

June 25, 2007

Ms. Marlyn Mirrasoul
 City of San Diego
 Development Services Department
 1222 First Avenue, MS 501
 San Diego, CA 92101

RE: Comments on Draft Programmatic EIR for General Plan Update

Dear Ms. Mirrasoul:

The Building Industry Association of San Diego County represents 1,460 member companies comprising a workforce of 165,000 San Diegans. Thank you for this opportunity to submit comments on the Draft General Plan Update Programmatic EIR (PEIR) for the City of San Diego.

Q-1

We have significant concerns with the environmental analysis in the document. There appears to be a disconnection in the PEIR with the various existing regulations and programs which will affect all future development, construction activities and growth in the city. For example, there is virtually no discussion of the city's Multiple Species Conservation Program in the EIR, and yet this program was developed in conjunction with and approved by the state and federal wildlife agencies as the city's mitigation for all future biological impacts in and outside of the MSCP preserve, with the exception of a species listed after the MSCP was approved.

The EIR for the MSCP and Land Development Code changes (ESL regulations) found direct, indirect and cumulative biological impacts to be significant but mitigated both in and outside of the preserve (throughout the Subarea Plan for the city). The subsequent EIR prepared for the brush management regulations reaffirmed this conclusion. Therefore, this Programmatic EIR, which is analyzing impacts on a programmatic level, should use existing programs like the MSCP and the environmental analyses which have been prepared for those programs as the basis for determining significant impacts and mitigation measures. A similar approach should be employed with impacts like air quality and water quality which are being mitigated by state and federal laws. While the city may lack the ability fully mitigate these impacts on a programmatic level through the General Plan alone, the General Plan PEER can and should rely on the implementation of the programs and regulations which do fully mitigate the impacts.

Q-2

Air Quality

Table 1.0-1 states that particulate matter from construction would be significant and unavoidable. Particulate matter from construction activities represents a small portion of the total particulate matter from diesel emissions. The bulk of the emissions comes from trucks, buses and ships. The California Air Resources Board has already adopted or is in

Q-1

A discussion of the MSCP and the Natural Habitat Planning and Open Space Conservation Programs of other jurisdictions in San Diego County is presented on pages 3.8-22 through 3.8-26 in the Land Use chapter of the EIR. In addition, much of the Biological Resources section of the EIR (pages 3.3-1 through 3.3-33 and Figure 3.3-2) is based on compliance with MSCP policies. The commenter is incorrect in stating the City's MSCP Subarea Plan mitigates "for all future biological impacts in and outside of the MSCP preserve, with the exception of a species listed after the MSCP was approved." As stated in Section 3.3, "Pursuant to the City's MSCP permit, the City of San Diego has incidental "take" authority over 85 rare, threatened and endangered species. This means that the City may incidentally impact these species without additional state or federal approval or permits. This "take" authority is used by City departments for public projects and is also conferred to third parties (e.g., private developers) who receive City of San Diego development permits. Because "take" authority is granted locally, City and private development projects are spared the significant time and financial costs of state and federal wildlife agency permitting processes. The MSCP incidental "take" permit, in accordance with the Implementing Agreement (IA) does not preclude impacts to habitat inside or outside the Multi-Habitat Planning Area (MHPA). Project level impacts would be required to mitigate in accordance with the City's Biology Guidelines, MSCP, and ESL regulations.

Q-2

The PEIR does not rely on the implementation of programs and regulations to mitigate impacts. As stated in the document, compliance with standards is required of all projects and is not considered to be mitigation. It is possible that for certain projects, adherence to regulations may not adequately address all impacts. Therefore, such projects would require additional measures to avoid or reduce significant impacts.

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the process of implementing emission standards for both existing and new trucks, buses, construction equipment and other sources of diesel emissions which are projected to reduce diesel emissions below today' level by 85%. *The CARB diesel regulations are the mitigation measures which will mitigate impacts from particulate matter as well as nitrogen oxides (NOx).* The impacts are actually being over-mitigated as emission levels decrease and the air quality improves, even in the face of population growth.

Q-3

Biological Resources

The Draft PEIR states that "the impact to biological resources remains significant and unavoidable." This conclusion is incorrect and inconsistent with the EIR prepared for the Land Development Code and the Multiple Species Conservation Program which concluded that direct, indirect and cumulative impacts to both MSCP covered species and non-covered species are mitigated throughout the MSCP Subarea Plan, in and outside of the preserve, by the implementation of the MSCP and the Environmentally Sensitive Lands Regulations. The Subsequent EIR prepared for the brush management regulations reaffirmed this determination. Presumably, the General Plan Update and subsequent Community Plan Updates will not consist of any reductions to the MSCP preserve or modifications to the Environmentally Sensitive Lands regulations which would reduce biological mitigation requirements. Therefore, no new, previously unanticipated biological impacts should result from the implementation of the General Plan and no new unmitigated impacts to biological resources should occur.

Q-4

It is essential that the General Plan PEIR reaffirm this conclusion. Otherwise, the PEIR will be inconsistent with the EIR for the MSCP and the Land Development Code, invalidating those EIR's and jeopardizing the MSCP itself. The impact analysis and cumulative impacts section of the General Plan PEIR need to be revised to be consistent with the MSCP/LDC EIR.

