	0.98	0.99	1.10	**1.05**	**1.11**	1.10	0.95	0.96	No
		LOS	**F**	**E**	**E**	**F**	**F**	**F**	**F**	**E**	**E**	No

Implementation of the above mitigation would reduce the project's cumulative impacts to the intersection of SR 99 SPUI & Arch Road but not to a less-than-significant level. No other feasible mitigation is available to further reduce this impact. While some feasible mitigation is available, as described in this EIR, Caltrans is the agency that can and should implement this mitigation and it is unknown whether this mitigation would be implemented prior to operation of the project. This impact is concluded to be ***potentially significant and unavoidable.***

Implementation of the above mitigation would reduce the project's cumulative impact to the intersection of Kingsley Road (Frontage Road) and Arch Road to a less-than-significant level. While feasible mitigation is available, Caltrans is the agency that can and should implement this mitigation and it is unknown whether this mitigation would be implemented prior to operation of the project. While this mitigation would reduce the project's impact, for purposes of CEQA, this impact is concluded to be ***potentially significant and unavoidable*** in the event the mitigation is not implemented prior to operation of the project.

Implementation of the above mitigation would reduce the project's cumulative impact to a ***less-than-significant*** level at the intersection of Newcastle Road & Arch Road.

Implementation of the above mitigation would reduce the project's cumulative impact to a less-than-significant level at the intersection of Austin Road & Arch Road. While the payment of traffic fees would help fund the ultimate improvement of this intersection to its maximum extent, it is unknown whether the County would implement this mitigation as proposed and whether they would be able to secure the appropriate right-of-way for the improvements. Therefore, while this mitigation, if implemented, would reduce the project's impact to a less-than-significant level, for purposes of CEQA, this impact is concluded to be ***potentially significant and unavoidable*** in the event the mitigation is not implemented prior to operation of the project.

Implementation of the above mitigation would reduce the project's cumulative impact to a less-than-significant level at Arch Road – East of Newcastle Road and west of NCRF West Driveway (Roadway Segment). While the payment of traffic fees would help fund the ultimate improvement of this intersection to its maximum extent, it is unknown whether the County would implement this mitigation as proposed and whether they would be able to secure the appropriate right-of-way for the improvements. Therefore, while this mitigation, if implemented, would reduce the project's impact to a less-than-significant level, for purposes of CEQA, this impact is concluded to be ***potentially significant and unavoidable*** in the event the mitigation is not implemented prior to operation of the project.

Significant Effect: Impact 4.11-4: Project and Long-Term Cumulative Impacts to Freeway Segments and Merge/Diverge for DeWitt Nelson Only

The addition of the DeWitt Nelson project traffic to this segment of SR 99 would deteriorate the LOS E in the background Long-term regional cumulative condition to LOS F during the P.M. peak hour. The project would contribute 1.30 % of the traffic during P.M. peak hour and it would result in an increase of 0.01 in the volume-to-capacity ratio. This increase in volume-to-capacity ratio exceeds the threshold for San Joaquin County. In addition, the project would potentially result in merging and diverging impacts on the freeway because of capacity constraints. Therefore, this would be considered a significant project impact.

Implementation of the DeWitt Nelson project would result in the deterioration of the Arch Road to Mariposa Road freeway segment in the northbound direction to an unacceptable LOS. In addition, the project would potentially result in merging and diverging impacts on the freeway. This would be a **significant** impact. (Impact 4.11-4b)

Finding

Changes or alterations, which substantially reduce the significant effects to traffic, have been incorporated by CDCR into the project. In addition, such changes or alterations are within the responsibility of another public agency, Caltrans and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. While this mitigation measure would substantially reduce the significant effects of the project, the residual impact would continue to be significant. The no project alternative is the only alternative that would reduce or avoid this impact. As described in Section 1.7, specific legal considerations make infeasible the no project alterative. Therefore, the traffic impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

Mitigation Measure for Impact 4.11-4b

CDCR has adopted the following mitigation measure that will substantially reduce significant effects related to intersection operations at Union Road and SR 46 East intersection:

> The following mitigation measures have been identified to improve the freeway operations.
>
> - Widen SR 99 from six-lanes to eight lanes.
>
> With implementation of this improvement, the LOS of this freeway segment would improve from F to D.

Implementation of the above mitigation would reduce the project's impacts to the northbound segment of SR 99 from Arch Road to Mariposa Road, including merge/diverge impacts, to a less-than-significant level. While feasible mitigation is available, Caltrans is the agency that can and should implement this mitigation. While Caltrans has identified and is planning for this improvement and construction is projected to begin in 2011, it is unlikely that this improvement could feasibly be implemented prior to operation of the project. Acceleration of the schedule would not be feasible. While this mitigation would reduce the project's impact to this freeway segment once implemented, for purposes of CEQA, this impact is concluded to be ***cumulatively significant and unavoidable*** and the project's contribution would be considerable in the interim period when the project is operational and the improvement is not complete.

Significant Effect: Impact 4.11-4: Project and Long-Term Cumulative Impacts to Freeway Segments and Merge/Diverge for Cumulative Plus DeWitt Nelson Only

All study freeway segments would operate acceptably under the Long-Term Regional Cumulative plus DeWitt Nelson Only project condition assuming that proposed freeway expansion projects would be implemented based on the timelines proposed by Caltrans. Therefore, the project would have less-than-significant freeway segment and merge/diverge impacts. However, it is possible that the proposed freeway expansion may not occur as proposed or may be delayed. If this occurs, potentially significant cumulative freeway segment and merge/diverge impacts would occur until such time that the freeway expansion is complete and the project would have a considerable contribution to this significant cumulative impact during that interim period.

While implementation of the DeWitt Nelson project under 2035 cumulative conditions would result in the acceptable operation of all study freeway segments assuming that proposed freeway expansions would be implemented as proposed, it is possible that expansion may be delayed such that interim cumulatively significant freeway segment and merge/diverge impacts would occur until such time that the expansion improvements are implemented. The project would have a considerable contribution to this significant cumulative impact during the interim period. (Impact 4.11-4e)

Finding

Changes or alterations, which substantially reduce the significant effects to traffic, have been incorporated by CDCR into the project. In addition, such changes or alterations are within the responsibility of another public agency, Caltrans, and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. While this mitigation measure would substantially reduce the significant effects of the project, the residual impact would continue to be significant. The no project alternative is the only alternative that would reduce or avoid this impact. As described in Section 1.7, specific legal considerations make infeasible the no project alterative. Therefore, the traffic impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

No feasible mitigation is available beyond Caltrans' future expansion of SR 99 from 6 to 10 lanes.

Caltrans is the agency that is responsible for implementing the freeway expansion. While Caltrans has identified and is planning for the expansion of SR 99, this improvement will not be implemented prior to cumulative development. Therefore, this impact is concluded to be ***cumulatively significant and unavoidable*** and the project's contribution would be considerable in the interim period when the project is operational and the improvement is not complete.

Significant Effect: Impact 4.11-4: Project and Long-Term Cumulative Impacts to Freeway Segments and Merge/Diverge for Combined NCRF and DeWitt Facilities

The addition of the combined NCRF/DeWitt Nelson project traffic to this segment of SR 99 along with long-term regional cumulative traffic would deteriorate the LOS E in the background condition to LOS F

during the P.M. peak hour. The project would contribute 2.44 % of the traffic during P.M. peak hour result in an increase of 0.02 in the volume-to-capacity ratio. This increase in volume-to-capacity ratio exceeds the threshold for San Joaquin County. In addition, the project would potentially result in merging and diverging impacts on the freeway because of capacity constraints. Therefore, this would be considered a significant project impact.

Implementation of the NCRF and DeWitt Nelson projects along with regional long-term cumulative development would result in the deterioration of the Arch Road to Mariposa Road freeway segment in the northbound direction to an unacceptable LOS. In addition, the project would potentially result in merging and diverging impacts on the freeway. This would be a **significant** impact, (Impact 4.11-4c)

Finding

Changes or alterations, which substantially reduce the significant effects to traffic, have been incorporated by CDCR into the project. In addition, such changes or alterations are within the responsibility of another public agency, Caltrans and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. While this mitigation measure would substantially reduce the significant effects of the project, the residual impact would continue to be significant. The no project alternative is the only alternative that would reduce or avoid this impact. As described in Section 1.7, specific legal considerations make infeasible the no project alterative. Therefore, the traffic impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

Mitigation Measure for Impact 4.11-4c

CDCR has adopted the following mitigation measure that will substantially reduce significant effects related to intersection operations at Union Road and SR 46 East intersection. This mitigation measure would be implemented if both projects are implemented; if not, this mitigation measure is not needed:

> The following mitigation measures have been identified to improve the freeway operations
>
> - Implement Mitigation Measure for Impact 4.11-4b above.
>
> With implementation of this improvement, the LOS of this freeway segment would improve from F to D.

Implementation of this mitigation measure would reduce impacts to the northbound segment of SR 99 from Arch Road to Mariposa Road, including merge/diverge impacts, to a less-than-significant level. While feasible mitigation is available, Caltrans is the agency that can and should implement this mitigation. While Caltrans has identified and is planning for this improvement and construction is projected to begin in 2011, it is unlikely that this improvement could feasibly be implemented prior to operation of the projects. Acceleration of the schedule would not be feasible. While this mitigation would reduce the project's impact to this freeway segment once implemented, for purposes of CEQA, this impact is concluded to be ***cumulatively significant and unavoidable*** and the project's contribution would

be considerable in the interim period when the project is operational and the improvement is not complete.

Significant Effect: Impact 4.11-4: Project and Long-Term Cumulative Impacts to Freeway Segments and Merge/Diverge for Cumulative Plus Combined NCRF and DeWitt Facilities

All study freeway segments would operate acceptably under the long-term regional cumulative plus NCRF and DeWitt Nelson project conditions assuming that proposed freeway expansion projects would be implemented based on the timelines proposed by.Caltrans. Therefore, the project would have less-than-significant freeway segment and merge/diverge impacts. However, it is possible that the proposed freeway expansion may not occur as proposed or may be delayed. If this occurs, potentially significant cumulative freeway segment and merge/diverge impacts would occur until such time that the freeway expansion is complete and the project would have a considerable contribution to this significant cumulative impact during that interim period.

While implementation of the NCRF and DeWitt Nelson projects under 2035 cumulative conditions would result in the acceptable operation of all study freeway segments assuming that proposed freeway expansions would be implemented as proposed, it is possible that expansion may be delayed such that interim cumulatively significant freeway segment and merge/diverge impacts would occur until such time that the expansion improvements are implemented. The project would have a considerable contribution to this **significant** cumulative impact during the interim period. (Impact 4.11-4f)

Finding

Changes or alterations, which substantially reduce the significant effects to traffic, have been incorporated by CDCR into the project. In addition, such changes or alterations are within the responsibility of another public agency, Caltrans, and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. While this mitigation measure would substantially reduce the significant effects of the project, the residual impact would continue to be significant. The no project alternative is the only alternative that would reduce or avoid this impact. As described in Section 1.7, specific legal considerations make infeasible the no project alterative. Therefore, the traffic impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

No feasible mitigation is available beyond Caltrans' future expansion of SR 99 from 6 to 10 lanes.

Caltrans is the agency that is responsible for implementing the freeway expansion. While Caltrans has identified and is planning for the expansion of SR 99, this improvement will not be implemented prior to cumulative development. Therefore, this impact is concluded to be ***cumulatively significant and unavoidable*** and the project's contribution would be considerable in the interim period when the project is operational and the improvement is not complete.

Significant Effect: Impact 4.11-5, Freeway Queuing Impacts for DeWitt Nelson Only

SR 99 SPUI & Arch Road

Based on the queuing analysis results, during the A.M., Midday, and P.M. peak hours the eastbound through-lane queues between the SR 99 SPUI and Qantas Lane are estimated to be 85 vehicles, 95 vehicles, and 90 vehicles, respectively. The eastbound left turn queues for the A.M., Midday, and P.M. peak hours are estimated to be 81 vehicles, 91 vehicles, and 92 vehicles, respectively. With the addition of DeWitt Nelson project traffic, the eastbound through-lane queues would increase by 5 vehicles during the Midday peak hour and remain the same for the A.M. peak hour. The queue would decrease by 2 vehicles during the P.M. peak hour. The eastbound left turn queues would increase by 2 vehicles during the P.M. peak hour and decrease for the Midday and P.M. peak hours. The eastbound through-lane and left queues would continue to exceed the storage capacity for all peak hours and would likely have an effect on the operation of the Qantas Lane and Arch Road intersection.

The westbound through-lane queues on Arch Road between the SR 99 SPUI and Kingsley Road are estimated to be 27 vehicles for the A.M. peak hour, 26 vehicles for the Midday peak hour, and 26 vehicles for the P.M. peak hour. The westbound right-turn queues are estimated to be 25 vehicles for the A.M. peak hour, 21 vehicles for the Midday peak hour, and 25 vehicles for the P.M. peak hour. One vehicle would be added to the westbound though queue which would exceed the storage capacity and would likely effect the operation of Arch Road at Kingsley Road. Westbound right-turn queues would increase by 2 vehicles during the A.M. peak hour and would be reduced during the Midday and P.M. peak hours. The westbound right turn queues would be accommodated within the storage length.

SR 99 Northbound and Southbound Ramps

During the A.M., Midday, and P.M. peak hours, the northbound off-ramp queues are estimated to be 85 vehicles, 90 vehicles, and 93 vehicles, respectively. The southbound off-ramp queues for the A.M., Midday, and P.M. peak hours are estimated to be 82 vehicles, 88 vehicles, and 88 vehicles, respectively. With the addition of project traffic, the northbound queue would decrease because of changed traffic patterns during the A.M. and Midday peak hour and would remain the same for the P.M. peak hour. With the addition of project traffic, the southbound queue would increase by 11 vehicles during the A.M. peak hour. The queue would be reduced for the Midday and P.M. peak hours. Both northbound and southbound off-ramp queues continue to exceed the storage capacity of the off-ramps and would potentially back up onto the mainline segments of SR 99.

