

December 2021 | Final Environmental Impact Report
State Clearinghouse No. 2021050261

CITY OF RANCHO CUCAMONGA GENERAL PLAN UPDATE

for City of Rancho Cucamonga

Prepared for:

City of Rancho Cucamonga

Contact: Jennifer Nakamura, Management Analyst II
10500 Civic Center Drive,
Rancho Cucamonga, CA 91730
909.774.4324

Prepared by:

PlaceWorks

Contact: Mark Teague, AICP, Principal
3 MacArthur Place, Suite 1100
Santa Ana, California 92707
714.966.9220
info@placeworks.com
www.placeworks.com



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1. Introduction

1.1 INTRODUCTION

This Final Environmental Impact Report (FEIR) has been prepared in accordance with the California Environmental Quality Act (CEQA) as amended (Public Resources Code §§ 21000 et seq.) and CEQA Guidelines (California Code of Regulations §§ 15000 et seq.).

According to the CEQA Guidelines, Section 15132, the FEIR shall consist of:

- (a) The Draft Environmental Impact Report (DEIR) or a revision of the Draft;
- (b) Comments and recommendations received on the DEIR either verbatim or in summary;
- (c) A list of persons, organizations, and public agencies comments on the DEIR;
- (d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process; and
- (e) Any other information added by the Lead Agency.

This document contains responses to comments received on the DEIR for the Rancho Cucamonga General Plan Update during the public review period, which began September 10, 2021, and closed on October 25, 2021. This document has been prepared in accordance with the CEQA Guidelines and represents the independent judgment of the City of Rancho Cucamonga who is the Lead Agency for the General Plan Update (project). This document and the circulated DEIR comprise the FEIR, in accordance with CEQA Guidelines, Section 15132.

1.2 FORMAT OF THE FEIR

This document is organized as follows:

Section 1, Introduction. This section describes CEQA requirements and content of this FEIR.

Section 2, Response to Comments. This section provides a list of agencies and interested persons commenting on the DEIR; copies of comment letters received during the public review period, and individual responses to written comments. To facilitate review of the responses, each comment letter has been reproduced and assigned a number (A1 through A5 for letters received from agencies and organizations, B1 for individuals, and C1 through C2 for comments received via the comment portal). Individual comments have been numbered for each letter and the letter is followed by responses with references to the corresponding comment number.

1. Introduction

Section 3. Revisions to the Draft EIR. This section contains revisions to the Draft EIR text and figures as a result of the comments received by agencies and interested persons as described in Section 2, and/or errors and omissions discovered subsequent to release of the DEIR for public review.

The responses to comments contain material and revisions that will be added to the text of the FEIR. The City has reviewed this material and determined that none of this material constitutes the type of significant new information that requires recirculation of the DEIR for further public comment under CEQA Guidelines Section 15088.5. None of this new material indicates that the project will result in a significant new environmental impact not previously disclosed in the DEIR. Additionally, none of this material indicates that there would be a substantial increase in the severity of a previously identified environmental impact that will not be mitigated, or that there would be any of the other circumstances requiring recirculation described in Section 15088.5.

1.3 CEQA REQUIREMENTS REGARDING COMMENTS AND RESPONSES

CEQA Guidelines Section 15204 (a) outlines parameters for submitting comments and reminds persons and public agencies that the focus of review and comment of DEIRs should be “on the sufficiency of the document in identifying and analyzing possible impacts on the environment and ways in which significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible. ...CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.”

CEQA Guidelines Section 15204 (c) further advises, “Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.” Section 15204 (d) also states, “Each responsible agency and trustee agency shall focus its comments on environmental information germane to that agency’s statutory responsibility.” Section 15204 (e) states, “This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section.”

In accordance with CEQA, Public Resources Code Section 21092.5, copies of the written responses to public agencies will be forwarded to those agencies at least 10 days prior to certifying the environmental impact report. The City will post the FEIR to the project website: <https://www.cityofrc.us/GeneralPlan>.

2. Response to Comments

Comment letters and specific comments are given letters and numbers for reference purposes. Where sections of the DEIR are excerpted in this document, the sections are shown indented. Any changes to the DEIR text are shown in underlined text for additions and ~~strikeout~~ for deletions. The following is a list of agencies and persons that submitted comments on the DEIR during the public review period.

Number Reference	Commenting Person/Agency	Date of Comment	Page No.
Agencies & Organizations			
A1	California Department of Transportation, Jacob Matthew, D-8, IGR – Planning	September 29, 2021	2-3
A2	Gresham and Savage, Attorneys at Law on behalf of Commercial Metals Company (CMC), Paige H. Gosney	October 22, 2021	2-9
A3	Nossaman, LLP on behalf of Southern California Edison (SCE), Elizabeth Klebaner	October 25, 2021	2-27
COMMENTS RECEIVED AFTER CLOSE OF THE COMMENT PERIOD			
A4	Mitchell M. Tsai, Attorney at Law on behalf of Southwest Regional Council of Carpenters, Mitchell M. Tsai	November 3, 2021	2-39
A5	Gresham and Savage, Attorneys at Law on behalf of Tree Island Steel, Paige H. Gosney	November 9, 2021	2-91
Individuals			
B1	Matthew Ramirez	October 24, 2021	2-94
Comments Received via Comment Portal			
C1	Brittany Bunk	August 17, 2021	2-99
C2	Kristi Snyder and Victoria Leslie	August 17, 2021	2-103

2. Response to Comments

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2. Response to Comments

LETTER A1 – California Department of Transportation, Jacob Matthew, D-8, JGR – Planning (2 pages)

From: MATHEW.JACOB.K@DOT
To: Nakamura, Jennifer
Subject: PLAN RC
Date: Wednesday, September 29, 2021 9:03:15 AM

CAUTION: This email is from outside our Corporate network. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Jennifer,

Thank you for providing the California Department of Transportation (Caltrans) the opportunity to review and comment on the Draft Environmental Impact Report (EIR) for the Rancho Cucamonga General Plan Update 2020 and Climate Action Plan. The purpose of the General Plan Update is to provide long-term planning blueprint for the improvements needed to house the City's growing population over the 20-year planning horizon.

As the owner and operator of the State Highway System (SHS), it is our responsibility to coordinate and consult with local jurisdictions when a proposed plan impact our facilities. As the responsible agency under the California Environmental Quality Act, it is also our responsibility to make recommendations to offset associated impacts with the proposed project. Although the plan is under the jurisdiction of the City of Rancho Cucamonga, due to the plan's potential impact to the State facilities, including State Route 210 and I-15, it is also subject to the policies and regulations that govern the SHS.

A1-1

We recommend a Traffic Impact Analysis (TIA) be prepared to accurately evaluate the extent of potential impacts of the plan to the operational characteristics of the existing State facilities by the project area. The TIA be submitted for our review prior to adopting the EIR to ensure timely review of the submitted materials to address any potential issues.

Caltrans is committed to providing a safe transportation system for all users. We encourage the City to embark a safe, sustainable, integrated and efficient transportation system and complete street to enhance California's economy and livability. A pedestrian/bike-friendly environment served by multimodal transportation would reduce traffic congestion prevalent in the surrounding areas.

Design the local streets to serve vehicular and pedestrian circulation equally, and for safe pedestrian friendly environment. Consider both Americans with Disability Act and California Highway Design Manual standards and requirements to provide transportation routes for all users and modes, including pedestrian and bicyclists. Provide a continuous multi-modal circulation system throughout the City, specifically for pedestrians, allowing current/future residents, employees, and guests to access the attraction places.

A1-2

Relegate the parking spaces to the back of the buildings and locate preferential parking for vanpools and carpools, along with, secure, visible, and convenient bicycle parking/racks accessible to retail and office locations. Consider installing electric vehicle charging stations, and locate parking space for low-emitting, fuel-efficient, alternative-fueled vehicle visitor parking in commercial and office uses.

A1-3

A1-4

2. Response to Comments

These recommendations are preliminary and summarize our review of materials provided for our evaluation. If you have any questions regarding this email, please contact me.

Thanks,
JACOB K. MATHEW
D-S, IGR – Planning
464 W. 4TH Street
San Bernardino, CA 92401
Ph: 909-963-9255

2. Response to Comments

A1. Response to Comments from California Department of Transportation, Jacob Mathew, D-8, JGR - Planning, dated September 29, 2021.

A1-1 The comment is noted that Caltrans is the owner/operator of the State Highway System (SHS). The comment requests that the General Plan EIR also include a Traffic Impact Analysis (TIA) to identify the operational characteristics to the SHS, and for the TIA to be submitted to Caltrans prior to adoption of the EIR.

On May 20, 2020, Caltrans released their *Vehicle Miles Traveled-Focused Traffic Impact Study Guide* (TISG). The document (Page 3) specifically states that, “The TISG replaces the *Guide for the Preparation of Traffic Impact Studies* (Caltrans, 2002) and is for use with local land use projects, not for transportation projects on the State Highway System.” Page 5 of the Guide also states that, “With this guidance the Department will transition away from requesting LOS or other vehicle operations analyses of land use projects.”

CEQA Guidelines Section 15064.3 specifies that VMT shall be used to determine significant transportation impacts under CEQA. Accordingly, project impacts on roadway level of service are not considered a significant impact under CEQA. As LOS that would be evaluated in a TIA is no longer considered an impact under CEQA, and the Caltrans TISG states that LOS will not be requested by Caltrans for land use projects, the comment related to preparing a LOS-based TIA is inconsistent with CEQA requirements and with current Caltrans policy. Therefore, the additional LOS analysis documented through a TIA as requested by the commentor will not be provided as a part of the EIR.

A1-2 The comments are noted that Caltrans is committed to providing a safe transportation system for all. The comment recommends the use of design standards and state/federal requirements to deliver a multi-modal circulation system.

These are all consistent with the proposed Mobility Element goals and policies included as Appendix 3-1, *Proposed General Plan Update*, to the DEIR. Specifically, the following General Plan goals are all consistent with the comment:

- **Goal MA-1 Regional mobility Hub.** A multimodal transportation hub that connects regional and local destinations.
- **Goal MA-2 Access for All.** A safe, efficient, accessible, and equitable transportation system that serves the mobility needs of all users.
- **Goal MA-3 Safety.** A transportation network that adapts to changing mobility needs while preserving sustainable community values.
- **Goal MA-4 Goods Movement.** An efficient goods movement system that ensures timely deliveries without compromising quality of life, safety and smooth traffic flow for residents and businesses.
- **Goal MA-5 Sustainable Transportation.** A transportation network that adapts to changing mobility needs.

2. Response to Comments

Each of the goals noted above identify a series of policies that support each goal, including implementation of complete streets, which serve users of all ages and abilities, through a layered networks approach.

In addition to the Mobility Element goals and policies, consistency with the Americans with Disabilities Act (ADA) is required through the specific legislation and use of the California Highway Design Manual, which is required for bikeway design, as specified in the California Vehicle Code. These legislative requirements, when combined with the goals and policies outlined in the Proposed General Plan Update, are consistent with the comment provided.

A1-3 The commenter suggests that parking spaces should be relocated behind buildings and bicycle parking for retail and office locations should be provided.

The proposed project does not include entitlement for any construction. The provision of parking is not an environmental issue and therefore not included in the Draft EIR. Nonetheless, the Land Use and Community Character Element (see Appendix 3-1, *Proposed General Plan Update*, of the DEIR) indicate that parking in the Neighborhood Center, City Center, Office Employment District, and 21st Century Employment District should place parking behind or between buildings (see pages 78, 80, 84, and 85 of Appendix 3-1). Additionally, the following policies of the Mobility Element (Appendix 3-1) specifically discuss transportation demand management (such as incentivizing carpools) and bicycle parking consistent with the commentator's comment:

- **Policy MA-2.12 Transportation Demand Management.** Require new projects to implement Transportation Demand Management strategies, such as employer provided transit pass/parking credit, highspeed communications infrastructure for telecommuting, carpooling incentives, etc.
- **Policy MA-2.14 Bicycle Facilities.** Enhance bicycle facilities by maintaining and expanding the bicycle network, providing end-of-trip facilities (bike parking, lockers, showers), improving bicycle/ transit integration, wayfinding signage, etc.

A1-4 The commenter suggests installing electric vehicle charging stations and fuel-efficient parking spaces.

The following goal in the Mobility Element of the Proposed General Plan Update (Appendix 3-1 of the DEIR) and supporting policies all relate to sustainable transportation:

- **Goal MA-5 Sustainable Transportation.** A transportation network that adapts to changing mobility needs.

2. Response to Comments

Although charging station requirements and space designations for low-emitting, fuel-efficient, and alternative-fueled vehicles are not specifically addressed in the supporting Mobility Element policies (they are specifically addressed in the City's Zoning Code that allows for expedited permit review Section 15.38 of the development code), and on page 2-4 of Appendix 5.8-1 Climate Action Plan, that support the Mobility Element goal for the City to adapt to changing mobility needs (like charging stations).

2. Response to Comments

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2. Response to Comments

LETTER A2 – Gresham and Savage, Attorneys at Law on behalf of Commercial Metals Company (CMC),
Paige H. Gosney (9 pages)



Paige.Gosney@GreshamSavage.com · San Bernardino Office
(909) 890-4499 · fax (909) 890-9877

October 22, 2021

VIA E-MAIL - GP-EIR-Comments@cityofrc.us

City of Rancho Cucamonga
10500 Civic Center Drive
Rancho Cucamonga, CA 91730

Re: City of Rancho Cucamonga General Plan Update Draft EIR

To Whom It May Concern:

This firm represents Commercial Metals Company (“**CMC**”) in connection with the development of the 95-acre site located at 12343-12345 Arrow Route (the “**CMC Property**”) in the City of Rancho Cucamonga (“**City**”). The CMC Property is located in the City’s legacy Southeast Industrial Area (“**SEIA**”).

The purpose of this letter is to express CMC’s significant concerns with the environmental analysis in the Draft Environmental Impact Report (“**DEIR**”) for the City’s pending General Plan Update (“**GP Update**”) as related to the proposed street network expansion within the SEIA.

A2-1

The GP Update posits that the existing SEIA street network is “at or near capacity” and therefore a significant expansion of the existing circulation network is necessary to accommodate future industrial development in the SEIA, including the proposed development of the CMC Property. (GP Update, Figure 3-11 [Focus Area 8: Southeast Industrial Area].) The GP Update includes a diagram of the City’s proposed new SEIA street network, which includes several new north-south and east-west connectors throughout the SEIA and the CMC Property (“**Proposed Street Network**”). The Proposed Street Network is described in the GP Update as “recommended” and for “illustrative purposes” only. However, the legal effect of this characterization in the GP Update is unclear given that the General Plan functions as the land use constitution and bedrock planning document of the City.

As discussed more fully below, neither the GP Update nor the DEIR provide any data or analysis to support the City’s claims that the current SEIA street network and infrastructure is inadequate to support the existing industrial uses or that the Proposed Street Network will mitigate transportation impacts related to future development of the SEIA. The failure to include this data and analysis renders the

A2-2



SAN BERNARDINO 550 East Hospitality Lane, Suite 300 • San Bernardino, California 92408
SAN DIEGO 401 West A Street, Suite 925 • San Diego, California 92101
GreshamSavage.com

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DEIR invalid under the California Environmental Quality Act (Pub. Resources Code, §§ 21000, et seq.) (“CEQA”) insofar as it purports to establish and adopt the Proposed Street Network for the SEIA.

A2-2
CONT'D

Alternatively, if the City’s intent vis-à-vis the Proposed Street Network is simply to provide a visual depiction in the GP Update of the types of east-west and north-south connector roads that the City believes may help alleviate potential traffic impacts associated with the future development in the SEIA, then the GP Update and DEIR should be revised to confirm this fact and thereby avoid any uncertainty as to the intended legal effect of the Proposed Street Network.

A2-3

We respectfully request that this letter be included as part of the administrative record for this matter.

The DEIR’s Project Description is Inadequate and Incomplete

With respect to the SEIA (identified as Focus Area 8), the Project Description for the DEIR states:

*“This Focus Area shown in Figure 3-11, illustrates the potential of the Southeast Area to become a modernized industrial employment district with convenient access to a wide range of services and amenities. The current subdivision patterns and infrastructure in this area still reflect its agrarian past, with many of the current industrial uses simply built within vineyards one at a time. **A more complete network of complete streets—accommodating light and heavy vehicles and active mobility modes — is critical to supporting many more and better jobs and increasing economic activity per acre of land**” in the SEIA. (Draft EIR, p. 3-9 [emphasis added].)*

A2-4

There is, however, no further explanation, data or analysis provided to support these statements or to substantiate why the construction of the Proposed Street Network is so “critical” to the future of the SEIA. The DEIR merely states a conclusion without any underlying justification or evidentiary basis.

An EIR must accurately and consistently describe the project it analyzes. (CEQA Guidelines, §§ 15124, 15378 [defining “project”]; *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-193 [“An accurate, stable, and finite project description is the sine qua non of an informative and legally sufficient EIR.”].) An inaccurate or incomplete project description undermines CEQA’s purposes, because it thwarts a full analysis of project impacts, thus minimizing the project’s effects. (*City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1454; *San Joaquin Raptor Rescue*

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Center v. County of Merced (2007) 149 Cal.App.4th 645, 656.) Thus, when an EIR gives “conflicting signals to decision-makers and the public about the nature and scope of the activity being proposed,” California courts have found it to be “fundamentally inadequate and misleading.” (*San Joaquin Raptor Rescue Center*, supra, 149 Cal.App.4th at pp. 655-656.)

A2-4
CONT'D

As noted above, the DEIR’s Project Description lists the SEIA as one of several “Focus Areas” of the City and identifies it as having the potential to become a “modernized industrial employment district” *so long as the existing circulation network is expanded and improved*. The DEIR never clarifies whether the Proposed Street Network outlined in Figure 3-11 of the GP Update is part of the “project” being analyzed in the DEIR (e.g., the GP Update) thereby creating significant uncertainty.

An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make an informed decision about the project under consideration. (*Berkeley Keep Jets Over the Bay Com. v. Board of Port Cmrs.* (2001) 91 Cal.App.4th 1344, 1356 [the EIR must set forth sufficient information to “foster informed public participation and to enable the decision makers to consider the environmental factors necessary to make a reasoned decision.”].) As the exact nature and scope of the “project” being evaluated in the DEIR is ambiguous and unclear, the City Council (as the ultimate decision-maker) cannot make an informed decision about whether to certify the adequacy of the DEIR as the project’s environmental document under CEQA and approve the project.

A2-5

The DEIR Fails to Analyze or Discuss the Proposed Street Network

As with the Project Description, the Transportation section of the DEIR contains no analysis or even any discussion of the Proposed Street Network. In fact, Figure 3-11 of the GP Update is not included in the DEIR and there is no mention that the City intends to add these “recommended” streets into the City’s street network for the SEIA. Rather, the only reference to the potential requirement for the construction of new streets is in the following two proposed General Plan policies:

A2-6

MA-2.8 New Streets. Require new roadway connections to improve emergency accessibility and roadway connectivity north of State Route 210 and within the Southeast Area.

MA-4.2 Southeast Area Connectivity. Require new development in the Southeast Area to provide the necessary infrastructure to maintain access and public safety as shown on Figure 11.

(DEIR at pp. 5.17-42; 5.17-43).

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Notwithstanding these two policies, the DEIR contains no information, analysis or support for the position that additional streets are needed *anywhere* in the City, much less specifically in the SEIA. Moreover, the DEIR fails to provide any analysis regarding the potential impacts attributable to the construction of the significant number of streets identified in the Proposed Street Network. With respect to the SEIA, the existing complexities of installing new streets and roadways is further complicated by significant utility infrastructure, railways, and heavy industrial legacy uses, none of which are accounted for or even discussed in the DEIR.

A2-7

The only reference to streets in the DEIR's Transportation analysis is to a May 2020 General Plan Update – PLAN RC Community Mobility Existing Conditions Report. (DEIR at p. 5.17-51.). Within this 350-plus page report is a "Community Mobility" section. This Community Mobility section only discusses "existing conditions" – it does not mention the SEIA or reference any need for future street network expansion. Accordingly, there is no analysis that the Proposed Street Network is necessary or "critical" to ensuring adequate circulation and access throughout the SEIA. (DEIR, p. 3-9 [Project Description (Focus Area 8)].)

Even assuming that there was some evidentiary or analytical justification for the Proposed Street Network, *which there is not*, the DEIR contains no data or analysis supporting a conclusion that the Proposed Street Network shown in Figure 3-11 would, in fact, be effective in mitigating perceived traffic impacts and improving mobility and access caused by development in the SEIA. Thus, not only is the DEIR lacking any meaningful discussion of the Proposed Street Network; but, there is also a lack of data and analysis showing that it would actually accomplish its stated purposes – *e.g.*, to improve mobility and access and help the SEIA become the "modern industrial employment district" that the City so clearly envisions.

A2-8

For example, the Proposed Street Network for the CMC Property would divide the site into a grid pattern of smaller parcels that would effectively preclude development of the site for a large distribution center/warehouse facility. The Proposed Street Network appears to function as an internal circulation system only that does not provide meaningful circulation relief to the larger SEIA circulation network, inasmuch as no east-west connection is depicted to relieve Arrow Route and any north-south connection would require crossing the BNSF main railroad line and use of the Southern California Edison ("SCE") property located to the south. The Proposed Street Network fails to provide any contiguous connectivity through the SEIA.¹

A2-9

¹ Moreover, CMC understands that SCE cannot provide the necessary easements or dedications to facilitate this north-south roadway and that a contiguous connection between 6th Street and Arrow Route may not be possible as originally envisioned by the City. Without use of the SCE property, it does not appear that the proposed north-south roadway can provide the desired connectivity between 6th Street and Arrow Route.

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Notwithstanding the lack of adequate analysis, the City appears to be using the DEIR to implement and adopt the Proposed Street Network. The GP Update includes Figure 3-11 with the following statement at Point No. 5 regarding the Proposed Street Network in the SEIA:

“Develop a more complete, modern, multi-modal street network for improved circulation and access. The street network in this area is at or near capacity. If the legacy heavy industrial uses redevelop, additional east-west street capacity between Rochester Avenue and Etiwanda Avenue and north-south street capacity between Arrow and 6th Street will be needed.”

A2-10

As stated above, the DEIR contains no data or analysis to support the GP Update’s assertions that: (i) the existing SEIA street network is at or near capacity; and/or (ii) if the legacy heavy industrial uses redevelop, additional east-west street capacity between Rochester Avenue and Etiwanda Avenue and north-south street capacity between Arrow and 6th Street will be needed. Moreover, although reference is made in the DEIR to the Proposed Street Network and “Figure 11” (see DEIR p. 5.17-43 [Goal MA-4.2]), Figure 3-11 is not even identified or included within the DEIR.

It is never sufficient to simply identify a claimed impact without providing data and analysis regarding how the City arrived at such a conclusion. Meaningful analysis of impacts effectuates one of CEQA’s fundamental purposes - to “inform the public and responsible officials of the environmental consequences of their decisions before they are made.” (*Laurel Heights Improvement Ass’n v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123.) To accomplish this purpose, an EIR must contain data and analysis, not just an agency’s bare conclusions. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 568.) An EIR’s conclusions must be supported by substantial evidence. (*Laurel Heights Improvement Ass’n v. Regents of the University of California* (1988) 47 Cal.3d 376, 409.)

A2-11

Furthermore, a response to comment in the Final EIR cannot cure this deficiency. As the California Supreme Court explained in *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 443, “The question is [] not whether the project’s significant environmental effects *can* be clearly explained [in a brief], but whether they *were* [explained in the EIR].” (Emphasis in original).

If the City’s intent is to adopt the Proposed Street Network as part of the GP Update, it must state so explicitly in both the GP Update and the DEIR and must comprehensively analyze the environmental impacts of the Proposed Street Network in compliance with CEQA. **The City has done neither; thereby resulting in an**

A2-12

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inadequate and incomplete environmental document and an ambiguous GP Update. The City should strive to eliminate ambiguity rather than cultivate it in the DEIR's analysis of the environmental impacts of the proposed GP Update.

A2-12
CONT'D

The Adoption of the Proposed Street Network as Part of the GP Update and DEIR is Contrary to, and Inconsistent With, Ordinance No. 982

In conjunction with the City's recent adoption of Ordinance No. 982 establishing new and updated industrial development standards in the City, industrial stakeholders were advised that the City was planning to move away from the adoption of a specific street network and would consider the necessary infrastructure as it obtained additional information and as individual projects came forward. In that regard, and as part of Ordinance No. 982, the City adopted "Block Network Parameters for Public Streets", which provides a pathway for a master plan approval to "vary or waive the traffic standards identified in [the Block Network Parameters] if the city council determines that doing so would not frustrate the underlying purpose of the subject standard(s) or cause a significant impact on public health, safety, or welfare." (Dev. Code, §§ 17.22.020.C.3.ii; 17.36.040.C.9.a.ii.)