Geologic Conditions

It is not clear how the determination of significance has been made. Building and grading standards in conjunction with soil testing and geologic reporting are more than adequate to eliminate the risk of slope failure as a result of new construction. Therefore, the determination of significance is unsubstantiated.

Q-5

Historical Resources

The PEIR states that "implementation of the General Plan could result in significant impacts to historical resources...through substantial alteration to...landscapes... It is not clear how a landscape can be considered a historical resource. This characterization is overly broad and confusing for the discussion on historical resources. Landscapes may contain historical sites or buildings, but they do not in and of themselves constitute historical resources as historical resources have been defined by CEQA.

Q-6

Q-3 Particulate Matter (PM) emissions during construction are typically more than 90 percent from fugitive dust generated from site preparation, excavation and grading, and truck operation on unpaved and paved roads. A very small fraction of construction PM comes from diesel engine exhaust. If forecast PM emissions on a project would exceed the City CEQA significance limits, mitigation would be required. The commenter is correct in stating that upgrades in construction equipment that result from EPA and ARB measures to reduce NOx and PM emissions from diesel engines will also reduce construction PM emissions. However, as noted above, this reduction would have a very small effect on the reduction of total PM construction emissions on a typical project.

Q-4 The comment "the EIR for the LDC and MSCP concluded that direct, indirect, and cumulative impacts to both MSCP covered species and non-covered species are mitigated throughout the MSCP Subarea Plan in and outside of the preserve, by the implementation of the MSCP and the Environmentally Sensitive Lands Regulations" is not completely correct. In fact, non-covered species are not always mitigated through the MSCP. Wetland impacts are also not mitigated through the MSCP. The EIR has been revised to clarify this issue. Furthermore, the City does not concur with the opinion that the adoption of the General Plan Update EIR would invalidate the LDC and MSCP EIRs, or jeopardize the MSCP itself. See responses Q-1 and Q-2.

Q-5 The commenter is correct in stating that regulations and procedures have been implemented by local, state and federal agencies to reduce the effects of such geologic hazards as earthquakes and landslides. These measures are described in Section 3.4.1 and include the City's use of the San Diego Seismic Safety Study as a guideline to correlate the acceptable risk of various land uses with seismic (and geologic) conditions identified for the site. In addition, slope instability or erosion problems in the City are primarily regulated through the California Building Code (CBC) and the City's grading ordinance. However, as described in Section 3.4.3, numerous structures throughout the City pre-date the most recent and more stringent seismic and geologic regulations currently in place, and expose people to increased risk. Although

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the City maintains regulations to identify potential hazards from unreinforced masonry bearing wall buildings, the regulations are largely voluntary and exempt many residential structures. Until those structures are replaced or substantially rehabilitated, existing risks from seismic and geologic hazards will remain. The Draft General Plan contains policies in the Public Facilities, Services and Safety Element which address geologic hazards and call for maintaining geologic hazard narrative and mapped information, adhering to state laws for seismic and geologic hazards, abating structures that present dangers during seismic events, and consultation with qualified geologists and seismologists on development projects. In addition, although rare, staff has required measures beyond adherence to regulations because the City's professional geologists have determined that additional protective measures are required. These measures are considered mitigation, and it is possible that future projects may also require additional protective mitigation measures. Since the Draft General Plan does not identify specific development projects and apply mitigation measures specific to the seismic or geologic conditions of those project sites, the potential for a significant and unavoidable impact cannot be assured at this program level of environmental analysis.

- Q-6 The City of San Diego Land Development Code Section 113.0103 does in fact recognize the existence of historical landscapes. Historical landscape is defined as "... a modified feature of the land that possesses historical, scientific, aesthetic, cultural, or ethnic significance to a neighborhood or community" as a historical resource. A historical landscape would meet the definition of a historical resource under CEQA.

Hydrology and Water Quality

The PEIR states that "significant unavoidable impacts related to absorption rates, drainage patterns, or rates of surface runoff remain." This conclusion is unsubstantiated and incorrect. New development is already required to comply with stringent water quality Best Management Practices during the construction phase and post construction phase. The new RWQCB Permit contains a lot of new standards addressing the impacts which this EIR states are unavoidable. The GP PEIR should reference these new standards as the mitigation requirements for new development as it relates to hydrology and water quality impacts. Existing hydrology and water quality impacts are also covered by the new RWQCB permit. As part of the permit, the city will be required to reduce pollutant loads from existing development. Therefore, these impacts will be mitigated. The GP PEIR should use the permit conditions as the framework for mitigation of these hydrology and water quality impacts.

Land Use

A reference to "physically dividing communities" is made in the discussion regarding land use impacts. Please explain what this is referring to and how this constitutes a land use impact.

