

Towne Centre View Project Environmental Impact Report

SCH No. 2021040044; Project No. 624751

Comments and Responses to
Comments on the Draft EIR
for the
University Community Planning Group
Towne Centre View Subcommittee

March 2023

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State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
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January 10, 2023

Ms. Sara Osborn
City of San Diego
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Subject: Towne Centre View (Project), Draft Environmental Impact Report (DEIR), SCH #2021040044

Dear Ms. Osborn:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Impact Report (DEIR) from the City of San Diego (City) for the Towne Centre View (Project No. 624751) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW's Role

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*).

CDFW also administers the Natural Community Conservation Planning (NCCP) program (Fish & G. Code, § 2800 *et seq.*), a California regional habitat conservation planning program. The City participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP) and Implementing Agreement (IA). The

¹ CEQA is codified in the California Public Resources Code in section 21000 *et seq.* The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 1500.

Conserving California's Wildlife Since 1870

A-1

A-1 This comment provides introductory remarks and a discussion of the California Department of Fish and Wildlife's (CDFW) role as California's Trustee Agency for fish and wildlife resources, and a Responsible Agency pursuant to CEQA. This comment is for informational purposes and does not address the analysis of environmental impacts presented in the EIR. Therefore, no response to this comment or revision to the Draft Environmental Impact Report (EIR) is required.

COMMENTS

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Multi-Habitat Planning Area (MHPA) is the area from which a final hardline reserve becomes established in the City to adequately conserve covered species pursuant to the SAP. The DEIR for the proposed Project must ensure that all requirements and conditions of the SAP and IA are met. The DEIR should also address any biological issues that are not addressed in the SAP and IA, such as specific impacts to and mitigation requirements for sensitive species that are not covered by the SAP and IA.

PROJECT DESCRIPTION SUMMARY

Proponent: BRE-BMR Towne Centre Science Park LLC

Objective: The Project proposes to remove existing commercial buildings and construct a five-building campus (Buildings A-E) which would include scientific research and development, laboratory, technology, and office uses. Three of the buildings (A-C) would be six levels, Building D would be five levels, and Building E would be two levels. The Project will also include construction of perimeter retaining walls, parking structures, recreational facilities, brush management areas, bioretention basins, native landscaping, and a turnaround at the intersection of Towne Centre Drive and Westerra Court.

Location: The 33.55-acre Project site is located north of the terminus of Towne Centre Drive, between Interstates 5 and 805, in the City of San Diego. The Project site is surrounded by commercial use to the south and open space/MHPA to the north, west, and south.

Biological Setting: Per the Biological Technical Report (BTR, ALDEN, 2022), the Project site consists primarily of developed areas and landscaping associated with a previous project (Towne Centre Corporate Plaza Project). Project construction will occur within disturbed/developed areas and will avoid the northern portion of the site that is within the MHPA and protected under an open space easement (7 acres). The Project will directly impact 20.06 acres on-site (including 0.05 acre of Diegan coastal sage scrub and Diegan coastal sage scrub-disturbed) and 1.41 acres off-site (including <0.01 acre of Diegan coastal sage scrub-revegetation located within the MHPA). Biological surveys were conducted in the Project area in May 2020 and October 2022. The coastal California gnatcatcher (*Poliotilia californica californica*; Federal Endangered Species Act (ESA) listed Threatened, CDFW Species of Special Concern) was observed within the MHPA areas on-site and off-site. Special status plant species including Nuttall's scrub oak (*Quercus dumosa*; California Native Plant Society (CNPS) Rare Plant Rank 1B.1) and San Diego barrel cactus (*Ferocactus viridescens*; CNPS List Rare Plant Rank 2B.1), were detected during surveys and will not be impacted by the Project. The Project will avoid significant impacts to biological resources through avoidance of the MHPA areas and compliance with the City's Land Use Adjacency Guidelines and Area Specific Management Directive for the California gnatcatcher through conditions of approval. In addition, the Project will add 3.68 acres of scrub oak chaparral, Diegan coastal sage scrub, non-native grassland, Diegan coastal sage scrub-disturbed, and southern willow scrub on-site to the City's MHPA through preservation.

Timeframe: Project construction is anticipated to last approximately 68 months.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City in identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts

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A-3

A-2 This comment provides a description of the Project and summarizes the Project's objectives, location, biological setting, and construction timeline. This comment is for informational purposes and does not address the analysis of environmental impacts presented in the Draft EIR. Therefore, no response to this comment or revision to the Draft EIR is required.

A-3 This comment recommends that the Project include retaining walls around the entire site and include signage to inform the public of sensitive habitat areas. The comment also suggests the Project establish an educational program for employees and visitors that emphasizes the biological significance and regulations of the Multi-Habitat Planning Area (MHPA). The majority of the Project perimeter adjacent to the MHPA would consist of existing or proposed retaining walls that would serve to deter access to the MHPA. As noted in Section 5.4, *Biological Resources*, of the Draft EIR, the Project would be subject to the City's Land Use Adjacency Guideline (LUAG), which include a requirement for barriers to prevent access into the MHPA. The MHPA LUAG would be a condition of approval for the Project and would be required prior to issuance of any construction permits including, but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits. The owner/permittee would be required to depict applicable requirements within the contract specifications and on the Project's construction documents (as necessary). The portions of the Project site perimeter that would not have retaining walls would have a fence or other barrier to deter access to the MHPA. As noted in Section 5.4, *Biological Resources*, of the Draft EIR, impacts to biological resources would be less than significant; however, the Project would implement an educational signage program as requested by the commenter, which would be required as a condition of approval through compliance with the City's LUAG. Therefore, impacts related to access to the MHPA would be less than significant as identified in the Draft EIR. No revisions to the Draft EIR are required.

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on fish and wildlife (biological) resources and to ensure regional conservation objectives in the MSCP SAP would not be eliminated by implementation of the Project.

COMMENT #1 MHPA Educational Program and Signage

Per the DEIR, page 5.4-17, the Project proposes to retain existing walls around the site perimeter and construct new walls northeast of proposed Building D and south of proposed Building A that will deter access to the adjacent MHPA. CDFW recommends that the proposed retaining walls surround the entire site and include signage to inform the public of sensitive habitat areas and discourage unauthorized access to the MHPA. In addition, CDFW recommends that the Project establish an educational program for employees and visitors that emphasizes the biological significance and regulations of the MHPA.

COMMENT #2 Lighting and Noise

Per the DEIR, pages 3-11 and 5.4-16, the Project proposes to install artificial night lighting fixtures on buildings, along pathways and roadways, and in parking areas that will be fully shielded and directed away from adjacent MHPA. In addition, the Project proposes that construction and operational noise will not exceed an hourly limit of 60 dBA Leq or the average ambient noise, whichever is greater, at the edge of the MHPA. Thank you for ensuring all lighting and noise associated with Project construction and operation is consistent with the City's Land Use Adjacency Guidelines (LUAG) to avoid indirect impacts to sensitive species within the adjacent MHPA. Per the DEIR, page 3-11, Section 3.2.3 B. Amenities, on-site amenities will include sports fields/courts and roof terraces for conferencing and small events. CDFW requests that all rooftop and recreational events are also consistent with the LUAG to prevent noise and light pollution spillover into adjacent MHPA.

Environmental Data

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying project approval to be operative, vested, and final. (Cal. Code Regs. tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the City in identifying and mitigating Project impacts on biological resources and ensuring Project consistency with the requirements of the MSCP.

A-3
(CONT.)

A-4

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A-4 This comment acknowledges lighting and noise resulting from the Project would adhere to the City's LUAG, which would avoid impacts to sensitive species within the adjacent MHPA. The comment also requests that all rooftop and recreational events on-site also be consistent with the LUAG to prevent noise and light pollution spillover into the adjacent MHPA. As required by the City, all activities and uses proposed on-site, including the sports fields/courts and roof terraces, would comply with the City's LUAG.

As identified in Section 3.2.4.A of the Draft EIR, on-site lighting would be designed to protect biological resources by providing fully shielded light fixtures to prevent light spill-over/light pollution into adjacent open space/MHPA areas. These requirements would also apply to any lighting used for a rooftop or outdoor recreational event. The spill control features are consistent with the LUAG, which are designed to "ensure minimal impacts to the MHPA" (Section 1.4.3 of the City's MSCP Subarea Plan).

Operational noise impacts to the MHPA are addressed in Section 5.11, *Noise*, of the Draft EIR. As identified, daytime and nighttime operational noise levels at the Project site boundary with adjacent open space (within the MHPA) would range from 23.6 dBA Leq to 50.3 dBA Leq, and would not be of sufficient volume or duration to impact or interfere with wildlife utilization of adjacent habitat or the MHPA. As such, the Project would not result in significant operational noise impacts within the adjacent MHPA, consistent with the LUAG. No further analysis of indirect impacts to biological resources or revisions to the Draft EIR are required.

A-5 This comment provides information about the requirements of CEQA, and requests that any special status species or natural communities detected on-site be reported to the California Natural Diversity Database. This comment is for informational purposes and does not address the analysis of environmental impacts presented in the Draft EIR. Therefore, no response to this comment or revision to the Draft EIR is required.

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A-6 This comment provides information about required Notice of Determination (NOD) filing fees for the Project and includes a conclusion to the letter. This comment is for informational purposes and does not address the analysis of environmental impacts presented in the Draft EIR. Therefore, no response to this comment or revision to the Draft EIR is required.

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Questions regarding this letter or further coordination should be directed to Alison Kalinowski, Environmental Scientist, by email at Alison.Kalinowski@wildlife.ca.gov.

Sincerely,

DocuSigned by:

David Mayer

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David Mayer
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ec: CDFW

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USFWS

Jonathan Snyder – Jonathan_D_Snyder@fws.gov

References

ALDEN Environmental Inc. 2022. Biological Technical Report for the Towne Centre View Project.

California Department of Fish and Wildlife. 2021. California Natural Diversity Database (CNDDDB). Available from: <https://wildlife.ca.gov/Data/CNDDDB>.

California Department of Fish and Wildlife. 2021. CNDDDB – Plants and Animals. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

California Department of Fish and Wildlife. 2021. Submitting Data to the CNDDDB. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

California Environmental Quality Act (CEQA). California Public Resources Code in section 21000 et seq. The “CEQA Guidelines” are found in Title 14 of the California Code of Regulations, commencing with section 15000.

California Office of Planning and Research. 2009 or current version. CEQA: California Environmental Quality Act. Statutes and Guidelines, § 21081.6 and CEQA Guidelines, § 15097, § 15126.4(2).

City of San Diego. March 1997. City of San Diego MSCP Subarea Plan.

City of San Diego. 2022. Towne Centre View Draft Environmental Impact Report.

University Community Planning Group

Comments for the Towne Centre View Draft Environmental Impact Report

**SCH No. 2021040044, November 2022
Project No. 624751**

Approved December 13, 2022, by the UCPG

Submitted to the City of San Diego December 22, 2022

Notes for reading this comment letter:

Statements asking for a comment in the Final Environmental Impact Report are given in *bold italics*.

A statement reflecting a UCPG recommendation or support for an aspect of the Project are indicated by the phrase “**The UCPG recommends ...**” or “**The UCPG supports ...**”, given in **bold**.

Draft Environmental Impact Report Comments

- B-1 **1) Project Landscaping Plan.**
The DEIR addresses landscaping in section 3 pages 8-9.
The UCPG strongly supports the project’s use of native plants in project landscaping throughout the site. This is an important step toward preservation and enhancement of biodiversity and environmental resilience in the city and in its MHPA in particular.
- B-2 ***The FEIR should evaluate the impact of removing Chinese Elm from the project plant palette Chinese Elm is invasive in open space areas of the University Community.***
- B-3 **2) Conveyance of Open Space to City of San Diego.**
The DEIR addresses the conveyance of Open Space in table 5.1-1 and section 5.4 on p 5.4-12 and 15.
The UCPG supports the establishment of conservation easements and conveyance of 3.9 acres of on-site MHPA to the city’s MHPA through transfer in fee simple and/or dedication.

B-1 This comment indicates support for the Project’s use of native plants for the Project’s landscaping. This comment does not address the analysis of environmental impacts presented in the EIR. Therefore, no response to this comment or revision to the Draft Environmental Impact Report (EIR) is required.

B-2 This comment indicates that the Final EIR should evaluate the impact of removing Chinese Elm from the Project plant palette and states it is invasive in the open space areas in the University Community. The applicant consulted with Native West Nursery during landscape design and Section 5.4, *Biological Resources*, of the EIR evaluated impacts to biological resources based on the proposed landscape plan, which was reviewed by City staff. The landscape plan meets City landscape requirements and impacts to Biological Resources were determined to be less than significant. However, based on this comment, the Project’s landscape plan has been updated to remove Chinese elm trees adjacent to the Multi-Habitat Planning Area (MHPA). The removal of Chinese elm trees adjacent to the MHPA does not constitute significant new information, so recirculation of the EIR for further comment (pursuant to CEQA Guidelines, Section 15088.5) is not required.

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B-3 This comment identifies support for the Project's conveyance of onsite open space areas to the MHPA. This comment does not address the analysis of environmental impacts presented in the EIR. Therefore, no response to this comment or revision to the Draft EIR is required.

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- B-4 **The UCPG recommends** that the city Parks and Recreation Department Open Space Division Deputy Director approve the transfer and dedication of on-site MHPA to the city preserve.
- B-5 **The UCPG supports** addition of open space easements and conveyance of 3.9 ac to City MHPA.
- The UCPG recommends** that dedication should take place as part of the approval of the project.
- 2a) Potential for Habitat Restoration**
- The DEIR discusses the conservation/dedication of 3.9 acres of onsite lands to the City of San Diego MHPA on p 5.4-12 and 15.
- As these lands include disturbed plant communities and habitat lands require costs associated with maintenance and monitoring, the FEIR should consider the potential impacts on adjacent MHPA lands and adjoining sensitive species, including Coastal California Gnatcatcher, of restoring habitat and providing funding for maintenance and monitoring in the 3.9 acres identified for conservation and dedication as open space.*
- 3). Range of feasible alternatives**
- The DEIR considers alternatives to the project in section 10; however, it does not consider the one option most likely to result in reduced automobile transportation, VMT and GhG while meeting the economic goals of the project: the reduction of available parking.
- The FEIR should evaluate the impacts of a reduced parking alternative on VMT, GhG, and transportation mode share, including the potential removal or rescaling of the parking structure (504 parking spaces) in the SE corner of the site. It should explain why a reduced parking alternative was not studied, given concerns raised over the impact of the parking garage.*
- 4) Visual Impacts**
- The DEIR discusses visual impacts in section 5.17.
- The proposed parking will have significant and unmitigable visual, aesthetic, and scenic impacts by obstructing a public vista across nearly four miles of the State Coastal Zone, including the Sorrento Valley, Peñasquitos Lagoon and Pacific Ocean. This is one of the few – if not the only – publicly accessible views of the Ocean in the University Community east of Interstate 5 or outside of the Coastal Zone.
- This vista and surrounding canyon vistas offered from public rights of way are listed as a “scenic resource” on page 221 of the *University Community Plan, 1987*.
- To reduce impacts to scenic resources including public views of Coastal Zone, Ocean, and Sorrento Valley from the public right of way on Towne Center Drive, the FEIR should study a*

- B-4 This comment recommends that the dedication of open space be approved by the City Parks and Recreation Department Open Space Division Deputy Director. The Project’s proposed conveyance of open space would be approved by the appropriate City representative consistent with City review policy. This comment does not address the analysis of environmental impacts presented in the Draft EIR. Therefore, no response to this comment or revision to the Draft EIR is required.
- B-5 This comment indicates support for the Project’s conveyance of onsite open space areas to the MHPA and recommends dedication should occur as part of the approval of the Project. As discussed in Section 3.0, *Project Description*, and Section 5.1, *Land Use*, of the Draft EIR, conveyance of the open space easements are addressed as part of the Project’s Tentative Map application, which is included as one of the discretionary actions for the Project.
- B-6 This comment indicates that the Final EIR should consider the potential impacts on adjacent MHPA lands and adjoining sensitive species from restoring habitat, and that funding for maintenance and monitoring in the 3.9 acres identified for conservation and dedication as open space should be provided. As noted on page 5.4-13 of the Draft EIR (and as shown on Figure 5.1-3, Open Space Easements, in Section 5.1, Land Use), the onsite open space would be conveyed to the City’s MSCP preserve (the MHPA) through either fee title to the City, covenant of easement granted in favor of the City and wildlife agencies, or dedication of land in fee title to the City. To facilitate MHPA conveyance, any non-fee areas shall have covenant of easements for MHPA lands placed over them if located in the MHPA, and be maintained in perpetuity by the Owner/Permittee/Applicant unless otherwise agreed to by the City for acceptance of dedicated land in fee title.
- B-7 This comment asserts that the EIR should include a discussion of an alternative that reduces available parking. This alternative was suggested during the EIR scoping process and is evaluated in Section 10.3.5 of the Draft EIR as an alternative considered and rejected. No further analysis of this suggested alternative is required. As discussed in Section 10.1of the Draft EIR, an EIR must describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly

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B-7 (cont.)

attain most of the basic objectives of the project but would avoid or substantially lessen any significant effects of the project. As demonstrated by the analysis presented in the EIR, greenhouse gas (GHG) emissions impacts would be less than significant, and with implementation of the identified mitigation measures, the Project impact related to vehicle miles traveled (VMT) would also be less than significant. Further, the mitigation measures to reduce VMT include several measures focused on parking to encourage alternative modes of transportation, and to discourage single-occupancy vehicle trips, which reduce VMT and associated GHG emissions, as requested in this comment. These measures include, but are not limited to provision of bicycle parking in exceedance of the required amount, designated parking for onsite car-share vehicles and micro-mobility travel, and price workplace parking. The environmental impacts resulting from the proposed parking garage, including visual effects, have been evaluated in the Draft EIR, and no significant impacts would result. Therefore, a reduced parking alternative would not avoid or lessen any project impacts. Furthermore, a reduced parking alternative would not change the amount of mitigation measures associated with the Project. Further consideration of a reduced parking alternative to reduce VMT and GHG emissions is not warranted, as identified in the Draft EIR.

B-8

This comment asserts that a significant and unmitigable impact to visual, aesthetic, and scenic resources (e.g., coastal zone, ocean, and Sorrento Valley) would occur due to obstruction of a "public vista" resulting from the proposed parking garage in the southeast portion of the Project site. The City has established thresholds of significance that are the basis for determining whether a Project has the potential to result in significant impact. According to the City's CEQA Significance Determination Thresholds, projects that would block public views from designated open space areas, roads, or parks, or of significant visual landmarks or scenic vistas (Pacific Ocean, downtown skyline, mountains, canyons, waterways) may result in a significant impact. Public views from Towne Centre Drive are not designated by the City, including in the University Community Plan, as public view corridors or public viewing areas, and the primary viewers would be a limited number of pedestrians traveling along the north side of Towne Centre Drive. Therefore, as identified in Section 5.17, Visual

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B-8 (cont.)

Effects and Neighborhood Character, of the Draft EIR, no significant impacts associated with obstructing views from a designated public view would occur.

B-9

This comment asserts that the Final EIR should study a reduced parking alternative to evaluate impacts to scenic resources, and specifically the Sorrento Valley – Soledad Canyon Open Space. Consistent with the goals outlined in the University Community Plan relative to Sorrento Valley – Soledad Canyon Open Space, the Project does not include any components that would involve physical impacts to these scenic resources. Therefore, evaluation of an alternative to avoid such impacts, including a reduced parking alternative, is not required. The commenter is also referred to Response to Comment B-7, which discusses the evaluation of a reduced parking alternative.

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B-9
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feasible alternative that does not include the proposed parking garage at the SE corner of the project site.

The FEIR should study in particular the impacts of such a “reduced parking alternative” on the “scenic resources” identified on page 221 of the University Community Plan.

5) Transportation/Mobility: Parking, see section 3.2.2.

The DEIR argues that a goal of the project is to “promote use of alternative modes of transportation” (ES-4).

However, the project proposes to use the same standard parking ratio for the project that has been responsible for the city’s inability to meet its mode share targets under the Climate Action Plan.

The DEIR indicates that the project will include 2,500 spaces for an estimated employment of 3,000 people, a ratio of 5:6 or 1 car per every 1.2 employees, the city minimum standard.

B-10

To meet City of San Diego Climate Action goals, the project should reduce single vehicle mode share to at least the level of CAP 2020 mode share targets.

Given its actual distance from accessible transit, the proposed Project and, absent reduced parking, the project will remain reliant on automobile transportation at ratios far exceeding Climate Action Plan targets (2020 or 2035), which reflect critical state and global needs.

The FEIR should evaluate the impact of removing the parking structure or otherwise reducing the number of parking spaces on transportation mode share.

The FEIR should explain how the project can meet project and city level mode share goals under the Climate Action Plan with the existing parking ratio.

5a) TDMs – Paid Parking

The DEIR addresses paid parking on page 5.2-30 as one of the required TDM measures. However, it does not address how the project should ensure that paid parking is not circumvented by tenants reimbursing employees for parking, which is a common practice.

B-11

On ES-11 the DEIR notes that its TDM plan “may be tailored to each tenant, and monitoring, reporting and penalties may be assessed to each tenant separately by the Permittee, although all monitoring, reporting and penalties shall remain the responsibility of the Permittee. TDM plan measures will be incorporated into tenant leases to ensure compliance.”

The FEIR should explain how the TDM program requirements will prevent tenants from circumventing the requirements of TDM plan mitigation by reimbursing employees for paid parking.

B-10

This comment indicates that “the Draft EIR argues that a goal of the Project is to promote the use of alternative modes of transportation (E-4).” The quoted section misstates the EIR. The text on page ES-4 states, “To facilitate use of transit, and to promote use of alternative modes of transportation, the existing contiguous sidewalk along the north side of Towne Centre Drive would be replaced with non-contiguous sidewalk, and onsite pedestrian paths would connect to the new sidewalk.” Although the Project includes mitigation measures and design features to promote alternative modes of transportation, there is not a stated “goal,” nor is there a Project Objective stating that “a goal of the project is to promote the use of alternative modes of transportation.” The Project Objectives are found in Draft EIR Sections ES.3 and 3.1.2.

The Project proposes to provide parking for the proposed uses consistent with the City’s Land Development Code. The comment’s statement that the City’s parking regulations have “been responsible for the city’s inability to meet its mode share targets under the Climate Action Plan” does not address a specific environmental impact. Parking regulations for specified non-residential uses can be found in San Diego Land Development Code Table 142-05G. Minimum required parking for this Project within a transit area is 2.1 spaces per 1,000 square feet (sf) of floor area. Although the Project is located in a 2035 Transit Priority Area, it is not located in a Parking Standards Transit Priority Area. Additionally, the Project is located within the Coastal Overlay Zone and therefore, not eligible for the non-residential parking reform within Parking Standards Transit Priority Areas in Table 142-05G approved under Ordinance O-21401 (effective 01/16/2022, outside of the Coastal Overlay Zone). Therefore, the minimum parking standard in Table 142-05G prior to O-21401 is applicable to the Project.

As shown in the Transportation section of the Draft EIR at Section 5.2.3, the Project is consistent with and will not conflict with City of San Diego General Plan Mobility Element and Bicycle Master Plan, Complete Communities: Mobility Choices, and the University Community Plan Transportation Element. As noted in Land Development Code Section 143.1101, “The purpose of the Mobility Choices Regulations is to reduce Citywide vehicle miles traveled (VMT) to address the environmental impacts of development related to noise, air pollution, and greenhouse gas emissions, and

B-10 (cont.)

to promote public health and enjoyment, by investing in active transportation infrastructure and amenities that will result in the greatest reductions to Citywide VMT." The Land Development Manual Appendix T provides a list of VMT reduction measures that are split into categories, which include pedestrian, bicycle supportive, and transit supportive measures. Each measure is assigned a point value per unit of measure. For development in Mobility Zone 2, SDMC Section 143.1103(b)(1) identifies the requirement to provide VMT Reduction Measures totaling at least 5 points. The Project would obtain 11.5 points through the measures identified in Table 5.2-4, Mobility Choice VMT Reduction Measures, which exceeds the minimum 5-point requirement in Mobility Zone 2. The location of these facilities is shown on Figure 5.2-7, VMT Reduction Measures. As noted on the City's Complete Communities: Mobility Choices web site (<https://www.sandiego.gov/complete-communities/mobility-choices>), "Mobility Choices implements the Climate Action Plan by supporting infill development and investments in walking, bicycling, and public transit where the City can achieve the greatest amount of GHG emissions reductions."

As noted on the Mobility Choices website, "The Transportation Study Manual (TSM) updated the City's current Transportation Impact Study Manual. The TSM provides detailed CEQA transportation analysis guidelines using VMT based metrics to determine a project's environmental impacts with a focus on increasing safety for bicycle, pedestrians, and transit."

Pursuant to Section 5.2.3.B.2 of the Draft EIR, "the Project would be required to reduce employee VMT per employee by 32.47% to reduce Project VMT to below a level of significance (this represents 22.015 VMT per employee, which is 15% below the regional mean employee VMT per employee). Pursuant to guidance from CAPCOA 2021, the Project would implement Mitigation Measure MM 5.2-1, which would reduce the Project's VMT to less than 15% below the regional mean VMT per employee. Therefore, with mitigation, the Project would not result in VMT exceeding significance thresholds identified in the City's Transportation Study Manual and this impact would be less than significant." As noted at Draft EIR page 5.2-28, "A mandatory monitoring and reporting program would be implemented to ensure the calculated effectiveness is

B-10 (cont.)

achieved. This program is defined in MM 5.2-1. Monitoring would be designed to ensure effectiveness of the Project's VMT reductions. Penalties for failing to meet VMT reduction targets would be assessed to the Permittee, who will be responsible for increasing effectiveness of VMT reduction measures (either increasing spending on current VMT reduction measures or implementing new measures)."

As noted in the Transportation Study Manual at page 29, "The City of San Diego requires TDM and transportation amenities for certain project types pursuant to the San Diego Municipal Code Section 142.0528, the CAP Consistency Checklist, and regulations related to Complete Communities: Mobility Choices... There are several resources for determining the reduction in VMT due to TDM measures such as the CAPCOA Quantification Report and the SANDAG Mobility Management Guidebook/ VMT Reduction Calculator Tool." None of the stated VMT reduction resources in the TSM available to the Project provide quantitative reductions in VMT for reduced parking ratios.

Section 5.7.3 of the Draft EIR analyzes whether the Project would conflict with the City's Climate Action Plan, and the analysis "demonstrates the Project's compliance with both the 2015 CAP and the 2022 CAP update." The CAP does not have specific mode share requirements for individual projects. The CAP Consistency Checklist contains measures that are required to be implemented on a project-by-project basis to ensure that the specified emissions targets identified in the 2015 CAP are achieved. Implementation of these measures would ensure that new development is consistent with the CAP's assumptions for relevant CAP strategies toward achieving the identified GHG reduction targets. The CAP Consistency Checklist includes Transportation Demand Management Program requirements for employment-based projects with over 50 employees. The Draft EIR analyzes and provides substantial evidence for how the Project will meet the City's CAP requirements and VMT significance thresholds, and finds that the Project would be compliant with the 2015 and 2022 CAP, and will reduce VMT impacts to below a level of significance after mitigation is applied.

B-10 (cont.)

