Appendix A

Initial Study, Notice of Preparation, and Scoping Comments

I-15 Industrial Park Project Environmental Impact Report
Summary of Initial Study/Notice of Preparation Comments

Commenter	Date	Summary of Environmental Issues Raised	EIR Chapter/Section Where Comment is Addressed
State Agency			
Native American Heritage Commission (NAHC)	June 30, 2021	▪ Recommendations for tribal consultation and consulting legal counsel regarding compliance with Assembly Bill 52, Senate Bill 18, and other applicable laws.	Section 4.4, Cultural, Tribal Cultural, and Paleontological Resources
Mojave Desert Air Quality Management District	July 7, 2021	▪ Recommendations for mitigation measures to be implemented during Project construction, such as a dust control plan, routine watering, permitter fencing, and maintenance of dirt access roads ▪ Requests analysis of Project's potential impacts to sensitive receptors and inclusion of mitigation measures, if necessary.	Section 4.2, Air Quality
California Department of Fish and Wildlife	July 9, 2021	▪ Recommendations for procedures to assess potential impacts to biological resources and recommendation of mitigation measures if necessary. ▪ Recommendations for surveys and discussion of impacts and mitigation for Burrowing Owl (*Athene cunicularia*), Desert Tortoise (*Gopherus agassizii*), Mohave Ground Squirrel (*Xerospermophilus mohavensis*), and Western Joshua Tree (*Yucca brevifolia*)	Section 4.3, Biological Resources
State Water Resources Control Board, Division of Drinking Water	July 16, 2021	▪ Recommends discussion of Project's water supply, including whether a water supply permit amendment or alternative to the Waterworks Standards will be required. ▪ Request for detailed descriptions of Project's water infrastructure	Section 4.8, Hydrology and Water Quality; Section 4.12, Utilities and Service Systems
Department of Water Resources,	July 16, 2021	▪ Recommends including the California Aqueduct as a surrounding land use, discussion of	Chapter 3, Project Description;

Commenter	Date	Summary of Environmental Issues Raised	EIR Chapter/Section Where Comment is Addressed
Division of Operations and Maintenance		capacity of on-site infiltration of stormwater, analysis of soil erosion and project drainage, impacts to stormwater facilities in the project area, and cumulative impacts to geology and soils, and utilities and service systems	Section 4.8, Hydrology and Water Quality; Section 4.12, Utilities and Service Systems; Chapter 5, Effects found Not To Be Significant
Private Organizations and Members of the Public			
Southwest Regional Council of Carpenters	July 7, 2021	▪ Request for local hire provisions to reduce potential impacts relating to traffic, health hazards relating to COVID-19, air quality, and greenhouse gas emissions.	Section 4.2, Air Quality; Section 4.6, Greenhouse Gas Emissions; Section 4.10, Transportation
Center for Biological Diversity	July 16, 2021	▪ Potential impacts relating to Western Joshua trees, and recommendations for what should be included within any relocation plan prepared for Joshua trees.	Section 4.3, Biological Resources
Center for Community Action and Environmental Justice	July 16, 2021	▪ Concerns regarding number of warehouse developments in the area and the potential impact on biological diversity, air quality, and public health.	Section 4.2, Air Quality; Section 4.3, Biological Resources; Section 4.6, Greenhouse Gas Emissions
Comments Received at the Scoping Meeting			
Angel Esparza, Southwestern Regional Council of Carpenters (Verbal Comment)	July 8, 2021	▪ Request for local hire provisions to reduce potential impacts relating to traffic, health hazards relating to COVID-19, air quality, and greenhouse gas emissions	Section 4.2, Air Quality; Section 4.6, Greenhouse Gas Emissions; Section 4.10, Transportation

I-15 Industrial Park Project Environmental Impact Report
Summary of Initial Study/Notice of Preparation Comments

Commenter	Date	Summary of Environmental Issues Raised	EIR Chapter/Section Where Comment is Addressed
Sean Silva, CARE CA (Written Comment)	July 8, 2021	▪ Concerns regarding air pollution, noise, greenhouse gas emissions, hazardous materials, and soil contamination	Section 4.2, Air Quality; Section 4.6, Greenhouse Gas Emissions; Section 4.7, Hazards and Hazardous Materials and Wildfire

NATIVE AMERICAN HERITAGE COMMISSION

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NAHC.ca.gov

June 30, 2021

Ryan Leonard
City of Hesperia
9700 Seventh Avenue
Hesperia, CA 92345

Re: 2021060397, I-15 Industrial Park Project, San Bernardino County

Dear Mr. Leonard:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

a. A brief description of the project.

b. The lead agency contact information.

c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).

d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).

a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

a. Alternatives to the project.

b. Recommended mitigation measures.

c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).