A2-13

Separate and apart from the lack of adequate analysis in the DEIR, adoption of the Proposed Street Network as part of the GP Update would be contrary to and directly contravene the City's recently adopted Ordinance No. 982 and, in particular, the provisions referenced above regarding the "Block Network Parameters for Public Streets" and master plan approval regulations. If the Proposed Street Network is approved as part of the GP Update, then the City lacks authority under the Development Code's master plan provisions to deviate from or "waive" compliance with the street network layout for sites affected by the Proposed Street Network, including the CMC Property, unless a General Plan Amendment is approved as part of the underlying project entitlements.

The Fehr & Peers Traffic Analysis Are Not Included in the DEIR and Therefore Do Not Constitute Substantial Evidence Supporting Adoption of the Proposed Street Network as Part of the GP Update.

CMC is aware of certain third-party analyses prepared by or on behalf of the City that suggest the existing SEIA street network is stretched to capacity. The third-party analyses advocate for a significantly expanded circulation network for the area consistent with that set forth in the Proposed Street Network. An example is an April 2021 technical memorandum (subsequently updated in June 2021) that was prepared by the consulting firm of Fehr & Peers (the "F&P Analysis"). The F&P Analysis is not referenced as a "technical assessment" that was prepared "in support of" the DEIR (DEIR, p. 5.17-1) and the report is **not** included as part of the DEIR. The F&P Analysis is also not expressly characterized in the DEIR or GP Update as the evidentiary and

A2-14

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analytical basis for the City's assumptions that expansion of the existing SEIA street network is "critical" to support future growth and redevelopment in the SEIA. (DEIR, p. 3-9 [Project Description [Focus Area 8)].)

A2-14

CONT'D

As such, the F&P Analysis does not and cannot constitute substantial evidence supporting the City's adoption of the Proposed Street Network.

Furthermore, even if the F&P Analysis were included as part of the DEIR for the GP Update, (*which it is not*), the F&P Analysis is inadequate to support adoption of the Proposed Street Network. This is so, because the land use assumptions and trip generation estimates used to justify the conclusions in the F&P Analysis severely overestimate the reality on the ground, as well as the applicable standards. For example, the current development proposal and site plan for the CMC Property, which constitutes approximately two-thirds of the so-called "Northwest Arrow Planning Area" of the SEIA, conservatively estimates the generation up to **4,915 new daily trips** (without adjustment for existing uses).² This is substantially less than the estimated **16,646 net new daily trips** referenced for this Planning Area in the F&P Analysis.

A2-15

Other current and pending development proposals in the SEIA appear to be subject to the same trip generation estimate discrepancy when compared to the F&P Analysis's land use assumptions:

- **GenOn Property** – 2,580 new daily trips (without adjustment for existing uses) as compared to the estimated 7,293-8,800 net new daily trips referenced for the "Southwest Napa Planning Area" of the SEIA in the F&P Analysis.
- **Bridge Property** – 1,278 to 10,388 anticipated new daily trips compared to the 10,700-13,500 net new daily trips projected for the "Southwest 4th/6th Planning Area" of the SEIA in the F&P Analysis.

A2-16

These examples (which represent current proposed and recently approved development and not just theoretical estimates) beg the question of just how realistic are the land use assumptions upon which the F&P Analysis bases its conclusions? Furthermore, what information did Fehr and Peers use to arrive at these assumptions?

² The CMC Property assumes a future gross floor area of 2,000,000 square feet. As applied to a light industrial land trip generation rate (ITE Code 110), this assumption results in a trip generation estimate of 8,512 new daily trips (or 7,104 net new daily trips) which, when compared with the current development proposal for the CMC Property results in a project that generates up to 4,915 daily trips. The site-specific trip generation data in the F&P Analysis, however, severely overestimates the trip generation estimate of the type of high-cube non-sorting fulfillment center uses that are actually being proposed for the CMC Property and surrounding area.

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Moreover, the F&P Analysis calculates trip generation assuming high-cube fulfillment (sort facility) uses, which is the highest generator of the high-cube warehousing land use categories, throughout the entirety of the SEIA. However, the Bridge Property approvals (and other pending industrial projects in the SEIA) are being specifically conditioned by the City to preclude any kind of sort use as part of the development. (See, e.g., October 20, 2021, City Council Agenda Report [Item G.1], Attachment 11 [Ordinance No. 987], Exh. 1 [Development Agreement DRC2020-00180, § 9.B].)³ Therefore, the F&P Analysis and its conclusions regarding traffic impacts in the SEIA is premised entirely on the false assumption that 100 percent of the SEIA will be developed with high-cube fulfillment sort uses that the City itself is contractually prohibiting on a project level basis.

A2-17

The land use assumptions underlying the F&P Analysis clearly do **not** represent a realistic projection of future development within the SEIA. Rather, they are overestimations of the industrial market that ignore actual projects and proposals currently pending in the City. As an additional example, the F&P Analysis designates certain sites owned by public utilities and railway companies and assigns trip generation for these uses as if they will be utilized for high intensity uses. The use of these sites is speculative at best. Furthermore, the F&P Analysis assigns trip generation based on proposed and existing uses; but, then places recommended streets in the middle of these buildings, preventing the buildings from even being built, thereby preventing the very trip generation the City postulates is causing impacts. At an elementary level, the City is contending streets are necessary to reduce impacts from development that the City is contractually prohibiting and the streets themselves will prevent from occurring!

A2-18

These extreme assumptions in turn lead to unrealistic requirements for a roadway system designed to support an unrealistic land use program. The F&P Analysis is substantial evidence of nothing more than land use and traffic planning hyperbole and cannot serve as the foundation for the City's adoption of the Proposed Street Network.

Conclusion

For the reasons outlined above, the DEIR is inadequate under CEQA to support the adoption and implementation of the Proposed Street Network as part of the GP Update. The DEIR includes no data or analysis which supports the Proposed Street Network; but, rather contains only conclusory statements based upon the F&P Analysis which was not included as part of the DEIR and which is based on flawed land use and trip generation assumptions for the SEIA.

A2-19

³ Section 9.B states: "Notwithstanding any other provision of this Agreement, no Sort use shall be operated on the Site during the useful life of the Project's two buildings. Due to City's reliance on the traffic mitigation identified in this Agreement and the Draft EIR pertaining solely to NonSort uses, this provision shall survive expiration of this Agreement."

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However, if the City's intent regarding the Proposed Street Network was simply to provide a visual depiction in the GP Update of the types of connector roads that the City believes *may* help alleviate potential traffic impacts associated with future industrial development within the SEIA and that the Proposed Street Network is not being formally adopted by the City at this time, then the GP Update and DEIR should be revised to clarify this fact so as to avoid any uncertainty as to the intended legal effect of the Proposed Street Network.

A2-19
CONT'D

We appreciate the City's consideration of these comments and concerns regarding the DEIR and GP Update, particularly with respect to the Proposed Street Network.

Please contact me if you have any questions or wish to discuss this matter further.

Very truly yours,



Paige H. Gosney, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

PHG/pmj

cc: City Manager, John Gillison*
City Attorney, James L. Markman*
City Planning Director, Anne McIntosh*
Client*
(* via e-mail only)

2. Response to Comments

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2. Response to Comments

A2. **Response to Comments from Gresham and Savage, Attorneys at Law on behalf of Commercial Metals Company (CMC), Paige H. Gosney, dated October 22, 2021.**

A2-1 The commenter states that the General Plan Update indicates that the existing Southeast Industrial Area (SEIA)¹ is at or near capacity and therefore expansion is needed, and states that the proposed new SEIA street network is described as recommended and provided for illustrative purposes in the General Plan Update. The commenter states that this characterization is unclear given that the General Plan functions as the land use constitution for the City.

Fehr and Peers prepared the Southeast Industrial Quadrant Roadway Network Assessment (April 28, 2021) that was used to inform the policy and mapping of additional roadways in Focus Area 8. As the information was used to generate policy it is included here as Attachment F-1 to this Final EIR. The technical memorandum addressed level of service and states on page 14:

“Although the addition of new collector streets in the Southeast Industrial Quadrant alleviates the congestion on some of the roadways and intersections, intersections continue operate unacceptably, and roadways segments remain over capacity. The vehicle demand generated by the proposed buildout in the planning areas exceeds the available vehicle capacity on local streets.

The north/south vehicle demand across the railroad cannot be met by Etiwanda Avenue even with the planned and funded future widening and grade separation. The north/south vehicle demand across the railroad exceeds available capacity by approximately 20,000 vehicles per day. Arrow Route and 4th Street are similarly over capacity and cannot accommodate the vehicle demand for an east/west connection to the I-15 freeway and other destinations to the west of the SEIQ. The vehicle demand for an east/west connection to the I-15 freeway exceeds available capacity by approximately 23,000 vehicles per day.

A new north/south roadway which connects Northwest Arrow Planning Area to 6th Street and a new east-west roadway which connects the Northwest Arrow Planning Area and Rochester Avenue would each provide additional capacity for approximately 23,000 vehicles per day, if constructed as collector streets with 2-lanes in each direction. These roadways would provide the ideal connectivity and needed capacity to the local SEIQ street network. A2-2 The commenter states that neither the General Plan Update nor the DEIR provide any data to support the City’s claim that the current SEIA street network and infrastructure is inadequate to support existing industrial uses, or that the proposed

¹ The Southeast Industrial Area (SEIA) was also named the Southeast Industrial Quadrant (SEIQ) and is entirely within Focus Area 8 as described in Volume 2 Chapter 4 of the Draft General Plan (Appendix 3-1 of the Draft EIR)

2. Response to Comments

street network would mitigate transportation impacts of future development in the SEIA.”

Level of service is no longer a threshold for evaluating environmental impacts. The relevant information for the SEIQ (Focus Area 8) was taken from the technical memorandum and used to establish the road pattern shown in Figure M-8 of the Draft General Plan (Appendix 3-1, Volume 2, Built Environment). The street network is recommended to add capacity to the Focus Area. LOS is no longer a metric to establish environmental impact, the technical information was used to prepare Figure M-8 that shows recommended roadways, and the entire circulation system was evaluated in the Draft EIR, the City believes the EIR is adequate, and no further comment is required.

- A2-3 The commenter states that the General Plan Update and the DEIR should be revised to state that the proposed street network is provided to give a visual depiction of the types of connector roads the City believes may alleviate future potential traffic impacts in the SEIA, if that is the City’s intent.

This information is provided in Figure M-8 shown on page 171 of Volume 2 and included in the Draft EIR as Appendix 3-1, Draft General Plan Update. The proposed roadway network for the SEIA (Focus Area 8) is illustrated on this graphic and the roadway typologies listed in the legend to Figure M-8. Recommendation in this context is not requirement. The City reserves the ability to adjust the roadway network to be consistent with future development. The nine roadway typologies referenced in the Draft General Plan are described beginning on page 158 and concluding on page 163 and include a cross section of the roadway, number of travel lanes, and associated amenities.

- A2-4 The commenter states that the project description for the SEIA does not provide further explanation or data to support to substantiate why the construction of the proposed street network is critical to the future of the SEIA. See response to comment A2-1. The physical environmental effects of the street network in the SEIA are addressed in the EIR for implementation of the overall General Plan.

- A2-5 The commenter states that the DEIR project description lists the SEIA as one of several Focus Areas that has the potential to become a modernized industrial employment district so long as the existing circulation network is expanded and improved, however, the DEIR never clarifies whether the proposed street network in Figure 3-11 of the General Plan Update is part of the “project” being analyzed in the DEIR.

Adoption of the General Plan Update (Appendix 3-1) on page 3-2 of the Draft EIR, Table 3-1 Overview of Policy Change, provides a summary of the intended actions of each Volume and Chapter of the proposed General Plan. In Table 3-1, Chapter 4: Mobility and Access has the following:

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General Plan	Policy Change
Chapter 4: Mobility and Access	<ul style="list-style-type: none"> • Emphasis on completing roadway connections for safety and access • Eliminates interchange at Arrow Route and I-15 • Focus on complete streets and layered street network • New roadway designs to support focus areas • Supports transit options like high speed rail, tunnel to airport

Further, on page 3-9 the General Plan EIR summarizes the intention of Focus Area 8 (SEIA) as follows:

Focus Area 8: Southeast Industrial Area

This Focus Area shown in Figure 3-11, illustrates the potential of the Southeast Area to become a modernized industrial employment district with convenient access to a wide range of services and amenities. The current subdivision patterns and infrastructure in this area still reflect its agrarian past, with many of the current industrial uses simply built within vineyards one at a time. *A more complete network of complete streets—accommodating light and heavy vehicles and active mobility modes—is critical to supporting many more and better jobs and increasing economic activity per acre of land.* [emphasis added] Importantly, Figure 3-11 of the Project Description specifically identifies the expected development of the Southeast Area, including the location and type of roads to be added to the Proposed Street Network. Figure 3-11 is copied from the General Plan and therefore the roads depicted in the figure are part of the Project. The Draft EIR is intended to review the potential environmental impacts of the Project, rather than justify the City’s underlying policy objective for including the roads in the Project.

The above notwithstanding, the Draft EIR is identified as programmatic on page 1-15 which means that the environmental impact of constructing the roadway network will occur as individual projects are evaluated by the City. However, the eventual completion of the roadway, and its effect on local and regional transportation, are evaluated in the Draft EIR in chapter 5-17, Transportation. Finally, the entire proposed General Plan, including the roadways planned for Focus Area 8 (SEIA) was provided as Attachment 3-1 to the Draft EIR. Thus, the project description in the Draft EIR includes all proposed roadways, including those in Focus Area 8 (SEIA).

A2-6 The commenter states that Section 5.17, *Transportation*, of the DEIR contains no analysis or discussion of the proposed street network, and that Figure 3-11 of the General Plan Update is not included in the DEIR. The commenter states the only references to potential requirement for the construction of new streets is in Policies MA-2.8 New Streets and MA-4.2 Southeast Area Connectivity.

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The road network is a component of the General Plan and development of the network is assumed throughout the DEIR. While the road network is illustrative in terms of precise locations, the physical impacts of the road network have been addressed through compliance with all with South Coast AQMD Rules and Regulations (Page 5.3-13 of Volume 3 General Plan Update included as Appendix 3-1), and standard conditions of approval 5.3-3, 5.3-4, and 5.13-2 that requires a traffic noise study prior to any construction. (See Volume 4, Page 294). See also response to comment A2-5.

A2-7 The commenter states that the DEIR contains no information that the additional streets are needed anywhere in the City, including the SEIA, and that the DEIR does not analyze the potential impacts of constructing the proposed street network. The commenter states that the DEIR does not analyze the complexity of installing new streets given the significant utility infrastructure, railways, and industrial uses. The commenter states the only mention of streets in the DEIR is in Community Mobility Existing Conditions Report which only mentions existing conditions and not the need for future street network expansion.

There is no CEQA requirement to provide evidence that additional streets are necessary. The consideration on whether to specify new streets is a policy decision of the City and the General Plan is the appropriate document to identify those future infrastructure expectations. The need for the additional streets and mobility options is clearly described in the proposed General Plan which was included as Attachment 3-1 to the Draft EIR. See also response to comment A2-5.

A2-8 The commenter states that the DEIR contains no data supporting a conclusion that the proposed street network shown in Figure 3-11 would be effective in mitigating perceived traffic impacts in the SEIA or improving mobility.

See response to comment A2-1.

A2-9 The commenter states that the proposed street network for the Commercial Metals Company (CMC) Property would divide the site into a grid pattern of smaller parcels that would preclude development of the site for a large distribution center/warehouse facility. The commenter states that the proposed street network appears to function as an internal system and does not provide meaningful circulation relief to the larger SEIA.

Commenter expresses an opinion of the proposed road network but does not provide substantial evidence to support the conclusion in the Draft EIR. See also response to comment A2-1. The proposed development of the CMC property is not part of the project and is not required to be analyzed in the Draft EIR. It should be noted that streets serve a broader function than just “circulation relief.” One very important purpose of streets is to provide access, which a denser street network excels at, providing redundancy and network resiliency.

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A2-10 The commenter states that the City appears to be using the DEIR to implement and adopt the proposed street network. The commenter states, however, that the DEIR contains no data to support that the existing SEIA street network is at or near capacity, or that additional street capacity is needed. The commenter states that even though reference is made to the proposed street network on page 5.17-43 of the DEIR, Figure 3-11 is not identified or included in the DEIR.

The proposed street network is included in the Draft General Plan included as Attachment 3-1 to the Draft EIR and is shown in Figure M-8. The Draft EIR is not being used to implement and adopt the proposed street network as it is part of the project being analyzed in the Draft EIR. A determination of the required roadway improvements will be made at the time any future development project is proposed in the SEIA. A traffic impact analysis was prepared in advance of the General Plan Update in support of Ordinance 982 and is included as information to this Final EIR. (See Appendix F-1 to this FEIR) The commenter is referencing a summary list of policies from the General Plan that contains an incorrect reference to Figure 11. Figure 11 should be Figure M-8. This change is noted in the errata to the Draft EIR. See also response to comment A2-1.

A2-11 The commenter states that an EIR's conclusion must be supported by substantial evidence and that a response to comment in the Final EIR cannot fix this deficiency.

The commenter is incorrect as the Draft EIR reviewed and evaluated the entire General Plan as included as Attachment 3-1 to the Draft EIR. The typographical error noted in response to comment A2-10 does not represent a fatal flaw in the EIR as the information was available in the Draft General Plan that was circulated in its entirety with the Draft EIR and referenced from the project description. The additional information referenced in response to comment A2-1 informed the planning process; however, an LOS analysis is unnecessary in a Draft EIR. The resulting street network is fully evaluated in the Draft EIR. As noted above, the road network is a component of the General Plan and development of the network is assumed throughout the DEIR. See also response to comment A2-6.

The road network is a component of the General Plan and development of the network is assumed throughout the DEIR. While the road network is illustrative in terms of precise locations, the physical impacts of the road network have been addressed through compliance with all with South Coast AQMD Rules and Regulations (Page 5.3-13 of Volume 3 General Plan Update included as Appendix 3-1), and standard conditions of approval 5.3-3, 5.3-4, and 5.13-2 that requires a traffic noise study prior to any construction. (See Volume 4, Page 294). See also response to comment A2-5.

A2-12 The commenter states that if the City's intent is to adopt the proposed street network as part of the GP Update, it must state so explicitly in both the General Plan Update and the DEIR and must comprehensively analyze the environmental impacts of the proposed

2. Response to Comments

street network in compliance with CEQA. The commenter states that the City does not do this, and therefore the DEIR is inadequate and incomplete, and the General Plan is ambiguous.

The commenter is incorrect. As noted on page 1-15 of the Draft EIR, this is a programmatic document. The road network depicted in the General Plan is based upon the allowed intensity in the General Plan land use designations. However, future development may ultimately be less intense than the maximum allowed in a given land use designation. Therefore, a detailed analysis of the roads is not appropriate in the program EIR because the future use has not yet been determined and required roadway improvements will be heavily dependent on the type of development that ultimately occurs in the SEIA. Furthermore, the General Plan is the City's policy statement of intended and expected development and infrastructure necessary to support that future development.

The physical impacts of the road network have been addressed through compliance with all with South Coast AQMD Rules and Regulations (Page 5.3-13 of Volume 3 General Plan Update included as Appendix 3-1), and standard conditions of approval 5.3-3, 5.3-4, and 5.13-2 that requires a traffic noise study prior to any construction. (See Volume 4, Page 294). See also response to comment A2-5.

A2-13 The commenter states that adoption of the proposed street network as part of the General Plan Update would be contrary to the City's recently adopted Ordinance No. 982 regarding block network parameters for public streets.

As noted in response to comment A2-6, the General Plan is an illustration of possible road networks. The implementation of the road network system will be governed by Ordinance 982. There is no conflict as the General Plan allows flexibility in location while the Ordinance establishes standards for the block network.

A2-14 The commenter states that the Fehr and Peers Analysis updated in June 2021 was not included in the DEIR and is not characterized in DEIR or General Plan Update as the evidentiary and analytical basis for the City's assumption that expansion of the existing SEIA street network is critical.

See response to comment A2-1. The City has the ability to recommend roadways in the proposed General Plan Update through the planning process. The substantial evidence test applies to the Draft EIR and as noted in both the Draft EIR and this response to comments, the physical and operational impacts of the proposed roadway network were fully evaluated, and standard conditions of approval included to address physical impacts. Appendix F-1 to this Final EIR includes the Fehr and Peers Analysis updated in June 2021 as noted by the commenter. As the Fehr and Peers Analysis informed the policy discussion represented in the figure, and since LOS is no longer an environmental issue, there was

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no need to circulate the document with the Draft EIR. The Fehr and Peers analysis does not raise any environmental issues not already addressed in the Draft EIR.

- A2-15 The commenter states that the Fehr and Peers Analysis is inadequate to support adoption of the proposed street network because the land use assumptions and trip generation estimates used to justify the conclusions overestimate the reality on the ground.

The commenter provides no evidence to suggest that the assumptions in the memorandum are inadequate. Further, as stated in response to comment A2-7, there is no requirement for a City to have substantial evidence to support the rationale for developing components of a planning document or the policy recommendations contained within.

- A2-16 The commenter states that current and pending development proposals in the SEIA are subject to the same trip generation estimate discrepancy when compared to the Fehr and Peers Analysis land use assumptions. The commenter asks what information Fehr and Peers used to arrive at these assumptions.

The comment does not raise an issue regarding the adequacy of the Draft EIR or its conclusions. Level of service is no longer a metric used to determine significant environmental impacts. See also response to comment A2-7.

- A2-17 The commenter states that the Fehr and Peers Analysis calculates trip generation assuming high-cube fulfillment uses which is the highest generator of the high-cube warehousing land use categories throughout the entire SEIA; therefore, the Analysis regarding traffic impacts in the SEIA assumes that 100 percent of the SEIA would be high-cube fulfillment sort uses which the City is contractually prohibiting on a project-level basis. The comment does not raise an issue regarding the adequacy of the Draft EIR or its conclusions. Level of service is no longer a metric used to determine significant environmental impacts. It is important to note that the Fehr and Peers Analysis is a level-of-service analysis, which is no longer considered a significant environmental impact under CEQA. Therefore, any discussion of the merits of the Fehr and Peers Analysis is not based on CEQA, but on policy considerations relating to the need for additional roadway capacity.

See also response to comment A2-7.

- A2-18 The commenter states that the land use assumptions in the Fehr and Peers Analysis do not represent a realistic projection of future development within the SEIA and that they overestimate the industrial market that ignores actual projects and pending proposals. The commenter states that the Analysis places recommended streets in the middle of proposed uses, preventing the buildings from even being built.

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The comment does not raise an issue regarding the adequacy of the Draft EIR or its conclusions. Level of service is no longer a metric used to determine significant environmental impacts. See also response to comment A2-7.

A2-19 The commenter states that the DEIR is inadequate under CEQA to support the adoption and implementation of the proposed street network as part of the General Plan Update, as the DEIR includes no data which supports the proposed street network.

See responses to comment A2-1 through A2-18.

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LETTER A3 –Nossaman, LLP on behalf of Southern California Edison (SCE), Elizabeth Klebaner (7 pages)



ATTORNEYS AT LAW

777 South Figueroa Street
34th Floor
Los Angeles, CA 90017
T 213.612.7800
F 213.612.7801

Elizabeth Klebaner
D 949.477.7682
klebaner@nossaman.com

Refer To File # 190373-0094

VIA EMAIL

October 25, 2021

GP-EIR-Comments@cityofrc.us

Re: Comments of Southern California Edison on General Plan Update and Climate Action Plan DEIR

To Whom It May Concern:

Nossaman LLP is outside counsel to Southern California Edison ("SCE") in connection with the General Plan Update and Climate Action Plan ("Project") proposed by the City of Rancho Cucamonga ("City"). SCE is among the largest property owners in the Southeast Industrial Area of the City and is the owner and operator of the Etiwanda Substation, the Rancho Vista Substation, and the Grapeland Peaker Plant -- all located within the City's industrial core. Accordingly, SCE has a direct interest in the City's planning objectives and policies relating to electric utility infrastructure and the City's proposed redevelopment of the Southeast Industrial Area.