As identified under Response to Comment B-7 above, a Reduced Parking Alternative was evaluated in the Draft EIR at Section 10.3.5 and rejected because there were no impacts to GHG emissions with CAP consistency and VMT after mitigation was applied. As noted at Section 10.3.5, “the Project would not result in any significant impacts related to GHG emissions, and as discussed in Section 5.2, Transportation, the Project’s potentially significant VMT impact would be less than significant with implementation of identified mitigation measures. The mitigation measures to reduce VMT include several measures to encourage alternative modes of transportation, and to discourage single occupancy vehicle trips, which serves to reduce VMT and associated GHG emissions, as requested in the Notice of Preparation (NOP) comment. These measures include, but are not limited to: provision of bicycle parking in exceedance of the required amount, designated parking for onsite car-share vehicles and micro-mobility travel, and price workplace parking. Therefore, alternatives that reduce GHG emissions and VMT are not required.”

In addition, with regard to the proposed parking structure, the Draft EIR found that, “With respect to subterranean parking, the majority of the onsite parking consists of podium parking in the southern portion of the Project site. As shown on Figure 3-8, Site Sections, the four-level podium is partially subterranean. The environmental impacts resulting from the proposed parking garage, including visual effects, have been evaluated in this EIR and no significant impacts would result. Furthermore, a Reduced Parking Alternative would not meet most of the Project’s objectives. Therefore, alternatives that eliminate or reduce the size of the parking garage are not required.”

B-11 This comment is related to the mitigation measures for VMT reduction, specifically paid parking. Paid parking is one of the seven quantified mitigation measures from the California Air Pollution Control Officers Association (CAPCOA) Handbook for Analyzing Greenhouse Gas *Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity* published in December 2021 (CAPCOA 2021) framework, which include Measures T-12 Price Workplace Parking, T-6 Implement Commute Trip Reduction Program (Mandatory Implementation and Reporting),

B-11 (cont.)

T-7 Implement Commute Trip Reduction Marketing, T-8 Provide Ridesharing Program, T-9 Implement Subsidized or Discounted Transit Program, T-10 Provide End of Trip Bicycle Facilities, T-11 Provide Employee Sponsored Vanpool, and Supportive but unquantified VMT reduction measures per the Project Traffic Impact Analysis (TIA) included as Appendix B1 such as T-44 Provide Shuttles (Gas or Electric) and Passenger Loading Zones.

These measures are part of the overall TDM program found in MM 5.2-1, which would reduce the Project's VMT to less than 15% below the regional mean VMT per employee. MM 5.2-1.e includes a Mandatory monitoring and reporting program that will evaluate the effectiveness of TDM measures. MM5.2-1.f includes penalties and procedures that will be required if the monitoring program does not show a 15% reduction in VMT below the regional mean VMT per employee. As stated on Draft EIR page 5.2-31, "If trip reductions are not being met, the City may require that the Permittee provide additional subsidies for transit passes, increase shuttle frequency, or other measures to ensure compliance. If these additional measures do not achieve the required results in two consecutive surveys, the Project will pay a penalty fee, equivalent to 5% of the Complete Communities: Mobility Choices Active Transportation Opt-In Fee, in place at the time of Project approval. The penalty shall be paid annually on January 1st of each year, until the project VMT reduction targets are met." Therefore, operational as well as monetary penalties are provided in the mitigation measure to ensure compliance.

The Project will charge all employees of the site for parking. The Project developer will have operational control of site and parking garages, but does not control the compensation packages and benefits offered to individual employees of individual tenants in the building. Similarly, the Project developer cannot mandate the use of transit or vanpool programs, and may only use the tools available in the TDM program to encourage changes in commute behaviors. However, MM 5.2-1 is a mandatory program with monitoring and reporting requirements to the City of San Diego, which requires the Project to achieve the VMT reductions in the program, or operational changes can be made by the City and monetary penalties will be instituted pursuant to

B-11 (cont.)

subsection "f" of MM 5.2-1 and paid to the City until the VMT targets are met.

Mitigation Measure 5.2-1 includes a number of measures including paid parking. As noted in the TIA (EIR Appendix B1), the effectiveness of measure T-12 Paid Workplace Parking goes beyond paid parking. Specifically, "in order to support this level of effectiveness, consistent with the best practices identified in 2021 CAPCOA Handbook to ensure other transportation options, the project will provide the following supportive measures." Among those measures are pedestrian improvements (as measure T-18), private shuttle connectivity to transit, on-site parking for micro-mobility and bicycle travel, passenger loading zones, transit encouragement programs, and access to services that reduce the need to drive such as café's, commercial stores, banks, post offices, restaurants and gyms. These supportive measures constitute part of the VMT reduction effectiveness of Measure T-12, and therefore paid parking is not the only aspect that determines the success of the mitigation measure.

With the conservative assumptions built into the VMT modeling, the robust VMT reduction measures that are part of the Project, and monitoring and to ensure compliance, VMT will be reduced below a level of significance, even if paid parking were found to be less effective than anticipated. No revisions to the Draft EIR are required.

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B-11 (cont.) *If the FEIR determines that paid and uncompensated parking cannot be enforced as a TDM, the FEIR should assess the impacts of the project on VMT, GhG and mode share without the alternative of paid parking as a TDM measure.*

B-12 **5b) Transportation – VMT standard**
 The DEIR addresses Vehicle Miles Traveled in table 5.1-1 and section 5.2-24 through 30.
The FEIR should evaluate the project with a VMT standard based on the city employee average VMT in addition to the regional employee mean average.

B-13 **6) Transportation: Mode Share to meet CAP targets for 2020 and 2035**
 The DEIR addresses transportation impacts in section 3.2.2.
 Given that the project will not even complete construction for 68 months – between 5-6 years – it is important that the Project meet the most forward-looking environmental standards and CAP goals (see p 3-16).
The San Diego Climate Action Plan emphasizes the need to shift transportation mode share city-wide through conformance with Climate Action Plan targets. This is especially critical for “Urban Village” employment hubs such as UTC. If projects in this transit rich area do not meet mode share goals, the city will not meet its CAP goals and it will fail beyond that to address the climate crisis that the CAP reflects. Reduced auto, and increased bicycle and transit mode share is essential to shifting mode share overall. The project should at minimum meet mode share goals for 2020. Given the expectation that the project will not be completed for a number of years, the FEIR should explain why it may not be appropriate to plan to meet mode share targets for 2035.

The San Diego Climate Action Plan highlights the importance of meeting mode share targets. For Mode Share Targets see: <https://www.climateactioncampaign.org/mode-share-report>, tables 1 and 2.

The FEIR should explain the expected transportation mode share for the project as designed, including with the TDM and other mitigation measures proposed.

The FEIR should explain how the project will contribute to the city meeting its mode share targets.

If the Project is not designed to meet CAP mode share targets, the FEIR should explain why, as a major project in the critical employment and transit area of University City, it will not meet those targets.

The FEIR should explain what steps the project would need to take to meet CAP mode share targets.

B-12 This comment states that the EIR “should evaluate the Project with a VMT standard based on the city employee average VMT in addition to the regional employee mean average.” This is not the CEQA Significance Threshold Standard approved by the San Diego City Council. The Transportation Impact Analysis provided in Appendix B1 of the Draft EIR states on page 4, “The City of San Diego Transportation Study Manual (TSM; dated September 29th, 2020) presents the guidelines for the analysis of CEQA Transportation VMT requirements which include screening criteria, significance thresholds, analysis methodology, and mitigation.” The Transportation Study Manual provides the CEQA significance threshold approved by the San Diego City Council. Table 3 of the TSM provides “transportation VMT thresholds of significance by land use type.” The threshold for determination of significant transportation VMT impact for Commercial Employment land uses, which includes research and development, is “15% below regional mean VMT per Employee.” A footnote to this significance threshold states, “The regional mean and total regional VMT are determined using the SANDAG Regional Travel Demand Model. The specific model version and model year will be identified by the Development Services Department’s Transportation Development Section.” The Project uses the significance threshold from Table 3 for Commercial Employment land uses and has, therefore, utilized the correct VMT significance threshold. Use of another significance threshold would be inconsistent with the guidelines and policy of the City of San Diego. Therefore, no revisions to the Draft EIR are required.

B-13 This comment states that “the Draft EIR addresses transportation impacts in Section 3.2.2.” This is incorrect. Transportation impacts are analyzed in Draft EIR Section 5.2. Section 3.2.2 of the Draft EIR includes a description of the transportation/circulation and parking components of the Project. As noted in Response to Comment B-11 above, Section 5.7.3 of the Draft EIR analyzes whether the Project would conflict with the City’s Climate Action Plan, and the analysis “demonstrates the Project’s compliance with both the 2015 CAP and the 2022 CAP update.” The CAP does not have specific mode share requirements for individual projects, and instead relies on an array of strategies in a checklist related to the 2015 CAP and changes to the building code and Land Development Code for the 2022 CAP to show compliance with the CAP including requirements

B-13 (cont.)

for a Transportation Demand Management Program for employment-based projects with over 50 employees. The Draft EIR analyzes and provides substantial evidence for how the Project will meet the City's CAP requirements and finds that the Project will be compliant with the 2015 and 2022 CAP. In addition, the Draft EIR Section 5.2 analyzes VMT and concludes VMT impacts will be reduced to below a level of significance after mitigation is applied. The significance threshold is to reduce VMT to reach the result of 15% below employee regional mean VMT, to reduce GHGs. Whether that is achieved by specific numbers of employees walking, biking, taking transit, vanpool or carpool, work from home days, or other alternative transportation modes, the reduction in VMT is the requirement.

The Traffic Impact Analysis relies upon the CAPCOA 2021 mitigation framework which is the method of mitigation approved as part of the Transportation Study Manual. The CAPCOA 2021 Handbook at page 62 notes that "Transportation emissions can be reduced by improving the emissions profile of the vehicle fleet or by reducing VMT. Most of the measures quantified in this Handbook aim to reduce VMT and encourage mode shifts from single-occupancy vehicles to shared (e.g., transit) or active modes of transportation (e.g., bicycle). This can be accomplished by coordinating trip reduction or incentive programs; optimizing the land use of the project study area; enhancing road, bike and pedestrian networks; implementing parking policies; or improving transit systems." CAPCOA 2021 Handbook mitigation measures for VMT reduction are broken into project/site specific mitigation measures and program mitigation measures. Only project/site specific measures can be quantified and applied to specific projects as they have been done in MM 5.2-1. However, there are program mitigation measures that apply to program level land use documents, such as the Community Plan, which may help aid in mode share, but which are not allowed to be quantified as part of the mitigation program because they are beyond the scope of an individual project. For example, CAPCOA 2021 mitigation measure T-2 – Increase Job Density, notes that "increased densities affect the distance people travel and provide greater options for the mode of travel they chose. Increasing job density results in shorter and fewer trips by single occupancy vehicles and

B-13 (cont.)

thus a reduction in GHG emissions.” However, the addition of new jobs in an area with large amounts of housing that is connected by transit will incentivize shifts in mode share from cars to walking, bicycling and transit ridership.

The project/site mitigation measures can be quantified and will increase mode share, as noted in the fact sheet for Measure T-6: “CTR programs discourage single-occupancy vehicle trips and encourage alternative modes of transportation such as carpooling, taking transit, walking, and biking, thereby reducing VMT and GHG emissions.” Similarly, the fact sheet for Measure T-12 notes that the measure is most effective when there are other transportation options available in the area, “(i.e., transit service near the project site, shuttle service, or a complete active transportation network serving the site and surrounding community).” Although specific mode share percentages are not calculated, the CAPCOA 2021 Handbook provides evidence that when program and project mitigation measures are utilized, transportation mode changes occur that reduce VMT and, therefore, GHG emissions.

The comment asserts that “if the Project is not designed to meet CAP mode share targets, the FEIR should explain why.” As noted above, the Project has been designed to be consistent with the CAP and will comply with the CAP policies and checklist. Neither the CAP nor the VMT CEQA significance thresholds require specific mode share be achieved by a project. The Project will mitigate the Project VMT impact to below a level of significance using the CAPCOA 2021 mitigation strategies in MM5.2-1, which were approved by the City Council as part of the TSM, and which have been shown to achieve mode share changes.

This comment provides a website purported to be from the City of San Diego. The website is for an advocacy group known as the Climate Action Campaign, and not the City of San Diego.

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- B-14 **6a) Transportation Mode Share: Buffered Bike Lanes on Towne Centre Drive** (see Section 3.2.2)
- On p. 3-7, the DEIR relies on “Planned Bicycle Facilities” that are in a draft plan that has not been approved and if approved has no mechanism to be funded. The EIR cannot rely on bike facilities that are not currently planned and have little certainty of being built.
- The DEIR further relies on “traffic calming measures” again proposed in a draft plan that has not been approved and when approved will have no mechanism to assure funding (3-8).
- The DEIR also discusses dedication of transportation improvements on p 5.2-15
- The FEIR should study transportation impacts on the basis of definite plans and funding.*
- Furthermore, there is no safe bike infrastructure on any of the major streets that would lead to the project, no approved plan for improving the bike infrastructure, and no plan in place for funding such infrastructure in the event it were approved in the future.
- The FEIR should explain how the project will “promote use of alternative modes of transportation” (ES-4) and support transportation mode shift toward bicycle and pedestrian use without the addition of safe bicycle infrastructure on Towne Centre Drive.*
- B-15 *The FEIR should evaluate VMT, GhG and mode share impacts of the project without bicycle infrastructure, and it should evaluate the impacts of the project on bicycle safety.*
- The FEIR should study the impact on VMT, GhG and mode share of adding class II and class III buffered bike lanes and traffic calming measures on Towne Centre Drive as part of project.*
- B-16 To help meet promote alternative modes of transportation, meet CAP mode share targets and shift mobility from reliance on automobile transportation, new alternative transportation facilities must be completed with the project. On-site bicycle facilities proposed in the various TDM measures will not be effective unless a safe, secure and up to date bicycle network is completed to reach the site from the rest of the city, including the mid Coast Trolley which is over 1.5 miles from the project.
- B-17 **6b) Transportation: Impacts on Level of Service and existing businesses and residents**
- The DEIR evaluates traffic impacts on level of service on p. 5.1-74.
- The FEIR should evaluate and confirm impacts to level of service, and foreseeable impacts on residents and businesses on Towne Centre Drive (from north end to La Jolla Village Drive), Eastgate Mall and Executive Drive, and the intersections of these arterials with one another.*
- B-18 **7) Add Rooftop Solar Panels**

B-14 This comment states that, “on page 3-7, the Draft EIR relies on Planned Bicycle facilities that are in a draft plan that has not been approved and if approved has no mechanism to be funded.” The Draft EIR does not “rely” on the Planned Bicycle Facilities or traffic calming measures mentioned in the comment for mitigation, and these facilities are outside of the Project area. The discussion on pages 3-7 of the Draft EIR provides information to the reader, is explicit in the heading for the paragraph (“Planned Bicycle Facilities”) that describes proposed bicycle lane designations in the vicinity of the Project and goes on to state that these facilities are within the “Draft Community Plan Update Recommended Mobility Network.” These facilities are described as “proposed.” The section states in its entirety:

Planned Bicycle Facilities

The Draft University Community Plan Update Recommended Mobility Network (February 2021) identifies Towne Centre Drive north of Eastgate Mall as a facility with a proposed Class II Buffered Bike Lane between Eastgate Mall and 9540 Towne Centre Drive driveway and with a Class III Bicycle Boulevard with vehicle volume and speed management strategies between 9540 Towne Centre Drive driveway and the northern terminus of the roadway. Additionally, the CPU effort proposes traffic calming enhancements along the entire segment north of Eastgate Mall.

The Project is consistent with and will not conflict with the adopted Bicycle Master Plan as discussed and analyzed in Table 5.2-2. Specific to the Project, transportation improvements are shown in Table 5.2-3 – Project Off-Site Transportation Improvements and will be implemented by the Project and will be conditions of the Project permits, therefore assuring their completion. Table 5.2-3 improvements are generated from the Local Mobility Analysis (LMA) required by the City of San Diego under their health and safety police powers and are not part of the CEQA analysis in the Draft EIR. The LMA is provided in the EIR as appendix B2 for informational purposes, and addresses mobility improvements required by the City.

As discussed in the Draft EIR, the University Community Plan Update will include a revised mobility plan for the University Community. After completion of the Community

B-14 (cont.)

Plan Update Mobility Element, the City's Facilities Financing Department will determine a financing mechanism to pay for proposed improvements. The Project will pay significant fees that can be used for regional bicycle infrastructure. However, the specific infrastructure is beyond the scope of this Project.

The Project, includes mitigation measures and design features to promote alternative modes of transportation. Notably, as described in EIR Section 3.2.2, Pedestrian and Bicycle Facilities, the existing contiguous sidewalk along the north side of Towne Centre Drive would be replaced with non-contiguous sidewalk, and onsite pedestrian paths would connect to the new sidewalk. Short- and long-term bicycle parking spaces and changing/shower facilities would also be provided onsite.

B-15 This comment mischaracterizes the analysis in the Draft EIR. The Project does not rely on proposed off-site bicycle infrastructure for VMT analysis. VMT analysis is completed based on SANDAG regional models as discussed in Section 5.2 of the Draft EIR. Proposed bicycle lane improvements in the University Community Plan Update are referenced for informational purposes and are described as "proposed" and "draft." The VMT analysis does not rely on these facilities to mitigate the impacts of the Project. The Project fully mitigates its' impacts from VMT through mitigation measure MM 5.2-1, and, therefore, additional analysis of impacts from Class II and Class III buffered bicycle lanes and traffic calming measures on Towne Centre Drive as part of the Project is unnecessary. As these improvements are proposed in the University Community Plan Update, the impacts of adding this infrastructure will be evaluated with the Community Plan Update. The Local Mobility Analysis on page 250 notes that a roundabout installation at Towne Centre Drive and Towne Centre Court was evaluated and found to be infeasible at this location.

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- B-16 This comment indicates new alternative transportation facilities must be completed with the Project to promote alternative modes of transportation. The comment also states that the Project's on-site bicycle facilities would not be effective unless a bicycle network is completed to connect the site to the City, including a bicycle connection to the Mid-Coast Trolley. As described in Section 3.2.2, *Pedestrian and Bicycle Facilities*, of the EIR, on-site bicycle facilities are part of a larger TDM program that will promote the use of bicycles as a potential mode of transportation to the Project site. The Project is not required to build all off-site bicycle infrastructure necessary to reach the Project site, as such infrastructure is beyond the scope of the Project, and the proposed offsite bicycle lanes are not needed to mitigate any Project impact. The City of San Diego Bicycle Master Plan (2013) includes an implementation and funding section that provides a strategy to fund the implementation of the City's bicycle network. The University Community Plan Update has proposed various bicycle facilities. The decision on when and how to construct this infrastructure is beyond the scope of this or any one project, as these facilities will serve the entire community. The Project does not require extended offsite bike lanes as mitigation., there is no nexus that would allow conditioning the Project on constructing or paying for the entirety of construction of the offsite bike lanes. Similarly, requiring the Project to construct or fund offsite bike facilities that serve the entire community would violate the proportionality test.
- B-17 This comment indicates that the Draft EIR should evaluate and confirm impacts to level of service and foreseeable impacts on residents and businesses on Towne Centre Drive (from north end to La Jolla Village Drive), Eastgate Mall and Executive Drive, and the intersections of these arterials with one another. Senate Bill 743 changed the way transportation impacts are determined according to CEQA. Updates to the State CEQA Guidelines, City of San Diego CEQA Determination Thresholds, and City of San Diego Transportation Study Manual approved in December 2018 include the addition of State CEQA Guidelines Section 15064.3, of which Subdivision "b" establishes criteria for evaluating a project's transportation impacts based on project type, and using automobile VMT as the metric, rather than automobile delay (level of service). Therefore, all discretionary land use projects subject to CEQA, including

B-17 (cont.)

the Project, must evaluate transportation impacts related to VMT as part of the environmental review process. As such, the discussion of level of service-related traffic in Section 5.1, *Land Use*, of the Draft EIR is limited to acknowledgement that, pursuant to the City's requirements, an evaluation of the potential effects to intersection operations has been prepared, although not as a component of the required CEQA analysis, and applicable fees would be paid to address the Project's contribution to intersection deficiencies. The required Local Mobility Analysis (included as Technical Appendix B2) evaluates the Project's level of service in accordance with the City of San Diego's Transportation Study Manual. No revisions to the EIR are required.

B-18 This comment indicates that the Final EIR should explain why the Project is not designed to include rooftop solar panels on the five proposed buildings, and should evaluate designing the buildings with the inclusion of rooftop solar panels. Consistent the Step 2, Strategy 1 of the 2015 CAP Checklist, the Project would include Cool/Green Roofs. In addition, the Draft EIR identified that a minimum of 12,500 sf of photovoltaic (PV) panels would be installed on the parking garage to produce solar energy, and the roofs of the five proposed buildings would be solar-ready. However, subsequent to preparation of the Draft EIR, the 2022 Title 24 Building Energy Efficiency Standards for Residential and Nonresidential Buildings (Title 24 Energy Standards) have become effective and would be applicable to the Project.

Future tenants and related building energy requirements are yet to be determined. However, based on the requirements of the 2022 Title 24 Energy Standards, the Project is designed for rooftop solar paneling on each of the proposed buildings and the Project would comply with the 2022 – Building Energy Efficiency Standards For Residential and Nonresidential Buildings, and specifically California Building Code (CBC) Section 140.10, Perspective Requirements for Photovoltaic and Battery Storage Systems. Section 140.10 generally requires that all newly constructed building types, or mixed occupancy buildings where one or more of these building types constitute at least 80 percent of the floor area of the building, shall have a newly installed photovoltaic (PV) system meeting the minimum qualification requirements as further described by CBC Table 140.10-A

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- B-18 (cont.)
 The DEIR discusses utilities on 5.15-5 and 9. It does not include discussion of rooftop solar on the 5 new buildings proposed on the site.
The FEIR should explain why the project is not designed to include rooftop solar panels and it should evaluate impacts of designing the buildings with the inclusion of rooftop solar panels.
- B-19
 8) All Electric Buildings.
 The DEIR discusses utilities on 5.15-5 and 9.
The FEIR should evaluate impacts of designing the buildings to be fully electric.
- B-20
 9) Sustainable Building: LEED Gold
 The DEIR notes that the project will achieve LEED Silver status, the minimum LEED rating, which is closely equivalent to what is required under state and local building code. (5.5-18)
The FEIR should evaluate the impacts of meeting a higher standard for sustainable building such as LEED Gold or Platinum and compare with impacts of LEED Silver.
- B-21
 10) Biological Resources
 a). Edge effects - Unauthorized Entry
 The CDFW notes in its scoping letter that appropriate fencing and signage should be used to prevent unauthorized access to the MHPA from the whole perimeter of the project site (CDFW, 5/5/21).
The DEIR addresses access to the MHPA on page 5.4-17 and in table 5.1.1 on p 5.1-58. It notes that the project would “deter” unauthorized access through the maintenance and construction of retaining walls around much of the perimeter, however it does not discuss the use of fencing or other means to “deter” access in those areas without walls, much less to “prevent” it. These areas, especially the SDGE access road on the west edge of the site, are currently fenced and are the most likely location for unauthorized access. The FEIR should discuss them specifically.
The FEIR should explain how the project will prevent as well as deter human intrusion into the MHPA lands through unwallled areas, given the large number of people who use the outdoor features and amenities on the site. The FEIR should explain how this restriction will be maintained and enforced and what measures the project will take to report intrusions and mitigate for them.
The FEIR should confirm that project perimeter fencing will include the gate to the SDGE access road on the western edge of the site.

- B-18 (cont.)
 -PV Capacity Factors, or the total of all available Solar Access Roof Areas (SARA). SARA includes the area of a building’s roof space capable of structurally supporting a PV system, and the area of all roof space on covered parking areas, carports and all other newly constructed structures on a site that are compatible with supporting a PV system per Title 24, Part 2, Section 1511.2, with certain exceptions. Specific tenants and roof equipment needs have not yet been determined, which may limit the total PV system area available for use in the Project. However, the initial estimate of the approximate SARA for the Project, based on the average space needs for roof mounted equipment in high technology and biotechnology buildings, is approximately 117,000 square feet (sf). This SARA results in a 1638 kW PV system. Based on average solar panel output, a system of this size would utilize approximately 93,000 sf of roof space. The solar electricity produced would be available for use by the electricity grid. Further, all buildings that are required by CBC Section 140.10(a) to have a PV System are also required to have a battery storage system meeting the minimum qualification requirements as further described by CBC Table 140.10-B -Battery Storage Capacity Factors.
- B-19
 This comment indicates that the Final EIR should evaluate the impacts of designing the buildings to be fully electric. The Project is consistent with the Climate Action Plan and will be designed to be electric ready based upon the City of San Diego building codes in place at the time of construction. Specific tenants and specific research and development needs of those tenants are not known at this time.
- B-20
 This comment indicates that the Final EIR should evaluate the impacts of meeting a higher standard for sustainable buildings, such as LEED Gold or Platinum, and compare with impacts of LEED Silver. The EIR does not evaluate the impacts of meeting a LEED standard and meeting a specific LEED standard is not a specific mitigation measure for the Project, and a specific LEED standard has not been used to evaluate the Project’s impact on the environment in the EIR. LEED standards are separate and apart from the City of San Diego and California Building Code. The LEED Program is administered by the California Green Building Council which is not a governmental agency. The Project is being designed to achieve LEED certification at a Gold Standard. However,

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B-20 (cont.)

because the LEED standard is not determined until after construction of the building, a specific LEED standard is aspirational until it is conveyed by the Green Building Council. The EIR has not evaluated the Project based on a specific LEED Standard.

B-21

This comment indicates that the Final EIR should address how the Project will prevent and deter human intrusion into the MHPA, and should confirm that Project perimeter fencing would include the gate to the SDG&E access road to maintain the current conditions onsite. As noted in Section 5.4, *Biological Resources*, of the Draft EIR, the Project would be subject to the City's MHPA Land Use Adjacency Guidelines (LUAG), which includes a requirement for barriers to prevent access into the MHPA. The majority of the perimeter that the Project shares with the MHPA would be protected by existing or proposed retaining walls. The remainder of the site that would not be protected by a retaining wall would be protected by a fence. Furthermore, the Project would continue to close and lock the SDG&E access gate, consistent with existing conditions. As noted in Response to Comment A-3, the Project is required to comply with the LUAG and would provide signage; therefore, impacts related to access to the MHPA would be less than significant. No revisions to the Draft EIR are required.