4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:

a. Type of environmental review necessary.

b. Significance of the tribal cultural resources.

c. Significance of the project's impacts on tribal cultural resources.

d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

a. Whether the proposed project has a significant impact on an identified tribal cultural resource.

b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:

a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or

b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).

8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).

9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).

10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

a. Avoidance and preservation of the resources in place, including, but not limited to:

i. Planning and construction to avoid the resources and protect the cultural and natural context.

ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.

b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:

i. Protecting the cultural character and integrity of the resource.

ii. Protecting the traditional use of the resource.

iii. Protecting the confidentiality of the resource.

c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.

d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).

e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).

f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).

11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.

b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.

c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. Tribal Consultation: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. No Statutory Time Limit on SB 18 Tribal Consultation. There is no statutory time limit on SB 18 tribal consultation.
3. Confidentiality: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. Conclusion of SB 18 Tribal Consultation: Consultation should be concluded at the point in which:
    a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
    b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: http://nahc.ca.gov/resources/forms/.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
    a. If part or all of the APE has been previously surveyed for cultural resources.
    b. If any known cultural resources have already been recorded on or adjacent to the APE.
    c. If the probability is low, moderate, or high that cultural resources are located in the APE.
    d. If a survey is required to determine whether previously unrecorded cultural resources are present.

2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
    a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
    b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
   a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
   b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
   a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
   b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
   c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: Andrew.Green@nahc.ca.gov.

Sincerely,

Andrew Green

Andrew Green
Cultural Resources Analyst

cc: State Clearinghouse

Mojave Desert Air Quality Management District
Brad Poiriez, *Executive Director*
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July 7, 2021

Ryan Leonard, Senior Planner
City of Hesperia, Planning Department
9700 Seventh Avenue
Hesperia, CA 92345

Project: I-15 Industrial Park Project

Dear Mr. Leonard:

The Mojave Desert Air Quality Management District (District) has reviewed the Draft EIR for the I-15 Industrial Park Project. The Project would include construction of two industrial/warehouse buildings. The easternmost building would be approximately 1,108,000 square feet and the westernmost building would be approximately 742,000 square feet. In total, the Project would provide 1,850,000 square feet of industrial/warehouse space and associated improvements, including loading docks, tractor-trailer stalls, passenger vehicle parking spaces, stormwater detention basins, and landscape area. The Project would also involve the off-site construction of Sultana Street from the northwestern corner of the Building 2 site to Mesa Linda Street. At this time, the project applicant does not anticipate leasing any portion of the buildings to a tenant that would require refrigerated space. The Project would involve a General Plan Amendment to modify a portion of the Project site's General Plan Land Use designation from Regional Commercial to Commercial/Industrial Business Park, a Specific Plan Amendment to modify a portion of the Project site's Main Street and Freeway Corridor Specific Plan land use designation from Regional Commercial to Commercial/Industrial Business Park, and a Zone Change to modify a portion of the Project site's zoning designation Regional Commercial to Commercial/Industrial Business Park.

We have reviewed the project and agree with the findings and mitigation measures listed in the Initial Study. These mitigation measures include:

- Preparation and submission to the MDAQMD, prior to commencing earth-moving activity, a dust control plan that describes all applicable dust control measures that will be implemented at the project. The most current Dust Control Plan Requirements and Dust Control Plan Submission Form are available at http://mdaqmd.ca.gov/permitting/compliance-forms.

- Signage compliant with Rule 403 Attachment B shall be erected at each project site entrance not later than the commencement of construction.

- Use a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. For projects with exposed sand or fines deposits (and for projects that expose such soils through earthmoving), chemical stabilization or covering with a stabilizing layer of gravel will be required to eliminate visible dust/sand from sand/fines deposits.