Noise

The PEIR states that "although the General Plan PEIR identifies Mitigation Framework Measures to reduce these program level impacts, the degree of impact and applicability, feasibility, and success of these measures cannot be adequately know for each specific project...Therefore, the program level noise impact...remains significant and unavoidable." It is difficult to conceive of a project that would be allowed to occur with significant noise impacts that are not mitigated by the project (noise walls, sound insulation, berms, etc.). *The PEIR should address noise impacts then as mitigated by the city's noise ordinance and the "Mitigation Framework Measures."* If individual projects are unable to reduce noise impacts to below a level of significance, those projects will be required to address those specific impacts, the relative level of significance of those impacts, and the context within which they would occur.

Population and Housing

To our knowledge, there is no CEQA guidance or requirement for that matter to analyze the displacement of people as an environmental impact. An analysis of such an impact is highly speculative in nature and lacks a clear connection with identifiable physical environmental impacts, the purpose and limit of CEQA analysis. Therefore, this section does not belong in the General Plan PEIR without appropriate guidance of if and how this issue should be addressed.

- Q-7 As stated in the PEIR, compliance with standards is required of all projects and is not considered to be mitigation. Therefore, the permit conditions would not be included as the framework for the mitigation. The GP PEIR references and describes the new permit but not the standards since it is anticipated that the standards will be updated throughout the life the General Plan. The reason the PEIR concludes that impacts are considered significant and unavoidable at this program level is that it cannot be said with certainty that adherence to water quality standards will completely eliminate significant water quality impacts in all cases. While not likely, it is possible that some future projects may require measures beyond water quality standards, and such measures would be considered mitigation. Until project details are known and appropriate mitigation applied, the potential for significant impacts remains unavoidable.
- Q-8 The reference to "physically dividing communities" was taken from the City's Significance Determination Thresholds and is cited within CEQA's Guidelines for land use and planning impacts (Appendix G). In addition, CEQA Section 15131 (b) describes that the social effects of constructing a new freeway or rail line dividing a community would be the basis for determining that the physical effects of the construction may be significant.
- Q-9 The City noise ordinance addresses permissible noise levels by land use type and time of day. The noise ordinance does not regulate transportation (vehicular, rail, or aircraft) noise. While the Mitigation Framework has the ability to provide noise attenuation for future uses and potentially limited amount of existing noise sensitive uses, it cannot provide mitigation for all existing noise sensitive uses that could be impacted by an increase in transportation noise. In addition, ministerial projects are not subject to CEQA and are not subject to mitigation measures. As the commenter has noted, individual projects may not be able to reduce noise impacts to below a level of significance, and such projects would be required to address the specific impacts, the relative level of significance of those impacts, and the context within which they would occur.

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to below a level of significance, it must be concluded that at this program level of review, that future noise impacts are considered significant and unavoidable.

- Q-10 This topic is especially appropriate for an environmental document covering potential issues related to the development, redevelopment, or infrastructure expansion within the entire City of San Diego which has the potential to displace substantial numbers of people over time. However, the PEIR does not analyze the displacement of people as an environmental impact, and in fact, it states “The displacement of substantial numbers of people would occur over time, and may be considered a social and economic impact, but not a physical CEQA impact” (page 3.12-3, third paragraph). The focus of CEQA analysis is on physical changes to the environment. A significant impact could occur with the construction of replacement housing. See CEQA Guidelines Appendix G, which includes this topic as part of the initial study checklist.

Transportation/Traffic/Circulation/Parking

Q-11

The PEIR should address the Transnet extension (roads, freeways and transit), development impact fees, and public facilities financing plans as major components of the city's mitigation strategy for transportation, traffic, circulation, and parking. The PEIR should build off of the framework of these existing strategies rather than ignore them.

Page 2-50, Housing Element, Implementation Program

Q-12

The Housing Commission has an approximately \$250-million annual budget for affordable housing programs. This budget and the various affordable housing programs which the Housing Commission is responsible for implementing and which are discussed in detail in the Housing Element and integral to the city's affordable housing strategy should be discussed in this document in the context of facilitating affordable housing opportunities in conjunction with the implementation of the General Plan.

Global Warming

Q-13

Page 5-18: The PEIR states that there are no adopted federal plans or regulations addressing global warming. This is incorrect. The country's energy strategy, which includes the construction of new nuclear power plants, is a major part of the country's strategy toward reducing the impacts of global warming. The federal standards for fossil fuel power plants are also part of the strategy to reduce global warming. Funding of transit is yet another part of the strategy to reduce global warming.

Q-14

At the state level, the PEIR should discuss the governor's solar initiative and the process underway to develop green building standards. Water conservation plans, local and state funding and planning for transit, and environmental habitat preservation and restoration are also part of the strategy to reduce global warming. Global warming is largely a phenomenon of our existing approach to energy and transportation. **Population growth itself does not necessarily imply increases in GHG emissions, especially as our energy and transportation solutions change.** To be sure, the General Plan and the city are largely powerless to significantly reduce GHG emissions on a global scale. For that matter, GHG emissions will continue growing, or they may decrease or be eliminated entirely, completely independent of whether the city implements a new General Plan or not.

