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February 24, 2017

Ms. Ryan Sawyer AICP
Analytical Environmental Services
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RE: Proposed Crystal Geysers Bottling Plant Project
Comments on Draft Environmental Impact Report (State Clearinghouse No. 2016062056)

Dear Ms. Sawyer:

Thank you for the opportunity to provide comments on the Draft Environmental Impact Report (DEIR) for the proposed Crystal Geysers Bottling Plant Project (Project).

The Project is located in an unincorporated area of Siskiyou County directly adjacent to the City of Mt. Shasta (City). The Project is also within the City's sphere of influence and the City's municipal sewer system service area boundary. Crystal Geysers proposes to operate a spring water bottling facility and ancillary uses within an approximately 118-acre site formerly developed and operated as a water bottling plant. The proposed Project consists of operational and physical changes to the former bottling plant facilities for the production of sparkling water, flavored water, juice beverages, and teas.

Pursuant to Section 15366(c) of the California Environmental Quality Act (CEQA) Guidelines, the City is a Responsible Agency because the City "*must exercise discretionary authority over a project in order for the project to proceed...*". The City has discretionary authority over issuance of an Industrial Wastewater Discharge Permit (City of Mt. Shasta Municipal Code Section 13.56.270). The City's comments related to the City's sewer system are discussed under Section 4.12, Utilities, below.

This comment letter also addresses additional concerns regarding potential impacts to the community and its residents related to lighting, glare, hydrology and water quality, noise, and traffic.

In reviewing the DEIR, the City considered comments submitted by the City on the June 24, 2016, Notice of Preparation (NOP). The City also considered the "Significant and Unavoidable" impacts identified on pages 5-12 of the DEIR. These are impacts for which no appropriate mitigation was identified that would reduce impacts to a less than significant level:

Significant and Unavoidable Impacts	
Impact Number	Impact
4.6-1	Generate greenhouse gas emissions, either directly or indirectly, that may have a significant and/or cumulative impact on the environment; or conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.
4.10-3	Expose existing noise sensitive land uses to substantial permanent noise level increases or noise levels in excess of the Siskiyou County or City of Mt. Shasta noise standards (traffic noise).
4.1-2	Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area. <i>Significant and unavoidable with implementation of Mitigation Measure 4.6-1a (installation of solar arrays).</i>

SECTION 4.12 UTILITIES

NOP Comment Letter:

The City's NOP comment letter requested that the draft industrial wastewater discharge permit be included in the DEIR; the draft permit is provided in DEIR Appendix I. In addition, the City requested analysis of the off-site sewer main improvements, including alternative sewer main routes.

City's Comments on DEIR

Page 4.12-12 of the DEIR references the Sewer System Capacity Analysis, prepared by CH2M Hill, Inc. (DEIR Appendix L) that evaluated segments of the City's sewer system that convey wastewater from the Project site to the Wastewater Treatment Plant.

Section 4.12.1.1 (page 4.12-1) of the DEIR concludes there is one section of 12-inch diameter pipe that reaches capacity at 1.96 million gallons per day (mgd) and is, therefore, undersized for the peak wet weather flow (PWWF) of 3.86 mgd. The limiting sewer pipe section is located on South Old Stage Road, south of Ream Road, between Manholes 13A and A15, as shown on Figure 3-13 (page 3-33) of the DEIR.

Section 3.5.8.3, page 3-15, of the DEIR states *"...in order to discharge to the City's municipal sewer system, the Proposed Project includes the off-site installation of an additional 12-inch pipeline (Option P1) or the off-site installation of additional dual 18-inch pipelines (Option P2) to accommodate additional flows of industrial rinse and process wastewater."*

Although a parallel 12-inch pipeline would accommodate Crystal Geysers's 0.05 mgd PWWF, the City requests implementation of Option P2 (dual 18-inch pipelines), which would accommodate ultimate flows for the planned buildout of the City as recommended in the City's Master Sewer Plan.

Pursuant to MSMC Section 3.55.090 (Developer Construction of Facilities), when a developer is required to construct a public facility which has supplemental size, length or capacity over what is needed to address the impacts of that development, a reimbursement agreement with the developer and a credit against the applicable impact fee will be offered. The reimbursement

amount shall not include the portion of the improvement needed to provide services or mitigate the need for the facility or the burdens created by the development.

