

**Final Environmental Impact Report**

**Level II Infill Correctional Facilities Project**

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**CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION**

STATE CLEARINGHOUSE NUMBER 2012122038

**October 28, 2013**



## Final Environmental Impact Report

# Level II Infill Correctional Facilities Project

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# ACRONYMS AND ABBREVIATIONS

CDCR	California Department of Corrections and Rehabilitation
CEQA	California Environmental Quality Act
CIM	California Institution for Men
CMF	California Medical Facility
CRC	California Rehabilitation Center in Norco
DEIR	draft environmental impact report
FEIR	final environmental impact report
FSP	Folsom State Prison
gsf	gross square feet
LEED	Leadership in Energy and Environmental Design
MCSP	Mule Creek State Prison
MMRP	mitigation monitoring and reporting program
PYCF	Preston Youth Correctional Facility
RJD	Richard J. Donovan Correctional Facility
RWQCB	Regional Water Quality Control Board
SAC	California State Prison, Sacramento
SB	Senate Bill
SOL	California State Prison, Solano
SWRCB	State Water Resources Control Board

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# 1 INTRODUCTION

## 1.1 DRAFT AND FINAL ENVIRONMENTAL IMPACT REPORT

On June 21, 2013, the California Department of Corrections and Rehabilitation (CDCR) distributed to public agencies and the general public a draft environmental impact report (DEIR) for the proposed Level II Infill Correctional Facilities Project.

### 1.1.1 SUMMARY OF PROPOSED PROJECT

#### KEY PROJECT ELEMENTS

The proposed project involves the construction and operation of new level II infill correctional facilities (up to 2,376 low-security inmate beds) as part of the State of California's prison system.<sup>1</sup> New level II infill correctional facilities could be developed as modules of either 792 beds or 1,584 beds; construction of all 2,376 beds at a single location is not under consideration. As described in the DEIR, CDCR has proposed the construction of one 792-bed and one 1,584-bed facility.

The proposed project is authorized by Senate Bill (SB) 1022, Statutes of 2012, as modified by SB 105, Statutes of 2013. SB 1022 directs CDCR to locate these facilities on available land within between one and three of seven intermediate-care-level prisons. Within the properties associated with these seven prisons, five potential development sites can accommodate a 792-bed facility or, in some cases, a 1,584-bed facility. In compliance with the provisions of SB 1022, CDCR has proposed construction of a 792-bed facility within the grounds of Richard J. Donovan Correctional Facility (RJD) in southern San Diego County and a 1,584-bed facility within the grounds of Mule Creek State Prison (MCSP) in Lone (within Amador County), California. The DEIR also analyzed the potential construction of the SB 1022 level II beds at three alternative sites including the California Institution for Men (CIM) in Chino, California; a site situated between California State Prison, Solano (SOL) and the California Medical Facility (CMF) in Vacaville, California; and a site situated between Folsom State Prison (FSP) and California State Prison, Sacramento (SAC) in Folsom, California. The physical addresses for each of these sites are:

- ▲ RJD Infill Site—South San Diego County, 480 Alta Road (Volume 2 of the DEIR), San Diego County, California
- ▲ MCSP Infill Site—4001 State Route 104, Lone, Amador County California (Volume 3 of the DEIR)
- ▲ FSP/SAC Infill Site—300 Prison Road, Represa, Folsom, Sacramento County, California (Volume 4 of the DEIR) (Note: Potential infill site is situated between FSP and SAC)
- ▲ CMF/SOL Infill Site—SOL is at 2100 Peabody Road, Vacaville; CMF is at 1600 California Drive, Vacaville, Solano County, California (Volume 5 of the DEIR) (Note: Potential infill site is situated between CMF and SOL)
- ▲ CIM Infill Site—14901 Central Avenue, Chino, San Bernardino County, California

The DEIR evaluated the environmental impacts, at a project-level detail, associated with four of the five sites. The fifth site, associated with CIM, was evaluated as an alternative within the DEIR, but not at an