Q-15

Ironically, the city's failure to adequately accommodate new housing inside the city's boundaries has led to major housing growth outside the city and outside the county in Riverside and now Imperial County, which has dramatically increased GHG emissions in the San Diego Region and San Diego Air Basin as the city's workers commute in and out of the city. **Rather than being a potential source (indirect or otherwise) of increased GHG emissions, the city's General Plan Update is instead a comprehensive strategy to reduce future GHG emissions in the San Diego Region. The General Plan PEIR should not shy away from proclaiming this.**

Q-11

The PEIR states that, "Revenue sources for planned improvements are 'reasonably expected' to come from state, federal, Trans Net and local revenue sources." The transportation analysis included considered the roadways, freeways and transit improvements that have been added to the regional network due to the Transnet extension. As development occurs and community plans are updated, the infrastructure paid for by development impact fees, facilities benefit assessment fees and/or fair share contributions are used for the construction of the needed facilities. Development impact fees and facilities benefit assessment fees are components of the City's strategy for transportation improvements. However, they are existing City requirements, and their implementation is not considered to be mitigation. Fair share contributions may be considered mitigation to render a project's contribution to a significant cumulative impact to below a level of significance (CEQA Guidelines Section 15130(a)(3)).

Q-12

The PEIR Project Description has been revised to further describe the Housing Commission's role in implementing Housing Element programs.

Q-13

The City agrees that federal policies involving the construction of new nuclear power plants, standards for fossil fuel power plants, and funding for transit could, at least to some extent, reduce the amount of GHG emissions that cause global warming. According to the U.S. Environmental Protection Agency (EPA), "the United States government has established a comprehensive policy to address climate change" that includes slowing the growth of emissions; strengthening science, technology and institutions; and enhancing international cooperation. To implement this policy, "the Federal government is using voluntary and incentive-based programs to reduce emissions and has established programs to promote climate technology and science." The Federal government's goal is to reduce the greenhouse gas intensity (a measurement of greenhouse gas emissions per unit of economic

activity) of the American economy by 18 percent over the 10-year period from 2002 to 2012. In addition, EPA administers multiple programs that encourage voluntary GHG reductions, including ENERGY STAR, Climate Leaders, and Methane Voluntary Programs. Details about the government's climate policy are available at www.epa.gov/climatechange/policy/index.html.

- Q-14 The City agrees that the California Solar Initiative (CSI) (i.e., Million Solar Roofs Program) and the Green Buildings Initiative (Executive Order S-20-04) are important parts of the state level effort to combat global warming. As part of the CSI, the state has set a goal to create 3,000 megawatts of new solar-produced electricity by 2017 through the provision of incentives to existing commercial, industrial and agricultural properties and to both existing and new residential homes. The Green Building Initiative (GBI) sets a goal of reducing energy use in public and private buildings by 20 percent below 2003 levels by 2015. A brief description of each initiative has been added to Section 5.2 of the Final EIR.

The City also agrees that water conservation plans, local and state funding and planning for transit, and environmental habitat preservation and restoration are important components of a strategy to address GHG emissions and global warming impacts and has identified comprehensive policy guidance in the General Plan to reduce water consumed by future development; focus new development into mixed-use transit-supportive villages; and implement the City's Multiple Species Conservation Program (MSCP) Subarea Plan. Section 5.2 (page 5-18) of the DEIR explains that global warming is caused by increasing emissions of GHGs primarily associated with the burning of fossil fuels, deforestation, agricultural activity and the decomposition of solid waste. Although population growth does not necessarily imply increases in GHG emissions, Section 5.2 of the DEIR compares the existing level of GHG emissions within the City to projected levels in 2020 and 2030 under the General Plan and concludes that GHG emissions associated with population growth and development that occurs in accordance with the General Plan is expected to result in

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increased emissions of GHGs, largely due to increased Vehicle Miles Traveled (VMT), as well as increased energy consumption and waste generation. The comment is correct that the efforts of the City, including implementation of the General Plan, cannot significantly reduce GHG emissions on a global scale. However, the City has determined that, under CEQA (Public Resources Code § 21083(b)), the incremental increase in GHG emissions associated with development that occurs in accordance with the Draft General would cause a cumulatively considerable incremental contribution to the significant cumulative (worldwide) impacts of global warming when viewed in connection with worldwide GHG emissions as stated in Section 5.2 of the DEIR.

- Q-15 The comment about the GHG emissions associated with inter-city and inter-county commuting is noted. A major policy of the General Plan is to focus future development in the City into walkable, mixed-use transit-supportive villages, which would increase opportunities for workers to live near their jobs and/or commute on public transit, bicycle, or foot. Although the comprehensive policy guidance of the General Plan and the implementation measures identified in the Action Plan would lessen the incremental increase in GHG emissions associated with future development, GHG emissions would still increase under implementation of the General Plan and cause a cumulatively significant impact under CEQA as discussed in the response to comment Q-14 and Section 5.2 of the DEIR.

COMMENTS

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Q-16

Thank you for this opportunity to comment on the Draft PEIR. We encourage the city to revise the PEIR so that it is consistent with MSCP/LDC EIR and to re-evaluate the impact analyses for many of the issue areas to take into account existing programs and regulations which will mitigate the impacts to below a level of significance.