Implementation of the DeWitt Nelson project would result in eastbound through-lane and left queues that would continue to exceed the storage capacity for all peak hours and would likely have an effect on the operation of the Qantas Lane and Arch Road intersection. Further, both northbound and southbound off-ramp queues would continue to exceed the storage capacity of the off-ramps and would potentially back up onto the mainline segments of SR 99. This would be a **significant** impact. (Impact 4.11-5b)

Finding

Changes or alterations, which substantially reduce the significant effects to traffic, have been incorporated by CDCR into the project. In addition, such changes or alterations are within the responsibility of another public agency, Caltrans, and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. While this mitigation measure would substantially reduce the significant effects of the project, the residual impact

would continue to be significant. The no project alternative is the only alternative that would reduce or avoid this impact. As described in Section 1.7, specific legal considerations make infeasible the no project alterative. Therefore, the traffic impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

Mitigation Measure for Impact 4.11-5a

CDCR has adopted the following mitigation measure that will reduce, but not to less-than-significant levels, transportation effects related to freeway segment operations at SR 99 SPUI & Arch Road:

- Adjust traffic signal timing to balance queue lengths and delays at the control intersection on Kingsley Road – SR 99 Frontage Road and Arch Road and Qantas Lane and Arch Road so that vehicles do not queue back on to the mainline SR 99 freeway.

- Implement Mitigation Measure for Impact 4.11-4b (above).

Implementation of this mitigation would reduce the project's impacts to vehicle queues. While feasible mitigation is available, Caltrans is the agency that can and should implement this mitigation. With regard to signal timing, it is unknown whether this improvement would be implemented prior to operation of the project. Further, while Caltrans has identified and is planning for the widening of SR 99 to 10 lanes and construction is projected to begin in 2012, it is unlikely that this improvement could feasibly be implemented prior to operation of the project. Acceleration of the schedule would not be feasible. While this mitigation would reduce the project's impact to this freeway segment once implemented, for purposes of CEQA, this impact is concluded to be ***significant and unavoidable*** in the interim period when the project is operational and the improvement is not complete.

Significant Cumulative Effect: Impact 4.11-5, Freeway Queuing Impacts for Long-Term Cumulative Plus DeWitt Nelson Only

Based on the queuing analysis results for the long-term regional cumulative analysis, during the A.M., Midday, and P.M. peak hours, the eastbound through-lane queues between the SR 99 SPUI and Qantas Lane are estimated to be 84 vehicles, 87 vehicles, and 87 vehicles, respectively. The eastbound left turn queues for the A.M., Midday, and P.M. peak hours are estimated to be 86 vehicles, 92 vehicles, and 92 vehicles, respectively. With the addition of project traffic, the eastbound through-lane and left turn queues would decrease for the A.M. and Midday peak hours. During the P.M. peak hour, the eastbound through-lane and left turn queues would increase by 4 and 10 vehicles, respectively. The eastbound through-lane and left queues would exceed the storage capacity of the segment for all peak hours and would likely effect the operation of Arch Road at Qantas Lane.

The westbound through lane queues on Arch Road between the SR 99 SPUI and Kingsley Road are estimated to be 29 vehicles for the A.M. peak hour, 29 vehicles for the Midday peak hour, and 28 vehicles for the P.M. peak hour. The westbound left-turn lane queues on Arch Road between the SR 99 SPUI and Kingsley Road are estimated to be 27 vehicles for the A.M. peak hour, 29 vehicles for the Midday peak hour, and 28 vehicles for the P.M. peak hour. The westbound right-turn queues are estimated to be 32

vehicles for the A.M. peak hour, 30 vehicles for the Midday peak hour, and 32 vehicles for the P.M. peak hour. The westbound through-lane queues increases by 2 vehicles for the A.M. and Midday peak hours and remains the same for the P.M. peak hour. Westbound left turn would queues increase by 1 vehicle for the A.M. and P.M. peak hours and by 2 vehicles during the Midday peak hour. Westbound right turn queues are reduced by for all peak hours. The westbound queues would continue to exceed the storage capacity of the segment and would likely effect operation of Arch Road at Kingsley Road.

SR 99 Northbound and Southbound Ramps

During the A.M., Midday, and P.M. peak hours, the northbound off-ramp queues are estimated to be 89 vehicles, 94 vehicles, and 122 vehicles, respectively. The southbound off-ramp queues for the A.M., Midday, and P.M. peak hours are estimated to be 78 vehicles, 88 vehicles, and 87 vehicles, respectively. With the addition of project traffic, the northbound queues would be reduced during the A.M. and Midday peak hour but the P.M. peak hour queue would increase by 53 vehicles. The southbound queue would remain the same for the A.M. and Midday peak hours and would be reduce for the P.M. peak hour. Both northbound and southbound queues would continue to exceed the storage capacity of the off-ramps for all peak hours and would potentially back up onto the mainline segments of SR 99.

Implementation of the DeWitt Nelson project under long-term regional cumulative conditions would result in eastbound through-lane and left queues that would continue to exceed the storage capacity for all peak hours and would likely have an effect on the operation of the Qantas Lane and Arch Road intersection. The westbound queues would be accommodated would exceed the storage capacity and would likely have an effect on the operation of Arch Road at Kingsley Road. Further, both northbound and southbound off-ramp queues would continue to exceed the storage capacity of the off-ramps and would potentially back up onto the mainline segments of SR 99. This would be a **significant** cumulative impact and the project's contribution would be cumulatively considerable. (Impact 4.11-5e)

Finding

Changes or alterations, which substantially reduce the significant effects to traffic, have been incorporated by CDCR into the project. In addition, such changes or alterations are within the responsibility of another public agency, Caltrans, and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. While this mitigation measure would substantially reduce the significant effects of the project, the residual impact would continue to be significant. The no project alternative is the only alternative that would reduce or avoid this impact. As described in Section 1.7, specific legal considerations make infeasible the no project alterative. Therefore, the traffic impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

No additional feasible mitigation is available to reduce this impact. Therefore, this impact would be significant and unavoidable and the DeWitt Nelson project's contribution would be cumulatively considerable.

Significant Long-Term Cumulative Effect: Impact 4.11-5, Freeway Queuing Impacts for Combined NCRF and DeWitt Facilities

Based on the queuing analysis results for the long-term regional cumulative analysis if both projects are implemented, during the A.M., Midday, and P.M. peak hours, the eastbound through-lane queues between the SR 99 SPUI and Qantas Lane are estimated to be 87 vehicles, 92 vehicles, and 93 vehicles, respectively. The eastbound left turn queues for the A.M., Midday, and P.M. peak hours are estimated to be 84 vehicles, 90 vehicles, and 90 vehicles, respectively. With the addition of project traffic, the eastbound through-lane queues would increase by 2 vehicles during the A.M. and Midday peak hours and by 1 car during the P.M. peak hour. The eastbound left turn queues would remain the same for the A.M. and P.M. peak hours and would decreases for the Midday peak hour. The eastbound through-lane and left queues would exceed the storage capacity of the segment for all peak hours and would likely effect the operation of the Qantas Lane and Arch Road operation.

The westbound through-lane queues on Arch Road between the SR 99 SPUI and Kingsley Road are estimated to be 25 vehicles for the A.M. peak hour, 25 vehicles for the Midday peak hour, and 30 vehicles for the P.M. peak hour. The westbound right-turn queues are estimated to be 19 vehicles for the A.M. peak hour, 27 vehicles for the Midday peak hour, and 32 vehicles for the P.M. peak hour. Three vehicles would be added to the westbound through-lane movement during the P.M. peak hour. Based on the queuing analysis results, the westbound through-lane queues would exceed the storage capacity during the P.M. peak hour and would likely have an effect on the operation of Arch Road at Kingsley Road. The westbound right-turn queues would increase by 2 vehicles during the P.M. peak hour and would be reduced during the A.M. and Midday peak hours. The westbound right turn queues would be accommodated within the storage length for the A.M. and Midday peak hours but would exceed the storage capacity during the P.M. peak hour and would likely have an effect on the operation of Arch Road at Kingsley Road.

SR 99 Northbound and Southbound Ramps

During the A.M., Midday, and P.M. peak hours, the northbound off-ramp queues are estimated to be 83 vehicles, 82 vehicles, and 90 vehicles, respectively. The southbound off-ramp queues for the A.M., Midday, and P.M. peak hours are estimated to be 82 vehicles, 88 vehicles, and 92 vehicles, respectively. With the addition of project traffic, the northbound queue would decrease for all peak hours. With the addition of project traffic, the southbound queue would increase by 11 vehicles during the A.M. peak hour and 2 vehicles for the P.M. peak hour. The queue would be reduced for the Midday peak hour. Both northbound and southbound queues would continue to exceed the storage capacity of the off-ramps and would potentially back up onto the mainline segments of SR 99.

Implementation of the NCRF and DeWitt Nelson projects would result in eastbound through-lane and left queues that would continue to exceed the storage capacity for all peak hours and would likely have an effect on the operation of the Qantas Lane and Arch Road intersection. The westbound right turn queues would be accommodated within the storage length for the A.M. and Midday peak hours but would exceed the storage capacity during the P.M. peak hour and would likely have an effect on the operation of Arch Road at Kingsley Road. Further, both northbound and southbound off-ramp queues would continue to exceed the storage capacity of the off-ramps and would potentially back up onto the mainline segments of SR 99. This would be a **significant** impact. (Impact 4.11-5c)

Finding

Changes or alterations, which substantially reduce the significant effects to traffic, have been incorporated by CDCR into the project. In addition, such changes or alterations are within the responsibility of another public agency, Caltrans, and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. While this mitigation measure would substantially reduce the significant effects of the project, the residual impact would continue to be significant. The no project alternative is the only alternative that would reduce or avoid this impact. As described in Section 1.7, specific legal considerations make infeasible the no project alterative. Therefore, the traffic impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

CDCR has adopted the following mitigation measure that will reduce, but not to less-than-significant levels, transportation effects related to freeway segment operations at SR 99 SPUI & Arch Road. : This mitigation measure would be implemented if both projects are implemented; if not, this mitigation measure is not needed:

- Implement Mitigation Measure for Impact 4.11-5a above.

Implementation of the above mitigation would reduce the project's impacts to vehicle queues. While feasible mitigation is available, Caltrans is the agency that can and should implement this mitigation. With regard to signal timing, it is unknown whether this improvement would be implemented prior to operation of the project. Further, while Caltrans has identified and is planning for the widening of SR 99 to 10 lanes and construction is projected to begin in 2012, it is unlikely that this improvement could feasibly be implemented prior to operation of the project. Acceleration of the schedule would not be feasible. While this mitigation would reduce the project's impact to this freeway segment once implemented, for purposes of CEQA, this impact is concluded to be ***significant and unavoidable*** in the interim period when the project is operational and the improvement is not complete.

Significant Cumulative Effect: Impact 4.11-5, Freeway Queuing Impacts for Long-Term Cumulative Plus Combined NCRF and DeWitt Facilities

Based on the queuing analysis results for the long-term regional cumulative plus both project analysis, during the 2035 with Combined Project Condition A.M., Midday, and P.M. peak hours the eastbound through-lane queues between the SR 99 SPUI and Qantas Lane are estimated to be 85 vehicles, 90 vehicles, and 88 vehicles, respectively. The eastbound left turn queues for the A.M., Midday, and P.M. peak hours are estimated to be 89 vehicles, 83 vehicles, and 92 vehicles, respectively. With the addition of project traffic, the eastbound through-lane would increase by 2 and 5 vehicles for the Midday and P.M. peak hours, respectively. The queues would decrease for the A.M. peak hour. The eastbound left turn lane would decrease for the A.M. and Midday peak hours and increases by 10 vehicles for the P.M. peak hour. The eastbound through-lane and left queues would exceed the storage capacity of the segment for all peak hours and would likely effect the operation at Qantas Lane.

The westbound through lane queues on Arch Road between the SR 99 SPUI and Kingsley Road are estimated to be 30 vehicles for the A.M. peak hour, 28 vehicles for the Midday peak hour, and 28 vehicles for the P.M. peak hour. The westbound left-turn lane queues on Arch Road between the SR 99 SPUI and Kingsley Road are estimated to be 28 vehicles for the A.M. peak hour, 28 vehicles for the Midday peak hour, and 27 vehicles for the P.M. peak hour. The westbound right-turn queues are estimated to be 33 vehicles for the A.M. peak hour, 31 vehicles for the Midday peak hour, and 33 vehicles for the P.M. peak hour. The westbound through-lane movement queues would decrease by for the A.M. peak hour and would remain the same for the P.M. peak hour. The Midday queue would increase by 1 car. The westbound left turn queues would increase by 2 vehicles for the A.M. and by 2 vehicles during the Midday peak hour while the P.M. queue would be reduced. The westbound right turn queues would remain the same for the A.M. and P.M. peak hours. The Midday peak hour queue would be reduced. The westbound queues would continue to exceed the storage capacity of the segment and would likely effect the operation of Arch Road at Kingsley Road.

SR 99 Northbound and Southbound Ramps

During the A.M., Midday, and P.M. peak hours, the northbound off-ramp queues are estimated to be 91 vehicles, 94 vehicles, and 88 vehicles, respectively. The southbound off-ramp queues for the A.M., Midday, and P.M. peak hours are estimated to be 78 vehicles, 89 vehicles, and 88 vehicles, respectively. With the addition of project traffic, the northbound queues would be reduced during the A.M. peak hour but would increase by 1 vehicle during the Midday peak hour and 19 vehicles during peak hour. The southbound queue would be remain the same for the A.M. peak hour and would be reduce for the P.M. peak hour. One vehicle would be added to the queue for the Midday peak hour. Both northbound and southbound queues would continue to exceed the storage capacity of the off-ramps for all peak hours and would potentially back up onto the mainline segments of SR 99.

