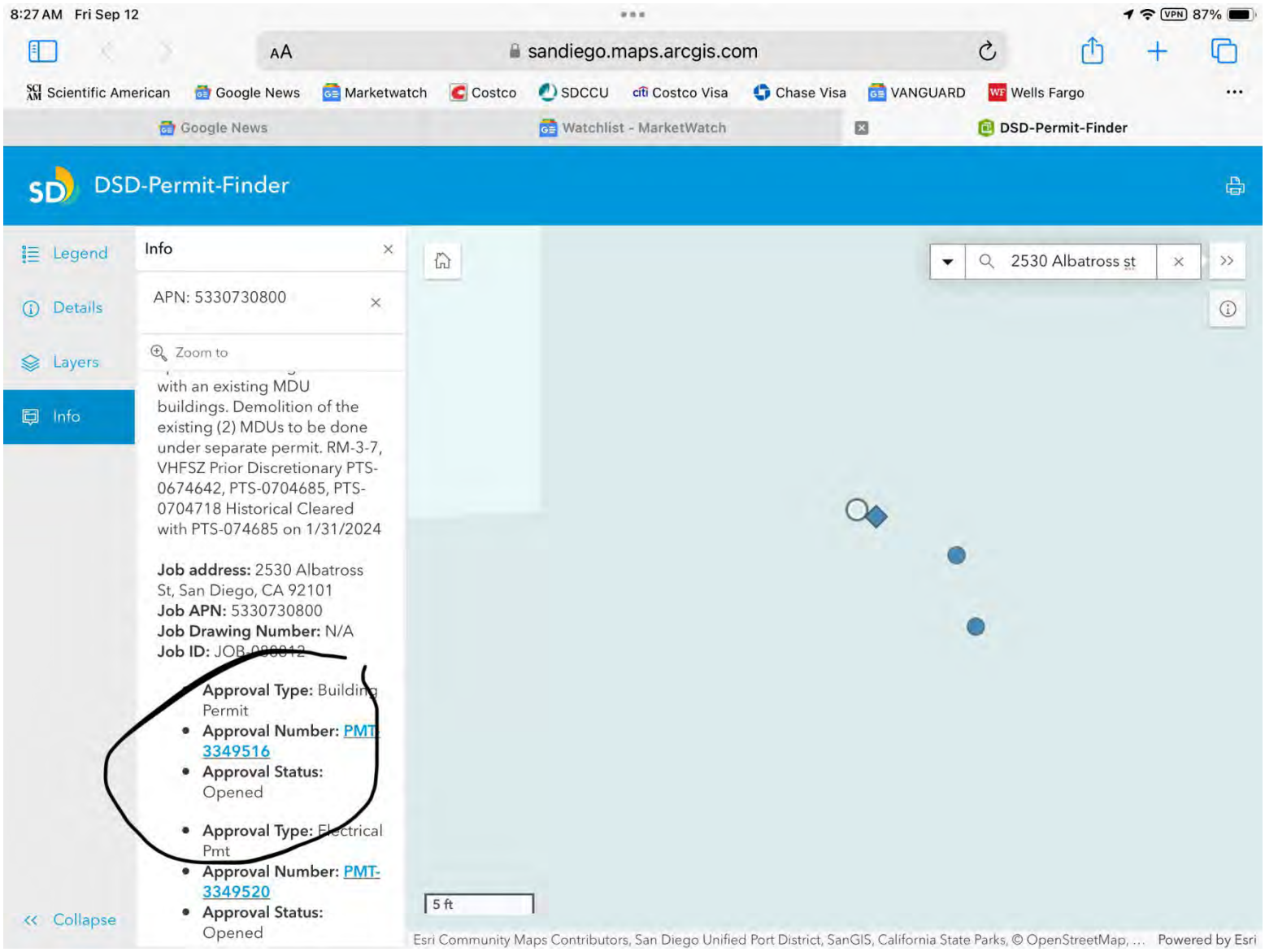
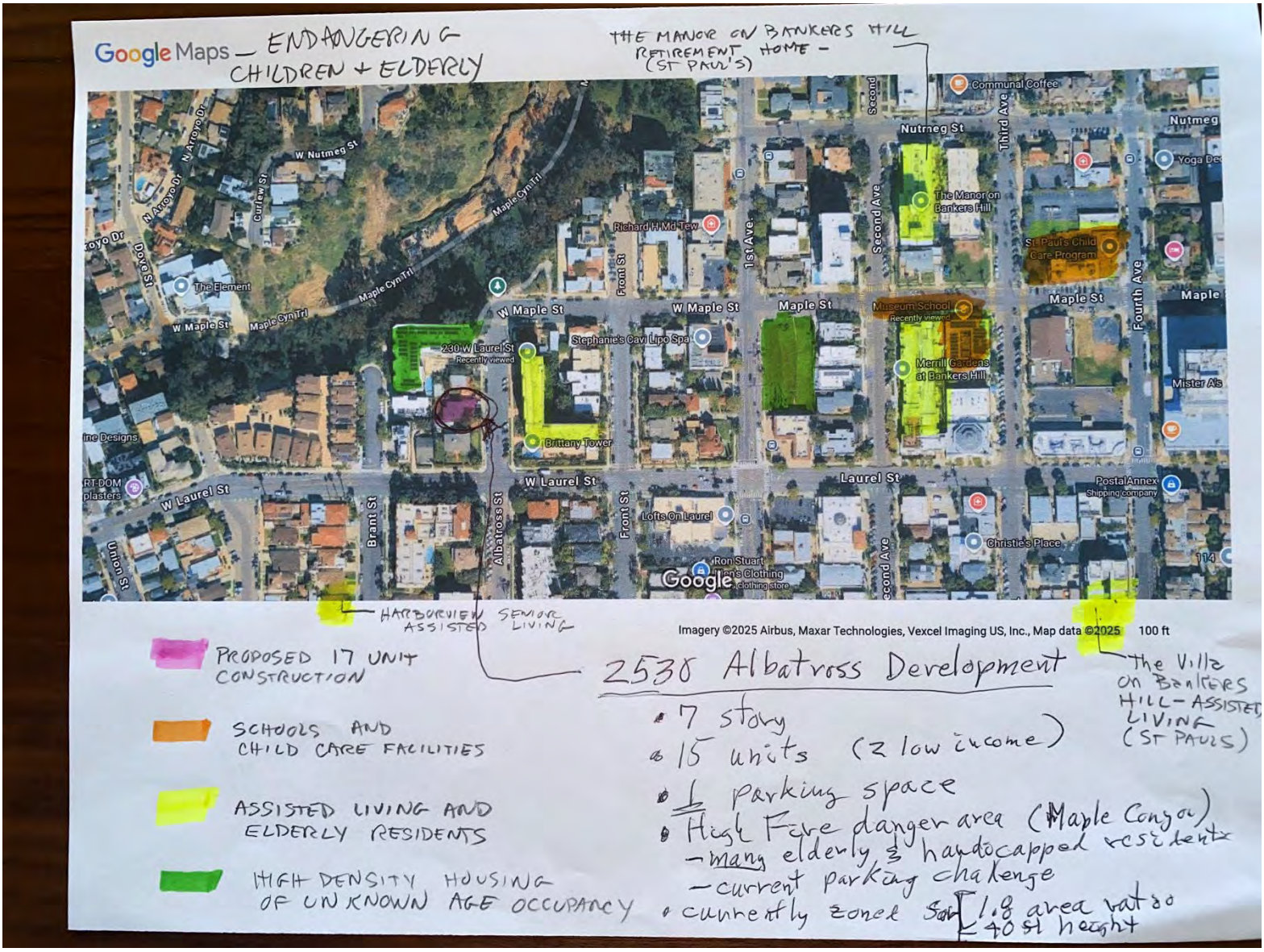
Richard Traci - Attachment 1



Richard Traci - Attachment 2



California Department of Transportation

DISTRICT 11
4050 TAYLOR STREET, MS-240
SAN DIEGO, CA 92110
(619) 985-1587 | FAX (619) 688-4299 TTY 711
www.dot.ca.gov

September 19, 2025

11-SD-8
PM 1.859
Midway Rising
PRJ-1106734
Final SEIR/SCH#2023120451

Ms. Martha Blake
Supervising Project Manager
City of San Diego
Project Management
Development Services Department
7650 Mission Valley Road, MS DSD 1A
San Diego, CA 92108

Dear Ms. Blake:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review of the Final Subsequent Environmental Impact Report (SEIR) for the Midway Rising project located near Interstate 8 (I-8) and Sports Arena Boulevard/West Mission Bay Drive in San Diego. The mission of Caltrans is to provide a safe and reliable transportation network that serves all people and respects the environment. The Local Development Review (LDR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities.

Safety is one of Caltrans' strategic goals. Caltrans strives to make the year 2050 the first year without a single death or serious injury on California's roads. We are striving for more equitable outcomes for the transportation network's diverse users. To achieve these ambitious goals, we will pursue meaningful collaboration with our partners. We encourage the implementation of new technologies, innovations, and best practices that will enhance the safety on the transportation network. These pursuits are both ambitious and urgent, and their accomplishment involves a focused departure from the status quo as we continue to institutionalize safety in all our work.

Caltrans is committed to prioritizing projects that are equitable and provide meaningful benefits to historically underserved communities, to ultimately improve transportation accessibility and quality of life for people in the communities we serve.

We look forward to working with the City of San Diego in areas where the City and Caltrans have joint jurisdiction to improve the transportation network and connections between various modes of travel, with the goal of improving the experience of those who use the transportation system.

Caltrans has the following comments:

Traffic Impact Study
Please see attached redlined comments to the City's Response to Comments of Caltrans letter dated May 5, 2025.

Hydrology and Drainage Studies
- Please provide Grading plans.
  - Include existing condition with 2-foot labeled contours.
  - Provide proposed grading plans with 2-foot labeled contours.
- Please provide drainage plans for any proposed drainage facilities.
  - Include drainage layouts, drainage profile and drainage details on plans.
- Please provide centerline for I-8 with labeled stations.
- Provide Right-of-Way (R/W) lines on all plan sheets with clearly labeled Caltrans and County R/W.
- Include any existing Caltrans facilities around the proposed project site.

Environmental
Caltrans appreciates the opportunity to comment on the Final SEIR. The proposed project will have an impact on Caltrans R/W for traffic circulation support. Therefore, Caltrans has discretionary authority on a portion of the project within Caltrans R/W through the form of an encroachment permit process.

Please contact us when an encroachment permit was submitted as we would like to meet with you to discuss the elements of the SEIR that Caltrans will use for our subsequent environmental compliance. Caltrans would welcome the opportunity to be Responsible Agency under the California Environmental Quality Act (CEQA) and to the continued coordination of our efforts.

There is a small portion within Caltrans R/W (Rosecrans Street under Interstate 5) where the City is proposing off-site improvements (Page 3-55, Figure 3-17 of the Final SEIR). Therefore, this project is a type of projects that will affect Caltrans R/W which will require an encroachment permit.

Right-of-Way
Per Business and Profession Code 8771, perpetuation of survey monuments by a licensed land surveyor is required, if they are being destroyed by any construction.

Any work performed within Caltrans' R/W will require discretionary review and approval by Caltrans and an encroachment permit will be required for any work within the Caltrans' R/W prior to construction.

Additional information regarding encroachment permits may be obtained by visiting the website at https://dot.ca.gov/programs/traffic-operations/ep. Projects with the following:

- require a Caltrans Encroachment Permit
- have completed the Caltrans Local Development Review (LDR) process
- have an approved environmental document

need to have documents submitted for Quality Management Assessment Process (QMAP) process via email to D11.QMAP.Permits@dot.ca.gov. Early coordination with Caltrans is strongly advised for all encroachment permits.

If you have any questions or concerns, please contact Mark McCumsey, LDR Coordinator, at (619) 985-4957 or by e-mail sent to Mark.McCumsey@dot.ca.gov.

Sincerely,

Kimberly D. Dodson

KIMBERLY D. DODSON, GISP
Branch Chief
Local Development Review

Attachment – Redlined Comments on the Response to Comments to Caltrans Letter dated May 7, 2025.

CALIFORNIA STATE TRANSPORTATION AGENCY GAVIN NEWSOM, GOVERNOR

California Department of Transportation

DISTRICT 11
4050 TAYLOR STREET, MS-240
SAN DIEGO, CA 92110
(619) 985-1587 | FAX (619) 688-4299 TTY 711
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May 7, 2025

11-SD-8
PM 1.859
Midway Rising
Draft Subsequent EIR/SCH#2023120451

Ms. Anne Jarque
Senior Planner
City of San Diego
1222 1st Avenue, MS 501
San Diego, CA 92101

Dear Ms. Jarque:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review of the Draft Subsequent Environmental Impact Report (EIR) for the Midway Rising project located near Interstate 8 (I-8) and Sports Arena Boulevard/West Mission Bay Drive in San Diego. The mission of Caltrans is to provide a safe and reliable transportation network that serves all people and respects the environment. The Local Development Review (LDR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities.

S1-1

Safety is one of Caltrans' strategic goals. Caltrans strives to make the year 2050 the first year without a single death or serious injury on California's roads. We are striving for more equitable outcomes for the transportation network's diverse users. To achieve these ambitious goals, we will pursue meaningful collaboration with our partners. We encourage the implementation of new technologies, innovations, and best practices that will enhance the safety on the transportation network. These pursuits are both ambitious and urgent, and their accomplishment involves a focused departure from the status quo as we continue to institutionalize safety in all our work.

Caltrans is committed to prioritizing projects that are equitable and provide meaningful benefits to historically underserved communities, to ultimately improve transportation accessibility and quality of life for people in the communities we serve.

We look forward to working with the City of San Diego in areas where the City and Caltrans have joint jurisdiction to improve the transportation network and connections between various modes of travel, with the goal of improving the experience of those who use the transportation system.

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S1-1: The Midway-Pacific Highway Community Plan Update Revised Final Program Environmental Impact Report (Midway-Pacific Highway CPU PEIR) analyzed environmental impacts associated with the 2018 Midway-Pacific Highway Community Plan (2018 Community Plan), including policies and recommendations related to a range of topics in each section of the 2018 Community Plan, such as multi-modal mobility, urban design, environmental conservation, recreation opportunities, neighborhood character, and historic preservation, in accordance with the general goals stated in the 2008 City of San Diego General Plan, as amended (2008 General Plan). As discussed in Chapter 1.0, Introduction, of the Final Subsequent Environmental Impact Report (SEIR) for the Midway Rising Project (Project), pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15152, the Final SEIR "tiers" from the Midway-Pacific Highway CPU PEIR. Therefore, Final SEIR Section 5.2, Transportation and Circulation, provides a summary of the Midway-Pacific Highway CPU PEIR impact analysis before the Project-specific analysis for each threshold. Mitigation Measures TRANS 5.2-17 through TRANS 5.2-24 were identified as transportation improvements for the 2018 Community Plan and are not mitigation measures identified for the Project.

Caltrans has the following comments:

The environmental document refers to the *Midway-Pacific Highway Community Plan Update Revised Final Program Environmental Impact Report* dated May 2018. The document states for mitigation measures:

S1-1 cont.

"**TRANS 5.2-17** through **TRANS 5.2-24** would be implemented by Caltrans to reduce impacts to freeway segments and ramp meters; however, impacts to Caltrans facilities would remain significant and unavoidable because the City cannot ensure that the mitigation necessary to avoid or reduce the impacts to a level below significance would be implemented prior to occurrence of the impact."

Caltrans is not responsible for mitigation of development project(s) impacts to state Right-of-Way (R/W). It is the responsibility for the development project to mitigate impacts to state R/W.

Traffic Impact Study

- Provide a Queuing Analysis per the "Caltrans Local Development Review Safety Review Practitioner's Guidance Appendix B Freeway Exit-Ramp Queuing Analysis" for the following locations:
  - The I-8 westbound exit to Camino Del Rio West.
  - The I-8 westbound exit to Sports Arena Boulevard.
  - The I-5 southbound exit to Camino Del Rio West.
  - The I-5 southbound exit to Sea World Drive.
- The provided Synchro model does not include the I-5 southbound exit to Camino Del Rio West. There needs to be a queuing analysis per comment #1 above. S1-2
- The Synchro link distance for the segment of Camino Del Rio West between Moore Street and the I-5, I-8 exits is modeled incorrectly showing 4009 feet and incorrect lane configurations. Revise accordingly and there needs to be a queuing analysis per comment #1 above.
- The Synchro link distance of 1500 is incorrect for the I-5 southbound exit to Sea World Drive, and there are not two lanes for the full length of the exit ramp. Revise accordingly and there needs to be a queuing analysis per comment #1 above.
- The I-5 northbound ramps and Sea World Drive intersection needs to be included in the Synchro analysis to accurately model the I-5 and Sea World Drive interchange operations, revise accordingly.
- The Synchro link distance of 2600 is incorrect for the I-8 westbound exit to Sports Arena Boulevard, and there are not four lanes for the full length of the exit ramp.

This is incorrect and the exit ramps being combined does not accurately model the traffic impacts and queuing. The distance from the Camino Del Rio West intersection to the gore point of the I-8 connector is approximately 2,365 feet and the distance to the I-5 southbound main lanes gore point is 3,110 feet. Adding this segment to the I-8 westbound exit does not correctly show the queuing and impacts of the I-5 southbound exit to Camino Del Rio West in relation to the vehicles traveling on the I-5 southbound connector to I-8 eastbound and vehicles traveling on the I-5 southbound main lanes.

S1-2: The Caltrans Local Development Review Safety Review Practitioner's Guidance (Caltrans Guidance) was published in February 2024, after the Project's Notice of Preparation, which was released in December 2023. Therefore, the Caltrans Guidance would not apply to the Project. Also, the Caltrans Guidance was drafted to serve as an internal document for Caltrans staff use when a proposed project is located within or immediately adjacent to Caltrans right-of-way (ROW) and Caltrans has land use authority over a project. In this instance, no encroachment permits or other entitlements are anticipated from Caltrans. However, the below addresses the specific bullet points in comment S1-2.

The first and second bullet points in this comment request a queuing analysis for four off-ramp locations, and states that the Synchro model does not include the intersection of Interstate (I-)5 Southbound Off-Ramp/Camino Del Rio West. The study area for the Local Mobility Analysis (LMA) (Final SEIR Appendix D1) includes all four off-ramp locations listed. The I-5 Southbound Off-Ramp/Camino Del Rio West exit ramp and I-5 southbound exit ramps to Camino Del Rio West were appropriately combined in the model. There are three southbound lanes at intersection #17 representing the single lane for I-5 southbound and two lanes for I-8 westbound. Queues for the four off-ramp locations were analyzed based on results for the following three intersections:

Caltrans Performance Measurement System (PeMS) data could be used or location - based data collection services can be used to determine the speed data

- **Intersection 1:** West Mission Bay Drive/I-8 Westbound Off-ramp
- **Intersection 17:** Camino Del Rio West/Hancock Street (includes I-8 westbound exit to Camino Del Rio West and I-5 southbound exit to Camino Del Rio West)
- **Intersection 32:** I-5 Southbound On-Ramp/Sea World Drive/I-5 Southbound Off-Ramp

Pursuant to Appendix B of the Caltrans Guidance, the requested analysis for evaluating freeway off-ramps is based on speed differentials and is not required because there is no reliable Performance Measurement System data for the study area, and no other sources of speed data by lane are available. The three intersections within the study area that are located at ramp terminus locations for freeways, as listed previously, operate under conditions where queuing already exists on the freeway exit ramps (refer to Table 3-6 of Final SEIR Appendix D1). While queue lengths for these three locations were identified and provided in the LMA, the specific requested queue analysis was not performed.

Queue analysis needs to be performed with an accurate model based on previous comments and to show the differences in queuing from existing to existing plus project.

Per Appendix B of the Caltrans Guidance, the following strategies are recommended (for a potential safety impact), which the Project has already committed to:

- **Transportation Demand Management –** The Project includes a Transportation Demand Management

The third item from Appendix B of the Caltrans Guidance states: "Potential change(s) to the ramp terminal operations including, but not limited to lane reassignment, traffic signalization, signal phasing or timing modifications, turn lane extensions to accommodate the additional project traffic." The LMA did not examine all these mitigations measures and needs to analyze and show if these provide benefits. Furthermore, the response to comments has not addressed the previous comment regarding a potential solution: "A potential solution is providing an extended synchronized and coordinated green time for the traffic signals between Hancock Street and Lytton Street. This could be triggered by placing loops at the freeway exits that are connected to the traffic signals to initiate the green time sequence." This solution could potentially be applied to all the exit ramps with queuing issues.

The model is inaccurate and until revisions are made this statement is not verified

program (Final SEIR Appendix D4) with strategies intended to reduce the Project's trip generation.

- **Active Transportation Investments –** The Project includes a network of multi-modal transportation improvements with additional pedestrian, bicycle, and transit improvements that exceed the City's planned facilities as identified in the 2018 Community Plan.

The LMA analyzed alternative lane configurations for the off-ramp intersections, and determined that lane reassignments or other ramp terminal operation modifications would not be necessary, as the intersections operate at acceptable level of service (LOS) and queue lengths similar to existing conditions which are not anticipated to exceed the existing auxiliary lanes. The Project proposes downstream improvements at the intersection of Camino Del Rio West/Rosecrans Street and Sports Arena Boulevard, per the Midway-Pacific Highway Community Plan Amendment (Final SEIR Appendix D3, Section 2.2) to provide network benefits upstream along Camino Del Rio West.

Thus, the Project is consistent with Caltrans' recommendations regarding transportation strategies to provide separated and protected bicycle facilities and pedestrian improvements, and the additional analysis recommended by Caltrans would not result in further improvements.

Striping is not considered a barrier to a speed differential. The queuing needs to be modeled correctly to show if there are stopped vehicles in the exit ramp queue that are adjacent to main lane vehicles traveling at a speed of 30 mph or greater.

The distance from the Camino Del Rio West and Moore Street intersection is approximately 1,374 feet to the gore point to the I-5 southbound connector. The impacts and queuing to this location are not shown in the analysis.

The distance from the Camino Del Rio West and Moore Street intersection is approximately 2,240 feet to the gore point to the Morena Boulevard connector. The impacts and queuing to this location are not shown in the analysis.

The distance from the Camino Del Rio West and Moore Street intersection is approximately 3,250 feet to the gore point to the I-8 westbound main lanes. The impacts and queuing to this location are not shown in the analysis.

This explanation is incorrect because the queuing needs to determined in relation to adjacent lanes and if there is a speed differential

The distance is approximately 1,090 feet to the gore point to the I-5 southbound main lanes. This explanation is incorrect because the queuing needs to determined in relation to adjacent lanes and if there is a speed differential. Striping is not considered a barrier to a speed differential. The queuing needs to be modeled correctly to show if there are stopped vehicles in the exit ramp queue that are adjacent to main lane vehicles traveling at a speed of 30 mph or greater.