Very truly yours,

Scott C. Molloy
Public Policy Advocate

Q-16 Staff believes that the General Plan EIR is not inconsistent with the MSCP and LDR environmental documents. Existing programs and regulations are acknowledged and cited throughout the document; however, adherence to these regulations and programs is mandatory, and is not considered mitigation. While it is expected that most future projects will either have no impacts or will be able to mitigate impacts to below a level of significance, it is highly likely that some projects will result in significant unmitigated impacts. Because it is not possible to foresee the details of future projects, it cannot be said with certainty that there is no potential for significant unmitigated impacts in any of the issue areas, and staff has therefore concluded that at this program level of review, future impacts must at this point be considered significant and unavoidable.

Environmental Health Coalition

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June 11, 2007

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City of San Diego Development Services Center
1222 First Ave., MS 501
San Diego, CA 92101

VIA: E-mail and Hand Delivery

Re: Project number 104495, San Diego General Plan Update Draft PEIR

Dear Ms. Mirrasoul,

Environmental Health Coalition (EHC) would like to submit the following comments on the City of San Diego's Draft Program Environmental Impact Report (DPEIR) for the General Plan Update. EHC is a 27-year-old community organization with over 3000 members working to promote environmental and social justice throughout San Diego.

EHC has been very supportive of key sections and policies in the draft General Plan Update (GPU) that promote environmental justice, protect environmental health and enhance sustainability. While the DPEIR for the GPU is strong in some ways, it fails in several areas. EHC's comments and concerns are detailed below. We first provide overall conclusions, followed by specific suggestions for the environmentally superior alternative, the analysis of the industrial collocation/conversion policy, the air quality analysis, the health and safety analysis and the population and housing analysis.

Overall Conclusions

First and foremost, CEQA guidelines sec. 15097(b) require that the EIR for a general plan contain a monitoring and reporting plan that includes policies and mitigation measures. The DPEIR contains an apparently unenforceable mitigation framework without specifying how policies and mitigation mentioned will be monitored and reported to the public. **In order to comply with CEQA and avoid impacts, the final PEIR must create a Mitigation Monitoring and Reporting Program (MMRP) listing what is contained in the current mitigation framework and the additional policies, mitigation measures and changes suggested in the remaining sections of this letter.**

R-1

R-1 See response to comment. B-1. Note that CEQA Section 15097 (c) states that, "The public agency may choose whether its program will monitor mitigation, report on mitigation or both."

R-2

Second, EHC strongly supports the clear statement that certification of this PEIR and the GPU will not authorize any specific development project (Executive Summary at 1.0-3 and Project Description at 2-3). We recognize that because of the scope and nature of the GPU, many future impacts cannot be specifically identified or mitigated in this PEIR. However, we are concerned that each area of environmental analysis concludes that the GPU will have significant and *unavoidable* impacts.

Certainly the implementation of the GPU will have significant impacts, but **the city can and must make every effort to ensure that impacts will be avoided to the maximum extent possible** through GPU policies, implementation of the environmentally superior alternative, future CEQA review of community plans and development projects, mitigations and other city programs. Impacts are not inherently unavoidable, and this

R-3

PEIR should not allow future community plan updates and development projects to impose impacts because the program-level analysis has deemed them to be unavoidable. This must be clarified in the final PEIR and a new MMRP must specifically identify—and add, where necessary—GPU policies, program-level mitigations and other programs that will assure the public that impacts will be eliminated or avoided to the maximum extent possible.

Environmentally Superior Alternative

EHC supports the analysis of the Enhanced Sustainability alternative and strongly agrees that it represents the environmentally superior alternative. We believe that this alternative must be selected and implemented to ensure the best possible future for the city, its residents and the environment. In fact, EHC recommends specific changes to the GPU and the PEIR in order to implement and enhance the superior alternative.

R-4

Even if this alternative is not enacted, the PEIR must specifically and aggressively address and mitigate the global warming contributions of the development to be allowed under the GPU. Such requirements were recently outlined in a May 8, 2007 letter Attorney General Edmund G. Brown sent in response to a single refinery expansion project. The letter states:

Because any increase in emission will make it more difficult for the State to achieve the greenhouse gas reductions required by Assembly Bill 32... the FEIR must evaluate global warming impacts and discuss feasible alternatives and mitigation measures to avoid or reduce those impacts.¹

R-5

The primary vehicle for accomplishing this mandate to reduce greenhouse gas and global warming impacts would be the creation of an **Energy Element** within the GPU. The California Energy Commission (CEC) has recommended that, as part of AB32, local

¹ Letter from Attorney General's Office to Maureen Parkes, Contra Costa County Planning Commission, Comments on the ConocoPhillips Rodeo Refinery Expansion Project and Final Environmental Impact Report (File # LP052048), May 8, 2007.

R-2 &
R-3

As stated in the PEIR, no specific projects would be authorized by the adoption of the General Plan. Subsequent projects, including community plan updates, would be required to undergo separate environmental review, and all feasible mitigation measures would be required per CEQA Section 15126.4.