Implementation of the NCRF and DeWitt Nelson projects under cumulative conditions would result in eastbound through-lane and left queues that would continue to exceed the storage capacity for all peak hours and would likely have an effect on the operation of the Qantas Lane and Arch Road intersection. The westbound queues would be accommodated would exceed the storage capacity and would likely have an effect on the operation of Arch Road at Kingsley Road. Further, both northbound and southbound off-ramp queues would continue to exceed the storage capacity of the off-ramps and would potentially back up onto the mainline segments of SR 99. This would be a **significant** cumulative impact and the project's contribution would be cumulatively considerable. (Impact 4.11-5f)

Finding

Changes or alterations, which substantially reduce the significant effects to traffic, have been incorporated by CDCR into the project. In addition, such changes or alterations are within the responsibility of another public agency, Caltrans, and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. While this mitigation measure would substantially reduce the significant effects of the project, the residual impact would continue to be significant. The no project alternative is the only alternative that would reduce or avoid this impact. As described in Section 1.7, specific legal considerations make infeasible the no project alterative. Therefore, the traffic impact is considered significant and unavoidable.

Please see additional information regarding significant and unavoidable impacts contained in the statement of overriding conditions included as Section 2 of this document.

Facts in Support of Finding

No additional feasible mitigation not previously identified and planned for is available to reduce this impact. Therefore, this impact would be **significant and unavoidable** and the NCRF project's contribution would be cumulatively considerable.

UTILITIES AND SERVICE SYSTEMS

Significant Cumulative Effect: Cumulative Wastewater Treatment and Disposal

Collected wastewater flows from the NCYCC would continue to be transported to the Stockton Regional Wastewater Control Facility for treatment and disposal. The project includes a sewer pump station that will include a wet well or temporary sewage storage facility that will attenuate peak sewage flows and ensure that the flows do not exceed the agreed upon maximum daily flow of 1,400 gpm. However, increased wastewater generated by the proposed NCRF and DeWitt Nelson projects, in addition to cumulative wastewater generation associated with other development in the City of Stockton, including the CHCF Stockton project, could affect the treatment capacity of the Regional Wastewater Control Facility (RWCF). According to the City of Stockton General Plan DEIR (p. 9-30), in year 2035 (buildout of the General Plan), the peak hour wet flow entering the treatment facility will increase from 101 mgd in 2003 to 195 mgd in 2035. For this increase, additional capacity will be needed and the RWCF would need expansion. According to the DEIR, the necessary improvements to the treatment facilities include: expansion of the plant influent pumping, preliminary treatment facilities, and sedimentation basins; expansion of primary sedimentation basin; expansion of secondary treatment facilities; expansion of tertiary treatment facilities (including construction of wetlands, biotowers, denitrification columns, post-aeration tanks, and effluent filters); a new effluent disinfection system using UV light; and expansion of the solids handling facilities. Additional advanced treatment methods (i.e., membrane filtration/reverse osmosis system) may also be required depending on future RWQCB discharge requirements.

The General Plan DEIR states that future expansion of the RWCF could result in the following potentially significant environmental impacts:

- Exposure of soils to erosion and loss of topsoil during construction;
- Surface water quality (cumulative impact);
- Construction-related air emissions;
- Odor impacts;
- Construction-related noise impacts;
- Visual and/or light and glare impacts;
- Loss of protected species and their habitats;
- Fisheries (cumulative impact); and
- Exposure to pre-existing listed and unknown hazardous materials contamination.

The General Plan EIR further indicates that the following General Plan policies would minimize this impact: Policies PFS-1.10, PFS-3.4, and PFS-3.5 (require early planning for future wastewater infrastructure needs); Policy PFS-1.9 (requires the City to review and approve development plans in conjunction with all necessary infrastructure requirements). The General Plan EIR also includes mitigation measures requiring demonstration and written verification for the City's discretionary approval that adequate existing/long-term wastewater treatment is available to serve a proposed development, as well as requiring a condition of approval, as part of the development review process, that an applicant must demonstrate that adequate wastewater infrastructure is proposed (and adequately financed and

appropriately mitigated for public safety/environmental impacts). The DEIR also includes a mitigation that requires assessment of expansion areas to determine where fees need to be levied for new and expanded public service and utility infrastructure including, but not limited to, fire stations and equipment, police stations and equipment, utility infrastructure, recreation, and library facilities. (City of Stockton 2006:9-29)

However, even with implementation of the above-mentioned policies and mitigation measures, the General Plan DEIR indicates that the ability to mitigate the potential environmental impacts associated with the treatment facility expansion is contingent upon a variety of factors including the severity of the impacts, existing land use conditions, and the technical feasibility of being able to implement any proposed mitigation measures. Due to theses uncertainties, the General Plan DEIR (p. 9-29) concludes that potential impacts remain significant and unavoidable.

Note that although the proposed NCRF and DeWitt Nelson projects do not require discretionary approval from the City of Stockton, and therefore are not subject to the mitigation measures required in the General Plan DEIR, because CDCR would remain within the agreed upon wastewater flow of 1,400 gpm, the agreement provides sufficient demonstration that the City of Stockton has adequate existing and future wastewater treatment capacity to serve the project and therefore complies, to the extent feasible, with the mitigation measures included in the General Plan DEIR. As indicated in the General Plan EIR, no additional mitigation measures are available to reduce this impact.

Therefore, although the projects would not individually result in impacts related to wastewater treatment, the wastewater generated DeWitt Nelson and/or NCRF, in combination with other development associated with buildout of the general plan, would require the expansion of existing wastewater treatment facilities. The proposed projects would contribute to the significant impact associated with the future expansion of the wastewater treatment facilities, and the contribution to this impact by DeWitt Nelson and/or NCRF would be **significant and unavoidable.**

Finding

Changes or alterations, which substantially reduce the significant effects to wastewater treatment or disposal are planned for by the City of Stockton. Such changes or alterations are within the responsibility of another public agency, City of Stockton, and not the agency making this finding (CDCR). Such changes have been adopted by these other agencies or can and should be adopted by these other agencies. The only alternative capable of eliminating this impact is the no project alternative, under which the project would not be constructed. The reduced bed alternative would have similar impacts. However, for the reasons described in Section 1.7, these alternatives are not feasible. Therefore, the impact would continue to be a potentially unavoidable significant impact.

Facts in Support of Finding

No additional feasible mitigation is available that is not already planned for by the City of Stockton. Therefore, this impact would remain cumulatively **significant and unavoidable.**

1.9 MITIGATION MONITORING AND REPORTING PROGRAM

CEQA Section 21081.6 requires that when a public agency is making the findings required by Section 21081, the public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval to mitigate or avoid significant effects on the environment.

Because mitigation measures have been adopted to mitigate or avoid significant environmental effects of the project, a mitigation monitoring and reporting program has been prepared for the proposed project and is adopted along with these findings. The MMRP is attached hereto as Attachment A.

SECTION 2
STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires a public agency to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. CDCR proposes to approve the Project despite certain significant unavoidable adverse impacts identified in the Northern California Reentry Facility and DeWitt Nelson Youth Correctional Facility Conversion Projects EIR. The entire EIR includes 2 volumes: (1) the Draft EIR, including appendices, and (2) the Final EIR, which includes responses to comments, corrections and revisions to the Draft EIR, and an appendix.

a. Impacts of the Project

The EIR identifies significant impacts to a number of environmental resources, including air quality, biological resources (project), cultural resources (project), geology and soils (project), paleontological resources (project), hazardous materials (project), hydrology and water quality (project), noise (project), and transportation (project and cumulative). As described above (Section 1.8), mitigation measures are available to reduce each of these impacts to a less-than-significant level, and CDCR has adopted such measures.

The EIR also identifies significant and unavoidable impacts to a number of environmental resources, including cumulative air quality, contribution to cumulative climate change from greenhouse gas emissions (cumulative), certain transportation facilities (project and cumulative), wastewater treatment and disposal (cumulative) and agricultural resources (project and cumulative). As described above (Section 1.8), CDCR has adopted all feasible measures to reduce these significant impacts, yet they remain significant after adoption of those measures.

b. Mitigation Measures

The mitigation measures incorporated into the EIR and the MMRP demonstrate a commitment by CDCR to avoid, minimize, and compensate for environmental impacts of the Project. The MMRP contains the following categories of mitigation measures:

AIR QUALITY

1. Construction Emissions Reduction (Mitigation Measure for Impact 4.1-1a of the EIR)

BIOLOGICAL RESOURCES

2. Reduce Impacts to Special-Status Reptiles (Mitigation Measure for Impact 4.2-1a)
3. Reduce Impacts to Raptors (Mitigation Measure for Impact 4.2-2a of the EIR)
4. Reduce Impacts on Special-Status Bat Species (Mitigation Measure for Impact 4.2-3a of the EIR)
5. Reduce Impacts of the Electrified Fence on Wildlife (Mitigation Measure for Impact 4.2-5a of the EIR)
6. Reduce Impacts to Native Trees (Mitigation Measure for Impact 4.2-6a of the EIR)

CULTURAL RESOURCES

7. Avoid Construction-Related Impacts on Presently Undocumented Cultural Resources (Mitigation Measure for Impact 4.3-2a of the EIR)
8. Avoid Construction-Related Impacts on Human Remains (Mitigation Measure for Impact 4.3-3a of the EIR)

GEOLOGY AND PALEONTOLOGY

9. Avoid Construction-Related Impacts on Paleontological Resources (Mitigation Measure for Impact 4.5-4a of the EIR)

HAZARDS AND HAZARDOUS MATERIALS

10. Address Potentially Contaminated Soils and Building Materials and Prevent Construction Worker Exposure (Mitigation Measure for Impact 4.6-2a of the EIR)

HYDROLOGY AND WATER QUALITY

11. Reduce Water Quality Impacts associated with Long-Term Operation (Mitigation Measure for Impact 4.7-3a of the EIR)

LAND USE AND AGRICULTURAL RESOURCES

12. Reduce Impacts related to Conversion of Important Farmland (Mitigation Measure for Impact 4.8-3a of the EIR)

NOISE

13. Implement Noise-Reducing Measures during All Noise-Generating Construction Activities (Mitigation Measure for Impact 4.9-1a of the EIR)
14. Implement Noise-Reducing Measures for Firing Range (Mitigation Measure for Impact 4.9-4a of the EIR)

TRANSPORTATION

15. Contribute Payment of the Project's Fair Share for Each Respective Intersection Project in Coordination with the City of Stockton, County of San Joaquin, or Caltrans. (Mitigation Measure for Impacts 4.11-1a, -2b, -3b, -4b, -5a of the EIR)

CUMULATIVE IMPACTS

16. Reduce Project Greenhouse Gas (GHG) Emissions

c. Benefits of the Project

i. Reactivate and Reuse Existing State Facilities

The Project will conserve state funds and environmental resources by reactivating and reusing currently unused state facilities, specifically the former DJJ DeWitt Nelson Youth Correctional Facility. This approach is fiscally and environmentally superior to constructing the Project on undeveloped land or on land that has not been developed for correctional uses. The Project will also prevent further deterioration of the unused buildings and facilities at the Project site. Moreover, by redeveloping state-owned land, the Project is sensitive to the interests of local governments because no new property will be transitioned into state ownership, which would reduce local property tax rolls. The reuse and reactivation of unused and underutilized state facilities is an important public benefit.

ii. Reduce Prison Overcrowding

California's prison system experiences inmate overcrowding and a comparatively high inmate recidivism rate. Accordingly, the State Legislature has directed CDCR to construct new inmate beds in order to reduce overcrowding. The Project will provide up to 1,133 new inmate beds. The provision of outpatient care beds will be particularly important as the prison inmate population continues to age (similar to the population as a whole), so the Project will also meet the future needs of California's prison inmate population. Reductions in prison overcrowding also improve security standards for staff, inmates, and California communities. Reducing prison overcrowding is an important benefit for the public.

iii. Provide Necessary Inmate Mental Health Care and Medical Care

In a federal class action lawsuit, *Coleman v. Schwarzenegger*, CDCR was ordered by the U.S. District Court to provide additional mental health care services to inmates at California's prisons by 2012. The federal court has ordered that the DeWitt Nelson Project include a total of 425 *Coleman* mental health care beds, so approximately 35% of the Project's beds will be designated for that purpose. The *Coleman* beds are an integral part of the Project and cannot be delayed. Furthermore, the Project includes new medical care units, in furtherance of the court-approved Turnaround Plan of Action developed by the federal Receiver in a separate federal class action lawsuit, *Plata v. Schwarzenegger*. Providing necessary inmate mental health and medical care services are both important benefits for the public.

iv. Create and Restore Jobs to the Stockton Area

In a time of economic recession and high unemployment rates as is currently the case, creating jobs is a critical contribution to local, regional, and state economies. In the short term the Project will create new construction-related jobs to support families in the Stockton area. The Project will also restore prison-related jobs that were once provided by the former DJJ facility, and create new jobs, for a total of up to 453 new permanent positions. When the former DJJ facility closed, many trained employees had to look for different jobs in the Paso Robles area or transfer to prison-related jobs in other areas. The Project will provide local job opportunities for those who now commute long distances to work in other correctional facilities. Particularly in the current economic climate, the creation of new jobs is another important public benefit.

v. Contribute to Infrastructure Upgrades

The Project will include substantial financial contributions to fund needed infrastructure upgrades throughout the City of Stockton and San Joaquin County, including contributions for road improvements and other transportation projects, and wastewater treatment plant upgrades. Contributions to needed local infrastructure upgrades is an important public benefit.

d. Conclusion

Having reduced the effects of the Project by adopting all feasible mitigation measures, and balanced the benefits of the Project against the Project's potential significant and unavoidable adverse environmental impacts, CDCR hereby determines that the specific overriding economic, legal, social, technological, or other benefits of the Project set forth above outweigh the potential unavoidable adverse effects of the Project on the environment. CDCR finds that each of the overriding considerations set forth above constitutes a separate and independent basis for finding that the benefits of the Project outweigh the unavoidable adverse environmental effects, and warrants approval of the Project.