There is not 3,700 feet on an exit ramp separated from the main lanes in terms of speed differential analysis, there is only about 1,090 feet.

The third bullet point in this comment raises a concern regarding a Synchro analysis input for Camino Del Rio West and requests a queuing analysis. The Synchro link distance was measured from the Camino del Rio West & Moore Street intersection back to the painted gore point at the I-8 freeway mainline (approximately 4,000 feet). In reality, the ramp storage extends much longer to the point where the exit ramp trap lanes are differentiated from the mainline (over a mile long for both I-8 and I-5 exit ramps), so the link distance provided in the Synchro model is appropriately used to estimate the queue lengths. Please refer to the previous explanation as to why the specific type of queuing analysis requested was not performed.

The fourth bullet point in this comment raises a concern regarding a Synchro analysis input and requests a queuing analysis. The Synchro link distance was measured from the I-5 Southbound On-Ramp/Sea World Drive/I-5 Southbound Off-Ramp intersection to the painted gore at the freeway mainline (approximately 1,500 feet). In reality, the ramp storage length extends much longer to the point where the exit ramp trap lane is differentiated from the mainline (approximately 3,700 feet). The model is representative of the capacity available for the off ramp in lane miles although the two lanes are not present for the full length of the exit ramp. Please refer to the previous explanation as to why the specific type of queuing analysis requested was not performed. The fifth bullet point in this comment

Appendix N Figure 12 of the Local Mobility Analysis shows 75 PM trips entering the I-5 SB ramps and Sea World Drive intersection from westbound Sea World Drive. These trips have to pass through the I-5 NB ramps and Sea World Drive intersection.

Appendix N Figure 13 of the Local Mobility Analysis shows 130 trips entering the I-5 SB ramps and Sea World Drive intersection from westbound Sea World Drive. These trips have to pass through the I-5 NB ramps and Sea World Drive intersection.

The distance is approximately 1,260 feet for the 4 lane exit ramp, showing a link distance in Synchro of 2,600 feet models a false capacity that is more than double the actual. Then there is approximately 480 feet of 2 lane exit ramp until the gore point with the I-8 eastbound main lanes. This is the point at where the impacts a queuing in relation to a speed differential need to be analyzed

This distance is actually 1,740 feet. Striping is not considered a barrier to a speed differential. The queuing needs to be modeled correctly to show if there are stopped vehicles in the exit ramp queue that are adjacent to main lane vehicles traveling at a speed of 30 mph or greater.

requests the inclusion of the intersection of I-5 Northbound ramp/Sea World Drive in the analysis. The Project study area was defined per the guidelines, which require signalized intersections where a project will add 50 or more peak-hour trips to any turning movement at the intersection to be included in the study area. As described in Final SEIR Appendix D1, to estimate the number of inbound and outbound trips, the Project's trip generation was applied to the study intersections and roadway segments using the trip distribution patterns for their respective peaks. Based on the trip distribution analysis, the Project is not expected to add 50 or more primary AM or PM net new trips at the I-5 northbound ramps and Sea World Drive intersection. Therefore, this intersection was not included in the Project study area.

The sixth bullet point in this comment raises a concern regarding a Synchro analysis input and requests a queuing analysis. The Synchro link distance was measured from the West Mission Bay Drive/I-8 Westbound Off-ramp intersection to the point where the single exit ramp lane opens to two exit ramp lanes (approximately 2,700 feet). In reality, the ramp storage length extends much longer to the point where the exit ramp trap lane is differentiated from the mainline (approximately 4,200 feet). The model is representative of the capacity available for the off ramp in lane miles although the four lanes are not present for the full length of the exit ramp. Please refer to the previous explanation as to why the specific type of queuing analysis

There is no previous explanation in the response to comments that specifically addressed the previous comment regarding a potential solution: "A potential solution is providing an extended synchronized and coordinated green time for the traffic signals between Hancock Street and Lytton Street. This could be triggered by placing loops at the freeway exits that are connected to the traffic signals to initiate the green time sequence." This is a reasonable and feasible mitigation that needs to be analyzed further.

Revise accordingly and there needs to be a queuing analysis per comment #1 above.

S1-2 cont.

- When there is queuing on southbound Camino Del Rio West that reaches the I-5 southbound exit and I-8 westbound exit, provide mitigation to clear out the queue. A potential solution is providing an extended synchronized and coordinated green time for the traffic signals between Hancock Street and Lytton Street. This could be triggered by placing loops at the freeway exits that are connected to the traffic signals to initiate the green time sequence.

S1-3

- Include in the proposed project pedestrian scale lighting and other features on the multi-use path to increase user comfort.

S1-4

- A feasibility study is recommended, including a cost estimate, to construct a Sports Arena to San Diego River Path Class 1 Bridge (over I-8) from San Diego River Trail (south) to Hancock Street to Kurtz Street.

S1-5

Hydrology and Drainage Studies

- Please provide hydraulics studies, drainage and grading plans to Caltrans for review.
- Provide a pre and post-development hydraulics and hydrology study. Show drainage configurations and patterns.
- Provide drainage plans and details. Include detention basin details of inlets/outlet.
- Provide a contour grading plan with legible callouts and minimal building data. Show drainage patterns.
- On all plans, show Caltrans' R/W.
- Early coordination with Caltrans is recommended.
- Caltrans generally does not allow development projects to impact hydraulics within the State's R/W. Any modifications to the existing Caltrans drainage and/or increase in runoff to State facilities will not be allowed.
- Call out Caltrans drainage facilities.

S1-6

Design

- The draft PEIR identified significant impacts to I-5/I-8 Main lanes and interchanges. We recommend partnering with SANDAG and Caltrans to determine appropriate mitigations that includes Multi-modal and Manage Lanes Improvements.
- Please confirm if the City of San Diego will consider revising the Study Area to go beyond the immediate surface streets. As mentioned, we see significant impacts to the state highway system due to the addition of housing and commercial establishments.
- We did not see mention of the SANDAG CMH-CMCP that overlaps with this project. Will there be coordination with that plan/project?

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requested was not performed. The seventh bullet point discusses potential queuing on southbound Camino Del Rio West and its effect on the I-5 Southbound exit and I-8 Westbound exit and potential operational strategies to address this queue. Please refer to the previous explanation as to why the specific type of queuing analysis requested was not performed.

S1-3: The Project will install pedestrian scale lighting throughout the Project site; please refer to Appendix O of the Final SEIR, (Sheets 18-20) of the Vesting Tentative Map that identifies the locations of this lighting.

S1-4: The 2018 Community Plan includes recommendations for a Bay-to-Bay multi-use urban path (Class I facility) that crosses I-8 at two locations: along Mission Bay Drive (recently constructed by the City of San Diego [City]) and aligned with the future Kemper Street through the Project site.

The Project's multi-modal facilities proposed on Kemper Street, Frontier Drive, and Kurtz Street do not preclude future connectivity over I-8 via a multi-use path pursuant to the 2018 Community Plan. However, the Project does not include construction of a connection over or under I-8 as it was not identified as a transportation effect or required project improvement.

This comment does not raise an environmental issue related to the adequacy or accuracy of the Final SEIR, and no further response is required.

S1-5: This comment requests to review hydraulic studies, drainage plans, and grading plans associated with the Project. Please refer to Final SEIR Appendix I1, Preliminary Drainage Report, and Final SEIR Appendix O to review these documents.

This comment does not raise a significant environmental issue regarding the adequacy or accuracy of the information provided in the Final SEIR. Therefore, no further response is required.

S1-6: In response to Question 1, CEQA mandates the evaluation of environmental impacts of proposed projects. In 2013, Senate Bill 743 was signed into law with a goal of reducing greenhouse gas emissions, promoting the development of infill land use projects and multi-modal transportation networks, and promoting a diversity of land uses within developments. Per Senate Bill 743, automobile delay and congestion, commonly known as LOS, is no longer a metric for determining significant transportation impacts under CEQA. Instead, the primary metric has shifted from LOS to vehicle miles traveled (VMT).

The Final EIS for Naval Information Warfare Systems Command was developed using the previous metric of LOS

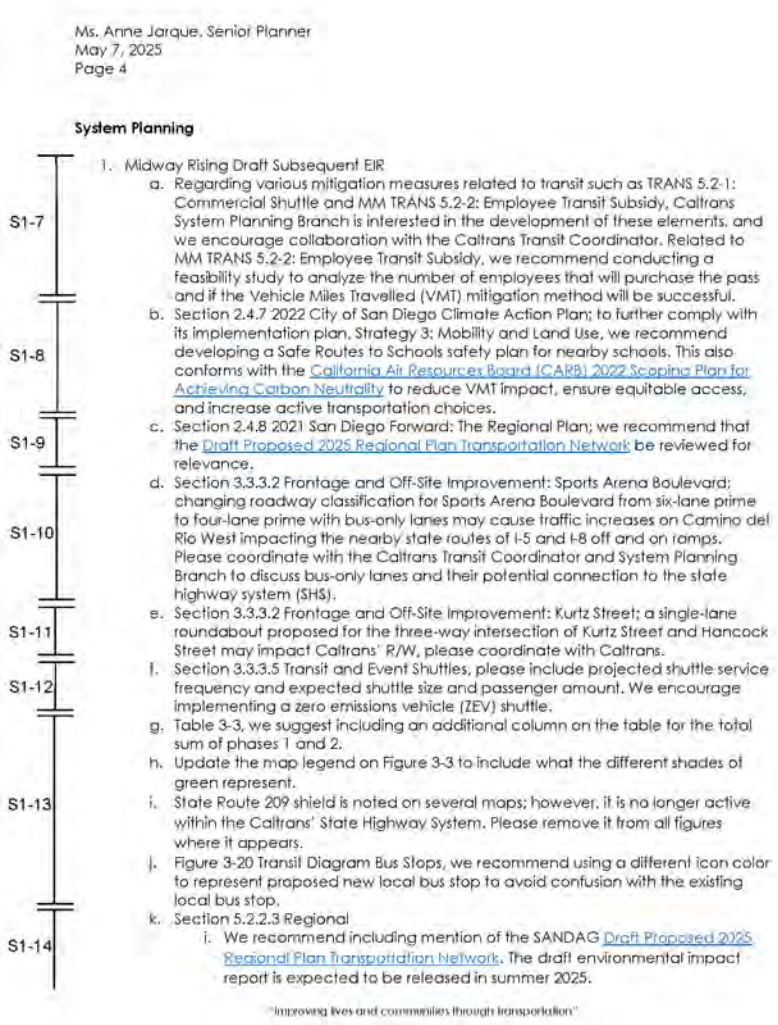
as the primary metric for identifying transportation impacts, while the Final SEIR for the Midway Rising Project was developed using VMT. Therefore, no significant impacts were identified for the I-5/I-8 main lines and interchange, and no mitigation is required.

While LOS is no longer the primary metric under CEQA for determining transportation impacts, it remains relevant for understanding traffic flow and operations for the City. LOS and queues are summarized in Final SEIR Appendix D1, LMA. The LMA was developed in coordination with the City, San Diego Association of Governments (SANDAG), and San Diego Metropolitan Transit System (MTS) and provides a comprehensive set of improvements for all users of the roadway to create a network for vehicle access and distribution of traffic, provide safe and comfortable multi-modal infrastructure, enhance first/last-mile access to transit, and promote connectivity with the neighboring communities. The mixed-use nature of the Project site supports the reduced need for vehicle trips to access local destinations. The robust set of multi-modal improvements and amenities (summarized in Final SEIR Section 13.1) would encourage the use of alternative modes that are more accessible and competitive options, especially with the Project's proximity to the Old Town Transit Center. The roadway and intersection improvements would increase traffic flow and distribute vehicles more evenly to the surrounding roadway network.

In response to the second bullet point, the Project does not intend to expand the study area. Refer to Response to Comment S1-2 from information on how the study area was defined.

The LMA relies on traffic counts taken throughout the study area described in Section 3.2, Traffic Volumes. These counts are presumed to accurately represent the existing traffic conditions within the study area. The Project trip distribution, described in Section 4.3, Trip Distribution, was determined using the Streetlight Insight tool, which provides origin-destination analysis regarding "top routes" that drivers typically use when moving between analysis zones.

In response to the third bullet point, the LMA (Appendix D1) was developed in coordination with the City, SANDAG, and San Diego MTS. The LMA includes mention of the SANDAG Central Mobility Hub Comprehensive Multimodal Corridor Plan, which identifies a future MTS Rapid Route planned with service along the Project's Sports Arena Boulevard frontage. This planned MTS Rapid Route was accounted for in the development of the Project site plan. As mentioned in Appendix D1, the Project would enhance the existing local bus station to a rapid station, and Business Access and Transit (BAT) lanes would be implemented on Sports Arena Boulevard to increase reliability and performance for transit services.



Ms. Anne Jarque, Senior Planner
May 7, 2025
Page 4

System Planning

1. Midway Rising Draft Subsequent EIR
   a. Regarding various mitigation measures related to transit such as TRANS 5.2-1: Commercial Shuttle and MM TRANS 5.2-2: Employee Transit Subsidy, Caltrans System Planning Branch is interested in the development of these elements, and we encourage collaboration with the Caltrans Transit Coordinator. Related to MM TRANS 5.2-2: Employee Transit Subsidy, we recommend conducting a feasibility study to analyze the number of employees that will purchase the pass and if the Vehicle Miles Travelled (VMT) mitigation method will be successful.
   b. Section 2.4.7 2022 City of San Diego Climate Action Plan; to further comply with its implementation plan, Strategy 3: Mobility and Land Use, we recommend developing a Safe Routes to Schools safety plan for nearby schools. This also conforms with the California Air Resources Board (CARB) 2022 Scoping Plan for Achieving Carbon Neutrality to reduce VMT impact, ensure equitable access, and increase active transportation choices.
   c. Section 2.4.8 2021 San Diego Forward: The Regional Plan; we recommend that the Draft Proposed 2025 Regional Plan Transportation Network be reviewed for relevance.
   d. Section 3.3.3.2 Frontage and Off-Site Improvement: Sports Arena Boulevard; changing roadway classification for Sports Arena Boulevard from six-lane prime to four-lane prime with bus-only lanes may cause traffic increases on Camino del Rio West impacting the nearby state routes of I-5 and I-8 off and on ramps. Please coordinate with the Caltrans Transit Coordinator and System Planning Branch to discuss bus-only lanes and their potential connection to the state highway system (SHS).
   e. Section 3.3.3.2 Frontage and Off-Site Improvement: Kurtz Street; a single-lane roundabout proposed for the three-way intersection of Kurtz Street and Hancock Street may impact Caltrans' R/W, please coordinate with Caltrans.
   f. Section 3.3.3.5 Transit and Event Shuttles, please include projected shuttle service frequency and expected shuttle size and passenger amount. We encourage implementing a zero emissions vehicle (ZEV) shuttle.
   g. Table 3-3, we suggest including an additional column on the table for the total sum of phases 1 and 2.
   h. Update the map legend on Figure 3-3 to include what the different shades of green represent.
   i. State Route 209 shield is noted on several maps; however, it is no longer active within the Caltrans' State Highway System. Please remove it from all figures where it appears.
   j. Figure 3-20 Transit Diagram Bus Stops, we recommend using a different icon color to represent proposed new local bus stop to avoid confusion with the existing local bus stop.
   k. Section 5.2.2.3 Regional
      i. We recommend including mention of the SANDAG Draft Proposed 2025 Regional Plan Transportation Network. The draft environmental impact report is expected to be released in summer 2025.

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S1-7
S1-8
S1-9
S1-10
S1-11
S1-12
S1-13
S1-14

S1-7: As discussed in Final SEIR Section 5.2, Transportation and Circulation, the transit subsidy would be offered to all employees at 50 percent of the current monthly pass rate. Parking would not be provided on the site for employees, so employees would be required to pay to park on site or use alternative forms of transportation, including walking, biking, or using transit. Since it is anticipated that many employees may not live within walking or biking distance, transit use would be encouraged and monetarily incentivized for the employees.

In light of the comments submitted for the Final SEIR, Mitigation Measure Trans 5.2-2 has been revised so that the Project Applicant will offer the employee transit subsidy for the life of the entertainment center.

The net increase in average daily VMT for the entertainment center is 2,299, which will be fully mitigated with implementation of the employee transit subsidy as explained in Final SEIR Section 5.2.7.2. The VMT analysis estimated that approximately 50 percent of the employees would use the subsidy. Therefore, with the revised plan to provide Mitigation Measure TRANS 5.2.2 for the operational life of the entertainment center, the entertainment center's transportation VMT impact would be mitigated to a level of less than significance.

S1-8: This comment requests that the Project develops a Safe Routes to Schools plan for nearby schools. As discussed in

Response to Comment S-14, the Project will construct multi-modal facilities internal to the site and along its frontage to promote alternative modes of transportation for pedestrians and bicycle users to local destinations including schools. Safe Routes to Schools plans are typically developed by local school districts and/or municipalities and not private development.

This comment does not raise an environmental issue related to the adequacy or accuracy of the Final SEIR, and no further response is required.

S1-9: The 2021 San Diego Forward: The Regional Plan and the Draft 2025 Regional Plan Transportation Plan were reviewed for relevance as part of preparation of the Project's transportation studies.

S1-10: Table ES-5 of Final SEIR Appendix D1 summarizes the capacity and demand for the various segments of Sports Arena Boulevard under each analysis scenario. The Project proposes BAT lanes on Sports Arena Boulevard Segment IDs 5 (Kemper Street to Frontier Drive), 6 (Frontier Drive to East Drive), and 7 (East Drive to Camino Del Rio West) to provide a more reliable option for residents and visitors to access Old Town Transit Center and the rest of the regional transportation network. Currently, Sports Arena Boulevard currently operates at LOS A or B on these segments. With the addition of Project traffic and the proposed BAT lanes,

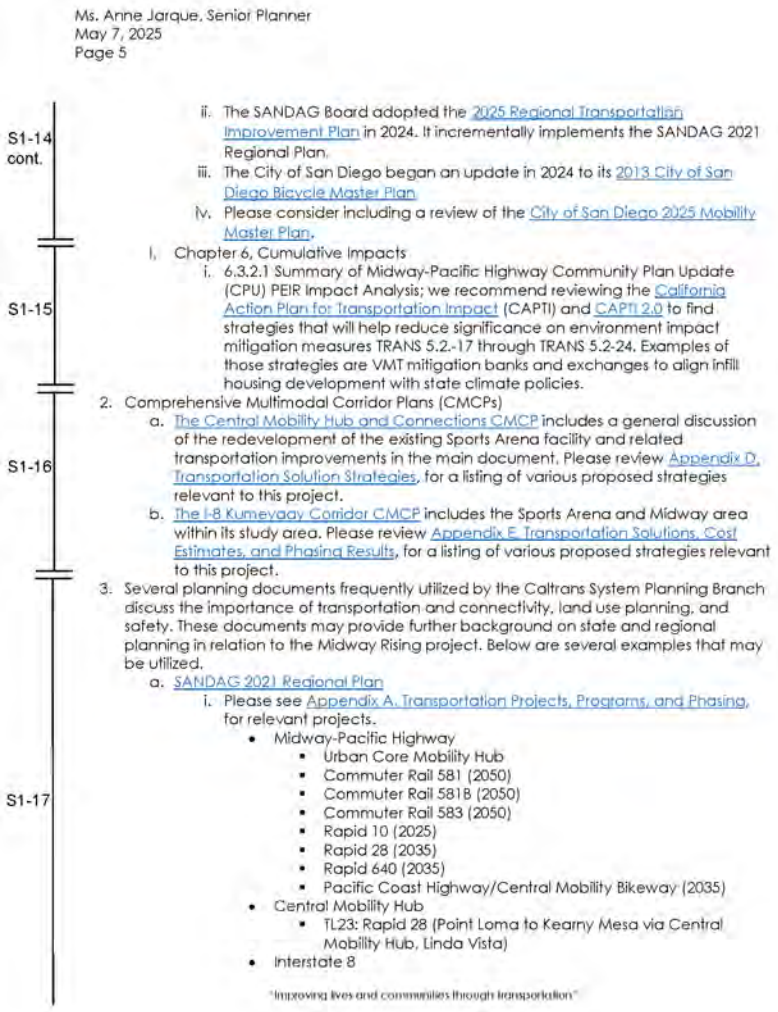
the segments are anticipated to operate at LOS D or better, which is an acceptable level of traffic operations.

The Camino Del Rio West/Rosecrans Street/Sports Arena Boulevard intersection would only include BAT lanes on the eastbound and westbound approaches, not the southbound approach of Camino Del Rio West. Instead, the Camino del Rio West approach to this intersection would match the lane geometry proposed as part of the 2018 Community Plan (Figure 3-15). The BAT lanes would help reduce travel times for transit users while maintaining local vehicle access via turning movements into the Project site.

S1-11: The preliminary design of the proposed roundabout at Kurtz Street /Hancock Street anticipates that it would be located within City ROW. However, the Applicant will coordinate with the California Department of Transportation (Caltrans) ROW division regarding all components of its design due to its adjacency to I-8.

S1-12: The parking shuttles may vary in type and are anticipated to operate at a high frequency (5 minutes) with capacity for up to 40 passengers. Zero-emissions vehicles shuttles would be considered when determining the appropriate vehicle type and size to service the need.

S1-13: This comment suggests editorial revisions to Final SEIR Table 3-3, Figure 3-3, and Figure 3-20. Editorial revisions are not required and do not raise a significant environmental issue regarding the adequacy or accuracy of



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S1-14 cont.

ii. The SANDAG Board adopted the 2025 Regional Transportation Improvement Plan in 2024. It incrementally implements the SANDAG 2021 Regional Plan.
iii. The City of San Diego began an update in 2024 to its 2013 City of San Diego Bicycle Master Plan.
iv. Please consider including a review of the City of San Diego 2025 Mobility Master Plan.

I. Chapter 6, Cumulative Impacts

S1-15

i. 6.3.2.1 Summary of Midway-Pacific Highway Community Plan Update (CPU) PEIR Impact Analysis; we recommend reviewing the California Action Plan for Transportation Impact (CAPTI) and CAPTI 2.0 to find strategies that will help reduce significance on environment impact mitigation measures TRANS 5.2.-17 through TRANS 5.2-24. Examples of those strategies are VMT mitigation banks and exchanges to align infill housing development with state climate policies.

2. Comprehensive Multimodal Corridor Plans (CMCPs)

S1-16

a. The Central Mobility Hub and Connections CMCP includes a general discussion of the redevelopment of the existing Sports Arena facility and related transportation improvements in the main document. Please review Appendix D, Transportation Solution Strategies, for a listing of various proposed strategies relevant to this project.
b. The I-8 Kumeyaay Corridor CMCP includes the Sports Arena and Midway area within its study area. Please review Appendix E Transportation Solutions, Cost Estimates, and Phasing Results, for a listing of various proposed strategies relevant to this project.