R-4

As discussed in the response to comment B-1, the City has incorporated the revised policy language of the General Plan to establish comprehensive policies to reduce GHG emissions and has incorporated them into the MMRP to ensure they are imposed on future development. Pursuant to CEQA Guidelines §15097(b), “(t)he monitoring plan (for a general plan) may consist of policies included in (the) plan-level document”. As also described in the response to comment B-1, the General Plan Action Plan identifies measures to implement the policies of the General Plan, including the policies that reduce GHG emissions associated with future development.

R-5

The City acknowledges that the California Energy Commission (CEC) has recommended in the 2006 Integrated Energy Policy Report that the state legislature require local governments to include an energy element in their general plans. As of this writing, the state legislature has not adopted legislation requiring local governments to include an energy element in their general plans. Although the General Plan does not include an energy element, the Conservation Element, Section I, Sustainable Energy, addresses energy issues. The City agrees with the comment that many of the Conservation Element policies could make up the core of an energy element, such as policies that improve energy efficiency in the transportation sector and in buildings and appliances, employ sustainable or “green” building techniques and self-generation of energy using renewable energy sources, and minimize energy use through site design, building orientation, and tree-planting. However, the creation of a new energy element

governments be required to include Energy Elements in their General Plans.² Many of the energy and sustainability-related policies contained in the GPU's current Conservation Element could make up the core of an Energy Element, with additional and enhanced policies to implement the environmentally superior alternative.

R-6

Specifically, renewable energy policies and building construction standards should be added and enhanced, and subsequently reflected in the final PEIR's MMRP. In the 2007 Update of the Integrated Energy Policy Report (IEPR), the CEC focused on two issues: 1) progress of meeting the state requirement to generate 20% of the state's electricity with renewable energy and 2) clean energy development and energy saving opportunities arising from sustainable land use planning.³ Several suggestions in this vein are contained in the memo EHC sent to the city's GPU team dated May 21, 2007.

R-7

Additionally, the GPU Energy Element should create new policies requiring all new construction and redevelopment to meet new, higher energy efficiency standards and to require a percentage of buildings within a given construction project to use solar technologies for some percentage of its demand. At a minimum, all building should be required to meet its own peak demand on-site. Standards should be comprehensive and based on Architecture 2030 goals already adopted by the AIA and the Mayor's UN conference and existing green building standards.

Such standards would make the city compliant with state direction on climate change. In addition to the direction noted above, the CEC has stated that decreasing fuel use alone will not be enough to meet greenhouse gas emission targets and that development strategies such as increasing on-site solar, distributed generations, and energy efficiency in design would produce significant energy savings.⁴ Likewise, the California Public Utilities Commission (CPUC) is expecting to promote construction of "net-zero energy" buildings that use solar cells and other technologies. The CPUC is targeting buildings because they account for 40 percent of the state's electricity use.⁵

Industrial Collocation/Conversion policy

EHC is very pleased to see that the collocation policy is referenced specifically as a General Plan component that will reduce air quality, health and safety and land use impacts. It is entirely appropriate that this policy is referenced as mitigation, and should continue as a key component of the MMRP that must be developed for the final PEIR. This approach should be a model for other GPU policies that will or could reduce impacts. However, there are a few areas where the analysis of the collocation policy must be enhanced.

² IEPR Update, CEC, January 2007, p. 94.

³ IEPR, CEC, January 2007, p. E-1.

⁴ IEPR Update, p. 73.

⁵ California leads energy efficiency, Tri-Herald Tribune, Ian Hoffman, 06/06/2007.

would not make energy-related policies have more influence than they would have as a part of the Conservation Element. The General Plan is a comprehensive document covering many subject areas. The elements, or chapters, organize the subject areas. Per state law, all General Plan elements have equal legal status; no one element is subordinate to another. The Conservation Element policies, and other policies of the General Plan previously discussed in the response to comment B-1, such as policies addressing recycling in all residential and non-residential buildings and promoting water conservation and reducing water-related energy consumption, would result in enhanced sustainability measures discussed in the enhanced sustainability alternative on future development.

R-6 See response to comment B-1.

R-7 See response to comment R-4. In addition, the Conservation Element introduction has been edited to include a table which lists climate change issues by subject area. A list of policies related to energy efficiency is provided on this table. Refer to Conservation Element Sections A, F and I, and Urban Design Section A for policies which promote energy efficient design and development.

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- R-8** 1. As discussed below, the existing conditions sections do not provide a level of detail that allows communities to assess the true potential impacts of GPU implementation. The generally comprehensive discussion of the collocation policy in various parts of the DPEIR should be enhanced by adding detail to the existing conditions text of at least the air quality, health and safety and land use sections. Descriptions of the current impacts in communities where industries and other pollution or hazardous materials sources are mixed with or in close proximity to sensitive receptors will greatly increase the public's understanding of the benefits of the collocation policy.
2. One major qualm that EHC has had about the collocation policy is that it does not address industrial facilities being sited near sensitive receptor uses, or adjacency of industrial and non-industrial zones. We are therefore delighted to see that the proposed mitigation for health and safety includes the use of the collocation/ conversion suitability factors for future decisions around the siting of nonresidential employment uses. However, in order to fully protect public health, similar language must be incorporated into the mitigations for air quality. Mitigations under land use should also reference this strategy in developing future zoning under community plan updates.