The City of Mt. Shasta requests the final EIR state that Wastewater Treatment Option 1 be the recommended mitigation for the development's wastewater treatment. Based on the evidence presented, the City of Mt. Shasta believes Option 1 is the most beneficial to the environment. Under Wastewater Treatment Option 1 all domestic and industrial rinse and process wastewater would be discharged into the City's municipal sewer system through the existing connection at the southwest corner of the project site. Wastewater Treatment Option 1 would require CGWC to obtain a Permit for Industrial Wastewater Discharge from the City. CGWC has submitted an application for the permit, and the City has issued a draft of the permit and associated conditions, which is included as Appendix I. The draft permit details the effluent limitations, monitoring requirements, reporting requirements, and conditions that would be enforced under this option.

Requested Mitigation Measures:

- Mitigation Measure 4.12-1 (pg. 4.12-20) needs to be amended to delete "*or eliminate*" from the last sentence. The City does not see any scenario in the future that would allow elimination of maximum daily flow limits on the Crystal Geysler plant.
- The City requests a mitigation measure requiring installation of dual 18-inch pipelines (Option P2), which would address cumulative impacts. Crystal Geysler would receive credit toward their impact fee as discussed above.
- The City of Mt. Shasta requests the final EIR state that Wastewater Treatment Option 1 be the recommended mitigation for the development's wastewater treatment. Based on the evidence presented, the City of Mt. Shasta believes Option 1 is the most beneficial to the environment.

Supporting Documentation:

PACE Engineering. 1992. City of Mt. Shasta Master Sewer Plan.

SECTION 4.1 AESTHETICS

NOP Comment Letter:

The City's NOP comment letter stated, in part, that the General Plan Open Space and Conservation Element notes that one of the three biggest threats to the loss of scenic quality in the hills around the City of Mt. Shasta is the introduction of glare and lights at night in areas that are naturally dark.

The City requested assurances that additional sources of light and glare would be minimized through implementation of best management practices to prevent light spillover to adjacent properties by incorporating the City's standards for outdoor lighting (City of Mt. Shasta Municipal Code (MSMC) Section 18.70.120), and standards for sign illumination (MSMC Chapter 8.52).

City's Comments on DEIR

DEIR Section 4.1 (Aesthetics), page 4.1-11, describes proposed lighting improvements and states they would conform to Section 18.70.120 of the City's Municipal Code. The lighting plan is discussed in more detail in DEIR Section 3.5.5 and supplemented by DEIR Appendix F. However,

the lighting plan does not include all information required pursuant to MSMC Section 18.70.120, and no mitigation measures are included to ensure implementation of appropriate lighting standards.

Page 3-31 of the project description (referencing the 1998 Mitigation Plan) indicates building and free-standing signage will be constructed of non-reflective materials and will not be internally illuminated. However, it does not appear the DEIR addresses lighting fixtures that could be attached to the sign.

Requested Mitigation Measures:

The City requests a mitigation measure be included to require the final lighting plan and sign plans be reviewed and approved by the County, in consultation with the City, prior to commencement of operations. The final lighting plan must include all information identified in MSMC Section 18.70.120. The final signage plan shall demonstrate compliance with MSMC Chapter 8.52.

Supporting Documentation:

City of Mt. Shasta Municipal Code, Section 18.70.120 (Outdoor Lighting). 2016.
<http://www.codepublishing.com/CA/MtShasta/>

SECTION 4.8 HYDROLOGY AND WATER QUALITY

NOP Comment Letter:

The City's NOP comment letter stated that in addition to its spring-fed water source, the City's municipal water supply is provided in part by groundwater wells. The City's Master Water Plan, identifies a future well site in the vicinity of the Crystal Geyser facility. The City requested the EIR include a comprehensive hydrologic study sufficient to evaluate potential impacts of the proposed project on existing and planned municipal wells.

City's Comments on DEIR

Municipal Water Supply; Cumulative Impacts

Page 4.8-30 of the DEIR states, "*Due to the local topography and residential zoning of adjacent properties to the northeast, there are no other reasonably foreseeable developments that would significantly utilize the groundwater aquifer for water supply. Therefore, cumulative impacts associated with groundwater supply are **less than significant** and no mitigation is required.*"

The City's 2010 Water Master Plan identifies development of a new well at the base of Spring Hill and the addition of an additional 1.0 million gallon reservoir on Spring Hill. These improvements are also identified in the 2011 City of Mt. Shasta Municipal Services Review Report. In addition, the City's General Plan Land Use Element (2007) identifies the Spring Hill Area, north of the Crystal Geyser facility, as a special planning area in the City because of its unique development opportunities as well as the challenge of infrastructure limitations and development constraints. The City's General Plan calls for a Specific Plan that would set the proposed density.