3. Several planning documents frequently utilized by the Caltrans System Planning Branch discuss the importance of transportation and connectivity, land use planning, and safety. These documents may provide further background on state and regional planning in relation to the Midway Rising project. Below are several examples that may be utilized.

S1-17

a. SANDAG 2021 Regional Plan
i. Please see Appendix A, Transportation Projects, Programs, and Phasing, for relevant projects.
- Midway-Pacific Highway
  - Urban Core Mobility Hub
  - Commuter Rail 581 (2050)
  - Commuter Rail 581B (2050)
  - Commuter Rail 583 (2050)
  - Rapid 10 (2025)
  - Rapid 28 (2035)
  - Rapid 640 (2035)
  - Pacific Coast Highway/Central Mobility Bikeway (2035)
- Central Mobility Hub
  - TL23: Rapid 28 (Point Loma to Kearny Mesa via Central Mobility Hub, Linda Vista)
- Interstate 8

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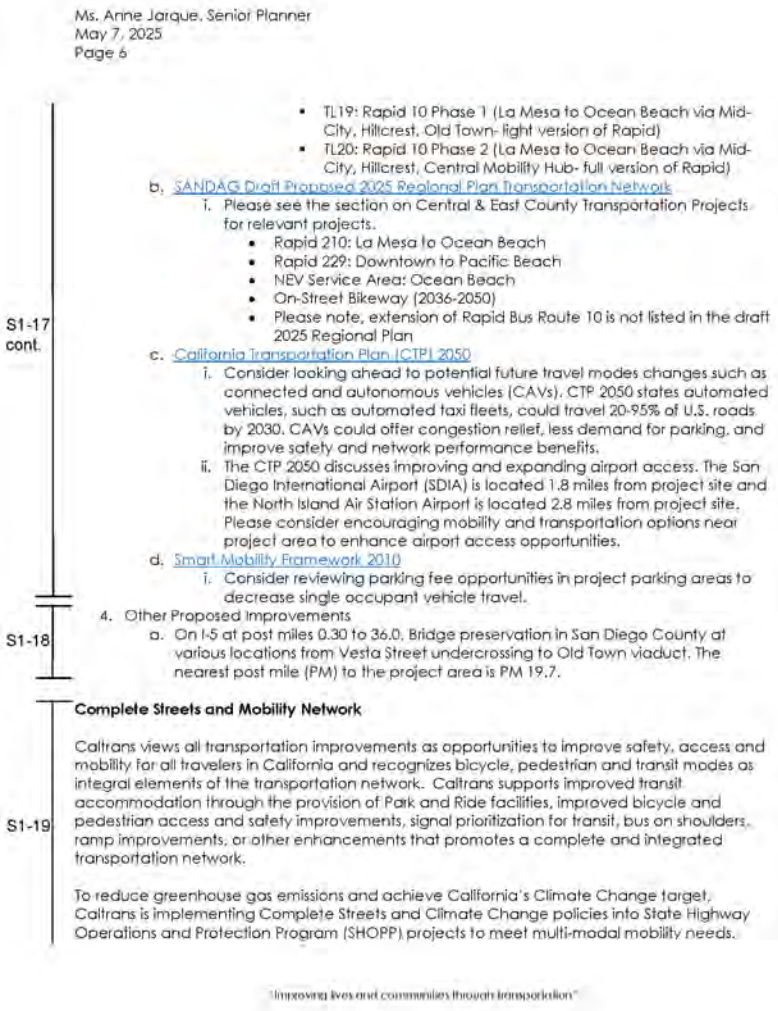
the information provided in the Final SEIR. Therefore, no further response is required.

S1-14: The requested additions to the regulatory framework provided in this comment were either approved after the issuance of the Notice of Preparation for the Project (December 2023) or are currently still in draft form and, therefore, not relevant to the following analysis. As discussed in Final SEIR Section 5.1, Land Use, the Project would be consistent with the 2008 General Plan.

S1-15: Consistent with CEQA Guidelines Section 15130(d), this section summarizes and incorporates by reference portions of the cumulative effects analysis in the Midway-Pacific Highway CPU PEIR that adequately address each resource issue area. Mitigation Measures TRANS 5.2.-17 through TRANS 5.2-24 were not required for the Project. Please refer to Thematic Response – Cumulative Projects.

S1-16: The Central Mobility Hub and Connections Comprehensive Multimodal Corridor Plan (CMCP) and the I-8 Kumeyaay Corridor CMCP were reviewed and considered as part of the Project's transportation studies. The Project's LMA (Appendix D1 to the Final SEIR) includes strategies described in the CMCP document including micro-transit (parking and retail shuttles), ride hailing services such as areas for Lyft and Uber, short-term bicycle parking spaces and lockers, bike repair stations, protected bicycle intersections, e-bike chargers, dynamic/flexible parking,



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- TL19: Rapid 10 Phase 1 (La Mesa to Ocean Beach via Mid-City, Hillcrest, Old Town- light version of Rapid)
- TL20: Rapid 10 Phase 2 (La Mesa to Ocean Beach via Mid-City, Hillcrest, Central Mobility Hub- full version of Rapid)

b. SANDAG Draft Proposed 2025 Regional Plan Transportation Network
   i. Please see the section on Central & East County Transportation Projects for relevant projects.
      - Rapid 210: La Mesa to Ocean Beach
      - Rapid 229: Downtown to Pacific Beach
      - NEV Service Area: Ocean Beach
      - On-Street Bikeway (2036-2050)
      - Please note, extension of Rapid Bus Route 10 is not listed in the draft 2025 Regional Plan

S1-17 cont.

c. California Transportation Plan (CTP) 2050
   i. Consider looking ahead to potential future travel modes changes such as connected and autonomous vehicles (CAVs). CTP 2050 states automated vehicles, such as automated taxi fleets, could travel 20-95% of U.S. roads by 2030. CAVs could offer congestion relief, less demand for parking, and improve safety and network performance benefits.
   ii. The CTP 2050 discusses improving and expanding airport access. The San Diego International Airport (SDIA) is located 1.8 miles from project site and the North Island Air Station Airport is located 2.8 miles from project site. Please consider encouraging mobility and transportation options near project area to enhance airport access opportunities.

d. Smart Mobility Framework 2010
   i. Consider reviewing parking fee opportunities in project parking areas to decrease single occupant vehicle travel.

4. Other Proposed Improvements
   a. On I-5 at post miles 0.30 to 36.0. Bridge preservation in San Diego County at various locations from Vesta Street undercrossing to Old Town viaduct. The nearest post mile (PM) to the project area is PM 19.7.

S1-18

Complete Streets and Mobility Network

Caltrans views all transportation improvements as opportunities to improve safety, access and mobility for all travelers in California and recognizes bicycle, pedestrian and transit modes as integral elements of the transportation network. Caltrans supports improved transit accommodation through the provision of Park and Ride facilities, improved bicycle and pedestrian access and safety improvements, signal prioritization for transit, bus on shoulders, ramp improvements, or other enhancements that promotes a complete and integrated transportation network.

S1-19

To reduce greenhouse gas emissions and achieve California's Climate Change target, Caltrans is implementing Complete Streets and Climate Change policies into State Highway Operations and Protection Program (SHOPP) projects to meet multi-modal mobility needs.

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electric vehicle (EV) spaces, dedicated transit lanes, transit improvements, and separate space for persons who bicycle and walk as described in the CMCP's.

S1-17: The Project used planning documents relevant to the Project study area. Strategies for transportation demand management and multi-modal improvements relied on City and regional planning efforts prepared by the City and SANDAG including the adopted documents identified in this comment. This comment does not raise an environmental issue related to the adequacy or accuracy of the Final SEIR, and no further response is required.

S1-18: This comment does not raise an environmental issue related to the adequacy or accuracy of the Final SEIR, and no further response is required.

S1-19: As discussed in Final SEIR Chapter 3.0, Project Description, the Midway Rising Specific Plan identifies a multi-modal transportation network that would include new public streets, modified public streets, sidewalks, multi-use paths, bicycle facilities, promenades, and pedestrian paseo greens and paseo greenways. In addition, as discussed in Final SEIR Chapter 3.0, a Construction Management Plan and Traffic Control Plans would be required and implemented during construction by the Project applicant in accordance with City of San Diego standards (San Diego Municipal Code Section 129.0701 et seq.) and the Caltrans California Manual of Uniform Traffic Control Devices (2014

Caltrans looks forward to working with the City to evaluate potential Complete Streets projects.

Bicycle, pedestrian, and public transit access during construction is important. Mitigation to maintain bicycle, pedestrian, and public transit access during construction is in accordance with Caltrans' goals and policies.

S1-19 cont.

Land Use and Smart Growth

Caltrans recognizes there is a strong link between transportation and land use. Development can have a significant impact on traffic and congestion on State transportation facilities. In particular, the pattern of land use can affect both local vehicle miles traveled and the number of trips. Caltrans supports collaboration with local agencies to work towards a safe, functional, interconnected, multi-modal transportation network integrated through applicable "smart growth" type land use planning and policies.

The City should continue to coordinate with Caltrans to implement necessary improvements at intersections and interchanges where the agencies have joint jurisdiction.

Noise

S1-20

The applicant must be informed that in accordance with 23 Code of Federal Regulations (CFR) 772, Caltrans is not responsible for existing or future traffic noise impacts associated with the existing configuration of I-8.

Environmental

Caltrans has discretionary authority over any portion of the project that is or will be within Caltrans' R/W. Thus, Caltrans is a Responsible Agency under the California Environmental Quality Act (CEQA). An encroachment permit will be required for any work within the Caltrans' R/W prior to construction. This includes work related to traffic mitigation that is located within Caltrans' R/W. The encroachment permit application should include an Environmental Document that identifies scope of work, potential impacts, and, if needed, mitigation measures within Caltrans' R/W. Supporting technical studies may also be requested.

S1-21

We recommend that this project specifically identifies and assesses potential impacts caused by the project or impacts from mitigation efforts that occur within Caltrans' R/W that includes impacts to the natural environment, infrastructure including but not limited to highways, roadways, structures, intelligent transportation systems elements, on-ramps and off-ramps, and appurtenant features including but not limited to fencing, lighting, signage, drainage, guardrail, slopes and landscaping. Caltrans is interested in any additional mitigation measures identified for the project's Final Environmental Document.

Revision 8 Edition) as a standard condition of approval. These traffic management controls would include measures determined based on site-specific conditions. These measures would ensure that ingress and egress from the Project site would not interfere with emergency access to areas surrounding the Project site.

This comment does not raise a significant environmental issue regarding the adequacy or accuracy of the information provided in the Final SEIR. Therefore, no further response is required.

S1-20: This comment provides general information and does not raise an issue regarding the adequacy or accuracy of the analysis of the Final SEIR. Therefore, no further response is required.

S1-21: This comment provides a summary of Caltrans' role pursuant to CEQA and the Project's potential impacts to Caltrans' ROW.

Furthermore, this comment provides information on Caltrans' role should future projects affect Caltrans' ROW and its role as a CEQA responsible agency. The Project Applicant acknowledges Caltrans' role should coordination and /or an encroachment permit be required during construction.

Right-of-Way

Per Business and Profession Code 8771, perpetuation of survey monuments by a licensed land surveyor is required, if they are being destroyed by any construction.

Any work performed within Caltrans' R/W will require discretionary review and approval by Caltrans and an encroachment permit will be required for any work within the Caltrans' R/W prior to construction.

S1-21 cont.

Additional information regarding encroachment permits may be obtained by visiting the website at https://dot.ca.gov/programs/traffic-operations/ep. Projects with the following:

- require a Caltrans Encroachment Permit
- have completed the Caltrans Local Development Review (LDR) process
- have an approved environmental document

need to have documents submitted for Quality Management Assessment Process (QMAP) process via email to D11.QMAP.Permits@dot.ca.gov. Early coordination with Caltrans is strongly advised for all encroachment permits.

If you have any questions or concerns, please contact Mark McCumsey, LDR Coordinator, at [redacted]

Sincerely,

Kimberly D. Dodson

KIMBERLY D. DODSON, GISP
Branch Chief
Local Development Review

This comment does not raise a significant environmental issue regarding the adequacy or accuracy of the information provided in the Final SEIR. Therefore, no further response is required.

John Ziebarth
1435 Alexandria Drive
San Diego, CA 92107
September 7, 2025

Planning Commission
202 C Street
San Diego, CA 92101
Midway Rising Process—A Question of Integrity?

Re: PC Hearing 9/25/25 Proj # PRJ-1106734 Midway Rising
GPA/ CPA/Rezone/SP/VTM/EV/SDP/SDMCA/ DA/SEIR

Dear Commissioners:

As I will be unable to attend the hearing on September 25 and no agenda item has been set, I am submitting this letter with questions, concerns, and comments for your consideration regarding Midway Rising:

Is Midway Rising simply a case of bait and switch? A question of integrity? What does the city get in return?

Density:

- September 12, 2022: Council selected Midway Rising. They proposed 4,254 dwelling units with 2,000 affordable units and 250 moderate income housing units where underlying current zoning with 20% affordable housing bonus would allow only 2,601 units. Midway Rising was selected because they could provide more units including more affordable units than their competitors.
- October 2, 2023: Midway Rising said that they could not afford to build those 250 moderate income housing units. Council accepted eliminating moderate income housing.
- Today, Midway Rising requests permission to build 10% of the housing area in luxury towers up to 250 feet high which exceeds even their proposed rezoning height.

Density Question: Why can't Midway Rising build 250 moderate income housing, if the city is approving a rezone to allow them to build a luxury residential tower? Midway Rising knew when they made their initial proposal that they were going to need to rezone and amend the community plan to achieve their promised density. Why wasn't this identified in their initial proposal?

Height:

- July 15, 2022: Council approved Supplemental EIR for Sports Arena with significant visual impacts resulting from 65 feet high development. This was prior to the November Proposition C vote to eliminate height restrictions on the property. I asked the council for a cap on the height to be part of the ballot proposition. The council stated that the height would comply with 65 feet height limit in the zoning code and community plan.
- September 12, 2022: Council selected Midway Rising as the preferred developer. All three development proposals were for 86 feet in height for the mixed-use and 120 feet for the entertainment center which exceeded the 65 feet in the zoning code. All the competitors said that 86 feet (5 stories over podium construction) was the optimum height for the most

economical construction type. As a retired architect and former member of the Code Monitoring Team for 18 years, I can support the proposed 86 feet. I simply wanted the project to be transparent as a project and with respect to the code impacts.

- I asked Midway Rising in 2022 at a presentation to the Pt Loma Association prior to the Proposition C vote if they would go above 86 feet if someone paid them several million dollars for an ocean view unit on the 20th floor. Their response was that their proposal was for 86 feet in height.
- November 2022: Proposition C removed the height limit with no height cap. Representation to the public was that the 65 feet in the zoning code established the height limit. No mention of Midway Rising proposed 86 feet.
- April 2025: Midway Rising requests permission in the Specific Plan to build 10% of the housing area in luxury towers up to 250 feet high which is above the height in the rezoning. The rest of the units would be increased from 86 feet to 105 feet.

Height Question: Were voters misled in 2022 on the height impact, when voting for Proposition C? Was the city council misled with the 86 feet high mixed-use portion in September 2022. The 86 feet was consistent with all their other competitors. Why is the additional height needed? The 250' height is more expensive construction. What is the city getting in return for allowing the increased height and its associated visual impacts? If they can afford the more expensive construction, why can't they afford 250 moderate income housing units or even more?

Parking:

- They propose parking for 10,000-seat arena but are building for 16,000 seats. Project assumes off-site parking will compensate for any shortage. Zoning Code requires off-site parking agreements recorded on off-site properties prior to building permits. Make this a condition of approval.
- Project assumes commercial clientele will be less when there is an event.
- A parking management plan should be submitted and approved prior to Specific Plan being approved.
- A Shared Parking Study confirming the proposed amount of parking should be submitted prior to Specific Plan approval.

Parking Question: Will people park at the Sports Arena Shopping Center across the street when they cannot find sufficient parking rather than driving to the Old Town Trolley Station or Sea World as proposed in the SEIR.

Traffic:

- Community Plan PEIR identified 16 road segments and intersections that would fail and could not be fixed. The SEIR asserts no increase in traffic impacts despite the increase in intensity above what was proposed in the community plan. What is the impact on the freeways for this regional draw?
- Proposed NAVWAR EIR projected 26 road segments, intersections, and freeways being impacted significantly unable to mitigate without the increased Midway Rising.

- Despite the proposed mixed-use development, Midway Rising is a regional lifestyle center attraction with a regional entertainment center which draws from the entire region affecting the city's freeways. Freeways are controlled by Caltrans and not the city, so CEQA did not require analysis of those impacts. But this reinforces that Midway Rising has a significant impact on Vehicles Miles Travel (VMT) because it draws from all over.

Traffic Questions: Will the increased traffic congestion be adequately addressed? Or should the intensity of the project be consistent with the community plan? What adverse impact does the increased traffic congestion have on other existing businesses?

Conclusion: Integrity Questions: Is this a bait and switch? What does the city get in return for the switch?

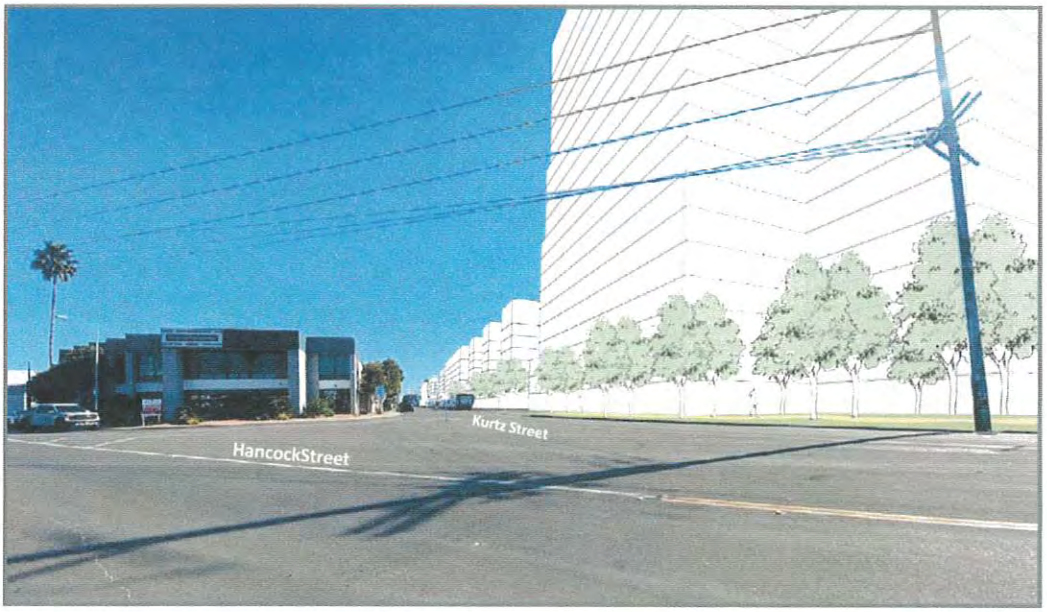
1. Eliminate 30 feet height limit with understanding that the underlying code is 65 feet will control and then propose 250 feet in height.
2. Promise more housing than the code allows in order to get selected, knowing that the project will need to propose a rezoning and community plan amendment to achieve the density, which will be approved in order to get the promised community housing.
3. Cannot afford moderate income housing, but can afford higher construction cost to build luxury housing tower/s with even greater significant visual impacts than the SEIR for Prop C.
4. Provide questionable amount of parking whatever the developer considers adequate. What will be the potential impact of underestimating parking demand?
5. SEIR claims no new significant traffic impact despite increasing the intensity above Midway/ Pacific Coast Highway Community Plan which had 16 significant unmitigable road segments and intersections nor with the cumulative impacts of the proposed NAVWAR project. Do you believe there are no new direct or cumulative significant unmitigated impacts?

What is the integrity of this Project' process? What is going to be switched next? Is the city negotiating something in return or simply acquiescing to everyone of Midway Rising's requests?

Respectfully,

John C Ziebarth


Downtown San Diego
San Diego River Trail
I-8


Kurtz Street
HancockStreet


ROSS
BIGK'S
OLD NAVY


Kurtz Street

LOZEAU DRURY LLP
T 510.836.4200
F 510.836.4205
1939 Harrison Street, Ste. 150
Oakland, CA 94612
www.lozeaudrury.com
brian@lozeaudrury.com

September 23, 2025

Via Planning Commission Webform[1] *& Email*

Kelly Modén, Chairperson
Matthew Boomhower, Vice-Chairperson
Farah Mahzari
Ken Malbrough
Ted Miyahara
Daniel Reeves
Jeana Renger
Planning Commission
City of San Diego
7650 Mission Valley Road, MS DSD 1A
San Diego, CA 92108
planningcommission@sandiego.gov

Anne B. Jarque, Planner
Martha Blake, Planner
Development Services Center
City of San Diego 1222
First Avenue, MS 501
San Diego, CA 92101
AJarque@sandiego.gov
DSDEAS@sandiego.gov

Re: Comment on Environmental Impact Report Midway Rising Specific Plan (Project No. 1106734)
Planning Commission Agenda Item 2 (Sept. 25, 2025)

To the San Diego Planning Commission and Planners Jarque and Blake:

This comment is submitted on behalf of Supporters Alliance For Environmental Responsibility ("SAFER") and its members living or working in and around the City of San Diego ("City") regarding the subsequent environmental impact report ("SEIR") prepared for the Midway Rising Specific Plan (Project No. 1106734) ("Project") to be considered as Agenda Item 2 at the Planning Commission's September 25, 2025 meeting.

SAFER is concerned that approval of the Project and certification of the SEIR will violate the California Environmental Quality Act ("CEQA") by: (1) failing to require all feasible mitigation measures for the Project's significant and unavoidable impacts; (2) failing to adopt the feasible and environmentally-superior Retain Arena Alternative; (3) failing to adequately disclose and mitigate significant impacts to air quality and human health; and (4) failing to adequately disclose and mitigate significant noise impacts. SAFER respectfully requests that the Planning Commission refrain from approving the Project at this time and instead direct staff to revise and recirculate the SEIR.

[1] https://www.sandiego.gov/planning-commission/agenda-comment-form

SAFER's review of the SEIR was assisted by air quality expert Dr. Paul E. Rosenfeld, Ph.D., of the Soil/Water/Air Protection Enterprise, and noise expert Ani Toncheva of Wilson Ihrig. The comments of Dr. Rosenfeld and Ms. Toncheva are attached as Exhibit A and Exhibit B, respectively.