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<sup>1</sup> Level II is one of four classifications (I [minimum], II [low], III [medium], and IV [high]) of inmate custody designations by CDCR. Based on this classification system, a level II facility is the second lowest classification; however a facility with this designation still includes standard CDCR perimeter fencing with a lethal electrified fence component and perimeter towers for the pedestrian and vehicular sallyports. The inmates of a level II facility, in contrast to a Level III or Level IV facility that have celled housing units, are housed in a secure dormitory structure.

equal-level as the proposed project because additional study was needed to address the adequacy of the infrastructure capacity to serve the project.

## **CHANGES RESULTING FROM ONGOING LITIGATION AND THE 2013-2014 LEGISLATIVE SESSION**

CDCR prison operations and construction projects have been influenced by various Federal Court orders during both former Governor Schwarzenegger's and, now, Governor Brown's time in office. The most recent court rulings have been issued by the Three-Judge Court formed pursuant to Section 2284, Title 28 of the United States Code, requiring CDCR to reduce overall prison population to 137.5 percent design capacity by December 31, 2013, as most recently extended until February 24, 2014. (See *Coleman et al. v. Brown* (No. CIV S-90-520-LKK JFM P (E.D. Cal.); *Plata et al. v. Brown* (No. C01-1351 TEH (N.D. Cal.)) The Three-Judge Court issued and affirmed the population reduction order to provide remedial relief for Eighth Amendment violations in the *Coleman* and *Plata* proceedings. *Coleman* began in 1990 and centered around alleged deficiencies by the California Department of Corrections in failing to provide constitutionally adequate mental health care to its mentally ill prison population. *Plata* began in 2001 and centered around alleged deficiencies by the California Department of Corrections in failing to provide constitutionally adequate medical health. In both cases, the district courts found violations and ordered injunctive relief. As time passed, the Court determined no relief could be effective in either case absent a reduction in the prison population. (See *Coleman v. Brown* (No. 2:90-cv-0520 LKK JFM P) Three-Judge Court Opinion and Order Denying Defendants' Motion to Vacate or Modify Population Reduction Order (April 11, 2013), at pp. 2, 4.) In May 2011 the U.S. Supreme Court affirmed the population reduction order in full. (See *Brown v. Plata* 131 S.Ct. 1910, 1932-44.) The Court found, in part, that by adopting a population percentage rather than a strict number of prisoners to release, the order permitted the state to choose whether to increase the prisons' capacity through construction or reduce the population. (*Id.*, at 1941.) On October 15, 2013, the U.S. Supreme Court declined review of the Three-Judge Court Order Denying Defendants' Motion to Vacate or Modify the Population Reduction Order, thus leaving the 137.5 percent of design capacity reduction requirement in place.

In response to the population reduction order, the Legislature passed a bill to realign the State prison system and safely reduce the prison population by a variety of measures, including early release through the expansion of good time credits, diversion of technical parole violators, diversion of low-risk offenders with short sentences, expansion of rehabilitative programming in prisons and communities, sentencing reform, and keeping lower level offenders within the jurisdiction of county governments (primarily keeping them in county jails). CDCR has made substantial progress toward the 137.5 percent target, but has not been able to identify and reassign to county jurisdiction a sufficient number of lower level offenders to meet the court-ordered target. CDCR prisons currently hold approximately 120,000 inmates, over 8,000 inmates above the number needed to achieve 137.5 percent of current capacity (source: review of October 16, 2013 Weekly Population Report, CDCR October 16, 2013).

In addition to reducing the prison population, the State has built additional medical and mental health treatment space and housing, including constructing a major medical care facility, the California Prison Health Care Facility in Stockton. That facility opened in 2013 and will improve the delivery of medical and mental health care to the State's most needy inmates. The proposed infill projects evaluated in this EIR continue CDCR's plans for compliance with the Three-Judge Court order by designing the projects with central health services units that include treatment for substance abuse, medical, and mental health, and by providing an additional 2,376 beds with related staff and treatment space. In anticipation of the most recent petition for review being denied by the Supreme Court, the Legislature passed SB 105 (Chapter 310, Statutes of 2013) in September 2013. Section 1 of SB 105 states:

The additional prison capacity and change to reduce prison population authorized by this act are immediate measures to avoid early release of inmates and allow the state to comply with the federal court order.