SCE has been working closely with the City to ensure that the City's recently adopted Development Code amendments, the forthcoming General Plan Update and related CEQA documentation take into account the practical and legal development constraints posed by SCE's existing infrastructure and land-holdings and address the potentially significant public health and safety risks of collocating utility, industrial, and non-utility uses. SCE believes that its long-standing collaboration with the City has been fruitful in this regard. SCE would like to support the City's development vision and appreciates this opportunity to provide comments on the General Plan Update and Climate Action Plan Draft Environmental Impact Report ("DEIR"). The following comments identify SCE's concerns regarding the forthcoming General Plan Update and request that the City amend the General Plan Update to strike a more reasonable balance between utility operations and the City's open space objectives and policies. SCE also requests that the City adopt mitigation measures and alternatives that reduce and avoid potentially significant hazards impacts of collocating utility and open space uses.

SCE incorporates by reference its prior comments on the Notice of Preparation of the Project EIR, the General Plan Update, and Ordinance No. 982 and reserves the right to supplement these comments.

These comments and the materials referenced and for which an internet link is provided in these comments are part of the proceeding record and are required to be retained by the City in the event of CEQA litigation. (*Consolidated Irrigation Dist. v. Superior Court* (2012) 205 Cal.App.4th 697, 724-725; *Golden Door Properties, LLC v. Superior Court* (2020) 53 Cal.App.5th 733, 763.)

INTRO

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nossaman.com

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I. THE PROJECT.

The Project includes a sweeping update of the City's current General Plan and a Climate Action Plan, both of which articulate a new development vision for the City. According to the DEIR, the Project would result in a potential net change of 57,566 residents, 25,685 units, 6,802 square feet of retail/commercial space, 9,733 square feet of office space, and 5,122 square feet of industrial and flex space. The Project is intended to affect a transformation of development patterns, densities and intensities, and supporting infrastructure within eight key focus areas within the City. The Southeast Industrial Area is identified in the General Plan Update as Focus Area 8.

INTRO
CONT'D

A. Changes to Utility Corridor Land Use Designation.

The General Plan Update would eliminate the Utility Corridor land use designation from the City's planning documents. Land that is currently designated for Utility Corridor/Flood Control is proposed to be designated General Open Space & Facilities. Of particular concern to SCE is the recommended parkland on a strip of land labeled "Day Creek Channel" in the General Plan and DEIR, and which extends north-south between Etiwanda Heights and 4th Street. (General Plan Fig. OS-1 [Open Space Designations Map]; DEIR, Fig. 3-1 [Degrees of Change Map], Fig. 3-11 [Focus Area 8 Southeast Industrial Area].) The General Plan Update for the first time recommends a park in this location.¹

The current General Plan recognizes that the Flood Control/Utility Corridor designation "includes lands primarily used for flood control purposes and to support public utilities. Improvements typically include flood control channels, drainage basins, and **major utility corridors, such as high-tension electric power transmission lines and towers.**" (*Ibid.*, emphasis added.) Due to obvious conflicts between residential and utility uses, the current land use designation for the Day Creek Channel prohibits habitable structures within the channel.²

A3-1

The new General Open Space & Facilities land use designation for the Day Creek Channel ignores the existing constraints on development within the Day Creek Channel. The General Plan Update provides that "these **public lands**—together with the City's street network—will increasingly become a **single framework publicly accessible open space** that will provide a green citywide network for active transportation and outdoor recreation that connects the neighborhoods and people of Rancho Cucamonga." (General Plan Update, Vol. 2, p. 136, emphasis added.) In a drastic departure from prior development restrictions, the City is also proposing to authorize limited residential uses within the Day Creek Channel. (See *ibid.*)

¹ While the Day Creek Channel has long been designated as a proposed regional multi-purpose trail in the City's Hiking & Riding Trails Master Plan, the development of a trail south of Arrow Route, where the channel enters the Southeast Industrial Area, has been frustrated by utility conflicts. Unlike the proposed General Plan Update and the DEIR, the Trail Implementation Plan also identifies and proposes potential mitigation strategies for conflicts between utility and recreational uses on the Day Creek Trail. Park Implementation Plan, pp.12-13, discussing railroad and gas line constraints where the trail would enter the Southeast Industrial Area, available at <https://www.cityofrc.us/sites/default/files/2020-10/Trail%20Implementation%20Plan.pdf>.

² See General Plan Land Use Element, available at <https://www.cityofrc.us/GeneralPlan>.

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II. THE GENERAL PLAN UPDATE FAILS TO BALANCE THE CITY'S OPEN SPACE OBJECTIVES WITH THE PUBLIC INTEREST OF SAFE AND RELIABILITY UTILITY SERVICE.

SCE supports the City's desire to create a green and pedestrian-friendly urban environment for persons living, working, or recreating in the City. However, the City's current development vision fails to take into account existing utility infrastructure and industrial facilities and fails to address the potential land use conflicts between these established uses and proposed future open space uses. This is particularly true of the Southeast Industrial Area which, as the City has acknowledged in its planning documents, was designated for heavy industrial uses under the City's land use plans and Development Code shortly after the City's incorporation and was continuously zoned for such uses.

Of particular concern to SCE are Open Space policies 2.1 and 2.5, as they fail to balance the interests of public safety and the safe and reliable electricity transmission and generation with other community concerns. To achieve an appropriate balance among existing and potential future uses, SCE respectfully requests that policy Open Space-2.1 be revised as follows:³

Trail Corridors. Extend, improve and complete the multi-purpose trail network, ~~wherever possible, where feasible and in a manner that ensures safe and reliable transmission, storage and generation of electricity,~~ by utilizing existing flood control channel and utility corridor rights-of-way as public trail corridors.

A3-2

SCE requests that policy Open Space-2.5 be revised as follows:

Utility Corridors. Preserve the primary function of utility corridors, including avoiding interference with the safe and reliable transmission, storage and generation of electricity, and while providing every provide reasonable opportunity opportunities for shared public use for active mobility and recreational purposes. With the exception of utility infrastructure, permanent structures are not allowed within utility corridors.

SCE further requests that the following conforming changes be made to the General Open Space & Facilities land use designation in the General Plan Update:

The General Open Space & Facilities designation is applied to lands intended for recreational, educational, public utility, and flood control uses and systems that are typically owned or controlled by the City, other public agencies, and public utility companies. The intent of this designation is that ~~these~~ the publicly-owned lands within this designation – together with the City's street network—will increasingly become a single framework of publicly accessible open space that will provide a green citywide network for active transportation and outdoor recreation that connects the neighborhoods and people of Rancho Cucamonga. On private lands designated General Open Space, to the degree that such uses do not interfere with utility infrastructure or facilities or the safe and reliable generation, storage and transmission of electricity, one residential unit is permitted per 10 acres, with at least one unit permitted on lots less than 10 acres in size.

³ SCE's suggested edits are shown in strikeout and underline.

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III. THE RECOMMENDED PARKLAND WITHIN THE DAY CREEK CHANNEL IS NOT FEASIBLE.

The City's current proposal to exploit utility corridors for parkland and recreational uses is not feasible. SCE owns parcels that comprise the Day Creek Channel and these parcels are improved with transmission infrastructure. The implementation of the General Plan Update to facilitate the development of additional parkland within the Day Creek Channel would, therefore, require SCE's cooperation. This is because SCE is a public utility and its transmission and distribution systems are public uses that are exempt from local land use regulation. (See, California Public Utilities Commission General Order 131-2, Section XIV(B) ("This General Order clarifies that local jurisdictions acting pursuant to local authority are preempted from regulating electric power line projects, distribution lines, substations, or electric facilities constructed by public utilities subject to the Commission's jurisdiction.") It is highly unlikely that SCE would ever dedicate parkland or license this property for parkland and recreational uses because the utility corridor within the Day Creek Channel is essential to SCE's existing and future operations.

A3-3

Even if the City were to take the position that it could acquire the subject parcels by eminent domain, CEQA compels the City to consider less costly alternatives to the Project. (See Cal. Code Regs., tit. 14 ["CEQA Guidelines"], § 15126.6, subd. (c) ["The range of potential alternatives to the proposed project shall include those that could feasible accomplish most of the basic objectives of the project and could avoid and substantially lessen one or more of the significant effects . . ."] and Pub. Resources Code, § 21061.1 ["'Feasible' means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." Emphasis added]; see also CEQA Guidelines, § 15364 [defining feasibility].)

IV. THE DEIR FAILS TO ESTABLISH AN ADEQUATE ENVIRONMENTAL SETTING FOR PURPOSES OF THE CITY'S HAZARDS IMPACTS ANALYSIS.

"An EIR must include a description of the physical environmental conditions in the vicinity of the project. This environmental baseline will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant." (CEQA Guidelines, § 15125, subd. (a).) "The purpose of this requirement is to give the public and decision makers the most accurate and understandable picture practically possible of the project's likely near-term and long-term impacts." (*Ibid.*) Where the project involves changes to existing planning or zoning designations, the environmental setting constitutes the existing physical environment, not the hypothetical buildout under existing land use designations. (*Baldwin v. City of Los Angeles* (1990) 70 Cal.App.4th 819, 842 [where the project involves changes to existing planning or zoning designations, the environmental setting constitutes the existing physical environment]; see also *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 320 [CEQA precludes lead agencies from relying on a hypothetical baseline that would mask the project's true impacts] ["CBE v. SCAQMD"]; CEQA Guidelines, § 15125 subd. (a)(1).)

A3-4

There is only one reference in the DEIR to an existing utility corridor within the Day Creek Channel. (See DEIR, Fig. 5.16-1 [Natural Open Space]). In fact, the Day Creek Channel supports a 500kV above-ground transmission line. The Lugo-Rancho Vista 500kV transmission line extends through the Day Creek Channel north of the Rancho Vista Substation and the Mira

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Loma-Rancho Vista 500kV transmission line extends through the Day Creek Channel south of the Rancho Vista Substation. The existing transmission infrastructure was required to be identified as a component of the existing conditions for purposes of the City's CEQA analysis. (See *CBE v. SCAQMD*, *supra*, 48 Cal.4th at p. 310; see also; *Save Our Peninsula Comm. v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 125.) The City's failure to identify existing transmission infrastructure within the Project setting violates CEQA and renders the DEIR fundamentally inadequate because it precludes informed public comment.

A3-4

CONT'D

V. THE DEIR FAILS TO IDENTIFY AND ADDRESS POTENTIALLY SIGNIFICANT PUBLIC HAZARDS IMPACTS.

CEQA requires public agencies to identify and mitigate a project's direct and indirect adverse effects on human beings. (Pub. Resources Code, § 21083, subd. (b)(3).) As the California Supreme Court held in *California Building Industry Association v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, agencies "subject to CEQA generally are not required to analyze the impact of existing environmental conditions on a project's future users or residents. **But when a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must analyze the potential impact of such hazards on futures residents or users.**" (Emphasis added.) "In those specific instances, it is the *project's* impact on the environment—and not the *environment's* impact on the project—that compels an evaluation of how future residents or users could be affected by exacerbated conditions." (*Id.* at pp. 377-378, emphasis in original.)

Additionally, in evaluating the Project's potentially significant impacts on the environment, the City may not reflexively apply the thresholds of significance listed in Appendix G to the CEQA Guidelines without regard to whether those standards are even relevant to or broad enough to encompass the scope of the project at issue. (See *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109.) That is exactly what the City has done here.

A3-5

"In preparing an EIR, the agency must consider and resolve every fair argument that can be made about the possible significant environmental effects of a project, irrespective of whether an established threshold of significance has been met with respect to any given effect." (*Ibid.*) Here, electrocution risk is relevant to the City's CEQA analysis because the City is proposing to authorize permanent structures, residences and recreational uses in proximity to high-voltage transmission lines.⁴ (See *ibid.*) Accordingly, the City was required but failed to address the potential for the Project to expose people or structures to significant risks of electric shock as a result of the collocation of high-tension transmission lines and transmission towers and recreational uses. (See DEIR, p. 5.20-20, Significance Threshold W-4 ["The project would normally have a significant effect on the environment if the project would Expose people or structures to significant risks"].)

⁴ For example, the California Public Utilities Commission routinely analyzes electric shock impacts related to siting and operating transmission infrastructure as part of a hazards impacts analysis. (See, e.g., Southern California Edison's Transmission Line Reliability Project Subsequent Environmental Impact Report, available at <https://ia.cpuc.ca.gov/environment/info/panoramaenv/RTRP/index.html#DSEIR>.)

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By virtue of locating recreational uses adjacent to high-voltage transmission lines, the Project exacerbates existing electrocution risks. CEQA requires the City to identify and avoid this potentially significant environmental impact. (See *California Building Industry Association v. Bay Area Air Quality Management Dist.*, *supra*, 62 Cal.4th at p. 389.) In this regard, the DEIR fails to satisfy CEQA's requirements.

A3-5
CONT'D

VI. THE CITY IS REQUIRED TO CONSIDER PROJECT ALTERNATIVES THAT REDUCE OR AVOID ELECTROCUTION RISK.

An EIR must describe a reasonable range of project alternatives sufficient to permit informed decision making and public participation. (Pub. Resources Code, § 21002; CEQA Guidelines, § 15126.6.) Here, the City's failure to consider alternative locations for new parkland violates CEQA and prejudices public decision making because parkland that is located outside of transmission corridors would both, better attain a greater number of the Project's objectives than the proposed Project and avoid one or more of the Project's potentially significant impacts on the environment. (See *Citizens of Goleta Valley v. Bd. of Supervisors* (1988) 197 Cal.App.3d 1167 [rule of reason dictates whether CEQA requires consideration of alternative locations for development]; see also Kostka & Zischke, *Practice Under the California Environmental Quality Act* (2d Ed. 2020) § 15.26, p. 15-34 ["A proposal to change a site's land use designation raises issues that make consideration of alternative sites particularly relevant. A proposed change in allowed uses raises a policy question as to whether the site is appropriate for the new use. Resolution of this question depends on a comparison of the advantages and disadvantages of the site with other sites that are or could be designated for the same use."].)

A3-6

VII. THE DEIR FAILS TO IDENTIFY FEASIBLE AVOIDANCE AND MITIGATION MEASURES TO ADDRESS POTENTIALLY SIGNIFICANT HAZARD IMPACTS.

An EIR must describe feasible mitigation measures that can minimize the project's significant environmental effects. (CEQA Guidelines, §§ 15121, subd. (a), 15126.4, subd. (a).) The lead agency's duties under CEQA to consider a reasonable range of feasible project alternatives and adopt enforceable mitigation measures capable of reducing and avoiding potentially significant impacts are not disjunctive; an EIR must discuss alternatives even if all the project's potentially significant environmental impacts will be avoided or reduced by mitigation measures. (*Laurel Heights Improvement Ass'n. v. Regents of University of Cal.* (1988) 47 Cal.3d 376, 403.) Accordingly, in addition to revising the DEIR to include alternative locations for new parkland, SCE respectfully requests that the City include the following project design features or mitigation measures in the EIR to address the Project's potentially significant hazards impacts:

A3-7

1. With respect to all open space, recreational, or parkland uses, the City will ensure through project design features and conditions of approval that SCE has 24/7 downline access by SCE facilities and operations.
2. With respect to parkland proposed within utility corridors, anti-climbing sharks teeth style barriers, or their equivalent, shall be installed on all transmission towers. Anti-climbing devices shall conform to the California Public Utilities Commission guidance that is in effect at the time of parkland project implementation. The cost of anti-climbing guards and installation shall be borne by the City.

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3. Any proposed trees within utility corridors should be maintained at a height not to exceed 15 feet.
4. Permanent structures, community gardens, soccer fields and other recreational structures and improvements are prohibited within utility corridors.
5. SCE shall be notified in writing of any proposal to locate parkland or recreational uses within a utility corridor. SCE's written approval of such uses shall be obtained prior to the issuance of any CEQA approval or permit or other ministerial or discretionary City approval.

A3-7
CONT'D

VIII. OTHER COMMENTS.

A. The Project Circulation Network

The Project DEIR Table 3.3 (Land Use Development Projections by Focus Area and Remainder of City for Buildout) omits lands use development projections for Focus Area 8. (See DEIR, p. 3-10.) This omission raises questions regarding the City's conclusion that new public streets are necessary to support the anticipated level of development in Focus Area 8.

A3-8

B. Climate Action Plan.

The Climate Action Plan identifies community choice among the key strategies for the attainment of the City's target greenhouse gas emissions reductions. SCE follows the CCA Code of Conduct with respect to Community Choice Aggregation. SCE does not lobby or market against CCA formation, but only provides factual information about SCE's programs and rates. SCE supports customer choice as long as: 1) all customers are treated fairly and customer indifference is maintained, and 2) grid reliability and safety are preserved. SCE is available to answer questions the City may have, within the bounds of the Code of Conduct.

A3-9

IX. CONCLUSION.

Thank you for this opportunity to submit comments on the General Plan update and the associated DEIR.

Sincerely,



Elizabeth Klebaner
Nossaman LLP

LK:
cc: Jennifer Nakamura (Jennifer.Nakamura@CityofRC.us)

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2. Response to Comments

A3. Response to Comments from Nossaman, LLP on behalf of Southern California Edison (SCE), Elizabeth Klebaner, dated October 25, 2021.

INTRO The comment states that Southern California Edison is among the largest property owners in the Southeast Industrial Area, and is the owner and operator of the Etiwanda Substation, the Rancho Vista Substation, and the Grapeland Peaker Plant. The Commenter summarizes the project description.

The comment serves as an introduction to the comments that follow. Please see responses to Comments A3-1 through A3-9.

A3-1 The commenter states the recommendation of a park on Day Creek Channel is being mentioned for the first time in the General Plan Update, and that the new General Open Space and Facilities land use designation within Day Creek Channel ignores existing constraints on development and would authorize limited residential uses within the Day Creek Channel.

The comment does not raise an issue regarding the adequacy of the Draft EIR or its conclusions.

A3-2 The commenter states that the City's current development vision fails to take into account existing utility infrastructure and industrial facilities and fails to address the potential land use conflicts between these established uses and proposed future open space uses. The commenter suggests changes to Policies OS-2.1 and OS-2.5 to achieve an appropriate balance among existing and potential future uses, and to the Open Space and Facilities land use designation.

Based on discussions with Southern California Edison, the following policy has been added to address this comment (See Section 3.2 of this Final EIR):

RC-7.15 Utility Preservation. Public and private development within the City, including multi-purpose trails, shall not interfere with safe and reliable transmission, storage, and generation of electricity. With the exception of utility infrastructure and other public improvements that do not interfere with such infrastructure, permanent structures are not allowed within utility corridors.

In addition, the standard conditions of approval were modified to include the following:

5.10-1. With respect to all open space, recreational, or parkland uses, the City will ensure through project design features and conditions of approval that SCE has 24/7 downline access by SCE facilities and operations.

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- 5.10-2. With respect to parkland proposed within utility corridors, anti-climbing sharks teeth style barriers, or their equivalent, shall be installed on all transmission towers. Anti-climbing devices shall conform to the California Public Utilities Commission guidance that is in effect at the time of parkland project implementation. The cost of anti-climbing guards and installation shall be borne by the project proponent.
- 5.10-3. Any proposed trees within utility corridors should be maintained at a height not to exceed 15 feet.
- 5.10-4. With the exception of utility infrastructure and other public improvements that do not interfere with such infrastructure, permanent structures are not allowed within utility corridors.
- 5.10-5. SCE shall be notified in writing of any proposal to locate parkland or recreational uses within a utility corridor. If the use is located on SCE property or if otherwise required by law or the terms of a utility easement, SCE's written approval of such uses shall be obtained prior to the issuance of any CEQA approval or permit or other ministerial or discretionary City approval.

These changes to the General Plan do not affect the analysis in the Draft EIR, but do address the concerns of the commenter regarding future uses of the utility corridor.

- A3-3 The commenter states that Southern California Edison owns parcels that comprise the Day Creek Channel which are improved with transmission infrastructure, and therefore, it is unlikely that Southern California Edison would dedicate parkland/recreational uses on this property because the utility corridor within Day Creek Channel is essential to Southern California's existing and future operations. The commenter states that even if the City could acquire these parcels from Southern California Edison, CEQA compels the City to consider less costly alternatives.

The comment does not raise an issue regarding the adequacy of the Draft EIR or its conclusions. Nevertheless, the City has agreed to remove the park designation on the Day Creek Channel and the General Plan Update has been revised accordingly.

- A3-4 The commenter states that the failure to identify existing transmission infrastructure within the project setting violates CEQA and renders the DEIR inadequate because it precludes informed public comment. The commenter indicates that there is only one reference in the DEIR to an existing utility corridor within the Day Creek Channel, however, the Day Creek Channel supports a 500kV above-ground transmission line, the Lugo-Rancho Vista 500kV transmission line extends through the Day Creek Channel north of the Rancho Vista Substation and the Mira Loma-Rancho Vista 500kV transmission line extends through the Day Creek Channel south of the Rancho Vista Substation.

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The proposed General Plan neither changes the corridor nor the uses near it. In fact, nowhere in the proposed General Plan is there a policy that would change the location or use of existing utilities in the City. The Draft EIR evaluates proposed general plan changes as summarized in the project description and included as Appendix 3-1 to the Draft EIR. There is no requirement to identify the location of every power line, water line, or other utility in a programmatic EIR for a General Plan.

- A3-5 The commenter states that the DEIR fails to identify and address potentially significant public hazards impacts, specifically electrocution risk, since the City is proposing to authorize permanent structures, residences, and recreational uses in proximity to high-voltage transmission lines. The commenter states that locating recreational uses adjacent to high-voltage transmission lines exacerbates existing electrocution risks.

See response to comment A3-2. Further, the commenter raises a potential impact of the existing environment on the Project, the analysis of which is not required by CEQA. Furthermore, the only realistic ways that an individual could electrocute themselves on SCE infrastructure would be if an individual trespasses on SCE property or in the event of an unexpected and catastrophic severance of the power line, both of which are speculative occurrences. The Project does not exacerbate the risk of these occurrences to any significant degree.

- A3-6 The commenter states that the City is required to consider project alternatives that reduce or avoid electrocution risk, and that the City's failure to consider alternative locations for new parkland violates CEQA and prejudices public decision making.

See response to comment A3-2 and A3-5.

- A3-7 The commenter states that the DEIR fails to identify feasible avoidance and mitigation measures to address potentially significant hazard impacts, and requests that the City include the suggested project design features or mitigation measures.

See response to comment A3-2.

- A3-8 The commenter states that the omission of land use development projects for Focus Area 8 in Table 3-3, *Land Use Development Projections by Focus Area and Remainder of City for Buildout*, of the DEIR, raises questions regarding the City's conclusion that new public streets are necessary to support the anticipated level of development in Focus Area 8.

See response to comment A2-1.

- A3-9 The commenter states that the Climate Action Plan identifies community choice as a strategy to reduce greenhouse gas emissions, and that Southern California Edison does not lobby or market against Community Choice Aggregation and supports customer choice as long as customers are treated fairly, and grid reliability and safety are preserved. The commenter states that Southern California Edison is available to answer the City's

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questions regarding the Code of Conduct with respect to Community Choice Aggregation.

The opportunity to discuss Southern California Edison's Code of Conduct with respect to Community Choice Aggregation is noted. This comment will be forwarded onto the decision-makers for their consideration.

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LETTER A4 – Mitchell M. Tsai, Attorney at Law on behalf of the Southwest Regional Council of Carpenters, Mitchell M. Tsai (44 pages)



P: (626) 381-9248
F: (626) 389-5414
E: info@mitchtsailaw.com

Mitchell M. Tsai
Attorney At Law

139 South Hudson Avenue
Suite 200
Pasadena, California 91101

VIA E-MAIL

November 3, 2021

Jennifer Nakamura
City of Rancho Cucamonga
10500 Civic Center Drive
Rancho Cucamonga, CA 91730
Em: Jennifer.nakamura@cityofrc.us
GP-EIR-Comments@cityofrc.us

RE: City of Ranch Cucamonga PlanRC General Plan Update – Comments on Draft Environmental Impact Report

Dear Jennifer Nakamura,

On behalf of the Southwest Regional Council of Carpenters (“**Commenters**” or “**Southwest Carpenters**”), my Office is submitting these comments on the City of Rancho Cucamonga’s (“**City**” or “**Lead Agency**”) Draft Environmental Impact Report (“**DEIR**”) (SCH No. 2021050261) for the proposed PlanRC update to the City’s General Plan (“**Project**”).

The City proposes to adopt the Project, which would increase the City’s projected future population, available residential units, and jobs in comparison to the current General Plan. As part of the Project, the City would also update its Development Code and adopt a Climate Action Plan.

The Southwest Carpenters is a labor union representing more than 50,000 union carpenters in six states and has a strong interest in well ordered land use planning and addressing the environmental impacts of development projects.