Due to the SEIR's shortcomings, SAFER respectfully requests that the Planning Commission refrain from approving the Project at this time and instead direct staff to amend and recirculate the SEIR to address the concerns discussed below.

PROJECT DESCRIPTION

The Project proposes a Specific Plan for 49.23 acres currently developed with commercial and entertainment uses, including the historic San Diego International Sports Arena ("Arena"). The Project site is generally bounded by Kurtz Street to the north, Sports Arena Boulevard to the south, and commercial properties to the west and east. The Project site is within the 2018 Midway-Pacific Highway Community Plan ("2018 Community Plan"), for which a programmatic EIR was certified in 2018 ("2018 CPU EIR"). The 2018 CPU EIR evaluated the development of the full 1,324-acre Midway-Pacific Highway Community and acknowledged that that future site-specific CEQA analysis would be required for future projects within the Plan area. The SEIR for this Project "tiers" from the 2018 CPU EIR pursuant to CEQA Guidelines Section 15152. (FSEIR, p. 1-2; 14 CCR § 15152.)

The proposed Specific Plan allows for the redevelopment of the 49.23-acre site with a mix of uses, including entertainment, retail, residential, recreational, and public park uses. The Specific Provides for the development of up to 4,254 residential units in 105-foot-tall buildings and 130,000 square feet of commercial retail in 15 residential/mixed-use buildings. The Specific Plan also proposes the demolition of the historic Arena to make way for a 165-foot-tall, 380,550 square-foot entertainment center (for, in part, concerts, sporting events, and motorsports). The Plan also provides for 14.5-accres of public parks and spaces. The Specific Plan would provide parking spaces for 7,040 vehicles in multi-level parking structures.

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Construction would occur in two phases and is anticipated to begin in winter 2026 and take approximately 120 months to complete (ending in 2035). Construction would occur in two phases. Phase 1 would include the demolition of eight structures and asphalt parking lots east of the proposed Frontier Drive. Phase 1 would include the construction of a new entertainment center, while the existing San Diego International Sports Arena remains operational, as well as residential and commercial development. Phase 2 would include the demolition of six structures, including the historic San Diego International Sports Arena, and asphalt parking lots west of Frontier Drive. Phase 2 would include residential and commercial development.

The Project requires numerous discretionary approvals, including a general plan amendment (to redesignate the site from Community Commercial – Residential Permitted to

Community Village in the 2018 Community Plan), community plan amendment (to address the Project's modifications to the 2018 Community Plan), a municipal code amendment to add the Midway Rising Entertainment Center District, a rezone (from CC-3-6 (Community Commercial) to Mixed-Use Residential (RMX-2)), and a vesting tentative map.

LEGAL STANDARD

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an EIR (except in certain limited circumstances). (See, e.g., Pub. Resources Code, § 21100.) The EIR is the very heart of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.) "The 'foremost principle' in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (*Communities for a Better Environment v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 109 (*CBE v. CRA*).)

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (14 CCR § 15002(a)(1).) "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR 'protects not only the environment but also informed self-government.'" (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.) The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." (*Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs*. (2001) 91 Cal.App.4th 1344, 1354 (*Berkeley Jets*); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.)

Second, CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring "environmentally superior" alternatives and all feasible mitigation measures. (14 CCR § 15002(a)(2) and (3); see also *Berkeley Jets*, 91 Cal.App.4th at 1354; *Citizens of Goleta Valley*, 52 Cal.3d at 564.) The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to "identify ways that environmental damage can be avoided or significantly reduced." (14 CCR § 15002(a)(2).) If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns." (Pub. Res. Code, § 21081; 14 CCR § 15092(b)(2)(A) and (B).)

While the courts review an EIR using an "abuse of discretion" standard, "the reviewing court is not to 'uncritically rely on every study or analysis presented by a project proponent in support of its position. A 'clearly inadequate or unsupported study is entitled to no judicial deference.'" (*Berkeley Jets*, 91 Cal.App.4th at 1355 [quoting, *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal. 3d 376, 391, 409, n. 12.) "A prejudicial abuse of discretion occurs 'if the failure to include relevant information precludes informed

decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process.'" (*Berkeley Jets, supra*, 91 Cal.App.4th at 1355.)

An EIR must "include[] sufficient detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issues the proposed project raises." (*Sierra Club v. Cty. of Fresno* (2018) 6 Cal.5th 502, 510.) "Whether or not the alleged inadequacy is the complete omission of a required discussion or a patently inadequate one-paragraph discussion devoid of analysis, the reviewing court must decide whether the EIR serves its purpose as an informational document." (*Id.* at 516.) "The determination whether a discussion is sufficient is not solely a matter of discerning whether there is substantial evidence to support the agency's factual conclusions." (*Id.*) As the Court emphasized:

> [W]hether a description of an environmental impact is insufficient because it lacks analysis or omits the magnitude of the impact is not a substantial evidence question. A conclusory discussion of an environmental impact that an EIR deems significant can be determined by a court to be inadequate as an informational document without reference to substantial evidence.

(*Id.* at 514.)

In general, mitigation measures must be designed to minimize, reduce or avoid an identified environmental impact or to rectify or compensate for that impact. (14 CCR § 15370.) Where several mitigation measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. (14 CCR § 15126.4(a)(1)(B).) A lead agency may not make the required CEQA findings unless the administrative record clearly shows that all uncertainties regarding the mitigation of significant environmental impacts have been resolved.

DISCUSSION

I. The SEIR Fails to Adopt All Feasible Mitigation Measures for the Project's Significant and Unavoidable Impacts.

CEQA prohibits a lead agency from approving a project with significant environmental effects if there are feasible mitigation measures or alternatives that can substantially lessen or avoid those effects. (Pub. Res. Code § 21002; *Mountain Lion Found. v. Fish & Game Comm'n* (1997) 16 Cal.4th 105, 134; *Laurel Heights*, 47 Cal.3d at 403 ["The chief goal of CEQA is mitigation or avoidance of environmental harm"].) CEQA defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors." (PRC §21061.1; 14 CCR § 15364.) "The core of an EIR is the mitigation and alternatives sections." (*Citizens of Goleta Valley*, 52 Cal.3d at 564.) When an EIR concludes that a project will have significant impacts, the lead agency has two duties: to meaningfully consider feasible mitigation measures and

alternatives, and to identify mitigation measures and alternatives rejected as infeasible. (See *Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336, 1353.)

The lead agency may not approve a project with significant impacts unless it makes one or more of three findings:

(1) that changes or alternations have been required in, or incorporated into, the project that mitigate or avoid the significant effects on the environment;

(2) that the agency making the findings lacks jurisdiction to make the change, but that another agency does have such authority, and either has made or can and should make, the change; and/or

(3) that specific economic, legal, social, technological, or other considerations … make infeasible the mitigation measures or project alternatives identified in the EIR.

(Pub. Res. Code §21081(a); 14 CCR §15091(a.).)

When a comment suggests "better ways to avoid or mitigate the significant environmental impacts" (14 CCR §§15088(c), 15204(a)), the lead agency must respond to the comment by either explaining why further consideration of the alternative or mitigation was rejected or by providing an evaluation of the alternative. (*Marin Mun. Water Dist. v. KG Land Cal. Corp*. (1991) 235 Cal.App.3d 1652, 1666; *Cal. Native Plant Soc'y v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 992 (*CNPS*).) "'[A]n adequate EIR must respond to specific suggestions for mitigating a significant environmental impact unless the suggested mitigation is facially infeasible.' [citation omitted] 'While the response need not be exhaustive, it should evince good faith and a reasoned analysis.'" (*CNPS*, 177 Cal.App.4th at 992 [citing *L.A. Unified School Dist. v. City of L.A.* (1997) 58 Cal.App.4th 1019, 1029; see also, *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433, 442, fn. 8.)

The SEIR concludes that the Project would result in a significant and unavoidable noise impact due to special events in the Project's outdoor public space areas. (FSEIR, p. 5.5-61; see FSEIR, p. 3-5 ["[T]he Specific Plan would allow for temporary outdoor event spaces in the parks that would host a series of events each year."].) The SEIR requires a single mitigation measure for this impact, MM NOISE 5.5-1, which requires the submittal of a Noise Control Plan prior to events in the Project's outdoor spaces:

> MM NOISE 5.5-1: Special Events Noise Best Management Practices. Prior to approval of a sitewide or individual Special Event Venue Permit for all private events, public events, or commercial operations in outdoor spaces on the Project site that require the use of amplified noise, the Owner/Permittee, event organizer, or individual responsible party shall submit a Noise Control Plan, satisfactory to the City of San Diego Special Events & Filming Department. The Noise Control Plan shall:

1. Demonstrate that event acoustics have been planned to minimize their impact on the nearest noise-sensitive receptors.
2. Indicate where stationary noise sources such as generators and speakers will be located. No speakers or other stationary noise sources shall be allowed in areas not indicated in the Noise Control Plan.
3. Demonstrate how speaker arrays would be designed to reduce noise spillage to the surrounding environment. This may include the following:
    a. Directing speakers away from sensitive receptors to the extent feasible.
    b. Using temporary sound barriers for stages and event areas where they would not present a safety hazard or inhibit movement on the site.
    c. Incline elevated speakers downward or otherwise design them to reduce noise spillage.
    d. Install optimized sub-arrays and optimized speaker arrays for temporary stages, if required. If suitable, employ delay tower speaker systems or circuit speakers rather than banks of speakers on either side of the stage.
4. Establish a contact phone number that is monitored during outdoor events. If complaints are received, or there is reason to suspect that conditions of the Noise Control Plan have not been met, the City of San Diego shall require the Owner/Permittee to conduct noise monitoring of events to confirm noise levels and enforce agreement compliance.

(FSEIR, p. 5.5-58.)

Because the Project's noise impact remains significant and unavoidable even with incorporation of MM NOISE 5.5-1, the City must require all feasible mitigation measures to reduce the noise impacts to the extent possible prior to proceeding with the Project. (Pub. Res. Code §21081(a); 14 CCR §15091(a.).) SAFER's noise expert has noted that the City could set a limit for the volume output of outdoor speakers to reduce the impact. (Ex. B, p. 4.) A hard limit on outdoor speaker volume would result in a tangible reduction to the significant and unavoidable impact in contrast to the Noise Control Plan, which sets no quantified limit on outdoor noise. Because a quantified volume limit is feasible, the City must set an outdoor volume limit as an enforceable mitigation measure before proceeding with the Project.

The SEIR also concluded that the Project would result in a significant and unavoidable impact due to vehicle miles traveled ("VMT") from the Project's 40,000 square feet of regionally serving restaurant. (FSEIR, p. 5.2-36.) The SEIR requires only a single mitigation measure for this impact, MM TRANS 5.2-1, which would implement a daily shuttle between Frontier Drive and the Old Town Transit Center. (FSEIR, p. 5.2-35.) A second mitigation measure, MM TRANS 5.2-2 requires an employee transit subsidy *only* for employees of the entertainment center, not for employees of the restaurant. (*Id*.) The City should expand MM TRANS 5.2-2 to include transit subsidies for employees of the regionally serving restaurant. The Project's VMT Report estimates that the regionally serving restaurant will have 211 employees. (VMT Report,

p. 14.) Subsidizing transit for those 211 employees is feasible and will reduce the Project's significant and unavoidable VMT impacts. As such, the City must adopt the additional feasible mitigation prior to proceeding with the Project.

II. The City Must Adopt the Environmentally Superior Alternative That Retains the Historic Sports Arena.

Where a project is found to have significant and unavoidable impacts, CEQA requires the adoption of a feasible alternative that meets most of the project objectives but results in fewer significant impacts. (*Citizens of Goleta Valley v. Bd. of Supervisors* (1988) 197 Cal.App.3d 1167, 1180-81; *see also, Burger v. County of Mendocino* (1975) 45 Cal.App.3d 322) A "feasible" alternative is one that is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors. (Pub. Res. Code § 21061.1; 14 CCR § 15364.)

Here, the SEIR concluded that the Project will have a significant and unavoidable impacts due to the demolition of the historic San Diego International Sports Arena. (FSEIR, p. 5.3-26.) The SEIR explains,

> The San Diego International Sports Arena's construction represents a time of growth throughout San Diego and the movement to expand the City's economic ventures into new industries. It was the most important catalyst in the Midway neighborhood's transformation from World War II housing into a lively entertainment and commercial hub and was one of the first modern stadiums/arenas and major entertainment venues in San Diego. It is the home of the San Diego Gulls hockey team and was the home of the San Diego Rockets basketball team and attracted numerous successful and internationally known performing artists. . . . [T]he San Diego International Sports Arena is now a unique and rare resource in the representation of the theme of Post-WWII Development, Recreation and Entertainment in San Diego.

(FSEIR, p. 5.3-17.) The SEIR proposes a single mitigation measure (salvaging items from the arena to be displayed at the new entertainment center) but ultimately concludes the historic impact will be significant and unavoidable.

Among the alternatives considered, the SEIR included the Retain Arena Alternative, which would develop residential and commercial uses around the existing Arena in its current location. (FSEIR, pp. 8-19 to -20.) The Retain Arena Alternative would reduce the proposed commercial development from 130,000 to 72,00 square feet and the residential units from 4,254 units to 3,631 units. Because this alternative retains the arena, "[t]he significant and unavoidable historical resources impact identified for the Project would not occur under this alternative." (FSEIR, p. 8-22.) The SEIR identified the Retain Arena Alternative as the environmentally superior alternative. (FSEIR, p. 8-40.)

In order to approve the Project with its significant and unavoidable impact to the historic Arena, the City must make a finding that "[s]pecific economic, legal, social, technological, or other considerations . . . ***make infeasible*** the . . . .project alternatives identified in the final EIR." (Pub. Res. Code, § 21081(a)(3); 14 CCR § 15091(a)(3).) Here, the City has not—and cannot—support a finding that the Retain Arena Alternative is infeasible. Instead, the EIR and the proposed Statement of Overriding Considerations fault the alternative for not meeting Project Objective 6 ("Develop a modern entertainment center that would recognize and value the historic San Diego International Sports Arena") and for not providing as many residential units as the proposed Project. (FSEIR, pp., 3-3, 8-40; Draft Statement of Overriding Considerations [Staff Report, Attachment 8, Exhibit A], pp. 37-39.)

As an initial matter, an overly narrow definition of a project's objectives constitutes a violation of CEQA because such a restrictive formulation would improperly foreclose consideration of alternatives. (*See City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438.) CEQA prohibits an applicant from limiting their ability to implement the project in a way that precludes it from implementing reasonable alternatives to the project. (*See Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736.) Here, the City's strict reading of the Project's Objectives is overly narrow because clearly the City is foreclosing the possibility implementing a less intensive project.

Importantly, the fact that the Retain Arena Alternative does not satisfy Project Objective 6 does not render the alternative *infeasible*. Because the City lacks the foundation to reject the Retain Arena Alternative as infeasible, the City cannot make the required findings for the Project's significant and unavoidable impact to historic resources. (See Pub. Res. Code, § 21081(a); 14 CCR § 15091(a).) As a result, the Planning Commission should not approve the Project at this time and instead direct staff to bring back the Retain Arena Alternative at a later date for approval.

III. The SEIR's Air Quality Analysis Is Not Supported by Substantial Evidence.

Dr. Paul E. Rosenfeld, Ph.D., of the Soil/Water/Air Protection Enterprise reviewed the air quality analysis in the SEIR. Dr. Rosenfeld's comment letter and CV is attached as Exhibit A and his findings are summarized below.

The SEIR relies on emission estimates calculated from the California Emissions Estimator Model ("CalEEMod"). This model relies on recommended default values based on site specific information related to a number of factors. The model is used to generate a project's construction and operational emissions. Dr. Rosenfeld reviewed the Project's CalEEMod output files from the DSEIR and found that the values input into the model were inconsistent with information provided in the SEIR, resulting in an underestimation of the Project's emissions. (Ex. A, p. 1.)

Specifically, Dr. Rosenfeld found that the following values used in the SEIR's air quality analysis were either inconsistent with information provided in the SEIR or otherwise unjustified:

1. Unsubstantiated changes to construction phase lengths (Ex. A, pp. 1-4.)
2. Unsubstantiated changes to construction equipment (Ex. A, pp. 4-5.)
3. Unsubstantiated changes to construction vehicle trips (Ex. A, pp. 5-6.)
4. Incorrect amount of demolition material (Ex. A, p. 6.)
5. Incorrect amount of material import/export (Ex. A, pp. 6-7.)

As a result, the SEIR's air quality analysis fails to provide substantial evidence as to the Project's air quality impacts. The EIR must be revised adequately evaluate and disclose the impacts that construction and operation of the Project will have on local and regional air quality.

IV. The SEIR Fails to Adequately Discuss and Disclose the Project's Significant Health Risk Impact.

The SEIR admits that the Project will result in emissions of diesel particulate matter ("DPM"), a known carcinogen that is also linked to the increased risk of cardiovascular, cardiopulmonary, and respiratory disease. (FSEIR, p. 5.9-3, -23.) For analyzing the increased cancer risk of DPM during ***construction***, the SEIR included a quantified Health Risk Assessment ("HRA") that calculated the increased cancer risk and compared that risk to the Air District's 10 in one million threshold. (FSEIR, p. 5.9-32.) The SEIR concluded that, with mitigation, DPM impacts during construction would be less than significant. (*Id*.)

For ***operation***, the SEIR did not include a quantified HRA, instead relying on a narrative assessment that concluded operational DPM impacts would be less than significant. (FSEIR, p. 5.9-25 to -26.) CEQA requires that an EIR make "a reasonable effort to substantively connect a project's air quality impacts to likely health consequences." (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 510.) The Project is expected to generate up to 35,000 daily vehicle trips, which will expose nearby residents to a continuous source of DPM throughout Project operation. By failing to provide a quantified HRA for the operational emissions of DPM, the EIR is inconsistent with CEQA's requirement to correlate the increase in emissions generated by the Project with the potential adverse impacts on human health, which is accomplished by conducted an HRA and comparing the increased cancer risk of construction and operation combined to the Air District's of 10 in one million threshold. (Ex. A, pp. 8-9.)

In order to assess the Project's impacts from DPM emissions during construction and operation, Dr. Rosenfeld prepared a quantified screening-level HRA. (Ex. A, p. 9.) Using the SEIR's own estimates of operational PM emissions, Dr. Rosenfeld analyzed impacts to individuals at different stages of life based on guidance set forth by the Office of Environmental Health Hazard Assessment. (*Id*.) Dr. Rosenfeld found that the excess cancer risk for children and adults from operation of the Project is approximately 131 and 55.7 in one million, respectively.

(*Id*. at p. 12.) Moreover, Dr. Rosenfeld found that the excess cancer risk from construction and operation combined would be 195 in one million. (*Id*.) The child, adult, and combined construction/operation cancer risks all exceed the Air District's threshold of 10 in one million. The SEIR must be revised and recirculated to disclose this significant health impact and mitigate it to the extent feasible. (See Ex. A, pp. 13-14 [recommended mitigation measures].)

V. The SEIR Fails to Adequately Disclose and Mitigate the Project's Noise Impacts.

Noise expert Ani Toncheva reviewed the SEIR's noise analysis. Ms. Toncheva's comment letter and CV is attached as Exhibit B and her findings are summarized below. Ms. Toncheva identified four areas where the SEIR's noise analysis is lacking: (1) inconsistencies between the significance thresholds in the SEIR and 2018 CPU EIR; (2) inadequate traffic noise analysis; (3) inadequate operational noise analysis; and (4) inadequate construction noise analysis.

A. The SEIR's noise analysis is inconsistent with the 2018 CPU EIR.

The SEIR lists six (6) significance thresholds for noise impacts:

- **Issue 1:** Result in or create a significant increase in the existing ambient noise levels;
- **Issue 2:** Result in an exposure of people to current or future transportation noise levels which exceed guidelines established in the Noise Element of the General Plan;
- **Issue 3:** Result in land uses which are not compatible with aircraft noise levels as defined by an adopted Airport Land Use Compatibility Plan (ALUCP);
- **Issue 4:** Result in the exposure of people to noise levels which exceed property line limits established in the Noise Abatement and Control Ordinance of the Municipal Code;
- **Issue 5:** Result in the exposure of people to significant temporary construction noise; or
- **Issue 6**: Result in the exposure of people to significant vibration.

(FSEIR, p. 5.5-19.) However, the SEIR 's analysis of Issue 1 is limited only to whether "the Project [would] result in or create a significant increase in the existing ambient ***vehicle*** noise." (FSEIR, p. 5.5-19.) Nothing in the 2018 CPU EIR or the SEIR limits the Issue 1 threshold to only vehicle noise. The SEIR should have analyzed and disclosed the noise impacts of construction and operation of the Project compared to existing ambient levels. (Ex. B, p. 3.)

In addition to failing to fully analyze noise impacts compared to ambient levels, the SEIR failed to account for noise impacts on nearby hotels and motels. The SEIR claims that hotels and motels are not considered sensitive land uses. (FSEIR Noise Report, p. 2.) However, the 2018 CPU EIR "explicitly lists hotels and motels as noise sensitive receptors." (Ex. B, p. 3; 20187

CPU EIR Noise Report, p. 3.). Because the 2018 CPU EIR requires hotels and motels to be included in a noise analysis, the SEIR erred by failing to analyze impacts to the Wyndam Garden Hotel, located 110 feet from the Project site, directly across from the Arena.

B. The SEIR's analysis of traffic noise is unsubstantiated.

Although the SEIR purports to model traffic noise levels along Sports Arena Boulevard, the SEIR failed to establish the *existing* noise levels along Sports Arena Boulevard in the first instance. (Ex. B, p. 3.) None of the noise measurement locations shown in the SEIR's technical Noise Report are along Sports Arena Boulevard. (SEIR Noise Report, p. 35 [Figure 6].) Without such measurements, there is no way to verify the modeled traffic noise levels presented in the SEIR. (Ex. B, p. 3.) The SEIR should be revised to address this missing information.

The SEIR also fails to explain discrepancies between modeled noise levels and measured noise levels along Hancock Street. (Ex. B, pp. 3-4.) According to the SEIR, the modeled noise level along Hancock Street from Sports Arena Boulevard to Channel Way without the Project (on event days and non-event days) is 59 dBA. However, the SEIR also performed short-term noise measurements along Hancock that exceed the modeled 59 dBA. (*Id*. at p .4.) The SEIR fails to explain this discrepancy. Furthermore, based on guidance from the FTA, MS. Toncheva explains that the actual noise levels along Hancock Street could reach up to 69 dBA—10 dBA higher than disclosed in the SEIR. The SEIR should be revised to provide this missing information.