The City's Impact Fee Report (2009), which identifies the Spring Hill area as the primary growth area for the City, states it is reasonable to assume approximately 2,585 dwelling unit equivalents (DUEs) within the vacant 341 acres. This could result in approximately 4,373 new residents, essentially doubling the population of the City.

The City's water system does not currently extend to or serve the Spring Hill Area. Consequently, commercial uses have been approved and developed with private systems. This is generally contrary to the City's policies concerning water service for commercial uses and may complicate the development of a more efficient public water system in the future.

It does not appear the DEIR addresses potential impacts of the Project on the City's future municipal well or cumulative impacts associated with future well and residential development as described above. The DEIR's conclusion that cumulative impacts to groundwater supply are less than significant is not supported, and the DEIR needs to be amended accordingly.

Requested Mitigation Measures:

Appropriate Mitigation Measures should be considered based on additional analysis as described above.

Supporting Documentation:

City of Mt. Shasta. 2007. General Plan, Land Use Element. <http://mtshastaca.gov/wp/wp-content/uploads/2016/01/3LandUseElement.pdf>

_____. 2009. City of Mt. Shasta Impact Fee Report. http://mtshastaca.gov/wp/wp-content/uploads/2016/01/final_fee_study.pdf

PACE Engineering. 2010. City of Mt. Shasta Master Water Plan.

PMC. 2011. Municipal Services Review Report for the City of Mt. Shasta. https://www.co.siskiyou.ca.us/sites/default/files/docs/LAFCO_20110412_MtShasta_MSR.pdf

Groundwater; Water Quality

Pages 4.8-4 through 4.8-6 of the DEIR discuss the existing groundwater monitoring wells and reference the Hydrogeologic Evaluation prepared by Richard C. Slade & Associates LLC (RCS) (Appendix P). The DEIR describes groundwater parameters which have been measured and/or monitored on site, including:

- Well production rate;
- Chemical composition of pumped groundwater;
- Transmissivity and storativity indicating unconfined groundwater conditions;
- Water level drawdown impacts on adjacent wells;
- Depth to groundwater and seasonal fluctuations;
- Age of groundwater;
- Groundwater gradient direction;
- Groundwater flow rate; and
- Total Dissolved Solids (TDS).

The DEIR states the existing groundwater wells could be used to monitor these groundwater parameters in the future, if necessary.

The RCS report states, "*Generally, as pumping of a well continues, water quality conditions can change. ...when the plant was in operation, between early-2001 and late-2010, no data were available to help validate such changes over time, if indeed they did occur. Thus, the impact of*

future pumping on water quality conditions cannot readily be evaluated at this time” (emphasis added).

In addition, the RCS report (pp. 46-47) recommends phasing of the Project and well operations. A regular program of data collection and database maintenance would allow information to be reviewed by qualified groundwater professionals to determine changes in groundwater conditions over time. Examples of data collection efforts are included on page 46 of the RCS report.

The RCS report states that as pumping is conducted on a regular basis and as groundwater conditions change due to external factors (such as changes in precipitation), then the current and/or future proposed pumping program could be modified to adjust to such changes in conditions prior to expanding the groundwater production to the next higher pumping capacity. The RCS report provides the following examples for data review and interpretation:

- Plot the production volumes from each well, along with precipitation, static water levels and pumping water levels, in order to assess the impact of pumping on static water levels (SWLs) in all monitored sites.
- Conduct a longer-term aquifer test on the Domestic Well, in order to determine transmissivity (T) and storativity (S) values, if possible, of the “shallow” aquifer system and impact on other offsite wells. Preferably, this could be performed by packing off the “deeper” fractured rock aquifer system and pumping from only the shallower alluvial sediments. These alluvial sediments may not be able to yield significant quantities of water to a well, based on their fine-grained nature, although some sand and gravel layers could yield greater amounts, comparatively. Such testing could provide a final determination of this.
- Changes in spring flow over time should be plotted against total pumping of the plant wells and changes in precipitation over time.
- Plot temporal changes in key water quality constituents in groundwater samples from the wells. Tracking changes in these constituents would provide indications of any possible gross changes in the water quality that may be introduced by pumping of the well.
- Wastewater treatment Option 1 be the recommended mitigation for the development’s wastewater treatment.