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- B-21 (cont.) **FEIR should confirm that gate will remain closed and locked for the future of the project, with access for SDGE only. This would maintain the current conditions on site.**
- b) Edge effects: Light impacts**
- The DEIR addresses lighting in section 3.2.4 on page 3-11 and in section 5.4.3, p 5.4-16.
- The DEIR notes that “Night lighting exposes wildlife to an unnatural light regime that may adversely affect foraging patterns, increase predation risk, cause biological clock disruptions, and result in a loss of species diversity in habitat adjacent to the Project site.”
- B-22** *The FEIR should confirm that the project will use fully shielded outdoor lighting to prevent light overspill into MHPA/adjoining lands.*
- In addition, the FEIR should explain the impacts of interior lighting shining from the buildings after dark, which have the same impacts described on 5.4-16 above.*
- The FEIR should evaluate strategies to eliminate or mitigate impacts of indoor lighting on sensitive species including resident and migrating birds.*
- c) Direct impacts to Environmentally Sensitive Lands**
- The DEIR notes in section 2.5.4 that the City of San Diego Environmentally Sensitive Lands (ESL) Regulations are intended to protect, preserve and, where damaged, restore, the environmentally sensitive lands of San Diego and the viability of the species supported by those lands (Section 142.0101 of the San Diego Municipal Code).
- B-23** The DEIR notes in table 5.1.1, page 5-1-63 that “steep hillsides, which qualify as ESL’s would not be impacted by the project.”
- However, DEIR Figures 3-1 and 3-12 show that the proposed parking structure and pedestrian bridge will have direct impacts on ESL lands identified as having a greater than 4:1 slope. The proposed parking structure and pedestrian bridge are designed to extend into ESL lands.
- The FEIR should confirm or correct the statement in table 5.1.1 and explain the expected impacts to ESL and mitigation as a result of the proposed parking structure and pedestrian bridge.*
- d). Habitat Fragmentation:**
- B-24** Recognizing that the project extends on a narrow finger of mesa top surrounded by MHPA lands through which wildlife move, the California Department of Fish and Wildlife (CDFW, Scoping Letter, 5/5/21) writes that to avoid habitat fragmentation of the MHPA, fencing around the site’s perimeter should be designed to keep people out, but to allow wildlife to move through it.

- B-22** This comment discusses lighting impacts to adjacent wildlife and indicates that the Final EIR should confirm that the Project would use fully shielded outdoor lighting and discuss impacts of interior lighting from the Project’s building after dark. As identified in Section 3.2.4.A of the Draft EIR, lighting would be designed to protect biological resources by providing fully-shielded light fixtures to prevent light spill-over/light pollution into adjacent open space/MHPA areas. Further, Table 5.1-1 of the Draft EIR states that “Proposed exterior lighting would be in compliance with the City’s Outdoor Lighting Regulations pursuant to SDMC Section 142.0740, and the MHPA Land Use Adjacency Guidelines (LUAG). Project lighting would include spill control features to direct lighting to onsite areas such that light would not trespass, beyond allowable levels, onto adjacent properties, including areas within the MHPA, or into the nighttime sky.” The spill control features are consistent with the LUAG, which are designed to “ensure minimal impacts to the MHPA” (Section 1.4.3 of the City’s MSCP Subarea Plan). It should be noted that the CDFW, which is the state agency with jurisdiction over the conservation, protection and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species, reviewed the Draft EIR and has provided a comment letter (refer to Comment Letter A). In its Draft EIR comment letter, CDFW has indicated concurrence that installation of exterior lighting in compliance with the LUAG is sufficient to avoid indirect lighting impacts to sensitive species within the MHPA.
- The CDFW has not identified any concerns regarding potential indirect impacts due to interior lighting. Notwithstanding, interior nighttime lighting would be minimized to only what is required for tenant functionality and security, with occupancy sensors at interior areas.
- B-23** This comment incorrectly states that a slope in the eastern portion of the Project site adjacent to the parking garage is an Environmentally Sensitive Land (ESL). Section 142.0101 of the City of San Diego Municipal Code defines an ESL as a site containing a natural gradient of at least 25% (emphasis added). As shown on Figure 5.1-2, *Environmentally Sensitive Lands*, of the Draft EIR, the hillside referenced by the commenter is a previously disturbed slope and is not a natural gradient; therefore, it is not considered an ESL. Therefore, the statement in Table 5.1-1 of the Draft EIR is

B-23 (cont.)

correct, and no revisions are required to the EIR.

B-24 For clarification the NOP comment letter does not refer to “allowing wildlife movement to move through” the Project site. This comment further indicates that the Final EIR should explain how the Project will avoid habitat fragmentation and assess strategies to facilitate the movement of certain wildlife species across the Project. The CDFW NOP comment letter is provided in Appendix A of the Draft EIR; the comments provided were comprehensively addressed in the Draft EIR Section 5.4, and supporting Biological Letter Report included in Appendix D of the Draft EIR.

The Project site is already in a developed condition. As identified in Draft EIR Section 2.2, the eastern portion of the Project site is currently developed with three scientific research buildings. The western portion of the Project site was recently used as a staging area for the Mid-Coast Trolley construction. Prior to its use as a construction staging area, the western portion of the Project site was rough graded with building pad sites to support a previously approved development, and drainage infrastructure was installed. Retaining walls and fences surround the majority of the Project site directly adjacent to MHPA lands. Potential impacts related to habitat movement are addressed in Section 5.4.3.A of the Draft EIR. As identified, the Project would occur on land outside the MHPA that is disturbed or already developed, and would preserve 3.98 acres in onsite open space that supports Tier I scrub oak chaparral, Tier II Diegan coastal sage scrub and Diegan coastal sage scrub-disturbed, Tier IIIB non-native grassland, and southern willow scrub. Therefore, the Project would protect land determined to provide necessary habitat quality, quantity, and connectivity to sustain the unique biodiversity of the San Diego region. The implementation of the Project would not result in the loss of regional or local wildlife corridors. As identified in the Draft EIR, potential impacts to wildlife movement would be less than significant, and no mitigation is required.

The CDFW, based on its review of this analysis, has not provided any comments regarding the potential for habitat fragmentation or the need to facilitate movement of certain

COMMENTS

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B-24
(cont.)

The DEIR addresses “wildlife corridors” in section 5.4.3 (5.4-6 and 5.4-15), but it *does not* address the CDFW concern with wildlife movement and habitat fragmentation or mitigation related to project fencing on the development site.

The FEIR should explain how the project will avoid habitat fragmentation and assess strategies to facilitate the movement of certain wildlife species across the project.

e). Direct and indirect impacts to sensitive, rare or threatened species immediately adjacent to the Project site.

The CDFW (Scoping Letter, 5/5/21) advises that the DEIR should include discussion of impacts to biological resources and rare and sensitive species in “adjacent areas that could also be affected by the Project.” And in “adjoining habitat areas... where site activities could lead to direct or indirect impacts off site.”

However, the Alden Biology Letter Report notes that the DEIR includes a “survey of existing resources on 20 acres to be developed”.

B-25

The FEIR should include a full survey of adjacent areas and adjoining habitat lands that could be affected by direct or indirect impacts of the project.

The project sits atop a mesa surrounded by MHPA lands on steep slopes that include a variety of rare and or sensitive species. Biological assessment and prior survey by CDFW reveal that a number of these species and habitat areas are immediately adjacent to and downhill of the project site. E.g., location of California Gnatcatchers, San Diego Barrel Cactus, and Wart Stemmed Ceanothus – reported within 40 feet of the project site. Given the circumstances and proximity of rare and sensitive species, the FEIR should discuss potential and foreseeable impacts to these species in adjacent and adjoining areas and specific mitigation for these impacts.

f) Focused surveys for sensitive species.

The DEIR discusses sensitive plants and animal species on p 5.4-4 through 6.

The CDFW (Scoping Letter, 5/21/22) also advises that the DEIR included focused surveys for selected sensitive species, and it lists a number of sensitive species known to exist or have existed recently in the area.

B-26

However, the DEIR, Biology Letter Report (BLR) notes that “No focused sensitive animal species surveys were conducted.” (BLR, 2) Rather the DEIR notes that a method “opportunistic” survey was adopted. 5.4-5

The FEIR should explain why no focused studies were conducted and the potential impact of this omission on sensitive species identified by CDFW and others with a high likelihood to exist on site or immediately adjacent to it.

B-24 (cont.)

wildlife species. Rather, CDFW acknowledges that existing and proposed Project perimeter walls would deter access to the adjacent MHPA, and suggests that the proposed walls surround the entire site. This would serve to direct wildlife around the developed site and within the MHPA, rather than facilitating wildlife access across the Project site. As addressed under Response to Comment A-3 in Comment Letter A, and in Response to Comment B-21 above, access to the MHPA from the Project site would be prevented by existing or proposed walls or fences.

B-25

This comment refers to the CDFW NOP commenter letter, and states that a full survey of adjacent areas and adjoining habitat lands to the Project should be evaluated in the Final EIR.

The CDFW NOP comment letter notes documented occurrences of sensitive plant species adjacent to the Project site, and indicates that the Draft EIR should include surveys in all areas of suitable habitat onsite. The statement of documented occurrences states that the CDFW believes there is potential for these species to occur on the Project site if there is suitable habitat. Therefore, a survey is to be conducted in such areas onsite, if they exist. For clarification the 25.44 acres of the Project site subject to development was surveyed, as identified on page 2 of the Biological Letter Report included in Appendix D of the Draft EIR. As noted on page 1 of the Biological Letter Report, the northern open space parcel was not surveyed as no impacts would occur in this area. If any sensitive species happened to be observed adjacent to the site, they were noted., but there is no requirement to survey adjacent areas. Further, the CDFW did not identify any concerns with the biological survey area for the Project in its Draft EIR comment letter.

No sensitive species were observed within the Project impact limits, which consist almost entirely of previously developed land. Sensitive vegetation communities and species located outside of the Project impact limits but within the MHPA would be avoided and preserved in place. For sites that are located within or adjacent to the City’s MHPA, such as the Project site, a project must demonstrate compliance with the MHPA Land Use Adjacency Guidelines (LUAG) to address potential indirect effects to the MHPA

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B-25 (cont.)

through features incorporated into the project and/or permit conditions.

The LUAG for noise (refer to Draft EIR Section 5.4) includes measures for potential impacts to the California gnatcatcher in the MHPA. No other threatened/endangered species (for which specific measures would be required) have potential to occur in the adjacent MHPA. Potential indirect impacts to other sensitive species that are known to occur or that may occur in the adjacent MHPA are also addressed through compliance with the LUAG. The CDFW in its Draft EIR comment letter (refer to Comment Letter A) acknowledges and agrees with the conclusion that compliance with the LUAG, which the Project would accomplish, would avoid indirect impacts to sensitive species within the LUAG. The CDFW's only related recommendation was to ensure that the events in the rooftop and recreational areas are also consistent with the LUAG to prevent noise and light pollution spillover into adjacent MHPA. As addressed in Response to Comment A-4 of Comment Letter A, these Project components would also be required to comply with the LUAG. No further analysis of indirect impacts to biological resources or revisions to the Draft EIR are required.

B-26

This comment states the Final EIR should explain why no focused studies for sensitive species were conducted by the Project, and indicates the Project should conduct a survey for the orange throated whiptail. In its review of the Draft EIR (refer to Comment Letter A), the CDFW has not indicated that additional focused surveys are required. As described in Section 5.4, *Biological Resources*, of the Draft EIR, the majority of the Project site is disturbed or developed, and does not constitute wildlife habitat. Other small habitat areas onsite were surveyed for animals, albeit opportunistically, but those areas would be added to the MHPA as part of the Project. Opportunistic surveys refer to mapping of species adjacent to the Project site that were observed while conducting the general biological resources mapping of the Project site. This is how the barrel cactus and coastal California gnatcatcher mapping was conducted. Also, the scrub oak chaparral habitat is noted as being dominated by scrub oak adjacent to the site, rather than attempting to show individual plants. Potential impacts to the MHPA (and any sensitive species therein, such as the

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B-26 (cont.)

orange throated whiptail) are addressed through Project compliance with the LUAG.

As discussed in Response to Comment B-25 above, the Biological Letter Report includes an assessment of sensitive plant and animal species with the potential to occur within the Project impact area, which include the species identified in the CDFW NOP comment letter. The Project impact area is essentially a developed site; therefore, it lacks suitable native habitats for the identified species known to occur in the vicinity. Focused species surveys are only required where there is suitable habitat that would be impacted by the Project. As such, no focused sensitive species surveys were conducted within the developed site.

With respect to the orange throated whiptail, the Biological Letter Report acknowledged a moderate potential for this species to occur in coastal sage scrub and chaparral habitat, and a low potential for it to occur in the largely developed and disturbed Project impact area. As such, no significant impact to this species was identified. The conditions of coverage for this species also note that "habitat linkages between large blocks of protected lands are conserved in a functional manner." The Project would not alter any habitat linkages; instead, it would increase the amount of conserved land in the MHPA in accordance with the MSCP Subarea Plan.

Refer to Response to Comment B-30 below, which addresses comments related to Nuttall's scrub oak.

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B-26
(cont.)

One species known to live on the slopes immediately to the east and west of the site is the **Orange Throated Whiptail** lizard, an MSCP recognized species. See confirmed observations on iNaturalist: https://www.inaturalist.org/observations?place_id=829&subview=map&taxon_id=194092.

The FEIR should include a focused assessment of sensitive species mentioned in the CDFW scoping comments, as well as a focused survey to assess impacts on the Orange Throated Whiptail lizard.

The significance of focused species analysis is illustrated by comment 10i below. BMZ2 includes a large mature Nuttall's Scrub Oak which is not identified in the BLR or figure 2-5.

g). Impacts to sensitive, rare or threatened species: California Gnatcatcher

The DEIR discusses sensitive animal species on p 5.5-5 and 6.

The DEIR identifies at least four California Gnatcatchers on and in the surrounding perimeter of the project site (Figure 2-5). The DEIR addresses the issue of construction impacts on California Gnatcatchers in the Biology Letter Report, (p 14-18)

Project construction is proposed to last for 68 months (ES-4), which could include at least 5 nesting seasons for California Gnatcatcher and other protected birds.

The FEIR should explain how the project will avoid impacts to these sensitive species while being able to progress over this period.

The UCPG recommends that the project should follow CDFW and City guidelines to avoid impacts of construction to nesting birds, including raptors and passerines such as the California Gnatcatcher.

Given the presence of California Gnatcatchers surrounding the site, **the UCPG recommends** that the project avoid construction during nesting season.

h). Direct and indirect impacts to sensitive, rare or threatened species: Impacts to San Diego Barrel Cactus

The DEIR discusses sensitive plants on p 5.5-4 and 5. It reveals at least 20 sensitive San Diego Barrel Cactus immediately to the west of the Project boundary and the proposed Brush Management Zone 2 in the SE corner area of the project adjoining Building E (Biology Letter Report, Figure 3, DEIR Figure 2-5).

The FEIR should confirm that there are no individual San Diego Barrel Cactus in this cluster of twenty that are on the project site, and it should disclose potential impacts and mitigation strategies to protect them.

B-27

B-28

B-27 This comment states that the Final EIR should address how impacts to the California gnatcatcher would be avoided during Project construction. As noted by the comment, construction impacts to the California gnatcatcher are addressed in Section 5.4, *Biological Resources*, of the Draft EIR. With adherence to the MHPA Land Use Adjacency Guidelines (LUAG) and implementation of the City's standard conditions, which require that pre-construction nesting bird surveys be conducted during the breeding season and actions identified that would ensure that construction noise levels do not exceed 60 dBA hourly average at the edge of occupied California gnatcatcher habitat, impacts would be less than significant. Furthermore, Section 5.11, *Noise*, of the Draft EIR also evaluates construction-related noise impacts to the California gnatcatcher, and concludes that, with adherence to applicable requirements, including the LUAG, construction-related noise impacts to the MHPA would be less than significant. As identified in its Draft EIR comment letter (refer to Comment Letter A), the CDFW concurs with the conclusion that implementation of construction activities in compliance with the LUAG would ensure that indirect impacts to wildlife would be less than significant. No additional analysis or revisions to the Draft EIR are required.

B-28 This comment states the Final EIR should confirm there are no San Diego barrel cactus within the Project's impact footprint, and should explain how the San Diego barrel cactus located outside of the Project's impact footprint would be avoided. Additionally, the comment states that the Final EIR should identify the Project's limits of impact and brush management areas. Section 5.4, *Biological Resources*, of the Draft EIR (page 5.4-14) states, "During the site visit conducted on May, 30, 2020, San Diego barrel cactus was observed off site and not within the impact area for the Project. This species would have been observed if it was present onsite because it is a perennial stem succulent that is detectable year-round." The San Diego barrel cactus are located outside of the Project's limits of impact and brush management areas. As such, no impacts would occur. During Project construction, impacts would be avoided with implementation of City standard conditions of approval, which require biological monitoring during construction, and a pre-construction meeting to discuss biological resources and review of the Project's limits of impacts. Furthermore, the Project would be required to comply with

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B-28 (cont.)

The FEIR should explain how the project will avoid impacts to off-site Barrel Cactus that are within feet of the project and BMZ 2 boundaries and it should outline potential impacts and mitigation for impacts to Barrel Cactus off-site.

Good sense indicates that brush management on a steep and unmarked chaparral slope immediately adjacent to these identified species may very likely impact them. The DEIR claims that because these plants are outside the project boundary, “impacts to this species will not occur.” This claim is not fully creditable.

The FEIR should explain how the project will avoid impacts to sensitive species on the project/BMZ boundary and outline the potential impacts of immediately adjacent Brush Management activities and strategies intended to mitigate them.

This reinforces the recommendation of the CDFW that “the DEIR should include a discussion regarding indirect Project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands” (5)

The UCPG recommends that among its strategies, that the project should carefully identify the project boundaries and the edges of Brush Management Zone 2 on the southwest facing slopes including and adjacent to the Barrel Cactus to ensure that BMZ activities do not extend beyond the project site and have unintended impacts on sensitive species located immediately adjacent to or on the project boundary.

B-29 *The FEIR should evaluate the impacts of withdrawing ‘Brush management’ zones to within the retaining walls of the project.*

i.) **Impacts to sensitive, rare or threatened species: Nuttall’s Scrub Oak.**

The DEIR discusses sensitive plants on p 5.5-4 and 5. It identifies a number of this species on and around the site. However, it does not identify at least one large Nuttall’s scrub oak in the BMZ2 at the SE portion of the site.

B-30 *The FEIR should explain how the project will avoid impacts to Nuttall’s Scrub Oak in its Brush Management Zone 2 in the SE corner of the project site. This section of BMZ 2 includes a at least one large Nuttall’s Scrub Oak which is not shown in figure 3 of the Biology Letter Report.*

In the DEIR, the BLR survey does not show this sensitive species in this location.

The FEIR should discuss potential impacts and mitigation for this sensitive species inside and adjacent to the proposed BMZ2.

B-31 j.) **Impacts to sensitive, rare or threatened species: Wart Stemmed Ceanothus.**

B-28 (cont.)

the MHPA Land Use Adjacency Guidelines (LUAG), including requirements for barriers with the MHPA. Additionally, the Project’s limits of impact and brush management areas are discussed in Section 3.0, *Project Description*, of the Draft EIR and shown on Figure 3-12, *Brush Management Plan*. No additional analysis or revisions to the Draft EIR are required.

B-29 This comment indicates that the Final EIR should evaluate withdrawing brush management zones to within the retaining walls of the Project. The Project site is not completely surrounded with retaining walls. Brush management activities are required in areas where retaining walls are not existing or proposed for the Project site. Brush management is required in order to limit the fuel load for potential fire. The Project is required to comply with the City’s Brush Management Regulations, included as Section 142.0412 of the City’s Municipal Code, as well as Fire Bureau Prevention Policies. The Project’s brush management zones are located outside of the MHPA except for 0.01 acre within BMZ 2 (which is considered impact neutral by the City of San Diego). The City reviewed the Project’s brush management plan and confirmed that withdrawing the brush management zones would not comply with City regulations and would not provide adequate brush management for the Project site. Thus, no evaluation of modified brush management zones is warranted, and no revisions to the Draft EIR are required.

B-30 This comment states that there is a Nuttall’s scrub oak within the Project’s brush management zone 2 area (BMZ 2), and that the Final EIR should address impacts to the Nuttall’s scrub oak within and adjacent to BMZ 2. The Nuttall’s scrub oak is not a State or Federally listed species as threatened or endangered. The area referenced by the comment is within Diegan coastal sage scrub habitat. The Diegan coastal sage scrub habitat is noted as containing a diverse suite of plant species, rather than attempting to show individual plants. Impacts to sensitive habitat are addressed in Section 5.4, *Biological Resources*, of the Draft EIR, and impacts were determined to be less than significant. Although the area referenced by the commenter is located outside of the MHPA, it should be noted that brush management zone 2 is considered impact neutral (i.e., not considered impacted but cannot be used as mitigation)

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B-30 (cont.)

and is an allowable activity within the MHPA. It consists of removal of dead plant material, thinning to approximately 50%, and pruning of remaining plants. The goal is to create a staggered pattern of vegetation with a “natural” look. The thinning is to be prioritized as follows: 1) invasive non-native species; 2) non-native species; 3) flammable native species; 4) native species; and 5) regionally sensitive species. By following this approach, potentially occurring sensitive native species, if present within BMZ 2, would be avoided. Furthermore, the area referenced by the comment is located outside of the MHPA. Thus, no revisions to the Draft EIR are required.

B-31

This comment references the CDFW NOP comment letter, which reported an observation of a wart stemmed ceanothus adjacent to the Project site. The comment states that the Final EIR should address why a focused survey for this species was not conducted. The wart stemmed ceanothus is not state or federal listed as threatened or endangered. It is a CNPS 2.B.2 species considered fairly threatened in California but common elsewhere. It also is an MSCP covered species. There are no MSCP Area Specific Management Directives for this species in the Project vicinity. The California Native Diversity Database (CNDDDB) shows that this species previously was mapped in the southeast corner of the Project site and adjacent developed area. All of the area within the CNDDDB mapped polygon at this location has been developed. The Biological Letter Report (Attachment D of the Draft EIR) notes the potential for this species to occur within the Project impact area as low, and it was not observed during site visits. Should this species occur north of the Project site within the MHPA conservation area, then it would be protected and managed, along with the other sensitive species occurring within this area. Furthermore, CDFW provided a comment letter on the Draft EIR (refer to Comment Letter A), which does not indicate any additional focused surveys are required for the Project. As such, no significant impacts to this species would occur, and no focused surveys for this species or revisions to the Draft EIR are required.

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B-31 (cont.)

CDFW (Scoping Letter, 5/5/21) reports an observation of Wart Stemmed Ceanothus within 40 feet of the project site, however this species is not shown in the Biology Letter Report.

The DEIR discusses potential impacts to sensitive species identified by CDFW on p 5.4-4 and 5. The plant survey took place on May 30, 2020, after the general bloom period for Wart Stemmed Ceanothus, so it is not surprising that the species was not identified through this method. In the absence of a focused survey, the DEIR is not convincing that this species is not present on site in the area immediately adjacent.

The FEIR should explain why it did not undertake a focused survey for this sensitive species and it should undertake to remedy this shortcoming including a discussion of impacts and mitigation if necessary.

The UCPG supports the recommendation of the CDFW (5/5/21) that the FEIR should survey lands adjoining the project site for this species and disclose potential impacts of the project and strategies to mitigate them.

B-32

k). Adjacent Resources – Vernal pool impacts

The FEIR should evaluate impacts to disturbed vernal pool in the MHPA lands immediately adjoining the site, east of the proposed parking garage, and it should outline steps to avoid and mitigate impacts. See pool visible in photo 29, (Figure 3, Biological Letter Report). This site should be surveyed for vernal pool species listed in attachment D of the Biological Letter Report.

The DEIR discusses wetland impacts on p 5.4-21, but it does not mention the disturbed vernal pool among its discussion of indirect effects on MHPA resources.

B-33

The FEIR should explain how excavation and the construction of a subterranean parking level in the Parking Structure (see ES-4) will avoid impacts to vernal pool habitat in the MHPA lands immediately to the east of the project boundary, a few feet from the proposed Parking Structure.

B-34

l). Impacts of Fuel Modification – Brush Management

The DEIR discusses Brush Management on pages 3-9 and 3-10 and 5.4-17-18.

The FEIR should confirm that no Brush Management activities will take place in the MHPA on or off the project site.

Given the proximity of sensitive species on site and in un-surveyed areas immediately adjacent to the project site, the FEIR should explain how brush management activities will impact sensitive species and habitats, such as Nuttall’s Scrub Oak, Coastal Barrel Cactus and Scrub Oak Chaparral, and it should explain how brush management activities will be designed to avoid impacts to adjacent lands and species inside the MHPA.

B-32 The comment states the Final EIR should evaluate impacts to a vernal pool within the MHPA land located off-site east of the Project site. Further, the comment claims the vernal pool is visible in a site photograph in the Project’s Biological Letter Report. The area east of the Project site within the MHPA would not be directly impacted by the Project, and any potential indirect impacts would be addressed through compliance with the LUAG. The area referenced by the comment does not represent a vernal pool as it is not mapped as a vernal pool by CDFW. Furthermore, the CDFW NOP comment letter and Draft EIR comment letter do not identify the presence of a vernal pool within the vicinity of the Project site. As such, no further analysis or revisions to the Draft EIR are required.

B-33 This comment requests that the EIR explain how excavation and construction of the parking structure would avoid impacts to vernal pool habitat in the MHPA lands located immediately east of the Project boundary. As identified under Response to Comment B-32 above, there is no vernal pool habitat located in this area. Additionally, the Project’s limits of impact with respect to biological resources are identified on Figure 5.4-1 of the EIR. This graphic has been refined in the Final EIR to better identify the impact line along the eastern boundary. As shown in the revised Figure 5.4-1, the Project’s parking structure would be located within previously disturbed areas onsite, and would not impact any off-site areas, including off-site areas located within the MHPA east of the Project site. The Project’s impacts to biological resources, including the MHPA, are discussed in Section 5.4, *Biological Resources*, of the Draft EIR. As concluded in the Draft EIR, the Project’s impacts to biological resources would be less than significant. No additional analysis or revisions to the Draft EIR are required.

B-34 This comment discusses brush management and requests the Project avoid impacts to adjacent lands and species within the MHPA. Additionally, the comment requests that the Final EIR evaluate modifying the brush management areas to avoid sensitive species. The Draft EIR establishes the Project’s impact area and includes discussion on how the Project (including brush management activities) would be designed to avoid impacts to adjacent lands and species within the MHPA. As identified on Table 5.4-2 and shown on Figure 5.4-1 of the Draft EIR, the Project would not include

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B-34
(cont.)

To avoid impacts to sensitive species and habitats on the project site and immediately adjacent to it, the FEIR should assess the impacts of confining brush management activities to within the retaining walls surrounding the project site, and/or making modifications be made to retaining walls to allow removal of BMZ outside the walls.

B-35

m.) Impacts to Coastal Zone.

In the DEIR, the Biology Letter Report notes that “the project site is not within the Coastal Zone” (BLR, 3). However, Figure 3-1 shows that the northeastern portion of the site is inside the Coastal Zone. The DEIR notes that the project is within the Coastal Zone (5.1-14) and requires a Coastal Zone Permit.

The FEIR should correct this discrepancy and assess specific impacts of the project to the Coastal Zone on site and in adjoining Coastal Zone.

The FEIR should assess and report impacts on resources in the adjoining Coastal Zone.

n). Invasive Species – removal of existing invasive plants and prevention of future use

The City of San Diego General Plan states under Policy CE-G.1: Preserve natural habitats pursuant to the MSCP, that it is city policy to “Remove, avoid, or discourage the planting of invasive plant species.” (DEIR, 5.1-67).

The DEIR discusses landscaping and invasive plants in section 5.4.3, p 5.4-17. See also BLR, 15. The DEIR notes that the project does not include any new invasive plant species in its landscape plan.

The FEIR should confirm that the Project will avoid using any invasive plant materials, including plants listed on CNPS list of invasive species.