C. The SEIR's analysis of operational HVAC noise is inadequate.

Although the SEIR purports to analyze the operational noise impacts from the Project's HVAC units, the SEIR assumes, without justification, that each residential/mixed-use building will have a single HVAC unit. (Ex. B, p. 4.) Also, as mentioned above, the noise analysis fails to analyze impacts to the Wyndham Garden Hotel, located 110 feet away. In the event that 6 or more HVAC units are operating at the buildings closest to the Wyndam Hotel, the noise would exceed the City's evening and nighttime thresholds. (*Id*.) The SEIR should be revised to provide full and accurate information about the number of HVAC units required for the Project.

D. The SEIR's analysis of construction noise is not supported by substantial evidence.

Ms. Toncheva's review of the SEIR found that the noise analysis underestimates the Project's construction noise impacts. First, the SEIR purports to use the FTA Manual "general assessment" methodology, "which focuses on the loudest potential pieces of construction equipment from a given phase." (Ex. B, p. 4.) Under this methodology, the usage factor for each piece of machinery is 100%. (*Id*.) However, the SEIR adjusted the usage factors for the various pieces of equipment, which is an incorrect application of the FTA general assessment and which results in an underestimation of the Project's construction noise.

Second, the SEIR presents an inaccurate noise level for grading and excavation. According to the SEIR, the noise level for grading/excavation is 85 dBA. (FSEIR Noise Report, p. 79 [Table 13].) However, according to FTA methodology, the noise level for grading/excavation is actually 87 dBA.

Third, the SEIR fails to analyze construction noise impacts at the Wyndham Garden Hotel despite the fact that, as explained above, the 2018 CPU EIR considered hotels/motels to be sensitive uses. Ms. Toncheva calculated the construction noise impacts at the Wyndham Hotel and found that grading and excavation would exceed the 75 dBA threshold. The SEIR should be revised and recirculated to disclose this impact and mitigate it to the extent possible.

Fourth, the SEIR's proposed mitigation measures for construction noise are inadequate to reduce the impacts to less than significant. (Ex. B, p. 6.) Only one of the proposed mitigation measures (temporary noise barriers) "would noticeably reduce the estimated noise levels." (*Id*.) However, the noise barriers are only required to be 8-feet in height, which would reduce noise levels for any sensitive receptors located on the ground floor but would be useless for any second-floor receptors. The SEIR should be revised to address the effectiveness of the temporary noise barriers to mitigate the impacts to receptors located above the first floor of a given building.

CONCLUSION

Approval of the Project and the SEIR would violate CEQA by: (1) failing to require all feasible mitigation measures for the Project's significant and unavoidable impacts; (2) failing to adopt the feasible and environmentally-superior Retain Arena Alternative; (3) failing to adequately disclose and mitigate impacts to air quality and human health; and (4) failing to adequately disclose and mitigate noise impacts.. For those reasons, SAFER requests that Planning Commission refrain from approving the Project at this time and, instead, direct staff to revise and recirculate the SEIR to ensure compliance with CEQA.

Sincerely,

Brian B. Flynn
Lozeau Drury LLP

EXHIBIT A

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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

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

September 18, 2025

Brian Flynn
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, CA 94618

Subject: Comments on the Midway Rising Project (SCH No. 2023120451)

Dear Mr. Flynn,

We have reviewed the September 2025 Final Subsequent Environmental Impact Report ("FSEIR") and the March 2025 Draft Subsequent Environmental Impact Report ("DSEIR") for the Midway Rising Specific Plan ("Specific Plan/Project") located in the City of San Diego ("City"). The Project proposes to construct 4,254 residential units, retail and restaurant space, a 380,355-square-feet ("SF") entertainment center, and 7,040 parking spaces on the 49.23-acre site.

Our review concludes that the DSEIR and the FSEIR fails to adequately evaluate the Specific Plan's air quality, and health risk impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project may be underestimated and inadequately addressed. A revised Environmental Impact Report ("EIR") should be prepared to adequately assess and mitigate the potential air quality and health risk impacts that the project may have on the environment.

Air Quality

Unsubstantiated Input Parameters Used to Estimate Project Emissions

When reviewing the Project's CalEEMod output files, provided in the Air Quality Technical Report ("AQ Report") provided as Appendix K1 to the DSEIR, we identified several model inputs related to Project construction and operation that are inconsistent with information disclosed in the DSEIR. A revised EIR should be prepared to include an updated air quality analysis that provides a more detailed evaluation of the impact that construction and operation of the Project may have on local and regional air quality.

Changes to Construction Phase Lengths

Review of the CalEEMod output files demonstrates that the "Midway Rising Detailed Report" model alters the default construction phase lengths and includes the following construction schedule (see screenshot below) (Appendix K1, pp. 259).

Phase Name	Phase Type	Start Date	End Date	Days Per Week	Work Days per Phase	Phase Description
P1 Demolition	Demolition	1/2/2026	7/1/2026	5.00	129	—
P2a Demolition	Demolition	11/1/2028	3/30/2029	5.00	108	—
P2b Demolition	Demolition	3/3/2031	7/2/2031	5.00	88.0	—
P1 Grading	Grading	2/2/2026	3/1/2027	5.00	281	—
P2a Grading	Grading	1/2/2029	2/26/2030	5.00	301	—
P2b Grading	Grading	3/3/2031	12/30/2031	5.00	217	—
P1 Building Construction	Building Construction	7/1/2026	1/26/2029	5.00	673	—
P2a Building	Building Construction	5/1/2029	5/3/2033	5.00	1,046	—
P2b Building	Building Construction	9/1/2031	12/1/2034	5.00	850	—
P1/2 Paving	Paving	3/2/2026	3/1/2029	5.00	784	—
P1 Architectural Coating	Architectural Coating	11/2/2026	1/31/2029	5.00	588	—
P2a Coating	Architectural Coating	9/3/2029	12/5/2034	5.00	1,372	—
P2b Coating	Architectural Coating	11/4/2034	8/6/2038	5.00	980	—

The CalEEMod User's Guide requires any changes to model defaults be justified.[1] The justification provided for these changes is:

> "Revised to Applicant provided schedule. Assumes applicant provided start date and total working days due to stops/starts in some phases. Paving is for phases 1/2a/2b due to modeling constraints" (Appendix K1, pp. 287).

Regarding the Specific Plan's construction schedule, the DSEIR states that "[c]onstruction is anticipated to begin in winter 2026 and take approximately 120 months to complete (ending in 2035)" (p. 3-15). However, the construction schedule in the model remains unsupported for two reasons.

First, while the DSEIR justifies the total construction duration of 10 years, the DSEIR and FSEIR fail to discuss the lengths of the *individual* construction phase lengths (e.g., demolition, grading, building construction, and architectural coating) whatsoever. According to the CalEEMod User's Guide:

> "CalEEMod was also designed to allow the user to change the defaults to reflect site- or project-specific information, when available, provided that the information is supported by substantial evidence as required by CEQA." [2]

As the DSEIR fails to provide substantial evidence to support the revised individual construction phase lengths, we cannot verify the changes.

Second, the DSEIR proposes two larger construction phases for the proposed Project, with Phase 1 beginning in 2026 and ending 2030 and Phase 2 beginning in 2028 and ending in 2035 (p. 3-16, 3-17). The DSEIR also includes a breakdown of the land use sizes that will be developed in each phase (see excerpt below) (p. 3-19, Table 3-3).

[1] "CalEEMod User Guide." CAPCOA, April 2022, available at: https://www.caleemod.com/documents/user-guide/01_User%20Guide.pdf, p. 13, 14.
[2] "CalEEMod User Guide." CAPCOA, April 2022, available at: https://www.caleemod.com/documents/user-guide/01_User%20Guide.pdf, p. 10.

Table 3-3. Proposed Land Uses per Phase

Land Use		Opening Year (2030) Project Phase 1	Opening Year (2035) Project Phase 2 (Project Buildout)
Entertainment (spectators)	Entertainment Center	16,000	16,000
	Outdoor Event	4,000	4,000
	Subtotal	*20,000*	*20,000*
Residential (dwelling units)	Affordable	479	2,000
	Market Rate	386	2,254
	Subtotal	*875*	*4,254*
Commercial (square feet)	Retail	38,952	60,000
	Restaurant	51,936	70,000
	Subtotal	*90,888*	*130,000*
Parking	Residential	1,535	4,500
	Commercial	280	390
	Entertainment	781	2,100
	Subtotal	*2,596*	*6,990*

Source: Appendix D1.

Instead of modeling Phase 1 (opening year 2030) and Phase 2 (opening year 2035) separately, the DSEIR includes all proposed land uses in one air model. We find this methodology faulty. CalEEMod does not enable the DSEIR to designate partial land use types and sizes with different construction phases. The DSEIR should have modeled the two phases separately to accurately estimate the peak daily emissions associated with both Phase 1 and Phase 2 of construction.

According to the CalEEMod User's Guide, each individual construction phase (e.g., demolition, grading, building construction, and architectural coating) is associated with different emissions activities (see excerpt below).[3]

Table 3. CalEEMod Default Construction Phases [a]

Phase Type	Description
NON-LINEAR LAND USE TYPES (VERTICAL CONSTRUCTION)	
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.
Paving	Involves the laying of concrete or asphalt such as in parking lots, roads, driveways, or sidewalks.
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.

By modifying the individual construction phase lengths, the model assumes there are more days to complete the construction activities required by the certain phases. The model therefore assumes fewer activities would be required per day for those phases and, consequently, less pollutants emitted per day.

[3] "CalEEMod User Guide." CAPCOA, April 2022, available at: https://www.caleemod.com/documents/user-guide/01_User%20Guide.pdf, p. 34, Table 3.

Until the construction phases are verified, the model may underestimate the peak daily emissions associated with certain construction activities. The model should have separately modeled the two construction phase lengths and proportionately altered all phase lengths to match the proposed construction duration of Phase 1 and Phase 2.

Unsubstantiated Changes to Construction Equipment Parameters

Review of the CalEEMod output files demonstrates that the "Midway Rising Detailed Report" model includes changes to the default off-road construction equipment input parameters and includes the following construction equipment list (see screenshot below) (Appendix K1, pp. 262, 263, 264,265).

Phase Name	Equipment Type	Fuel Type	Engine Tier	Number per Day	Hours Per Day	Horsepower	Load Factor
P1 Demolition	Excavators	Diesel	Average	2.00	8.00	36.0	0.38
P1 Demolition	Excavators	Diesel	Tier 4 Final	1.00	8.00	36.0	0.38
P1 Demolition	Tractors/Loaders/Backhoes	Diesel	Average	1.00	8.00	84.0	0.37
P1 Demolition	Tractors/Loaders/Backhoes	Diesel	Tier 4 Final	1.00	8.00	84.0	0.37
P2a Demolition	Excavators	Diesel	Average	2.00	8.00	36.0	0.38
P2a Demolition	Excavators	Diesel	Tier 4 Final	1.00	8.00	36.0	0.38
P2a Demolition	Tractors/Loaders/Backhoes	Diesel	Average	1.00	8.00	84.0	0.37
P2a Demolition	Tractors/Loaders/Backhoes	Diesel	Tier 4 Final	1.00	8.00	84.0	0.37
P2a Demolition	Crushing/Proc. Equipment	Electric	Average	1.00	8.00	12.0	0.85
P2a Demolition	Generator Sets	Diesel	Average	1.00	8.00	14.0	0.74
P2b Demolition	Excavators	Diesel	Tier 4 Final	1.00	8.00	36.0	0.38
P2b Demolition	Tractors/Loaders/Backhoes	Diesel	Average	1.00	8.00	84.0	0.37
P1 Grading	Graders	Diesel	Tier 4 Final	1.00	8.00	148	0.41
P1 Grading	Excavators	Diesel	Average	2.00	8.00	36.0	0.38
P1 Grading	Excavators	Diesel	Tier 4 Final	1.00	8.00	36.0	0.38
P1 Grading	Tractors/Loaders/Backhoes	Diesel	Average	2.00	8.00	84.0	0.37

**Screenshot includes only a partial snapshot of the construction equipment list.*

As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified.[4] The justification provided for these changes is:

> "Revised with applicant-provided equipment fleet" (Appendix K1, pp. 287).

These changes remain unsubstantiated, as the FSEIR and DSEIR do not mention nor justify the off-road construction equipment parameters whatsoever. As previously discussed, the CalEEMod User's Guide requires changes to be supported by substantial evidence and, consequently, we cannot verify these changes.[5]

[4] "CalEEMod User's Guide." CAPCOA, May 2021, *available at:* https://www.aqmd.gov/caleemod/user's-guide, p. 1, 14.

[5] "CalEEMod User Guide." CAPCOA, April 2022, available at: https://www.caleemod.com/documents/user-guide/01_User%20Guide.pdf, p. 1, 10.

CalEEMod uses the off-road equipment unit amounts, horsepower, and hours of use per day values to calculate the emissions associated with off-road construction equipment.[6] By including unsupported changes to the default off-road construction equipment values, the model may underestimate the Project's construction-related emissions and should not be relied upon to determine Project significance.

Unsubstantiated Changes to Construction Vehicle Trips

Review of the CalEEMod output files demonstrates that the "Midway Rising Detailed Report" model includes changes to the default construction vehicle trips and includes the following table (see screenshot below) (Appendix K1, pp. 267, 268, 269).

Phase Name	Trip Type	One-Way Trips per Day	Miles per Trip	Vehicle Mix
P1 Demolition	—	—	—	—
P1 Demolition	Worker	20.0	12.0	LDA,LDT1,LDT2
P1 Demolition	Vendor	—	7.63	HHDT,MHDT
P1 Demolition	Hauling	10.0	20.0	HHDT
P1 Demolition	Onsite truck	—	—	HHDT
P1 Grading	—	—	—	—
P1 Grading	Worker	22.0	12.0	LDA,LDT1,LDT2
P1 Grading	Vendor	—	7.63	HHDT,MHDT
P1 Grading	Hauling	16.0	43.0	HHDT
P1 Grading	Onsite truck	8.00	0.50	HHDT
P1 Building Construction	—	—	—	—
P1 Building Construction	Worker	230	12.0	LDA,LDT1,LDT2
P1 Building Construction	Vendor	61.0	7.63	HHDT,MHDT
P1 Building Construction	Hauling	0.00	20.0	HHDT
P1 Building Construction	Onsite truck	—	—	HHDT
P1/2 Paving	—	—	—	—
P1/2 Paving	Worker	256	12.0	LDA,LDT1,LDT2
P1/2 Paving	Vendor	18.0	7.63	HHDT,MHDT
P1/2 Paving	Hauling	0.00	20.0	HHDT

**Screenshot includes only a partial snapshot of the construction vehicle trips.*

As stated previously, the CalEEMod User's Guide requires any changes to model defaults be justified.[7] The justification provided for these changes is:

> "Average daily manpower/truck estimates from Applicant" (Appendix K1, pp. 287).

The FSEIR and DSEIR fail to provide the daily construction vehicle trips or elaborate on these changes whatsoever. As the CalEEMod User's Guide requires changes to be supported by substantial evidence, we cannot verify these changes.[8]

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[6] "CalEEMod User Guide." CAPCOA, April 2022, available at: https://www.caleemod.com/documents/user-guide/01_User%20Guide.pdf, p. 35.
[7] "CalEEMod User Guide." CAPCOA, April 2022, available at: https://www.caleemod.com/documents/user-guide/01_User%20Guide.pdf, p. 1, 11.
[8] "CalEEMod User Guide." CAPCOA, April 2022, available at: https://www.caleemod.com/documents/user-guide/01_User%20Guide.pdf, p. 1, 10.

These unsupported changes present an issue, as CalEEMod uses the vendor and worker trip numbers to estimate the construction-related emissions associated with on-road vehicles.[9] By including unsupported changes to the default construction trips, the model may underestimate the Project's mobile-source construction-related emissions and should not be relied upon to determine Project significance.

Incorrect Amount of Required Demolition

Regarding the amount of demolition required for Project construction, the DSEIR states:

> "In total, for Phases 1 and 2, site preparation would include demolition of all 14 on-site structures (361,799 square feet), including the San Diego International Sports Arena, and associated asphalt surface parking lots (1,836,403 square feet)" (p. 3-16).

As indicated above, the Project would generate a total of 2,198,202-SF of demolition waste. Review of the CalEEMod output files demonstrates that the "Midway Rising Detailed Report" model only includes 1,125,963-SF of demolition debris (Appendix K1, pp. 270).

Phase Name	Material Imported (Cubic Yards)	Material Exported (Cubic Yards)	Acres Graded (acres)	Material Demolished (Building Square Footage)	Acres Paved (acres)
P1 Demolition	0.00	0.00	0.00	847,337	—
P2a Demolition	0.00	0.00	0.00	184,880	—
P2b Demolition	0.00	0.00	0.00	93,746	—
P1 Grading	13,700	1,900	258	0.00	—
P2a Grading	25,000	2,850	320	0.00	—
P2b Grading	20,150	14,250	326	0.00	—
P1/2 Paving	0.00	0.00	0.00	0.00	16.4

The model thus underestimates the amount of demolition generated by Project construction by 1,072,239-SF.[10]

This underestimation presents a significant issue, as demolition material is used to calculate emissions associated with fugitive dust, debris removal, as well as exhaust from hauling trucks traveling to and from the Project site.[11] By failing to include the full amount of required demolition, the model underestimates the Project's construction-related emissions and should not be relied upon to determine Project significance.

Incorrect Amount of Material Import and Export

The DSEIR reveals that Project construction requires material import and export, stating:

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[9] "CalEEMod User Guide." CAPCOA, April 2022, available at: https://www.caleemod.com/documents/user-guide/01_User%20Guide.pdf, p. 37.

[10] Calculated: 2,198,202-SF of required demolition – 1,125,963-SF of modeled demolition = 1,072,239-SF of underestimated demolition.

[11] "CalEEMod User Guide." CAPCOA, April 2022, available at: https://www.caleemod.com/documents/user-guide/01_User%20Guide.pdf, p. 38.

"Total earthwork for the Project would be approximately 517,000 cubic yards of cut and 555,000 cubic yards of fill from mass grading, foundation spoils, hazardous soils, and utility trench spoils" (p. 3-16).

Review of the CalEEMod output files demonstrates that the "Midway Rising Detailed Report" model only includes 58,850 cubic yards ("cy") of material import and 19,000-cy of material export (see screenshot below) (Appendix K1, pp. 270).

Phase Name	Material Imported (Cubic Yards)	Material Exported (Cubic Yards)	Acres Graded (acres)	Material Demolished (Building Square Footage)	Acres Paved (acres)
P1 Demolition	0.00	0.00	0.00	847,337	—
P2a Demolition	0.00	0.00	0.00	184,880	—
P2b Demolition	0.00	0.00	0.00	93,746	—
P1 Grading	13,700	1,900	258	0.00	—
P2a Grading	25,000	2,850	320	0.00	—
P2b Grading	20,150	14,250	326	0.00	—
P1/2 Paving	0.00	0.00	0.00	0.00	16.4

The model thus underestimates the amount of material import and export generated by Project construction by 496,150-cy and 489,000-cy, respectively.[12]

The inclusion of material import and export within the model is required to calculate emissions produced from material movement, including truck loading and unloading, and additional hauling truck trips.[13] By underestimating the amount of material import and export required for Project construction, the model underestimates the Project's construction-related emissions and should not be relied upon to determine Project significance. A revised EIR should be prepared to provide an updated air quality analysis.

Diesel Particulate Matter Emissions Inadequately Evaluated

The DSEIR conducts a health risk analysis ("HRA") evaluating impacts as a result of exposure to diesel particulate matter ("DPM") emissions from Project construction. Specifically, the FSEIR estimates that the maximum mitigated cancer risk posed to nearby, existing residential sensitive receptors as a result of Project construction would be 8 in one million, which would not exceed the San Diego Air Pollution Control District ("SDAPCD") significance threshold of 10 in one million (see excerpt below) (p. 5.9-32, Table 5.9-10).

[12] Calculated: 550,000-cy of required material import – 58,850-cy of modeled material import = 496,150-cy of underestimated material import. Calculated amount of material export: 517,000-cy of required material export – 19,000-cy of modeled material export = 489,000-cy of underestimated material export.
[13] "CalEEMod User Guide." CAPCOA, April 2022, available at: https://www.caleemod.com/documents/user-guide/01_User%20Guide.pdf, p. 36, 38.

Table 5.9-10. Mitigated Cancer and Non-Cancer Risk from Construction

Receptor	UTM Coordinates	Annual DPM Concentration (µg/m³)	10-Year Cancer Risk[a]	Exceeds Threshold?	Chronic Non-Cancer Risk	Exceeds Threshold?
1. Villa Marbella apartments	(480540.66, 3623758.04)	0.01642	8	No	0.003	No
2. The Orchard Senior Living Facility– Southeast Corner	(479647.12, 3624140.12)	0.00758	0.2	No	0.001	No
3. The Orchard Senior Living Facility – Southwest Corner	479408.92, 3624187.27	0.00696	0.2	No	0.001	No
4. Pointe Luxe Apartment Homes	479469.38, 3624080.87	0.00513	2.5	No	0.001	No
PMI	(480349.48, 36239974.78)	0.07227	35	Yes	0.01	No

Source: Appendix K1.

Notes: DPM = diesel particulate matter; PMI = point of maximum impact; UTM = Universal Transverse Mercator

[a] Ten-year cancer risk at PMI, Villa Marbella apartments, and Pointe Lux Apartment Homes is based on exposure from the third trimester to age 10. Ten-year cancer risk at The Orchard Senior Living facility is based on 10-year exposure for the 16–70 year age group. Health risk for all age groups is provided in Appendix B; 10-year cancer risk is not exceeded for any age group at The Orchard Senior Living facility.

The DSEIR and FSEIR, however, fail to address the health risk impacts on nearby, *existing* residential sensitive receptors from DPM generated during Project operation. The DSEIR and FSEIRs' failure to evaluate the Project's operational health risk impacts lacks adequate support for three reasons.

First, the Specific Plan proposes to construct 4,254 residential units, 130,000-SF of retail space, a 380,355-SF entertainment center, and 7,040 parking spaces on the 49.23-acre site (p. 3-3 – 3-5). Additionally, CalEEMod default calculations estimate that operation of the Project would generate approximately 35,000 daily vehicle trips, which would produce substantial exhaust emissions (see screenshot below) (Appendix K1, pp. 272, 273).

Land Use Type	Trips/Weekday	Trips/Saturday	Trips/Sunday	Trips/Year	VMT/Weekday	VMT/Saturday	VMT/Sunday	VMT/Year
Apartments High Rise	20,590	20,960	16,611	7,327,218	108,254	110,200	87,333	38,523,225
Strip Mall	2,659	2,522	1,226	888,733	21,517	20,410	9,918	7,191,051
Quality Restaurant	3,354	3,602	2,879	1,212,238	10,592	29,142	23,293	5,495,528
High Turnover (Sit Down Restaurant)	4,487	4,896	5,706	1,722,675	14,424	39,615	46,166	8,233,408
Arena	4,077	4,077	4,077	1,488,073	32,988	32,988	32,988	12,040,522
Enclosed Parking with Elevator	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
City Park	11.1	27.9	31.1	5,965	89.7	225	252	48,262
Parking Lot	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

As demonstrated above, the substantial scale of the Specific Plan's proposed land uses and associated operational vehicle trips will result in considerable DPM emissions affecting nearby, existing residential receptors. Considering the Project's magnitude and potential for long-term operational emissions, we recommend that an HRA be conducted to evaluate and disclose the health risks associated with DPM emissions from Project operations.