Section 22, subdivision (a), of SB 105, which appropriates funds to implement the legislation, adds that the appropriation is based on federal court orders to achieve 137.5 percent of design bed capacity. The bill provides several measures to help meet the 137.5 percent target, including sending inmates to out-of-state prisons and leasing private prison facilities.

Finally, the bill rescinds the prior Legislative mandate to close the California Rehabilitation Center (CRC), Norco as previously set forth in SB 1022. As explained in the Draft EIR, SB 1022 had ordered the closure of the CRC by the end of 2016, when the infill projects would be completed. SB 105 states that “(t)he requirement...” (to close the CRC) “...is hereby suspended pending a review by the Department of Finance and the CDCR that determines the facility can be closed.” Thus, the capacity provided by the CRC is needed, at least in the foreseeable future, to help meet the 137.5 percent design capacity target; in addition to the 2,376 infill beds considered as part of the Project. Consequently, closure of the CRC is no longer assumed in the EIR. This is addressed further in Section 3 of this document.

## 1.1.2 PUBLIC REVIEW AND RESPONSES TO COMMENTS

In accordance with Section 15205(d) of the California Environmental Quality Act (CEQA), public comment on the DEIR was accepted for a 45-day period (June 21, 2013 through August 8, 2013). On July 31, 2013, CDCR extended the end of the public comment period to August 19, 2013. Additional public notification of this extended review period was provided through a variety of means and media. CDCR conducted a series of public hearings during the DEIR public review period; two additional public hearings were held during the extended review period. During the combined public review period for the DEIR comments were received from state and local agencies as well as the general public commented on issues evaluated in the projects’ environmental document. In light of the geographic span of the proposed infill level II projects, public hearings were held at the following locations and times:

- ▲ Folsom, CA: two public hearings were held on July 18, 2013 at 3:00 p.m. and 5:00 p.m. at the Folsom Community Center, 52 Natoma Street, Folsom, CA 95630.
- ▲ Chula Vista, CA: two public hearings were held on July 22, 2013 at 3:00 p.m. and 5:00 p.m. at City of Chula Vista Council Chambers, 276 Fourth Avenue, Chula Vista, CA 91910.
- ▲ Norco, CA: two public hearings were held on July 23, 2013 at 3:00 p.m. and 5:00 p.m. at the City of Norco City Council Chambers, 2870 Clark Avenue, Norco, CA 92860.
- ▲ Lone, CA: two public hearings were held on July 29, 2013 at 3:00 p.m. and 5:00 p.m. at the Evalynn Bishop Hall, 600 South Church Street, Lone, CA 95640. Spanish translation services were available at these hearings.
- ▲ Lone, CA: two community briefings were held on July 17 and 24, 2013 at 6:00 p.m. at Castle Oaks Restaurant (1000 Castle Oaks Drive, Lone, CA 95640) and Evalynn Bishop Hall (600 South Church Street, Lone, CA 95640), respectively.
- ▲ Vacaville, CA: two public hearings were held on August 1, 2013 at 3:00 p.m. and 5:00 p.m. at the City of Vacaville Council Chambers, 650 Merchant Street, Vacaville, CA 95688.
- ▲ Chula Vista, CA: an additional public hearing was held on August 8, 2013 at 6:00 p.m. at City of Chula Vista Council Chambers, 276 Fourth Avenue, Chula Vista, CA 91910. Spanish translation services were available at this hearing.

Written comment letters and a transcript of oral testimony provided at the public hearing are provided in their entirety in Chapter 3, “Comments and Responses to Comments on the DEIR.” Two additional community meetings were held in the Lone area on July 17 and 24, 2013 to describe the proposed project and findings of the EIR, although public comment was not taken at these meeting.