Specifically, the final air quality MMRP should be amended to include the following language:

- R-9** • Development that could significantly impact air quality, either individually or cumulatively, would be evaluated using the collocation/conversion suitability factors, and would receive entitlement only if conditioned with all reasonable mitigation to avoid, minimize or offset the impact. The city would evaluate the project using the collocation/conversion suitability factors to analyze specific proposals.
- R-10** • Future projects locating non-residential employment uses in proximity to residential development or locating residential development in proximity to non-residential air pollution sources including industries, freeways, major roadways or heavily congested intersections must be sited and designed in a manner that reduces or avoids potential impacts on sensitive receptors.
- R-11** • As part of the evaluation process for a project or community plan update, the city will require appropriate buffering of sensitive receptors from air pollution sources through the use of open space, zoning or other separation techniques.

Air Quality Analysis

- R-8** The existing conditions section of the DPEIR adequately identifies conditions on a citywide basis for a policy document such as the General Plan. A more detailed level of analysis of existing conditions as you described may be more appropriate at a community plan or project level environmental analysis. The absence of a more detailed existing conditions section does not affect the adequacy of the DPEIR, since adding it only reinforces the need for the mitigation stated in the document.

The new policy will require that potential land use incompatibilities that could result in health risks be analyzed as part of the community plan update or amendment process, and that adequate distance separation be provided between sensitive receptor land use designations and potential sources of hazardous emissions such as freeways, industrial operations, or port facilities (see LU-I.14).

- R-9** The City has considered this comment and has proposed edits to select policies in the General Plan to address the issues raised by this comment. Relevant policies are also included in the MMRP for the General Plan and will be further refined in the Action Plan. These revisions do not substantially change the content or conclusion of the PEIR.
- R-10** See response to comment R-9.
- R-11** See response to comment R-9.

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The Air Quality section of the DPEIR has several flaws that must be corrected in the final PEIR.

1. This section does not adequately describe existing conditions and potential impacts because it analyzes air quality only at the regional level. As stated in EHC's PEIR scoping letter dated 10/2/2006, the document must accurately represent current conditions and potential impacts in San Diego's different communities. The city's different communities are not impacted equally by air pollution as is suggested by the regional level of analysis. In fact, some communities bear a significantly disproportionate burden of air pollution currently and will experience the impacts of the GPU's implementation differently from other communities.

R-12

An adequate analysis can be achieved by adding to the section describing "Specific Air Pollutants." The introduction to this section mentions the three air monitoring stations that are located within the city. This should be followed by a review of data from the different stations to paint a picture, at least at a sub-regional level, of how different areas of the city are impacted by pollution. Incidentally, the monitoring station listed as being at 12th Avenue downtown was moved to Perkins Elementary School in 2005 and is now located at the corner of Main Street and Sigsbee Street in Barrio Logan. This should be corrected in the final PEIR. A more detailed discussion of sources of each specific pollutant and which communities have a greater concentration of these sources and pollutants should then be included in the subsequent subsections.

R-13

2. In section 3.2.3, in discussion of the first threshold of significance, the DPEIR states that "Encouraging and creating incentives for energy-efficient design in new developments and promoting the reduction of industrial emissions through use of least-polluting cost-effective processes and technologies will benefit the region's air quality." This is cited along with other policies and programs discussed previously as insurance that the GPU will not conflict with the Air Quality Management Plan. However, no specific GPU policies are noted to back up this claim. While the GPU contains policies encouraging energy-efficient design that should be noted, it does not contain policies promoting least-polluting technologies for industry. Either this claim should be removed, or, preferably, the GPU should add policies to encourage reduction of industrial emissions and use of least-polluting technologies and cite them specifically in this section of the final PEIR and the MMRP.

R-14

3. Also in section 3.2.3, the DPEIR identifies industrial and non-industrial mixed use and congestion at large intersections as two causes of impacts on sensitive receptors that go beyond the second threshold of significance. These are certainly not the only causes of significant impacts, and one cause erroneously absent is freeways and major roadways. Many studies over the past decade have overwhelmingly shown that current levels of air pollution associated with traffic on freeways and major roadways have significant and unacceptable health

R-15

R-12 The comment is correct that local air quality conditions may be greater than regional levels of certain pollutants. This is caused by the types of land uses and traffic conditions in these communities. See response to comment R-13.

R-13 In reply to the request to compare air quality results from each of the City's monitoring locations, data for the last three years at stations within the City and also from Chula Vista were reviewed. Reviewed were two existing locations in Downtown (Union Street) and also at Barrio Logan (1110 Beardsley Street), which began operation in early 2005, and one former East Village location (12th Avenue) that operated in 2004 and early 2005, Overland Avenue in Kearny Mesa, and Otay Mesa-Paseo International. The results for the three-year periods were as follows

- Daily Maximum 8-hour Carbon Monoxide Averages. No exceedances of National or State Standard.
- Daily PM10 Measurements. Beardsley Street – five exceedances of State Standard in 2005 and 11 in 2006; no exceedance of National Standard. 12th Avenue – nine exceedances of State Standard in 2004 and one in 2005; no exceedance of National Standard. Otay Mesa – 30 exceedances of State Standard in 2004, 29 in 2005, and 27 in 2006. Overland Avenue – No exceedances of State or National Standard. Chula Vista – two exceedances of State Standard in 2005 and 2006; no exceedance of National Standard.
- Daily Maximum Hourly Nitrogen Dioxide Measurements. No exceedances of State Standard; no National Standard specified.
- Daily Maximum 24-Hour Sulfur Dioxide Averages. No exceedances of State or National Standard.