Second, under CEQA, agencies must make a "reasonable effort to substantively connect a project's air quality impacts to likely health consequences." By not preparing an operational HRA, the DSEIR and FSEIR are thus inconsistent with CEQA's requirement to correlate the increase in emissions generated by the Project to the adverse impacts on human health caused by those emissions. Furthermore, other mixed-use Specific Plans or Projects of this caliber have prepared operational HRAs.[14, 15]

Third, while the DSEIR and FSEIR include an HRA evaluating the health risk impacts to nearby, existing receptors as a result of Project construction, the HRA fails to evaluate the combined lifetime cancer risk to nearby, existing receptors as a result of Project construction and operation together. According to OEHHA guidance, "the excess cancer risk is calculated separately for each age grouping and then summed to yield cancer risk at the receptor location."[16] The DSEIR's HRA fails to sum each age bin to evaluate the total cancer risk over the course of the Project's total construction and operation. This is incorrect and an updated analysis should quantify the sum of the Project's construction and operational health risks to compare to the SDAPCD threshold of 10 in one million.

Screening-Level Analysis Demonstrates Potentially Significant Health Risk Impact

We conducted a screening-level risk assessment using AERSCREEN, a screening-level air quality dispersion model which uses a limited amount of site-specific information to generate maximum reasonable downwind concentrations of air contaminants to which nearby sensitive receptors may be exposed.[17] We prepared a preliminary HRA of the Project's operational related health risk impact to existing residential sensitive receptors using the annual, mitigated PM_{10} exhaust estimates from the DSEIR's CalEEMod output files. Consistent with recommendations set forth by the Office of Environmental Health Hazard Assessment ("OEHHA"), we assumed residential exposure begins during the third trimester stage of life.[18]

The "Midway Rising Detailed Report" model indicates that operational activities will generate approximately 3,720 pounds of DPM per year throughout operation.[19] 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 construction of the Project, we calculated an average DPM emission rate by the following equation:

$$Emission\ Rate\ \left(\frac{grams}{second}\right) = \frac{3720\ lbs}{365\ days} \times \frac{453.6\ grams}{lbs} \times \frac{1\ day}{24\ hours} \times \frac{1\ hour}{3{,}600\ seconds} = \mathbf{0.0535\ g/s}$$

[14] "Menifee Valley Specific Plan." CEQAnet, October 2023, *available at:* https://ceqanet.lci.ca.gov/2022030233/4.
[15] "Cambrian Park Mixed-Use Village Project." CEQAnet, November 2021, *available at*: https://ceqanet.lci.ca.gov/2018022034/3.
[16] "Guidance Manual for preparation of Health Risk Assessments." OEHHA, February 2015, *available at:* https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf p. 8-4
[17] "Air Quality Dispersion Modeling - Screening Models," U.S. EPA, *available at:* https://www.epa.gov/scram/air-quality-dispersion-modeling-screening-models.
[18] "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at:* https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 8-18.
[19] See Attachment A for health risk calculations.

Using this equation, we estimated an operational emission rate of 0.0535 grams per second ("g/s").

Operation was simulated as a 1.5-acre rectangular area source in AERSCREEN, with an initial vertical dimension of 1.5 meters and a maximum horizontal dimension of 631.2 meters. The minimum horizontal dimension is about 315.6 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. 2024 Census data.[20]

The AESCREEN model generates maximum reasonable estimates of single-hour DPM concentrations for the Project. The U.S. 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.[21] The FSEIR states that the closest known sensitive receptors are "the Via Marbella and The Orchard Senior Living facility, both located approximately 750 feet from the nearest potential Project building location" (p. 5.5-36). However, review of the AERSCREEN output files demonstrate that the *maximally* exposed individual receptor ("MEIR") is located approximately 325 meters downwind of the Project site.[22] Thus, the single-hour concentration estimated by AERSCREEN for operation of the Project is therefore approximately 13.87 µg/m^3 DPM at approximately 325 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 1.387 µg/m^3 for Project operation.

We calculated the excess cancer risk to the MEIR using applicable HRA methodologies prescribed by OEHHA, as recommended by SDAPCD.[23] Guidance from OEHHA and the California Air Resources Board ("CARB") recommends the use of a standard point estimate approach, including high-point estimate (i.e. 95th percentile) breathing rates and age sensitivity factors to account for the increased sensitivity to carcinogens during early-in-life exposure and accurately assess risk for susceptible subpopulations such as children. The residential exposure parameters used for the various age groups in our screening-level HRA are as follows:

[20] "San Diego." U.S. Census Bureau, 2024, *available at:* https://datacommons.org/place/geoId/0666000.
[21] "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources Revised." U.S. EPA, October 1992, *available at:* https://www.epa.gov/sites/default/files/2020-09/documents/epa-454r-92-019_ocr.pdf.
[22] See Attachment B for AERSCREEN output files.
[23] "Supplemental Guidelines for Submission of Air Toxics "Hot Spots" Program Health Risk Assessments (HRAs)." SDAPCD, July 2022, *available at:* https://www.sdapcd.org/content/dam/sdapcd/documents/permits/air-toxics/Hot-Spots-Guidelines.pdf.

Exposure Assumptions for Residential Individual Cancer Risk						
Age Group	**Breathing Rate** (L/kg-day)[24]	**Age Sensitivity Factor**[25]	**Exposure Duration** (years)	**Fraction of Time at Home**[26]	**Exposure Frequency** (days/year)[27]	**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 doses 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. We used the following dose algorithm, therefore, to assess exposures:

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

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)

We then used the following equation for each appropriate age group to calculate the overall cancer risk:

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

where:

[24] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf.
[25] *Ibid.,* p. 8-5 Table 8.3.
[26] "Supplemental Guidelines for Submission of Air Toxics "Hot Spots" Program Health Risk Assessments (HRAs)." SDAPCD, July 2022, available at: https://www.sdapcd.org/content/dam/sdapcd/documents/permits/air-toxics/Hot-Spots-Guidelines.pdf, p. 4.
[27] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, p. 5-24, available at: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf.

$Dose_{AIR}$ = do.se 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 4,599-day construction schedule, the annual annualized average concentration for operation was used for the remainder of the 30-year exposure period, which makes up the latter 3.65 years of the child stage of life (2 – 16 years) and the entire adult stage of life (16 – 30 years). 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	*	*
Infant (0 - 2)	Construction	2	*	*
	Construction	*10.35*	***	***
	Operation	*3.65*	*1.3870*	*1.31E-04*
Child (2 - 16)	Total	14		1.31E-04
Adult (16 - 30)	Operation	14	1.3870	5.57E-05
Lifetime		**30**		**1.87E-04**

**Construction HRA not conducted.*

As demonstrated in the table above, the excess cancer risks for children and adults at the MEIR located approximately 325 meters away, over the course of Project operation, are approximately 131 and 55.7 in one million, respectively. The total excess cancer risk associated with Project operation is approximately 187 in one million. When summing the Project's construction-related cancer risk, as estimated by the DSEIR, with SWAPE's operational cancer risk, we estimate an excess cancer risk of approximately 195 in one million over the course of a 30-year residential lifetime (p. 5.9-32, Table 5.9-10).[28] As such, the child, adult and lifetime cancer risks exceed the SDAPCD threshold of 10 in one

[28] Calculated: 6.65 in one million (IS/MND's estimated construction-related cancer risk) + 42.4 in one million (SWAPE's estimated operational cancer risk) = ~ 49 in one million.

million, resulting in a potentially significant impact not previously addressed or identified in the DSEIR and FSEIR.

Our analysis represents a screening-level HRA, which is known to be conservative. The purpose of the screening-level HRA is to demonstrate the potential link between project-generated emissions and adverse health risk impacts. The U.S. EPA Exposure Assessment Guidelines suggest an iterative, tiered approach to exposure assessments, starting with a simple screening-level evaluation using basic tools and conservative assumptions.[29] If required, a more refined analyses with advanced models and detailed input data can follow.

Our screening-level HRA demonstrates that operation of the Project could result in a potentially significant health risk impact. A revised EIR should therefore be prepared to include a refined operational HRA, as recommended by the U.S. EPA. If the refined analysis similarly reaches a determination of significant impact, then mitigation measures should be incorporated, as described in our "Feasible Mitigation Measures Available to Reduce Emissions" section below.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

The DSEIR and the FSEIR are required under CEQA to implement all feasible mitigation to reduce the Project's potential impacts. As demonstrated in the sections above, the Project would result in potentially significant air quality impacts that should be mitigated further.

In order to reduce the DPM emissions associated with Project operation, we recommend the FSEIR consider incorporating several mitigation measures as listed below. The Southern California Association of Governments' Certified Final Program Environmental Impact Report for Connect SoCal 2024 recommends the following Project-level air quality mitigation measures: [30]

- 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:
    - Marked crosswalks,
    - Count-down signal timers,
    - Curb extensions,
    - Speed tables,
    - Raised crosswalks,
    - Raised intersections,
    - Median islands,
    - Tight corner radii,

[29] "Exposure Assessment Tools by Tiers and Types - Screening-Level and Refined." U.S. EPA, May 2024, *available at:* https://www.epa.gov/expobox/exposure-assessment-tools-tiers-and-types-screening-level-and-refined.
[30] "Certified Final Program Environmental Impact Report for Connect SoCal 2024." SCAG, May 2020, *available at:* https://scag.ca.gov/program-environmental-impact-report-0.

    - Roundabouts or mini-circles, and
    - On-street parking,
    - 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:
    - Elimination (or reduction) of minimum parking requirements,
    - Creation of maximum parking requirements, and
    - Provision of shared parking.
- Require residential area parking permit.
- Provide ride-sharing programs:
    - Designate a certain percentage of parking spacing for ride sharing vehicles,
    - Designating adequate passenger loading and unloading and waiting areas for ride-sharing vehicles,
    - Providing a web site or messaging board for coordinating rides, and
    - Permanent transportation management association membership and finding requirement.

Provided above are several mitigation measures that would reduce Project-related DPM emissions. 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 operation.

A revised EIR should be prepared that includes all feasible mitigation measures, as well as updated air quality and health risk analyses to ensure that the necessary mitigation measures are implemented to reduce emissions to the maximum extent feasible. The revised EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's potentially significant emissions are reduced to the maximum extent possible.

Disclaimer

SWAPE has received limited documentation 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 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

Operation	
Emission Rate	
Annual Emissions (tons/year)	1.86
Daily Emissions (lbs/day)	10.19178082
Total DPM (lbs)	3720
Emission Rate (g/s)	0.053506849
Release Height (meters)	3
Total Acreage	49.23
Max Horizontal (meters)	631.23
Min Horizontal (meters)	315.62
Initial Vertical Dimension (meters)	1.5
Setting	Urban
Population	1,404,452
Start Date	1/2/2026
End Date	8/6/2038
Total Construction Days	4599
Total Years of Construction	12.60
Total Years of Operation	17.40

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	*	*
Infant (0 - 2)	Construction	2	*	*
Child (2 - 16)	*Construction*	*10.35*	*	*
	Operation	*3.65*	*1.3870*	*1.31E-04*
	Total	14		1.31E-04
Adult (16 - 30)	Operation	14	1.3870	5.57E-05
Lifetime		**30**		**1.87E-04**

AERSCREEN 21112 / AERMOD 21112 09/17/25
11:22:58

TITLE: Midway Rising, operation

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

SOURCE EMISSION RATE:	0.0535	g/s	0.425	lb/hr
AREA EMISSION RATE:	0.269E-06	g/(s-m2)	0.213E-05	lb/(hr-m2)
AREA HEIGHT:	3.00	meters	9.84	feet
AREA SOURCE LONG SIDE:	631.23	meters	2070.96	feet
AREA SOURCE SHORT SIDE:	315.62	meters	1035.50	feet
INITIAL VERTICAL DIMENSION:	1.50	meters	4.92	feet
RURAL OR URBAN:	URBAN			
POPULATION:	1404452			
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 SECTOR	SURFACE ROUGHNESS	1-HR CONC (ug/m3)	RADIAL (deg)	DIST (m)	TEMPORAL PERIOD
1*	1.000	13.87	15	325.0	WIN

* = worst case diagonal

********** 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 ADUSTED

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	10.85	2525.00	0.8267

25.00	11.16	2550.00	0.8159
50.00	11.47	2575.00	0.8055
75.00	11.76	2600.00	0.7952
100.00	12.03	2625.00	0.7852
125.00	12.28	2650.00	0.7753
150.00	12.52	2675.00	0.7656
175.00	12.75	2700.00	0.7561
200.00	12.97	2725.00	0.7468
225.00	13.18	2750.00	0.7378
250.00	13.38	2775.00	0.7289
275.00	13.57	2800.00	0.7202
300.00	13.75	2825.00	0.7117
325.00	13.87	2850.00	0.7034
350.00	13.50	2875.00	0.6952
375.00	10.39	2900.00	0.6872
400.00	8.842	2925.00	0.6794
425.00	7.989	2950.00	0.6717
450.00	7.308	2975.00	0.6642
475.00	6.799	3000.00	0.6569
500.00	6.336	3025.00	0.6496
525.00	5.994	3050.00	0.6426
550.00	5.681	3075.00	0.6356
575.00	5.397	3100.00	0.6288
600.00	5.136	3125.00	0.6221
625.00	4.895	3150.00	0.6156
650.00	4.674	3175.00	0.6091
675.00	4.468	3200.00	0.6027
700.00	4.278	3225.00	0.5965
725.00	4.102	3250.00	0.5903
750.00	3.936	3275.00	0.5843
775.00	3.782	3300.00	0.5784
800.00	3.639	3325.00	0.5725
825.00	3.503	3350.00	0.5668
850.00	3.377	3375.00	0.5612
875.00	3.259	3400.00	0.5557
900.00	3.146	3425.00	0.5503
925.00	3.040	3450.00	0.5449
950.00	2.940	3475.00	0.5397
975.00	2.847	3500.00	0.5346
1000.00	2.757	3525.00	0.5295
1025.00	2.672	3550.00	0.5245
1050.00	2.593	3575.00	0.5195
1075.00	2.517	3600.00	0.5146
1100.00	2.445	3625.00	0.5098
1125.00	2.375	3650.00	0.5051
1150.00	2.309	3675.00	0.5005
1175.00	2.247	3700.00	0.4959
1200.00	2.187	3725.00	0.4914
1225.00	2.131	3750.00	0.4870
1250.00	2.076	3775.00	0.4826

1275.00	2.024	3800.00	0.4784
1300.00	1.974	3825.00	0.4741
1325.00	1.926	3850.00	0.4700
1350.00	1.880	3875.00	0.4659
1375.00	1.836	3900.00	0.4619
1400.00	1.794	3925.00	0.4579
1425.00	1.754	3950.00	0.4540
1450.00	1.714	3975.00	0.4502
1475.00	1.676	4000.00	0.4464
1500.00	1.640	4025.00	0.4427
1525.00	1.605	4050.00	0.4390
1550.00	1.571	4075.00	0.4354
1575.00	1.539	4100.00	0.4318
1600.00	1.508	4125.00	0.4283
1625.00	1.478	4150.00	0.4248
1650.00	1.449	4175.00	0.4213
1675.00	1.421	4200.00	0.4180
1700.00	1.394	4225.00	0.4146
1725.00	1.368	4250.00	0.4113
1750.00	1.342	4275.00	0.4081
1775.00	1.317	4300.00	0.4049
1800.00	1.293	4325.00	0.4017
1825.00	1.269	4350.00	0.3986
1850.00	1.247	4375.00	0.3956
1875.00	1.225	4400.00	0.3926
1900.00	1.204	4425.00	0.3896
1925.00	1.184	4450.00	0.3866
1950.00	1.164	4475.00	0.3837
1975.00	1.144	4500.00	0.3809
2000.00	1.126	4525.00	0.3780
2025.00	1.108	4550.00	0.3752
2050.00	1.090	4575.00	0.3725
2075.00	1.073	4600.00	0.3698
2100.00	1.056	4625.00	0.3671
2125.00	1.039	4650.00	0.3644
2150.00	1.023	4675.00	0.3618
2175.00	1.008	4700.00	0.3592
2200.00	0.9926	4725.00	0.3567
2225.00	0.9779	4750.00	0.3542
2250.00	0.9636	4775.00	0.3517
2275.00	0.9495	4800.00	0.3492
2300.00	0.9358	4825.00	0.3468
2325.00	0.9224	4850.00	0.3444
2350.00	0.9094	4875.00	0.3420
2375.00	0.8967	4900.00	0.3397
2400.00	0.8843	4925.00	0.3373
2425.00	0.8722	4950.00	0.3350
2450.00	0.8604	4975.00	0.3328
2475.00	0.8489	5000.00	0.3305
2500.00	0.8376		

********** 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	13.88	13.88	13.88	13.88	N/A
DISTANCE FROM SOURCE	326.00 meters				
IMPACT AT THE AMBIENT BOUNDARY	10.85	10.85	10.85	10.85	N/A
DISTANCE FROM SOURCE	1.00 meters				

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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

(949) 887-9013
mhagemann@swape.com

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

- **Geologic and Hydrogeologic Characterization, Investigation and Remediation Strategies**
- **Industrial Stormwater Compliance**
- **CEQA Review**
- **Expert Testimony**

Professional Certifications:
California Professional Geologist, P.G.
California Certified Hydrogeologist, C.Hg.

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 Experience:
30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. Spent nine years with the U.S. EPA in the Resource Conservation Recovery Act (RCRA) and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where I identified emerging threats to groundwater. While with EPA, I served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. 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, I developed extensive client relationships and has managed complex projects that include consultations as an expert witness and a regulatory specialist, and managing projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions held include:

Government:
Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);

Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
Geologist, U.S. Forest Service (1986 – 1998).

Educational:
Geology Instructor, Golden West College, 2010 – 2104, 2017;
Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
Instructor, College of Marin, Department of Science (1990 – 1995).

Private Sector:
Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);
Executive Director, Orange Coast Watch (2001 – 2004);
Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, responsibilities have included:

- Lead analyst and testifying expert, for both plaintiffs and defendants, 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.
- Recommending 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 exposure to hazards from toxins.
- Stormwater analysis, sampling and best management practice evaluation, for both government agencies and corporate clients, at more than 150 industrial facilities.
- Serving as expert witness for both plaintiffs and defendants in cases including contamination of groundwater, CERCLAcompliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns, for both government agencies and corporate clients.
- Lead analyst and testifying expert in the review of environmental issues in license applicationsfor 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., 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.
- Lead author for a multi-volume remedial investigation report for an operating school in LosAngeles that met strict Sate of California regulatory requirements.
- Development of strategic approaches for cleanup of contaminated sites in consultation withclients and regulators.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, 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 included:

- Leading efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiating a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identifying 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, developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. 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, 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 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. Prepared geologic reports, conducted 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.

Served as a hydrogeologist with the RCRA Hazardous Waste program. Duties included:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliancewith 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, directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following:

- 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 Mexicoand advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation- wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

Policy:

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

- Advising the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinkingwater supplies.
- Shaping EPA's national response to these threats by serving on workgroups and by contributingto guidance, including the Office of Research and Development publication, Oxygenates in Water: Critical Information and Research Needs.
- Improving the technical training of EPA's scientific and engineering staff.
- Earning 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.
- Establishing national protocol for the peer review of scientific documents.

Geology:

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

- Mapping geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinating research with community stakeholders who were concerned with natural resource protection.
- Characterizing the geology of an aquifer that serves as the sole source of drinking water for thecity of Medford, Oregon.

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

Duties included the following:

- Supervising year-long effort for soil and groundwater sampling.
- Conducting aquifer tests.
- Investigating active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, 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.
- Part time geology instructor at Golden West College in Huntington Beach, California from 2010 to 2014 and in 2017.

Summary of Testimony Experience Over Past Four Years

In Re New Jersey Department of Environmental Protection et al. vs. E.I. DuPont de Nemours and Company, in the United States District Court, District of New Jersey, Civil Action No. 1:19-cv-14766-RMB-JBC. Deposition in 2025. Representing Plaintiffs in matters regarding contamination of groundwater, wastewater, soil, and air with per- and poly-fluoroalkyl substances.

In Re Edmond Asher, et al., vs. RTX Corporation (f/k/a Raytheon Technologies Corporation, et al.) in the County of Huntington Superior Court, Indiana, Cause number 35D01-2006-CT-000338. Deposition in 2024. Representing Plaintiffs in matters regarding contamination of groundwater and soil vapor with trichlorethylene.

In Re Wright vs Consolidated Rail Corporation In the Circuit Court of Cook County, Illinois, Case No: 21L3966. Deposition in 2023, Representing Plaintiff in matters involving groundwater and drinking water contamination of perchloroethylene, trichlorethylene, 1,2-dichloroethane, and carbon tetrachloride.

In Re Behr Dayton Thermal Products LLC In the United States District Court for the Southern District of Ohio Western Division at Dayton, Case No: 08-cv-326. Deposition in 2022. Representing Plaintiff in matters regarding contamination of groundwater and indoor air with perchloroethylene and trichloethelene.

Orange County Water District vs. Sabic Innovative Plastics US, LLC, et al. In the Court of Appeal, Fourth District,

Division 1, California, Case No: D070553. Deposition in 2020. Representing Plaintiff in matters involving compliance with The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).
Los Angeles Waterkeeper vs. AAA Plating and Inspection, Inc. In the United States District Court for the Central District of California, Case No: No. CV 18-5916 PA (GJSx). Deposition in 2019. Expert witness representing Plaintiff in matters involving contaminated stormwater runoff at an industrial facility in Compton, California.

Californians for Alternatives to Toxics vs. Schneider Dock and Intermodal Facility. In the United States District Court for the Northern District of California, Case No: 3:17-cv-05287-JST. Deposition in 2019. Expert witness representing Plaintiff in matters involving contaminated stormwater runoff at an industrial facility in Eureka, California.

Bells et al. vs. The 3M Company et al. In the United States District Court for the District of Colorado, Case No: 1:16-CV-02531-RBJ. Deposition in 2018. Expert witness representing Plaintiff on matters regarding the general hydrogeological conditions present in an area impacted by per- and poly-fluoroalkyl substances.

Ungar vs. Foundation for Affordable Housing. In the Superior Court, State of California, Los Angeles County, Case No. BC628890 Deposition in 2017. Expert witness representing defendant on matters involving alleged drinking water contamination.