Oral and written comments received on the DEIR raised various issues. Responses to each of the comments received are provided in this final environmental impact report (FEIR). Although some of the

comments have resulted in changes to the text of the DEIR (see Chapter 4, “Corrections and Revisions to the DEIR”), none of the changes constitute “significant new information,” which would require recirculation of the DEIR. Significant new information is defined in Section 15088.5(a) of the CEQA Guidelines as follows:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it.
- (4) The DEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

None of these circumstances has arisen from comments on the DEIR or related responses; therefore, no significant new information has been added to the DEIR and recirculation is not required.

The DEIR, FEIR, and associated appendices are available for review online at: [http://www.cdcr.ca.gov/Reports\\_Research/Environmental/index.html](http://www.cdcr.ca.gov/Reports_Research/Environmental/index.html). Hard copies are available at California Department of Corrections and Rehabilitation, Facilities Management Division, Environmental Planning Section, 9838 Old Placerville Road, Suite B, Sacramento, and at the following additional locations:

- ▲ Cal Aero Preserve Academy Branch Library (15850 Main Street, Chino, CA 91708)
- ▲ Chino Branch Library (13180 Central Avenue, Chino, CA 91710)
- ▲ Folsom Public Library (411 Stafford Street, Folsom, CA 95630)
- ▲ Lone Branch Library (25 East Main Street, Lone, CA 95640)
- ▲ James S. Thalman Chino Hills Branch Library (14020 City Center Drive, Chino Hills, CA 91709)
- ▲ Norco Public Library (3954 Old Hamner Avenue, Norco, CA 92860)
- ▲ Otay Ranch Branch Library (2015 Birch Road #409, Chula Vista, CA 91915)
- ▲ San Diego Public Library (820 E Street, San Diego, CA 92101)
- ▲ San Ysidro Library (101 W. San Ysidro Boulevard, San Diego, CA 92173)
- ▲ Vacaville Public Library – Cultural Center (1020 Ulatis Drive, Vacaville, CA 95688)
- ▲ Vacaville Public Library – Town Square (1 Town Square Place, Vacaville, CA 95688)

## 1.2 ORGANIZATION OF THE RESPONSES TO COMMENTS DOCUMENT

Chapter 2, “Summary of the Project Description,” presents a summary of the project description from the DEIR. Chapter 3, “Comments and Responses to Comments on the DEIR,” contains all written and oral comments received on the DEIR and presents responses to significant environmental issues raised in the comments, as required by Section 15132 of the State CEQA Guidelines.

All comment letters and comments by speakers at public hearings are labeled to correspond with an index table (Table 3-1, page 3-1) in Chapter 3. Each individual comment is assigned a number (e.g., 1-1) that corresponds with the response that follows the comment. Chapter 4, “Corrections and Revisions to the DEIR,” presents specific changes that were made to the text of the DEIR in response to

comments raised or new project information. Chapter 5, "References," identifies the documents and personal communications cited in this document. Chapter 6, "Report Preparers," identifies the preparers of this document.

For those comments that have resulted in corrections or revisions to the DEIR, the text of the DEIR is reproduced in the comment and in Chapter 4. Changes in the text are indicated by strikethrough (~~strikethrough~~) where text has been removed and by double underline (double underline) where text has been added.

## 1.3 COMMENTS THAT REQUIRE RESPONSES

Section 15088(c) of the State CEQA Guidelines specifies that the focus of the responses to comments shall be on the disposition of significant environmental issues. Responses are not required on comments regarding the merits of the project or on issues not related to the project's environmental impacts. Comments on the merits of the proposed project or other comments that do not raise environmental issues will be reviewed by CDCR before it approves the proposed project, approves a modified project, or denies the project.