Individual members of the Southwest Carpenters live, work, and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

Commenters expressly reserve the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens*

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for Local Control v. Bakersfield (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Commenters incorporate by reference all comments raising issues regarding the EIR submitted prior to certification of the EIR for the Project. *Citizens for Clean Energy v City of Woodland* (2014) 225 Cal. App. 4th 173, 191 (finding that any party who has objected to the Project’s environmental documentation may assert any issue timely raised by other parties).

Moreover, Commenters request that the Lead Agency provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (“CEQA”), Cal Public Resources Code (“PRC”) § 21000 *et seq.*, and the California Planning and Zoning Law (“**Planning and Zoning Law**”), Cal. Gov’t Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency’s governing body.

INTRO
CONT'D

I. THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

A. Background Concerning the California Environmental Quality Act

CEQA has two basic purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 California Code of Regulations (“CCR” or “CEQA Guidelines”) § 15002(a)(1).¹ “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’ [Citation.]” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564. The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal.

A4-1

¹ The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 150000 *et seq.*, are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. (Cal. Pub. Res. Code § 21083.) The CEQA Guidelines are given “great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous.” *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal. 4th 204, 217.

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App. 4th 1344, 1354 (“*Berkeley Jets*”); *County of Inyo v. Yorty* (1973) 32 Cal. App. 3d 795, 810.

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. CEQA Guidelines § 15002(a)(2) and (3). *See also, Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Ass’n v. Regents of the University of California* (1988) 47 Cal.3d 376, 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” CEQA Guidelines § 15002(a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in CEQA section 21081. CEQA Guidelines § 15092(b)(2)(A–B).

While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position.’ A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” *Berkeley Jets*, 91 Cal.App.4th 1344, 1355 (emphasis added) (quoting *Laurel Heights*, 47 Cal.3d at 391, 409 fn. 12). Drawing this line and determining whether the EIR complies with CEQA’s information disclosure requirements presents a question of law subject to independent review by the courts. *Sierra Club v. Cnty. of Fresno* (2018) 6 Cal. 5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131. As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355:

A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the

A4-1
CONT'D

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project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Communities for a Better Environment v. Richmond* (2010) 184 Cal. App. 4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449–450).

A4-1
CONT'D

B. CEQA Requires Revision and Recirculation of an Environmental Impact Report When Substantial Changes or New Information Comes to Light

Section 21092.1 of the California Public Resources Code requires that “[w]hen significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 ... but prior to certification, the public agency shall give notice again pursuant to Section 21092, and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report” in order to give the public a chance to review and comment upon the information. CEQA Guidelines § 15088.5.

Significant new information includes “changes in the project or environmental setting as well as additional data or other information” that “deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative).” CEQA Guidelines § 15088.5(a). Examples of significant new information requiring recirculation include “new significant environmental impacts from the project or from a new mitigation measure,” “substantial increase in the severity of an environmental impact,” “feasible project alternative or mitigation measure considerably different from others previously analyzed” as well as when “the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.” *Id.*

A4-2

An agency has an obligation to recirculate an environmental impact report for public notice and comment due to “significant new information” regardless of whether the agency opts to include it in a project’s environmental impact report. *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 95 [finding that in light of a new expert report disclosing potentially significant impacts to groundwater supply “the EIR should have been revised and recirculated for purposes of informing the public and governmental agencies of the volume of groundwater at risk and to allow the public and governmental agencies to respond to such information.”]. If significant new information was brought to the attention of an agency prior to certification, an agency

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is required to revise and recirculate that information as part of the environmental impact report.

A4-2

CONT'D

C. Due to the COVID-19 Crisis, the City Must Adopt a Mandatory Finding of Significance that the Project May Cause a Substantial Adverse Effect on Human Beings and Mitigate COVID-19 Impacts

CEQA requires that an agency make a finding of significance when a Project may cause a significant adverse effect on human beings. PRC § 21083(b)(3); CEQA Guidelines § 15065(a)(4).

Public health risks related to construction work requires a mandatory finding of significance under CEQA. Construction work has been defined as a Lower to High-risk activity for COVID-19 spread by the Occupations Safety and Health Administration. Recently, several construction sites have been identified as sources of community spread of COVID-19.²

SWRCC recommends that the Lead Agency adopt additional CEQA mitigation measures to mitigate public health risks from the Project's construction activities. SWRCC requests that the Lead Agency require safe on-site construction work practices as well as training and certification for any construction workers on the Project Site.

A4-3

In particular, based upon SWRCC's experience with safe construction site work practices, SWRCC recommends that the Lead Agency require that while construction activities are being conducted at the Project Site:

Construction Site Design:

- The Project Site will be limited to two controlled entry points.
- Entry points will have temperature screening technicians taking temperature readings when the entry point is open.
- The Temperature Screening Site Plan shows details regarding access to the Project Site and Project Site logistics for conducting temperature screening.

² Santa Clara County Public Health (June 12, 2020) COVID-19 CASES AT CONSTRUCTION SITES HIGHLIGHT NEED FOR CONTINUED VIGILANCE IN SECTORS THAT HAVE REOPENED, available at <https://www.sccgov.org/sites/covid19/Pages/press-release-06-12-2020-cases-at-construction-sites.aspx>.

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- A 48-hour advance notice will be provided to all trades prior to the first day of temperature screening.
- The perimeter fence directly adjacent to the entry points will be clearly marked indicating the appropriate 6-foot social distancing position for when you approach the screening area. Please reference the Apex temperature screening site map for additional details.
- There will be clear signage posted at the project site directing you through temperature screening.
- Provide hand washing stations throughout the construction site.

Testing Procedures:

- The temperature screening being used are non-contact devices.
- Temperature readings will not be recorded.
- Personnel will be screened upon entering the testing center and should only take 1-2 seconds per individual.
- Hard hats, head coverings, sweat, dirt, sunscreen or any other cosmetics must be removed on the forehead before temperature screening.
- Anyone who refuses to submit to a temperature screening or does not answer the health screening questions will be refused access to the Project Site.
- Screening will be performed at both entrances from 5:30 am to 7:30 am.; main gate [ZONE 1] and personnel gate [ZONE 2]
- After 7:30 am only the main gate entrance [ZONE 1] will continue to be used for temperature testing for anybody gaining entry to the project site such as returning personnel, deliveries, and visitors.
- If the digital thermometer displays a temperature reading above 100.0 degrees Fahrenheit, a second reading will be taken to verify an accurate reading.

A4-3
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- If the second reading confirms an elevated temperature, DHS will instruct the individual that he/she will not be allowed to enter the Project Site. DHS will also instruct the individual to promptly notify his/her supervisor and his/her human resources (HR) representative and provide them with a copy of Annex A.

Planning

- Require the development of an Infectious Disease Preparedness and Response Plan that will include basic infection prevention measures (requiring the use of personal protection equipment), policies and procedures for prompt identification and isolation of sick individuals, social distancing (prohibiting gatherings of no more than 10 people including all-hands meetings and all-hands lunches) communication and training and workplace controls that meet standards that may be promulgated by the Center for Disease Control, Occupational Safety and Health Administration, Cal/OSHA, California Department of Public Health or applicable local public health agencies.³

A4-3
CONT'D

The United Brotherhood of Carpenters and Carpenters International Training Fund has developed COVID-19 Training and Certification to ensure that Carpenter union members and apprentices conduct safe work practices. The Agency should require that all construction workers undergo COVID-19 Training and Certification before being allowed to conduct construction activities at the Project Site.

D. The DEIR Fails to Support Its Findings with Substantial Evidence

When new information is brought to light showing that an impact previously discussed in the DEIR but found to be insignificant with or without mitigation in the DEIR's analysis has the potential for a significant environmental impact supported by substantial evidence, the EIR must consider and resolve the conflict in the evidence. See *Visalia Retail, L.P. v. City of Visalia* (2018) 20 Cal. App. 5th 1, 13, 17; see also *Protect*

A4-4

³ See also The Center for Construction Research and Training, North America's Building Trades Unions (April 27 2020) NABTU and CPWR COVID-19 Standards for U.S. Construction Sites, available at https://www.cpw.com/sites/default/files/NABTU_CPWR_Standards_COVID-19.pdf; Los Angeles County Department of Public Works (2020) Guidelines for Construction Sites During COVID-19 Pandemic, available at https://dpw.lacounty.gov/building-and-safety/docs/pw_guidelines-construction-sites.pdf.

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the Historic Amador Waterways v. Amador Water Agency (2004) 116 Cal. App. 4th 1099, 1109. While a lead agency has discretion to formulate standards for determining significance and the need for mitigation measures—the choice of any standards or thresholds of significance must be “based to the extent possible on scientific and factual data and an exercise of reasoned judgment based on substantial evidence. CEQA Guidelines § 15064(b); *Cleveland Nat'l Forest Found. v. San Diego Ass'n of Gov'ts* (2017) 3 Cal. App. 5th 497, 515; *Mission Bay Alliance v. Office of Community Inv. & Infrastructure* (2016) 6 Cal. App. 5th 160, 206. And when there is evidence that an impact could be significant, an EIR cannot adopt a contrary finding without providing an adequate explanation along with supporting evidence. *East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal. App. 5th 281, 302.

A4-4
CONT'D

In addition, a determination that regulatory compliance will be sufficient to prevent significant adverse impacts must be based on a project-specific analysis of potential impacts and the effect of regulatory compliance. *Californians for Alternatives to Toxics v. Department of Food & Agric.* (2005) 136 Cal. App. 4th 1; see also *Ebbetts Pass Forest Watch v. Department of Forestry & Fire Protection* (2008) 43 Cal. App. 4th 936, 956 (fact that Department of Pesticide Regulation had assessed environmental effects of certain herbicides in general did not excuse failure to assess effects of their use for specific timber harvesting project).

1. *The DEIR Fails to Support its Findings on Air Quality Impacts with Substantial Evidence.*

Here, the DEIR's analysis of Air Quality impacts is unsupported by substantial evidence, as it relies on outdated modeling. The DEIR's analysis of Air Quality impacts throughout the DEIR relies on data created using CalEEMod version 2016.3.2. (See, e.g., DEIR, 5.3-46). A newer version of this software (currently CalEEMod version 2020.4.0) became available prior to the release of the DEIR, and was available at the time the City issued its Notice of Preparation for the DEIR. The DEIR provides no discussion or justification for use of the outdated 2016 version of the software. The use of outdated modeling software may result in underestimation of the Project's air pollutant emissions, calling the DEIR's conclusions into question.

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2. *The Standard Conditions of Approval Identified in the DEIR Should be Adopted as Mitigation Measures*

The DEIR identifies “Standard Conditions of Approval” which the DEIR purports will reduce environmental impacts. *See, e.g.*, DEIR, 1-17 through 1-35. Many of the DEIR’s conclusions regarding mitigation of environmental impacts below levels of significance rely on the implementation of these PDFs, and that as such no additional mitigation is required.

However, it is established that “[a]voidance, minimization and / or mitigation measure’ . . . are not ‘part of the project.’ . . . compressing the analysis of impacts and mitigation measures into a single issue . . . disregards the requirements of CEQA.” *Lotus v. Department of Transportation* (2014) 223 Cal. App. 4th 645, 656.

When “an agency decides to incorporate mitigation measures into its significance determination, and relies on those mitigation measures to determine that no significant effects will occur, that agency must treat those measures as though they were adopted following a finding of significance.” *Lotus, supra*, 223 Cal. App. 4th at 652 [citing CEQA Guidelines § 15091(a)(1) and Cal. Public Resources Code § 21081(a)(1)].

By labeling mitigation measures as Standard Conditions of Approval, the City violates CEQA by failing to disclose “the analytic route that the agency took from the evidence to its findings.” Cal. Public Resources Code § 21081.5; CEQA Guidelines § 15093; *Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal. App. 3d 1022, 1035 (quoting *Topanga Assn for a Scenic Community v. County of Los Angeles* (1974) 11 Cal. 3d 506, 515).

The DEIR fails to justify with substantial evidence why mitigation measures should not be adopted at the Program EIR level for mandatory implementation in later development projects. It simply states that its Standard Conditions, in addition to future environmental review of developments within the Project area, will mitigate the Project’s impacts below the level of significance. However, the City recognizes that these Standard Conditions are mitigation measures meant to lessen the environmental impacts of the Project and future developments and actions taken in the Project Area. At several points, the DEIR explicitly states that these Standard Conditions are in fact mitigation measures. (*See, e.g.*, DEIR at pp. 5.5-23 through 5.5-24, 5.7-21, 5.13-18, 5.13-24 through 5.13-25, 5.13-31, 5.13-35.) The DEIR should also recognize the

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remaining Standard Conditions of Approval as CEQA mitigation measures, and adopt them accordingly.

The DEIR's use of Standard Conditions of Approval further violates CEQA because such measures would not be included in the Project's Mitigation Monitoring and Reporting Program. CEQA requires lead agencies to adopt mitigation measures that are fully enforceable and to adopt a monitoring and/or reporting program to ensure that the measures are implemented to reduce the Project's significant environmental effects to the extent feasible. PRC § 21081.6; CEQA Guidelines § 15091(d). Though they are presumably enforceable by the City as regulatory requirements, the Standard Conditions of Approval should be properly adopted as mitigations and subject to a mitigation monitoring and reporting program under CEQA.

A4-6
CONT'D

E. The DEIR Fails to Consider Feasible Mitigation Measures

1. *The City Should Consider the Adoption of Community Benefits to Mitigate Significant Environmental Impacts*

In order to mitigate the Project's environmental impacts, the City should require that future projects developed pursuant to this specific plan Project provide additional community benefits such as requiring local hire and use of a skilled and trained workforce to build such projects. The City should require the use of workers who have graduated from a Joint Labor Management apprenticeship training program approved by the State of California, or have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state approved apprenticeship training program or who are registered apprentices in an apprenticeship training program approved by the State of California.

A4-7

Community benefits such as local hire and skilled and trained workforce requirements can also be helpful to reduce environmental impacts and improve the positive economic impact of development projects. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of a project site can reduce the length of vendor trips, reduce greenhouse gas emissions and providing localized economic benefits. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of a project site can reduce the length of vendor trips, reduce greenhouse gas emissions and providing localized economic benefits. As environmental consultants Matt Hagemann and Paul E. Rosenfeld note:

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[A]ny local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

A4-8
CONT'D

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling.

Skilled and trained workforce requirements promote the development of skilled trades that yield sustainable economic development. As the California Workforce Development Board and the UC Berkeley Center for Labor Research and Education concluded:

. . . labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well trained workers are key to delivering emissions reductions and moving California closer to its climate targets.⁴

A4-9

Recently, on May 7, 2021, the South Coast Air Quality Management District found that that the “[u]se of a local state-certified apprenticeship program or a skilled and trained workforce with a local hire component” can result in air pollutant reductions.⁵

Cities are increasingly adopting local skilled and trained workforce policies and requirements into general plans and municipal codes. For example, the City of Hayward 2040 General Plan requires the City to “promote local hiring . . . to help achieve a more positive jobs-housing balance, and reduce regional commuting, gas consumption, and greenhouse gas emissions.”⁶

In fact, the City of Hayward has gone as far as to adopt a Skilled Labor Force policy into its Downtown Specific Plan and municipal code, requiring developments in its

⁴ California Workforce Development Board (2020) Putting California on the High Road: A Jobs and Climate Action Plan for 2030 at p. ii, available at <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>

⁵ South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, available at <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>

⁶ City of Hayward (2014) Hayward 2040 General Plan Policy Document at p. 3-99, available at https://www.hayward-ca.gov/sites/default/files/documents/General_Plan_FINAL.pdf.

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Downtown area to requiring that the City “[c]ontribute to the stabilization of regional construction markets by spurring applicants of housing and nonresidential developments to require contractors to utilize apprentices from state-approved, joint labor-management training programs, . . .”⁷ In addition, the City of Hayward requires all projects 30,000 square feet or larger to “utilize apprentices from state-approved, joint labor-management training programs.”⁸

A4-9
CONT'D

Locating jobs closer to residential areas can have significant environmental benefits. As the California Planning Roundtable noted in 2008:

People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.⁹

In addition, local hire mandates as well as skill training are critical facets of a strategy to reduce vehicle miles traveled. As planning experts Robert Cervero and Michael Duncan noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions since the skill requirements of available local jobs must be matched to those held by local residents.¹⁰ Some municipalities have tied local hire and skilled and trained workforce policies to local development permits to address transportation issues. As Cervero and Duncan note:

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In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing.” The city’s First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When needed, these carrots are matched by sticks, since the city is not shy about

⁷ City of Hayward (2019) Hayward Downtown Specific Plan at p. 5-24, available at <https://www.hayward-ca.gov/sites/default/files/Hayward%20Downtown%20Specific%20Plan.pdf>.

⁸ City of Hayward Municipal Code, Chapter 10, § 28.5.3.020(C).

⁹ California Planning Roundtable (2008) Deconstructing Jobs-Housing Balance at p. 6, available at <https://cprroundtable.org/static/media/uploads/publications/cpr-jobs-housing.pdf>

¹⁰ Cervero, Robert and Duncan, Michael (2006) Which Reduces Vehicle Travel More: Jobs-Housing Balance or Retail-Housing Mixing? Journal of the American Planning Association 72 (4), 475-490, 482, available at <http://reconnectingamerica.org/assets/Uploads/UTCT-825.pdf>

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negotiating corporate participation in First Source as a condition of approval for development permits.

Commenters' arguments above regarding the merits and benefits of local hiring and skilled and trained workforce policies were also included in Commenters' comments on the City's Notice of Preparation. The DEIR states that this is "not a CEQA issue." (DEIR, 2-2.) However, these provisions clearly have the ability to mitigate many negative environmental impacts, including air pollutant emissions, greenhouse gas emissions, and VMT. The City should reconsider utilizing skilled and trained workforce policies and requirements to benefit the local area economically and mitigate greenhouse gas, air quality and transportation impacts.

A4-10
CONT'D

2. *The DEIR is Required to Consider and Adopt All Feasible Air Quality and GHG Emissions Mitigation Measures*

A fundamental purpose of an EIR is to identify ways in which a proposed project's significant environmental impacts can be mitigated or avoided. Pub. Res. Code §§ 21002.1(a), 21061. To implement this statutory purpose, an EIR must describe any feasible mitigation measures that can minimize the project's significant environmental effects. PRC §§ 21002.1(a), 21100(b)(3); CEQA Guidelines §§ 15121(a), 15126.4(a).

If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has "eliminated or substantially lessened all significant effects on the environment where feasible"¹¹ and find that "specific overriding economic, legal, social, technology or other benefits of the project outweigh the significant effects on the environment."¹² "A gloomy forecast of environmental degradation is of little or no value without pragmatic, concrete means to minimize the impacts and restore ecological equilibrium." *Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal.App.4th 1018, 1039.

A4-11

Here, the DEIR finds that the Project will have significant and unavoidable impacts on air quality and greenhouse gas emissions, yet proposes mitigation measures that fall short of the "all feasible mitigation measures" standard set by CEQA. Standard Condition of Approval 5.3-2 requires future developments to employ U.S. EPA Tier 3 or Tier 4 construction equipment. However, the DEIR fails to justify with substantial evidence why U.S. EPA Tier 4 Final-compliant should not be required. Further,

¹¹ PRC §§ 21002; 21002.1, 21081; CEQA Guidelines §§ 15091, 15092(b)(2)(A).

¹² PRC §§ 21002; 21002.1, 21081; CEQA Guidelines §§ 15091, 15092(b)(2)(B).

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though VOC emission are identified as exceeding allowable thresholds, the DEIR does not contemplate the feasibility of a requirement that “Super-Complaint” architectural coatings be utilized to further decrease Air Quality impacts.

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Additionally, the DEIR notes that the Project will require that future construction comply with CalGreen building standards, but does not discuss the feasibility of adopting the more stringent “voluntary” CalGreen standards. The Title 24 CalGreen building standards include two different voluntary standard “tiers” (Tier 1 and Tier 2) for both residential and non-residential buildings. (Cal. Code of Regulations, Title 24, Part 11, Appendix A4 at A4.601 and Appendix A5 at A5.601). In line with requiring all feasible mitigations under CEQA, the City should require that the more stringent Tier 2 standards for residential and non-residential development should be followed. The City should reevaluate the mitigation measures proposed in the DEIR to ensure the adoption of all feasible mitigation measures as required by CEQA.

A4-12

3. *The City Should Incorporate Mitigation Measures from the 2016-2040 RTP/SCS and 2020-2045 SCAG RTP/SCS Connect SoCal*

The DEIR recognizes that the Project will have significant and unavoidable impacts, including the conversion of farmland to nonagricultural uses; the emission of criteria air pollutants; impact on sensitive plant and animal species; incompatibility with state GHG reduction mandates; increased noise; and incompatibility with VMT reduction mandates. However, the DEIR concludes that there are no feasible mitigations available without providing adequate discussion of potential mitigations. In particular, the DEIR fails to address the feasibility of adoption of the mitigation measures recommended by the Southern California Association of Governments (“SCAG”) in the 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy (“2016-2040 RTP/SCS”) or the 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (“Connect SoCal”)

A4-13

In April 2016, SCAG adopted the 2016-2040 RTP/SCS,¹³ which includes policies and strategies to will help the region achieve GHG emission reductions that would reduce the region’s per capita transportation emissions by eight percent by 2020 and 18

¹³ Southern California Association of Governments (“SCAG”) (April 2016) The 2016-2040 Regional Transportation Plan / Sustainable Communities Strategy: A Plan for Mobility, Accessibility, Sustainability and a High Quality of Life (“SCAG 2016-2040 RTP/SCS”), available at <https://scag.ca.gov/sites/main/files/file-attachments/f2016rtpscs.pdf?1606005557>

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percent by 2035.¹⁴ SCAG’s RTP/SCS plan is based upon the same requirements outlined in CARB’s 2017 Scoping Plan and SB 375.

On September 3, 2020, SCAG adopted Connect SoCal,¹⁵ which adopts policies and strategies aimed at reducing the region’s per capita greenhouse gas emissions by 8% below 2005 per capita emissions levels by 2020 and 19% below 2005 per capita emissions levels by 2035.¹⁶

For both the 2016 - 2040 RTP/SCS and Connect SoCal, SCAG prepared Program Environmental Impact Reports (“PEIRs”) that include Mitigation Monitoring and Reporting Programs (“MMRPs”) that list environmental mitigation measures that directly and/or indirectly relate to a project’s GHG impacts and contribution to the region’s GHG emissions.¹⁷ They also touch on several other potential environmental impacts, including many identified in the DEIR. These environmental mitigation measures serve to help local municipalities when identifying mitigation to reduce impacts that can and should be implemented when they identify those environmental impacts.

For any impact found to be Significant and Unavoidable in the DEIR, the City should consider adoption of mitigation measures identified in the MMRPs for the 2016-2040 RTP/SCS and Connect SoCal. These mitigation measures must be adequately

A4-13
CONT'D

¹⁴ *Id.* at pp. 8, 15, 153, 166.

¹⁵ SCAG (Sept 2020) Connect SoCal: The 2020 – 2045 Regional Transportation Plan / Sustainable Communities Strategy of the Southern California Association of Governments (SCAG Connect SoCal”), available at https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial-plan_0.pdf?1606001176

¹⁶ *Id.* At xiii.

¹⁷ SCAG (April 7, 2016) Resolution No. 16-578-1: A Resolution of the Southern California Association of Government Certifying the Final Program Environmental Impact Report Prepared for the 2016 – 2040 Regional Transportation Plan / Sustainable Communities Strategy (SCH#2015031035) and Adopting Findings of Fact, a Statement of Overriding Considerations and a Mitigation, Monitoring and Reporting Program Pursuant to the California Environmental Quality Act, Exhibit B, “Mitigation Monitoring and Reporting Program,” available at https://scag.ca.gov/sites/main/files/file-attachments/2016fpeir_exhibitb_mmrp.pdf?1623887711; see also SCAG (Sept. 3, 2020) A Resolution of the Southern California Association of Governments (SCAG) Adopting the 2020-2045 Regional Transportation Plan/Sustainable Communities Strategy (Connect SoCal) Program Environmental Impact Report (PEIR) Addendum and Approving Connect SoCal in its Entirety, Exhibit A, “Revised Mitigation Monitoring and Reporting Program, available at https://scag.ca.gov/sites/main/files/file-attachments/exhibita_connectsocial_peir_revisedmmrp.pdf?1606004474.

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considered, and any conclusion regarding infeasibility must be justified and supported with substantial evidence.