R-14 The City does not have the jurisdiction or expertise to regulate stationary sources of air pollutants, given the various types of pollutants and the technical knowledge required to determine "least-polluting cost-effective technologies." Instead, a more practical approach is to require sufficient separation of known or

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potential emission sources from residential and other sensitive receptor uses as addressed in the response to Comment R-8. A new Policy LU-I.14 has been added to the Environmental Justice section of the Land Use and Community Planning Element to state that potential land use incompatibilities that could result in air quality health risks be analyzed as part of the community plan update or amendment process and that adequate distance separation be provided between sensitive receptors and potential stationary and mobile sources of hazardous emissions.

R-15 See response to comment R-8.

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impacts on sensitive receptors within up to 1500 feet. As in the case of large intersections, the GPU will likely increase these impacts and create or exacerbate another kind of "hot spot" around certain routes or sections of freeway.

R-16

The final PEIR not only must add this kind of information on freeways, but must provide reference to policies in the GPU and add to the MMRP in order to avoid or minimize the impacts. EHC has suggested additional language for policy LU-I.14 (as presented in our May 21, 2007 memo to the city's GPU team) that would promote the creation of separation distances around freeways and other sources of air pollution and hazardous substances. This language must be adopted and referenced in the final PEIR.

4. Additionally, the MMRP should be revised as suggested in the above comments on the collocation policy to protect sensitive receptors from air pollution sources, including freeways and major roadways.

R-17

Health and Safety Analysis

The Health and Safety section of the DPEIR also needs additional detail in order to adequately prove its conclusions to the public. In general, this pertains to policies mentioned but not specifically identified or explained. The following are three examples that must be remedied in the final PEIR:

1. In section 3.5.3, under the first threshold of significance, the text references existing city policies and regulations and additional policies in the GPU that will minimize hazardous materials impacts. These policies must be identified and described in a manner that makes it clear to the reader that they will indeed have the stated effect. They must also be included in the MMRP as mitigations.

R-18

2. The same section two paragraphs down claims in reference to zoning that existing and future regulations will reduce land use incompatibilities associated with hazardous materials sources. Again, these regulations must be described in more detail and added to the MMRP to adequately make the case that they will reduce incompatibilities.

R-19

3. Finally, the mitigation framework states that "goals, policies and recommendations enacted by the City" combined with other regulations provide the framework for adequately evaluating future projects. Since many of those goals, policies and recommendations are not specified here or in the preceding text, the public has no basis for trusting the evaluation framework as it stands.

R-20

As mentioned above, EHC supports the mitigation addressing the siting of non-residential employment uses. However, it must be enhanced in a similar manner to the air quality section in order to adequately protect public health and safety. The following point should be added to the final MMRP:

R-16 See response to comment R-8.

R-17 City staff has considered the health risk comments provided and has proposed revisions to the Environmental Justice-Environmental Protection section of the Land Use and Community Planning Element. Additional revisions will be made to action plans and the MMRP to ensure implementation of Policy LU-I.14.

R-18 See response to comment R-9.

R-19 See response to comment R-9.

R-20 See response to comment R-9.

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R-21

- As part of the evaluation process for a project or community plan update, the city will require appropriate buffering of sensitive receptors from sources of hazardous materials through the use of open space, zoning or other separation techniques.

Population and Housing Analysis

R-22

As in other analyses, this section claims that review of future projects for consistency with General Plan policies will help to minimize displacement impacts from future projects. Particularly since displacement is not considered to be an impact under CEQA, the summary of GPU balanced community and equitable development policies is not sufficient to convince the public that these policies will work. However, new draft language has been proposed that would help to affirm this claim and should be reflected in the final PEIR and included as mitigation in the MMRP. Specifically, Land Use Element policy LU-H.1 has been improved (per language proposed by city staff also contained in EHC's May 21, 2007 memo) to encourage new development based on community needs and the provision of affordable housing to offset the displacement of community residents.

Thank you for the opportunity to comment on the Draft PEIR. Please contact me or Paula Forbis at (619) 474-0220 x107 should you have any questions regarding EHC's comments.

Sincerely,



Laura M. Benson
Director, Toxic Free Neighborhoods Campaign

CC: Councilmember Ben Hueso
Nancy Bragado, Program Manager
Jean Cameron, Senior Planner

R-21 See response to comment R-8.

R-22 Comment noted. Section 3.12.3 (Population and Housing, Impact Analysis) of the PEIR has been revised to reflect the revision to Policy LU-H.1 in the Land Use and Community Planning Element.