Attachments

A. Mitigation Monitoring and Reporting Program (MMRP)

B. Project Description (Draft EIR Section 3)

C. CDCR's Resolution Certifying Final EIR for the Project

ATTACHMENT A

Mitigation Monitoring and Reporting Program (MMRP)

MITIGATION MONITORING AND REPORTING PROGRAM

FOR

THE DEWITT NELSON YOUTH CORRECTIONAL FACILITY CONVERSION

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ACRONYMS AND ABBREVIATIONS

AB	Assembly Bill
ARB	Air Resources Board
BACT	best available control technologies
Caltrans	California Department of Transportation
CCR	California Code of Regulations
CDCR	California Department of Corrections and Rehabilitation
CEQA	State of California Environmental Quality Act
CESA	California Endangered Species Act
CRHR	California Register of Historical Resources
dB	decibels
DFG	Department of Fish and Game
DJJ	Division of Juvenile Justice
DPM	diesel-fueled engines
DTSC	California Department of Toxic Substances Control
EIR	Environmental Impact Report
ESA	Endangered Species Act
gpd	gallons per day
gpm	gallons per minute
HCM	Highway Capacity Manual
lb/day	pounds per day
MBTA	Migratory Bird Treaty Act
MLD	Most Likely Descendant
MMRP	monitoring and reporting program
NAHC	Native American Heritage Commission
NCRF	Northern California Reentry Facility
NCWF	Northern California Women's Facility
NCYCC	Northern California Youth Correctional Center
NO_X	oxides of nitrogen
PCBs	polychlorinated biphenyls
SJVAPCD	San Joaquin Valley Air Pollution Control District
SVP	Society of Vertebrate Paleontology
SWMP	stormwater management plan
ton/qtr	tons per quarter

SECTION 1
INTRODUCTION

The California Environmental Quality Act (CEQA) requires public agencies to adopt a mitigation reporting or monitoring program for all projects for which an environmental impact report has been prepared. This is intended to ensure the implementation of all mitigation measures adopted through the CEQA process. Specifically, Section 21081.6(a)(1) of the Public Resources Code requires a lead or responsible agency to "... adopt a reporting or monitoring program for changes made to the project or conditions of project approval, adopted to mitigate or avoid significant effects on the environment."

The California Department of Corrections and Rehabilitation (CDCR) has adopted this mitigation monitoring plan for the proposed implementation of the DeWitt Nelson Youth Correctional Facility Conversion (DeWitt Nelson) Project (proposed project). The proposed DeWitt Nelson project includes the conversion and reuse of the existing DeWitt Nelson facility to a semi-autonomous adult male medical and mental health facility. The adjoining California Health Care Facility (CHCF) project is expected to provide primary administration and support for the proposed DeWitt Nelson facility. The proposed DeWitt Nelson project would include housing, programming, healthcare facilities, inmate visiting and some support facilities. The project would contain three new housing units and the potential renovation of four existing dormitory housing units for the proposed inmate population. The new housing units and four existing dormitories would house up to a maximum of 1,133 inmates.

CDCR is the lead agency for the implementation of the DeWitt Nelson project. Acting as lead agency the department has certified the Final Environmental Impact Report (EIR) for this project. The Final EIR for the project consists of the following two volumes:

- Draft Environmental Impact Report for the Northern California Reentry Facility and DeWitt Nelson Youth Correctional Facility Conversion Projects, dated October 2010.
- Final Environmental Impact Report for the Northern California Reentry Facility and DeWitt Nelson Youth Correctional Facility Conversion Projects, dated December 2010.

Note that the documents above evaluate the environmental impacts resulting from two separate projects: (1) the NCRF Project; and (2) the DeWitt Nelson Youth Correctional Facility Conversion Project. Section 4 of this mitigation monitoring and reporting program (MMRP) includes all mitigation measures recommended in the EIR for the DeWitt Nelson Project only; Section 5 of the MMRP includes mitigation measures recommended in the EIR for the DeWitt Nelson Project combined with the NCRF project. These measures would only be needed if both projects are implemented. The measures identified in Section 5 replace certain mitigation measures in Section 4, as identified in each of the Section 5 mitigation measures.

SECTION 2
PROGRAM MANAGEMENT

The mitigation monitoring and reporting program (MMRP) for the project will be in place through all phases of the project including design, construction, and activation/operation of the facility. The California Department of Corrections and Rehabilitation (CDCR) is responsible for implementation of all required mitigation measures and securing regulatory permits. Where necessary, CDCR will also work with responsible agencies to assure implementation of mitigation measures and requirements of regulatory permits within their respective purview. CDCR will maintain adequate staff throughout the design and construction periods to oversee and be responsible for implementation of all mitigation measures and permit conditions. CDCR will also assure that, where appropriate, the staff with responsibility for the activation and operation of the facility understand their obligations to continue the implementation of these measures and permit conditions. CDCR staff assigned the responsibility for implementation of the MMRP will be responsible for ensuring that the following procedures are implemented:

1. An MMRP Reporting Form will be prepared for each potentially significant impact and its corresponding mitigation identified in the attached list of mitigation measures.

2. Appropriate specialists will perform or monitor specific mitigation activities.

3. Mitigation issues will be described as appropriate in applicable construction bid packages.

4. The MMRP Reporting Forms will be distributed to the appropriate parties so that specific actions can be developed to carry out the necessary mitigation. These will be listed in the implementation action items section of the form.

5. Mitigation measures that continue into the operational phase will be incorporated into the Institutional Operational Procedures for the respective individual correctional facilities, which will be reviewed annually for compliance.

6. The CDCR mitigation monitor assignee will approve by signature and date the completion of each item identified on the MMRP Reporting Form.

7. All MMRP Reporting Forms for an impact issue requiring no further monitoring will be signed off as completed by the CDCR assignee at the bottom of the MMRP Reporting Form.

All active and completed MMRP Reporting Forms will be kept on file with the offices of the CDCR Environmental Services Branch. Forms will be available upon request at the following address:

State of California
Department of Corrections and Rehabilitation
Facility Planning, Construction and Management
Facilities Management Division
9838 Old Placerville Road, Suite B
Sacramento, California 95827

Contact: Roxanne Henriquez, Environmental Planning Section

SECTION 3
MITIGATION MONITORING AND REPORTING PROGRAM PHASES

The mitigation monitoring and reporting program (MMRP) described herein is intended to provide focused yet flexible guidelines for monitoring the implementation of the mitigation measures discussed in the Environmental Impact Report (EIR) and adopted by California Department of Corrections and Rehabilitation (CDCR). Section 4 of this MMRP lists, by number, each mitigation measure adopted for the project. Table 1 correlates each measure by its assigned number to the specific phase of the project (i.e., design, construction and/or operation) to which the measure applies.

3.1 DESIGN PHASE

The design phase includes preparation of engineering design, architectural design, and construction drawings by project design engineers and architects. Bid packages are also compiled for release to prospective construction contractors.

3.2 CONSTRUCTION PHASE

A pre-construction meeting is held with each contractor prior to the initiation of any construction activity for which a mitigation measure is relevant. Construction activities are monitored as often as conditions dictate to ensure that required mitigation measures are implemented. Applicable measures are discussed with construction contractors periodically as needed to facilitate their implementation.

3.3 OPERATIONAL PHASE

Once the facility is activated, the authority for implementation of the MMRP and all regulatory permits is transferred to the Warden or Superintendent of the facility. The operational aspects of the MMRP at this point become part of the Institutional Operational Procedures for the respective facility. The manual is reviewed annually for compliance, and the Warden is bound to the procedures expressed in the manual.

Table 1 Applicable Project Phases for Implementation of Project Mitigation			
Mitigation Measure	**Applicable phase**		
	Design/ Pre-construction	**Construction/ Pre-operation**	**Operation**
1. Construction emissions reduction.	X	X	
2. Reduce impacts to special-status reptiles	X	X	
3. Reduce impacts on raptors	X	X	
4. Reduce impacts on special-status bats	X	X	
5. Reduce impacts of the electrified fence on wildlife.	X	X	X
6. Reduce impacts to native trees	X	X	
7. Avoid construction-related impacts on presently undocumented cultural resources.		X	
8. Avoid construction-related impacts on human remains.		X	
9. Avoid construction-related impacts on paleontological resources.	X	X	
10. Address potentially contaminated soils and building materials prior to construction.	X	X	
11. Reduce water quality impacts associated with long-term operation	X	X	X
12. Reduce impacts related to conversion of Important Farmland	X		
13. Implement noise-reducing measures during all noise-generating construction activities.		X	
14. Implement noise-reducing measures for firing range	X		
15. Contribute appropriate project fair share payment for mitigation of traffic generated by DeWitt Nelson in coordination with City of Stockton, County of San Joaquin, or Caltrans.	X	X	X
16. Reduce project greenhouse gas (GHG) emissions	X	X	X

SECTION 4
INVENTORY OF DEWITT NELSON MITIGATION MEASURES

The mitigation measures included in the Final EIR that were adopted as conditions of project approval are listed below. Measures are listed by topical issue in the order in which they appear in the EIR.

Note: Some mitigation measures require the payment of fees or costs for infrastructure to municipal agencies or regulatory agencies. Such measures are denoted with an asterisk (*). Payment of such fees would only occur once the individual project is authorized and funded by action of the State Public Works Board or through authorization of the annual State Budget Act.

AIR QUALITY

1. Construction Emissions Reduction (Mitigation Measure for Impact 4.1-1a of the EIR)

In order to reduce NO_X emissions, CDCR will comply with SJVAPCD's Rule 9510, "Indirect Source Review," as required by SJVAPCD based on the project's specifications. Rule 9510 applies to project proponent that seeks to gain a final discretionary approval for a development project, or any portion thereof, that upon full buildout would include 50 residential units, 2,000 square feet of commercial space, 25,000 square feet of light-industrial space, or 9,000 square feet of any space, as well as similar minima for other land use types. Rule 9510 requires that exhaust emissions for construction equipment greater than 50 horsepower used or associated with the development project shall be reduced by 20% of the total NO_X and by 45% of the total PM10 exhaust emissions, as compared with statewide average emissions estimated by ARB. These reductions can achieved through any combination of on-site emission reduction measures or off-site fees. In order to achieve these required reductions CDCR may reduce construction emissions on-site by requiring its contractors to (as stated in Rule 9510):

- use less polluting construction equipment (compared to the statewide average as estimated by ARB), which can be achieved by utilizing add-on controls, cleaner fuels, or newer, lower emitting equipment;
- provide commercial electric power to the project site in adequate capacity to avoid or minimize the use of portable electric generators;
- substitute of electric-powered equipment for diesel engine–driven equipment equivalents (provided they are not run via a portable generator set); and
- minimize idling time of construction equipment and trucks to a 5-minute maximum.

To comply with Rule 9510, CDCR will submit an Air Impact Assessment (AIA) application to SJVAPCD prior to initiation of construction, with all related conditions expressed in construction bid documents. CDCR and/or its contractors will submit the AIA application as early as possible in the process. The AIA application will be submitted on a form provided by SJVAPCD and will contain, at a minimum, the contact name and address for CDCR (and/or its contractors), a detailed project description, an on-site emission reduction checklist, a monitoring and reporting schedule, and an AIA. The AIA will quantify NO_X and PM_{10} emissions associated with project construction. This assessment will include the estimated construction baseline emissions, and the mitigated emissions for each applicable pollutant for project construction, or each phase thereof, and will quantify the off-site fee, if applicable.

The ISR rule provides a method of calculating fees to be paid to offset any NO_X and PM_{10} emission reductions that would not be achieved by implementation of on-site emission reduction measures such as selection of lower-emitting construction equipment and fuels. The monies collected from this fee will be used by SJVAPCD to reduce emissions in the air basin on behalf of the project, with the goal of offsetting the emissions increase from project construction by decreasing emissions elsewhere. More specifically, the fees received by the SJVAPCD are used in SJVAPCD's existing Emission Reduction Incentive Program to fund emission reduction projects. CDCR will not begin any construction until the AIA application process is completed and the applicable off-site fee is paid to SJVAPCD for the applicable construction activity.*

In addition to meeting the emission reduction requirements required by Rule 9510, CDCR shall enter into an emissions reduction agreement with SJVAPCD to reduce construction-related emissions of NO_X to less than 10 TPY. As part of this agreement, CDCR will pay fees into SJVAPCD's existing Emission Reduction Incentive Program. The monies collected from this fee will be used by SJVAPCD to reduce emissions in the air basin on behalf of the project, with the goal of offsetting the NO_X emissions increase from project construction by decreasing emissions elsewhere. To the extent feasible, preference shall be given to off-site emission reduction projects that are located in or in close proximity to the project site. If approved by SJVAPCD, CDCR may develop a single emissions reduction agreement that also fulfills the compliance requirements of SJVAPCD's ISR Rule (Rule 9510). CDCR will not begin any construction until the emissions reduction agreement is approved by SJVAPCD and the applicable off-site fee is paid to SJVAPCD for the applicable construction activity. *

In order to reduce fugitive PM_{10} and $PM_{2.5}$ emissions, CDCR will require its contractors to provide sufficient equipment and personnel to comply with SJVAPCD's Regulation VIII, "Fugitive Dust PM_{10} Prohibitions," and implement all applicable control measures all seven days per week during project construction. Regulation VIII contains the following required control measures, among others, as provided by SJVAPCD's *Guide for Assessing and Mitigating Air Quality Impacts* (SJVAPCD 2002):

- All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover;
- All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant;
- All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking;
- With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition;
- When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained;
- All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.);
- Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant;

- Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday; and
- Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.