- All perimeter fencing shall be wind fencing or the equivalent, to a minimum of four feet of height or the top of all perimeter fencing. The owner/operator shall maintain the wind fencing as needed

to keep it intact and remove windblown dropout. This wind fencing requirement may be superseded by local ordinance, rule or project-specific biological mitigation prohibiting wind fencing.

- All maintenance and access vehicular roads and parking areas shall be stabilized with chemical, gravel or asphaltic pavement sufficient to eliminate visible fugitive dust from vehicular travel and wind erosion. Take actions to prevent project-related trackout onto paved surfaces, and clean any project-related trackout within 24 hours. All other earthen surfaces within the project area shall be stabilized by natural or irrigated vegetation, compaction, chemical or other means sufficient to prohibit visible fugitive dust from wind erosion.

- This Industrial park project may exceed significance threshold criteria number 4 of the MDAQMD and CEQA guidelines; potentially exposing sensitive receptors (residences) to substantial pollutant concentrations. As there are residential areas within 1000 ft of the Industrial park, it is deemed significant and must therefore be evaluated to determine impacts to sensitive receptors using CalEEMod methods (or the equivalent). If the project is deemed to result in a cancer risk greater than or equal to 10 in a million and/or a Hazard Index (HI)(non-cancerous) greater than or equal to 1, it must incorporate mitigation sufficient to reduce project impacts to a level that is not significant. CEQA guidelines may be located at: https://www.mdaqmd.ca.gov/home/showpublisheddocument?id=8510.

Additionally, we recommend the operator obtain District permits for any miscellaneous process equipment that may not be exempt under District Rule 219 including, but not limited to:

- Internal Combustion Engines with a manufacture's maximum continuous rating greater than 50 brake horsepower.

Thank you for the opportunity to review this planning document. If you have any questions regarding this letter, please contact me at (760) 245-1661, extension 6726, or Bertrand Gaschot at extension 4020.

Sincerely,

Alan J. De Salvio
Deputy Director – Mojave Desert Operations

AJD/bg I15 Industrial Park Prject

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

July 9, 2021

Ryan Leonard
Senior Planner
City of Hesperia
9700 Seventh Ave.
Hesperia, CA 92345

Notice of Preparation of a Draft Environmental Impact Report, I-15 Industrial Park Project, State Clearinghouse No. 2021060397

Dear Mr. Leonard:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the City of Hesperia (City) for the I-15 Industrial Park Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

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

CDFW ROLE

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

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As

1 CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The proposed Project includes construction of two industrial/warehouse buildings on an approximately 97.64-acre project site resulting in 1,850,000 square feet of industrial/warehouse space and associated improvements, including loading docks, tractor-trailer stalls, passenger vehicle parking spaces, stormwater detention basins, and landscape area. The project would also include off-site construction of Sultana Street to connect the two buildings. The Project would require a General Plan Amendment to modify a portion of the Project site's General Plan Land Use designation from Regional Commercial to Commercial/Industrial Business Park, a Specific Plan Amendment to modify a portion of the Project site's Main Street and Freeway Corridor Specific Plan land use designation from Regional Commercial to Commercial/Industrial Business Park, and a Zone Change to modify a portion of the Project site's zoning designation Regional Commercial to Commercial/Industrial Business Park.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. CDFW recommends that the forthcoming DEIR address the following:

Assessment of Biological Resources

Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. To enable CDFW staff to adequately review and comment on the project, the DEIR should include a complete assessment of the flora and fauna within and adjacent to the Project footprint, with particular emphasis on identifying rare, threatened, endangered, and other sensitive species and their associated habitats.

The CDFW recommends that the DEIR specifically include:

1. An assessment of the various habitat types located within the project footprint, and a map that identifies the location of each habitat type. CDFW recommends that floristic, alliance- and/or association based mapping and assessment be completed following *The Manual of California Vegetation*, second edition (Sawyer et al. 2009).

Adjoining habitat areas should also be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.