B-36

However, the DEIR does not address existing invasive plants that are part of the current project which have escaped into adjoining ESLs.

The FEIR should address the foreseeable impacts of the existing invasive plants on the property and their impacts on adjoining sensitive lands, and it should seek to meet the letter and spirit of General Plan policy CE-G.1 by addressing steps to remove them.

This includes especially invasive plants in those areas marked as “ornamental” in Biology Letter Report, Figure 3, in particular highly invasive Pampas Grass which is widespread through this area as well as in the area described as BMZ2 along the west facing slope at the SE corner of the property.

In particular, the FEIR should address the impacts of existing Pampas Grass on the site and in adjoining lands down slope where it has escaped from this property, including potential steps to remove it.

B-34 (cont.)

any brush management zone 1 areas within the MHPA. The brush management zone 2 activities would occur in a total of 0.01 acre within the current MHPA boundary (including 0.001 acre of Tier 1 scrub oak chaparral habitat within the current MHPA boundary) and 0.33 acre of Tier 4 habitat outside the MHPA. Brush management zone 2 is considered impact neutral (i.e., not considered impacted but cannot be used as mitigation) and is an allowable activity within the MHPA. It consists of removal of dead plant material, thinning to approximately 50%, and pruning of remaining plants. The goal is to create a staggered pattern of vegetation with a more or less “natural” look. The thinning is to be prioritized as follows: 1) invasive non-native species; 2) non-native species; 3) flammable native species; 4) native species; and 5) regionally sensitive species. By following this approach, potentially occurring sensitive native species, if present within BMZ 2, would be avoided. Additionally, the Project would be required to comply with the LUAG due to the Project’s proximity to the MHPA. The LUAG requires barriers along the outer boundary of BMZ 2 that would prevent brush management activities from extending beyond the Project’s impact limits. The Project would be required by City regulations to adhere to the LUAG and remain within its approved limits. Please refer to Response to Comment B-29 regarding the infeasibility to modifying the Project’s brush management plan. No revisions to the Draft EIR are required.

B-35

This comment correctly indicates there is a discrepancy between the Biology Letter Report and the Draft EIR related to the Project’s location within the Coastal Zone. The Biology Letter Report has been modified to clarify the location of the Coastal Zone as requested.

Additionally, this comment indicates that the Final EIR should address impacts of the Project to the Coastal Zone onsite and in adjacent areas. The Project’s relationship to the Coastal Zone is discussed and evaluated in the Draft EIR. As shown on Figure 2-9, Coastal and ALUCP Safety Zones in Relation to the Project, the northern portion of the Project site, including primarily the 7.0-acre open space parcel, is located in the non-appealable area of the Coastal Zone. The Project proposes the subdivision of property within the Coastal Overlay Zone, as well as the construction

B-35 (cont.)

of landscaping, fire access and recreational facilities in the development area of the Project site that is considered coastal development under the Land Development Code, and, therefore, a Coastal Development Permit is required. Pursuant to Land Development Code Section 126.0706, "the City Manager shall determine whether the proposed coastal development lies within the appealable area at the time the application for the Coastal Development Permit is submitted to the City." The Project is not located in the appealable area of the Coastal Zone. The Draft EIR appropriately evaluates impacts related to the Coastal Zone, and the required Coastal Development Permit is identified as a required permit for the Project (refer to Section 3.5.5 of the Draft EIR). No additional analysis and no revisions to the Draft EIR are required.

B-36 This comment requests that the EIR confirm that the Project would avoid using invasive plant materials, including plants listed on the California Native Plant Society list of invasive species. The commenter references several locations in the Draft EIR that discuss landscaping and invasive plants, including in Sections 5.1, Land Use, and 5.4, *Biological Resources*. The Draft EIR adequately analyzes and confirms that the Project would avoid using invasive plant materials, including plants listed on the California Native Plant Society List. Furthermore, the Project's Landscape Plan was reviewed and approved by City staff, who reviewed the plant palette and confirmed no invasive plant materials were included on the Landscape Plan. At the request of the University Community Planning Group (UCPG) during the EIR Scoping process, Native West Nursery also reviewed the plant palette and recommended native species that were incorporated into the Project's Landscape Plan. Furthermore, as discussed in Response to Comment B-2, as requested by the UCPG, the Project's Landscape Plan was updated to remove Chinese elm trees adjacent to the MHPA. No revisions to the Draft EIR are needed.

The comment also requests that the EIR address impacts from invasive species onsite and impacts due to the spread of invasive species into the MHPA. Furthermore, the comment requests that the EIR evaluate removing invasive species within the MHPA. All existing ornamental landscaped areas within the Project impact area, including

B-36
(cont.)

The FEIR should evaluate the impacts on the MSCP and adjoining sensitive lands of removing the existing invasive plant species that exist on the project site and those which have escaped from the project site into adjoining public lands, which are part of the City MHPA.

These invasive plant impacts were caused by the management of this property, and they are the responsibility of the property owner to redress. They should be resolved with the completion of this project.

o). Bird Strikes:

The DEIR discusses bird strikes in section (10.3.6)

The FEIR should address steps to eliminate potential bird strikes.

The Project includes five buildings up to 95 feet in height on a narrow headland surrounded by City of San Diego MHPA. Adjoining lands are well frequented by MHPA covered species, including Cooper's Hawk, Harrier, and federally threatened California Gnatcatcher.

In the context of a discussion of bird strikes, the DEIR notes that because the project is not IN the MHPA it will "largely avoid direct impacts to sensitive biological resources that occur in the MHPA areas adjacent to the Project site." (10.3.6)

Given that the project is surrounded by MHPA lands, and that birds, and other wild species do not recognize property lines, and that structures with significant glass features, especially those adjoining open space lands pose a well-known danger to bird species, this explanation is not credible.

The FEIR should explain how the project will avoid foreseeable bird strikes that will result because of the project's design and location. This explanation should reflect the latest science.

The FEIR should address specific design features and impacts of project design that carefully follows the recommendations of the CDFW to avoid direct impacts to birds:

"Bird Safe Architecture: further avoidance of direct impacts to birds, particularly migratory species, can be achieved through incorporation of "bird safe" elements in architectural design. Elements such as glazed windows, well-articulated building facades, and minimal nighttime lighting are encouraged to reduce collisions of migratory birds with buildings. Large flat windows, reflective glass, and transparent corners are strongly discouraged. CDFW recommends that the City follow as many of these guidelines as appropriate when considering structure design, as described in San Francisco's Standards for Bird Safe Buildings (the document can be found online at: https://sfplanning.org/sites/default/files/documents/reports/bird_safe_bldgs/Standards%20for%20Bird%20Safe%20Buildings%20-%202011-30-11.pdf)."

B-38

p). Noise impacts

B-36 (cont.)

those with invasive species, would be removed as part of the Project and these areas would be revegetated with non-invasive plant species. The Draft EIR analysis (page 5.4-17) addresses how potential impacts from invasive species would be reduced to a less than significant level through Project design:

"The landscape plans for the project do not include any invasive or potentially invasive species (including those identified in the California Invasive Plant Inventory prepared by the California Invasive Plant Council). Further, the landscape palette, which was reviewed by Native West Nursey, incorporates native plants from the adjacent canyons, as well as the region, in support of the diverse ecosystem (Native West Nursey, 2021)."

Further, the Project would adhere to SDMC Landscape Regulations, which do not allow the planting of invasive, non-native plant species. The Project would also comply with the LUAG that prohibit the use of invasive species in the vicinity of the MHPA. Compliance with the LUAG would prevent the spread of invasive species into the MHPA as none would be planted.

With respect to the removal of existing invasive plant species that are already in City-owned MHPA, such removal would be the responsibility of the City. With respect to the removal of existing invasive plant species outside of the MHPA and subject to private ownership, such removal would be the responsibility of the Owner/Applicant pursuant to the requirements of the conservation method (see Response To Comment B-6).

B-37

This comment discusses bird strikes and states the Final EIR should explain how the Project would avoid foreseeable bird strikes and follow recommendations of CDFW recommendations. A discussion of the Project's architectural design is included in Section 3.2.1, *Proposed Buildings*, of the Draft EIR. The majority of the MHPA-facing facades (south Building A façade, east and west Building B facades, north Building C façade, and south Building D façade) would be well-articulated with metal panels and exterior sunshades to limit the size of uninterrupted glazed areas and to prevent bird strikes. On other facades, where

COMMENTS

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B-37 (cont.)

large uninterrupted expanses of vision glass face MHPA habitats (west Building A façade, north Building B façade, east Building C façade, and east Building D façade), the Project would utilize specialized fritted glazing to deter birds, with a pattern sized at 4" high x 2" wide or smaller, per the referenced CDFW Standards for Bird-Safe Buildings. The CDFW Standards for Bird-Safe Buildings also include minimal nighttime lighting. Interior nighttime lighting would be minimized to only what is required for tenant functionality and security, with occupancy sensors at interior areas. Therefore, the Project would comply with the CDFW Standards for Bird Safe Buildings related to minimal nighttime lighting. Additionally, exterior lighting would be fully shielded to minimize spill light and upward light. Therefore, as identified Section 5.4, *Biological Resources*, of the Draft EIR, impacts associated with avian collisions would be less than significant. No further analysis or revisions to the Draft EIR are required.

COMMENTS

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B-38 (cont.)

The location of the project in the midst of MHPA habitat preserve poses significant impacts to adjoining lands as a result of amplified events throughout the project area.

The DEIR addresses the issue of construction noise impacts on one species, California Gnatcatchers, in the Biology Letter Report, (p 14-18) and on page 5.4-18-20, 5.1-23, and 5.11-12. but it does not address noise impacts from project operations on other wildlife or the MHPA as a whole.

The FEIR should explain how the project will avoid noise impacts to adjoining habitat lands, including potential impacts from amplified events on site, and including how the project will enforce this restriction.

The FEIR should assess noise impacts and potential mitigation for the three Building Generators for Buildings A, B, C, and D, which are located on the outer edge of the project site adjacent to MHPA lands, including adjacency to the reported locations of threatened Coastal California Gnatcatchers. See Biology Letter Report p 14-15.

B-39

q). Non-lethal removal of snakes

The DEIR does not address this issue.

The FEIR should explain how the project will avoid lethal impacts to wildlife, including in particular snakes, which find their way onto the project site, and it should outline potential impacts and strategies to enforce non-lethal protocols for snake removal.

Lethal removal of snakes and other native wildlife that enter the project sites pose a significant threat to species populations in adjoining habitat lands. Development of an irrigated project with large numbers of people in the midst of MHPA lands ensure that wildlife, including reptiles, will enter the project site. Non-lethal removal of these creatures represents best practice in land and property management. This restriction should be written into lease agreements with tenants.

B-40

r). Avoid use of rodenticide

The DEIR addresses the potential impact of toxins related to the project on page 5.1-15 and 16. The Alden Biology Letter Report discusses the impact of pesticides and other toxins spreading beyond project boundaries, but the DEIR does not address the issue of rodenticides on MHPA habitats and protected species. (BLR, p 14)

As the CDFW Scoping Letter (5/5/21) indicates, the use of rodenticides for pest control poses a significant threat to native birds and wildlife as poisons used for rodent control cascade into natural food chains, killing not only rodents but protected birds and other species. Best practices for land, habitat and property management include the avoidance of rodenticides for rodent control.

The FEIR should assess potential impacts of rodenticides and other pesticides on wildlife and explain how it will prevent lethal impacts to raptors and other predatory native wildlife as a

B-38

The comment states that the Final EIR should address noise impacts to adjacent MHPA lands from amplified events and building generators on-site. The Project does not include events requiring amplified sound on-site. Operational noise impacts to the MHPA are addressed in Section 5.11, Noise, of the Draft EIR. As identified, daytime and nighttime operational noise levels at the Project site boundary with adjacent open space would range from 23.6 dBA Leq to 50.3 dBA Leq, and would not be of sufficient volume or duration to impact or interfere with wildlife utilization of adjacent habitat or the MHPA. As such, the Project would not result in significant operational noise impacts within the adjacent MHPA, consistent with the LUAG. No further analysis or revisions to the Draft EIR are required.

B-39

This comment requests that the Final EIR explain how the Project would avoid lethal impacts to wildlife, including snakes, and requests that non-lethal removal of snakes be included as a restriction to lease agreements. Section 5.4, *Biological Resources*, of the Draft EIR indicated that impacts to wildlife would be less than significant; therefore, no mitigation is required. Notwithstanding, BioMed Realty (BMR) owner and future landlord of Project tenants, utilizes best practices for any wildlife and snake removal including reliance on animal control, local police, or fire departments to assist in non-lethal removal of snakes and other wildlife that may enter their properties. BMR oversees all landscaping-related contracts and, therefore, such restrictions in lease agreements for tenants are not required. BMR is committed to maintaining this practice for the Project. Revisions to the Draft EIR are not required.

B-40

This comment requests that the Final EIR evaluate the potential impacts of rodenticides and other pesticides on wildlife and explain how the Project would prevent impacts to raptors and other native wildlife. Consistent with Policy CE-A.11(a) discussed on pages 5.1-61 and 5.1-62 of the Draft EIR, an integrated pest management program would be developed for the Project, which would reduce the dependence on the use of pesticides/rodenticides. In addition, the Project is committed to the use of native landscaping, which is naturally pest-resistant and would further reduce dependence on the use of pesticides. BMR oversees all landscaping contracts and, therefore, such restrictions in lease agreements for tenants are not

COMMENTS

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B-40 (cont.) *result of pest/rodent control. It should explain how the project will enforce this avoidance with tenants over time.*

s.) Potential for Hazardous materials on site

The DEIR discusses toxic materials as a result of the project on p 5.1-15 and 16. However, it does not address the potential for existing toxics on the site or their impacts on project tenants and surrounding wildlife.

B-41 Site surveys and aerial photographs reveal that the site has recently been used for a variety of activities including truck spray downs and clean outs that may have washed hazardous materials onto the site, including temporary water retention basins that may have previously been used to collect this wastewater.

The FEIR should assess the potential for hazardous materials or waste existing on site as a result of the site's former uses, and it should assess the impacts of these materials on the project and its tenants. This includes especially settling ponds, retention basins, project cleanout sites, and materials storage areas.

B-40 (cont.)

required. Revisions to the Draft EIR are not required.

B-41 This comment requests that the Final EIR assess the potential for hazardous materials onsite as result of the site's former uses. The Project's Phase I Environmental Site Assessment (included as EIR Technical Appendix H) includes evaluation of existing site conditions and determined there were no existing hazards or hazardous materials onsite. A summary of the Phase I Environmental Site Assessment is included in Section 5.8, *Health and Safety*, of the Draft EIR, which indicates that impacts would be less than significant. No revisions to the Draft EIR are required.

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Approved December 13, 2022, by the UCPG

Andrew Wiese, UCPG Board Member
Chris Nielsen, UCPG Chair



San Diego County Archaeological Society, Inc.

Environmental Review Committee

23 November 2022

To: Ms. Sara Osborn
Development Services Department
City of San Diego
1222 First Avenue, Mail Station 501
San Diego, California 92101

Subject: Draft Environmental Impact Report
Towne Centre View
Project No. 624751

Dear Ms. Osborn:

I have reviewed the cultural resources aspects of the subject DEIR on behalf of this committee of the San Diego County Archaeological Society.

Based on the information contained in the DEIR and its Appendix I, we concur with the findings that the project as proposed, due to the development current present, is unlikely to result in significant impacts to cultural resources. Consequently, we agree that no cultural resources mitigation measures are necessary.

SDCAS appreciates being included in this project's environmental review process.

Sincerely,

James W. Royle, Jr., Chairperson
Environmental Review Committee

cc: Brian F. Smith & Associates
SDCAS President
File

P.O. Box 81106 San Diego, CA 92138-1106 (858) 538-0935

C-1 This comment states that the commenter concurs with the findings of the Project's Cultural Resources Report (included as Technical Appendix I to the Draft EIR) and that due to existing development, the Project is unlikely to result in significant impacts to cultural resources and that no cultural resources mitigation measures are required. No response to this comment or revision to the Draft EIR is required.



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Via Email

January 6, 2023

Sara Osborn
 City of San Diego
 Development Services Department
 1222 First Avenue, MS 501
 San Diego, CA 92101
DSDEAS@SanDiego.gov

**Re: Comment on Draft Environmental Impact Report, Towne Centre View
 (Project No. 624751; SCH No. 2021040044)**

Dear Ms. Osborn:

I am writing on behalf of Supporters Alliance for Environmental Responsibility ("SAFER") regarding the Draft Environmental Impact Report ("DEIR") prepared for the Towne Centre View Project (Project No. 624751; SCH No. 2021040044), including all actions related or referring to the proposed construction of an approximately one million square foot scientific research and development (R&D) campus that would include five two- to six-story buildings, a four-level podium parking structure, and a parking garage with six above grade levels and one partial below grade level, located north of the current terminus of Towne Centre Drive, generally between I-5 to the west and I-805 to the east.

After reviewing the DEIR, we conclude that the DEIR fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project's impacts. SAFER requests that the Development Services Department address these shortcomings in a revised draft environmental impact report ("RDEIR") and recirculate the RDEIR prior to considering approvals for the Project.

We reserve the right to supplement these comments during review of the Final EIR for the Project and at public hearings concerning the Project. *Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997).

Sincerely,

Victoria Yundt
 LOZEAU DRURY LLP

D-1

D-1 This comment summarizes the Project description, states the Draft EIR fails as an informational document and does not impose all feasible mitigation measures, and requests that the City revise the Draft EIR and recirculate the Revised Draft EIR. The Project's Draft EIR was prepared in accordance with CEQA (California Public Resources Code (PRC), Section 21000 et seq.), the CEQA Guidelines (14 CCR 15000 et seq.), and the City's EIR Preparation Guidelines. With respect to the requirement for additional mitigation measures, based on the City's established thresholds of significance, the Draft EIR determined that the Project would result in no impact, a less than significant impact, or a less than significant impact with implementation of standard conditions of approval for each topic, except for transportation-related/vehicle miles traveled (VMT) impacts. VMT impacts were determined to be less than significant with implementation of the identified mitigation measure. Therefore, the Draft EIR determined that there would be no significant and unavoidable impacts resulting from the Project and no additional mitigation is required. No revisions to the Draft EIR are required.

This comment fails to provide any specific comments regarding the information and analysis presented in the Draft EIR to substantiate the inaccurate assertions about the adequacy of the Draft EIR; therefore, no response can be provided. There were no comments provided in this letter or in other comments received by the City of San Diego on the Draft EIR that necessitate recirculation of the Draft EIR, as set forth in Section 15088.5 of the State CEQA Guidelines.

BLUM COLLINS & HO, LLP
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January 4, 2023

Sara Osborn
 City of San Diego Development Services Center
 1222 First Avenue, MS 501
 San Diego, CA 92101

VIA EMAIL TO:
DSDEAS@SanDiego.gov

Subject: Comments on Towne Center View EIR (SCH NO. 2021040044)

E-1

Dear Ms. Osborn,

Thank you for the opportunity to comment on the Environmental Impact Report (EIR) for the proposed Towne Center View Project. Please accept and consider these comments on behalf of Golden State Environmental Justice Alliance (GSEJA). Also, Golden State Environmental Justice Alliance formally requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. Send all communications to Golden State Environmental Justice Alliance P.O. Box 79222 Corona, CA 92877.

E-2

1.0 Summary

The project proposes the construction and operation of a scientific research and development (R&D) complex that can accommodate approximately 1,000,000 square feet (sf) of building area on a 33.55-acre site. Site improvements would also be constructed that include associated utilities, internal circulation and access, hardscape (surface parking, driveways, and walkways) retaining walls, and landscape. The partially developed project site is located north of the current terminus of Towne Centre Drive. The parcels are designated "Scientific Research" and "Open Space" within Subarea 11 of the University Community Plan.

The following discretionary actions are necessary to implement the proposed project:

1. Community Plan Amendment to the University Community Plan to increase the intensity in Subarea 11 from 18,000 sf/acre to 1,000,000 sf.
2. Planned Development Permit to amend PID 96-7756 for Eastgate Acres and because of required deviations to the San Diego Municipal Code (reduced rear setback, reduced

- E-1 This comment provides introductory remarks, including a request to be included on the public interest list for future Project notification. This comment does not address the analysis of environmental impacts presented in the Draft Environmental Impact Report (EIR). Therefore, no response to this comment or revision to the Draft EIR is required.
- E-2 This comment provides a summary description of the Project and the Project's associated entitlements. This comment does not address the analysis of environmental impacts presented in the Draft EIR. Therefore, no response to this comment or revision to the Draft EIR is required.

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- loading space quantity, driveway width that exceeds that maximum permitted width, and a 19 ft tall retaining wall that excess the maximum height of 12 ft).
3. Site Development Permit because there are ESLs on site, the project is within the ALUC Overlay for MCAS Miramar, and the Project is within the CPIOZ Type A.
 4. Neighborhood Development Permit for the alternative method of calculation for the ALUC Overlay Zone.
 5. Coastal Development Permit to amend CDP 117798 because the northern portion of the Project area is within the non-appealable area of the Coastal Overlay Zone and the Project would subdivide the site in the Coastal Overlay Zone from the area where vertical development would be constructed.
 6. Tentative Map to subdivide and configure the property to accommodate the proposed development, to subdivide the areas in the Coastal Overlay Zone from the area outside the Coastal Overlay Zone, and to provide necessary easements.
 7. Public Street Vacation for the western terminus of Towne Centre Drive, west of Westerra Court.

5.3 Air Quality and Odors, 5.5 Energy, and 5.7 Greenhouse Gas Emissions

E-3 Please refer to attachments from SWAPE for a complete technical commentary and analysis.

E-4 The EIR does not include for analysis relevant environmental justice issues in reviewing potential impacts, including cumulative impacts from the proposed project. This is especially significant as the surrounding community is highly burdened by pollution. According to CalEnviroScreen 4.0¹, CalEPA’s screening tool that ranks each census tract in the state for pollution and socioeconomic vulnerability, the proposed project s census tract (6073008339) ranks worse than 66% of the rest of the state overall. The proposed project’s census tract and surrounding community, including residences and La Jolla Country Day School to the west, bears the impact of multiple sources of pollution and is more polluted than average on several pollution indicators measured by CalEnviroScreen. For example, the project census tract ranks in the 44th percentile for particulate matter (PM) 2.5 burden, the 91st percentile for diesel particulate matter (PM) burden, and the 80th percentile for traffic impacts. All of these environmental factors are typically attributed to heavy truck activity in the area.

Additionally, the census tract ranks in the 97th percentile for hazardous waste facility impacts. Hazardous waste generators and facilities contribute to the contamination of air, water and soil near waste generators and facilities can harm the environment as well as people².

¹ CalEnviroScreen 4.0 <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>

² OEHHA Hazardous Waste Generators and Facilities <https://oehha.ca.gov/calenviroscreen/indicator/hazardous-waste-generators-and-facilities>

E-3 This comment refers to attachments to Comment Letter E from SWAPE. Please refer to Responses to Comments E-19 through E-26 for specific responses to the comments provided by SWAPE in the attachments.

E-4 This comment states that the EIR does not include analysis of relevant environmental justice issues, including cumulative impacts from the Project and states the area is vulnerable to pollution and hazardous waste generators based on CalEnviroScreen and community demographics. The Project does not include the type of development that would generate emissions that would result in significant cumulative air quality pollution or hazardous waste generation. Furthermore, the comment makes a number of fundamental errors. The San Diego Association of Governments (SANDAG) has published maps of disadvantaged communities pursuant to California Health and Safety Code 39711 in conjunction with the 2021 Regional Plan. Neither the Project site, nor any areas of the University Community Plan area are designated as disadvantaged communities by SANDAG. (<https://sandag.maps.arcgis.com/apps/Cascade/index.html?appid=897af882e8c14b1e996c33e48bc15347>). In addition, the State of California Office of Environmental Health Hazards Assessment includes a map of census tracks that meet the SB535 definition for Disadvantaged Communities designated by CALEPA (<https://oehha.ca.gov/calenviroscreen/sb535>) which does not include the Project site or any other census tracts within the University Community Plan area. According to the CALEPA Final Designation of Disadvantaged Communities Pursuant to Senate Bill 535 (https://calepa.ca.gov/wp-content/uploads/sites/6/2022/05/Updated-Disadvantaged-Communities-Designation-DAC-May-2022-Eng.a.hp_-1.pdf?emrc=e05e10) “Senate Bill (SB) 535 (De León, Chapter 830, Statutes of 2012) mandates that California use certain Cap-and-Trade auction proceeds to fund investments in “disadvantaged communities” (DACs). It charges the California Environmental Protection Agency (CalEPA) with the responsibility to designate DACs. CalEPA must base designations on “geographic, socioeconomic, public health, and environmental hazard criteria,” but is given broad discretion for developing specific criteria and methods for applying those criteria. In issuing previous designations, CalEPA relied upon the California Communities Environmental Health Screening Tool (CalEnviroScreen),

E-4 (cont.)

a mapping tool developed by the Office of Environmental Health Hazard Assessment (OEHHA). On October 13, 2021, OEHHA released a new final version of CalEnviroScreen, Version 4.0. CalEPA determined that the improvements and updates in Version 4.0 were sufficiently material to warrant new designations of disadvantaged communities, pursuant to SB 535 (DAC designations). In this designation, CalEPA generally defines communities in terms of census tracts and identifies four types of geographic areas as disadvantaged: (1) census tracts receiving the highest 25 percent of overall scores in CalEnviroScreen 4.0; (2) census tracts lacking overall scores in CalEnviroScreen 4.0 due to data gaps, but receiving the highest 5 percent of CalEnviroScreen 4.0 cumulative pollution burden scores; (3) census tracts identified in the 2017 DAC designation as disadvantaged, regardless of their scores in CalEnviroScreen 4.0; (4) and areas under the control of federally recognized Tribes." Neither the Project site nor any census tract in the University Community Plan area were designated by CalEPA as disadvantaged communities under the criteria. Additionally, the analysis of hazardous waste generators and facilities is contained in Draft EIR Section 5.8, Health and Safety, which provides an assessment of cumulative hazardous and hazardous materials that demonstrates that the Project would not result in environmental justice issues related to hazardous waste generators and facilities. As discussed in the Draft EIR, the Project is not listed as a hazardous materials site and is not within proximity to a hazardous materials site and would not create a significant hazard to the public or environment. Furthermore, a number of existing regulations ensure that hazardous materials/waste users, generators, and transporters provide operational safety and emergency response measures so that no significant threats to public health and safety are created. With mandatory regulatory compliance, the Project would not pose a significant hazard to the public or the environment through the routine transport, use, storage, emission, or disposal of hazardous materials. No revisions to the EIR are required.

Regarding the demographics and the character of the neighborhood and the Project, the commenter appears to be confused. San Diego in general is a high-income city with dynamic workforce and educated, skilled population.

COMMENTS

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E-4 (cont.)

For example, the U. S. Census Bureau identifies the City of San Diego as having a median household income in the top five of the within the 25 most populous cities. US Census Bureau, Household Income: 2021 at 6, available at: <https://www.census.gov/content/dam/Census/library/publications/2022/acs/acsbr-011.pdf>. Within the City of San Diego, the University City Area tends to have high educational attainment and high incomes. According to the US Census Bureau, the percent of people in poverty in the entire City of San Diego is 10.7 percent. US Census Bureau, QuickFacts, available at <https://www.census.gov/quickfacts/fact/table/sandiegocountycalifornia#>. The Project itself has no significant environmental impacts. It will bring jobs to an area that is well-served by transit (and so the jobs are accessible to people throughout the San Diego region, including people without automobiles).