CDCR and/or its contractors will implement the following SJVAPCD-recommended enhanced and additional control measures, as provided by SJVAPCD's *Guide for Assessing and Mitigating Air Quality Impacts* (SJVAPCD 2002), for all construction activities to further reduce fugitive dust emissions:

- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from adjacent project areas with a slope greater than 1%.
- Apply additional watering to disturbed surfaces when winds exceed 20 mph.

BIOLOGICAL RESOURCES

2. Reduce Impacts to Special-Status Reptiles (Mitigation Measure for Impact 4.2-1a)

Consistent with the process outlined and encouraged by the San Joaquin Council of Governments (SJCOG) for the CHCF project, prior to the site preparation activities, CDCR will request concurrence from the SJMSCP Joint Powers Authority (JPA) that the DeWitt Nelson project site qualifies for third-party participation in the SJMSCP because the project is consistent with permitted activities as defined in SJMSCP Section 8.2.2.c, "Major Impact Projects." Upon receipt of the concurrence letter, CDCR will pay the Natural Lands and Agricultural Habitat Lands Fee (adjusted for inflation annually by the Joint Powers Authority) as defined in SJMSCP Section 7.4.1.2, "Agricultural Habitat Lands, Non-Vernal Pool Natural Lands, and Multipurpose Open Space Lands." Fees will be paid as compensation for permanent loss of habitat for not only giant garter snake but also all other species covered under the SJMSCP, which would include raptor species such as Swainson's hawk. Compensation ratios differ by the type of land, as defined in the SJMSCP (i.e., Agricultural Habitat Lands and Natural Lands, or Multipurpose Open Space Lands), that will be permanently lost as a result of the project. The SJMSCP Joint Powers Authority will determine the fee amount to be paid based on the acreage of disturbance per habitat type. The total acreage amount could be a minimum of 4.5 acres and up to 21.5 acres.* Additional disturbances to upland habitat for giant garter snake and northwest pond turtle could occur during the construction phase of the DeWitt Nelson project. Therefore, the following avoidance and minimization measures will also be implemented.

Giant Garter Snake. Consistent with the avoidance and minimization measures in the SJMSCP, CDCR will implement the following measures to reduce impacts on giant garter snake. Construction will occur during the active period for the snake, between May 1 and October 1. Between October 2 and April 30, the JPA, with concurrence of the Permitting Agencies' representatives on the Technical Advisory Committee (TAC), will determine if additional measures are necessary to minimize and avoid take.

- Limit vegetation clearing within 200 feet of the banks of potential giant garter snake aquatic habitat (i.e., Littlejohns Creek) to the minimal area necessary.
- Confine the movement of heavy equipment within 200 feet of the banks of potential giant garter snake habitat to existing roadways to minimize habitat disturbance.
- Prior to ground disturbance, CDCR's mitigation monitor representative or other appropriate representative shall provide all on-site construction personnel instruction regarding the presence of the SJMSCP Covered Species and the importance of avoiding impacts these species and their habitats.
- In areas where wetlands, irrigation ditches, marsh areas, or other potential giant garter snake habitats are being retained on the site:

- Install temporary fencing at the edge of the construction area and the adjacent wetland, marsh, or ditch;
- Restrict working areas, spoils and equipment storage and other project activities to areas outside of marshes, wetlands, and ditches; and
- Maintain water quality and limit construction runoff into wetland areas through the use of hay bales, filter fences, vegetative buffer strips, to other accepted equivalents.

- CDCR's mitigation monitor representative or other appropriate representative shall arrange pre-construction surveys for giant garter snake (conducted after completion of environmental reviews and prior to ground disturbance) will occur within 24 hours of ground disturbance.
- Other provision of the *USFWS Standard Avoidance and Minimization Measures during Construction in Giant Garter Snake Habitat* will be implemented (excluding programmatic mitigation ratios which are superseded by the SJMSCP's mitigation ratios).

Northwestern Pond Turtle. Consistent with the avoidance and minimization measures in the SJMSCP, CDCR will implement the following measures to reduce impacts on northwestern pond turtle. All mitigation listed below will be limited to construction within 200 feet of potential aquatic habitat.

- CDCR's mitigation monitor representative or other appropriate representative shall secure a qualified biologist to conduct a preconstruction survey for northwestern pond turtle within 24 hours before ground-disturbing activities. If pond turtles are found within the construction area, they will be relocated by the biologist to adjacent habitat that would not be disturbed by construction activity.
- If nesting areas for pond turtles are identified on the project site, then a buffer area of 300 feet will be established between the nesting site and the nearest aquatic habitat during the nesting period (April–November). These buffers will be indicated by temporary fencing if construction has begun or will begin before nesting periods are ended (the period from egg laying to emergence of hatchlings is normally April–November).

3. Reduce Impacts to Raptors (Mitigation Measure for Impact 4.2-2a of the EIR)

As described above in Mitigation Measure 4.1-2a, prior to the ground disturbing activities third-party participation in the SJMSCP will be requested and the fees paid. The amount of nesting habitat required to be removed from the project site will be determined from final site plans, and the SJMSCP Joint Powers Authority will determine the total amount of the fees to be paid based on the acreage of disturbance.*

In addition, the following avoidance and minimization measures for Swainson's hawk and other tree-nesting raptors and burrowing owl will be implemented.

Swainson's hawk and Other Tree-Nesting Raptors. Consistent with the avoidance and minimization measures in the SJMSCP, CDCR will implement the following measures to reduce impacts on Swainson's hawk and other tree-nesting raptors:

- If trees and floodlights are removed or otherwise disturbed between September 1 and February 15, (i.e. outside breeding season), then no further mitigation will be required.

- If trees and floodlights are removed or otherwise disturbed between February 16 and August 31, then a qualified biologist will be retained to conduct preconstruction surveys for active raptor nests on and within 0.5 mile of the project site no more than 14 days and no less than 7 days before tree and floodlight disturbance activities. Surveys for Swainson's hawks will follow the guidelines provided in

the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in the Central Valley* (DFG 2000). If no active nests are found, then no further mitigation will be required.

- If active nests are found, the qualified biologist will establish a buffer around the tree or floodlight where the active nest is located. No project activity will commence within the buffer area until the qualified biologist confirms that the nest is no longer active or that the young have fully fledged. For Swainson's hawk nests, DFG guidelines recommend implementation of 0.25- or 0.5-mile buffers, but the size of the buffer may be adjusted if a qualified biologist and DFG determine that it would not be likely to adversely affect the nest. Monitoring of the nest by a qualified biologist may be required if the activity has potential to adversely affect the nest.

Burrowing Owl. Consistent with the avoidance and minimization measures in the SJMSCP, CDCR will implement the following measures to reduce impacts on burrowing owl:

- In order to discourage burrowing owl occupation of the project site prior to construction, CDCR will first discourage use of the project site by ground squirrels, whose burrows are often used by burrowing owls, through the following methods:

  - CDCR will maintain the project site in a condition that prevents the establishment of ground squirrel and burrowing owl occupation of the project site (e.g., hand shoveling during non-nesting season).

  - Alternatively, if burrowing owls are not known on the project site and the area is an unlikely occupation site for red-legged frog, San Joaquin kit fox, or California tiger salamander. CDCR may disc or plow the entire project site to destroy any burrows. At the same time burrows are destroyed, ground squirrels should be removed through one of the approved methods described in Appendix A of the SJMSCP, *Protecting Endangered Species, Interim Measures for Use of Pesticides in San Joaquin County*, dated March 2000.

- If measures described above are not attempted or fail, the following measures will be implemented. These measures are consistent with procedures outlined in the *California Department of Fish and Game's Staff Report on Burrowing Owls* (DFG 1995).

  - CDCR will retain a qualified biologist to conduct focused surveys for burrowing owls in areas of suitable habitat on and within 250 feet of the project site. Surveys will be conducted before project activity and in accordance with DFG protocol (DFG 1995).

  - If no occupied burrows are found in the survey area, a letter report documenting survey methods and findings will be submitted to DFG, and no further mitigation is necessary. If occupied burrows are found, to the extent feasible, establish a buffer of 165 feet around the occupied burrow during the nonbreeding season (September 1–January 31) or 250 feet during the breeding season (February 1–August 31). The size of the buffer area may be adjusted if a qualified biologist determines consistent with DFG Guidelines, that adjusting the buffer size would not be likely to have adverse effects. No project activity will commence within the buffer area until a qualified biologist confirms that the burrow is no longer occupied. If the burrow is occupied by a nesting pair, a minimum of 6.5 acres of foraging habitat contiguous to the burrow will be preserved (fenced off with temporary fencing) until the breeding season is over.

  - If occupied burrows cannot be avoided, during the non-breeding season conduct on-site passive relocation techniques, pursuant to DFG guidelines, to encourage owls to move to alternative

burrows outside of the impact area. No burrows found by the survey to be occupied will be disturbed during the breeding season.

4. *Reduce Impacts on Special-Status Bat Species (Mitigation Measure for Impact 4.2-3a of the EIR)*

Prior to construction, surveys for roosting bats on the project site will be conducted by a qualified biologist. Surveys may consist of a daytime pedestrian survey looking for evidence of bat use (*e.g.,* guano) and/or an evening emergence survey to note the presence or absence of bats. The type of survey will depend on the condition of the buildings at the time of demolition. If no bat roosts are found, then no further study is required. If evidence of bat use is observed, the number and species of bats using the roost will be determined. Bat detectors may be used to supplement survey efforts, but are not required.

If roosts of pallid bats are determined to be present and must be removed, the bats will be excluded from the roosting site before the facility is removed. A mitigation program addressing compensation, exclusion methods, and roost removal procedures will be developed in consultation with DFG before implementation. Exclusion methods may include use of one-way doors at roost entrances (bats may leave but not reenter), or sealing roost entrances when the site can be confirmed to contain no bats. Exclusion efforts may be restricted during periods of sensitive activity (*e.g.,* during hibernation or while females in maternity colonies are nursing young). The loss of each roost (if any) may need to be replaced, However, the need for roost replacement will be based on a number of factors (i.e., size of colony, evidence of significant use, etc) and will be determined in consultation with DFG. Should it be determined that roost replacement is necessary, the ratio of roost replacement would also be determined in consultation with DFG, and may include construction and installation of bat boxes suitable to the bat species and colony size excluded from the original roosting site. Roost replacement will be implemented before bats are excluded from the original roost sites. Once the replacement roosts are constructed and it is confirmed that bats are not present in the original roost site, the building may be removed or renovated.

5. *Reduce Impacts of the Electrified Fence on Wildlife(Mitigation Measure for Impact 4.2-5a of the EIR)*

CDCR will consult with USFWS and DFG regarding the DeWitt Nelson project and anticipated wildlife mortality and will take appropriate actions to minimize wildlife electrocutions to the extent feasible and compensate for impacts on native wildlife species. It is anticipated that this will be accomplished by following the mitigation approached in the Statewide Electrified Fence HCP, although the DeWitt Nelson project would not be covered by the HCP. A monitoring program consistent with the monitoring program established in the Statewide Electrified Fence HCP would be developed to document wildlife mortality and ensure compliance with Tier 1 and Tier 2 measures. The tiered mitigation approach used by the HCP to offset potential adverse effects on birds protected under MBTA and the California Fish and Game Code is outlined below.

- *Tier 1:* These mitigation measures are designed to eliminate or reduce wildlife attractants near the prison perimeter by implementing specific maintenance and operation procedures. By making the perimeter less hospitable, wildlife will frequent this area less often, thus reducing their exposure to accidental electrocution. Tier 1 maintenance and operation procedures will include:
  - Minimization of vegetation in the vicinity of the lethal electrified fence perimeter. This will include removal of vegetation growing between and adjacent to chain link fences that surround lethal electrified fences and keeping the first 100 feet of vacant land outside the perimeter and patrol road free of vegetation. Landscaping vegetation near the lethal electrified fence will be minimized and will be trimmed or mowed to reduce its attractiveness to wildlife. Facility

landscaping will be designed to provide as little cover and as few foraging and nesting opportunities as possible. Detailed information, including recommended landscape plantings that are less attractive to wildlife, can be found in the Handbook to Reduce Wildlife Use (CDCR1996).

- Minimization of standing water near the fence perimeter. Rainwater will not be allowed to stand in or near the perimeter for more than 24 hours after a storm. Localized recontouring, excavation of ditches, and placement of gravel will occur to prevent ponding. Weeds, grasses, or emergent vegetation will be removed from ditches regularly.

- Timely correction of erosion gaps and spaces under fencing. Inner and outer chain link fences will be inspected weekly to ensure that no gaps or spaces have formed. All eroded areas will be filled with soil or gravel as soon as feasible to prevent animals from entering electrified-fence areas.

- Proper storage of materials and waste. To the extent feasible, equipment, supplies, rubble, or pallets will not be stored (temporarily or permanently) within 200 feet of either side of the fence perimeter. Garbage cans and dumpsters will be covered at all times and emptied as often as required to prevent overflow. The area within 200 feet of the fence perimeter will be kept free of all trash, litter, and loose food waste.

- <u>*Tier 2:*</u> These mitigation measures consist of both exclusion and deterrent devices. Tier 2 measures to be installed on the proposed lethal electrified fence are listed below.
  - *Vertical netting.* Past analysis of the locations of carcasses has shown that wildlife kills were typically the result of animals contacting the lowest nine wires, because wires are vertically closer together, resulting in more opportunities for birds to contact two lethal wires or a wire and a ground. CDCR shall install three-quarter-inch mesh vertical netting enveloping both sides of the lower section of the lethal electrified fence, which will prevent most birds from contacting the fence.

  - *Anti-perching wire.* Several birds have been electrocuted as a result of contacting electrified wires while perching, or attempting to perch, on the grounding brackets and fence posts of the lethal electrified fence. Anti-perching wires, which consist of 2- to 4- inch pieces of stiff wire connected to an aluminum base, will be strategically attached to the tops of perching sites in and near the perimeter. Once installed, this wire will reduce the ability of birds to perch near the lethal electrified fence, thus reducing exposure to accidental electrocutions.