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II. THE PROJECT VIOLATES THE STATE PLANNING AND ZONING LAW

A. Background Regarding the State Planning and Zoning Law

Each California city and county must adopt a comprehensive, long-term general plan governing development. *Napa Citizens for Honest Gov. v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 352, citing Gov. Code §§ 65030, 65300. The general plan sits at the top of the land use planning hierarchy, and serves as a “constitution” or “charter” for all future development. *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 773; *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 540.

General plan consistency is “the linchpin of California’s land use and development laws; it is the principle which infused the concept of planned growth with the force of law.” See *Debottari v. Norco City Council* (1985) 171 Cal.App.3d 1204, 1213.

State law mandates two levels of consistency. First, a general plan must be internally or “horizontally” consistent: its elements must “comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.” See Gov. Code § 65300.5; *Sierra Club v. Bd. of Supervisors* (1981) 126 Cal.App.3d 698, 704. A general plan amendment thus may not be internally inconsistent, nor may it cause the general plan as a whole to become internally inconsistent. See *DeVita*, 9 Cal.4th at 796 fn. 12.

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Second, state law requires “vertical” consistency, meaning that zoning ordinances and other land use decisions also must be consistent with the general plan. See Gov. Code § 65860(a)(2) [land uses authorized by zoning ordinance must be “compatible with the objectives, policies, general land uses, and programs specified in the [general] plan.”]; see also *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1184. A zoning ordinance that conflicts with the general plan or impedes achievement of its policies is invalid and cannot be given effect. See *Lesher*, 52 Cal.3d at 544.

State law requires that all subordinate land use decisions, including conditional use permits, be consistent with the general plan. See Gov. Code § 65860(a)(2); *Neighborhood Action Group*, 156 Cal.App.3d at 1184.

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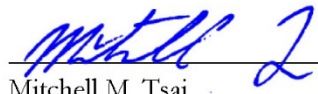
A project cannot be found consistent with a general plan if it conflicts with a general plan policy that is “fundamental, mandatory, and clear,” regardless of whether it is consistent with other general plan policies. *See Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777, 782-83; *Families Unafraid to Uphold Rural El Dorado County v. Bd. of Supervisors* (1998) 62 Cal.App.4th 1332, 1341-42 (“FUTURE”). Moreover, even in the absence of such a direct conflict, an ordinance or development project may not be approved if it interferes with or frustrates the general plan’s policies and objectives. *See Napa Citizens*, 91 Cal.App.4th at 378-79; *see also Lesher*, 52 Cal.3d at 544 (zoning ordinance restricting development conflicted with growth-oriented policies of general plan).

Here, the DEIR admits to internal inconsistencies in the Project. The DEIR identifies Significant and Unavoidable impacts to exposure of new sensitive land uses to noise levels in excess of the standards identified in Table N-1 of the PlanRC General Plan Update. This is an inherent conflict between the development contemplated by other elements of the Project and Noise Element Goal N-1.1: “Noise Levels. Require new development to meet the noise compatibility standards identified in Table N-1.” This horizontal inconsistency must be resolved before the Project can be approved.

III. CONCLUSION

Commenters request that the City revise and recirculate the Project’s DEIR to address the aforementioned concerns. If the City has any questions or concerns, feel free to contact my Office.

Sincerely,



Mitchell M. Tsai

Attorneys for Southwest Regional Council of Carpenters

Attached:

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling (Exhibit A);

Air Quality and GHG Expert Paul Rosenfeld CV (Exhibit B);

Air Quality and GHG Expert Matt Hagemann CV (Exhibit C);

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EXHIBIT A

2. Response to Comments



2656 29th Street, Suite 201
Santa Monica, CA 90405

Matt Hagemann, P.G., C.Hg.
(949) 887-9013
mhagemann@swape.com

Paul E. Rosenfeld, PhD
(310) 795-2335
prosenfeld@swape.com

March 8, 2021

Mitchell M. Tsai
155 South El Molino, Suite 104
Pasadena, CA 91101

Subject: Local Hire Requirements and Considerations for Greenhouse Gas Modeling

Dear Mr. Tsai,

Soil Water Air Protection Enterprise ("SWAPE") is pleased to provide the following draft technical report explaining the significance of worker trips required for construction of land use development projects with respect to the estimation of greenhouse gas ("GHG") emissions. The report will also discuss the potential for local hire requirements to reduce the length of worker trips, and consequently, reduced or mitigate the potential GHG impacts.

Worker Trips and Greenhouse Gas Calculations

The California Emissions Estimator Model ("CalEEMod") is a "statewide land use emissions computer model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify potential criteria pollutant and greenhouse gas (GHG) emissions associated with both construction and operations from a variety of land use projects."¹ CalEEMod quantifies construction-related emissions associated with land use projects resulting from off-road construction equipment; on-road mobile equipment associated with workers, vendors, and hauling; fugitive dust associated with grading, demolition, truck loading, and on-road vehicles traveling along paved and unpaved roads; and architectural coating activities; and paving.²

The number, length, and vehicle class of worker trips are utilized by CalEEMod to calculate emissions associated with the on-road vehicle trips required to transport workers to and from the Project site during construction.³

¹ "California Emissions Estimator Model." CAPCOA, 2017, available at: <http://www.aqmd.gov/caleemod/home>.

² "California Emissions Estimator Model." CAPCOA, 2017, available at: <http://www.aqmd.gov/caleemod/home>.

³ "CalEEMod User's Guide." CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.

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Specifically, the number and length of vehicle trips is utilized to estimate the vehicle miles travelled (“VMT”) associated with construction. Then, utilizing vehicle-class specific EMFAC 2014 emission factors, CalEEMod calculates the vehicle exhaust, evaporative, and dust emissions resulting from construction-related VMT, including personal vehicles for worker commuting.⁴

Specifically, in order to calculate VMT, CalEEMod multiplies the average daily trip rate by the average overall trip length (see excerpt below):

$$\text{VMT}_d = \Sigma(\text{Average Daily Trip Rate}_i * \text{Average Overall Trip Length}_i)_n$$

Where:

$$n = \text{Number of land uses being modeled.}^{5}$$

Furthermore, to calculate the on-road emissions associated with worker trips, CalEEMod utilizes the following equation (see excerpt below):

$$\text{Emissions}_{\text{pollutant}} = \text{VMT} * \text{EF}_{\text{running,pollutant}}$$

Where:

Emissions_{pollutant} = emissions from vehicle running for each pollutant

VMT = vehicle miles traveled

EF_{running,pollutant} = emission factor for running emissions.⁶

Thus, there is a direct relationship between trip length and VMT, as well as a direct relationship between VMT and vehicle running emissions. In other words, when the trip length is increased, the VMT and vehicle running emissions increase as a result. Thus, vehicle running emissions can be reduced by decreasing the average overall trip length, by way of a local hire requirement or otherwise.

Default Worker Trip Parameters and Potential Local Hire Requirements

As previously discussed, the number, length, and vehicle class of worker trips are utilized by CalEEMod to calculate emissions associated with the on-road vehicle trips required to transport workers to and from the Project site during construction.⁷ In order to understand how local hire requirements and associated worker trip length reductions impact GHG emissions calculations, it is important to consider the CalEEMod default worker trip parameters. CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but the California Environmental Quality Act (“CEQA”) requires that such changes be justified by substantial evidence.⁸ The default number of construction-related worker trips is calculated by multiplying the

⁴ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 14-15.

⁵ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 23.

⁶ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 15.

⁷ “CalEEMod User’s Guide.” CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.

⁸ CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 1, 9.

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number of pieces of equipment for all phases by 1.25, with the exception of worker trips required for the building construction and architectural coating phases.⁹ Furthermore, the worker trip vehicle class is a 50/25/25 percent mix of light duty autos, light duty truck class 1 and light duty truck class 2, respectively.¹⁰ Finally, the default worker trip length is consistent with the length of the operational home-to-work vehicle trips.¹¹ The operational home-to-work vehicle trip lengths are:

“[B]ased on the *location* and *urbanization* selected on the project characteristic screen. These values were *supplied by the air districts or use a default average for the state*. Each district (or county) also assigns trip lengths for urban and rural settings” (emphasis added).¹²

Thus, the default worker trip length is based on the location and urbanization level selected by the User when modeling emissions. The below table shows the CalEEMod default rural and urban worker trip lengths by air basin (see excerpt below and Attachment A).¹³

Worker Trip Length by Air Basin		
Air Basin	Rural (miles)	Urban (miles)
Great Basin Valleys	16.8	10.8
Lake County	16.8	10.8
Lake Tahoe	16.8	10.8
Mojave Desert	16.8	10.8
Mountain Counties	16.8	10.8
North Central Coast	17.1	12.3
North Coast	16.8	10.8
Northeast Plateau	16.8	10.8
Sacramento Valley	16.8	10.8
Salton Sea	14.6	11
San Diego	16.8	10.8
San Francisco Bay Area	10.8	10.8
San Joaquin Valley	16.8	10.8
South Central Coast	16.8	10.8
South Coast	19.8	14.7
Average	16.47	11.17
Minimum	10.80	10.80
Maximum	19.80	14.70
Range	9.00	3.90

⁹ “CalEEMod User’s Guide.” CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.

¹⁰ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 15.

¹¹ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 14.

¹² “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 21.

¹³ “Appendix D Default Data Tables.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4, p. D-84 – D-86.

2. Response to Comments

As demonstrated above, default rural worker trip lengths for air basins in California vary from 10.8- to 19.8- miles, with an average of 16.47 miles. Furthermore, default urban worker trip lengths vary from 10.8- to 14.7- miles, with an average of 11.17 miles. Thus, while default worker trip lengths vary by location, default urban worker trip lengths tend to be shorter in length. Based on these trends evident in the CalEEMod default worker trip lengths, we can reasonably assume that the efficacy of a local hire requirement is especially dependent upon the urbanization of the project site, as well as the project location.

Practical Application of a Local Hire Requirement and Associated Impact

To provide an example of the potential impact of a local hire provision on construction-related GHG emissions, we estimated the significance of a local hire provision for the Village South Specific Plan (“Project”) located in the City of Claremont (“City”). The Project proposed to construct 1,000 residential units, 100,000-SF of retail space, 45,000-SF of office space, as well as a 50-room hotel, on the 24-acre site. The Project location is classified as Urban and lies within the Los Angeles-South Coast County. As a result, the Project has a default worker trip length of 14.7 miles.¹⁴ In an effort to evaluate the potential for a local hire provision to reduce the Project’s construction-related GHG emissions, we prepared an updated model, reducing all worker trip lengths to 10 miles (see Attachment B). Our analysis estimates that if a local hire provision with a 10-mile radius were to be implemented, the GHG emissions associated with Project construction would decrease by approximately 17% (see table below and Attachment C).

Local Hire Provision Net Change	
Without Local Hire Provision	
Total Construction GHG Emissions (MT CO ₂ e)	3,623
Amortized Construction GHG Emissions (MT CO ₂ e/year)	120.77
With Local Hire Provision	
Total Construction GHG Emissions (MT CO ₂ e)	3,024
Amortized Construction GHG Emissions (MT CO ₂ e/year)	100.80
% Decrease in Construction-related GHG Emissions	17%

As demonstrated above, by implementing a local hire provision requiring 10 mile worker trip lengths, the Project could reduce potential GHG emissions associated with construction worker trips. More broadly, any local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

This serves as an example of the potential impacts of local hire requirements on estimated project-level GHG emissions, though it does not indicate that local hire requirements would result in reduced construction-related GHG emission for all projects. As previously described, the significance of a local hire requirement depends on the worker trip length enforced and the default worker trip length for the project’s urbanization level and location.

¹⁴ “Appendix D Default Data Tables.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4, p. D-85.

2. Response to Comments

Disclaimer

SWAPE has received limited discovery. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,



Matt Hagemann, P.G., C.Hg.



Paul E. Rosenfeld, Ph.D.

2. Response to Comments

EXHIBIT B

2. Response to Comments



SOIL WATER AIR PROTECTION ENTERPRISE
2656 29th Street, Suite 201
Santa Monica, California 90405
Attn: Paul Rosenfeld, Ph.D.
Mobil: (310) 795-2335
Office: (310) 452-5555
Fax: (310) 452-5550
Email: prosenfeld@swape.com

Paul Rosenfeld, Ph.D.

Chemical Fate and Transport & Air Dispersion Modeling

Principal Environmental Chemist

Risk Assessment & Remediation Specialist

Education

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Thesis on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years' experience conducting environmental investigations and risk assessments for evaluating impacts to human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risk, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from unconventional oil drilling operations, oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, and many other industrial and agricultural sources. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particulate matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants. Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at dozens of sites and has testified as an expert witness on more than ten cases involving exposure to air contaminants from industrial sources.

2. Response to Comments

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
UCLA School of Public Health; 2003 to 2006; Adjunct Professor
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
UCLA Institute of the Environment, 2001-2002; Research Associate
Komex H₂O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health*. 18:48

Simons, R.A., Seo, Y. **Rosenfeld, P.**, (2015) Modeling the Effect of Refinery Emission On Residential Property Value. *Journal of Real Estate Research*. 27(3):321-342

Chen, J. A. Zapata A. R., Sutherland A. J., Molmen, D.R., Chow, B. S., Wu, L. E., **Rosenfeld, P. E.**, Hesse, R. C., (2012) Sulfur Dioxide and Volatile Organic Compound Exposure To A Community In Texas City Texas Evaluated Using Aermod and Empirical Data. *American Journal of Environmental Science*, 8(6), 622-632.

Rosenfeld, P.E. & Feng, L. (2011). *The Risks of Hazardous Waste*. Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2011). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Agrochemical Industry*, Amsterdam: Elsevier Publishing.

Gonzalez, J., Feng, L., Sutherland, A., Waller, C., Sok, H., Hesse, R., **Rosenfeld, P.** (2010). PCBs and Dioxins/Furans in Attic Dust Collected Near Former PCB Production and Secondary Copper Facilities in Sauget, IL. *Procedia Environmental Sciences*. 113–125.

Feng, L., Wu, C., Tam, L., Sutherland, A.J., Clark, J.J., **Rosenfeld, P.E.** (2010). Dioxin and Furan Blood Lipid and Attic Dust Concentrations in Populations Living Near Four Wood Treatment Facilities in the United States. *Journal of Environmental Health*. 73(6), 34-46.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2010). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Wood and Paper Industries*. Amsterdam: Elsevier Publishing.

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Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. *WIT Transactions on Ecology and the Environment, Air Pollution*, 123 (17), 319-327.

2. Response to Comments

Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, 70, 002252-002255.

Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, 70, 000527-000530.

Hensley, A.R. A. Scott, J. J. J. Clark, **Rosenfeld, P.E.** (2007). Attic Dust and Human Blood Samples Collected near a Former Wood Treatment Facility. *Environmental Research*. 105, 194-197.

Rosenfeld, P.E., J. J. J. Clark, A. R. Hensley, M. Suffet. (2007). The Use of an Odor Wheel Classification for Evaluation of Human Health Risk Criteria for Compost Facilities. *Water Science & Technology* 55(5), 345-357.

Rosenfeld, P. E., M. Suffet. (2007). The Anatomy Of Odour Wheels For Odours Of Drinking Water, Wastewater, Compost And The Urban Environment. *Water Science & Technology* 55(5), 335-344.

Sullivan, P. J. Clark, J.J.J., Agardy, F. J., **Rosenfeld, P.E.** (2007). *Toxic Legacy, Synthetic Toxins in the Food, Water, and Air in American Cities*. Boston Massachusetts: Elsevier Publishing

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash. *Water Science and Technology*. 49(9),171-178.

Rosenfeld P. E., J.J. Clark, I.H. (Mel) Suffet (2004). The Value of An Odor-Quality-Wheel Classification Scheme For The Urban Environment. *Water Environment Federation's Technical Exhibition and Conference (WEFTEC) 2004*. New Orleans, October 2-6, 2004.

Rosenfeld, P.E., and Suffet, I.H. (2004). Understanding Odorants Associated With Compost, Biomass Facilities, and the Land Application of Biosolids. *Water Science and Technology*. 49(9), 193-199.

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash, *Water Science and Technology*, 49(9), 171-178.

Rosenfeld, P. E., Grey, M. A., Sellew, P. (2004). Measurement of Biosolids Odor and Odorant Emissions from Windrows, Static Pile and Biofilter. *Water Environment Research*. 76(4), 310-315.

Rosenfeld, P.E., Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office*, Publications Clearinghouse (MS-6), Sacramento, CA Publication #442-02-008.

Rosenfeld, P.E., and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution*. 127(1-4), 173-191.

Rosenfeld, P.E., and Henry C. L., (2000). Wood ash control of odor emissions from biosolids application. *Journal of Environmental Quality*. 29, 1662-1668.

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affect on biosolids odor emissions and microbial activity. *Water Environment Research*. 73(4), 363-367.

Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research*. 131(1-4), 247-262.

2. Response to Comments

Chollack, T. and **P. Rosenfeld**. (1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

Rosenfeld, P. E. (1994). Potential Utilization of Small Diameter Trees on Sierra County Public Land. Masters thesis reprinted by the Sierra County Economic Council. Sierra County, California.

Rosenfeld, P. E. (1991). How to Build a Small Rural Anaerobic Digester & Uses Of Biogas In The First And Third World. Bachelors Thesis. University of California.

Presentations:

Rosenfeld, P.E., Sutherland, A; Hesse, R; Zapata, A. (October 3-6, 2013). Air dispersion modeling of volatile organic emissions from multiple natural gas wells in Decatur, TX. *44th Western Regional Meeting, American Chemical Society*. Lecture conducted from Santa Clara, CA.

Sok, H.L.; Waller, C.C.; Feng, L.; Gonzalez, J.; Sutherland, A.J.; Wisdom-Stack, T.; Sahai, R.K.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Atrazine: A Persistent Pesticide in Urban Drinking Water. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Feng, L.; Gonzalez, J.; Sok, H.L.; Sutherland, A.J.; Waller, C.C.; Wisdom-Stack, T.; Sahai, R.K.; La, M.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Bringing Environmental Justice to East St. Louis, Illinois. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Rosenfeld, P.E. (April 19-23, 2009). Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

Rosenfeld, P.E. (April 19-23, 2009). Cost to Filter Atrazine Contamination from Drinking Water in the United States” Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*. Lecture conducted from Tuscon, AZ.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (20-22 July, 2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. Brebbia, C.A. and Popov, V., eds., *Air Pollution XVII: Proceedings of the Seventeenth International Conference on Modeling, Monitoring and Management of Air Pollution*. Lecture conducted from Tallinn, Estonia.

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

2. Response to Comments

Rosenfeld, P. E. (October 15-18, 2007). Somerville Community Exposure To Contaminants From Wood Treatment Facility Emissions. The *23rd Annual International Conferences on Soils Sediment and Water*. Lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld P. E. (March 2007). Production, Chemical Properties, Toxicology, & Treatment Case Studies of 1,2,3-Trichloropropane (TCP). *The Association for Environmental Health and Sciences (AEHS) Annual Meeting*. Lecture conducted from San Diego, CA.

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Florida, Alabama. *The AEHS Annual Meeting*. Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition*. Lecture conducted from Boston Massachusetts.

Paul Rosenfeld Ph.D. (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey's C8/PFOA. *Science, Risk & Litigation Conference*. Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

Paul Rosenfeld Ph.D. (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

Paul Rosenfeld Ph.D. (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel in Irvine, California.

Paul Rosenfeld Ph.D. (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey's Groundwater Conference*. Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

Paul Rosenfeld Ph.D. (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus On Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water And Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, Toxicology and Remediation. *2005 National Groundwater Association Ground Water and Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference*. Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

Paul Rosenfeld, Ph.D. (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust*. Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives*. Lecture conducted from Parker, AZ.

2. Response to Comments

Paul Rosenfeld, Ph.D. (April 7, 2004). A National Damage Assessment Model For PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association*. Lecture conducted from Radison Hotel, Sacramento, California.

Rosenfeld, P. E., Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference* Orlando, FL.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants.* Lecture conducted from Hyatt Regency Phoenix Arizona.

Paul Rosenfeld, Ph.D. (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum*. Lecture conducted from Marriott Hotel, Anaheim California.

Paul Rosenfeld, Ph.D. (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable*. Lecture conducted from Sacramento California.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, *Wastewater and Industrial Processes. Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Grey, M. A. (September 22-24, 2002). Biocycle Composting For Coastal Sage Restoration. *Northwest Biosolids Management Association*. Lecture conducted from Vancouver Washington.

Rosenfeld, P.E. and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conference*. Lecture conducted from Indianapolis, Maryland.

Rosenfeld, P.E. (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation*. Lecture conducted from Anaheim California.

Rosenfeld, P.E. (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest*. Lecture conducted from Ocean Shores, California.

Rosenfeld, P.E. (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association*. Lecture conducted from Sacramento California.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America*. Lecture conducted from Salt Lake City Utah.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell*. Lecture conducted from Seattle Washington.

Rosenfeld, P.E., C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest*. Lecture conducted from Lake Chelan, Washington.

2. Response to Comments

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions From Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America*. Lecture conducted from Anaheim California.

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

National Ground Water Association, Successful Remediation Technologies. Custom Course in Sante Fe, New Mexico. May 21, 2002. Focused on fate and transport of fuel contaminants associated with underground storage tanks.

National Ground Water Association; Successful Remediation Technologies Course in Chicago Illinois. April 1, 2002. Focused on fate and transport of contaminants associated with Superfund and RCRA sites.

California Integrated Waste Management Board, April and May, 2001. Alternative Landfill Caps Seminar in San Diego, Ventura, and San Francisco. Focused on both prescriptive and innovative landfill cover design.

UCLA Department of Environmental Engineering, February 5, 2002. Seminar on Successful Remediation Technologies focusing on Groundwater Remediation.

University Of Washington, Soil Science Program, Teaching Assistant for several courses including: Soil Chemistry, Organic Soil Amendments, and Soil Stability.

U.C. Berkeley, Environmental Science Program Teaching Assistant for Environmental Science 10.

Academic Grants Awarded:

California Integrated Waste Management Board. \$41,000 grant awarded to UCLA Institute of the Environment. Goal: To investigate effect of high carbon wood ash on volatile organic emissions from compost. 2001.

Synagro Technologies, Corona California: \$10,000 grant awarded to San Diego State University. Goal: investigate effect of biosolids for restoration and remediation of degraded coastal sage soils. 2000.

King County, Department of Research and Technology, Washington State. \$100,000 grant awarded to University of Washington: Goal: To investigate odor emissions from biosolids application and the effect of polymers and ash on VOC emissions. 1998.

Northwest Biosolids Management Association, Washington State. \$20,000 grant awarded to investigate effect of polymers and ash on VOC emissions from biosolids. 1997.

James River Corporation, Oregon: \$10,000 grant was awarded to investigate the success of genetically engineered Poplar trees with resistance to round-up. 1996.

United State Forest Service, Tahoe National Forest: \$15,000 grant was awarded to investigating fire ecology of the Tahoe National Forest. 1995.

Kellogg Foundation, Washington D.C. \$500 grant was awarded to construct a large anaerobic digester on St. Kitts in West Indies. 1993

2. Response to Comments

Deposition and/or Trial Testimony:

- In the United States District Court For The District of New Jersey
Duarte et al, *Plaintiffs*, vs. United States Metals Refining Company et. al. *Defendant*.
Case No.: 2:17-cv-01624-ES-SCM
Rosenfeld Deposition. 6-7-2019
- In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk, *Plaintiffs*, vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS “Conti Perdido”
Defendant.
Case No.: 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition. 5-9-2019
- In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No.: No. BC615636
Rosenfeld Deposition, 1-26-2019
- In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No.: No. BC646857
Rosenfeld Deposition, 10-6-2018; Trial 3-7-19
- In United States District Court For The District of Colorado
Bells et al. Plaintiff vs. The 3M Company et al., Defendants
Case: No 1:16-cv-02531-RBJ
Rosenfeld Deposition, 3-15-2018 and 4-3-2018
- In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosiences, LLC, et al., Defendants
Cause No 1923
Rosenfeld Deposition, 11-17-2017
- In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No C12-01481
Rosenfeld Deposition, 11-20-2017
- In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition, 8-23-2017
- In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC
Case No.: LC102019 (c/w BC582154)
Rosenfeld Deposition, 8-16-2017, Trail 8-28-2018
- In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., *Plaintiffs*, vs. Meritor Inc., et al., *Defendants*
Case Number: 4:16-cv-52-DMB-JVM
Rosenfeld Deposition: July 2017

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- In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No.: No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial, March 2017
- In The Superior Court of the State of California, County of Alameda
Charles Spain, Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No.: RG14711115
Rosenfeld Deposition, September 2015
- In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No.: LALA002187
Rosenfeld Deposition, August 2015
- In The Iowa District Court For Wapello County
Jerry Dovico, et al., Plaintiffs vs. Valley View Sine LLC, et al., Defendants
Law No.: LALA105144 - Division A
Rosenfeld Deposition, August 2015
- In The Iowa District Court For Wapello County
Doug Pauls, et al., et al., Plaintiffs vs. Richard Warren, et al., Defendants
Law No.: LALA105144 - Division A
Rosenfeld Deposition, August 2015
- In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action N0. 14-C-30000
Rosenfeld Deposition, June 2015
- In The Third Judicial District County of Dona Ana, New Mexico
Betty Gonzalez, et al. Plaintiffs vs. Del Oro Dairy, Del Oro Real Estate LLC, Jerry Settles and Deward
DeRuyter, Defendants
Rosenfeld Deposition: July 2015
- In The Iowa District Court For Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No 4980
Rosenfeld Deposition: May 2015
- In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case Number CACE07030358 (26)
Rosenfeld Deposition: December 2014
- In the United States District Court Western District of Oklahoma
Tommy McCarty, et al., Plaintiffs, v. Oklahoma City Landfill, LLC d/b/a Southeast Oklahoma City
Landfill, et al. Defendants.
Case No. 5:12-cv-01152-C
Rosenfeld Deposition: July 2014

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In the County Court of Dallas County Texas

Lisa Parr et al, *Plaintiff*, vs. Aruba et al, *Defendant*.