Additionally, the air quality analysis contained in the Draft EIR, which provides an assessment of the potential cumulative air quality impacts, demonstrates that the Project would not result in environmental justice issues related to pollution. Notwithstanding, for further information, a Health Risk Assessment (HRA) contained as an Exhibit A to the Response to Comments was prepared (refer to Response to Comment E-24 for a detailed discussion of the HRA prepared for the Project). The HRA further demonstrates the Project's impacts would be less than significant. Air quality impacts are basin-wide, and air quality is affected by all pollutant sources in the basin. Therefore, the ambient air quality measurements provided in the Air Quality Analysis are intended to provide a summary of basin-wide cumulative air quality impacts. As the individual Project thresholds are designed to help achieve attainment of cumulative basin-wide standards, they are also appropriate for assessing the Project's contribution to cumulative impacts. No revisions to the EIR are required.

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E-4
(cont.)

Further, the census tract is a diverse community including 29% Asian-American, 13% Hispanic, and 2% African-American residents, whom are especially vulnerable to the impacts of pollution. The community has a high rate of poverty, meaning 79% of the households in the census tract have a total income before taxes that is less than the poverty level. Income can affect health when people cannot afford healthy living and working conditions, nutritious food and necessary medical care³. Poor communities are often located in areas with high levels of pollution⁴. Poverty can cause stress that weakens the immune system and causes people to become ill from pollution⁵. Living in poverty is also an indication that residents may lack health insurance or access to medical care.

E-5

California's Building Energy Code Compliance Software (CBECC) is the State's only approved energy compliance modeling software for non-residential buildings in compliance with Title 24⁶. CalEEMod is not listed as an approved software. The CalEEMod-based modeling in the EIR and appendices does not comply with the 2022 Building Energy Efficiency Standards and under-reports the project's significant Energy impacts and fuel consumption to the public and decision makers. Since the EIR did not accurately or adequately model the energy impacts in compliance with Title 24, a finding of significance must be made. A revised EIR with modeling using the approved software (CBECC) must be circulated for public review in order to adequately analyze the project's significant environmental impacts. This is vital as the EIR utilizes CalEEMod as a source in its methodology and analysis, which is clearly not the approved software.

E-6

5.1 Land Use

The EIR concludes that "although the Project includes an amendment to increase the development intensity in the University Community Plan for the Project site, as demonstrated through the analysis presented for each topical issue in Section 5, it would not result in significant indirect or secondary environmental impacts due to the increased intensity." However, this conclusion is based on misleading and erroneous analysis throughout all portions of the EIR that are not supported by meaningful evidence. The EIR must be revised to include adequate, accurate modeling in order to provide an adequate environmental analysis. Further, the EIR has not provided a consistency analysis with any policies or goals of the General Plan or UCP Plan. The EIR must be revised to include this analysis.

³ OEHHA Poverty <https://oehha.ca.gov/calenviroscreen/indicator/poverty>

⁴ Ibid.

⁵ Ibid.

⁶ California Energy Commission 2022 Energy Code Compliance Software <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency-1>

E-5

The commenter states that the State of California has one approved compliance modeling software for non-residential buildings related to energy. The commenter is correct that the three approved compliance models referenced are the three approved compliance methods specifically for Title 24 compliance, which is required for any development project at the time of physical building construction (estimated at approximately 12-18 months after entitlement). The CBECC compliance modeling software that is referenced by the commenter is used to confirm final design, with detailed information included in construction drawings, is Title 24 compliant. The final design, construction drawings are not available at this time and are not typically prepared until after the Project is approved/entitled. The Draft EIR and underlying technical studies correctly utilize CalEEMod which estimates energy demand based on average intensity factors for similar land use types based on the site plans provided to the City for entitlement.

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. The model was developed for the California Air Pollution Officers Association (CAPCOA) in collaboration with the California Air Districts. Default data (e.g., emission factors, trip lengths, meteorology, source inventory, etc.) have been provided by the various California Air Districts to account for local requirements and conditions. The model is a comprehensive tool for quantifying air quality impacts from land use projects located throughout California. The model can be used for a variety of situations where an air quality analysis is necessary or desirable such as preparing California Environmental Quality Act (CEQA) or National Environmental Policy Act (NEPA) documents, conducting pre-project planning, and, verifying compliance with local air quality rules and regulations, etc. (Source: <http://www.aqmd.gov/caleemod/>)

Since the Project's tenants are unknown at this time, nor is information about the future tenants' energy use, it is appropriate to defer to the CalEEMod default assumptions

COMMENTS

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E-5 (cont.)

that have been derived by the CAPCOA based on survey data. The Project will be required to show compliance with 2022 Building Energy Efficiency Standards prior to issuance of a building permit and the City Building and Safety Department will verify compliance. No revisions to the EIR are required.

E-6

This comment asserts that the Draft EIR does not provide adequate evidence for environmental analysis related to land use, and does not provide an analysis of consistency with the policies or goals of the General Plan or University Community Plan. This comment does not provide any specific comments regarding the information or analysis presented in the Draft EIR to substantiate the assertion about the adequacy of the Draft EIR; therefore, no response can be provided. The Draft EIR provides an evaluation of the Project's environmental impacts in accordance with CEQA (California Public Resources Code (PRC), Section 21000 et seq.), the CEQA Guidelines (14 CCR 15000 et seq.), and the City's EIR Preparation Guidelines. Notably, the Draft EIR includes an analysis of the Project's consistency with General Plan and University Community Plan goals and policies in Section 5.1, *Land Use*. Specifically, analysis is provided on pages 5.1-19 through 5.1-21; in Table 5.1-1, *City of San Diego General Plan Consistency Analysis* (pages 5.1-34 through 5.1-73); and Table 5.1-2, *University Community Plan Consistency Analysis* (pages 5.1-73 through 5.1-86). Revisions to the Draft EIR are not required.

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E-7 Further, Table 5.1-3 Proposed Deviations lists the purpose of the four required variances necessary to accommodate the proposed project. The EIR does not provide any analysis of the deviations and their compatibility with the General Plan or the UCP. The EIR must be revised to include this analysis and a finding of significance due to the required deviations.

E-8 This section also provides no information or analysis regarding the required Neighborhood Development Permit for the alternative method of calculation for determining concentrations of people permitted in the ALUC Overlay Zone. There is also no discussion of the required Public Street Vacation for the western terminus of Towne Centre Drive, west of Westerra Court. The EIR does not adequately or accurately analyze all components required to accommodate the proposed project in its analysis and must be revised to include all components.

E-9 **5.8 Health and Safety**
A Neighborhood Development Permit is required for the alternative method of calculation for determining concentrations of people permitted in the ALUC Overlay Zone. This section refers the public and decision makers to Section 5.1 Land Use for analysis on this topic. However, Section 5.1 Land Use does not state or discuss that the alternative method of calculation for determining concentrations of people was utilized for the proposed project and no information on this topic is given in Section 5.1 Land Use. There is also no information provided on the standard method of calculation, why this calculation could not be used, what the methodology is for the alternative calculation, and why the alternative calculation is appropriate. The EIR must be revised to include all of this information for discussion and analysis in order to adequately and accurately analyze the project’s potentially significant environmental impacts.

E-10 **5.13 Population and Housing**
The EIR has not provided any calculation of the construction jobs generated by the project. Additionally, the EIR relies upon the San Diego-Carlsbad region construction industry current employment of 61,830 workers. However, this statistic provides the number of workers that are already employed, which means that these workers would not be searching for new employment and the project requires additional workers to fill its roles.

The EIR also utilizes uncertain language that the project’s construction jobs “would likely be filled by existing residents of the region,” which is notably problematic as the geographic boundaries of the “region” of the project site are undefined. The same is true for the project’s operational jobs as the EIR states it is “*anticipated* that employees would commute to the Project site from locations within the City or nearby jurisdictions in the county.” Relying on the entire labor force within San Diego County to fill the project’s construction and operational jobs will increase VMT and emissions during all phases of construction and operations and the EIR must be revised to account

E-7 This comment states that the Draft EIR does not provide analysis of the deviations presented in Table 5.1-3, Proposed Deviations, and their compatibility with the General Plan and University Community Plan. As stated by the commenter, the proposed deviations are part of the “Project.” All Project components, including the proposed deviations, were analyzed as part of the Draft EIR. Section 5.1, *Land Use*, as well as Tables 5.1-1, *City of San Diego General Plan Consistency Analysis*, and 5.1-2, *University Community Plan Consistency Analysis*, found in Section 5.1, provides an analysis of the Project’s consistency with the General Plan and University Community Plan, including the proposed deviations. Revisions to the Draft EIR are not required.

E-8 This comment states that the Land Use section of the Draft EIR does not provide analysis of the required Neighborhood Development Permit for the alternative method of calculation for determining concentrations of people permitted in the Marine Corps Air Station (MCAS) Miramar Airport Land Use Compatibility (ALUC) Zone, or the required Public Street Vacation for the western terminus of Towne Centre Drive. As identified in Section 3.5.4, the Project requires a Neighborhood Development Permit for the alternative method of calculation to demonstrate compliance with maximum intensity (people per acre) in the MCAS Miramar ALUC Zone. The use of an alternative method of calculation is allowed by San Diego Municipal Code Section 132.1515(d) for non-residential development, subject to approval of the Neighborhood Development Permit. The method for determining compliance with the maximum intensity is provided on Figure 3-1, Conceptual Site Plan, of the Draft EIR, and also discussed in Section 5.1, *Land Use*, under Issue 5 (starting on page 5.1-30). The method for calculating the maximum intensity is provided in Table 5.1-4, and the analysis clearly demonstrates compliance with the requirements of the MCAS Miramar ALUC Plan. As further discussed in Section 5.8, *Health and Safety*, of the Draft EIR, the San Diego Regional Airport Authority, the Airport Land Use Commission for San Diego County, has reviewed the Project and determined that the Project is consistent with the MCAS Miramar ALUC Plan, including with maximum intensity requirements. The San Diego Regional Airport Authority, the Airport Land Use Commission for San Diego County Consistency Determination Letter is attached as Exhibit B. No further

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analysis of this issue or revisions to the Draft EIR are required.

The Project's Public Street Vacation is described in Section 3.0, *Project Description*, of the Draft EIR. As identified, the western terminus (approximately 595 feet of Towne Centre Drive west of Westerra Court) would be vacated and become part of the development site. As described in Section 3.4 of the Draft EIR, the public right-of-way for Towne Centre Drive would terminate at Westerra Court, and the intersection of Towne Centre Drive and Westerra Court would provide a turnaround as needed to accommodate Project and emergency vehicle access. These roadway improvements would occur within the physical impact limits evaluated in the Draft EIR. The proposed Public Street Vacation, which is a mapping action, does not result in any physical environmental impacts beyond those evaluated in the Draft EIR. No further analysis of this issue or revisions to the Draft EIR are required.

E-9

This comment states that the Draft EIR needs to be revised to provide additional information related to the use of an alternative method of calculating concentrations of people permitted in the MCAS Miramar ALUC Zone. Please refer to Response to Comment E-8, which addresses the sections of the Draft EIR where the alternative method of calculation, including analysis and methodology, is provided. To validate compliance with the calculation of concentrations of people within the MCAS Miramar ALUC Zone, both the standard calculation method and alternative method of calculating compliance have been utilized to demonstrate compliance. The calculations are attached as Exhibit C. As shown in Exhibit C, the Project would comply with the calculation of concentrations of people permitted in the MCAS Miramar ALUC Zone using the standard calculation method and alternative method of compliance. As discussed in the Draft EIR, the Project would be consistent with the provisions outlined for development within the Airport Influence Area for MCAS Miramar and would be consistent with the ALUC Plan. No hazards associated with operations at MCAS Miramar would result. No further analysis of this issue or revisions to the Draft EIR are required.

E-10 This comment states that the Draft EIR should provide a construction worker employment analysis to adequately and accurately analyze all potentially significant environmental impacts, including impacts related to vehicle miles traveled (VMT). As noted in Section 5.13, *Population and Housing*, of the Draft EIR, the threshold of significance for determining whether a project would have a significant impact related to population and housing is based on whether the project would "Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads and other infrastructure)." As identified in the Draft EIR analysis for Issue 1 (starting on page 5.13-5), "[c]onstruction jobs are temporary and construction workers move from job to job based on their specialty trade." The commenter's statement that workers would not be searching for new employment is inaccurate and does not reflect the nature of the construction industry. Further, the identification of the number of workers in the San Diego-Carlsbad region provided in the Draft EIR was simply to demonstrate the substantial number of construction workers in that region, such that construction workers would not need to relocate to the area, and the new temporary construction jobs would not induce substantial unplanned growth in the area.

The Project's VMT analysis was conducted in accordance with the *City of San Diego Transportation Study Manual* (TSM; dated September 29th, 2020), which presents the guidelines for the analysis of CEQA Transportation VMT requirements, including screening criteria, significance thresholds, analysis methodology, and mitigation. The TSM does not require the analysis of construction worker VMT. Further, the State of California Office of Planning and Research *Technical Advisory on Evaluating Transportation Impact in CEQA* (December 2018) does not identify construction worker VMT as an issue that needs to be evaluated in a project VMT analysis. Construction activities are continually occurring in the San Diego-Carlsbad region, including in the vicinity of the Project site. Therefore, there would not be a substantial change in regional VMT to warrant a quantitative evaluation of construction-related VMT. No further analysis of this issue or revisions to the Draft EIR are required.

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(cont.)

for longer worker trip distances. For example, the project site is approximately 52 miles from Fallbrook, 43 miles from Descanso, and 50 miles from Julian while the VMT analysis determines that the project generated VMT is 32.6 VMT per service population (per employee). The revised EIR must also include a construction worker employment analysis to adequately and accurately analyze all potentially significant environmental impacts.

E-11

The EIR applies a credit for existing jobs at the project site to state the net increase of jobs will be only 2,400 because the applicant estimates that the existing on-site buildings have a total of 600 employees. The EIR does not provide meaningful evidence to support the claim that 600 employees are currently employed at the on-site buildings. The EIR be revised to provide substantial supporting evidence regarding the number of existing employees in order to provide an adequate and accurate environmental analysis.

E-12

SANDAG estimates the City of San Diego will have an increase of 210,366 jobs between 2016 and 2050. The University Community Plan Area will have an increase of 21,699 jobs between 2020 and 2050. The proposed project's 3,000 employees represents 1.4% of the City's employment growth and 13.8% of the UCP Area employment growth. A single project accounting for this amount of projected growth over 34 years (City) or 30 years (UCP) represents a significant amount of growth. The EIR must be revised to include this analysis, and also provide a cumulative analysis discussion of projects approved since and projects "in the pipeline" to determine if the project will exceed SANDAG's employment growth forecast for the City or UCP area. Employment totals increase exponentially when cumulative industrial and commercial development activity is added to the proposed project. The EIR must be revised to include this information for analysis, and also provide a cumulative analysis discussion of projects approved since 2016 and projects "in the pipeline" to determine if the proposed project will exceed the employment/population growth forecasts by SANDAG, the City's General Plan, and/or the UCP Community Plan.

E-13

Additionally, the EIR is inadequate as it does not discuss the project's required Community Plan Amendment to the University Community Plan to increase the intensity in Subarea 11 from 18,000 sf/acre to 1,000,000 sf. This change has a significant and direct impact upon the Population and Housing analysis by permitting a significant increase in developable area at the project site. The EIR must be revised to include analysis of the required Community Plan Amendment to the University Community Plan in order to provide an adequate and accurate environmental analysis.

E-14

7.0 Growth Inducement and 8.0 Cumulative Impacts
The EIR does not meaningfully discuss or analyze the project's required changes and accommodations to certified plans and ordinances (Community Plan Amendment to the University Community Plan to increase the intensity in Subarea 11 from 18,000 sf/acre to 1,000,000 sf;

E-11

This comment states that the Draft EIR does not provide meaningful evidence to support the claim that 600 employees are employed on-site in the existing buildings. As identified in Section 3.1.1, *Project Purpose and Background*, of the Draft EIR, the existing buildings onsite are owned and operated by the Project Applicant, and the estimate of 600 existing employees is based on data from the Project Applicant. Further, page 5.13-6 of Section 5.13, *Population and Housing*, of the Draft EIR states that the Project Applicant estimated 3 employees per 1,000 square feet for the proposed type of use (emphasis added). As noted in the Draft EIR, the existing and proposed numbers of employees are estimates based on the Project Applicant's experience as a property manager for scientific research and office buildings in the Project area. For purposes of analysis in the Draft EIR, an estimated population is adequate, and evidence of an exact number of existing employees is not necessary to evaluate the Project's impacts to population and housing under CEQA. No further analysis of this issue or revisions to the Draft EIR are required.

E-12

The Project's employment growth falls within the projected employment growth for the City of San Diego as well as the University Community Plan area. As noted in the EIR, under the City of San Diego's CEQA Significance Thresholds a significant impact would occur if a project were to "Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads and other infrastructure)." The Project employment growth is within the growth projections of the General Plan and within the policy framework for where growth will occur. In addition, the Project does not create residential housing and would therefore not substantially increase growth in the area. The City of San Diego General Plan Housing Element for the 2021 to 2029 housing cycle includes a Regional Housing Needs Assessment of 108,036 homes planned to be built during the 8 year housing cycle. Assuming that the Project would create a need for housing equivalent to 1,920 homes, after the Project was fully built, those homes would represent less than 2% of the total number of homes that the City housing element plans to build within this 8 year cycle ending in 2029. Therefore, even a very conservative estimate of the potential housing needed due to growth in employment from the Project would not be substantial unplanned growth, because the

E-12 (cont.)

growth is already planned as shown in the City's Housing Element recently updated in 2020 (https://www.sandiego.gov/sites/default/files/he_final_print_view_june2021.pdf). In addition, employment growth numbers used in the EIR do not include the growth in both employment and housing in the Mira Mesa Community Plan Update which was approved in December of 2022. The Mira Mesa Community Plan includes the Sorrento Valley area where an increase of 32,000 jobs is planned to occur through 2050. The Sorrento Valley / Sorrento Mesa area is part of the SANDAG Tier 1 Employment Center which includes Sorrento Valley and the University Community Plan area, also called Sorrento Valley West. The University Community Plan is currently undergoing a comprehensive community plan update which includes land use scenarios that, on the low end, would add 55,000 new jobs to the University City area, and on the high end would add 70,000 new jobs. As a matter of public policy, the City's General Plan Economic Prosperity Element directs new job growth into the University area, as it is one of the City's designated Subregional Employment Centers. The Project fulfills the employment growth strategy in the Economic Prosperity Element at Policy EP-A.3, to "Encourage large regional employers to locate and expand in the Regional Center or Subregional Employment Areas;" and Policy EP-A.9 to "Efficiently utilize employment lands through increased intensity in "urban villages" and Subregional Employment Areas," and EP-A.10, to "Locate compatible employment uses on infill industrial sites and establish incentives to support job growth in existing urban areas." Therefore, the Project employment growth is within the planning paradigm and policy framework of the City's General Plan.

E-13 This comment states that the Draft EIR does not discuss the Project's Community Plan Amendment to increase intensity in Subarea 11 from 18,000 sf/acre to 1,000,000 sf, and that the proposed Community Plan Amendment would have a significant direct impact on population and housing by permitting an increase in developable area on-site. The Project's Community Plan Amendment is described in Section 3.0, *Project Description*, of the Draft EIR. As noted by Section 3.0, *Project Description*, "existing development and existing entitlements for the Project site collectively total 382,365 sf of building area within the Project site (190,000 sf entitled on the Cushman property and 192,365 entitled/

E-13 (cont.)

developed on the Project Applicant's property) ... This represents an increase of 617,635 sf compared to existing entitlements." Therefore, the proposed Community Plan Amendment would result in an increase of 617,635 sf of development intensity in Subarea 11. The Community Plan Amendment is an application that is included in the Project's discretionary actions. Analysis of the Project includes all of the Project's discretionary actions, including the Community Plan Amendment. With implementation of the Project, no further development would occur in Subarea 11, as the remainder of the area is open space within the MHPA, and the Project at buildout would represent the 1,000,000 sf of allowed development. Additionally, Section 5.13, *Population and Housing*, of the Draft EIR evaluates the Project's estimated employment generation based on development of the Project, which includes development of 1,000,000 sf of scientific research uses, which would occur with implementation of the Community Plan Amendment. Thus, the Draft EIR adequately evaluates the Project's Community Plan Amendment, including in Section 5.13, *Population and Housing*. No further analysis of this issue or revisions to the Draft EIR are required.

E-14 This comment states the Draft EIR does not meaningfully discuss or analyze the Project's required changes, and provides a summary of the Project's discretionary applications. The comment also states that the Draft EIR should be required to include the required changes to plans and ordinances, and states that the Project was not included as part of growth forecasts. This comment does not specifically identify the environmental impacts that have purportedly not been evaluated in the Draft EIR, with the exception of the assertion that the Project is not included in the regional growth projections, which is addressed in Response to Comment E-12 above. Notwithstanding the lack of substantiation for this comment, the following information is provided to address the issues raised.

A detailed discussion of the Project's required changes is provided in Section 3.0, *Project Description*, and the environmental impacts resulting from the requested discretionary actions are evaluated throughout the Draft EIR consistent with the City of San Diego's CEQA review requirements and thresholds of significance. Please refer

E-14 (cont.)

to Response to Comment E-8 above, which addresses the proposed Neighborhood Development Permit for the alternative method of calculating maximum intensity relative to the MCAS Miramar ALUC Plan, and the Private Street Vacation. With respect to the proposed Planned Development Permit (PDP), the Project includes a PDP to reflect the proposed development on the Project site. Section 5.1, *Land Use*, of the Draft EIR includes a detailed discussion of the City's PDP procedures, which allow for deviations to the San Diego Municipal Code. As part of this action, Planned Industrial Permit (PID) 96-7756, which addresses the eastern portion of the Project site owned by the Project Applicant, would be amended to reflect the Project, which is evaluated throughout the Draft EIR. Further, the only proposed discretionary action that requires a "change" to a certified plan is the proposed Community Plan Amendment, and the requested change is specifically identified in Table 3-3, *Proposed Community Plan Amendment – Table 2: Land Use and Development Intensity Table*, of the Draft EIR. The environmental impacts from this increase in intensity are evaluated throughout the Draft EIR.

The comment also states that the Draft EIR should include a discussion regarding the "precedence" of approval of the Project's Community Plan Amendment application. A Community Plan Amendment is not a precedent-setting action, as this Community Plan Amendment is a standard discretionary application in the City of San Diego. Each Community Plan Amendment application is required to go through a "Community Plan Initiation" where the application is reviewed by City staff and the Planning Commission. All future Community Plan Amendment applications would be required to go through the initiation process for evaluation of the amendment proposal. Further, as discussed in Section 5.1, *Land Use*, of the Draft EIR, the City is in the process of updating the University Community Plan. This update plans for more opportunities for homes, jobs and mixed-use development connected to the University of California San Diego, retail and employment centers, hospitals, health care facilities, residential areas, public spaces, and bus rapid and light rail stations. The Project site is located in the Campus Point & Towne Center Employment Village identified in the University Community Plan Update; the proposed uses would be consistent with the anticipated

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employment growth and would not be precedent-setting.
No further analysis of this issue or revisions to the Draft EIR
are required.

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(cont.)

Planned Development Permit to amend PID 96-7756 for Eastgate Acres and because of required deviations to the San Diego Municipal Code (reduced rear setback, reduced loading space quantity, driveway width that exceeds that maximum permitted width, and a 19 ft tall retaining wall that excess the maximum height of 12 ft); Neighborhood Development Permit for the alternative method of calculation for the ALUC Overlay Zone; and Public Street Vacation for the western terminus of Towne Centre Drive, west of Westerra Court) in these sections. This is misleading to the public and decision makers. The EIR must be revised to include the required changes and accommodations to certified plans and ordinances for discussion and analysis and include a finding of significance as the project will contribute to growth that was not included as part of growth forecasts in SANDAG’s RTP/SCS, the UCP Plan, and/or the General Plan. The EIR must also include discussion for the precedence setting action that approval of the required UCP Plan Amendment to increase development intensity set for future land use changes in the area.

E-15

The EIR must also include a cumulative analysis discussion here to demonstrate the impact of the proposed project in a cumulative setting. For example, the list of cumulative projects in Table 8-1 Cumulative Projects is not utilized meaningfully. There is no cumulative analysis of employment generated by these projects. The EIR must be revised to include a cumulative quantified analysis of employment generated by all projects approved since 2016 and projects “in the pipeline” to determine if the proposed project will exceed the employment/population growth forecasts by SANDAG, the City’s General Plan, and/or the UCP Community Plan.

E-16

10.0 Alternatives
The EIR is required to evaluate a reasonable range of alternatives to the proposed project which will avoid or substantially lessen any of the significant effects of the project (CEQA § 15126.6.) The alternatives chosen for analysis include the CEQA required “No Project” alternative and only two others - Development Pursuant to Existing Entitlements Alternative and Reduced Building Area Alternative. The EIR does not evaluate a reasonable range of alternatives as only two alternatives beyond the required No Project alternative is analyzed. The EIR must be revised to include analysis of a reasonable range of alternatives and foster informed decision making (CEQA § 15126.6). This could include alternatives such as development of the site with a project that meets all project objectives or a mixed-use project that provides affordable housing and local-serving commercial uses that may reduce VMT, GHG emissions, and improve Air Quality.

E-17

Conclusion
For the foregoing reasons, GSEJA believes the EIR is flawed and a revised EIR must be prepared for the proposed project and circulated for public review. Golden State Environmental Justice Alliance requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this

E-15

This comment states that the Draft EIR should include a cumulative analysis discussion, and asserts that the list of cumulative projects provided in Table 8-1 of the Draft EIR is not utilized meaningfully because cumulative employment generated is not included. Please refer to Response to Comment E-12, which addresses cumulative employment growth. No further analysis of this issue or revisions to the Draft EIR are required.

E-16

This comment accurately identifies that an EIR is required to evaluate a reasonable range of alternatives to the proposed project that will avoid or substantially lessen any of the significant effects of the project (CEQA § 15126.6.). However, as identified in Section 10.4, *Proposed Project Alternatives*, of the Draft EIR, while an EIR was prepared for the Project, the Project’s impacts are less than significant without mitigation for each topical issue except Transportation (VMT), and the Project’s potentially significant VMT impact can be mitigated to a less than significant level. There are no significant and unavoidable impacts resulting from the Project. Therefore, when considering potential alternatives to the Project, the City focused on alternatives that would avoid or reduce the potentially significant impacts. Because the Project’s significant transportation impact prior to mitigation is related to VMT, which is a function of its location, density, and project type, alternatives that would reduce or avoid this significant impact would need to be located on an alternative site (e.g., in a VMT-efficient area) or be substantially smaller in scale. The No Project/Development Pursuant to Existing Entitlements would have a similar VMT impact as the Project and would require the same mitigation measure MM 5.2-1 to reduce VMT to below a level of significance; therefore, the No Project/Development Pursuant to Existing Entitlements acts as the “reduced Project alternative.” Therefore, although the Project did not result in any significant impacts, an alternatives analysis was presented in the Draft EIR which focuses on the CEQA-required No Project alternatives and a Reduced Building Area alternative, as suggested in the Notice of Preparation (NOP) comments.