- <u>*Tier 3:*</u> These mitigation measures compensate for residual wildlife mortality impacts. CDCR will contribute funds to an existing non-profit organization that creates and manages habitat enhancement areas that would improve opportunities for reproductive success of birds likely to be adversely affected by the project. Birds likely to be adversely affected will be predicted based on the results of mortality monitoring at comparable CDCR facilities and based on birds expected to occur in the project vicinity based on surrounding habitat. Mechanisms for implementing the mitigation will be similar to those previously utilized by CDCR for the Statewide and Six Prison Electrified Fence Projects and may include additional funding for a project to which CDCR has already contributed as part of these existing projects. The San Joaquin Valley will be targeted, but mitigation could be implemented at federal, state, or private lands located anywhere in California if the lands support a large percentage of the species at risk of electrocution at the project site. The amount of funding contributed would depend on the acreage of habitat that would benefit from the mitigation. The mitigation acreage required would be determined by CDCR (in coordination with USFWS and

CDFG) based on the anticipated annual mortality of native birds and the area required to support an equivalent number of individuals of the species at greatest risk of electrocution.*

As an alternative to working with an existing non-profit organization, CDCR will request participation in the SJMSCP, and if participation is granted, CDCR will coordinate with SJCOG staff regarding appropriate mitigation for wildlife mortality associated with the lethal electrified fence. The process outlined above for calculating acreage of compensatory mitigation would remain the same.*

6. *Reduce Impacts to Native Trees (Mitigation Measure for Impact 4.2-6a of the EIR)*

A formal tree survey will be conducted on the DeWitt Nelson project site in order to determine the number and classification (i.e., native or heritage) of all trees that may be removed. CDCR will implement the following measures to reduce impacts on native oak trees:

- Minimize the number of native oak trees to be removed to the greatest extent feasible (i.e., retain trees that would not result in safety or operational concerns)
- Replace all native oak trees removed by project construction activity consistent with the provisions outlined in section 9-1505.4 of the *San Joaquin County General Plan 2010*. Removal of any native oak of suitable size (i.e., 4–6 inches dbh) would be replaced at a 3:1 ratio. Heritage oaks would be replaced at a ratio of 5:1.
- Use trees from healthy commercial nursery stock and/or acorns from the tree removed when establishing new trees.
- Ensure that trees are established and maintained for at least 3 years.
- Plant trees as near as possible to the location from which they were removed. Potential on-site areas for replacement planting would be in the parking lot, near the firing range, or in other areas that would not interfere with operation of the lethal electrified fence, or alternatively, an offsite location will be identified, as near to the project site as feasible.
- Trees will be planted between October 1 and December 31, and no later than 12 months after the date of tree removal.

Alternatively, CDCR may consult with the County and the SJCOG regarding offsite replacement options where one or both of these entities will accept responsibility for the planting and maintenance of the replacement trees. If it is determined, in consultation with the County and SJCOG, that this is a viable option, mitigation requirements would be consistent with those listed above and additional measures may be required.

CULTURAL RESOURCES

7. *Avoid Construction-Related Impacts on Presently Undocumented Cultural Resources (Mitigation Measure for Impact 4.3-2a of the EIR)*

If cultural materials (e.g., unusual amounts of shell, animal bone, bottle glass, ceramics, structure/building remains) are inadvertently discovered on the project sites during project-related construction activities, ground disturbances in the area of the find will be halted and a qualified professional archaeologist will be notified of the discovery. The archaeologist will determine whether the resource is potentially eligible for listing in the CRHR. If additional as-yet-unidentified resources are determined to be eligible for listing, the archaeologist will develop appropriate avoidance measures and assist with project redesign and/or monitoring; or if construction cannot be planned to avoid impacts, the archaeologist will develop appropriate mitigation, which could include such actions as preservation in place, documentation of the

find, or data recovery. Mitigation will be fully implemented before construction activities resume in the vicinity of the find.

8. Avoid Construction-Related Impacts on Human Remains (Mitigation Measure for Impact 4.3-3a of the EIR)

In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities, all such activities in the vicinity of the find will be halted immediately and CDCR or its designated representative will be notified. CDCR will immediately notify the county coroner and a qualified professional archaeologist. The coroner will examine all discoveries of human remains within 48 hours of receiving notice of the discovery. If the coroner determines that the remains are those of a Native American, he or she will contact the NAHC by phone within 24 hours of making that determination. CDCR or its appointed representative and the professional archaeologist will consult with a Most Likely Descendant (MLD) designated by the NAHC regarding the removal or preservation and avoidance of the remains and determine whether additional burials could be present in the vicinity.

GEOLOGY AND PALEONTOLOGY

9. Avoid Construction-Related Impacts on Paleontological Resources (Mitigation Measure for Impact 4.5-4a of the EIR)

Before the start of grading, excavation, or demolition, whichever comes first, at the DeWitt Nelson location, CDCR will retain a qualified paleontologist or archaeologist to alert all construction personnel involved with earthmoving activities, including the site superintendent, about the possibility of encountering fossils. The appearance and types of fossils likely to be seen during construction will be described. Construction personnel will be trained about the proper notification procedures should fossils be encountered. If paleontological resources are discovered during earthmoving activities, the construction crew will be directed to immediately cease work in the vicinity of the find and notify the CDCR Project Director. CDCR will retain a qualified paleontologist to evaluate the resource and prepare a mitigation plan in accordance with SVP guidelines (1996). The mitigation plan may include a field survey, construction monitoring, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by CDCR to be necessary and feasible will be implemented before construction or demolition activities can resume at the site where the paleontological resources were discovered.

HAZARDS AND HAZARDOUS MATERIALS

10. Address Potentially Contaminated Soils and Building Materials and Prevent Construction Worker Exposure (Mitigation Measure for Impact 4.6-2a of the EIR)

CDCR will implement the following measures prior to and during construction, as appropriate:

a. To avoid health risks to construction workers, CDCR will prepare a Health and Safety Plan prior to initiating any demolition (or removal of building materials associated with renovation), grading, or other groundwork. This plan will outline measures that will be employed to protect construction workers and the public from exposure to hazardous materials during demolition and construction activities.

These measures could include, but would not be limited to, posting notices, limiting access to the site, air monitoring, watering, and installation of wind fences. Development contractors will be required to comply with state health and safety standards for all demolition work. If necessary, this will include compliance with OSHA and Cal-OSHA requirements regarding exposure to asbestos and lead-based paint.

b. Before demolition of any structures or initiation of grading or other groundwork, CDCR will investigate if soil and/or groundwater have been contaminated from past operations. This investigation will follow environmental site assessment (ESA) and/or other appropriate testing guidelines and will include, as necessary, analysis of soil and/or groundwater samples taken at or near potential contamination sites. If the results indicate that contamination exists at levels above regulatory action standards, then the San Joaquin County Department of Environmental Health (SJCDEH) will be notified and the site will be remediated in accordance with recommendations made by SJCDEH, Regional Water Quality Control Board (RWQCB), and California Department of Toxic Substances Control (DTSC). The agencies involved would depend on the type and extent of contamination. Remediation activities could include but would not be limited to the excavation of contaminated soil areas and hauling of contaminated soil materials to an appropriate off-site disposal facility, mixing of on-site soils, and capping (i.e., paving or sealing) of contaminated areas.

c. Based on the results and recommendations of the ESA-level investigation described above, CDCR will prepare a site plan that identifies any necessary remediation activities appropriate for proposed correctional facilities, including excavation and removal of on-site contaminated soils, and redistribution of clean fill material on the project site. The plan will include measures that ensure the safe transport, use, and disposal of contaminated soil and building debris removed from the site. The development contractors will be required to comply with the plan and relevant local, state, and federal laws for dewatering discharge. The plan will outline measures for specific handling and reporting procedures for hazardous materials, and disposal of hazardous materials removed from the site at an appropriate off-site disposal facility.

   In addition, the following measures will apply to construction activities:

   (1) The project contractor will notify SJCDEH if evidence of previously undiscovered soil or groundwater contamination (e.g., stained soil, odorous groundwater) is encountered during excavation. Any contaminated areas will be remediated in accordance with recommendations made by SJCDEH, RWQCB, and DTSC.

   (2) Before demolition of any structure, or removal of building materials, CDCR will hire a qualified consultant to investigate whether any building materials to be removed contain lead or asbestos-containing materials that could become friable or mobile during demolition/construction activities. If found, the lead- or asbestos-containing materials will be removed by an accredited inspector in accordance with EPA and Cal-OSHA standards. In addition, all activities (construction or demolition) in the vicinity of these materials will comply with Cal-OSHA asbestos worker construction standards. The lead- or asbestos-containing materials will be disposed of properly at an appropriate off-site disposal facility.

HYDROLOGY AND WATER QUALITY

11. Reduce Water Quality Impacts associated with Long-Term Operation (Mitigation Measure for Impact 4.7-3a of the EIR)

Before any construction-related ground disturbance, final firing range design plans will be completed to demonstrate that all runoff and overshot from the firing range would be appropriately captured at the firing range facility and would not result in contamination of nearby waterways and underlying groundwater aquifers. As part of the final design process, CDCR will coordinate with applicable state agencies (i.e., DTSC and RWQCB) to ensure that the proposed design plans are consistent with state requirements. CDCR will implement the following:

- Final design will be consistent with the applicable CDCR DCGs for firing ranges (see DCG Appendix C.3, "Special Occupancies: Firing Ranges");
- CDCR will develop and implement a firing range operation and maintenance plan that includes provisions for periodic range maintenance, periodic cleanup procedures (i.e., sweeping), and hazardous and non-hazardous waste disposal procedures, and periodic removal of lead and other materials from bullet traps, soil berms, and permeable floor areas;
- CDCR will comply with applicable RWQCB and/or DTSC water quality permits and requirements, such as preparation of a SWPPP and site-specific WDRs, use of erosion and sediment-control BMPs, and implementing personnel training requirements and procedures; and
- CDCR will implement applicable EPA Best Management Practices to prevent lead migration at Outdoor Shooting Ranges (see http://www.epa.gov/region2/waste/leadshot/) such as implementing methods for monitoring and adjusting soil pH and binding lead and controlling runoff to the maximum extent practicable.

LAND USE AND AGRICULTURAL RESOURCES

12. Reduce Impacts related to Conversion of Important Farmland (Mitigation Measure for Impact 4.8-3a of the EIR)

Prior to operation of the DeWitt Nelson project, a perpetual agricultural conservation easement or deed shall be recorded on land that is consistent in quality, as characterized by DOC's Farmland Mapping and Monitoring Program, equal in acreage to the number of acres of Important Farmland converted by the proposed DeWitt Nelson Project (minimum 1:1 ratio). The total amount shall be 4.5 acres minimum. While the above mitigation would reduce the impact, construction of the new retention basin would convert 4.5 acres of Important Farmland to nonagricultural land uses. This impact would remain significant and unavoidable.

NOISE

13. Implement Noise-Reducing Measures During All Noise-Generating Construction Activities (Mitigation Measure for Impact 4.9-1a of the EIR)

CDCR will implement the following mitigation measures to reduce noise levels generated by on-site construction equipment:

- Construction equipment will be properly maintained per manufacturers' specifications and fitted with the reasonable noise suppression devices (e.g., mufflers, silencers, wraps). All impact tools will be shrouded or shielded and all intake and exhaust ports on power equipment will be muffled or shielded.

- Construction equipment will not be idled for extended periods (e.g., 20 minutes or longer) of time in the vicinity of noise-sensitive receptors.

- Fixed/stationary equipment (such as generators, compressors, rock crushers, and cement mixers) will be located as far as possible from noise-sensitive receptors.

- CDCR's mitigation monitor representative or other appropriate representative will appropriately notify nearby sensitive receptors of proposed noise-generating construction activities. The coordinator will manage any complaints resulting from the construction noise.

- Project noise-generating construction and related activities will occur typically between 6 a.m. and 9 p.m.

- If construction operations and related activities occur during more sensitive evening and nighttime hours (9 p.m. to 6 a.m.), CDCR will notify the four residences along Austin Road 48 hours in advance of nighttime construction activities. CDCR's mitigation monitor representative or other appropriate representative will offer to pay hotel accommodations for the duration of the nighttime construction for adjacent residents on properties within 500 feet of the NCRF project site. If residents choose to stay in their homes, CDCR will erect temporary noise barriers to minimize noise disturbances at nearby noise-sensitive land uses. Temporary barriers will be placed as close to the noise source or as close to the receptor as possible and break the line of sight between the source and receptor. Acoustical barriers will be constructed of material with a minimum surface weight of 2 pounds per square foot or greater, and a demonstrated Sound Transmission Class (STC) rating of 25 or greater as defined by American Society for Testing and Materials (ASTM) Test Method E90. Placement, orientation, size, and density of acoustical barriers will be specified by a qualified acoustical consultant when specific equipment configurations, locations, and operational details become available.

14. Implement Noise-Reducing Measures for Firing Range (Mitigation Measure for Impact 4.9-4a of the EIR)

CDCR will implement the following mitigation measures to reduce stationary noise levels generated by the proposed firing range. See Exhibit 4.9-4 of the DEIR for a visual representation of the L_{eq} noise contours from the firing range with mitigation in place. Measures that reduce Leq noise levels would also reduce Lmax noise levels.

- All structures including the guard tower and 100-yard firing position will be enclosed on the north wall and rooftop to ensure that no direct line of site or reflection from within the firing structure occurs between the muzzle (i.e., the firing end of the firearm) and any receptors located at the DeWitt Nelson facility or other on- or off-site receptors. The roof and north walls will extend a minimum of 6 vertical feet above the topmost firing position and a minimum of 10 feet horizontally (east-west) from the outermost firing positions.
- The walls that enclose the structures will be made of material that are solid and are of standard wood/plaster or concrete construction design with a minimum absorption coefficient of 0.50 and a

demonstrated STC rating of 20 or greater as defined by ASTM Test Method E90 to ensure a minimum noise reduction of 20 dB.