Case Number cc-11-01650-E

Rosenfeld Deposition: March and September 2013

Rosenfeld Trial: April 2014

In the Court of Common Pleas of Tuscarawas County Ohio

John Michael Abicht, et al., *Plaintiffs*, vs. Republic Services, Inc., et al., *Defendants*

Case Number: 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)

Rosenfeld Deposition: October 2012

In the United States District Court of Southern District of Texas Galveston Division

Kyle Cannon, Eugene Donovan, Genaro Ramirez, Carol Sassler, and Harvey Walton, each Individually and on behalf of those similarly situated, *Plaintiffs*, vs. BP Products North America, Inc., *Defendant*.

Case 3:10-cv-00622

Rosenfeld Deposition: February 2012

Rosenfeld Trial: April 2013

In the Circuit Court of Baltimore County Maryland

Philip E. Cvach, II et al., *Plaintiffs* vs. Two Farms, Inc. d/b/a Royal Farms, Defendants

Case Number: 03-C-12-012487 OT

Rosenfeld Deposition: September 2013

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1640 5th St., Suite 204 Santa
Santa Monica, California 90401
Tel: (949) 887-9013
Email: mhagemann@swape.com

Matthew F. Hagemann, P.G., C.Hg., QSD, QSP

**Geologic and Hydrogeologic Characterization
Industrial Stormwater Compliance
Investigation and Remediation Strategies
Litigation Support and Testifying Expert
CEQA Review**

Education:

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.
B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

Professional Certifications:

California Professional Geologist
California Certified Hydrogeologist
Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 25 years of experience in environmental policy, assessment and remediation. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) while also working with permit holders to improve hydrogeologic characterization and water quality monitoring.

Matt has worked closely with U.S. EPA legal counsel and the technical staff of several states in the application and enforcement of RCRA, Safe Drinking Water Act and Clean Water Act regulations. Matt has trained the technical staff in the States of California, Hawaii, Nevada, Arizona and the Territory of Guam in the conduct of investigations, groundwater fundamentals, and sampling techniques.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2014;
- Senior Environmental Analyst, Komex H₂O Science, Inc. (2000 -- 2003);

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- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt’s responsibilities have included:

- Lead analyst and testifying expert in the review of over 100 environmental impact reports since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, Valley Fever, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at industrial facilities.
- Manager of a project to provide technical assistance to a community adjacent to a former Naval shipyard under a grant from the U.S. EPA.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.
- Expert witness on two cases involving MTBE litigation.
- Expert witness and litigation support on the impact of air toxins and hazards at a school.
- Expert witness in litigation at a former plywood plant.

With Komex H2O Science Inc., Matt’s duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

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- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.

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- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

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- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation-wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

Policy:

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9. Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, *Oxygenates in Water: Critical Information and Research Needs*.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

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Geology:

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt taught physical geology (lecture and lab and introductory geology at Golden West College in Huntington Beach, California from 2010 to 2014.

Invited Testimony, Reports, Papers and Presentations:

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Colorado.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

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Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal representatives, Parker, AZ.

Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

Hagemann, M.F., 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

Hagemann, M.F., 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

Hagemann, M.F., 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

Hagemann, M.F., 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

Hagemann, M.F., 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

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Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and **Hagemann, M.F.** 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukunaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

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Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

Other Experience:

Selected as subject matter expert for the California Professional Geologist licensing examination, 2009-2011.

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A4. **Response to Comments from Mitchell M. Tsai, Attorney at Law on behalf of the Southwest Regional Council of Carpenters, Mitchell M. Tsai, dated November 3, 2021.**

INTRO The commenter states that the Southwest Regional Council of Carpenters (SWRCC) would be directly affected by the proposed project's environmental impacts. The commenter states that they reserve the right to supplement these comments at or prior to hearings on the proposed project, and requests that the City provide notice for any and all notices referring to the proposed project.

The comment serves as an introduction to the comments that follow. Please see responses to Comments A4-1 through A4-14.

A4-1 The commenter states that CEQA has two basic purposes, the first is to inform decision makers and the public about the potential significant environmental impacts, and the second is to direct public agencies to avoid or reduce environmental damage, when possible, through alternatives or mitigation measures. The comment states that an EIR's function is to ensure that decision makers understand the environmental consequences, and that the public has an opportunity to comment before the decision to go forward is made.

The commenter broadly asserts that the DEIR is inadequate. Pursuant to CEQA Guidelines Section 15088.5, a DEIR is required to be recirculated only when "significant new information" is added to the EIR after circulation of the DEIR. The proposed project's EIR was prepared in accordance with CEQA Guidelines. The DEIR comprehensively assesses the significant environmental effects of the proposed project, provides a reasonable range of alternatives to the proposed project, and feasible mitigation measures to reduce and avoid potentially significant environmental impacts. No "significant new information" has been added to the DEIR; and therefore, the DEIR is not inadequate and does not need to be recirculated (see responses to Comments A4-2 through A4-14). Further, the commenter does not identify any new information that could or should be added that would require recirculation.

A4-2 The commenter states that CEQA requires an EIR to be recirculated when changes in the project or environmental setting are made, as well as when additional information is found.

See response to Comment A4-1.

A4-3 The commenter states that the City must adopt a mandatory Finding of Significance that the proposed project may cause a substantial adverse effect on humans and mitigate COVID-19 impacts; the commenter provides site design for construction, testing procedures, and creating a disease preparedness plan.

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The state of California has lifted COVID-19 restrictions therefore no changes to the DEIR are necessary. COVID-19 is part of the environment, and CEQA is not required to evaluate the impact of the environment on a project. The Project does not exacerbate the risk of COVID-19 and the commenter provides not substantial evidence that it could.

A4-4 The commenter broadly states that the DEIR fails to support its findings with substantial evidence.

See response to Comment A4-1. As identified in response to Comments A4-5 and A4-6 below, none of these conditions exist. Additionally, the commenter's broad statement that a determination that regulatory compliance will be sufficient to prevent significant adverse impacts must be based on project-specific analysis of potential impacts and the effect of regulatory compliance, is noted. The commenter did not reference an example where the DEIR did not include a project-specific analysis of potential impacts and the effect of regulatory compliance is noted. However, as the DEIR is for the City's proposed General Plan Update it would be speculative to include project-specific scenarios. Furthermore, a condition requiring compliance with regulations is a common and reasonable mitigation measure and may be proper where it is reasonable to expect compliance (*Oakland Heritage Alliance v City of Oakland* [2011] 195 CA 4th 844, 906).

A4-5 The commenter states that the DEIR's air quality analysis uses CalEEMod version 2016.3.2, when there is a newer version, CalEEMod 2020.4.0, that was available prior to the release of the DEIR, and was available at the time the City issued its Notice of Preparation (NOP) for the DEIR.

The DEIR used CalEEMod version 2016.3.2 because, contrary to the commenter's assertion, it was the most recent version of the model available for use when the NOP was published on May 10, 2021. CalEEMod version 2020.4.0 was available for use starting June 1, 2021 (CAPCOA 2021).

In addition, the commenter provides no evidence or explanation to support its assertion that using CalEEMod version 2020.4.0 instead of version 2016.3.2 would underestimate the air pollutant emissions reported in the DEIR.

A4-6 The commenter states that by labeling mitigation measures as Standard Conditions of Approval, the City violates CEQA by failing to disclose the analytic route that the agency took from the evidence to its findings. The commenter states that the DEIR fails to justify why mitigation measures should not be adopted at the Program EIR level for mandatory implementation in later development projects. The commenter claims that the DEIR states that these Standard Conditions are mitigation measures, and states that the DEIR's use of Standard Conditions of Approval further violates CEQA because such measures would not be included in the proposed project's Mitigation Monitoring and Reporting Program.

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By including the provisions as standard conditions of approval they apply to all projects and not just to discretionary actions subject to CEQA. This ensures that the provisions address a wider array of projects and extend the reach of the evaluation beyond the environmental analysis and into design of the project(s). This is necessary because recent legislation would remove discretion for some development projects which would remove the ability to apply mitigation measures. As such, since all mitigation measures are in fact conditions of approval, and compliance with the General Plan is required by state law, the City is obligated to consider the application of the standard conditions of approval to every project. Furthermore, the City of Rancho Cucamonga, as the lead agency, will adopt a Mitigation Monitoring and Reporting Program in conjunction with its adoption of the Final EIR. The Mitigation Monitoring and Reporting Program will require the City to implement and report on compliance with the standard conditions of approval, just as any mitigation measure would be under CEQA.

A4-7 The commenter states that the City should require the applicant to provide additional community benefits such as local hire and use of skilled and trained workforce who have graduated from a Joint Labor Management apprenticeship training program to build the proposed project.

The comment does not describe any inadequacies in the CEQA analysis or conclusion in the DEIR, therefore no changes to the DEIR are necessary. Page 92 of the Draft General Plan includes policy LC-3.7 Developing our Economy, that encourages local hiring and reads:

LC-3.7 Developing Our Economy. Actively promote and encourage opportunities for local economic development, education, housing, locally hiring, internships and employment from cradle to career so as to increase resident retention, improve and grow a strong local economy, achieve a positive jobs housing match; retain critical educational resources and human capital, reduce regional commuting, gas consumption and greenhouse gas emissions and ensure equitable opportunities for all residents of the City and region to thrive.

Furthermore, the City is limited in its ability to require local hire requirements on private development projects.

A4-8 The commenter states that local hire and skilled and trained workforce requirements can reduce environmental impacts and improve the positive economic impact of the proposed project such as reduced greenhouse gas emissions and length of vendor trips, as well as providing localized economic benefits.

While prioritizing hiring of employees within a 10-mile radius of future project sites could reduce construction-worker trip lengths and associated emissions, the City lacks the legal authority to require, and the means to verify, residency associated with this type of

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restriction. The amount of any associated vehicle emission reduction would be speculative but likely nominal; requiring local residency would not mitigate greenhouse gas impacts from future projects to less than significant levels. Further, the requirement could be unconstitutional under the privileges and immunities clause as all citizens have the right to seek employment regardless of residency. It should be noted that nothing in the record would preclude the future applicants from hiring locally, nor is there anything to suggest that the existing workforce is not adequately skilled and trained for the type of uses proposed by the General Plan Update. The comment does not describe any inadequacies in the CEQA analysis or conclusion in the DEIR, therefore no changes to the DEIR are necessary.

- A4-9 The commenter states that skilled and trained workforce requirements promote the development of skilled trades that yield sustainable development and are key to delivering emissions reductions and moving California closer to its climate targets. The commenter states that the South Coast AQMD found that the use of local state-certified apprenticeship programs can result in air pollutant reductions, and that cities are adopting local skilled and trained workforce policies and requirements into general plans and municipal codes.

See response to Comment A4-8. The comment does not describe any inadequacies in the CEQA analysis or conclusion in the DEIR, therefore no changes to the DEIR are necessary.

- A4-10 The commenter states that locating jobs closer to residential areas can reduce vehicle miles traveled (VMT) and vehicle hours traveled. The commenter states that simply placing jobs near housing is insufficient to achieve VMT reductions since the skill requirements of available local jobs must be matched to those held by local residents. The commenter states that these provisions have the ability to mitigate many negative environmental impacts, including the ability to mitigate many negative environmental impacts and that the City should reconsider utilizing skilled and trained workforce policies to benefit the community and mitigate air quality, greenhouse gas, and transportation impacts.

The comment does not describe any inadequacies in the CEQA analysis or challenge any conclusions in the DEIR, therefore no changes to the DEIR are necessary.

- A4-11 The commenter states that the DEIR will have significant and unavoidable impacts on air quality and greenhouse gas emissions, yet the DEIR proposes mitigation measures that fall short of the “all feasible mitigation measures.”

The commenter states that the DEIR fails to justify why the use of Tier 4 equipment should not be required, and states that the DEIR does not address the feasibility of a requirement that “Super-Compliant” architectural coatings be utilized to further decrease air quality impacts.

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Regarding feasibility of U.S. EPA Tier 4 Final-compliant engines, as discussed on page 5.4-14 of the DEIR, future subsequent development projects that are determined to exceed applicable air quality thresholds, based on subsequent CEQA analyses that would be conducted for all future discretionary actions, would be subject to City conditions of approval, including condition 5.3-2. The condition, as specified in the DEIR, provides several potentially feasible measures, including requiring proper equipment maintenance, extending construction schedules, compliance with Tier 3 or Tier 4 equipment, and the use of alternative fuels, that future projects could comply with. However, the language of the standard condition of approval also explicitly states that measures identified for individual projects that exceed applicable thresholds would be required to comply with South Coast AQMD recommendations, would need to be applicable to the project, and that potential mitigation measures that could apply to a project are not limited to the ones mentioned in the condition of approval. Thus, at the time of subsequent CEQA review for future discretionary approvals, the City will determine, based on project-specific air emissions modeling and studies prepared for the individual project, what level of mitigation would be required to achieve thresholds and what specific measures, based on available technology/equipment at that time, would be required to achieve the reductions needed for that project. Given that the condition of approval does not preclude the use of Tier 4 equipment and that the City would ensure that all future subsequent discretionary approvals would implement applicable feasible measures to avoid or substantially lessen potentially significant air quality impacts identified at the project level, it is not necessary to require further mitigation in the DEIR. Requiring Tier 4 equipment for all development within the city would also not be feasible at this time, due to varying levels of availability of such equipment in today's construction fleets. Future project-specific CEQA analysis identifying potentially significant air quality impacts will be required to analyze the feasibility of measures to avoid or substantially lessen the impact, including use of Tier 4 equipment.

Regarding the suggestion to include "Super-Compliant" architectural coatings as a mitigation measure in the DEIR, similar to the discussion above, future individual projects that are determined to exceed VOC thresholds will be required to implement feasible measures to avoid or substantially lessen VOC emissions. However, regarding VOCs emissions from use of architectural coatings specifically, the regulation of such products is within the jurisdiction of the South Coast AQMD, that sets VOC limits through their adopted rules and regulations. Rule setting for these products prohibits the sale of such products within the South Coast Air District, making it difficult for local construction contractors and consumers to use these products regularly. Mitigation measures at the programmatic level of the DEIR regarding the VOC content of architectural coatings sold in the city would be beyond the City's power of enforcement, making the mitigation measure infeasible per California Code of Regulations Section 15040 [b]. No further mitigation is needed.

2. Response to Comments

A4-12 The commenter states that the DEIR notes that the proposed project would require that future construction comply with CalGreen building standards, but does not discuss the feasibility of adopting the most stringent voluntary

CalGreen Tier 2 standards for residential and non-residential development. The commenter states that the City should require the more stringent Tier 2 standards for residential and non-residential development to be followed mitigate the air quality and GHG emissions impacts identified in the DEIR.

Appendices A4 and A5 to the 2019 California Green Building Standards code (CalGreen) contain voluntary requirements for residential and nonresidential development, respectively. Voluntary requirements for residential development that would reduce air pollutant and GHG emissions resulting from implementation of the General Plan are found in Division A4.1 Planning and Design and A4.2 Energy Efficiency. Voluntary requirements for nonresidential development that would reduce air pollutant and GHG emissions resulting from implementation of the General Plan are found in Division A5.1 Planning and Design and A5.2 Energy Efficiency.

However, as explained below the types of actions that would be required for residential and nonresidential to achieve the voluntary Tier 2 standards of CalGreen are already included in the City's Climate Action Plan, (CAP), which is part of the project evaluated in the DEIR. Therefore, it was not necessary for the DEIR to include a discussion of the feasibility of adopting voluntary Tier 2 CalGreen standards for residential and nonresidential development. The CAP includes measures to reduce GHG emissions that would require new residential and nonresidential development to provide similar or greater levels of electric vehicle (EV) ready and EV installed parking spaces as voluntary Tier 2 CalGreen Standards (CAP Strategy 1.2). The CAP also goes beyond voluntary Tier 2 CalGreen Standards, which only address new development, and sets forth measures to achieve GHG emissions reductions through provision of EV charging that serves existing residential and nonresidential development in the City (CAP Strategy 1.1).

The CAP also includes measures to reduce GHG emissions that would require new residential and nonresidential development in the City to provide similar or greater levels of building energy performance as voluntary Tier 2 CalGreen Standards (CAP Strategies 3.1, 3.2, and 3.3). These CAP measures require new residential and nonresidential development to achieve a standard of zero net energy (i.e., on-site generation of energy is equal to on-site energy consumption). The CAP also goes beyond voluntary Tier 2 CalGreen Standards, which only address new development, and sets forth measures to achieve GHG emissions reductions through improving energy efficiency and installing on-site renewable generation systems (e.g., photovoltaic solar) in the City's existing residential and nonresidential building stock (CAP Strategies 2.1, 2.2, and 2.3) and increasing the amount of electricity provided to the City that is generated from carbon-free sources (CAP Strategy 5.1).

A4-13 The commenter states that the DEIR

2. Response to Comments

concludes there are no feasible mitigation measures available without providing an adequate discussion of potential mitigations, and that the DEIR fails to address feasibility of the adoption of the SCAG-recommended mitigation measures.

Impact 5.11-2 on page 5.11-12 of the Draft EIR provides a consistency analysis of the SCAG 2016 RTP/SCS in Table 5.11-1. The Climate Action Plan (CAP) included as part of the proposed project (See Appendix 5.8-1 of the Draft EIR) and the policies such as those starting on Page 5.6-7 of the Draft EIR, reduce impacts. See also response to comment A4-12.

A4-14 The commenter states that state law requires that all subordinate land use decisions be consistent with the general plan, and states that the DEIR identifies significant and unavoidable impacts to the exposure of new sensitive land uses to noise levels in excess of the standards identified in Table N-1 of the General Plan Update.

Consistency with the General Plan is not a CEQA issue. See *Stop Syar Expansion v. County of Napa* (2021) 63 Cal.App.5th 444. The commenter is correct that Impact 5.13-2 on page 5.13-19 of the Draft EIR concludes that the increase in traffic will result in higher ambient noise due to traffic and that there are limited methods of reducing these impacts. A similar conclusion is found in Impact 5.13-1 regarding construction noise. That the proposed General Plan would allow development subject to increased noise is both similar to the existing General Plan, and necessary given the focus of the plan on infill development. As noted on page 253 of the proposed General Plan (See Appendix 3-1 of the Draft EIR)

“Table N-1 provides the City with a tool to gauge the compatibility of land uses relative to existing and future noise levels. The noise standards can be modified for areas that already have higher noise, and for activities like festivals, markets, and outdoor performances. Generally, there is more flexibility for outdoor noise than indoor, and design features such as berms, walls, windows, and setbacks will all be factored into the project.”

So as noted in the General Plan, the issue is the impact of noise on people, not buildings. Therefore, the City has the ability to consider placing people near existing or predicted high noise areas provided that interior spaces and outdoor recreation spaces where people will be meet the noise standards in Table N-1. The General Plan also allows flexibility in the noise standard to recognize that some noise that would exceed Table N-1 is desirable, such as a concert or festival, and would allow the use to proceed. This is not an inconsistency but a recognition that project level impacts will need to be evaluated and considered before approval. Standard conditions of approval beginning on page 5.12-4 of the Draft EIR are designed to lessen the noise exposure to people, and to require consideration of noise prior to approval of a project.

2. Response to Comments

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2. Response to Comments

LETTER A5 – Gresham and Savage, Attorneys at Law on behalf of Tree Island Steel, Paige H. Gosney (3 pages)

Honorable Chairperson and Members of the Planning Commission
City of Rancho Cucamonga
November 9, 2021
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impacted by imposition of the Proposed Street Network than its neighbors insofar as the addition of these streets would directly affect Tree Island's current steel wire manufacturing operations and, in addition, would limit the ability of Tree Island to sell the property for a different industrial use at some point in the future.

A5-2
CONT'D

Furthermore, contrary to the GP Update, there is no basis or support that we have seen for the City's claims that the current SEIA street network and infrastructure is inadequate to support the existing industrial uses, including Tree Island's operations and the Goodman logistics facility, or that the Proposed Street Network will mitigate transportation impacts related to the future development of the SEIA.¹ The existing complexities of installing new streets and roadways in the SEIA is further complicated by significant utility infrastructure, railways, and heavy industrial legacy uses, none of which are accounted for or even discussed in the GP Update or the associated environmental document. There is, in short, no legitimate basis for imposing a "solution" on the SEIA where no actual or verifiable problem exists to be solved.

A5-3

Moreover, in conjunction with the City's recent adoption of Ordinance No. 982 establishing new and updated industrial development standards in the City, industrial stakeholders were advised that the City was planning to move away from the adoption of a specific street network and would consider the necessary infrastructure as it obtained additional information and as individual projects came forward. In that regard, and as part of Ordinance No. 982, the City adopted "Block Network Parameters for Public Streets", which provides a pathway for a master plan approval to "vary or waive the traffic standards identified in [the Block Network Parameters] if the city council determines that doing so would not frustrate the underlying purpose of the subject standard(s) or cause a significant impact on public health, safety, or welfare." (Dev. Code, §§ 17.22.020.C.3.ii; 17.36.040.C.9.a.ii.)

A5-4

The adoption of the Proposed Street Network as part of the GP Update would be contrary to and directly contravene the City's recently adopted Ordinance No. 982 and, in particular, the provisions referenced above regarding the "Block Network Parameters for Public Streets" and master plan approval regulations. If the Proposed Street Network is approved as part of the GP Update, then the City lacks authority under the Development Code's master plan provisions to deviate from or "waive" compliance with the street network layout for sites affected by the Proposed Street

¹ The Proposed Street Network appears to function as an internal circulation system only that does not provide meaningful circulation relief to the larger SEIA network, inasmuch as no east-west connection is depicted to relieve Arrow Route and any north-south connection would require crossing the BNSF main railroad line and use of the Southern California Edison ("SCE") property located to the south, which does not appear possible given the significant dedications and easements from SCE and BNSF to establish the connector. The Proposed Street Network fails to provide any contiguous connectivity through the SEIA.

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Honorable Chairperson and Members of the Planning Commission
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Page 3

Network, including the Tree Island Property, unless a General Plan Amendment is approved as part of the underlying project entitlements.

A5-4
CONT'D

For the reasons outlined above, Tree Island strongly opposes approval of the GP Update with the Proposed Street Network. There is no data or information supporting a justifiable need for the street network expansion or confirmation and proof that the addition of these streets and connector roadways would effectively mitigate traffic congestion and impacts associated with future development of the SEIA. Furthermore, the grid pattern of streets proposed for the Tree Island Property and surrounding parcels would interfere with and inhibit both current business operations and future redevelopment of the Property and region for new industrial uses.

A5-5

We appreciate the City's consideration of these concerns and look forward to working cooperatively to ensure the continued vitality of the SEIA as the City's and region's core industrial center.

To date, City staff has not engaged Tree Island in any meaningful capacity. We look forward to presenting our position and perspective.

Please contact me if you have any questions or wish to discuss this matter further.