Requested Mitigation Measure:

The City requests mitigation be included to require a data collection program to determine Project impacts on the aquifer and offsite wells over time. The data collection program should be consistent with the recommendations included in the RCS report. A qualified groundwater professional selected by the County should conduct the monitoring and reporting, and results should be provided to the County, City, and other interested parties.

The data collection program should include parameters that must be met before the Project is allowed to expand groundwater production to the next higher pumping capacity.

Supporting Documentation:

Richard C. Slade & Associates, Inc. 2016. Hydrogeologic Evaluation for Proposed Crystal Geyser Water Bottling Facility Project.

SECTION 4.10 NOISE AND VIBRATION

NOP Comment Letter:

The City's NOP comment letter requested appropriate noise attenuation be incorporated into the Project design to achieve compliance with the standards presented in City's General Plan Noise Element. Evaluation of the effects of transportation-related noise level increases and effects of vibration due to project activities was also requested. Local residents have stated that they experienced vibrational noise during previous plant operations.

City's Comments on DEIR

A Noise and Vibration Impact Analysis for the proposed Project was completed by Bollard Acoustical Consultants, Inc. (Appendix T). The DEIR concludes impacts from traffic noise would be significant and unavoidable, and operational noise would be less than significant.

Page 4.10-27 of the DEIR acknowledges back-up alarms would be a primary noise source, and approximately 20 truck trips would occur during nighttime periods. The industry standard for most back-up alarms is a repetitive piercing beeping noise with a volume ranging from 97 to 112 decibels. The DEIR needs to be amended to include a discussion of daytime and nighttime impacts, including sleep disturbance, resulting from the use of back-up alarms.

In addition, the DEIR (pages 4.10-22 through 4.10-16) discusses the potential for excessive groundbourne vibration during construction activities. To quantify vibration impacts, the Caltrans *Transportation and Construction Vibration Guidance Manual* (2013) was utilized.

However, potential impacts related to vibration during operational activities were not analyzed, and the DEIR needs to be amended accordingly.

Requested Mitigation Measures:

The City requests a mitigation measure be included to state no truck traffic and no operation of vehicles equipped with a back-up warning alarm shall occur between the hours of 10:00 PM and 7:00 AM. This would provide for sufficient transportation of products and effectively mitigate the noise produced by trucks and equipment at night.

If it is not feasible to restrict back-up warning alarms, and no feasible mitigation measures are available, the DEIR needs to identify operational noise as significant and unavoidable.

Following analysis of vibration impacts due to project operations, as discussed above, the City requests appropriate mitigation measures be identified.

Supporting Documentation:

City of Mt. Shasta. 2007. General Plan, Noise Element. <http://mtshastaca.gov/wp/wp-content/uploads/2016/01/7Noise.pdf>

SECTION 4.11 TRANSPORTATION AND CIRCULATION

NOP Comment Letter:

The City's NOP comment letter stated City traffic standards must be considered to ensure that traffic on City streets operates at an acceptable level. The City requested that the traffic study also provide a sufficient analytical basis to identify/recommend appropriate mitigation measures as well as to allow establishment of fair-share impact fees to be paid by Crystal Geysers to the City to offset traffic and circulation impacts.

City's Comments on DEIR

Truck Traffic in Central Business District

According to the project description (DEIR page 3-9), at full production, Project operations are estimated to include 100 truck trips per day (up to 50 round trips per day) and up to 181 employee vehicle trips per day. Page 3-10 states trucks would be directed to use the same route as with former CCDA Waters operations, utilizing the Interstate 5 (I-5) and Abrams Lake Road Interchange and traveling on North Mt. Shasta Boulevard to CGWC Drive to the south end of the Project site. The DEIR states, in accordance with the existing 1998 Mitigation Agreement, truck traffic would not enter downtown nor would it travel on Ski Village Drive.

However, the 1998 Mitigation Agreement as presented in the DEIR states, "*Dannon will use our best reasonable efforts to contractually obligate all carriers to limit access to the plant to roads north of and including the proposed access road off of North Mt. Shasta Boulevard to avoid truck traffic through the central business district*" (emphasis added). As written, this measure does not prohibit truck traffic from travelling through the downtown area, and does not even attempt to limit traffic on Ski Village Drive.