This comment also suggests that alternatives such as a mixed use project should be addressed. Section 10.3.3 of the Draft EIR discusses an alternative mixed use or housing project, and explains why these alternatives were rejected. Notably, due to operations at MCAS Miramar and the

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safety compatibility criteria in the ALUC Plan, mixed use or residential uses would not be viable on the Project site. The alternatives analysis provided for the Project sufficiently addresses a reasonable range of alternatives for a Project with no significant and unavoidable impacts. No further analysis of this issue or revisions to the Draft EIR are required.

E-17

This comment suggests that the Draft EIR should be recirculated and requests to receive Project-related public notices. Section 15088.5 of the State CEQA Guidelines states in part:

(a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR 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 of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:

(1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

(2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but

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project. Send all communications to Golden State Environmental Justice Alliance P.O. Box
79222 Corona, CA 92877.

Sincerely,



Gary Ho
Blum Collins & Ho, LLP

Attachments:

1. SWAPE Technical Analysis

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the project's proponents decline to adopt it.

(4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

(b) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

The information provided in this Final EIR, including the responses to comments received, does not constitute substantial new information that requires recirculation of the Draft EIR. As requested, the City will include Blum Collins, LLP and Golden State Environmental Justice Alliance on the notification list for all Project-related public notices that are required to be distributed.



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December 23, 2022

Gary Ho
Blum Collins LLP
707 Wilshire Blvd, Ste. 4880
Los Angeles, CA 90017

Subject: Comments on the Towne Centre View San Diego Project (SCH No. 2021040044)

Dear Mr. Ho,

We have reviewed the November 2022 Draft Environmental Impact Report (“DEIR”) for the Towne Centre View San Diego (“Project”) located in the City of San Diego (“City”). The Project proposes to demolish the existing 192,365-square-feet (“SF”) of research space and construct a 999,386-SF research and development campus, as well as 2,500 parking spaces on the 26.5-acre site.

Our review concludes that the DEIR fails to adequately evaluate the Project’s air quality, health risk, and greenhouse gas impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project are underestimated and inadequately addressed. A revised EIR should be prepared to adequately assess and mitigate the potential air quality, health risk, and greenhouse gas impacts that the project may have on the environment.

Air Quality
Unsubstantiated Input Parameters Used to Estimate Project Emissions

The DEIR’s air quality analysis relies on emissions calculated with California Emissions Estimator Model (“CalEEMod”) Version 2020.4.0 (p. 5.3-18).¹ 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. Once all of the values are

¹ “CalEEMod Version 2020.4.0.” California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: <http://www.aqmd.gov/caleemod/download-model>.

E-18

E-19

E-18 This comment provides introductory remarks and a description of the Project and makes a broad statement that the Draft EIR does not adequately evaluate the Project’s air quality, health risk, and greenhouse gas impacts. This comment is for informational purposes and does not specifically address the analysis of environmental impacts presented in the Draft EIR. Specific responses to the commenter’s statements are provided in Responses to Comments E-19 through E-26 below.

E-19 The commenter incorrectly claims that the Draft EIR’s air quality, health risk, and GHG impacts are underestimated and requests preparation of an updated EIR based on the subsequent comments. This is a summary of the detailed comments provided in the body of the comment letter, which are addressed in the following responses. No additional response is required and no revisions to the EIR are required.

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E-19
(cont.)

inputted into the model, the Project’s construction and operational emissions are calculated, and “output files” are generated. These output files disclose to the reader what parameters are utilized in calculating the Project’s air pollutant emissions and make known which default values are changed as well as provide justification for the values selected.

When reviewing the Project’s CalEEMod output files, provided in the Air Quality Impact Analysis (“AQ Analysis”) as Appendix C to the DEIR, we found that several model inputs are not consistent with information disclosed in the DEIR. As a result, the Project’s construction-related and operational emissions may be underestimated. A revised EIR should be prepared to include an updated air quality analysis that adequately evaluates the impacts that construction and operation of the Project will have on local and regional air quality.

Unsubstantiated Reduction to the Default Acres of Grading Value

Review of the CalEEMod output files demonstrates that the “Towne Centre View” model includes several reductions to the default acres of grading values (see excerpt below) (Appendix C, pp. 58, 147, 229).

Table Name	Column Name	Default Value	New Value
tblGrading	AcresOfGrading	183.00	25.50
tblGrading	AcresOfGrading	30.00	25.50
tblGrading	AcresOfGrading	75.00	25.50
tblGrading	AcresOfGrading	400.00	25.50
tblGrading	AcresOfGrading	90.00	25.50
tblGrading	AcresOfGrading	303.00	0.00
tblGrading	AcresOfGrading	452.00	0.00

E-20

As previously mentioned, the CalEEMod User’s Guide requires any changes to model defaults be justified.² According to the “User Entered Comments & Non-Default Data” table, the justification provided for this change is:

“[B]ased on site acreage” (Appendix C, pp. 57, 146, 228).

Furthermore, the DEIR indicates that the Project site is approximately 26.5-acres (p. ES-3). However, these changes are incorrect. According to the CalEEMod User’s Guide:

“[T]he dimensions (e.g., length and width) of the grading site have no impact on the calculation, only the total area to be graded. In order to properly grade a piece of land multiple passes with equipment may be required. The acres are based on the equipment list and days in grading or site preparation phase according to the anticipated maximum number of acres a given piece of equipment can pass over in an 8-hour workday.”³

² “CalEEMod User’s Guide.” California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: <https://www.aqmd.gov/caleemod/user-s-guide>, p. 1, 14.

³ “Appendix A – Calculation Details for CalEEMod.” California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: <http://www.aqmd.gov/caleemod/user-s-guide>, p. 9.

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The commenter claims that there is no evidence to justify the input changes to acres graded. The commenter claims that the acres graded in CalEEMod were inappropriately changed from the defaults and opines that the grading emissions are therefore understated. The commenter is correct that the default acres graded were modified; however, the default acres were revised in the model to conservatively overestimate emissions. The Project includes five distinct grading phases, each of which is likely to be a portion of the Project site. In the CalEEMod modeling, the default assumptions were manually overridden to provide that each of the five phases disturb almost the entirety of the site at approximately 25.5 acres of the Project site. The modeling, as stated in the Draft EIR therefore conservatively overestimates the potential grading for the Project site because it assumes that the 25.5 acres are effectively graded 5 times – in other words the Draft EIR and underlying technical study evaluated the grading associated with multiple passes of the Project site for a total of 127.5 acres graded. As such, no changes to the Draft EIR are required and the Draft EIR and underlying technical air quality calculations are appropriate and actually overstate the potential impacts.

Using the default assumptions in the CalEEMod model produces unrealistic assumptions, including that the entire site is graded dozens of times. However, Urban Crossroads, the air quality consultant for the Environmental Impact Report, re-ran the CalEEMod model using default assumptions for grading acres as the comment letter requested, and air quality impacts would still be less than significant using this unrealistically conservative assumption.

The revised calculations using default acreage assumptions in CalEEMod are attached as Exhibit D to this Final EIR. No revisions to the EIR are required.

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(cont.)

As discussed above, the acres of grading values are based on construction equipment and the length of the grading and site preparation phases. As the dimensions of the Project site have no impact on the acres of grading values, the revised values are unsubstantiated.

These unsubstantiated reductions present an issue, as CalEEMod uses the acres of grading values to estimate the dust emissions associated with grading.⁴ By including unsubstantiated reductions to the default acres of grading values, the model may underestimate the Project’s construction-related emissions and should not be relied upon to determine Project significance.

Unsubstantiated Changes to Individual Construction Phase Lengths

Review of the CalEEMod output files demonstrates that the “Towne Centre View” model includes several changes to the default individual construction phase lengths (see excerpt below) (Appendix C, pp. 57, 58, 146, 147, 228, 229).

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	35.00	53.00
tblConstructionPhase	NumDays	35.00	79.00
tblConstructionPhase	NumDays	35.00	129.00
tblConstructionPhase	NumDays	35.00	121.00
tblConstructionPhase	NumDays	440.00	548.00
tblConstructionPhase	NumDays	440.00	428.00
tblConstructionPhase	NumDays	440.00	550.00
tblConstructionPhase	NumDays	440.00	354.00
tblConstructionPhase	NumDays	30.00	25.00
tblConstructionPhase	NumDays	30.00	76.00
tblConstructionPhase	NumDays	45.00	61.00
tblConstructionPhase	NumDays	45.00	10.00
tblConstructionPhase	NumDays	45.00	25.00
tblConstructionPhase	NumDays	45.00	100.00
tblConstructionPhase	NumDays	45.00	30.00
tblConstructionPhase	NumDays	35.00	212.00
tblConstructionPhase	NumDays	35.00	161.00
tblConstructionPhase	NumDays	20.00	202.00
tblConstructionPhase	NumDays	20.00	226.00

As a result of the above changes, the model includes the following construction schedule (see excerpt below) (Appendix C, pp. 64, 65, 152, 153, 234, 235).

⁴ “Appendix A – Calculation Details for CalEEMod.” California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: <https://www.aqmd.gov/caleemod/user-s-guide>, p. 9.

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The commenter claims that changes have been made to the CalEEMod defaults and that these changes are not substantiated or identified in the Draft EIR. That is incorrect. The Project schedule was developed by Hathaway Dinwiddie, the construction manager for the Project. The site-specific information was developed by the Project’s development team with input from a seasoned team that has built multiple projects in San Diego and elsewhere.

Section 5.3, *Air Quality and Odors*, of the Draft EIR and associated Appendix C – Air Quality Impact Analysis states on page 28 and 29, that “most phases overlap with other phases and thus represent a combined maximum emission throughout construction.” This is a conservative assumption that tends to overstate emissions.

Additionally, should construction occur at a time after the respective dates, emissions from construction would be lower as emission rates decrease due to emission regulations becoming more stringent over time.

Additionally, the air quality analysis is very conservative in its analysis of VOCs.

The Project will have very little on-site exterior painting, as the building envelope is comprised primarily of vision glazing and of factory-painted metal panels. Given the Project’s shell and core scope, interior painting will be kept to minimum at initial delivery. Low or no-VOC paint will be used for restrooms, lobbies, and back-of-house support spaces. The balance of the interior spaces will be left unfinished / unpainted for the purposes of this study. See letter from Perkins & Will, architect for the Project attached as Exhibit E.

Therefore, the construction schedule utilized in the analysis, shown in Table 3-2, represents a ‘worst-case’ analysis scenario.

The comment requests “Until a proper source is provided for the individual construction phase lengths, the model should have proportionately altered the default phase lengths to match the proposed total construction duration of 68 months.” Urban Crossroad developed a schedule proportionately altering the default phase lengths, as requested. But Hathaway Dinwiddie determined that such a schedule is not realistic for this Project. See letter from

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(cont.)

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days
1	Phase 1 Utilities	Trenching	4/4/2022	12/19/2022	5	181
2	Phase 1 Grading	Grading	5/14/2022	10/5/2022	5	100
3	Phase 1 Building Construction	Building Construction	10/6/2022	12/5/2024	5	550
4	Phase 1 Paving	Paving	4/28/2023	1/16/2024	5	181
5	Demo Existing	Demolition	8/31/2023	12/19/2023	5	76
6	Phase 1 Site Preparation	Site Preparation	12/18/2023	11/4/2024	5	226
7	Phase 1 Architectural Coating	Architectural Coating	5/15/2024	11/4/2024	5	121
8	Phase 2 Grading	Grading	7/6/2024	8/16/2024	5	30
9	Phase 2 Building Construction	Building Construction	8/17/2024	1/12/2026	5	354
10	Phase 3 Grading	Grading	2/11/2025	5/5/2025	5	61
11	Phase 3 Building Construction	Building Construction	5/7/2025	7/2/2027	5	548
12	Phase 2 Architectural Coating	Architectural Coating	10/24/2025	1/12/2026	5	53
13	Phase 3 Paving	Paving	2/23/2026	12/14/2026	5	212
14	Phase 4 Grading	Grading	4/9/2026	4/22/2026	5	10
15	Phase 4 Building Construction	Building Construction	4/23/2026	12/30/2027	5	428
16	Phase 3 Site Preparation	Site Preparation	9/17/2026	7/2/2027	5	202
17	Phase 4 Demo	Demolition	2/16/2027	3/2/2027	5	25
18	Building E Grading	Grading	2/16/2027	3/2/2027	5	25
19	Phase 3 Architectural Coating	Architectural Coating	3/15/2027	7/2/2027	5	79
20	Phase 4 Architectural Coating	Architectural Coating	6/26/2027	12/30/2027	5	129

As previously mentioned, the CalEEMod User’s Guide requires any changes to model defaults be justified.⁵ According to the “User Entered Comments & Non-Default Data” table, the justification provided for these changes is:

“[B]ased on project engineer input” (Appendix C, pp. 56, 145, 227).

Additionally, regarding the Project’s anticipated construction schedule, the DEIR states:

“For purposes of analysis in this EIR it is estimated that construction of the Project would last approximately 68 months” (p. ES-4)

Furthermore, the DEIR provides the following construction schedule (see excerpt below) (Table 5.3-6, p. 5.3-21):

⁵ “CalEEMod User’s Guide.” California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: <https://www.aqmd.gov/caleemod/user-s-guide>, p. 1, 14.

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Hathaway Dinwiddie, architect for the Project attached as Exhibit F. Among other things, it does not include a phase for utilities. The Project schedule assumed in the EIR is realistic, supported by substantial evidence, including the expertise of Dinwiddie Hathaway, and conservative. No revisions to the EIR are required.

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(cont.)

Table 5.3-6 Estimated Construction Schedule

Phase Name	Start Date	End Date	Days
Phase 1 Utilities	4/4/2022	12/19/2022	181
Phase 1 Grading	5/14/2022	10/5/2022	100
Phase 1 Building Construction	10/6/2022	12/5/2024	550
Phase 1 Paving	4/28/2023	1/16/2024	181
Demolition of Existing Building	8/31/2023	12/19/2023	76
Phase 1 Site Preparation	12/18/2023	11/4/2024	226
Phase 1 Architectural Coating	5/15/2024	11/4/2024	121
Phase 2 Grading	7/8/2024	8/16/2024	30
Phase 2 Building Construction	8/17/2024	1/12/2026	354
Phase 3 Grading	2/11/2025	5/6/2025	61
Phase 3 Building Construction	5/7/2025	7/2/2027	548
Phase 2 Architectural Coating	10/24/2025	1/12/2026	53
Phase 3 Paving	2/23/2026	12/14/2026	212
Phase 4 Grading	4/9/2026	4/22/2026	10
Phase 4 Building Construction	4/23/2026	12/30/2027	428
Phase 3 Site Preparation	9/17/2026	7/2/2027	202
Phase 4 Demolition	2/16/2027	3/22/2027	25
Building E Grading	2/16/2027	3/22/2027	25
Phase 3 Architectural Coating	3/15/2027	7/2/2027	79
Phase 4 Architectural Coating	6/26/2027	12/30/2027	129

However, the DEIR and associated documents fail to provide a source for the above table to support the revised individual construction phase lengths. As such, absent additional information, we cannot verify that the revised individual construction phase lengths, as included in the model, are an accurate representation of the expected construction schedule.

These unsubstantiated changes present an issue, as the construction-related emissions are improperly spread out over a longer period of time for some phases, but not for others. According to the CalEEMod User's Guide, each construction phase is associated with different emissions activities (see excerpt below).⁶

⁶ "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: <https://www.aamd.gov/calmod/user-s-guide>, p. 32.

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Demolition involves removing buildings or structures.
Site Preparation involves clearing vegetation (grubbing and tree/stump removal) and removing stones and other unwanted material or debris prior to grading.
Grading involves the cut and fill of land to ensure that the proper base and slope is created for the foundation.
Building Construction involves the construction of the foundation, structures and buildings.
Architectural Coating involves the application of coatings to both the interior and exterior of buildings or structures, the painting of parking lot or parking garage striping, associated signage and curbs, and the painting of the walls or other components such as stair railings inside parking structures.
Paving involves the laying of concrete or asphalt such as in parking lots, roads, driveways, or sidewalks.

By disproportionately altering and extending some of the individual construction phase lengths without proper justification, the model assumes there are a greater number of days to complete the construction activities required by the prolonged phases. As a result, there will be less construction activities required per day and, consequently, less pollutants emitted per day. Therefore, the model may underestimate the peak daily emissions associated with some phases of construction and should not be relied upon to determine Project significance. Until a proper source is provided for the individual construction phase lengths, the model should have *proportionately* altered the default phase lengths to match the proposed total construction duration of 68 months.

Diesel Particulate Matter Emissions Inadequately Evaluated

The DEIR concludes that the Project would have a less-than-significant health risk impact without conducting a quantified construction or operational health risk analysis ("HRA"). Regarding the health risk impacts associated with Project construction and operation, the DEIR states:

"Given the proposed construction schedule of the Project, there is a potential that some of the Project's buildings would be occupied while remaining buildings are constructed. Results of the regional emissions analysis discussed under issue questions 2 and 3 indicate that the Project would not exceed the City's significance thresholds during construction. These thresholds are based on emissions level considered protective of the general public with an adequate margin of safety. Therefore, sensitive receptors, including on-site occupants that may occupy the buildings while remaining buildings are under construction, would not be exposed to substantial pollutant concentrations during Project construction. Furthermore, as discussed below, Project traffic would not create or result in a CO 'hotspot.' Therefore, sensitive receptors would not be exposed to substantial pollutant concentrations as the result of Project operations or associated on-site stationary sources," (p. 5.3-26).

As demonstrated above, the DEIR claims that Project would have a less-than-significant health risk impact as criteria air pollutant emissions would not exceed the relevant significance thresholds. However, the DEIR's evaluation of the Project's potential health risk impacts, as well as the subsequent less-than-significant impact conclusion, is incorrect for three reasons.

E-22 The commenter claims that a construction and operational HRA should have been conducted to determine the potential health risks from the Project. As stated in the EIR, a construction HRA was not required due to the location of adjacent potential receptors as well as the predominant wind patterns that blow away from the sensitive receptors (page 5.3-25). The Towne Centre Drive area includes other industrial and high technology / biotechnology buildings and is located in restrictive airspace for MCAS Miramar that does not allow the construction of residential development. The closest residential structure is approximately 0.25 miles from the Project site and is located across a canyon area. Furthermore, as stated in the Draft EIR, the Project is not associated with a land use type that would have the propensity to generate a substantive health risk impact during operational activity (see pages 5.3-25 and 5.3-26).

Nonetheless, a Health Risk Assessment has been conducted environmental scientists at Urban Crossroads performed for the Project using US EPA approved AERMOD modeling software that models annual ground-level concentrations of pollutants (diesel particulates in this case). The Health Risk Assessment is attached as Exhibit A. The AERMOD software uses regional meteorological data, which takes into account wind flows. The resulting risk calculations are consistent with guidance from the Office of Environmental Health Hazard Assessment (OEHHA), EPA, and the Air Pollution Control District. The AERMOD assumes conservative long-term exposure over the duration of construction activities and for operations over 30 years. The model also conservatively assumes elevated breathing rates (e.g., that people are breathing more quickly or deeper than a typical person would). Using conservative assumptions, the results of the modeling show no significant cancer risk from the Project. No revisions to the EIR are required.

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First, by failing to prepare a quantified construction and operational HRA, the Project is inconsistent with CEQA's requirement to make "a reasonable effort to substantively connect a project's air quality impacts to likely health consequences."⁷ This poses a problem, as according to the DEIR, construction of the Project would produce DPM emissions through the exhaust stacks of construction equipment over a duration of approximately 68 months (p. ES-4). Furthermore, according to the Transportation Impact Analysis ("TIA") provided as Appendix B to the DEIR, operation of the Project is anticipated to generate approximately 2,400 daily unadjusted driveway trips, which would produce additional exhaust emissions and continue to expose nearby, existing sensitive receptors to DPM emissions (p. 7). However, the DEIR and associated documents fail to evaluate the toxic air contaminant ("TAC") emissions associated with Project construction and operation or indicate the concentrations at which such pollutants would trigger adverse health effects. Thus, without making a reasonable effort to connect the Project's TAC emissions to the potential health risks posed to nearby receptors, the DEIR is inconsistent with CEQA's requirement to correlate Project-generated emissions with potential adverse impacts on human health.

Second, the Office of Environmental Health Hazard Assessment ("OEHHA"), the organization responsible for providing guidance on conducting HRAs in California, released its most recent *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments* in February 2015. This guidance document describes the types of projects that warrant the preparation of an HRA. Specifically, OEHHA recommends that all short-term projects lasting at least 2 months assess cancer risks.⁸ Furthermore, according to OEHHA:

"Exposure from projects lasting more than 6 months should be evaluated for the duration of the project. In all cases, for assessing risk to residential receptors, the exposure should be assumed to start in the third trimester to allow for the use of the ASFs (OEHHA, 2009)."⁹

Thus, as the Project's anticipated construction duration exceeds the 2-month and 6-month requirements set forth by OEHHA, construction of the Project meets the threshold warranting a quantified HRA under OEHHA guidance and should be evaluated for the entire 68-month construction period. Furthermore, OEHHA recommends that an exposure duration of 30 years should be used to estimate the individual cancer risk at the maximally exposed individual resident ("MEIR").¹⁰ While the DEIR fails to provide the expected lifetime of the proposed Project, we can reasonably assume that the Project would operate for at least 30 years, if not more. Therefore, operation of the Project also exceeds the 2-month and 6-month requirements set forth by OEHHA and should be evaluated for the entire 30-year residential exposure duration, as indicated by OEHHA guidance. These recommendations reflect

⁷ "Sierra Club v. County of Fresno." Supreme Court of California, December 2018, available at: <https://ceqportal.org/decisions/1907/Sierra%20Club%20v.%20County%20of%20Fresno.pdf>.

⁸ "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-18.

⁹ "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-18.

¹⁰ "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 2-4.

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the most recent state health risk policies, and as such, an EIR should be prepared to include an analysis of health risk impacts posed to nearby sensitive receptors from Project-generated DPM emissions.

Third, by claiming a less-than-significant impact without conducting a quantified construction or operational HRA for nearby, existing sensitive receptors, the DEIR fails to compare the Project's excess cancer risk to the SDPACD's specific numeric threshold of 10 in one million.¹¹ Thus, in accordance with the most relevant guidance, an assessment of the health risk posed to nearby, existing receptors as a result of Project construction and operation should be conducted.

Screening-Level Analysis Demonstrates Potentially Significant Health Risk Impact

In order to conduct our screening-level risk assessment we relied upon AERSCREEN, which is a screening level air quality dispersion model.¹² As discussed above, the model replaced SCREEN3, and AERSCREEN is included in the OEHHA and the California Air Pollution Control Officers Associated ("CAPCOA") guidance as the appropriate air dispersion model for Level 2 health risk screening assessments ("HRSA's").^{13, 14} A Level 2 HRSA utilizes a limited amount of site-specific information to generate maximum reasonable downwind concentrations of air contaminants to which nearby sensitive receptors may be exposed. If an unacceptable air quality hazard is determined to be possible using AERSCREEN, a more refined modeling approach is required prior to approval of the Project.

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We prepared a preliminary HRA of the Project's construction and operational health risk impact to residential sensitive receptors using the annual PM₁₀ exhaust estimates from the DEIR's CalEEMod output files. Consistent with recommendations set forth by OEHHA, we assumed residential exposure begins during the third trimester stage of life.¹⁵ The DEIR's CalEEMod model indicates that construction activities will generate approximately 2,489 pounds of DPM over the 2,096-day construction period.¹⁶ The AERSCREEN model relies on a continuous average emission rate to simulate maximum downward concentrations from point, area, and volume emission sources. To account for the variability in equipment usage and truck trips over Project construction, we calculated an average DPM emission rate by the following equation:

$$\text{Emission Rate} \left(\frac{\text{grams}}{\text{second}} \right) = \frac{2,488.8 \text{ lbs}}{2,096 \text{ days}} \times \frac{453.6 \text{ grams}}{\text{lbs}} \times \frac{1 \text{ day}}{24 \text{ hours}} \times \frac{1 \text{ hour}}{3,600 \text{ seconds}} = 0.00623 \text{ g/s}$$

¹¹ "Supplemental Guidelines for Submission of Air Toxics "Hot Spots" Program Health Risk Assessments (HRAs)." San Diego County Air Pollution Control District (SDAPCD) July 2022, available at: <https://www.sdapcd.org/content/dam/sdapcd/documents/permits/air-toxics/Hot-Spots-Guidelines.pdf>.

¹² "AERSCREEN Released as the EPA Recommended Screening Model," U.S. EPA, April 2011, available at: http://www.epa.gov/ttn/scram/guidance/clarification/20110411_AERSCREEN_Release_Memo.pdf

¹³ "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>.

¹⁴ "Health Risk Assessments for Proposed Land Use Projects." CAPCOA, July 2009, available at: http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA_HRA_LU_Guidelines_8-6-09.pdf.

¹⁵ "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-18.

¹⁶ See Attachment A for health risk calculations.

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The commenter attempts to provide a screening-level risk assessment for construction and operations based on AERSCREEN. However, the industry standard to evaluate screening-level risk assessment is AERMOD. Thus, the analysis presented with the comment letter is flawed and not a valid screening tool for the following reasons:

- The commenter calculates daily construction emissions over a 24 hour period – which overstates any potential impacts from construction activity to health risks as daily construction would not occur continually over a 24 hour period. The Project's daily construction emissions would instead occur over an 8 hour period. Furthermore, the commenter calculated construction emissions using AERSCREEN; however, the industry standard to evaluate screening-level risk assessment is AERMOD.
- The AERSCREEN model is a screening tool that is not appropriate to utilize for potential health risk impacts. To underscore this, AERSCREEN only produces a potential one-hour concentration which is not appropriate for risk calculations.
- The commenter conflates particulate matter as diesel particulate matter (DPM), which results in overstated potential impacts since the analysis presumes that every vehicle accessing the site would generate DPM, whereas only 5% of vehicles accessing the site have the potential to generate DPM emissions. As such, the commenter's calculation of potential health risks from operational activity is more than 90% overstated.
- In addition, the HRA appears to conclude that receptors will stay in the same location for 24 hours per day and 350 days per year, which significantly overstates potential exposure.