Very truly yours,



Paige H. Gosney, of
GRESHAM SAVAGE
NOLAN & TILDEN,
A Professional Corporation

PHG/tdg

cc: City Manager, John Gillison*
City Attorney, James L. Markman*
City Planning Director, Anne McIntosh*
Client*
(* via e-mail only)

2. Response to Comments



Paige.Gosney@GreshamSavage.com · San Bernardino Office
(909) 890-4499 · fax (909) 890-9877

November 9, 2021

VIA E-MAIL: Elizabeth.Thornhill@cityofrc.us
AND U.S. MAIL

Honorable Chairperson and Members of the Planning Commission
Attn: Elizabeth Thornhill, Exec. Planning Asst.
City of Rancho Cucamonga
10500 Civic Center Drive
Rancho Cucamonga, CA 91730

**Re: City of Rancho Cucamonga General Plan Update Proposed Street Network
(November 10, 2021, Planning Commission Agenda Item D2)**

Honorable Chairperson and Members of the Planning Commission:

This firm represents Tree Island Steel (“**Tree Island**”) in connection with its ownership of the property located 12459 Arrow Route (the “**Property**”) in the City of Rancho Cucamonga’s (“**City**”) legacy Southeast Industrial Area (“**SEIA**”). Tree Island and its predecessors have operated a steel wire manufacturing business on the Property for nearly sixty (60) years. The purpose of this letter is to express Tree Island’s significant concerns with the City’s proposed General Plan Update (“**GP Update**”) as related to the proposed street network expansion within the SEIA.

The GP Update states that the existing SEIA street network is “at or near capacity” and therefore a significant expansion of the existing circulation network is necessary to accommodate future industrial development in the SEIA. (GP Update, Figure 3-11 [Focus Area 8: Southeast Industrial Area].) The GP Update includes a diagram of the City’s proposed new SEIA street network, which includes several new north-south and east-west connectors throughout the SEIA and the Property (“**Proposed Street Network**”). Although the Proposed Street Network is described in the GP Update as “recommended” and for “illustrative purposes” only, the legal effect of this characterization in the GP Update is unclear given that the General Plan functions as the land use constitution and bedrock planning document of the City.

A5-1

The Tree Island Property is a relatively small parcel in comparison to the surrounding properties in the SEIA, including the Commercial Metals Company parcels located adjacent to the west and south and the Goodman industrial warehouse site situated to the east. However, Tree Island and the Property would be no less significantly

A5-2



SAN BERNARDINO 550 East Hospitality Lane, Suite 300 • San Bernardino, California 92408
SAN DIEGO 401 West A Street, Suite 925 • San Diego, California 92101
GreshamSavage.com

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2. Response to Comments

A5. **Response to Comments from Gresham and Savage, Attorneys at Law on behalf of Tree Island Steel, Paige H. Gosney, dated November 9, 2021.**

A5-1 The commenter states that the General Plan Update indicates that the existing Southeast Industrial Area (SEIA) is at or near capacity and therefore expansion is needed, and states that the proposed new SEIA street network is described as recommended and provided for illustrative purposes in the General Plan Update. The commenter states that this characterization is unclear given that the General Plan functions as the land use constitution for the City.

See response to Comment A2-1.

A5-2 The commenter states that although the Tree Island Steel property is a relatively small parcel, the property would be no less significantly impacted by the imposition of the proposed street network than its neighbors, as the proposed street network would directly affect Tree Island Steel's manufacturing operations and would limit the ability of Tree Island Steel to sell the property in the future.

The comment does not describe any inadequacies in the CEQA analysis or conclusion in the DEIR, therefore no changes to the DEIR are necessary.

A5-3 The commenter states that there is no support for the claims that the current SEIA street network is inadequate to support existing industrial uses, or that the proposed street network would mitigate transportation impacts related to future development in the SEIA. The commenter states that the existing complexities of installing new streets and roadways in the SEIA is further complicated by significant utility infrastructure, railways, and industrial uses.

See response to Comment A2-7.

A5-4 The commenter states that adoption of the proposed street network as part of the General Plan Update would be contrary to the City's recently adopted Ordinance No. 982 regarding block network parameters for public streets.

See response to Comment A2-13.

A5-5 The commenter states that Tree Inland Steel strongly opposes approval of the General Plan Update with the proposed street network as there is no data supporting a justifiable need for the street network expansion. The commenter states that the surrounding parcels would interfere with and inhibit both current and future redevelopment of the property and region for new industrial uses.

Tree Island Steel's opposition to the General Plan Update with the proposed street network has been noted and will be forwarded onto the decision-makers for review and further consideration.

2. Response to Comments

LETTER B1 – Matthew Ramirez (1 page)

From: [Matthew Ramirez](#)
To: [GP EIR Comments](#)
Subject: General Plan Comments, Urban Forest Plan
Date: Sunday, October 24, 2021 3:52:02 PM

CAUTION: This email is from outside our Corporate network. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

This is Matthew Ramirez, [REDACTED]

My comment on the General Plan relates to the page 214 coverage of our City’s urban forest, and the Urban Forestry Plan RC-3.7:

Why is the Urban Forestry Plan not part of the City’s General Plan, beyond a paragraph describing the importance of the urban forest and the need to maintain through a warming climate, and a description elsewhere saying that the plan must be developed and listing three topics it should cover? If the urban forest is as important as the City claims it to be, and it is, then the creation of detailed and forward-thinking objectives and provisions for an Urban Forestry Plan should be a City priority. The broad strokes of the Urban Forestry Plan, if not the updated plan in its entirety, should have been part of the General Plan documents, as a full chapter taken up by the City of its own prerogative, beyond the floor of statutory obligations for General Plan coverage. Moreover, this Urban Forestry Plan should be as specific and progressive as possible in its treatment of the issue, as the City’s current practices and plans are lagging behind those of our peer cities across the state, and failing our City’s trees and all of our community members in the process.

B1-1

I have lived in Rancho Cucamonga for over 15 years, and year after year I have watched street trees be severely overtrimmed, damaging their long term health, and seen mature trees be toppled in windstorms, to be replaced with meager saplings that are undercared for and perish. Most egregiously of all, I have witnessed the City itself conspire to remove its oldest and largest native tree, on public land, to make room for a development, making excuses based on overexaggerated assessments of the tree’s poor health, made to seem legitimate only by the City’s long neglect of what should have been its most valuable heritage icon, through its record of unwillingness to offer the slightest effort toward maintenance and remediation. To wit, it has long been my inescapable conclusion that the City’s actions continually fail to live up to its glowing lip service to the importance of our community trees, and the new General Plan should have been the space for the City to prove that it will make clear and substantial changes moving forward, and to share those envisioned changes directly with the entire community alongside the rest of its plans.

2. Response to Comments

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2. Response to Comments

B1. Response to Comments from Matthew Ramirez, dated October 24, 2021.

B1-1 The commenter indicates concerns regarding the Proposed General Plan Update's discussion of the City's Urban Forestry and Urban Forestry Plan.

The comment does not raise significant environmental issues or address the adequacy of the EIR or CEQA process. This comment will be forwarded onto the decision-makers for review and further consideration. General Plan policy RC 3.7 includes the development of an urban forestry plan and tree removal is addressed in Draft EIR Impact 5.4-4.

2. Response to Comments

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2. Response to Comments

LETTER C1 – Brittany Bunk (1 page)

Commenter 1: Brittany Bunk

9/17/2021

The agricultural section doesn't include the amount of food being consumed by citizens and doesn't include the food being brought in from elsewhere that contributes to GHGs. So if people are consuming resource-intensive lifestyles (such as animal products), they are increasing GHGs more than people who adopt less resource-intensive lifestyles. The agricultural section doesn't measure the true agricultural impact of everything happening regarding RC and should. There should be promotion of plant-based diets more. RC should remove animal products and wasteful consumption (like alcohol anywhere that's not a winery or candy) to lower its GHG effect. What about all the plastic and trash involved? The packaging and transportation should be included in the agricultural section and it's not - so much isn't being accounted for when it should.

C1-1

C1-2

C1-3

2. Response to Comments

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2. Response to Comments

C1. Response to Comments from Brittany Bunk, dated September 17, 2021.

C1-1 The commenter expresses concern regarding the lack of discussion of food consumption and import in the City, and its contribution to greenhouse gas (GHG) emissions, in Section 5.2, *Agriculture and Forestry Resources*, of the DEIR.

As indicated in Section 5.2.2, *Thresholds of Significance*, in Section 5.2, *Agriculture and Forestry Resources*, of the DEIR, according to Appendix G of the CEQA Guidelines, GHG emissions related to food consumption is not a topic addressed in the Agricultural and Forestry Resources section. The purpose of Agricultural and Forestry Resources is to identify the loss of agricultural land or forest land. Additionally, under California Code of Regulations, Title 14, Sections 15145, *Speculation*, (14 CCR §§ 15145) and 15146, *Degree of Specificity*, (14 CCR §§ 15146), determining who would adopt resource-intensive lifestyles versus less resource-intensive lifestyles is too speculative for evaluation.

GHG impacts are discussed in Section 5.8, *Greenhouse Gas Emissions*. The GHG analysis considers all the land uses in the plan, including retail/commercial, which would take into consideration the VMT of deliveries of food and other materials. See also the Climate Action Plan (CAP) included as Attachment 5.8-1 of the Draft EIR.

This comment has been forwarded onto decision-makers for their review. The comment does not raise significant environmental issues or address the adequacy of the EIR or CEQA process. Therefore, no further response is required.

C1-2 The commenter indicates that Rancho Cucamonga should promote plant-based diets and remove animal product and wasteful consumption.

This comment has been forwarded onto decision-makers for their review. The comment does not raise significant environmental issues or address the adequacy of the EIR or CEQA process. Therefore, no further response is required.

C1-3 The commenter indicates that packaging and transportation should be included in the agricultural section.

Please refer to response C1-1 for impact analyses discussed in the agricultural and forestry resources section. This comment has been forwarded onto decision-makers for their review. The comment does not raise significant environmental issues or address the adequacy of the EIR or CEQA process. Thus, no further response is required.

2. Response to Comments

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2. Response to Comments

LETTER C2 – Kristi Snyder and Victoria Leslie (1 page)

Commenter 2: Kristi Snyder and Victoria Leslie

9/17/21

Please define suburban low and moderate and urban. The orange colors are so close in color it is hard to differentiate between them. I do not want cheap housing in our neighborhood. Wilson/Wardman Bullock. We chose to live in Etiwanda because we do not want to live in a city/urban area. Keep the section 8, condos, townhouses south of baseline.

C2-1

C2-2

C2-3

2. Response to Comments

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2. Response to Comments

C2. Response to Comments from Kristi Snyder and Victoria Leslie, dated September 17, 2021.

C2-1 The commenter requests that the Proposed General Plan Update define suburban low, moderate, and urban.

The General Plan Update shows residential density, non-residential intensity, and target use mix ratio for the Neighborhood Land Use Designations in Table LC-1, General Plan Designations, of Chapter 1: Land Use and Community Character, on page 59 of the Proposed General Plan Update (see Appendix 3-1 of the DEIR).

C2-2 The commenter indicates that the colors in a graphic included in the Proposed General Plan Update are hard to differentiate.

Pages 64 through 69 include an inset map of the individual designations, showing the locations of each individual neighborhood designation within the Plan Area.

C2-3 The commenter indicates concerns regarding community character.

The comment does not raise significant environmental issues or address the adequacy of the EIR or CEQA process. Thus, no further response is required.

2. Response to Comments

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3. Revisions to the Draft EIR

3.1 INTRODUCTION

This section contains revisions to the DEIR based upon (1) additional or revised information required to prepare a response to a specific comment; (2) applicable updated information that was not available at the time of DEIR publication; and/or (3) typographical errors. This section also includes additional mitigation measures to fully respond to commenter concerns as well as provide additional clarification to mitigation requirements included in the DEIR.

None of the revisions to the DEIR require recirculation of the document. Recirculation is only required when significant new information is added. Information is not significant unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect or a feasible way to mitigate or avoid such an effect. Recirculation is not required where the new information merely clarifies, amplifies, or makes insignificant modifications. (CEQA Guidelines § 15088.5.) As explained below, none of the changes adds any new significant information and recirculation is not required.

Changes made to the DEIR are identified here in ~~strikeout text~~ to indicate deletions and in underlined text to signify additions.

3.2 DEIR REVISIONS IN RESPONSE TO WRITTEN COMMENTS AND TECHNICAL REVISIONS

The following text and/or graphics have been revised in response to comments received on the DEIR.

As a result of public and staff review of the Draft EIR, a single mitigation measure has been added to the Draft EIR. The mitigation measure will be as follows, and has been included in the Mitigation Monitoring and Reporting Program (MMRP) along with the standard conditions of approval:

MM-1 The City shall apply all applicable standard conditions of approval to future development within the City.

Page 5.17-43, Chapter 5.17, *Transportation*. The following has been revised to fix a typographical error that used an incorrect reference in the proposed General Plan Policy MA-4.2.

3. Revisions to the Draft EIR

3.2.1 Proposed General Plan Goals and Policies

The following are relevant policies of the Rancho Cucamonga General Plan Update, which may contribute to reducing potential transportation impacts as a result of implementation of the proposed project.

Mobility and Access Element

- Goal MA-4 GOODS MOVEMENT.** An efficient goods movement system that ensures timely deliveries without compromising quality of life, safety and smooth traffic flow for residents and businesses.
- MA-4.1 Truck Network.** Avoid designating truck routes that use collector or local streets that primarily serve residential uses and other sensitive receptors.
- MA-4.2 Southeast Area Connectivity.** Require new development in the Southeast Area to provide the necessary infrastructure to maintain access and public safety as shown on ~~Figure 11~~ Figure M-8.
- MA-4.3 Future Logistics Technology.** Support and plan for electrification and autonomy of the truck fleet.
- MA-4.4 Rail Access.** Avoid abandonment of rail access to industrial parcels or utilize such right of way to balance and enhance other connectivity goals within the City (such as pedestrian/bicycle trails).
- MA-4.5 Grade Separation.** Support the construction of grade separations of roadways and trails from rail lines.

The following table includes Revisions to the Planning Commission Public Hearing Draft General Plan (dated November 2021) for the City Council Public Hearing Draft General Plan (dated December 2021).

As shown in the table below, the changes are predominantly typographical revisions, where policies were either added or revised, or where further clarification was needed, therefore, the conclusions found in the DEIR remain that same and are unaffected by these changes. However, additional standards conditions of approval were added to the Hazards and Hazardous Materials section; these standards are added to page 5.9-12, Chapter 5.96, *Hazards and Hazardous Materials*.

Standard Conditions of Approval

There are existing regulations that reduce hazards and hazardous materials impacts. Compliance by existing and future development and redevelopment with these standard conditions would reduce the potential hazards and hazardous materials impacts in the city. Existing regulations that reduce hazards and hazardous materials impacts include the standard conditions listed here.

3. Revisions to the Draft EIR

- **5.9-1:** Future development shall prepare a Fire Protection Plan that includes measures consistent with the unique problems resulting from the location, topography, geology, flammable vegetation, and climate of the proposed development site. The Plan must also address water supply, access, building ignition fire resistance, fire protection systems and equipment, defensible space, and vegetation management. Maintenance requirements for incinerators, outdoor fireplaces, permanent barbeques and grills, and firebreak fuel modification areas are imposed on new developments.
- **5.9-2:** With respect to all open space, recreational, or parkland uses, the City will ensure through project design features and conditions of approval that Southern California Edison (SCE) has 24/7 downline access by SCE facilities and operations.
- **5.9-3:** With respect to parkland proposed within utility corridors, anti-climbing sharks teeth style barriers, or their equivalent, shall be installed on all transmission towers. Anti-climbing devices shall conform to the California Public Utilities Commission guidance that is in effect at the time of parkland project implementation. The cost of anti-climbing guards and installation shall be borne by the project proponent.
- **5.9-4:** Any proposed trees within utility corridors should be maintained at a height not to exceed 15 feet.
- **5.9-5:** With the exception of utility infrastructure and other public improvements that do not interfere with such infrastructure, permanent structures are not allowed within utility corridors.
- **5.9-6:** Southern California Edison (SCE) shall be notified in writing of any proposal to locate parkland or recreational uses within a utility corridor. If the use is located on SCE property or if otherwise required by law or the terms of a utility easement, SCE's written approval of such uses shall be obtained prior to the issuance of any CEQA approval or permit or other ministerial or discretionary City approval.

3. Revisions to the Draft EIR

Volume	Chapter	Page	Revision
1			Updated Cover
1	1	18-19	Added spread on Value per Acre analysis of General Plan buildout
1	2	30	Updated community engagement numbers
2	1	60	Changed Land Plan Designation for APN: 106117219 from Rural Open Space to General Open Space (change also applied to Figures LC-1, FA-1, OS-2, and V-2)
2	1	61, 64, 70	Updated Suburban Neighborhood – Moderate Non-Residential Intensity to Max 0.3 FAR
2	1	92	Added Policy LC-1.16 as follows: Healthy Development. Ensure that the design and development of our communities supports the health and well-being of our residents. Use the Healthy Development Checklist, or similar assessment tool, to assess the overall health performance and supportiveness of new development projects.
2	1	94	Revised Policy LC-3.2 as follows: Community Benefit. Require a community benefit and economic analysis for large projects that abut existing neighborhoods or for any project at the maximum density, with a focus on resolving physical, economic, <u>long-term fiscal</u> , and aesthetic impacts.
2	1	98	Added Policy LC-5.8 as follows: Equestrian Uses. Continue to protect equestrian uses and to implement the Equestrian Overlay Zone.
2	1	99	Revised Policy LC-7.1 as follows: Gateway & Employment Hub. <u>Establish</u> the Central South Community Planning Area is established as the City’s main “gateway from the I-10 Freeway” and an employment hub of regional significance. <u>Haven Avenue and 4th Street, in particular, is a significant gateway location that is envisioned as a higher intensity urban environment with iconic architecture and a mix of uses that can include luxury or full-service hotel, high rise office building, fine dining restaurant, and/or a public recreation amenity in addition to higher density residential uses.</u>
2	2	123	Added text under Figure FA-6 to prioritize bike and pedestrian activity along segments of Arrow Route through Cucamonga Town Center and residential neighborhoods to contribute to and maintain the character of these areas.
2	2	135	Figure FA-9: Changed legend for Day Creek Channel from Recommended Park to Open Space
2	4	161	Added sentence to paragraph under Arterial Roadway: Portions of Arrow Route through Cucamonga Town Center and residential neighborhoods prioritize pedestrian and bike modes to contribute to and maintain the character of these areas.
2	4	172	Added sentence to last bullet: Except for the one identified east-west road, this General Plan’s circulation network omits any public streets through property owned by Southern California Edison in the Southeast Area, as depicted in Figures M-8 and FA-9.

3. Revisions to the Draft EIR

Volume	Chapter	Page	Revision
2	4	173	Figure M-8: Changed legend for Day Creek Channel from Recommended Park to Open Space
3	1	230	Added new Resource Conservation Policy as follows: RC-7.15 Utility Preservation. Public and private development within the City, including multi-purpose trails, shall not interfere with safe and reliable transmission, storage, and generation of electricity. With the exception of utility infrastructure and other public improvements that do not interfere with such infrastructure, permanent structures are not allowed within utility corridors.
4	1	273	Added new action item in Table WP-3 as follows: Healthy Development Checklist. Continue to update with current best practices and use the Healthy Development checklist, or similar assessment tool, to assess the overall health performance and supportiveness of new development projects.
4	1	276	Added action item to Table WP-3: Fiscal Impact Analyses. Establish additional procedures and tools to consider the financial benefits and impacts of development at the project approval level based on anticipated full life-cycle costs and value per acre.
4	1	295-296	Added additional Standards Conditions of Approval under Hazards and Hazardous Materials Section as follows: 5.9-2. With respect to all open space, recreational, or parkland uses, the City will ensure through project design features and conditions of approval that Southern California Edison (SCE) has 24/7 downline access by SCE facilities and operations. 5.9-3. With respect to parkland proposed within utility corridors, anti-climbing sharks teeth style barriers, or their equivalent, shall be installed on all transmission towers. Anti-climbing devices shall conform to the California Public Utilities Commission guidance that is in effect at the time of parkland project implementation. The cost of anti-climbing guards and installation shall be borne by the project proponent. 5.9-4. Any proposed trees within utility corridors should be maintained at a height not to exceed 15 feet. 5.9-5. With the exception of utility infrastructure and other public improvements that do not interfere with such infrastructure, permanent structures are not allowed within utility corridors. 5.9-6. Southern California Edison (SCE) shall be notified in writing of any proposal to locate parkland or recreational uses within a utility corridor. If the use is located on SCE property or if otherwise required by law or the terms of a utility easement, SCE's written approval of such uses shall be obtained prior to the issuance of any CEQA approval or permit or other ministerial or discretionary City approval.

3. Revisions to the Draft EIR

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Appendix F-1

Southeast Industrial Quadrant Roadway Network Assessment

MEMORANDUM

Date: Updated April 28, 2021

To: Jason Welday, City of Rancho Cucamonga

From: Jason Pack, P.E.
Delia Votsch, P.E.

Subject: Southeast Industrial Quadrant Roadway Network Assessment

OC21-0776

Fehr & Peers has completed an evaluation of the roadway network in the Southeast Industrial Quadrant (SEIQ) of the City of Rancho Cucamonga.

The SEIQ includes existing industrial, warehouse, and logistics uses. Potential development includes but is not limited to expansion of existing and new industrial, warehouse, and logistics uses. The total potential development for the area is over 6 million square feet of new development space.





STUDY AREA

Fehr & Peers has evaluated if the roadway network provides adequate capacity to support the proposed level of development in the SEIQ.

The following intersections and roadway segments were evaluated.

Roadway Segments:

1. Etiwanda Avenue north of Arrow Route
2. Etiwanda Avenue between Arrow Route and Whittram Avenue
3. Etiwanda Avenue between Whittram Avenue and Napa Street
4. Etiwanda Avenue south of Napa Street
5. Arrow Route west of Etiwanda Avenue
6. Arrow Route east of Etiwanda Avenue
7. Napa Street east of Etiwanda Avenue
8. 6th Street west of Etiwanda Avenue
9. 4th Street west of Etiwanda Avenue

Intersections:

1. Etiwanda Avenue/Arrow Route
2. Etiwanda Avenue/Whittram Avenue
3. Etiwanda Avenue/6th Street
4. Etiwanda Avenue/4th Street



ANALYSIS SCENARIOS

The roadway and intersection capacities were evaluated for the following scenarios:

- Existing (2020) – Due to the stay-at-home orders in place in San Bernardino County due to the COVID-19 pandemic, collecting new traffic counts for the assessment was not feasible. Roadway segment vehicle volumes consistent with the ongoing General Plan Update and intersection volumes from the recently completed Bridge Point (12434 4th Street) and Black Creek (8996 Etiwanda Avenue) TIAs were used to represent the existing conditions.
- Future Year (2040) with no Land Use Growth – The San Bernardino County Transportation Analysis Model (SBTAM) was used to forecast vehicle volume growth. All land use growth outside of the SEIQ was maintained, while the SEIQ area was assumed to have no land use growth.
- Future Year (2040) with Planned Development (Low) and no Network Improvements – The vehicle trips associated with the low-end estimate of the planned development were manually added to the intersection and roadway volumes produced in the no land use growth scenario.
- Future Year (2040) with Planned Development (High) and no Network Improvements – The vehicle trips associated with the high-end estimate of the planned development were manually added to the intersection and roadway volumes produced in the no land use growth scenario.
- Future Year (2040) with Planned Development (Low) and Network Improvements – The vehicle trips associated with the low-end estimate of the planned development were manually added to the intersection and roadway volumes produced in the no land use growth scenario. New collector streets which provide additional network capacity were included.
- Future Year (2040) with Planned Development (High) and Network Improvements – The vehicle trips associated with the high-end estimate of the planned development were manually added to the intersection and roadway volumes produced in the no land use growth scenario. New collector streets which provide additional network capacity were included.



ANALYSIS METHODOLOGY

Intersections were evaluated using the Highway Capacity Manual (HCM) 6th Edition methodology.

Table 1: HCM Intersection Level of Service Criteria

Level of Service	Description	Signalized Delay (Seconds)
A	Operations with very low delay occurring with favorable progression and/or short cycle length	≤ 10.0
B	Operations with low delay occurring with good progression and/or short cycle lengths	> 10.0 to 20.0
C	Operations with average delays resulting from fair progression and/or longer cycle lengths. Individual cycle failures begin to appear	> 20.0 to 35.0
D	Operations with longer delays due to a combination of unfavorable progression, long cycle lengths, or high V/C ratios. Many vehicles stop and individual cycle failures are noticeable	> 35.0 to 55.0
E	Operations with high delay values indicating poor progression, long cycle lengths, and high V/C ratios. Individual cycle failures are frequent occurrences	> 55.0 to 80.0
F	Operation with delays unacceptable to most drivers occurring due to over saturation, poor progression, or very long cycle lengths	> 80.0

Source: Highway Capacity Manual 6th Edition (Transportation Research Board, 2017).