Structural Integrity of Roadways

Transportation of products to and from the Project site will most likely be delivered by large, heavy vehicles, such as semi-trucks, which have a much greater impact on road life and conditions than standard passenger vehicles. The City is concerned with potential impacts from heavy truck traffic on City streets. North Mt. Shasta Boulevard and Spring Hill Drive, in particular, may not be structurally sufficient to handle the projected truck trips. The DEIR needs to be amended following an analysis of the structural integrity of these roadways to ensure they are sufficient to accommodate the weight and frequency of project traffic. If Project traffic will contribute to significant deterioration of City streets, a mitigation measure should be included to require a Road Maintenance Agreement between Crystal Geysers and the City outlining a repair schedule and/or compensation methods for the repair of roadways that are degraded as a result of project-related traffic.

Safety Issues

Spring Hill Drive/Mt. Shasta Boulevard/ I-5 Ramps Intersection

Page 4.11-17 of the DEIR concludes that the North Mt. Shasta Boulevard, Spring Hill Drive, and I-5 intersection is not considered hazardous because it meets current guidelines for sight distance for the posted speed limits. However, the DEIR notes that roadway design results in a potential for speeding that has resulted in concerns regarding safety. The DEIR traffic analysis should evaluate the "baseline condition," which includes a higher proportion of speeding vehicles than is typical. The propensity for speeding should be taken into account when determining if a traffic signal is needed at this intersection.

The DEIR suggests that safety concerns at this intersection could be alleviated if the City trimmed back vegetation along the eastern side of North Mt. Shasta Boulevard to improve visibility. The Traffic Impact Assessment (TIA) (Appendix U) further suggests the City could request that Caltrans further trim the vegetation in the median between the off-ramp and the on-ramp (to the north of the Spring Hill Drive intersection). In addition, the TIA notes the green freeway guide sign reading "Weed/Portland" that is located in the median in this area can partially obstruct the view of traffic on the off ramp for vehicles waiting to turn left from Spring Hill Drive. The TIA suggests the City consider requesting that Caltrans relocate this sign. Whereas the DEIR indirectly acknowledges there are hazardous issues in this area, and the TIA recommends that the City take actions to improve visibility, no mitigation measures are provided. The revised traffic analysis, accounting for a propensity for speeding at this intersection, should address the need for mitigation at this intersection. If a signal is not required, but sight-distance improvement is necessary, the responsibility for making improvements should be examined. The TIA suggests that the burden of mitigation would be placed on the City. There are no guarantees that Caltrans would comply with the City's requests; therefore, this impact may need to be considered significant and unavoidable.

Mt. Shasta Boulevard/Ski Village Drive and Mt. Shasta Boulevard/Project Entrance Intersections

The City of Mt. Shasta requests that the intersections of Mt. Shasta Boulevard with Ski Village Drive, and the southerly Project entrance on Mt. Shasta Boulevard be re-evaluated for the need for left turn lanes and acceleration lanes.

Page 4.11-5 of the DEIR acknowledges that bike lanes and a Class I multi-modal trail in the vicinity of the Project site would connect the downtown area of the City with the Mt. Shasta City Park. Some areas along the eastern side of Mt. Shasta Boulevard near the Project site have sidewalks; however, there are no sidewalks along Ski Village Drive in the vicinity of the Project site.

The photograph below is at the intersection of the southerly Project entrance, facing south on North Mt. Shasta Boulevard. This shows potential conflicts between motorists and truck traffic. The potential for accidents would be intensified with the introduction of Project truck traffic. Re-evaluation of the need for left turn lanes and acceleration lanes is needed to address: 1) increased pedestrian and bicycle usage due to bike lane and multi-modal trail construction, 2) increased daytime Project truck traffic assuming that Project truck traffic is prohibited during nighttime hours as requested by the City, and 3) future development in the Spring Hill Area, as discussed under Hydrology and Water Quality above, which will bring additional people into the area.



The following photograph is at the intersection of North Mt. Shasta Boulevard and Ski Village Drive facing northeast. This also shows potential conflicts between motorists and truck traffic.



Cumulative Impacts

The DEIR should acknowledge future development in the Spring Hill Area, as discussed above, in the cumulative impacts analysis.

In addition, DEIR Figure 4.11-4 (Study Area Roadway ADT – Cumulative Plus Project) does not show an increase in traffic on Spring Hill Drive as compared to Existing Plus Project Conditions. All other roadway segments show an increase in ADTs.