Several of the issues raised in comments on the DEIR address matters that do not require responses in the context of CEQA because they address the merits of the project and the commenter's preference whether the project should be approved or not. In other instances, general statements concerning the DEIR and its conclusions are provided, but without comments regarding the DEIR's specific content. CEQA requires responses on comments concerning the environmental impacts of the project. Thus, if the comments do not address the specific environmental impacts of the project and whether they were properly addressed, responses may not be possible or warranted. These instances are so notated in the response to comments. Nevertheless, where feasible and relevant, responses have been provided to supply as much information as possible about the proposed project to the public, interested agencies, and decision makers. CDCR will consider all comments on the DEIR and proposed infill level II projects in the final consideration of the adequacy of the Final EIR and approval of the proposed projects even if the respective comment did not address one or more adverse effects on the environment.

## 1.4 PROJECT DECISION PROCESS

The environmental review process was initiated with the publication of the Notice of Preparation for the DEIR on December 19, 2012. Public scoping meetings were held to brief interested parties on the proposed project and obtain the views of agency representatives and the public on the scope and content of the EIR and the potentially significant environmental impacts. A total of 12 meetings (two at each location) were held in January 2013 in the follow cities: Folsom, Chino, Lone, Norco, Chula Vista, and Vacaville.

As discussed above in Section 1.1.2, the DEIR was circulated for public review period, from June 21, 2013 through August 19, 2013 with public hearings held in Folsom, Lone (Mule Creek State Prison), Chula Vista (RJ Donovan State Prison), Norco (California Rehabilitation Center) and Vacaville.

Lead agencies are required to provide responses to agency comments on DEIRs at least 10 days before the certification of the FEIR (Section 15088[b] of the State CEQA Guidelines). This FEIR document is being released on October 28, 2013 and sent to agencies who commented in writing within the DEIR's public review period, and notice of its release is provided to all persons and entities who submitted written comments or provided oral comments at the public hearings.

CDCR will then review the FEIR, which is comprised of the DEIR, all responses to comments provided in the FEIR, as well as other related project information. As part of this review, CDCR will consider if the

FEIR should be certified as adequate under CEQA. If so, CDCR will adopt a resolution certifying the FEIR, pursuant to Section 15090 of the State CEQA Guidelines.

Once the FEIR is certified, CDCR may act to select and approve the two proposed infill sites at RJD and MCSP as described in the FEIR, approve a modified component(s) as addressed in the EIR (e.g., other sites analyzed in the EIR), or deny all or a portion of the Level II Infill Correctional Facilities Project. In the course of approving the proposed or modified project, CDCR will adopt a resolution(s) memorializing the respective approval and provide required public notice, including notice to anyone or interested party who previously requested notice. In addition, CDCR will adopt findings of fact, pursuant to Section 15091 of the State CEQA Guidelines, for each significant effect. For each significant environmental effect identified in the EIR, CDCR must issue a written finding reaching one or more of three permissible conclusions. According to Section 15091 of the State CEQA Guidelines, the three possible findings are:

- ▲ changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR;
- ▲ such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency; or
- ▲ specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the FEIR.

If any significant unavoidable impacts would result from the approval of project elements, CDCR would also be required to state in writing why they propose to approve the project despite these significant unavoidable impacts. This is termed a Statement of Overriding Considerations, pursuant to Section 15093 of the CEQA Guidelines.

Should CDCR affirmatively act to approve the currently proposed project or some related alternative of the proposed project, CDCR will adopt individual, site-specific mitigation monitoring and reporting programs (MMRP) consistent with Section 15097 of the State CEQA Guidelines. This section describes how each of the mitigation measures adopted for the project will be implemented and provides a mechanism for tracking their implementation. Because the project is considered to be of statewide, regional, or area-wide importance, CDCR will, consistent with Section 15097(g) of the State CEQA Guidelines, distribute the MMRP to commenting agencies. Because of the significant amount of information provided in the FEIR including the extensive public hearings conducted on the DEIR it is not anticipated that CDCR's decision whether to deny or approve the components or alternatives will not involve additional public hearings.