Roadway capacities used to evaluate roadway segments were developed in consultation with the City of Rancho Cucamonga staff, referencing HCM 6th edition.

Table 2: Roadway Level of Service Criteria

Roadway Type	LOS C	LOS D	LOS E
2-Lane Collector	10,000	13,000	15,000
4-Lane Collector	18,000	20,200	23,200
2-Lane Arterial	9,700	17,600	18,700
4-Lane Arterial, Undivided	17,500	27,400	28,900
4-Lane Arterial, Divided	19,200	35,400	37,400

Source: Highway Capacity Manual 6th Edition (Transportation Research Board, 2017), Fehr & Peers, 2021.



EXISTING (2020) RESULTS

In the Existing (2020) conditions, reserve daily capacity is present on most roadways and all intersections operate acceptably at LOS D or better in the SEIQ. There is no reserve capacity on Arrow Route east of Etiwanda, right-of-way is limited in this segment and the roadway narrows down to one lane in each direction. Similarly, there is no reserve capacity on Etiwanda between Whittram and Napa, as the roadway narrows through the existing at-grade crossing down to one lane in each direction.





FUTURE YEAR (2040) WITH NO LAND USE GROWTH RESULTS

In the Future Year (2040), land use in the SEIQ was assumed to be the existing land use in the area, while outside the SEIQ land use growth was assumed. Less reserve capacity compared to the existing condition is present on most facilities, except for Etiwanda between Whittram and Napa which has been grade separated and widened to two lanes in each direction. All intersections operate at LOS D or better except for the intersection at Whittram and Etiwanda, which operates at LOS E in the PM peak hour.

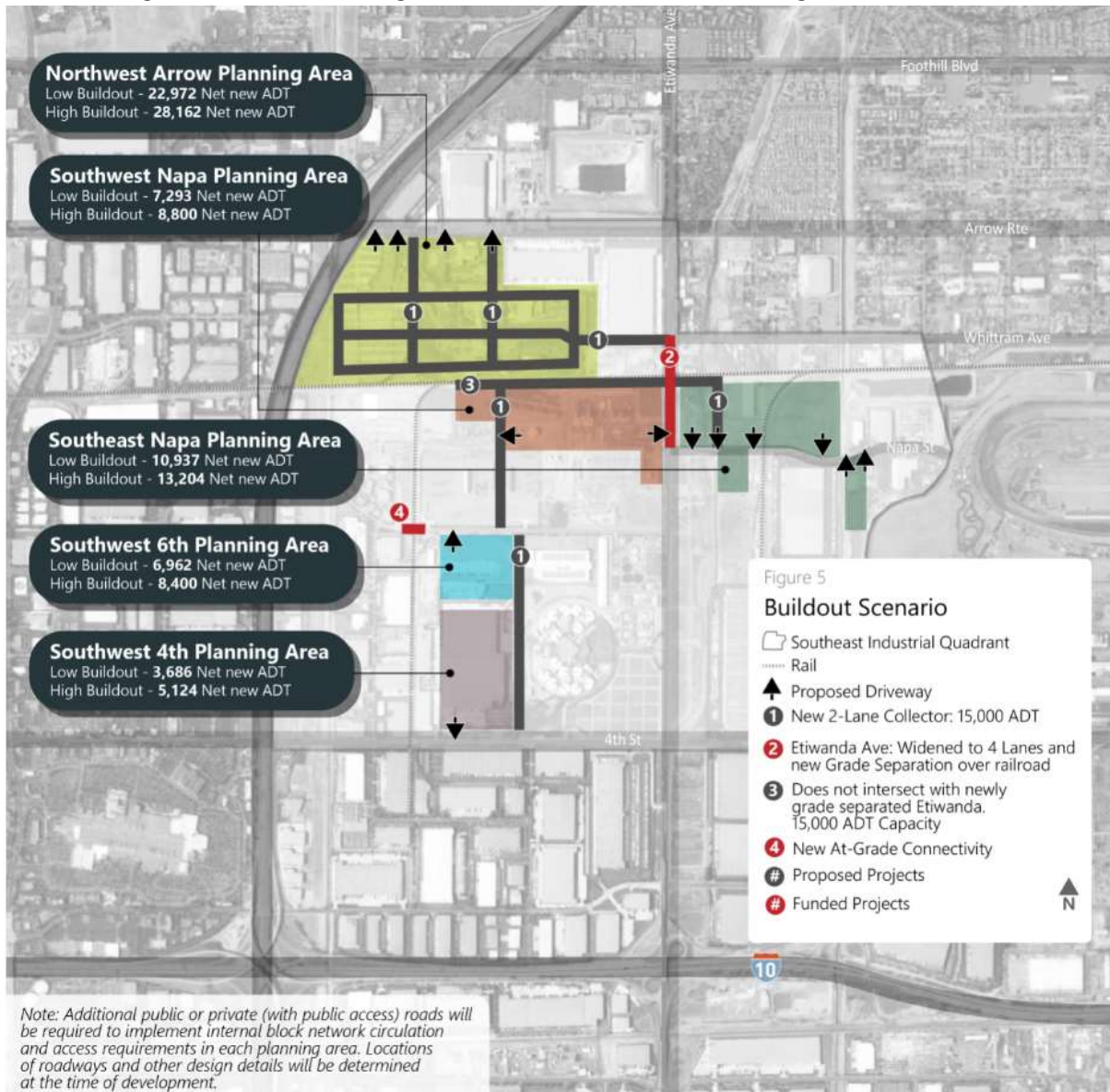




PLANNED SEIQ BUILDOUT

Development is proposed in five planning areas within the SEIQ. 'Low' and 'High' buildout scenarios were considered in the analysis, as shown in the figure below.

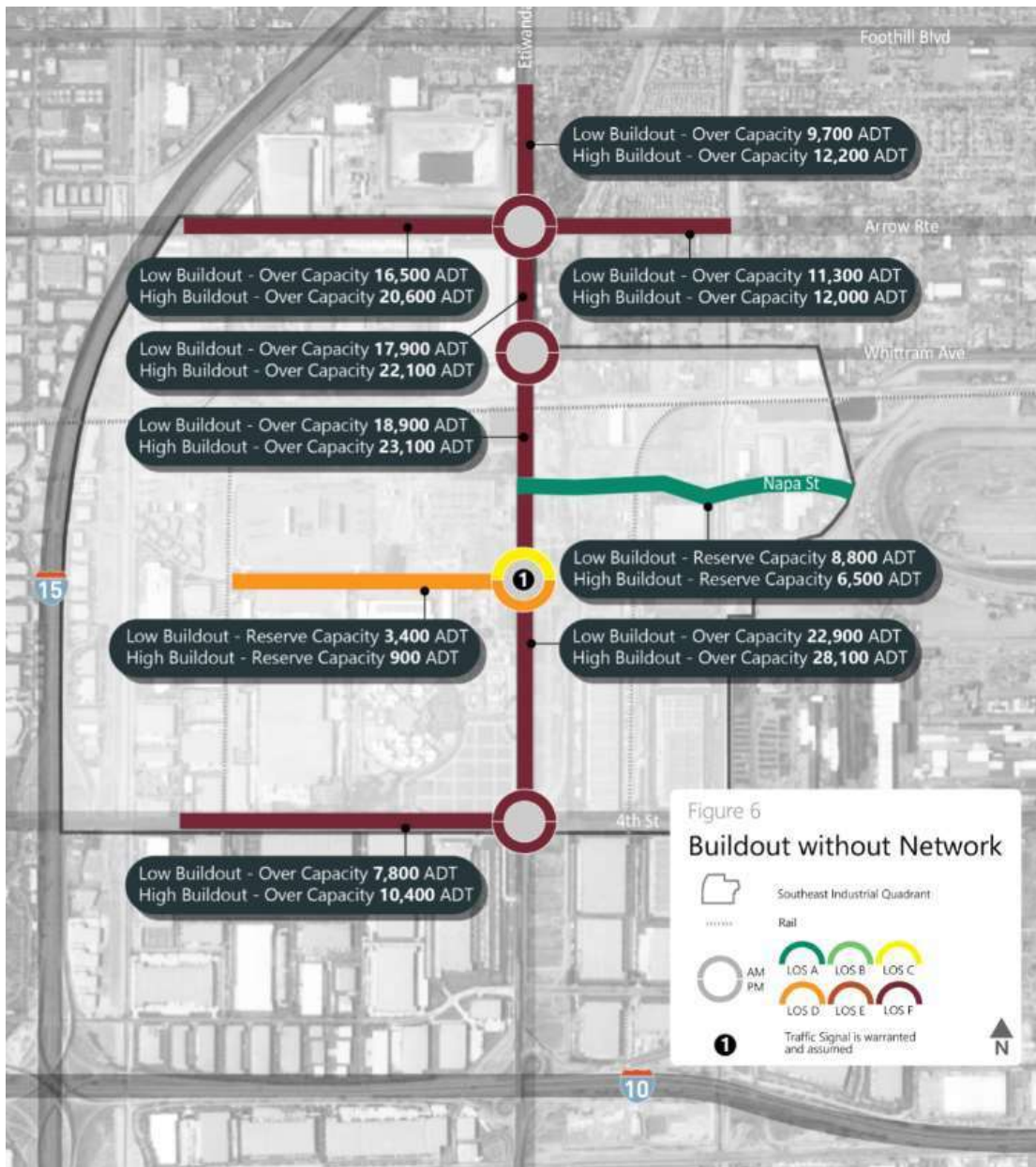
New proposed collector streets (labeled 1 and 3 in the figure below) are not currently included in the City's General plan, but are being considered as potential additional roadway capacity for the SEIQ as part of the ongoing General Plan Update. These collector streets were only included in the Future Year (2040) with Planned Development and Network Improvements scenarios. Under all future year scenarios, Etiwanda Avenue was assumed to be grade separated over the existing rail tracks and widened to 2 lanes in each direction, and 6th Street was assumed to provide an east-west connection at-grade across the existing rail tracks (labeled 2 and 4 on the figure below).





FUTURE YEAR (2040) WITH PLANNED DEVELOPMENT AND NO NETWORK IMPROVEMENTS RESULTS

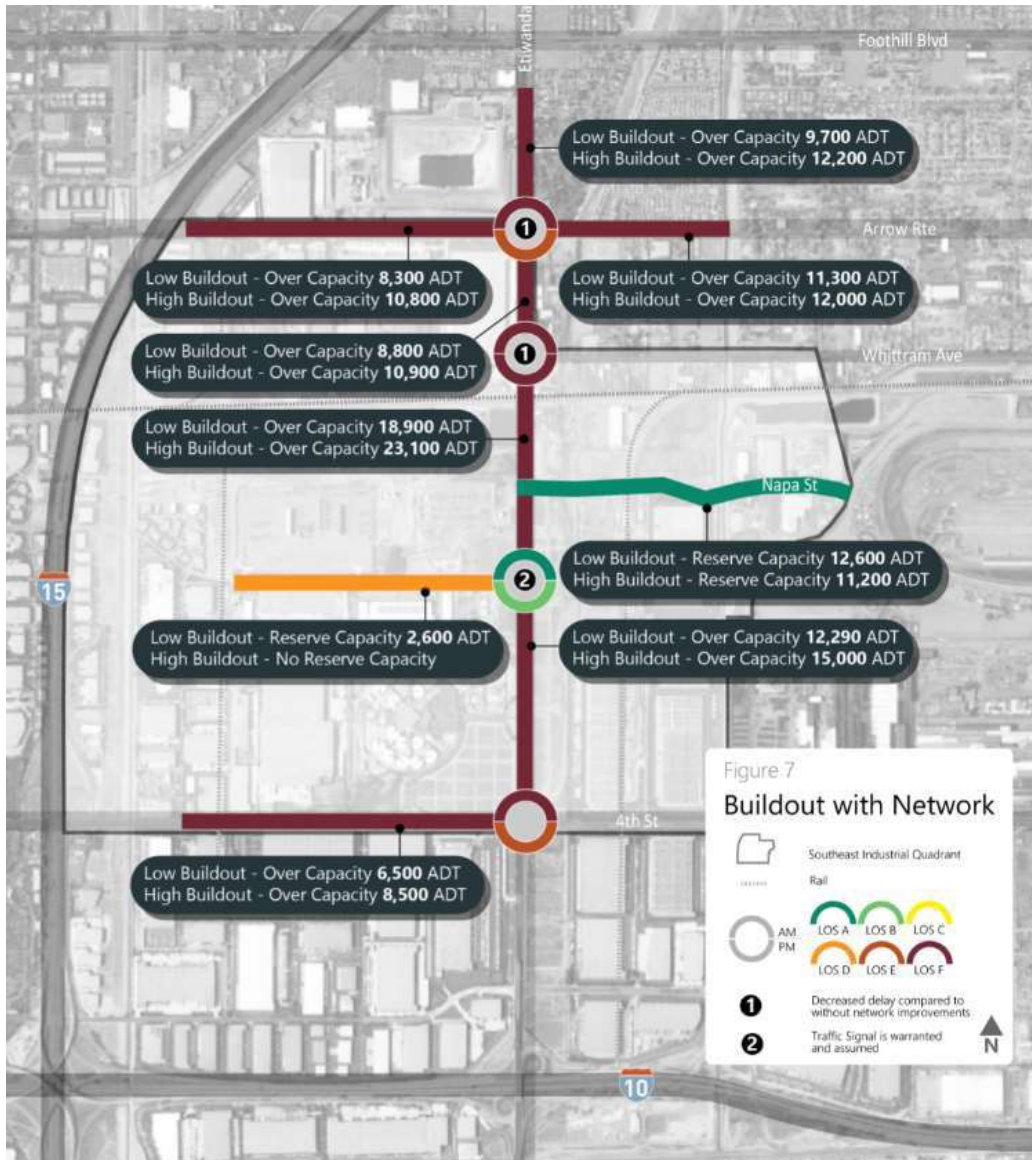
With the addition of traffic from the buildout of the Planning Areas and without the potential new collector streets proposed in the ongoing General Plan Update, the vehicle demand on all roadways in the SEIQ exceeds the available capacity on all roadways except for 6th Street and Napa Street. All intersections operate unacceptably except for Etiwanda and 6th Street.





FUTURE YEAR (2040) WITH PLANNED DEVELOPMENT AND NETWORK IMPROVEMENTS RESULTS

With the addition of traffic from the buildout of the Planning Areas and with the potential new collector streets, the vehicle demand on all roadways in the SEIQ continues to exceed the available capacity on all roadways except for 6th Street and Napa Street. All intersections operate unacceptably except for Etiwanda and 6th Street. While most streets are over capacity, the new collector streets do alleviate some of the congestion and reduce the amount the streets are over capacity by. Intersections operate unacceptably but delay is improved at all intersections compared to the delay without the new collector streets.





EMERGENCY EVACUATION PLANNING

The newly developed City of Rancho Cucamonga Emergency Evacuation Planning Tool incorporates the SBTAM roadway network and Traffic Analysis Zone (TAZ) structures and a Dynamic Trip Assignment (DTA) in VISUM to generate and assign vehicle trips in a designated time interval to simulate an evacuation scenario. The tool can be run city-wide or for a specific neighborhood.

The City's newly developed evacuation planning tool was run for the SEIQ area. As the SEIQ area is made of entirely of employment uses, a 1-hour mid-morning (9 AM – 10 AM) evacuation scenario was tested where all employees were at work, all employees drove to work, and there would be an average vehicle occupancy of 1.0.

With the maximum land use buildout of the SEIQ, a total of over 12,000 employees would need to evacuate if the SEIQ was under evacuation order. The distribution across the 1-hour time window is shown in Table 3.

Table 3: Evacuation Time Window Distribution

Time Interval	Percent Evacuating
9:00-9:14	20%
9:15-9:29	40%
9:30-9:44	30%
9:45-9:59	10%

Source: Fehr & Peers, 2021.

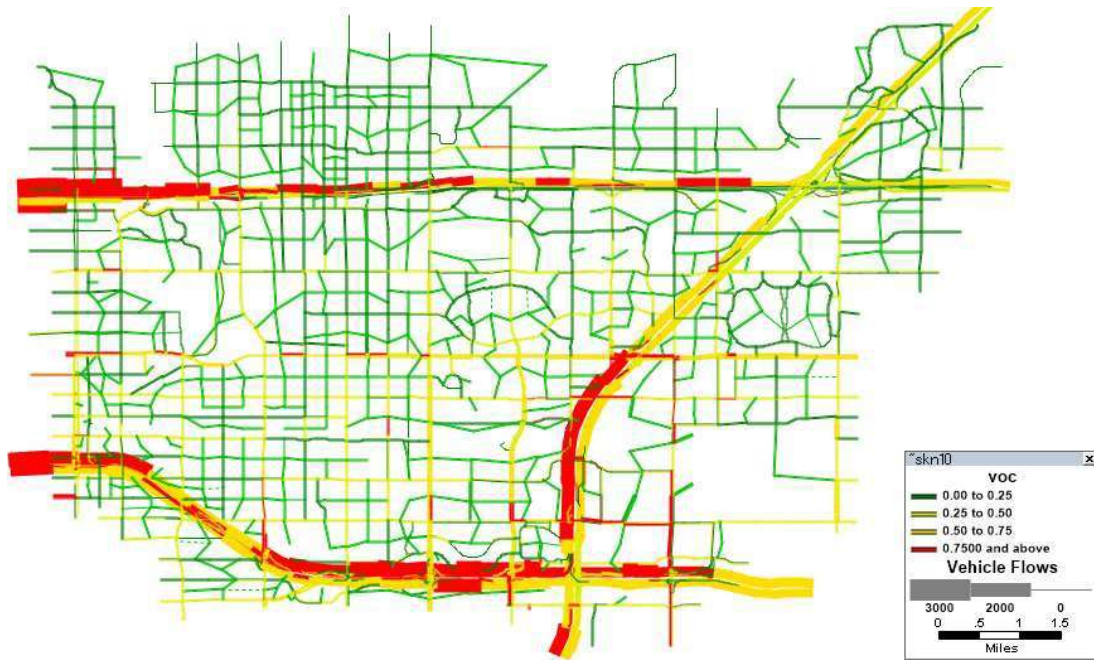
Within the first 15-minute interval, the SEIQ arterials of Arrow Route, Etiwanda Avenue, and 4th Street are operating above the available capacity during the evacuation. The I-10 and I-15 freeways and Foothill Boulevard are also heavily used and operate above available capacity within the first 15-minute interval. This trend continues throughout the hour, with the SEIQ streets Whittram Avenue and 6th Street similarly operating above available capacity by the second 15-minute time interval. By the end of the 1-hour window, most SEIQ streets are operating below capacity, except for Etiwanda Avenue and 4th Street.

The results of the tool output are shown below.



DTA Assignment Results by Time Interval with 1-hour Evacuation Window

9am – 9:15am



9:15am – 9:30am





9:30am – 9:45am



9:45am – 10am





ROADWAY STANDARDS

The ongoing General Plan update includes a revision of the City's Zoning Code and Development Standards. Draft standards for the SEIQ have been developed and are currently being reviewed by the project team and incorporated into the updated Zoning Code.

A future SEIQ Specific Plan could provide an opportunity to further refine or develop detailed development standards that would apply to the SEIQ.

CONCLUSIONS

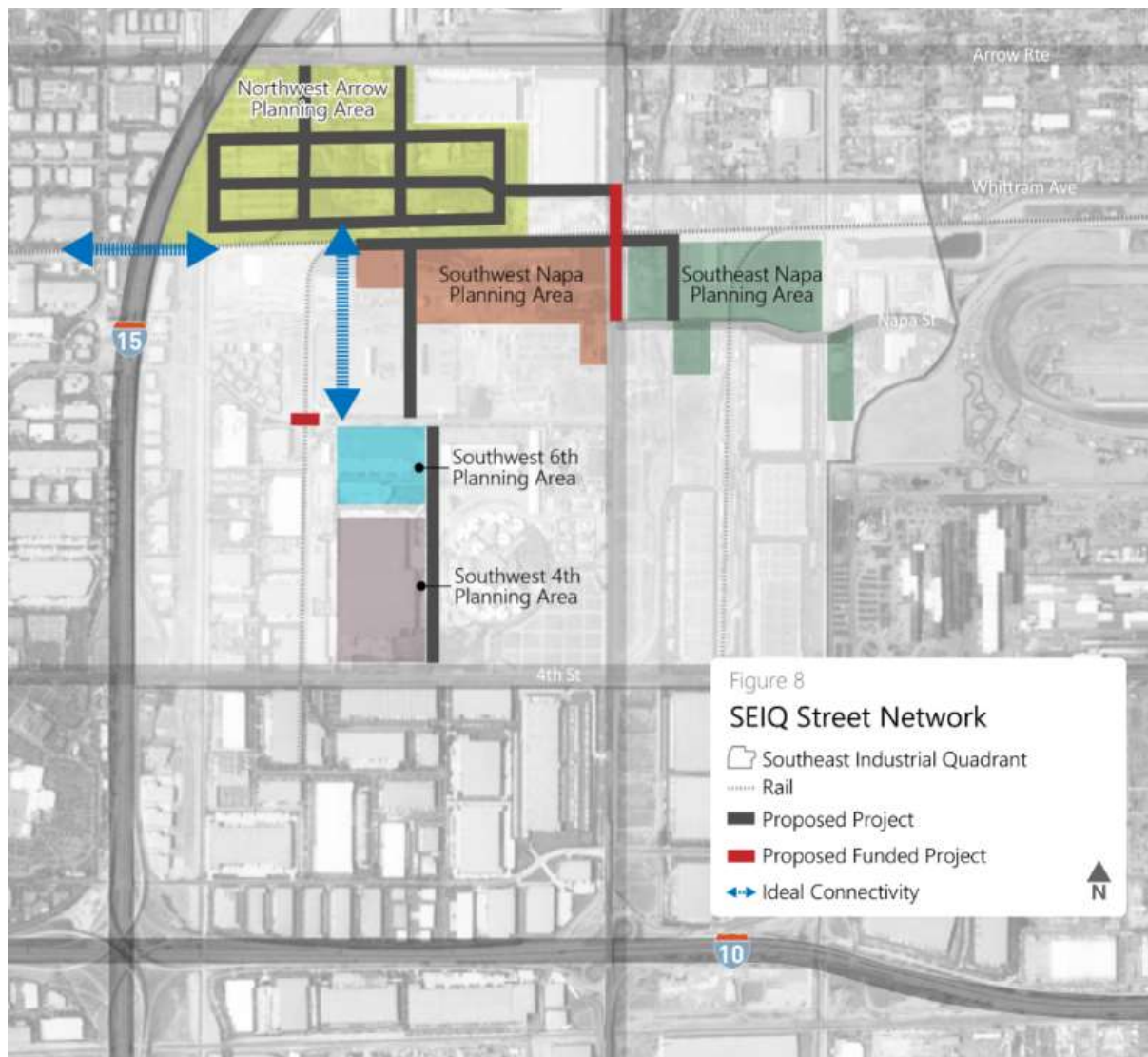
Capacity Assessment

Although the addition of new collector streets in the Southeast Industrial Quadrant alleviates the congestion on some of the roadways and intersections, intersections continue to operate unacceptably, and roadway segments remain over capacity. The vehicle demand generated by the proposed buildout in the planning areas exceeds the available vehicle capacity on local streets.

The north/south vehicle demand across the railroad cannot be met by Etiwanda Avenue even with the planned and funded future widening and grade separation. The north/south vehicle demand across the railroad exceeds available capacity by approximately 20,000 vehicles per day. Arrow Route and 4th Street are similarly over capacity and cannot accommodate the vehicle demand for an east/west connection to the I-15 freeway and other destinations to the west of the SEIQ. The vehicle demand for an east/west connection to the I-15 freeway exceeds available capacity by approximately 23,000 vehicles per day.

A new north/south roadway which connects Northwest Arrow Planning Area to 6th Street and a new east-west roadway which connects the Northwest Arrow Planning Area and Rochester Avenue would each provide additional capacity for approximately 23,000 vehicles per day, if constructed as collector streets with 2-lanes in each direction. These roadways would provide the ideal connectivity and needed capacity to the local SEIQ street network.

The funded roadway projects, proposed new collector streets, and ideal connectivity are presented below.



Emergency Evacuation Planning

As with the capacity assessment, the emergency evacuation planning indicates that there is inadequate east-west and north-south capacity serving the SEIQ area. By the end of the 1-hour evacuation window, most SEIQ streets are operating below capacity, except for Etiwanda Avenue and 4th Street.

Roadway Standards

The SEIQ roadway standards are under review by the project team and will be incorporated into the ongoing General Plan update.