As such, the analysis in the Draft EIR and supporting technical analysis accurately assess the Project's construction and operational air impacts and potential for the Project to expose sensitive receptors to substantial pollutant concentrations and no construction HRA is required or changes to the Draft

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Using this equation, we estimated a construction emission rate of 0.00623 grams per second (“g/s”). Subtracting the 2,096-day construction period from the total residential duration of 30 years, we assumed that after Project construction, the sensitive receptor would be exposed to the Project’s operational DPM for an additional 24.2 years. The DEIR’s operational CalEEMod emissions indicate that operational activities will generate approximately 1,523 pounds of DPM per year throughout operation. Applying the same equation used to estimate the construction DPM rate, we estimated the following emission rate for Project operation:

$$\text{Emission Rate } \left(\frac{\text{grams}}{\text{second}} \right) = \frac{1,523 \text{ lbs}}{365 \text{ days}} \times \frac{453.6 \text{ grams}}{\text{lbs}} \times \frac{1 \text{ day}}{24 \text{ hours}} \times \frac{1 \text{ hour}}{3,600 \text{ seconds}} = 0.0219 \text{ g/s}$$

Using this equation, we estimated an operational emission rate of 0.0219 g/s. Construction and operation were simulated as a 26.5-acre rectangular area source in AERSCREEN, with approximate dimensions of 463- by 232-meters. A release height of three meters was selected to represent the height of stacks of operational equipment and other heavy-duty vehicles, and an initial vertical dimension of one and a half meters was used to simulate instantaneous plume dispersion upon release. An urban meteorological setting was selected with model-default inputs for wind speed and direction distribution. The population of San Diego was obtained from U.S. 2020 Census data.¹⁷

The AERSCREEN model generates maximum reasonable estimates of single-hour DPM concentrations from the Project Site. The United States Environmental Protection Agency (“U.S. EPA”) suggests that the annualized average concentration of an air pollutant be estimated by multiplying the single-hour concentration by 10% in screening procedures.¹⁸ According to the DEIR, the nearest sensitive receptors are residential uses located approximately 0.2 miles, or 321 meters, from the Project site (p. 5.8-1). Thus, the single-hour concentration estimated by AERSCREEN for Project construction is approximately 1.429 µg/m³ DPM at approximately 325 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.1429 µg/m³ for Project construction at the MEIR. For Project operation, the single-hour concentration estimated by AERSCREEN is 5.024 µg/m³ DPM at approximately 325 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.5024 µg/m³ for Project operation at the MEIR.¹⁹

We calculated the excess cancer risk to the MEIR using applicable HRA methodologies prescribed by OEHHA, as recommended by SDAPCD.²⁰ Specifically, guidance from OEHHA and the CARB recommends the use of a standard point estimate approach, including high-point estimate (i.e. 95th percentile) breathing rates and age sensitivity factors (“ASF”) in order to account for the increased sensitivity to carcinogens during early-in-life exposure and accurately assess risk for susceptible subpopulations such

¹⁷ “San Diego.” U.S. Census Bureau, 2020, available at: <https://datacommons.org/place/geoid/0666000>.
¹⁸ “Screening Procedures for Estimating the Air Quality Impact of Stationary Sources Revised.” U.S. EPA, October 1992, available at: http://www.epa.gov/ttn/scram/guidance/guide/EPA-454R-92-019_OCR.pdf.
¹⁹ See Attachment B for AERSCREEN output files.
²⁰ “Supplemental Guidelines for Submission of Rule 1200 Health Risk Assessments (HRAs).” SDAPCD, July 2019, available at: https://www.sandiegocounty.gov/content/dam/sdc/apcd/PDF/Toxics_Program/APCD_1200_Supplemental_Guidelines.pdf.

E-23 (cont.)

EIR are required. Notwithstanding, as discussed above in Response to Comment E-22, for further information an HRA has been prepared, and it shows no significant impacts from the Project.

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(cont.)

as children. The residential exposure parameters, such as the daily breathing rates (“BR/BW”), exposure duration (“ED”), age sensitivity factors (“ASF”), fraction of time at home (“FAH”), and exposure frequency (“EF”) utilized for the various age groups in our screening-level HRA are as follows:

Exposure Assumptions for Residential Individual Cancer Risk						
Age Group	Breathing Rate (L/kg-day) ²¹	Age Sensitivity Factor ²²	Exposure Duration (years)	Fraction of Time at Home ²³	Exposure Frequency (days/year) ²⁴	Exposure Time (hours/day)
3rd Trimester	361	10	0.25	1	350	24
Infant (0 - 2)	1090	10	2	1	350	24
Child (2 - 16)	572	3	14	1	350	24
Adult (16 - 30)	261	1	14	0.73	350	24

For the inhalation pathway, the procedure requires the incorporation of several discrete variates to effectively quantify dose for each age group. Once determined, contaminant dose is multiplied by the cancer potency factor (“CPF”) in units of inverse dose expressed in milligrams per kilogram per day (mg/kg/day⁻¹) to derive the cancer risk estimate. To assess exposures, we utilized the following dose algorithm:

$$Dose_{AIR,per\ age\ group} = C_{air} \times EF \times \left[\frac{BR}{BW} \right] \times A \times CF$$

where:

- Dose_{AIR} = dose by inhalation (mg/kg/day), per age group
- C_{air} = concentration of contaminant in air (µg/m3)
- EF = exposure frequency (number of days/365 days)
- BR/BW = daily breathing rate normalized to body weight (L/kg/day)
- A = inhalation absorption factor (default = 1)
- CF = conversion factor (1x10⁻⁶, µg to mg, L to m3)

²¹ “Supplemental Guidelines for Preparing Risk Assessments for the Air Toxics ‘Hot Spots’ Information and Assessment Act.” SCAQMD, October 2020, available at: <http://www.aqmd.gov/docs/default-source/planning/risk-assessment/ab-2588-supplemental-guidelines.pdf?sfvrsn=19>, p. 19; see also “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/crn/2015guidancemanual.pdf>.

²² “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/crn/2015guidancemanual.pdf>, p. 8-5 Table 8.3.

²³ “Risk Assessment Procedures.” SCAQMD, August 2017, available at: http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1401/riskassessmentprocedures_2017_080717.pdf, p. 7.

²⁴ “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/crn/2015guidancemanual.pdf>, p. 5-24.

To calculate the overall cancer risk, we used the following equation for each appropriate age group:

$$Cancer\ Risk_{AIR} = Dose_{AIR} \times CPF \times ASF \times FAH \times \frac{ED}{AT}$$

where:

- Dose_{AIR} = dose by inhalation (mg/kg/day), per age group
- CPF = cancer potency factor, chemical-specific (mg/kg/day)⁻¹
- ASF = age sensitivity factor, per age group
- FAH = fraction of time at home, per age group (for residential receptors only)
- ED = exposure duration (years)
- AT = averaging time period over which exposure duration is averaged (always 70 years)

Consistent with the 2,096-day construction schedule, the annualized average concentration for construction was used for the entire third trimester of pregnancy (0.25 years), the entire infantile stage of life (0 – 2 years), and the first 3.49 years of the child stage of life. The annualized average concentration for operation was used for the remainder of the 30-year exposure period, which makes up the latter 10.51 years of the child stage of life, as well as the entire adult (16 – 30 years) stage of life. The results of our calculations are shown in the table below.

The Maximally Exposed Individual at an Existing Residential Receptor

Age Group	Emissions Source	Duration (years)	Concentration (ug/m3)	Cancer Risk
3rd Trimester	Construction	0.25	0.1429	1.94E-06
Infant (0 - 2)	Construction	2	0.1429	4.69E-05
	Construction	3.49	0.1429	1.29E-05
	Operation	10.51	0.5024	1.37E-04
Child (2 - 16)	Total	14		1.49E-04
Adult (16 - 30)	Operation	14	0.5024	2.02E-05
Lifetime		30		2.18E-04

As demonstrated in the table above, the excess cancer risks for the 3rd trimester of pregnancy, infants, children, and adults at the MEIR located approximately 325 meters away, over the course of Project construction and operation, are approximately 1.94, 46.9, 149, and 20.2 in one million, respectively. The excess cancer risk over the course of a residential lifetime (30 years) is approximately 218 in one million. The infant, child, adult, and lifetime cancer risks exceed the SDAPCD threshold of 10 in one million, thus resulting in a potentially significant impact not previously addressed or identified by the DEIR.

E-23
(cont.)

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Our analysis represents a screening-level HRA, which is known to be conservative and tends to err on the side of health protection. The purpose of the screening-level HRA is to demonstrate the potential link between Project-generated emissions and adverse health risk impacts. According to the U.S. EPA:

“EPA’s Exposure Assessment Guidelines recommend completing exposure assessments iteratively using a tiered approach to ‘strike a balance between the costs of adding detail and refinement to an assessment and the benefits associated with that additional refinement’ (U.S. EPA, 1992).

In other words, an assessment using basic tools (e.g., simple exposure calculations, default values, rules of thumb, conservative assumptions) can be conducted as the first phase (or tier) of the overall assessment (i.e., a screening-level assessment).

The exposure assessor or risk manager can then determine whether the results of the screening-level assessment warrant further evaluation through refinements of the input data and exposure assumptions or by using more advanced models.”

As demonstrated above, screening-level analyses warrant further evaluation in a refined modeling approach. Thus, as our screening-level HRA demonstrates that construction and operation of the Project could result in a potentially significant health risk impact, an EIR should be prepared to include a refined health risk analysis which adequately and accurately evaluates health risk impacts associated with both Project construction and operation. If the refined analysis similarly concludes that the Project would result in a significant health risk impact, then mitigation measures should be incorporated, as described in our “Feasible Mitigation Measures Available to Reduce Emissions” section below.

Greenhouse Gas

Failure to Adequately Evaluate Greenhouse Gas Impacts

The DEIR concludes that the Project would not result in significant greenhouse gas (“GHG”) impacts. Specifically, the DEIR relies on the Project’s consistency with the City’s Climate Action Plan (“CAP”), stating:

“The Project would be consistent with both City’s 2015 CAP and 2022 CAP update. The Project meets all requirements of the City’s 2015 CAP Consistency Checklist and 2022 CAP Consistency Regulations. Therefore, the Project would not conflict with the 2015 CAP, 2022 CAP update, or any applicable plan, policy, or regulation for the purpose of reducing GHG emissions. Impacts would be less than significant” (p. 5.7-26).

Furthermore, the DEIR includes the following sustainability features:

“The Project would include sustainable features that exceed state and local requirements (e.g., the California Title 24 Energy Efficiency Standards for Residential and Nonresidential Buildings, the CALGreen Code, and the City of San Diego Climate Action Plan [CAP]). These sustainable features include, but are not limited to the following design features or operational characteristics, some of which have been previously discussed in this section:

E-24 The City of San Diego requires that the Project complete the City’s Climate Action Plan Consistency Checklist (Appendix G to the Draft EIR) to determine consistency with the City’s Climate Action Plan. CAP strategies in Step 2 of the Checklist have been incorporated into the Project as Project features and will be constructed with the Project. To ensure Project compliance of the strategies, the CAP Consistency Checklist will be made part of “Exhibit A” and a condition of approval. In addition, the Project includes a robust TDM plan that includes all of the measures in Step 2 measures 3-7 as well as additional measures that have been quantified to reduce VMT and thus GHGs.

The Project is grandfathered under the 2015 CAP because the Project includes a vesting tentative map and because the 2022 CAP by its terms exempts projects that were deemed complete by its adoption date. Ordinance 21528 (Sept. 21, 2022), section 10 “That no permits shall be issued for development that is inconsistent with the provisions of this Ordinance unless a deemed complete application for such permits is submitted to the City prior to the date on which the applicable provisions of this Ordinance become effective.”

Nonetheless, the Draft EIR demonstrates that the Project will also be consistent with the 2022 CAP, which replaces the checklist with CAP consistency regulations in the San Diego Municipal Code to ensure that both ministerial and discretionary projects will comply with the GHG reduction requirements in the CAP. The new GHG reduction measures in the CAP are enforced through regulatory measures at the time of construction, and implemented at the time of building permit. The Draft EIR finds that the Project is consistent with both the 2015 and 2022 CAP and there will be a less than significant impact from the Project. No revisions to the EIR are required.

E-24
(cont.)

- Transportation Demand Management Measures [...]
- Energy Efficient and Sustainable Building Design Features [...]
- Biological Resources Protection [...]
- Water Conservation Measures [...]” (p. 3-14, 3-15).

However, the DEIR’s claim that the Project is consistent with the City’s CAP is unsupported. In order to be fully consistent with the City’s CAP the, DEIR should include the above-mentioned sustainability features as formal mitigation measures. According to the AEP *CEQA Portal Topic Paper* on Mitigation Measures:

“While not ‘mitigation’, a good practice is to include those project design feature(s) that address environmental impacts in the mitigation monitoring and reporting program (MMRP). Often the MMRP is all that accompanies building and construction plans through the permit process. If the design features are not listed as important to addressing an environmental impact, it is easy for someone not involved in the original environmental process to approve a change to the project that could eliminate one or more of the design features without understanding the resulting environmental impact.”

As such, in order to be consistent with the City’s CAP, we recommend the Project include all sustainability features as formal mitigation measures. Until then, the DEIR’s conclusion that the project would be consistent with the City’s CAP is unsubstantiated (p. 5.7-26). Therefore, the Project’s GHG analysis is insufficient and the DEIR’s less-than-significant impact conclusion should not be relied upon.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

Our analysis demonstrates that the Project would result in potentially significant health risk and GHG impacts that should be mitigated further. As such, in an effort to reduce the Project’s emissions, we identified several mitigation measures that are applicable to the proposed Project. Therefore, to reduce the Project’s emissions, we recommend consideration of SCAG’s 2020 RTP/SCS PEIR’s Air Quality Project Level Mitigation Measures (“PMM-AQ-1”), as described below:²⁵

SCAG RTP/SCS 2020-2045
Air Quality Project Level Mitigation Measures – PMM-AQ-1:

²⁵ “4.0 Mitigation Measures.” Connect SoCal Program Environmental Impact Report Addendum #1, September 2020, available at: https://scag.ca.gov/sites/main/files/file-attachments/peir_connectsocial_addendum_4_mitigationmeasures.pdf?1606004420, p. 4.0-2 – 4.0-10; 4.0-19 – 4.0-23; See also: “Certified Final Connect SoCal Program Environmental Impact Report.” Southern California Association of Governments (SCAG), May 2020, available at: <https://scag.ca.gov/peir>.

E-25

E-25 The Project does not result in any significant unmitigated impacts, therefore there is no requirement to add any additional mitigation measures or to evaluate feasible additional mitigation measures beyond those already included in the Draft EIR. The list of measures provided by the commenter are mostly made up of standard measures included on most construction sites in California and although not needed as mitigation, the following measures will be implemented as Best Management Practices during construction. No revisions to the EIR are required.

- a) Minimize land disturbance.
- b) Suspend grading and earth moving when wind gusts exceed 25 miles per hour unless the soil is wet enough to prevent dust plumes.
- c) Cover trucks when hauling dirt.
- d) Stabilize the surface of dirt piles if not removed immediately.
- e) Limit vehicular paths on unpaved surfaces and stabilize any temporary roads.
- f) Minimize unnecessary vehicular and machinery activities.
- g) Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
- h) Revegetate disturbed land, including vehicular paths created during construction to avoid future off-road vehicular activities.
- i) Require contractors to assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that could be used an aggregate of 40 or more hours for the construction project. Prepare a plan for approval by the applicable air district demonstrating achievement of the applicable percent reduction for a CARB-approved fleet.
- j) Ensure that all construction equipment is properly tuned and maintained.
- k) Minimize idling time to 5 minutes—saves fuel and reduces emissions.
- l) Provide an operational water truck on-site at all times. Use watering trucks to minimize dust; watering should be sufficient to confine dust plumes to the project work areas. Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
- m) Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators.

COMMENTS

RESPONSES

E-25
(cont.)

<p>In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the <i>State CEQA Guidelines</i>, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency:</p>
a) Minimize land disturbance.
b) Suspend grading and earth moving when wind gusts exceed 25 miles per hour unless the soil is wet enough to prevent dust plumes.
c) Cover trucks when hauling dirt.
d) Stabilize the surface of dirt piles if not removed immediately.
e) Limit vehicular paths on unpaved surfaces and stabilize any temporary roads.
f) Minimize unnecessary vehicular and machinery activities.
g) Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
h) Revegetate disturbed land, including vehicular paths created during construction to avoid future off-road vehicular activities.
i) On Caltrans projects, Caltrans Standard Specifications 10-Dust Control, 17-Watering, and 18-Dust Palliative shall be incorporated into project specifications.
j) Require contractors to assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that could be used an aggregate of 40 or more hours for the construction project. Prepare a plan for approval by the applicable air district demonstrating achievement of the applicable percent reduction for a CARB-approved fleet.
k) Ensure that all construction equipment is properly tuned and maintained.
l) Minimize idling time to 5 minutes—saves fuel and reduces emissions.
m) Provide an operational water truck on-site at all times. Use watering trucks to minimize dust; watering should be sufficient to confine dust plumes to the project work areas. Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
n) Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators.
o) Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.
p) As appropriate require that portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, obtain CARB Portable Equipment Registration with the state or a local district permit. Arrange appropriate consultations with the CARB or the District to determine registration and permitting requirements prior to equipment operation at the site.
q) Require projects within 500 feet of residences, hospitals, or schools to use Tier 4 equipment for all engines above 50 horsepower (hp) unless the individual project can demonstrate that Tier 4 engines would not be required to mitigate emissions below significance thresholds.
r) Projects located within the South Coast Air Basin should consider applying for South Coast AQMD “SOON” funds which provides funds to applicable fleets for the purchase of commercially available low-emission heavy-duty engines to achieve near-term reduction of NOx emissions from in-use off-road diesel vehicles.
s) Projects located within AB 617 communities should review the applicable Community Emissions Reduction Plan (CERP) for additional mitigation that can be applied to individual projects.

E-25 (cont.)

n) Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.

o) As appropriate require that portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, obtain CARB Portable Equipment Registration with the state or a local district permit. Arrange appropriate consultations with the CARB or the District to determine registration and permitting requirements prior to equipment operation at the site.

p) Projects should work with local cities and counties to install adequate signage that prohibits truck idling in certain locations (e.g., near schools and sensitive receptors).

q) Develop an ongoing monitoring, inspection, and maintenance program for the MERV filters.

r) The following criteria related to diesel emissions shall be implemented on by individual project sponsors as appropriate and feasible:

- Diesel nonroad vehicles on site for more than 10 total days shall have either (1) engines that meet EPA on road emissions standards or (2) emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%
- Diesel generators on site for more than 10 total days shall be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%.
- Nonroad diesel engines on site shall be Tier 2 or higher.
- Diesel nonroad construction equipment on site for more than 10 total days shall have either (1) engines meeting EPA Tier 4 nonroad emissions standards or (2) emission control technology verified by EPA or CARB for use with nonroad engines to reduce PM emissions by a minimum of 85% for engines for 50 hp and greater and by a minimum of 20% for engines less than 50 hp.
- mission control technology shall be operated, maintained, and serviced as recommended by the emission control technology manufacturer.
- Diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend approved by the original engine manufacturer with sulfur content of 15 ppm or less.

COMMENTS

RESPONSES

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(cont.)

t) Where applicable, projects should provide information about air quality related programs to schools, including the Environmental Justice Community Partnerships (EJCP), Clean Air Ranger Education (CARE), and Why Air Quality Matters programs.

u) Projects should work with local cities and counties to install adequate signage that prohibits truck idling in certain locations (e.g., near schools and sensitive receptors).

y) Projects that will introduce sensitive receptors within 500 feet of freeways and other sources should consider installing high efficiency of enhanced filtration units, such as Minimum Efficiency Reporting Value (MERV) 13 or better. Installation of enhanced filtration units can be verified during occupancy inspection prior to the issuance of an occupancy permit.

z) Develop an ongoing monitoring, inspection, and maintenance program for the MERV filters.

aa) Consult the SCAG Environmental Justice Toolbox for potential measures to address impacts to low-income and/or minority communities.

bb) The following criteria related to diesel emissions shall be implemented on by individual project sponsors as appropriate and feasible:

- Diesel nonroad vehicles on site for more than 10 total days shall have either (1) engines that meet EPA on road emissions standards or (2) emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%
- Diesel generators on site for more than 10 total days shall be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%.
- Nonroad diesel engines on site shall be Tier 2 or higher.
- Diesel nonroad construction equipment on site for more than 10 total days shall have either (1) engines meeting EPA Tier 4 nonroad emissions standards or (2) emission control technology verified by EPA or CARB for use with nonroad engines to reduce PM emissions by a minimum of 85% for engines for 50 hp and greater and by a minimum of 20% for engines less than 50 hp.
- Emission control technology shall be operated, maintained, and serviced as recommended by the emission control technology manufacturer.
- Diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend approved by the original engine manufacturer with sulfur content of 15 ppm or less.
- The construction contractor shall maintain a list of all diesel vehicles, construction equipment, and generators to be used on site. The list shall include the following:
 - i. Contractor and subcontractor name and address, plus contact person responsible for the vehicles or equipment.
 - ii. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation.
 - iii. For the emission control technology installed: technology type, serial number, make, model, manufacturer, EPA/CARB verification number/level, and installation date and hour-meter reading on installation date.
- The contractor shall establish generator sites and truck-staging zones for vehicles waiting to load or unload material on site. Such zones shall be located where diesel emissions have the least impact on abutters, the general public, and especially sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.
- The contractor shall maintain a monthly report that, for each on road diesel vehicle, nonroad construction equipment, or generator onsite, includes:
 - i. Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
 - ii. Any problems with the equipment or emission controls.
 - iii. Certified copies of fuel deliveries for the time period that identify:
 1. Source of supply
 2. Quantity of fuel
 3. Quantity of fuel, including sulfur content (percent by weight)

E-25 (cont.)

- The construction contractor shall maintain a list of all diesel vehicles, construction equipment, and generators to be used on site. The list shall include the following:
 - i. Contractor and subcontractor name and address, plus contact person responsible for the vehicles or equipment.
 - ii. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation.
 - iii. For the emission control technology installed: technology type, serial number, make, model, manufacturer, EPA/CARB verification number/level, and installation date and hour-meter reading on installation date.
- The contractor shall establish generator sites and truck-staging zones for vehicles waiting to load or unload material on site. Such zones shall be located where diesel emissions have the least impact on abutters, the general public, and especially sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.
- The contractor shall maintain a monthly report that, for each on road diesel vehicle, nonroad construction equipment, or generator onsite, includes:
 - i. Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
 - ii. Any problems with the equipment or emission controls.
 - iii. Certified copies of fuel deliveries for the time period that identify:
 1. Source of supply
 2. Quantity of fuel
 3. Quantity of fuel, including sulfur content (percent by weight)

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- cc) Project should exceed Title-24 Building Envelope Energy Efficiency Standards (California Building Standards Code). The following measures can be used to increase energy efficiency:
- Provide pedestrian network improvements, such as interconnected street network, narrower roadways and shorter block lengths, sidewalks, accessibility to transit and transit shelters, traffic calming measures, parks and public spaces, minimize pedestrian barriers.
 - Provide traffic calming measures, such as:
 - i. Marked crosswalks
 - ii. Count-down signal timers
 - iii. Curb extensions iv. Speed tables
 - iv. Raised crosswalks
 - v. Raised intersections
 - vi. Median islands
 - vii. Tight corner radii
 - viii. Roundabouts or mini-circles
 - ix. On-street parking
 - x. Chicanes/chokers
 - Create urban non-motorized zones
 - Provide bike parking in non-residential and multi-unit residential projects
 - Dedicate land for bike trails
 - Limit parking supply through:
 - i. Elimination (or reduction) of minimum parking requirements
 - ii. Creation of maximum parking requirements
 - iii. Provision of shared parking
 - Require residential area parking permit.
 - Provide ride-sharing programs
 - i. Designate a certain percentage of parking spacing for ride sharing vehicles
 - ii. Designating adequate passenger loading and unloading and waiting areas for ride-sharing vehicles
 - iii. Providing a web site or messaging board for coordinating rides
 - iv. Permanent transportation management association membership and finding requirement.

These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduce emissions released during Project construction and operation. A revised EIR should be prepared to include all feasible mitigation measures, as well as include updated air quality, health risk, and GHG analyses to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds. The updated EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

Disclaimer

SWAPE has received limited discovery regarding this project. 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

E-26 No response is needed as this is merely a disclaimer.

E-26

COMMENTS

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(cont.)



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.