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 andPublic Participation. Brownfields 2005, Denver, Coloradao.

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 atschools in Southern California, Los Angeles.

Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBEReleases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells.

Presentation to the Ground Water and Environmental Law Conference, National GroundwaterAssociation.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Waterin 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 Waterin 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 atribal EPA meeting, Pechanga, CA.

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

Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking WaterSupplies. 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 ofthe National Groundwater Association.

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

Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to AddressImpacts 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 andState Underground Storage Tank Program managers.

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

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 StorageTanks.

Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water 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 WatercraftUsage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George WrightSociety 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 AirStation, 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., Fukanaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Airand Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Basesin 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.

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.

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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

Paul Rosenfeld, Ph.D.

Chemical Fate and Transport & Air Dispersion Modeling

Principal Environmental Chemist

Risk Assessment & Remediation Specialist

Education

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

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

B.A. Environmental Studies, U.C. Santa Barbara, 1991. 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 H_2O 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.R., McCarthy, S.J. *et al.* Camp Lejeune Marine Cancer Risk Assessment for Exposure to Contaminated Drinking Water From 1955 to 1987. *Water Air Soil Pollut* **235**, 124 (2024). https://doi.org/10.1007/s11270-023-06863-y.

Rosenfeld P.E., Spaeth K.R., Remy L.L., Byers V., Muerth S.A., Hallman R,C., Summers-Evans J., Barker S. (2023) Perfluoroalkyl substances exposure in firefighters: Sources and implications, *Environmental Research*, Volume 220, https://doi.org/10.1016/j.envres.2022.115164.

Rosenfeld P.E. and Spaeth K.R., (2023) Authors' Response to Letter to the Editor from Bullock and Ramacciotti, *Water Air Soil Pollution* Volume 234, https://doi.org/10.1007/s11270-023-06165-3

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 Aermod and Empirical Data. *American Journal of Environmental Science*, 8(6), 622-632.

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

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

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

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

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

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.

Cheremisinoff, N.P., **Rosenfeld, P.E.** Davletshin, A.R. (2008). ***Responsible Care***. Gulf Publishing. Texas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affects 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. Master's 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. Bachelor's 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). Perfluoroctanoic 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 Tuscon, AZ.

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

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

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted at 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 Florala, 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 Conferenc*e. 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 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. The 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 the 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 the 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 the 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 District Court of Harris County Texas
Mt Davis Interest, Inc v Sesco Cement Corp
Cause No 2023-26512
Trial 6-6-2-25

In the United States Southern District of New York
Gallo vs Avon Products Inc., et al
Civil Action No.: 1:23-cv-2023
Deposition 4-24-2025

In Vanderburgh Superior Court 5, County of Vanderburgh, Indiana
Markello v CSX
Civil Action No 82D05-2011-CT-004962
Deposition 3-26-25

Iin the Circuit Court of Cook County Illinois
Jarosiewicz v Northeast Regional Railroad
Case No 2023 L 002290
Deposition 2-27-25

In the District Court 191st Judicial District Dallas County
Acklin v Poly America International
Cause No DC-22-08610
Deposition 1-8-2025

United States District Court, Norther District of California
Asustin Vs Monsanto
Case No 2:23-cv-272
Deposition 12-20-25

In Jefferson Circuit Court Division One, Louisville, Kentucky
Stafford vs, CSX
Case No. 18-CI-001790

Deposition: 8-27-24

In the Twenty-Second Judicial Circuit of St. Louis. State of Missouri
Patricia Godfrey vs, Amtrak
Case No. 2122-CC-00525
Deposition: 7-17-24

In the Circuit Court of Jefferson County Alabama
Linda Early Vs. CSX
Case number CV-2021-00241
Deposition 6-24-24

In the Court of Common Please Lucas County, Ohio
Brenda Conkright vs. CSX
Case No. G-4801-CI-0202102664-000
Deposition: 6-4-24

In the Commonwealth of Kentucky, Greenup Circuit Court
Patsy Sue Napier vs. CSX
Case No. 19-CI-0012
Deposition: 5-8-2-24

In United States District Court of Hawaii
Patrick Feindt, Jr. et al. vs. The United States of America
Case No. 1:22-cv-LEK-KJM
Trial 3-29-24 and 4-5-24

In the District Court of Hood County State of Texas
Artie Gray vs. Exxon Mobil
Case No. C-2018047
Rosenfeld Deposition:4-22-2024

In the Elkhart Superior Court State of Indiana
Estate of Clark Stacy vs. Penn Central Corporation
Cause No 2D01-2001-CT-00007
Rosenfeld Deposition 1-25-2024 and 3-7-2024

In the Circuit Court of Trempealeau County, State of Wisconsin
Michael J. Sylla et al. vs. High-Crush Whitehall LLC
Case No. 2019-CV-63, 2019-CV-64, 2019-CV-65, 2019-CV-66
Rosenfeld Deposition: 3-5-2024

In the Circuit Court of Trempealeau County, State of Wisconsin
Leland Drangstveit vs. High-Crush Blair LLC
Case No. 19-CV-66
Rosenfeld Deposition 3-5-2024

In the Circuit Court of Jefferson County Alabama
Donald Lee Ashworth vs. CSX Transportation Inc.
Case No CV-2021-901261
Rosenfeld Deposition 1-23-2024

In the United States District Court for the Eastern District of Wisconsin
Gary L Siepe vs. Soo Line Railroad
Case No. 2:21-cv-00919
Rosenfeld Deposition 1-19-2024

In the United States District Court for the Western District of Louisiana
Ricky Bush v. Clean Harbors Colfax LLC
Case No. 1:22-cv-02026-DDD-JPM
Rosenfeld Deposition 12-18-2023 and 1-15-2024

In United States District Court of Hawaii
Patrick Feindt, Jr. et al. vs. The United States of America
Case No. 1:22-cv-LEK-KJM
Rosenfeld Deposition 11-29-2023

In the Circuit Court for the Twentieth Judicial Circuit St. Clair County, Illinois
Timothy Gray vs. Rural King et al.
Case No 2022-LA-355
Rosenfeld Deposition 9-26-2023

In United States District Court Eastern District of Wisconsin
Gary L. Siepe vs. Soo Line Railroad Company
Case No. 2:21-cv-00919
Rosenfeld Deposition 9-15-2023

In the Circuit Court of Cook County Illinois
Donald Fox vs. BNSF
Case No. 2021 L12
Rosenfeld Deposition 9-12-2023

In the Court of Common Please Cuyahoga County, Ohio
Thomas Schleich vs. Penn Central Corporation
Lead Case No. CV-20-939184
Rosenfeld Deposition 8-27-2023

In the Circuit Court of Jackson County Missouri at Kansas City
Timothy Dalsing vs. BNSF
Case No. No. 2216-cv06539
Rosenfeld Deposition 7-28-2023

In the United States District Court for the Southern District of Texas Houston Division
International Terminals Company LLC Deer Park Fire Litigation
Lead Case No. 4:19-cv-01460
Rosenfeld Deposition 7-25-2023

In the Circuit Court of Livingston County Missouri
Shirley Ralls vs. Canadian Pacific Railway and Soo Lind Railroad
Case No. 28LV-CV0020
Rosenfeld Daubert Hearing 7-18-2023 Trial Testimony 7-19-2023

In the Circuit Court of Cook County Illinois
Brenda Wright vs. Penn Central and Conrail
Case No. No. 2032L003966
Rosenfeld Deposition 6-13-2023

In the Circuit Court Common Please Philadelphia of Jefferson County Alabama
Frank Belle vs. Birmingham Southern Railroad Company et al.
Case No. 01-cv-2021-900901.00
Rosenfeld Deposition 4-6-2023

In the Circuit Court of Jefferson County Alabama
Linda De Gregorio vs. Penn Central
Case No. 002278
Rosenfeld Deposition 3-27-20203

In the United States District Court Eastern District of New York
Rosalie Romano et al. vs. Northrup Grumman Corporation
Case No. 16-cv-5760
Rosenfeld Deposition 3-16-2023

In the Superior Court of Washington, Spokane County
Judy Cundy vs. BNSF
Case No. 21-2-03718-32
Rosenfeld Deposition 3-9-2023

In The Court of Common Pleas of Philadelphia County, PA Civil Trial Division
Feaster v Conrail
Case No. 001075
Rosenfeld Deposition 2-1-2023

In United States District Court for the Central District of Illinois
Sherman vs. BNSF
Case No. 3:17-cv-01192
Rosenfeld Deposition 1-18-2023

In United States District Court District of Colorado
Gonzales vs. BNSF
Case No. 1:21-cv-01690
Rosenfeld Deposition 1-17-2023

In United States District Court District of Colorado
Abeyta vs. BNSF
Case No. 1:21-cv-01689-KMT
Rosenfeld Deposition 1-3-2023

In United States District Court For The Easter District of Louisiana
Nathaniel Smith vs. Illinois Central Railroad
Case No. 2:21-cv-01235
Rosenfeld Deposition 11-30-2022

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, Trial 1-10-2023

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

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. vs Cerro Flow Products, Inc.
Case No. 0i9-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

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., Plaintifs, vs. Meritor Inc., et al., Defendants
Case No. 4:16-cv-52-DMB-JVM
Rosenfeld Deposition July 2017

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. vs. 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 United States District Court Western District of Oklahoma
Tommy McCarty, et al., Plaintiffs, vs. Oklahoma City Landfill, LLC d/b/a Southeast Oklahoma City Landfill, et al. Defendants.
Case No. 5:12-cv-01152-C
Rosenfeld Deposition: July 2014

In the County Court of Dallas County Texas
Lisa Parr et al, *Plaintiff*, vs. Aruba et al, *Defendant.*
Case Number cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial: April 2014

In the County of Kern, Unlimited Jurisdiction
Rose Propagation Services vs. Heppe Enterprises
Case No. S-1500-CV-278190, LHB
Rosenfeld Deposition: May 2014

In the Circuit Court of Baltimore County Maryland
Philip E. Cvach, II et al., *Plaintiffs* vs. Two Farms, Inc. d/b/a Royal Farms, Defendants
Case Number: 03-C-12-012487 OT
Rosenfeld Deposition: September 2013

In the Court of Galveston County, Texas 56th Judicial District
MDL Litigation Regarding Texas City Refinery Ultracracker Emission Event Litigation
Cause No. 10-UC-0001
Rosenfeld Deposition: March 2013
Rosenfeld Trial: September 2013

In the United States District Court of Southern District of Texas Galveston Division
Kyle Cannon, Eugene Donovan, Genaro Ramirez, Carol Sassler, and Harvey Walton, each Individually and on behalf of those similarly situated, *Plaintiffs*, vs. BP Products North America, Inc., *Defendant.*
Case 3:10-cv-00622
Rosenfeld Deposition: February 2012
Rosenfeld Trial: April 2013

In the United States District court of Southern District of California
United States of America, Plaintiff vs. 2,560 Acres of Land, more or less, located in Imperial County, State of California; and Donald L. Crawford, et. al.
Civil No. 3:11-cv-02258-IEG-RBB
Rosenfeld Deposition: December 2012, January 2013

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 Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., *Plaintiffs*, vs. Republic Services, Inc., et al., *Defendants*
Case Number: 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition: October 2012

In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., Plaintiffs, vs. International Paper Company, Defendant.

EXHIBIT B

WILSON IHRIG
ACOUSTICS, NOISE & VIBRATION

CALIFORNIA
WASHINGTON
NEW YORK

WI #25-002.14

September 18, 2025

Brian Flynn
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, CA 94612

SUBJECT: Midway Rising Project
San Diego, CA
Review and Comment on Noise Study

Dear Mr. Flynn,

Per your request, Wilson Ihrig has reviewed the information and noise impact analysis in the following documents:

Midway-Pacific Highway Community Plan
Revised Final Program Environmental Impact Report, May 2018 (PEIR)
Appendix G Noise Technical Report, July 2017 (PEIR Noise Report)

Midway Rising Project
Draft Subsequent Environmental Impact Report, March 2025 (DEIR)
Appendix G1 Noise Technical Report, March 2025 (DEIR Noise Report)
Final Subsequent Environmental Impact Report, September 2025 (FEIR)
Appendix G1 Noise Technical Report, September 2025 (FEIR Noise Report)
Appendix G2 Noise Supplemental Memorandum, October 2025 (FEIR Supplemental Memo)

The Proposed Midway Rising Project (Project) would result in the demolition of existing structures and the development of the 49.23-acre site with a mix of uses, including entertainment, retail, residential, recreational, and public park uses. The project site is surrounded by industrial and commercial uses directly to the east, west and north, and residential uses to the west, southwest, and southeast.

Wilson Ihrig, Acoustical Consultants, has practiced exclusively in the field of acoustics since 1966. During our 57 years of operation, we have prepared hundreds of noise studies for Environmental Impact Reports and Statements. We have one of the largest technical laboratories in the acoustical consulting industry. We also utilize industry-standard acoustical programs such as Roadway Construction Noise Model (RCNM), SoundPLAN, and CADNA. In short, we are well qualified to prepare environmental noise studies and review studies prepared by others.

Adverse Effects of Noise[1]

Although the health effects of noise are not taken as seriously in the United States as they are in other countries, they are real and, in many parts of the country, pervasive.

Noise-Induced Hearing Loss. If a person is repeatedly exposed to loud noises, he or she may experience noise-induced hearing impairment or loss. In the United States, both the Occupational Health and Safety Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) promote standards and regulations to protect the hearing of people exposed to high levels of industrial noise.

Speech Interference. Another common problem associated with noise is speech interference. In addition to the obvious issues that may arise from misunderstandings, speech interference also leads to problems with concentration fatigue, irritation, decreased working capacity, and automatic stress reactions. For complete speech intelligibility, the sound level of the speech should be 15 to 18 dBA higher than the background noise. Typical indoor speech levels are 45 to 50 dBA at 1 meter, so any noise above 30 dBA begins to interfere with speech intelligibility. The common reaction to higher background noise levels is to raise one's voice. If this is required persistently for long periods of time, stress reactions and irritation will likely result.

Sleep Disturbance. Noise can disturb sleep by making it more difficult to fall asleep, by waking someone after they are asleep, or by altering their sleep stage, e.g., reducing the amount of rapid eye movement (REM) sleep. Noise exposure for people who are sleeping has also been linked to increased blood pressure, increased heart rate, increase in body movements, and other physiological effects. Not surprisingly, people whose sleep is disturbed by noise often experience secondary effects such as cognitive decline, increased fatigue, depressed mood, and decreased work performance.

Cardiovascular and Physiological Effects. Human's bodily reactions to noise are rooted in the "fight or flight" response that evolved when many noises signaled imminent danger. These include increased blood pressure, elevated heart rate, and vasoconstriction. Prolonged exposure to acute noises can result in permanent effects such as hypertension and heart disease.

Impaired Cognitive Performance. Studies have established that noise exposure impairs people's abilities to perform complex tasks (tasks that require attention to detail or analytical processes) and it makes reading, paying attention, solving problems, and memorizing more difficult. This is why there are standards for classroom background noise levels and why offices and libraries are designed to provide quiet work environments.

[1] More information on these and other adverse effects of noise may be found in *Guidelines for Community Noise*, eds B Berglund, T Lindvall, and D Schwela, World Health Organization, Geneva, Switzerland, 1999. (https://iris.who.int/handle/10665/66217)

Inconsistencies between Project FEIR and Community Plan PEIR

The FEIR Noise Report presents six thresholds in the Significance Criteria section and claims these are generally based on the City's CEQA Significance Determination Thresholds, to be consistent with the Midway-Pacific Highway CPU PEIR [FEIR Noise Report, p. 43]. Threshold 1 explicitly refers to "a significant increase in the existing ambient noise levels" and Threshold 5 refers to "significant temporary construction noise." However, the FEIR only applies an increase criteria to traffic noise and ignores other operational and construction sources. The PEIR clearly defines significant increase over ambient levels based on land use compatibility guidelines, as reproduced in Figure 1 [PEIR Noise Report, p. ES-2].

Ambient Noise Level Increase

A significant impact would occur if noise sensitive land uses (NSLU) would be exposed to a significant increase of ambient noise levels as a result of the implementation of the CPU and associated discretionary actions. A significant increase at subject NSLUs is identified as any of the following:

- For NSLUs exposed to existing noise levels in excess of the land use compatibility guideline thresholds, a significant impact would occur if the NSLUs are exposed to an ambient noise level increase of 3 A-weighted decibels (dBA).
- For NSLUs currently exposed to existing ambient noise levels that do not exceed the land use compatibility guideline thresholds, a significant impact would occur if the NSLUs are exposed to an ambient noise level increase of 5 dBA.
- For NSLUs at or slightly less than the applicable land use compatibility guideline threshold, a significant increase would occur if the NSLUs are exposed to an ambient noise level increase of 5 dBA, or if the NSLUs are exposed to an ambient noise level increase of 3 dBA more than the applicable land use compatibility guideline thresholds (e.g. if the compatibility guideline is 70 dBA CNEL, and existing and future noise levels are at 68 and 72 dBA CNEL respectively, the increase would be considered less than significant because the increase would be below 73 dBA CNEL [3 dBA increase over the compatibility guideline threshold]).

Figure 1 PEIR Ambient Noise Level Increase Thresholds

Further, the FEIR claims that the City does not consider hotels and motels noise sensitive land uses, without providing any evidence of this [FEIR Noise Report, p. 25]. The PEIR explicitly lists hotels and motels as noise sensitive receptors along with residential dwellings, hospitals, nursing homes, educational facilities, and libraries [PEIR Noise Report, p. 3]. The Wyndham Garden Hotel is located 110 feet from the site, directly across Sports Arena Blvd. The FEIR fails to include this sensitive use in the operational and construction noise analysis.

Traffic Analysis Missing Validation

The FEIR fails to properly establish existing noise along Sports Arena Blvd. where the Wyndam Garden Hotel is located. Long-term measurements were conducted at the project property line, away from traffic sources as shown in Figure 6 of the Noise Report [p. 26 and p. 25]. Lacking any measurements on Sports Areana Blvd. the modeled traffic noise levels shown in Table 9 for Sports Arena Blvd. cannot be verified.

The modeled levels for existing traffic along Hancock Street (near residential sensitive receptors) are lower than measured levels reported in the FEIR. Table 9 shows a CNEL of 59 dBA between Sports Arena Blvd. and Channel Way for both no-event and event scenarios [FEIR Noise Report, p. 52]. Table

4 shows a short-term measured 1-hour Leq of 64 dBA at 3pm and 59 dBA at 10pm along Hancock Street [p. 27]. The FEIR does not provide a long-term measurement at Hancock Street. Based on the Federal Transit Authority Noise and Vibration Impact Assessment Manual Noise (FTA Manual)[2] Equations E-1, E-2, and E-4, the Ldn at Hancock could be anywhere from 62 to 67 dBA. The CNEL level would include an additional 5 dB penalty for evening hours, which could result in a CNEL level 1 or 2 dB higher than the Ldn.

The Caltrans Technical Noise Supplement to the Traffic Noise Analysis Protocol (TeNS) provides procedures for traffic studies, including a discussion of model accuracy tolerances.[3] The TeNS recommends that "differences of 5 dBA or more should be approached with caution" when validating traffic noise models [TeNS p. 4-13]. The Project should address this discrepancy and validate the traffic model using properly established measured baseline.

Potentially Significant Operational Noise Impacts

The FEIR underestimates operational noise from mechanical equipment. The Noise Report uses a reference noise level of 79 dBA at 3 feet for HVAC units. The FEIR adjusts this level for the distance to the Via Marbella and The Orchard Senior Living facility at 750 feet and concludes the impact would be less than significant [p. 66-67]. This analysis assumes a single unit for mixed use and residential buildings of varying size, including a total of 4,254 housing units, which would clearly require more than one unit. Further, the HVAC noise analysis fails to consider the Wyndam Garden Hotel, 110 feet from the site. The level from a single HVAC unit at this sensitive receptor would be 47 dBA. Six units or more would exceed the City of San Diego noise limits for "all other residential" for evening and nighttime presented in Table 3 of the FEIR Noise Report. Nineteen units would exceed the daytime limit as well. The Project should provide more information about how many HVAC units are expected to be used for residential and mixed use buildings, especially across the Hotel.

Further, the FEIR claims that noise from events would be significant and unavoidable without discussing any limits to the volume output from outdoor speakers in Mitigation Measure NOI-1. The Project should consider reasonable limits on amplified sound to reduce potential impact at nearby sensitive uses.

Potentially Significant Construction Noise Impacts

The FEIR underestimates construction noise impacts. The Noise Report claims that it followed the FTA Manual "general assessment" methodology, which focuses on the loudest potential pieces of construction equipment from a given phase. However, a **general** FTA construction noise assessment necessitates a usage factor of 100%, while the FEIR adjusted equipment noise levels using RCNM usage factors, as shown in Appendix C of the Noise Report. This is an incorrect application of the general assessment.

The correct FTA procedure dictates that equipment usage factors should exclusively be applied in a **detailed** FTA construction noise assessment. In such cases, noise levels should be calculated using

[2] https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf
[3] https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/env/tens-sep2013-a11y.pdf

the closest distance between receptors and construction equipment for *all* equipment expected to be used in each phase of construction (not just the noisiest pieces).

The FEIR analysis underestimates construction noise based on the detailed FTA methodology. Table 13 in the Noise Report shows a full list of equipment expected for each construction phase. As shown below in Table 1, the estimated Leq from grading / excavation at 50 feet is 87 dBA, 2 dB higher than the 85 dBA presented in Table 13 of the Noise Report.

Further, the FEIR fails to evaluate construction noise at the Wyndham Garden Hotel. As shown below, grading and excavation activities are expected to exceed the 75 dBA City threshold at this nearest receptor.

Table 1 Estimated Construction Noise Levels at Nearest Receptor (Wyndham Garden Hotel)

Activity	Equipment (Quantity)	Usage (%)	Ref. Lmax at 50 ft. (dBA)	Dist. to Nearest Receptor (ft.)	Leq at 50 ft. (dBA)	Leq at Nearest Receptor (dBA)
Grading/ Excavation	Scraper (1)	40	84	110	80	73
	Excavator (3)	40	81	110	82	75
	Loader (2)	40	79	110	78	71
	Water Truck (1)	40	75	110	71	64
	Grader (1)	40	85	110	81	74
	Total:				**87**	**80**
Paving	Paving Machine	50	77	110	74	67
	Vibrating Roller	20	80	110	73	66
	Plate Vibrator (2)	20	83	110	79	72
	Total:				**81**	**74**

California Environmental Quality Act Guidelines state that impacts to noise would be significant if the proposed project would result in "generation of a substantial temporary or permanent increase in ambient noise levels." The FEIR lacks a significance threshold for "substantial increase" for Project construction noise. Daytime ambient levels measured at nearby residential uses (ST-1 and ST-2) are reported to be between 59 dBA and 64 dBA. There were no measurements at the Wyndham Garden Hotel. The estimated construction noise level from grading and excavation of 80 dBA is not only above the City threshold, but 16 to 21 dB above the available measured ambient data. Paving noise is 10 to 15 dB above ambient. The FEIR does not compare this to the 5 dB increase criteria outlined in the PEIR.