- Berms surrounding the firing range will extend from as near to the firing range structures as feasible and would be 18-feet in height. A combination of berm and wall may also be used.
- The 100-yard firing range position will be located at the furthest feasible distance from the DeWitt Nelson facility and will not be less than 350 feet from the nearest noise sensitive areas of the DeWitt Nelson facility.
- All firing positions will be marked in the enclosed structures so that no muzzle or barrel extends beyond the enclosed structure.

TRANSPORTATION

15. Contribute Payment of the Project's Fair Share or Undertake Improvements for Each Respective Intersection or Roadway Segment Project in Coordination with the City of Stockton, County of San Joaquin, or Caltrans.*(Mitigation Measure for Impacts 4.11-1a, -2b, -3b, -4b, -5a of the EIR)

Mitigation Measure for Impact 4.11-1a.

(Note that if NCRF construction occurs at the same time as DeWitt Nelson construction, this mitigation measure is replaced with Mitigation Measure for Impact 4.11-1c—See Section 5 of this MMRP.)

Newcastle Road & Arch Road

The following mitigation measures have been identified to improve intersection operations. The project would contribute approximately 4% of the traffic to this intersection during the A.M. peak hour.*

- Coordinate with the County to adjust the traffic signal timing to optimize the splits (balance of green and red signal time for each approach) during the A.M. peak hour.

Austin Road & Arch Road

The following mitigation measure has been identified to improve intersection operations. It is assumed that the installation of the traffic signal, as part of the CHCF project would be in place. The project would contribute approximately 26% of the traffic to this intersection during the A.M. peak hour, and approximately 25% of the P.M. peak hour traffic.*

- Coordinate with the County to adjust intersection cycle length to 60 sec during peak hours.

Mitigation Measure for Impact 4.11-2b. (Project Conditions)

(Note that if NCRF is also implemented, this mitigation measure is replaced with Mitigation Measure for Impact 4.11-2c—See Section 5 of this MMRP.)

1. SR 99 SPUI & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than five seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 2.37% of the traffic to this intersection during the A.M. peak hour, 2.08% during the Midday peak hour and 2.10% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton to help fund

implementation of this improvement. This improvement is not in the City's traffic impact fee program.*

- Adjust traffic signal timing to optimize the splits and cycle length to 150 seconds during the A.M. peak hour.
- Adjust traffic signal timing to optimize the splits and cycle length to 100 seconds and coordinate the traffic signal with the intersection of Kingsley Road - SR 99 Frontage Road and Arch Road during the Midday peak hour.
- Adjust traffic signal timing to optimize the splits and cycle length to 135 seconds and coordinate the traffic signal with the intersection of Kingsley Road - SR 99 Frontage Road and Arch Road during the P.M. peak hour.

2. Kingsley Road – SR 99 Frontage Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than 5.0 seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 3.63% of the traffic to this intersection during the A.M. peak hour, 3.04% during the Midday peak hour and 3.08 % during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton to help fund implementation of this improvement. This improvement is not in the City's traffic impact fee program.*

- Adjust traffic signal timing to optimize the splits and cycle length to 150 seconds during the A.M. peak hour.
- Adjust traffic signal timing to optimize the splits and cycle length to 100 seconds and coordinate the traffic signal with the SR 99 SPUI & Arch Road intersection, during the Midday peak hour.
- Adjust traffic signal timing to optimize the splits and cycle length to 135 seconds and coordinate the traffic signal with the SR 99 SPUI & Arch Road intersection, during the P.M. peak hour.

3. Newcastle Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the background conditions or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 4.44% of the traffic to this intersection during the A.M. peak hour and 3.88% during the P.M. peak hour. This improvement is not in the County's traffic impact fee program. CDCR will monitor traffic at the above intersection for two years after the date on which the DeWitt Nelson Project begins operations. If, based on those traffic data, the level of service at any of the above intersections exceeds the threshold of significance, CDCR will fund*/undertake the following mitigation:

- Adjust the traffic signal timing to a130 second cycle and optimize splits during the impacted A.M. and P.M. hours (balance of green and red time for each approach).

In calculating CDCR's "fair share" obligation towards traffic improvements, CDCR will credit its total "fair share" obligation by the amount it spends towards the above mitigation in excess of its percentage contributions to traffic congestion at that intersection.

4. Austin Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the background condition or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 2.82% of the traffic to this intersection during the A.M. peak hour, 5.03% during the Midday peak hour and 5.13% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the County of San Joaquin to help fund implementation of this improvement. This improvement is not in the County's traffic impact fee program.*

- Reconfigure the northbound approach on Austin Road to provide a dedicated left-turn lane.
- Provide the southbound right-turn lane with overlap phasing (to allow right turns to turn when opposing left turns go).
- Reconfigure the westbound approach on Arch Road to provide a shared thru-left and a dedicated right-turn lane.
- Adjust traffic signal timing to 130 seconds and optimize splits (the balance of red and green time for each approach).

Mitigation Measure for Impact 4.11-3b. (Cumulative Conditions)

(Note that if NCRF is also implemented, this mitigation measure is replaced with Mitigation Measure for Impact 4.11-3c—See Section 5 of this MMRP.)

1. SR 99 SPUI & Arch Road

The following mitigation measure has been identified to improve intersection operations and achieve a difference in average delay of less than five seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 2.97% of the traffic to this intersection during the A.M. peak hour, 2.32% during the Midday peak hour and 2.34% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton traffic to help fund implementation of this improvement.*

- Adjust traffic signal to optimize the splits and cycle length to 150 seconds during the A.M., Midday, and P.M. peak hour.

2. Kingsley Road – SR 99 Frontage Road & Arch Road

The following mitigation measure has been identified to improve intersection operations and achieve a difference in average delay of less than five seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 3.35% of the traffic to this intersection during the A.M. peak hour, 2.76% during the Midday peak hour, and 2.80% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton to help fund implementation of this improvement.*

- Adjust traffic signal to optimize the splits and cycle length to 150 seconds during the Midday and P.M. peak hour.

3. Newcastle Road & Arch Road

The following mitigation measure has been identified to improve intersection operations and achieve a difference in average delay of less than the cumulative no project condition or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 3.77% during the P.M. peak hour. CDCR will monitor traffic at the above intersection for two years after the date on which the DeWitt Nelson Project begins operations. If, based on those traffic data, the level of service at any of the above intersections exceeds the threshold of significance, CDCR will fund*/undertake the following mitigation:

- Adjust signal timing to optimize splits during the P.M. peak hour.

In calculating CDCR's "fair share" obligation towards traffic improvements, CDCR will credit its total "fair share" obligation by the amount it spends towards the above mitigation in excess of its percentage contributions to traffic congestion at that intersection.

4. Austin Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the cumulative no project condition or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 5.50% of the traffic to this intersection during the A.M. peak hour, 3.60% during the Midday peak hour and 2.27% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the San Joaquin County to help fund implementation of this improvement.*

- Increase the intersection traffic signal timing cycle length to 120 seconds and optimize splits during the Midday and P.M. peak hours.
- Provide overlap phasing for the southbound right-turn lane.

5. Arch Road – East of Newcastle Road and west of NCRF West Driveway (Roadway Segment)

The following mitigation measures have been identified to improve the roadway operations and achieve a difference in volume-to-capacity ratio equal to or less than the 2035 Cumulative No Project condition during the A.M., Midday, and P.M. peak hours. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton to help fund implementation of this improvement.*

- Adjust traffic signal timing to optimize the cycle length to 100 seconds and optimize east and west splits during the Midday peak hour at the intersection of Logistics Drive and Arch Road.
- Adjust traffic signal timing to optimize the cycle length to 140 seconds and optimize east and west splits during the P.M. peak hour at the intersection of Logistics Drive and Arch Road.

Mitigation Measure for Impact 4.11-4b (Project Conditions)

The following mitigation measure has been identified to improve the freeway operations.

- Widen SR 99 from six-lanes to eight lanes. (Caltrans)*

Mitigation Measure for Impact 4.11-5b (Project Conditions)

The following mitigation measures at the intersection of SR 99 SPUI & Arch Road have been identified to improve the operation of the intersection and balance the queue lengths.

- Adjust traffic signal timing to balance queue lengths and delays at the control intersection on Kingsley Road – SR 99 Frontage Road and Arch Road and Qantas Lane and Arch Road so that vehicles do not queue back on to the mainline SR 99 freeway. *

- Implement Mitigation Measure for Impact 4.11-4b (above).

CUMULATIVE IMPACTS

16. Reduce Project Greenhouse Gas (GHG) Emissions

In order to reduce GHG emissions associated with the project, CDCR will implement all applicable and feasible Best Performance Standards (BPSs) recommended by SJVAPCD at the time renovation and construction plans are finalized by CDCR. SJVAPCD's current list of recommended BPSs is contained in Appendix J, "GHG Emission Reduction Measures - Development Projects" of SJVAPCD's December 2009 staff report called *Addressing Greenhouse Gas Emissions Impacts under the California Environmental Quality Act* (SJVAPCD 2009). Applicable, BPSs may include but are not limited to the following:

- Energy Star Roof. Install Energy Star labeled roof materials. Energy star qualified roof products reflect more of the sun's rays, decreasing the amount of heat transferred into a building Onsite Renewable Energy System. Project provides onsite renewable energy system(s) (e.g., solar panels).

- Renewable Energy Use. Install solar, wind, and geothermal power systems and solar hot water heaters.

- Solar Panels in Parking Areas. Install solar panels over parking areas.

- Use of Hybrid Powered and/or electric powered maintenance and transportation vehicles.

In addition, CDCR will develop and implement a voluntary employee trip reduction program that minimizes the percentage of employee commute trips in single occupancy vehicles. At a minimum, the program shall encourage employees to commute by some transportation mode than a single occupancy vehicle. California Health and Safety Code Section 40717.9 prohibits this mitigation measure from requiring that a minimum percentage of employee commute trips occur by some other transportation mode other than a single occupancy vehicle. This program shall be fully funded by CDCR and be developed in consultation with the San Joaquin Council of Governments; the San Joaquin Regional Transit District, and SJVAPCD. Measures that result in quantifiable trip reductions can also be counted as reductions in NO_X and PM_{10} emissions with respect to compliance with SJVAPCD's ISR rule. The program shall be managed by an on-site Employee Transportation Coordinator employed and appointed by CDCR. A designated Transportation Manager shall also be on duty during each shift to manage the program. The reduction program and its effectiveness shall be evaluated annually and reported to SJVAPCD. As part of the program, CDCR shall provide a display case or kiosk that presents all of the program information in a prominent area accessible to employees (e.g., break room or entrance). Elements of the employee trip reduction program may include, but are not limited to, the following measures:

- Provide carpool ride matching assistance for employees, assistance with vanpool formation, and provisions of vanpool vehicles.
- Provide a demarcated area exclusively for employee shuttles, carpools, vanpools, public transit, and cyclists that allows for more convenient and expedient access to and from the site during peak turnover periods (i.e., shift changes).
- Design and provide preferential parking for carpool and vanpool vehicles. Design features may include a separate parking lot for carpool and vanpool vehicles that is closer to the employee building entrance than the parking lot for single occupancy vehicles and/or covered parking spaces for carpool and vanpool vehicles.
- Make available free or discounted public transit passes to all employees if public transit service is expanded to serve the project site.
- Implement compressed work schedules for employees (e.g., 4 shifts per week for full time employees).
- Provide a covered area for the on-site employee shuttle stop or vanpool parking lot and an open-air covered walkway connection to the employee entrance of the building to provide summertime shade and protection from rain.

SECTION 5
INVENTORY OF COMBINED DEWITT NELSON AND NCRF MITIGATION MEASURES

COMBINED NCRF AND DEWITT NELSON IMPACTS

The EIR identified various impacts that would be greater if both the NCRF and DeWitt Nelson projects were implemented, compared with implementation of only DeWitt Nelson. The following mitigation measures apply if both projects are implemented. These measures replace certain measures identified in Section 4 for the individual project; the specific Section 4 mitigation measure being replaced is identified in each mitigation measure below. CDCR shall implement the following mitigation measures ONLY if NCRF and DeWitt Nelson are both implemented. If only one of the projects is implemented, the following mitigation measures are not needed.

Mitigation Measure for Impact 4.11-1c.

(Replaces Mitigation Measure for Impact 4.11-1a, if construction of both projects occurs simultaneously.)

Newcastle Road & Arch Road

The following mitigation measure has been identified to improve intersection operations. The project would contribute approximately 23% of the traffic to this intersection during the A.M. peak hour. *

- Coordinate with the County to adjust the traffic signal timing to optimize the splits (balance of green and red signal time for each approach) during the A.M. peak hour.

Mitigation Measure for Impact 4.11-2c (Project Condition)

(Replaces Mitigation Measure for Impact 4.11-2b, if both projects are implemented)

1. SR 99 SPUI & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than five seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The projects would contribute 4.40% of the traffic to this intersection during the A.M. peak hour, 3.92% during the Midday peak hour and 3.89 % during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton to help fund implementation of this improvement. This improvement is not in the City's traffic impact fee program.*

- Adjust traffic signal to optimize the splits and cycle length to 150 seconds and coordinate traffic signal with the intersection of Kingsley Road – SR 99 Frontage Road and Arch Road, during the A.M. peak hour.

- Adjust traffic signal to optimize the splits and cycle length to 125 seconds and coordinate the traffic signal with the intersection of Kingsley Road - SR 99 Frontage Road and Arch Road during the Midday peak hour.

- Adjust traffic signal to optimize the splits and cycle length to 130 seconds and coordinate the traffic signal with the intersection of Kingsley Road - SR 99 Frontage Road and Arch Road during the P.M. peak hour.