- Attachment A: Health Risk Calculations
- Attachment B: AERSCREEN Output Files
- Attachment C: Matt Hagemann CV
- Attachment D: Paul Rosenfeld CV

COMMENTS

RESPONSES

Attachment A

Construction		Total		Operation	
2022		2022		2022	
Annual Emissions (tons/year)	0.1646	Total DPM (lbs)	2488.837808	Annual Emissions (tons/year)	0.7616
Daily Emissions (lbs/day)	0.501917808	Total DPM (g)	1128936.83	Daily Emissions (lbs/day)	4.173150685
Construction Duration (days)	272	Emission Rate (g/s)	0.006783962	Total DPM (lbs)	1522.2
Total DPM (lbs)	245.3216438	Release Height (meters)	3	Emission Rate (g/s)	0.021929941
Total DPM (g)	111277.8976	Total Acreage	26.3	Release Height (meters)	3
Start Date	4/4/2022	Max Horizontal (meters)	463.12	Total Acreage	26.5
End Date	1/1/2023	Min Horizontal (meters)	231.56	Max Horizontal (meters)	463.12
Construction Days	272	Initial Vertical Dimension (meters)	1.5	Min Horizontal (meters)	231.56
2023		2023		2023	
Annual Emissions (tons/year)	0.2046	Setting	Urban	Annual Emissions (tons/year)	1.5
Daily Emissions (lbs/day)	1.12105689	Population	1,381,611	Daily Emissions (lbs/day)	4.173150685
Construction Duration (days)	365	Start Date	4/4/2022	Total DPM (lbs)	1522.2
Total DPM (lbs)	409.2	End Date	12/30/2027	Emission Rate (g/s)	0.021929941
Total DPM (g)	185613.32	Total Construction Days	2096	Release Height (meters)	3
Start Date	1/1/2023	Total Years of Construction	5.74	Total Acreage	26.5
End Date	1/1/2024	Total Years of Operation	24.26	Max Horizontal (meters)	463.12
Construction Days	365			Min Horizontal (meters)	231.56
2024		2024		2024	
Annual Emissions (tons/year)	0.3082			Annual Emissions (tons/year)	1.5
Daily Emissions (lbs/day)	1.68876322			Daily Emissions (lbs/day)	4.173150685
Construction Duration (days)	366			Total DPM (lbs)	1522.2
Total DPM (lbs)	618.0887671			Emission Rate (g/s)	0.021929941
Total DPM (g)	280305.6648			Release Height (meters)	3
Start Date	1/1/2024			Total Acreage	26.5
End Date	1/1/2025			Max Horizontal (meters)	463.12
Construction Days	366			Min Horizontal (meters)	231.56
2025		2025		2025	
Annual Emissions (tons/year)	0.37			Annual Emissions (tons/year)	1.5
Daily Emissions (lbs/day)	0.931506849			Daily Emissions (lbs/day)	4.173150685
Construction Duration (days)	365			Total DPM (lbs)	1522.2
Total DPM (lbs)	340			Emission Rate (g/s)	0.021929941
Total DPM (g)	154224			Release Height (meters)	3
Start Date	1/1/2025			Total Acreage	26.5
End Date	1/1/2026			Max Horizontal (meters)	463.12
Construction Days	365			Min Horizontal (meters)	231.56
2026		2026		2026	
Annual Emissions (tons/year)	0.2228			Annual Emissions (tons/year)	1.5
Daily Emissions (lbs/day)	1.220821918			Daily Emissions (lbs/day)	4.173150685
Construction Duration (days)	365			Total DPM (lbs)	1522.2
Total DPM (lbs)	44.6			Emission Rate (g/s)	0.021929941
Total DPM (g)	202124.16			Release Height (meters)	3
Start Date	1/1/2026			Total Acreage	26.5
End Date	1/1/2027			Max Horizontal (meters)	463.12
Construction Days	365			Min Horizontal (meters)	231.56
2027		2027		2027	
Annual Emissions (tons/year)	0.2160			Annual Emissions (tons/year)	1.5
Daily Emissions (lbs/day)	1.18636197			Daily Emissions (lbs/day)	4.173150685
Construction Duration (days)	363			Total DPM (lbs)	1522.2
Total DPM (lbs)	430.6273973			Emission Rate (g/s)	0.021929941
Total DPM (g)	195332.874			Release Height (meters)	3
Start Date	1/1/2027			Total Acreage	26.5
End Date	12/30/2027			Max Horizontal (meters)	463.12
Construction Days	363			Min Horizontal (meters)	231.56

Attachment B

AERSCREEN 21112 / AERMOD 21112 12/21/22
17:01:56

TITLE: Towne Centre, Construction

***** AREA PARAMETERS *****

SOURCE EMISSION RATE: 0.623E-02 g/s 0.495E-01 lb/hr
 AREA EMISSION RATE: 0.581E-07 g/(s-m2) 0.461E-06 lb/(hr-m2)
 AREA HEIGHT: 3.00 meters 9.84 feet
 AREA SOURCE LONG SIDE: 463.12 meters 1519.42 feet
 AREA SOURCE SHORT SIDE: 231.56 meters 759.71 feet
 INITIAL VERTICAL DIMENSION: 1.50 meters 4.92 feet
 RURAL OR URBAN: URBAN
 POPULATION: 1381611
 INITIAL PROBE DISTANCE = 5000. meters 16404. feet

***** BUILDING DOWNWASH PARAMETERS *****

BUILDING DOWNWASH NOT USED FOR NON-POINT SOURCES

***** FLOW SECTOR ANALYSIS *****

25 meter receptor spacing: 1. meters - 5000. meters

MAXIMUM IMPACT RECEPTOR

Zo	SURFACE	1-HR CONC	RADIAL	DIST	TEMPORAL
SECTOR	ROUGHNESS	(ug/m3)	(deg)	(m)	PERIOD
1*	1.000	2.609	0	225.0	WIN

* = worst case diagonal

COMMENTS

RESPONSES

***** MAKEMET METEOROLOGY PARAMETERS *****

MIN/MAX TEMPERATURE: 250.0 / 310.0 (K)

MINIMUM WIND SPEED: 0.5 m/s

ANEMOMETER HEIGHT: 10.000 meters

SURFACE CHARACTERISTICS INPUT: AERMET SEASONAL TABLES

DOMINANT SURFACE PROFILE: Urban
 DOMINANT CLIMATE TYPE: Average Moisture
 DOMINANT SEASON: Winter

ALBEDO: 0.35
 BOWEN RATIO: 1.50
 ROUGHNESS LENGTH: 1.000 (meters)

SURFACE FRICTION VELOCITY (U*) NOT ADJUSTED

METEOROLOGY CONDITIONS USED TO PREDICT OVERALL MAXIMUM IMPACT

YR MO DY JDY HR

10 01 10 10 01

H0	U*	W*	DT/DZ	ZICNV	ZIMCH	M-O LEN	Z0	BOWEN	ALBEDO	REF WS
-1.30	0.043	-9.000	0.020	-999.	21.	6.0	1.000	1.50	0.35	0.50

HT	REF TA	HT
10.0	310.0	2.0

***** AERSCREEN AUTOMATED DISTANCES *****
 OVERALL MAXIMUM CONCENTRATIONS BY DISTANCE

DIST (m)	MAXIMUM 1-HR CONC (ug/m3)	DIST (m)	MAXIMUM 1-HR CONC (ug/m3)
1.00	2.061	2525.00	0.9784E-01

COMMENTS

RESPONSES

25.00	2.141	2550.00	0.9655E-01
50.00	2.218	2575.00	0.9529E-01
75.00	2.288	2600.00	0.9406E-01
100.00	2.353	2625.00	0.9285E-01
125.00	2.412	2650.00	0.9167E-01
150.00	2.467	2675.00	0.9051E-01
175.00	2.518	2700.00	0.8937E-01
200.00	2.565	2725.00	0.8827E-01
225.00	2.609	2750.00	0.8719E-01
250.00	2.575	2775.00	0.8613E-01
275.00	2.008	2800.00	0.8509E-01
300.00	1.639	2825.00	0.8408E-01
325.00	1.429	2850.00	0.8308E-01
350.00	1.284	2875.00	0.8211E-01
375.00	1.173	2900.00	0.8116E-01
400.00	1.084	2925.00	0.8022E-01
425.00	1.007	2950.00	0.7931E-01
450.00	0.9385	2975.00	0.7841E-01
475.00	0.8773	3000.00	0.7754E-01
500.00	0.8229	3025.00	0.7667E-01
525.00	0.7741	3050.00	0.7583E-01
550.00	0.7299	3075.00	0.7500E-01
575.00	0.6899	3100.00	0.7419E-01
600.00	0.6533	3125.00	0.7339E-01
625.00	0.6202	3150.00	0.7260E-01
650.00	0.5899	3175.00	0.7183E-01
675.00	0.5619	3200.00	0.7107E-01
700.00	0.5361	3225.00	0.7033E-01
725.00	0.5124	3250.00	0.6960E-01
750.00	0.4902	3275.00	0.6888E-01
775.00	0.4698	3300.00	0.6817E-01
800.00	0.4510	3325.00	0.6748E-01
825.00	0.4333	3350.00	0.6680E-01
850.00	0.4167	3375.00	0.6613E-01
875.00	0.4011	3400.00	0.6548E-01
900.00	0.3866	3425.00	0.6483E-01
925.00	0.3731	3450.00	0.6419E-01
950.00	0.3602	3475.00	0.6356E-01
975.00	0.3481	3500.00	0.6294E-01
1000.00	0.3367	3525.00	0.6234E-01
1025.00	0.3259	3550.00	0.6174E-01
1050.00	0.3158	3575.00	0.6115E-01
1075.00	0.3063	3600.00	0.6058E-01
1100.00	0.2972	3625.00	0.6001E-01
1125.00	0.2884	3650.00	0.5945E-01
1150.00	0.2801	3675.00	0.5890E-01
1175.00	0.2722	3700.00	0.5836E-01
1200.00	0.2646	3725.00	0.5783E-01
1225.00	0.2575	3750.00	0.5731E-01
1250.00	0.2507	3775.00	0.5679E-01

COMMENTS

RESPONSES

1275.00	0.2443	3800.00	0.5629E-01
1300.00	0.2381	3825.00	0.5579E-01
1325.00	0.2322	3850.00	0.5530E-01
1350.00	0.2265	3875.00	0.5482E-01
1375.00	0.2210	3900.00	0.5434E-01
1400.00	0.2158	3925.00	0.5387E-01
1425.00	0.2108	3950.00	0.5341E-01
1450.00	0.2059	3975.00	0.5295E-01
1475.00	0.2013	4000.00	0.5250E-01
1500.00	0.1968	4025.00	0.5206E-01
1525.00	0.1925	4050.00	0.5162E-01
1550.00	0.1884	4075.00	0.5120E-01
1575.00	0.1844	4100.00	0.5077E-01
1600.00	0.1805	4125.00	0.5036E-01
1625.00	0.1769	4150.00	0.4994E-01
1650.00	0.1733	4175.00	0.4954E-01
1675.00	0.1699	4200.00	0.4914E-01
1700.00	0.1666	4225.00	0.4875E-01
1725.00	0.1633	4250.00	0.4836E-01
1750.00	0.1602	4275.00	0.4797E-01
1775.00	0.1572	4300.00	0.4805E-01
1800.00	0.1542	4325.00	0.4767E-01
1825.00	0.1514	4350.00	0.4730E-01
1850.00	0.1487	4375.00	0.4693E-01
1875.00	0.1460	4400.00	0.4656E-01
1900.00	0.1435	4425.00	0.4620E-01
1925.00	0.1410	4450.00	0.4585E-01
1950.00	0.1386	4475.00	0.4550E-01
1975.00	0.1362	4500.00	0.4515E-01
2000.00	0.1340	4525.00	0.4481E-01
2025.00	0.1318	4550.00	0.4448E-01
2050.00	0.1296	4575.00	0.4414E-01
2075.00	0.1275	4600.00	0.4382E-01
2100.00	0.1255	4625.00	0.4349E-01
2125.00	0.1235	4650.00	0.4317E-01
2150.00	0.1216	4675.00	0.4286E-01
2175.00	0.1197	4700.00	0.4255E-01
2200.00	0.1179	4725.00	0.4224E-01
2225.00	0.1161	4750.00	0.4193E-01
2250.00	0.1144	4775.00	0.4163E-01
2275.00	0.1127	4800.00	0.4134E-01
2300.00	0.1110	4825.00	0.4104E-01
2325.00	0.1094	4850.00	0.4076E-01
2350.00	0.1078	4875.00	0.4047E-01
2375.00	0.1063	4900.00	0.4019E-01
2400.00	0.1048	4925.00	0.3991E-01
2425.00	0.1033	4950.00	0.3963E-01
2450.00	0.1019	4975.00	0.3936E-01
2475.00	0.1005	5000.00	0.3909E-01
2500.00	0.9917E-01		

COMMENTS

RESPONSES

 ***** AERSCREEN MAXIMUM IMPACT SUMMARY *****

3-hour, 8-hour, and 24-hour scaled concentrations are equal to the 1-hour concentration as referenced in SCREENING PROCEDURES FOR ESTIMATING THE AIR QUALITY IMPACT OF STATIONARY SOURCES, REVISED (Section 4.5.4) Report number EPA-454/R-92-019 http://www.epa.gov/scram001/guidance_permit.htm under Screening Guidance

CALCULATION PROCEDURE	MAXIMUM 1-HOUR CONC (ug/m3)	SCALED 3-HOUR CONC (ug/m3)	SCALED 8-HOUR CONC (ug/m3)	SCALED 24-HOUR CONC (ug/m3)	SCALED ANNUAL CONC (ug/m3)
FLAT TERRAIN	2.621	2.621	2.621	2.621	N/A
DISTANCE FROM SOURCE	232.00 meters				
IMPACT AT THE AMBIENT BOUNDARY	2.061	2.061	2.061	2.061	N/A
DISTANCE FROM SOURCE	1.00 meters				

COMMENTS

RESPONSES

AERSCREEN 21112 / AERMOD 21112 12/20/22 17:10:26

TITLE: Towne Center, Operations

***** AREA PARAMETERS *****

SOURCE EMISSION RATE: 0.0219 g/s 0.174 lb/hr
AREA EMISSION RATE: 0.204E-06 g/(s-m2) 0.162E-05 lb/(hr-m2)
AREA HEIGHT: 3.00 meters 9.84 feet
AREA SOURCE LONG SIDE: 463.12 meters 1519.42 feet
AREA SOURCE SHORT SIDE: 231.56 meters 759.71 feet
INITIAL VERTICAL DIMENSION: 1.50 meters 4.92 feet
RURAL OR URBAN: URBAN
POPULATION: 1381611
INITIAL PROBE DISTANCE = 5000. meters 16404. feet

***** BUILDING DOWNWASH PARAMETERS *****

BUILDING DOWNWASH NOT USED FOR NON-POINT SOURCES

***** FLOW SECTOR ANALYSIS *****

25 meter receptor spacing: 1. meters - 5000. meters

MAXIMUM IMPACT RECEPTOR

Table with 6 columns: Zo SECTOR, SURFACE ROUGHNESS, 1-HR CONC (ug/m3), RADIAL (deg), DIST (m), TEMPORAL PERIOD. Row 1: 1*, 1.000, 9.169, 0, 225.0, WIN. Includes note: * = worst case diagonal

COMMENTS

RESPONSES

***** MAKEMET METEOROLOGY PARAMETERS *****

MIN/MAX TEMPERATURE: 250.0 / 310.0 (K)

MINIMUM WIND SPEED: 0.5 m/s

ANEMOMETER HEIGHT: 10.000 meters

SURFACE CHARACTERISTICS INPUT: AERMET SEASONAL TABLES

DOMINANT SURFACE PROFILE: Urban
 DOMINANT CLIMATE TYPE: Average Moisture
 DOMINANT SEASON: Winter

ALBEDO: 0.35
 BOWEN RATIO: 1.50
 ROUGHNESS LENGTH: 1.000 (meters)

SURFACE FRICTION VELOCITY (U*) NOT ADJUSTED

METEOROLOGY CONDITIONS USED TO PREDICT OVERALL MAXIMUM IMPACT

YR MO DY JDY HR

10 01 10 10 01

H0	U*	W*	DT/DZ	ZICNV	ZIMCH	M-O LEN	Z0	BOWEN	ALBEDO	REF WS
-1.30	0.043	-9.000	0.020	-999.	21.	6.0	1.000	1.50	0.35	0.50

HT	REF TA	HT
10.0	310.0	2.0

***** AERSCREEN AUTOMATED DISTANCES *****
 OVERALL MAXIMUM CONCENTRATIONS BY DISTANCE

DIST (m)	MAXIMUM 1-HR CONC (ug/m3)	DIST (m)	MAXIMUM 1-HR CONC (ug/m3)
1.00	7.242	2525.00	0.3439

COMMENTS

RESPONSES

25.00	7.526	2550.00	0.3393
50.00	7.795	2575.00	0.3349
75.00	8.042	2600.00	0.3306
100.00	8.268	2625.00	0.3263
125.00	8.477	2650.00	0.3222
150.00	8.669	2675.00	0.3181
175.00	8.848	2700.00	0.3141
200.00	9.015	2725.00	0.3102
225.00	9.169	2750.00	0.3064
250.00	9.052	2775.00	0.3027
275.00	7.056	2800.00	0.2991
300.00	5.762	2825.00	0.2955
325.00	5.024	2850.00	0.2920
350.00	4.514	2875.00	0.2886
375.00	4.124	2900.00	0.2852
400.00	3.811	2925.00	0.2820
425.00	3.539	2950.00	0.2787
450.00	3.299	2975.00	0.2756
475.00	3.083	3000.00	0.2725
500.00	2.892	3025.00	0.2695
525.00	2.721	3050.00	0.2665
550.00	2.565	3075.00	0.2636
575.00	2.425	3100.00	0.2607
600.00	2.296	3125.00	0.2579
625.00	2.180	3150.00	0.2552
650.00	2.073	3175.00	0.2524
675.00	1.975	3200.00	0.2498
700.00	1.884	3225.00	0.2472
725.00	1.801	3250.00	0.2446
750.00	1.723	3275.00	0.2421
775.00	1.651	3300.00	0.2396
800.00	1.585	3325.00	0.2372
825.00	1.523	3350.00	0.2348
850.00	1.464	3375.00	0.2324
875.00	1.410	3400.00	0.2301
900.00	1.359	3425.00	0.2278
925.00	1.311	3450.00	0.2256
950.00	1.266	3475.00	0.2234
975.00	1.223	3500.00	0.2212
1000.00	1.183	3525.00	0.2191
1025.00	1.145	3550.00	0.2170
1050.00	1.110	3575.00	0.2149
1075.00	1.076	3600.00	0.2129
1100.00	1.044	3625.00	0.2109
1125.00	1.014	3650.00	0.2089
1150.00	0.9843	3675.00	0.2070
1175.00	0.9565	3700.00	0.2051
1200.00	0.9301	3725.00	0.2033
1225.00	0.9050	3750.00	0.2014
1250.00	0.8812	3775.00	0.1996

COMMENTS

RESPONSES

1275.00	0.8584	3800.00	0.1978
1300.00	0.8368	3825.00	0.1961
1325.00	0.8161	3850.00	0.1944
1350.00	0.7962	3875.00	0.1927
1375.00	0.7769	3900.00	0.1910
1400.00	0.7584	3925.00	0.1893
1425.00	0.7408	3950.00	0.1877
1450.00	0.7237	3975.00	0.1861
1475.00	0.7073	4000.00	0.1845
1500.00	0.6916	4025.00	0.1830
1525.00	0.6765	4050.00	0.1814
1550.00	0.6620	4075.00	0.1799
1575.00	0.6480	4100.00	0.1784
1600.00	0.6345	4125.00	0.1770
1625.00	0.6216	4150.00	0.1755
1650.00	0.6091	4175.00	0.1741
1675.00	0.5970	4200.00	0.1727
1700.00	0.5854	4225.00	0.1713
1725.00	0.5740	4250.00	0.1700
1750.00	0.5630	4275.00	0.1686
1775.00	0.5524	4300.00	0.1689
1800.00	0.5421	4325.00	0.1675
1825.00	0.5322	4350.00	0.1662
1850.00	0.5226	4375.00	0.1649
1875.00	0.5133	4400.00	0.1636
1900.00	0.5042	4425.00	0.1624
1925.00	0.4955	4450.00	0.1611
1950.00	0.4870	4475.00	0.1599
1975.00	0.4788	4500.00	0.1587
2000.00	0.4708	4525.00	0.1575
2025.00	0.4631	4550.00	0.1563
2050.00	0.4555	4575.00	0.1551
2075.00	0.4481	4600.00	0.1540
2100.00	0.4409	4625.00	0.1529
2125.00	0.4340	4650.00	0.1517
2150.00	0.4272	4675.00	0.1506
2175.00	0.4206	4700.00	0.1495
2200.00	0.4142	4725.00	0.1484
2225.00	0.4080	4750.00	0.1474
2250.00	0.4019	4775.00	0.1463
2275.00	0.3960	4800.00	0.1453
2300.00	0.3902	4825.00	0.1443
2325.00	0.3845	4850.00	0.1432
2350.00	0.3790	4875.00	0.1422
2375.00	0.3736	4900.00	0.1412
2400.00	0.3683	4925.00	0.1403
2425.00	0.3632	4950.00	0.1393
2450.00	0.3582	4975.00	0.1383
2475.00	0.3533	5000.00	0.1374
2500.00	0.3485		

COMMENTS

RESPONSES

 ***** AERSCREEN MAXIMUM IMPACT SUMMARY *****

3-hour, 8-hour, and 24-hour scaled concentrations are equal to the 1-hour concentration as referenced in SCREENING PROCEDURES FOR ESTIMATING THE AIR QUALITY IMPACT OF STATIONARY SOURCES, REVISED (Section 4.5.4) Report number EPA-454/R-92-019 http://www.epa.gov/scram001/guidance_permit.htm under Screening Guidance

CALCULATION PROCEDURE	MAXIMUM 1-HOUR CONC (ug/m3)	SCALED 3-HOUR CONC (ug/m3)	SCALED 8-HOUR CONC (ug/m3)	SCALED 24-HOUR CONC (ug/m3)	SCALED ANNUAL CONC (ug/m3)
FLAT TERRAIN	9.211	9.211	9.211	9.211	N/A

DISTANCE FROM SOURCE 232.00 meters

IMPACT AT THE AMBIENT BOUNDARY 7.242 7.242 7.242 7.242 N/A

DISTANCE FROM SOURCE 1.00 meters

Attachment C



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

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

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

**Geologic and Hydrogeologic Characterization
Investigation and Remediation Strategies
Litigation Support and Testifying Expert
Industrial Stormwater Compliance
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 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. 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) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2104, 2017;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

- 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 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, 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 more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- 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.

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.

- 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.
- 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.

- 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 nationwide 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.

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 is currently a part time geology instructor at Golden West College in Huntington Beach, California where he taught from 2010 to 2014 and in 2017.

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.

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.

COMMENTS

RESPONSES

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

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.

COMMENTS

RESPONSES

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 examinations, 2009-2011.

Attachment D



Technical Consultation, Data Analysis and
Litigation Support for the Environment

SOIL WATER AIR PROTECTION ENTERPRISE
2656 29th Street, Suite 201
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Mobil: (310) 795-2335
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Fax: (310) 452-5550
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Paul Rosenfeld, Ph.D.

Principal Environmental Chemist

Chemical Fate and Transport & Air Dispersion Modeling

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. Focus on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years of 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 oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, industrial, military and agricultural sources, unconventional oil drilling operations, and locomotive and construction engines. 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 also successfully modeled exposure to contaminants distributed by water systems and via vapor intrusion.

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, creosote, 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 sites and has testified as an expert witness on numerous cases involving exposure to soil, water and air contaminants from industrial, railroad, agricultural, and military sources.

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:

Rosenfeld P. E., Spaeth K., Hallman R., Bressler R., Smith, G., (2022) Cancer Risk and Diesel Exhaust Exposure Among Railroad Workers. *Water Air Soil Pollution*. 233, 171.

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 Aermol 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.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2009). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Petroleum Industry*. Amsterdam: Elsevier Publishing.

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.

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., Sellow, 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.

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., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

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 Perfluoroactane 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 Tucson, 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 Tucson, 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.

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.

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.

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 2010) 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

Deposition and/or Trial Testimony:

In the Superior Court of the State of California, County of San Bernardino
Billy Wildrick, Plaintiff vs. BNSF Railway Company
Case No. CIVDS1711810
Rosenfeld Deposition 10-17-2022

In the State Court of Bibb County, State of Georgia
Richard Hutcherson, Plaintiff vs Norfolk Southern Railway Company
Case No. 10-SCCV-092007
Rosenfeld Deposition 10-6-2022

In the Civil District Court of the Parish of Orleans, State of Louisiana
Millard Clark, Plaintiff vs. Dixie Carriers, Inc. et al.
Case No. 2020-03891
Rosenfeld Deposition 9-15-2022

In The Circuit Court of Livingston County, State of Missouri, Circuit Civil Division
Shirley Ralls, Plaintiff vs. Canadian Pacific Railway and Soo Line Railroad
Case No. 18-LV-CC0020
Rosenfeld Deposition 9-7-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jonny C. Daniels, Plaintiff vs. CSX Transportation Inc.
Case No. 20-CA-5502
Rosenfeld Deposition 9-1-2022

In The Circuit Court of St. Louis County, State of Missouri
Kieth Luke et. al. Plaintiff vs. Monsanto Company et. al.
Case No. 19SL-CC03191
Rosenfeld Deposition 8-25-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jeffery S. Lamotte, Plaintiff vs. CSX Transportation Inc.
Case No. NO. 20-CA-0049
Rosenfeld Deposition 8-22-2022

In State of Minnesota District Court, County of St. Louis Sixth Judicial District
Greg Bean, Plaintiff vs. Soo Line Railroad Company
Case No. 69-DU-CV-21-760
Rosenfeld Deposition 8-17-2022

In United States District Court Western District of Washington at Tacoma, Washington
John D. Fitzgerald Plaintiff vs. BNSF
Case No. 3:21-cv-05288-RJB
Rosenfeld Deposition 8-11-2022

In Circuit Court of the Sixth Judicial Circuit, Macon Illinois
Rocky Bennyhoff Plaintiff vs. Norfolk Southern
Case No. 20-L-56
Rosenfeld Deposition 8-3-2022

In Court of Common Pleas, Hamilton County Ohio
Joe Briggins Plaintiff vs. CSX
Case No. A2004464
Rosenfeld Deposition 6-17-2022

In the Superior Court of the State of California, County of Kern
George LaFazia vs. BNSF Railway Company.
Case No. BCV-19-103087
Rosenfeld Deposition 5-17-2022

In the Circuit Court of Cook County Illinois
Bobby Earles vs. Penn Central et. al.
Case No. 2020-L-000550
Rosenfeld Deposition 4-16-2022

In United States District Court Easter District of Florida
Albert Hartman Plaintiff vs. Illinois Central
Case No. 2:20-cv-1633
Rosenfeld Deposition 4-4-2022

In the Circuit Court of the 4th Judicial Circuit, in and For Duval County, Florida
Barbara Steele vs. CSX Transportation
Case No.16-219-Ca-008796
Rosenfeld Deposition 3-15-2022

In United States District Court Easter District of New York
Romano et al. vs. Northrup Grumman Corporation
Case No. 16-cv-5760
Rosenfeld Deposition 3-10-2022

In the Circuit Court of Cook County Illinois
Linda Benjamin vs. Illinois Central
Case No. No. 2019 L 007599
Rosenfeld Deposition 1-26-2022

In the Circuit Court of Cook County Illinois
Donald Smith vs. Illinois Central
Case No. No. 2019 L 003426
Rosenfeld Deposition 1-24-2022

In the Circuit Court of Cook County Illinois
Jan Holeman vs. BNSF
Case No. 2019 L 000675
Rosenfeld Deposition 1-18-2022

In the State Court of Bibb County State of Georgia
Dwayne B. Garrett vs. Norfolk Southern
Case No. 20-SCCV-091232
Rosenfeld Deposition 11-10-2021

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In the Circuit Court of Cook County Illinois

Joseph Ruepke vs. BNSF
Case No. 2019 L 007730
Rosenfeld Deposition 11-5-2021

In the United States District Court For the District of Nebraska

Steven Gillett vs. BNSF
Case No. 4:20-cv-03120
Rosenfeld Deposition 10-28-2021

In the Montana Thirteenth District Court of Yellowstone County

James Eadus vs. Soo Line Railroad and BNSF
Case No. DV 19-1056
Rosenfeld Deposition 10-21-2021

In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois

Martha Custer et al.cvs. Cerro Flow Products, Inc.
Case No. 09-L-2295
Rosenfeld Deposition 5-14-2021
Trial October 8-4-2021

In the Circuit Court of Cook County Illinois

Joseph Rafferty vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a AMTRAK,
Case No. 18-L-6845
Rosenfeld Deposition 6-28-2021

In the United States District Court For the Northern District of Illinois

Theresa Romcoe vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail
Case No. 17-cv-8517
Rosenfeld Deposition 5-25-2021

In the Superior Court of the State of Arizona In and For the Cunty of Maricopa

Mary Tryon et al. vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case No. CV20127-094749
Rosenfeld Deposition 5-7-2021

In the United States District Court for the Eastern District of Texas Beaumont Division

Robinson, Jeremy et al vs. CNA Insurance Company et al.
Case No. 1:17-cv-000508
Rosenfeld Deposition 3-25-2021

In the Superior Court of the State of California, County of San Bernardino

Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021

In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse

Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020

In the Circuit Court of Jackson County, Missouri

Karen Cornwell, Plaintiff, vs. Marathon Petroleum, LP, Defendant.
Case No. 1716-CV10006
Rosenfeld Deposition 8-30-2019

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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 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. 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. BC646857
Rosenfeld Deposition 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado
Bells et al. Plaintiffs 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 Agrosciences, 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., Plaintifs 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 United States District Court For The Southern District of Mississippi
Guy Manuel vs. The BP Exploration et al., Defendants
Case No. 1:19-cv-00315-RHW
Rosenfeld Deposition 4-22-2020

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 No. 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. 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 Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action No. 14-C-30000
Rosenfeld Deposition June 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 No. CACE07030358 (26)
Rosenfeld Deposition December 2014

In the County Court of Dallas County Texas
Lisa Parr et al, Plaintiff, vs. Aruba et al, Defendant.
Case No. 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 No. 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition October 2012

In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., Plaintiffs, vs. International Paper Company, Defendant.
Civil Action No. 2:09-cv-232-WHA-TFM
Rosenfeld Deposition July 2010, June 2011

In the Circuit Court of Jefferson County Alabama
Jaeannette Moss Anthony, et al., Plaintiffs, vs. Drummond Company Inc., et al., Defendants
Civil Action No. CV 2008-2076
Rosenfeld Deposition September 2010

In the United States District Court, Western District Lafayette Division
Ackle et al., Plaintiffs, vs. Citgo Petroleum Corporation, et al., Defendants.
Case No. 2:07CV1052
Rosenfeld Deposition July 2009