As shown in Figure 3-6 of the FTA Manual, which is based on actual case studies, community reaction to newly introduced noise gets stronger as noise above existing levels increases. Increases between 15 to 20 dB consistently result in "widespread complaints" and multiple "threats of legal action."

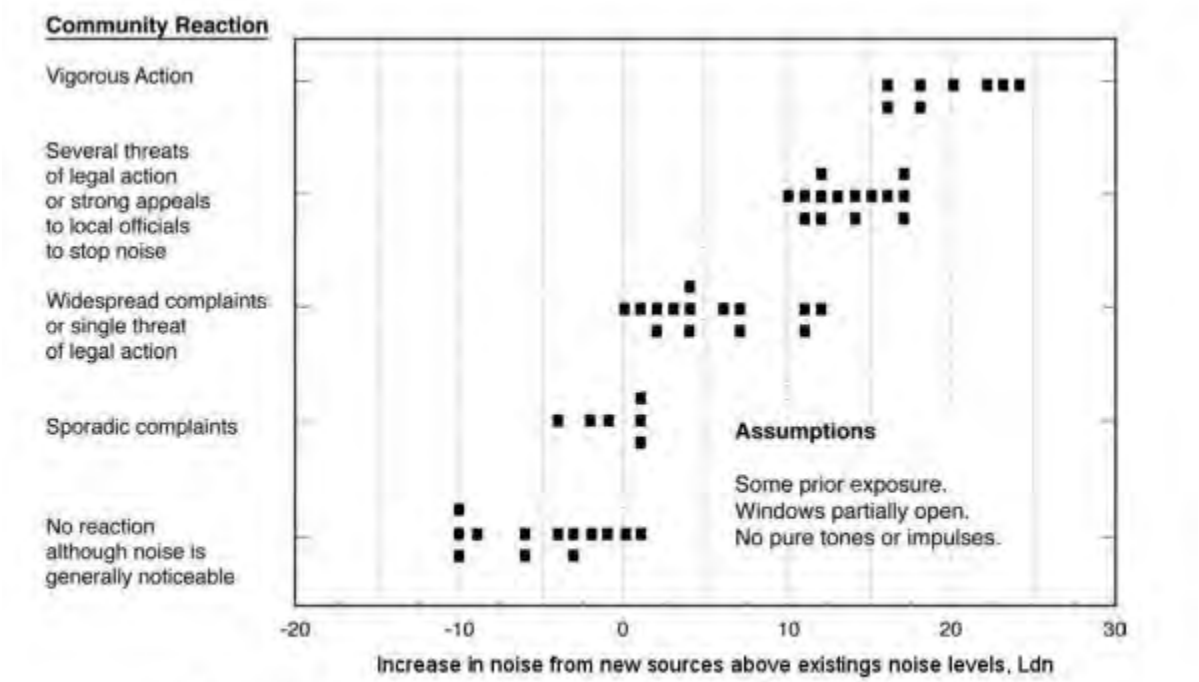

Figure 3-6 Community Reaction to New Noise, Relative to Existing Noise in a Residential Urban Environment

Figure 2 FTA Manual, Section on Receiver Response to Transit Noise (FTA page 18)

The FEIR cites Midway-Pacific Highway CPU PEIR Mitigation Measure Noise 5.5-2 [Noise Report, p77] and provides additional construction noise best management practices in Mitigation Measure NOI-2 [Noise Report, p. 87]. The FIER incorrectly claims that construction noise impacts would be reduced to Less than Significant after mitigation. While the measures described are good practices for any construction site, only the temporary noise barriers would noticeably reduce the estimated noise levels. PEIR Mitigation Measure Noise 5.5-2 requires that barriers be at least 8 feet high. The FEIR Noise Report does not indicate how much attenuation the barriers are expected to provide. Noise levels at 1st floor receptors could be reduced by 10 dB with an 8-foot barrier, resulting in grading and excavation noise of 70 dBA. This estimated level is below the City threshold, but 6 to 11 dB above the available measured ambient data. Second floor hotel rooms would not be shielded from construction noise.

Conclusion

The FEIR operational and construction noise analysis contains errors and fails to identify potentially significant impacts. The FEIR fails to establish a proper baseline for traffic noise. The FEIR does not include operational or construction noise analysis for the Wyndham Garden Hotel.

Please feel free to contact me with any questions on this information.

Very truly yours,
Ani Toncheva, Senior Consultant, WILSON IHRIG

WILSON IHRIG
ACOUSTICS, NOISE & VIBRATION

ANI TONCHEVA

Senior Consultant

Since joining the firm in 2011, Ani has conducted analyses for transit systems, vibration-sensitive research facilities, public infrastructure, construction, and other environmental noise. She has contributed to literature reviews, including research on current practices of historical preservation. She has extensive experience working on construction projects in New York City and is well-versed in local noise codes.

Education

- B.A., Physics; Bard College, New York

Professional Associations

- *Member*, National Council of Acoustical Consultants (NCAC)
- *Member*, Acoustical Society of America (ASA)
- *Member*, WTS (Women's Transportation Seminar)
- *Board Member,* Transportation Research Forum (TRF), NY Chapter and International Board

Project Experience

National Academies of Sciences, NCHRP 25-25/Task 72, Current Practices to Address Construction Vibration and Potential Effects to Historic Buildings Adjacent to Transportation Projects
This report summarizes the results of the literature search and the survey of transportation agencies and provides a detailed discussion of seven informative case studies. A recommended guideline approach for addressing construction vibration effects on historic buildings has also been provided. Assisted with the literature review and case studies.

National Academies of Sciences, ACRP 07-14, Improving Intelligibility of Airport Terminal Public Address Systems
These guidelines are intended to be used by airport operators and design consultants. The research tasks included a literature review, questionnaire to airport operators, a sample passenger survey, acoustic measurements at six airports, and a presentation of best practices for acoustics, PA system design and specifications. Assisted with data analysis for acoustic measurements as part of this study.

101 Mass Avenue Mixed-Used Air Rights Project, Boston, MA
Responsible for developing a Finite Element model of mixed-use development, built over MBTA commuter railway tracks, and spanning I-90 to analyze predicted building response to ground-borne vibration.

180 Jones Street Affordable Housing and Mixed-Use Development, San Francisco, CA
Prepared a CCR Title 24 Noise Study Report for a new mixed-use building. The project included 70 residential units and on-site community facilities.

San Diego Land Lawyers
Real Estate • Land Use • Environmental

September 23, 2025

San Diego Planning Commission
City of San Diego
1222 First Avenue, 5th Floor
San Diego, CA 92101

Re: Hearing Date September 25, 2025, Item #1
Initiation of Community Plan Amendment
2015/1975 Hotel Circle South (APN 443-040-36-00)

Honorable Commissioners:

On behalf of the property owner, I respectfully request that the Planning Commission vote to initiate a Community Plan Amendment for the 1.32-acre property located at 2015/1975 Hotel Circle South.

As outlined in the staff report (PC Report No. 25-045, September 18, 2025), City staff has recommended initiation. The Mission Valley Planning Group also unanimously supported initiation (10-0-1) at its meeting on August 6, 2025. We ask the Planning Commission to affirm this recommendation so the amendment process may proceed.

1. Expiration of the Irrevocable Offer of Dedication

Staff's analysis acknowledges that the Irrevocable Offer of Dedication (IOD) associated with this site (as well as the adjacent parcels where development now exists) was never accepted within the statutory period. Under California Code of Civil Procedure § 771.010, any IOD not accepted and recorded within 25 years is conclusively presumed unaccepted and cannot thereafter be revived. The Parcel Map was recorded in 1991; no acceptance was recorded within 25-year period. Accordingly, the IOD expired in 2016 by operation of law. The City cannot now rely on an expired, unaccepted dedication as a basis to preclude the establishment of a land use for the site. A copy of our memo regarding the IOD is attached to this letter.

San Diego Land Lawyers, Inc.
1620 Fifth Avenue, Suite 400
San Diego, CA 92101

Robin Madaffer, Esq.
(619) 239-7600
robin@SDLandLaw.com

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2. Consistency with the General Plan and Adjacent Uses

The subject property has no land use designation. In land use vernacular, it is "white-holed". The proposed Office and Visitor Commercial (Residential Prohibited) designation would align the site with its underlying zoning (CO-2-2) and adjacent land uses along Hotel Circle South. Other portions of the Evelyn Terrace area that were once reserved for "future streets" have already been developed with office, hotel, and multifamily uses. Maintaining a "white hole" for this parcel is inconsistent, inequitable, and unsupported by the record.

3. Environmental and Mobility Considerations

The Mission Valley Community Plan Program EIR analyzed the development of Evelyn Terrace both with and without the planned "Street J." The EIR concluded that development without Street J was the Environmentally Superior Alternative. Moreover, the EIR assigned 1,406 trips and 141 EDUs to Evelyn Terrace, acknowledging development potential for the project site and other parcels within Evelyn Terrace. Mobility considerations can and should be addressed in the amendment process, but they do not justify denying initiation.

4. Public Benefit

Initiating the amendment would allow activation of a long-vacant infill site within a Transit Priority Area, creating jobs, enhancing visitor-serving uses, and improving the vitality of Hotel Circle South. This fulfills the City's Strategic Plan goal to foster regional prosperity through economic growth and tourism.

Conclusion

For more than three decades, this landowner has been denied the ability to develop consistent with the City's own General Plan and zoning. The expired IOD cannot lawfully bar development. Initiation will allow the Planning Department, the Commission, and the Council to properly evaluate an amendment that provides consistency, equity, and public benefit.

We respectfully urge the Planning Commission to approve the initiation of this Community Plan Amendment.

San Diego Land Lawyers, Inc.
1620 Fifth Avenue, Suite 400
San Diego, CA 92101

Robin Madaffer, Esq.
(619) 239-7600
robin@SDLandLaw.com

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Thank you for your consideration.

Sincerely,

Robin Madaffer, Esq.
Attachment

San Diego Land Lawyers, Inc.
1620 Fifth Avenue, Suite 400
San Diego, CA 92101

Robin Madaffer, Esq.
(619) 239-7600
robin@SDLandLaw.com

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Date: May 9, 2025

To: San Diego City Staff
From: Robin Madaffer, Esq.

RE: 2015/1975 Hotel Circle South – Meeting May 12, 2025

Concern

The site located at 2015/1975 Hotel Circle South is designated in the General Plan for commercial office and visitor serving land uses. Consistent with that land use designation, the site is zoned CO-2-2. Notwithstanding, the City is precluding development of the site claiming there is no land use designation, and an irrevocable offer to dedicate renders the site undevelopable.

Goal

The landowner would like to develop the site consistent with the General Plan designation and CO-2-2 zone.

Background

The landowner has been precluded from development of the subject property (APN 443-040-3600; identified in as Parcel 3) for decades. The Atlas Specific Plan identifies the subject property as within Evelyn Terrace. Evelyn Terrace is 3.70 acres and is "reserved for future dedication of off-ramps associated with the future I-8/Via Las Cumbres interchange. No development is currently proposed for this site." (Atlas Specific Plan, 3-2.) The subject property comprises 1.32 acres of Evelyn Terrace's total 3.70 acres. The remainder of Evelyn Terrace is comprised of the entirely of APN 443-040-3400 ("Parcel 1") and portions of APN 443-040-3800 ("Parcel 2") and APN 443-040-3900 ("Parcel 4") that front Hotel Circle South.

Despite all of Evelyn Terrace being noted in the Atlas Specific Plan as precluded from development, all other parcels within Evelyn Terrace have been allowed to develop. Parcel 1, noted as reserved in its entirety for a future street, was fully developed with a commercial retail structure. The portion of Parcel 2 reserved for a future street has been developed as the sole accessway and surface parking for Presidio Palms apartment community. The portion of Parcel 4 reserved for a future street has been developed as the sole accessway for Valley Vista apartment community, as well as pedestrian and residential amenities that serve that development.

Within the Mission Valley Community Plan Update, the subject property and developed Parcel 1 were "white holed" (not given any land use), while the portions of Parcels 2 and 4 were given the land use designation of Office and Visitor Commercial. (It also appears that the portion of Parcel 4 was not included within the boundary for Evelyn Terrace with Atlas Specific Plan.)

Because the rest of Evelyn Terrace has been allowed to develop, and portions of Evelyn Terrace were given land use designations with the Mission Valley Community Plan Update, it is unclear why this specific landowner continues to be precluded from development in a manner inconsistent with similarly situated properties.

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(619) 239-7600
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Reasons Against Support Presented by Staff

In review of the applicant's request to initiate a Community Plan Amendment to apply a land use designation for the subject property, staff cite specific objections, as outlined and discussed below.

Irrevocable Offer of Dedication

The reason presented by staff is that the Community Plan Amendment Initiation, and, by extension, development on the project site, cannot be supported because there is an Irrevocable Offer of Dedication ("IOD") on the site for a future roadway connection.

On April 29, 1991 by Resolution R-277799, the City Council approved Parcel Map 16469, recorded on May 9, 1991 as file #91-218768 which includes the above referenced IOD and reservation for the Evelyn Terrace site." The subject IOD has never been accepted by the agency for the purpose for which it was originally proposed. Further, neither the City, CALTRANS, nor SANDAG have a project designed with a funding mechanism for the transportation improvement for which the IOD was originally proposed. Therefore, California Code of Civil Procedure § 771.010 applies to this case. This code section states the following.

If a proposal is heretofore or hereafter made to dedicate real property for public improvement, there is a conclusive presumption that the proposed dedication was not accepted if all of the following conditions are satisfied:
(a) The proposal was made by filing a map only.
(b) No acceptance of the dedication was made and recorded within 25 years after the map was filed.
(c) The real property was not used for the purpose for which the dedication was proposed within 25 years after the map was filed.
(d) The real property was sold to a third person after the map was filed and used as if free of the dedication.

This site satisfies all the above conditions. Parcel Map 16469 was filed May 9th, 1991, 34 years ago. No acceptance of the dedication was made and recorded within 25 years. The property has not been used for "future street". As such, the IOD expired in 2016 by operation of law. **This memo serves as the owners' strong objection to any acceptance and recording of the IOD after 2016.**

Mission Valley Community Plan Update Program EIR ("PEIR")

The second reason presented by staff is that the Community Plan Amendment Initiation, and, by extension, development on the project site, cannot be supported because the PEIR assumed development of "Street J," which is the current iteration of a proposed street that would necessitate use of the subject property for development. While the PEIR as approved did include Street J, the PEIR also fully analyzed development of the Community Plan Update without Street J as Alternative 1, which was selected as the Environmentally Superior Alternative to the Community Plan Update project.

San Diego Land Lawyers, Inc.
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robin@SDLandLaw.com

Additionally, even with the inclusion of Street J, the PEIR allocated development intensity to Evelyn Terrace, departing from the Atlas Specific Plan and 1985 Mission Valley Community Plan, which did not designate any development potential for the site. Per the traffic study prepared for the PEIR by LLG, 1,406 trips were assigned to Evelyn Terrace, as well as 141 equivalent dwelling units (EDUs). Additionally, the traffic study evaluated impacts of the proposed Community Plan Update with a previous proposal for the Evelyn Terrace site of 450,000 square feet of office.

This means the PEIR analyzed development without Street J and the approvals of the Community Plan Update did assume development for Evelyn Terrace assuming 450,000 square feet of commercial office space or 141 residential dwelling units. Allocation of trips to Evelyn Terrace indicates that, despite staff's contention that no development is allowed on Parcel 3, and development that exists on all other parcels within the Evelyn Terrace area, supports the conclusion that some sort of development is assumed for all of Evelyn Terrace, including the subject property.

Conclusion

The subject site should be designated consistent with surrounding CO-1-3 zoned properties (Office and Visitor Commercial) for the following reasons:

- Because the IOD expired in 2016,
- Because the rest of Evelyn Terrace has been allowed to develop,
- Because Caltrans has no intention of developing a freeway interchange at this location and SANDAG has no future plans for this location as part of the I-8 Corridor Study, and

Not allowing development of the subject property for decades is a de facto "taking" of property without just compensation to the landowner.

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1620 Fifth Avenue, Suite 400
San Diego, CA 92101

Robin Madaffer, Esq.
(619) 239-7600
robin@SDLandLaw.com

Justin Campbell - Attachment

May 8, 2025

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

RE: Midway Rising / PRJ-1106734 – Coalition Support & Request to Prioritize Transit Lanes in Phase 1

Dear Development Services Department,

We, the undersigned mobility and environmental organizations, write in strong support of Midway Rising's proposed dedicated bus lanes on Rosecrans Street and Sports Arena Boulevard. We respectfully urge the City to:

1. **Approve** the Community Plan Amendment, Specific Plan, and Draft EIR with the exclusive bus-lane network intact; and

2. **Advance the bus lanes to Phase 1** so the project's transportation mitigation is in place **before** the first residents move in and the new arena opens.

Why Phase 1 Bus Lanes Are Essential

- **Gridlock Prevention & Reliable Transit**
  Permanent bus lanes have cut travel times 30-40 percent in other major cities,[1] drawing visitors out of cars and keeping event-day traffic from overwhelming Midway streets. The bus lanes will also attract riders to use the transit,[2] especially on arena event days, when the general purpose lanes will experience gridlock traffic.

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[1] Danaher, Alan R. *Bus and Rail Transit Preferential Treatments in Mixed Traffic: A Synthesis of Transit Practice*. Transit Cooperative Research Program Synthesis 83. Washington, DC: Transportation Research Board of the National Academies, 2010. Accessed May 8, 2025. https://nacto.org/wp-content/uploads/1-5_Danaher-Bus-and-Rail-Transit-Preferential-Treatments-in-Mixed-Traffic-TCRP-Synthesis-83_2010-sm.pdf, 65.

[2] Federal Transit Administration. 2004. *Characteristics of Bus Rapid Transit for Decision-Making*. U.S. Department of Transportation. Accessed May 8, 2025. https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/CBRT.pdf, 4-18.

- **Seamless Regional Access**
  Old Town Transit Center—served by Coaster, Amtrak, Trolley, Rapid, and local routes—offers one-seat rides from every corner of the county. A congestion-free shuttle in exclusive lanes will let patrons “zoom” past stalled traffic, reinforcing transit as the fastest, easiest choice.

- **Affordability, Equity, & Climate**
  Owning a new car costs, on average, more than $12,000 per year.[3] Early bus lanes give residents—especially the 2,000 affordable-housing households—a realistic path to living car-free, freeing income for essentials, reducing VMT and emissions, and easing parking demand for those who must drive.

Midway Rising can be a statewide model for climate-smart, mixed-use redevelopment—if the transit infrastructure arrives first.

Thank you for your work on this transformative project that will improve the neighborhood, public transit, and our dire housing shortage.

Sincerely,

Manny Rodriguez
Executive Director
RideSD

Colin Parent
Chief Executive Officer and General Counsel
Circulate San Diego

Corinna Contreras
Policy Advocate
Climate Action Campaign

Chris Roberts
Transportation Team co-lead
SanDiego350

Chloé Lauer
Executive Director
San Diego County Bicycle Coalition

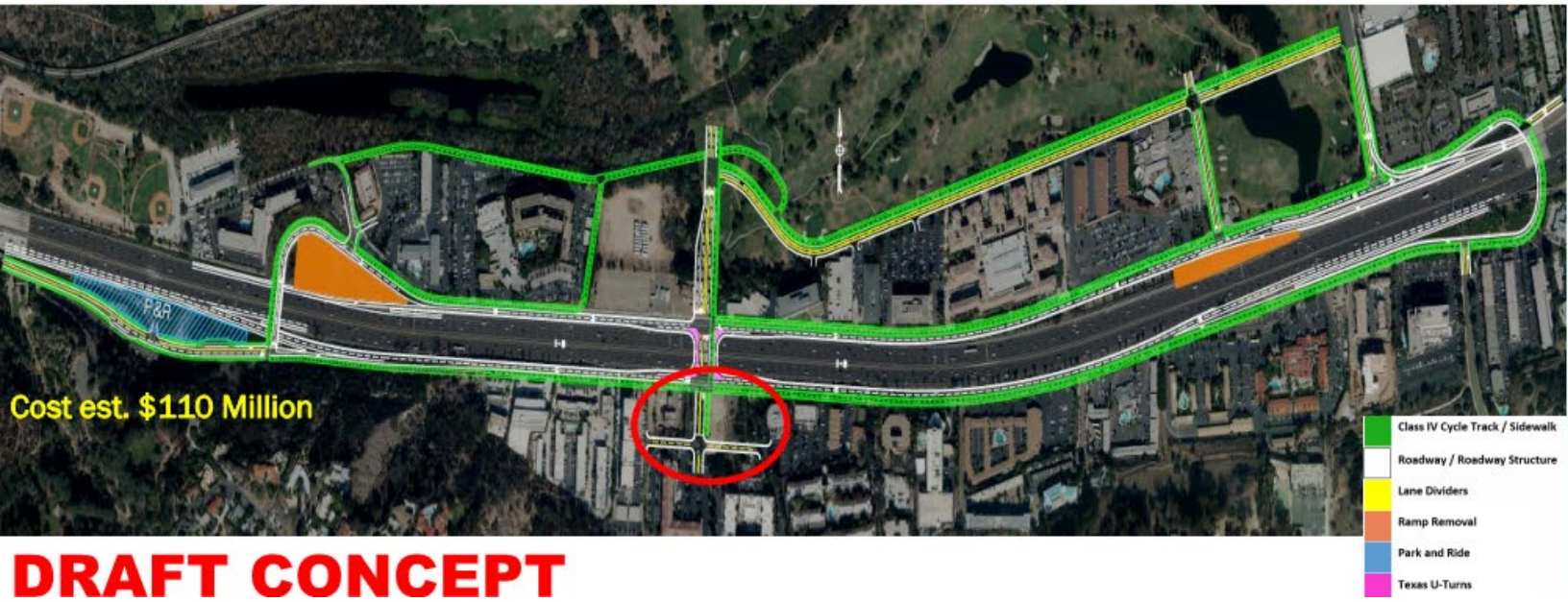
Anar Salayev
Executive Director
BIkeSD

[3] AAA. 2024. Breaking Down the Cost of Car Ownership. Accessed April 29, 2025. https://www.aaa.com/autorepair/articles/breaking-down-the-cost-of-car-ownership.

Peter Shearer - Attachment

Alternative 3A: Phase 2

One-Way Cycle Track and Roadway Circulator – VLC Extension



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