2. Kingsley Road – SR 99 Frontage Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than 5.0 seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The projects would contribute 6.67% of the traffic to this intersection during the A.M. peak hour, 5.70% during the Midday peak hour, and 5.68 % during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton to help fund implementation of this improvement. This improvement is not in the City's traffic impact fee program.*

- Adjust traffic signal timing to optimize the splits and cycle length to 150 seconds and coordinate the traffic signal with the SR 99 SPUI & Arch Road intersection, during the A.M. peak hour.
- Adjust traffic signal timing to optimize the splits and cycle length to 125 seconds and coordinate the traffic signal with the SR 99 SPUI & Arch Road intersection, during the Midday peak hour.
- Adjust traffic signal timing to optimize the splits and cycle length to 130 seconds and coordinate the traffic signal with the SR 99 SPUI & Arch Road intersection, during the P.M. peak hour.
- Adjust traffic signal timing to provide the north and south approaches on Kingsley Road with permitted and protected traffic signal phasing.
- Convert the southbound approach to a shared thru-left turn-lane and a dedicated right-turn lane.

3. Newcastle Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the background condition or LOS D or better during the A.M., Midday, and P.M. peak hours. The projects would contribute 8.09% of the traffic to this intersection during the A.M. peak hour, 7.02% during the Midday peak hour, and 7.09% during the P.M. peak hour. This improvement is not in the County's traffic impact fee program. CDCR will monitor traffic at the above intersection for two years after the date on which the second of the two projects (DeWitt Nelson and NCRF) begins operations. If, based on those traffic data, the level of service at any of the above intersections exceeds the threshold of significance, CDCR will fund*/undertake the following mitigation:

- Provide a dedicated eastbound right turn lane.
- Provide a dedicated northbound left turn lane.
- Adjust traffic signal timing to 130 seconds and optimize splits (the balance of red and green time for each approach).

In calculating CDCR's "fair share" obligation towards traffic improvements, CDCR will credit its total "fair share" obligation by the amount it spends towards the above mitigation in excess of its percentage contributions to traffic congestion at those intersections.

4. Logistics Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the background condition or LOS D or better during the A.M., Midday, and P.M. peak hours. The projects would contribute 8.71% of the traffic to this intersection during the A.M. peak hour, 7.33% during the Midday peak hour, and 7.33% during the P.M. peak hour. This improvement is not in the County's traffic impact fee program. CDCR will monitor traffic at the above intersection for two years after the date on which the second of the two projects (DeWitt Nelson and NCRF) begins operations. If, based on those traffic data, the level of service at any of the above intersections exceeds the threshold of significance, CDCR will fund*/undertake the following mitigation:

- Provide a dedicated northbound left turn lane.
- Adjust traffic signal timing to 130 seconds for the Midday and PM peak hours and optimize splits (the balance of red and green time for each approach).

In calculating CDCR's "fair share" obligation towards traffic improvements, CDCR will credit its total "fair share" obligation by the amount it spends towards the above mitigation in excess of its percentage contributions to traffic congestion at that intersection.

5. Austin Road & Arch Road

The following mitigation measure has been identified to improve intersection operations and achieve a difference in average delay of less than the background condition or LOS D or better during the A.M., Midday, and P.M. peak hours. The projects would contribute 3.12% of the traffic to this intersection during the A.M. peak hour, 5.52% during the Midday peak hour, and 5.65% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the County of San Joaquin to help fund implementation of this improvement. This improvement is not in the County's traffic impact fee program.*

- Implement Mitigation Measure for Impact 4.11-2b (4) (above).

Mitigation Measure for Impact 4.11-3c. (Cumulative Condition)

(Replaces Mitigation Measure for Impact 4.11-3b if both projects are implemented)

1. SR 99 SPUI & Arch Road

The following mitigation measures has been identified to improve intersection operations and achieve a difference in average delay of less than five seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 5.49% of the traffic to this intersection during the A.M. peak hour, 4.38% during the Midday peak hour, and 4.37% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton to help fund implementation of this improvement.*

- Adjust traffic signal to optimize the splits and cycle length to 150 seconds during the A.M., Midday, and P.M. peak hour.

2. Kingsley Road – SR 99 Frontage Road & Arch Road

The following mitigation measure has been identified to improve intersection operations and achieve a difference in average delay of less than five seconds or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 6.19% of the traffic during the A.M. peak hour, 5.20% during the Midday peak hour and 6.17% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton t to help fund implementation of this improvement.*

- Adjust traffic signal to optimize the splits and cycle length to 150 seconds during the Midday and P.M. peak hour.

3. Newcastle Road & Arch Road

The following mitigation measures have been identified to improve intersection operations and achieve a difference in average delay of less than the cumulative no project condition or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 6.90% during the P.M. peak hour. CDCR will monitor traffic at the above intersection for two years after the date on which the second of the two projects (DeWitt Nelson and NCRF) begins operations. If, based on those traffic data, the level of service at any of the above intersections exceeds the threshold of significance, CDCR will fund*/undertake the following mitigation:

- Provide a dedicated westbound right turn lane.
- Adjust signal timing to optimize splits during the P.M. peak hour.

In calculating CDCR's "fair share" obligation towards traffic improvements, CDCR will credit its total "fair share" obligation by the amount it spends towards the above mitigation in excess of its percentage contributions to traffic congestion at that intersection.

4. Austin Road & Arch Road

The following mitigation measure has been identified to improve intersection operations and achieve a difference in average delay of less than the cumulative no project conditions or LOS D or better during the A.M., Midday, and P.M. peak hours. The project would contribute 6.03% of the traffic to this intersection during the A.M. peak hour, 3.98% during the Midday peak hour and 2.49% during the P.M. peak hour. CDCR will contribute appropriate fees based on trip ends generated by the project to the County of San Joaquin to help fund implementation of this improvement.*

- Increase the traffic signal cycle length to 120 seconds and optimize splits during the Midday and P.M. peak hours.

5. Arch Road – East of Newcastle Road and west of NCRF West Driveway (Roadway Segment)

The following mitigation measures have been identified to improve the roadway operations and achieve a difference in volume-to-capacity ratio equal to or less than the 2035 Cumulative No Project condition during the A.M., Midday, and P.M. peak hours. CDCR will contribute appropriate fees based on trip ends generated by the project to the City of Stockton to help fund implementation of this improvement.*

- Adjust traffic signal timing to optimize the cycle length to 130 seconds and optimize east and west splits on Arch Road during the Midday peak hour at the intersection of Logistics Drive and Arch Road.

- Adjust traffic signal timing to the cycle length to 140 seconds and optimize east and west splits on Arch Road during the P.M. peak hour at the intersection of Logistics Drive and Arch Road.

APPENDIX A

MITIGATION MONITORING AND REPORTING PROGRAM REPORTING FORM

California Department of Corrections & Rehabilitation

MITIGATION MONITORING AND REPORTING PROGRAM

REPORTING FORM

PROJECT:

DATE: **MMRP FILE:**

Location:
- ☐ Onsite
- ☐ Offsite (give address/location)

_____

_____

Project Phase:
- ☐ Design
- ☐ Construction
- ☐ Operation

Impact Issue(s):
- ☐ Visual
- ☐ Air Quality
- ☐ Biology
- ☐ Cultural Resources
- ☐ Earth Resources
- ☐ Hazards and Hazardous Materials
- ☐ Hydrology and Water Quality
- ☐ Noise
- ☐ Water Supply
- ☐ Transportation

Description of Activity:

Applicable Mitigation Measures:

Methods of Implementation:

Specialist: _____ _____ _____
Name Discipline Firm

Specialist: _____ _____ _____
Name Discipline Firm

Implementation Action Items:	Scheduled for Completion	Completion Date	Approved by

Disposition:

- ☐ Mitigation measure(s) implemented. No further action required.
- ☐ Mitigation measure(s) partially implemented. Further action required.
  Explain below; attach additional sheets if necessary.
- ☐ Mitigation measure(s) partially implemented. No further action required.
  Explain below; attach additional sheets if necessary.
- ☐ Noncompliance with mitigation measures. Further action required.
  Explain below; attach additional sheets if necessary.
- ☐ Mitigation unnecessary. No further action required.
  Explain below; attach additional sheets if necessary.
- ☐ Verification of environmental compliance for project.

Comments/Revisions: _____

Completed by:
Name _____
Title _____
Date _____

Approved by:
Name _____
Title _____
Date _____

ATTACHMENT B

Project Description (Draft EIR Section 3)

ATTACHMENT C

CDCR's Resolution Certifying Final EIR for the Project

RESOLUTION OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE DEWITT NELSON YOUTH CORRECTIONAL FACILITY CONVERSION (SCH # 2008022133)

ADOPTED ON DECEMBER 29, 2010

WHEREAS, the California Department of Corrections and Rehabilitation (CDCR) is the lead agency, pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 *et seq.*) and State CEQA Guidelines (14 California Government Code § 15000 *et seq.*), for the proposed DeWitt Nelson Youth Correctional Facility Conversion Project (the "Project"), to be located in San Joaquin County, California;

WHEREAS, the Project is located at the existing Northern California Youth Correctional Center, and involves the conversion and reuse of the existing DeWitt Nelson facility to an adult male medical and mental health facility;

WHEREAS, on February 14, 2006, Judge Henderson appointed a federal Receiver in the case of *Plata v. Schwarzenegger* and conferred upon him executive management of the California medical health care delivery system, specifically directing him to control, oversee, supervise, and direct all operational functions of the medical system. Receiver J. Clark Kelso was appointed by the district court in January 2008 to replace the former Receiver and has successfully worked cooperatively with CDCR to process and approve projects consistent with the court orders.

WHEREAS, CDCR has coordinated and cooperated with the Office of the Federal Receiver, Receiver Mr. J. Clark Kelso and California Prison Health Care Services, in planning the Project to include necessary medical and mental health care facilities;

WHEREAS, the Receiver has coordinated and cooperated with CDCR in the preparation of an Environmental Impact Report (EIR) for the DeWitt Nelson project pursuant to the CEQA. The EIR also evaluates the proposed Northern California Reentry Facility project under CEQA, which is a separate, independent project from the DeWitt Nelson project.

WHEREAS, the federal district court, in the *Coleman v. Schwarzenegger* litigation ordered CDCR to construct new health care facilities at several prison sites, including the DeWitt Nelson site. On September 24, 2009, the court ordered CDCR to prepare and submit "timetables for completion of each step" that must be taken in order for all *Coleman* projects to be "fully staffed and activated by the 2013 target date." On November 6, 2009, CDCR filed with the court a detailed long-range plan and activation schedule, which included DeWitt Nelson Youth Correctional Facility Conversion project (the "DeWitt Nelson project"). On January 4, 2010, the *Coleman* court ordered CDCR, to construct and activate the DeWitt Nelson project by 2013. The approved activation schedule, which was filed with the court on March 30, 2010, designates the DeWitt Nelson site as the location for proposed DeWitt Nelson Youth Correctional Facility Conversion project, indicates that 1,133 beds will be constructed, and describes the specific steps that must be taken to plan for, construct, and activate the DeWitt Nelson project.

WHEREAS, the Project will house a maximum of 1,133 adult inmates and is designed to alleviate overcrowding in California's prison system, reduce inmate recidivism, and reactivate presently unused state facilities;

WHEREAS, on August 16, 2010, CDCR filed a Revised Notice of Preparation of the Environmental Impact Report for the Project, and held two public scoping meetings in Stockton on August 24, 2010;

WHEREAS, CDCR released a Draft Environmental Impact Report (DEIR) for the Project on October 6, 2010, and provided a 45-day public review period. On November 3, 2010, CDCR held two public hearings in Stockton;

WHEREAS, CDCR received 11 written and oral comments on the DEIR from organizations, individuals, and public agencies;

WHEREAS, on December 16, 2010, CDCR released the Final EIR for the Project (SCH # 2008022133). The Final EIR includes responses to comments on the DEIR, and corrections and revisions to the DEIR, plus an attached technical appendix. The Final EIR incorporates the DEIR by reference; and identifies no new significant information or new significant impacts;

WHEREAS, the Final EIR, including the DEIR, identifies the significant adverse environmental impacts of the Project, identifies feasible mitigation measures to reduce most impacts to a less than significant level, and identifies some impacts that cannot be mitigated to a less than significant level and therefore remain significant and unavoidable; and

WHEREAS, the Secretary has reviewed and considered the information contained in the Final EIR, including the Draft EIR and all supporting documents, including supporting documents contained in the file for the Project. All references to the DEIR and Final EIR hereafter shall include all documents contained in the above.

NOW, THEREFORE, BE IT RESOLVED and CERTIFIED by the Secretary that:

1. The Final EIR for the DeWitt Nelson Youth Correctional Facility Conversion Project complies, and was completed in compliance with, the requirements of CEQA (Cal. Pub. Resources Code section 21000 et seq.) and the State CEQA Guidelines (Cal. Code of Regs. Section 15000 et seq.).

2. The Final EIR was presented to the Secretary of CDCR, and was independently reviewed and considered by the Secretary prior to taking any action to approve or disapprove the Project.

3. The Final EIR reflects the Secretary of CDCR's independent judgment and analysis based on his review of the entirety of the administrative record which provides substantial evidence to support the adoption of this resolution.

4. CDCR Senior Environmental Planner Roxanne Henriquez, whose office is located at 9838 Old Placerville Road, Suite B, Sacramento, California, 95827, is hereby designated as the custodian of the documents and other materials that constitute the record of proceedings upon which CDCR's decision is based.

ADOPTED this 29 day of December, 2010.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

By: Matthew L Cate
Matthew Cate, Secretary

ATTEST:

By: Deborah Hysen for
Chris Meyer, Senior Chief
Facility Planning, Construction, and Management

BE IT RESOLVED that the Receiver, based on his independent review of the Final EIR and his independent judgment and analysis, concurs in certification resolutions 1-3 above.

ADOPTED this 29 day of December, 2010.

PRISON HEALTH CARE RECEIVERSHIP CORPORATION

By
J. CLARK KELSO, Receiver