Requested Mitigation Measures:

- A mitigation measure needs to be included to state all trucks travelling to or from the Project site shall be prohibited from using Ski Village Drive and from using Mt. Shasta Boulevard south of the southerly Project entrance.
- Southbound traffic from Spring Hill Drive turning left onto North Mt. Shasta Boulevard has limited visibility of southbound vehicles exiting I-5 at a relatively high speed. Because of this safety issue, combined with the probable structural deficiency of Spring Hill Drive, the City requests a mitigation measure be added to prohibit truck traffic on Spring Hill Drive.
- Although the DEIR (page 4.11-17) states that a directional sign would be placed at the truck entrance to reduce the likelihood that trucks miss the turn-off, this needs to be included as a mitigation measure to ensure signage is implemented. Further, as stated on page 3-13 of the DEIR, the measure should specify that “Selection and installation of the sign will be done in accordance with City of Mt Shasta regulations and will be subject to approval and oversight by the City.”
- The City requests a mitigation measure to require a Road Maintenance Agreement between Crystal Geyser and the City outlining a repair schedule and/or compensation methods for the repair of roadways that are degraded as a result of project-related traffic.
- Transportation of products to and from the plant will most likely be delivered by large, heavy vehicles. Material transportation vehicles, such as semi-trucks, have a greater impact on road life conditions. The City of Mt. Shasta believes the increase in heavy vehicle trips will increase the deterioration rate of North Mt. Shasta Blvd. and Spring Hill Drive. Further analysis is needed to calculate the impact of the heavy vehicles on road conditions and lifespan.
- Following analysis of possible turn lanes/acceleration lanes on North Mt. Shasta Boulevard and re-evaluation of the Spring Hill Drive/Mt. Shasta Boulevard/ I-5 Ramps intersection, as discussed above, the City requests appropriate mitigation measures be identified.

Supporting Documentation:

City of Mt. Shasta. 2007. General Plan, Land Use Element. <http://mtshastaca.gov/wp/wp-content/uploads/2016/01/3LandUseElement.pdf>

Google Earth. 2007. North Mt. Shasta Boulevard Street View. <https://www.google.com/maps/@41.3235033,-122.3216673,3a,75y,155.5h,86.65t/data=!3m6!1e1!3m4!1sv8a-1a11CHZhuGG5notGAQ!2e0!7i3328!8i1664>

STATEMENT OF OVERRIDING CONSIDERATIONS

As the County is aware, Section 15093 (Statement of Overriding Considerations) of the CEQA Guidelines states, “... *If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”*”

When a Project with significant and unavoidable impacts is approved, the lead agency must state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

If the County approves the Project, it appears the County's findings will focus on economic benefits of the Project due to job creation and taxes paid to Siskiyou County. Substantial evidence of these benefits should be supported by a fiscal impact analysis (FIA).

The FIA should include a brief description of Crystal Geyser's employment projections (positions, wages, and benefits), projected revenue from property taxes, sales taxes, licenses, permits, impact fees, and other revenue sources. The FIA should include fiscal impacts to the City and County related to maintenance of wastewater infrastructure; costs associated with fire protection and emergency medical services; costs associated with street maintenance; and costs associated with other public services provided by the City and County. Impacts should be projected for Phase 1 of the Project (one bottling line); full build-out of the Project; five years following full build-out; and 10 years following full build-out.

1998 MITIGATION AGREEMENT

For clarity and to prevent confusion during implementation and enforcement of the mitigation measures, the City recommends the 1998 Mitigation Agreement between the County and Danone International Brands, Inc. be rescinded and replaced. Some of the mitigation measures in the 1998 Agreement are outdated and not effective in reducing impacts, some of which are discussed above. Pursuant to Section 15126.4(a)(2) of the CEQA Guidelines, mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. Measures that do not include any performance standards that would effectively mitigate significant impacts are not adequate.

In addition, mitigation measures identified for the proposed Project conflict with some of the measures in the 1998 Agreement. For example, Mitigation Measure 4.5-1 for the proposed Project conflicts with the mitigation measure for site grading included on page 2 of the 1998 Agreement. Mitigation Measure 4.3-2 regarding potential impacts to migratory birds is much more detailed than the mitigation measure included on page 3 of the 1998 Agreement. All applicable mitigation measures, including applicable measures from the 1998 Mitigation Agreement, should be included in the Mitigation Monitoring and Reporting Program.

The City appreciates your careful consideration of the comments contained herein and looks forward to reviewing the Final EIR for the proposed project. Please feel free to contact me if you have any questions or require clarification of any of the City's comments.

Sincerely,

Bruce Pope
City Manager