2. A general biological inventory of the fish, amphibian, reptile, bird, and mammal species that are present or have the potential to be present within each habitat type onsite and within adjacent areas that could be affected by the project. CDFW's California Natural Diversity Database (CNDDB) should be reviewed to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code. Please note that CDFW's CNDDB is not exhaustive in terms of the data it houses, nor is it an absence database. CDFW recommends that it be used as a starting point in gathering information about the *potential presence* of species within the general area of the project site.

3. A complete, *recent* inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511). Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required. CDFW requests species-surveys are performed independently rather than concurrently with other surveys (such as reconnaissance surveys) to maximize detection of species present on-site. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

   Burrowing Owl (*Athene cunicularia*)

   The Project site has the potential to provide suitable foraging and/or nesting habitat for burrowing owl. Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5 and 3513. Take is defined in Fish and Game Code section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill."

CDFW recommends that the City follow the recommendations and guidelines provided in the *Staff Report on Burrowing Owl Mitigation* (CDFG, 2012); available for download from CDFW's website: https://www.wildlife.ca.gov/conservation/survey-protocols. The Staff Report on Burrowing Owl Mitigation specifies three steps for project impact evaluations: habitat assessment, surveys, and an impact assessment.

As stated in the Staff Report on Burrowing Owl Mitigation (CDFG, 2012), the three progressive steps are effective in evaluating whether a project will result in impacts to burrowing owls, and the information gained from the steps will inform any subsequent avoidance, minimization, and mitigation measures. Habitat assessments are conducted to evaluate the likelihood that a site supports burrowing owl. Burrowing owl surveys provide information needed to determine the potential effects of proposed projects and activities on burrowing owls, and to avoid take in accordance with Fish and Game Code sections 86, 3503, and 3503.5. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of a proposed CEQA project activity or non-CEQA project.

Desert Tortoise (*Gopherus agassizii*)

The proposed Project occurs within the range of desert tortoise; a state-listed threatened and endangered candidate species, and a federally-listed threatened species. CDFW recommends that the City complete a protocol level survey over all areas to obtain 100-percent visual coverage proposed to be directly or indirectly affected by the Project, using appropriately qualified biologists, following the U.S. Fish and Wildlife Service Desert Tortoise Field Manual (2009) at Desert Tortoise Field Manual (fws.gov). In addition, CDFW recommends the survey be completed during the more active season of desert tortoise.

CDFW recommends that biologists retained to complete desert tortoise protocol level surveys submit their qualifications to CDFW prior to initiation of surveys. Should the City desire CDFW to pre-approve the qualifications of biologists conducting protocol level desert tortoise surveys, CDFW requests information be provided on the Desert Tortoise Authorized Biologist Qualifications Form within the USFWS Desert Tortoise Field Manual (USFWS, 2009) for all biologists participating in survey efforts to the following email address: Ashley.Rosales@Wildlife.ca.gov.

Mohave Ground Squirrel (*Xerospermophilus mohavensis*)

The proposed Project occurs within the range of Mohave ground squirrel; a state-listed threatened species. CDFW is aware of protocol level trapping surveys and anticipates the results in the DEIR.

Western Joshua Tree (*Yucca brevifolia*)

The proposed Project occurs within the range of western Joshua tree; a candidate threatened species, CDFW recommends that a detailed survey for western Joshua trees (Yucca brevifolia) and western Joshua tree plant community be conducted in the Project area and adjacent habitat to be directly or indirectly impacted by the project as follows:

a) The botanical survey should be conducted by a qualified botanist knowledgeable of western Joshua tree ecology, identification, and Yucca genus taxonomy;

b) The survey should be conducted during a season that would maximize detection of western Joshua tree fruits. Once pollinated, viable fruits typically form in early summer;

c) The survey should be performed within the Project site, including all staging areas, vehicle and worker parking areas, ingress and egress routes, and areas subject to Project-related ground-disturbing activities and vegetation removal;

d) The survey should be conducted so that 100 percent visual coverage of Project site is achieved. If transect surveys will be implemented, transects should be spaced close enough to ensure visual coverage of western Joshua tree across all age classes/heights as well as plant species that are low stature (e.g., grasses, groundcover);

e) The qualified botanist should map Joshua tree Woodland Alliance and/or association. A thorough and floristic-based mapping and assessment of plant communities should follow CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities (CDFW 2018). The Manual of California Vegetation (MCV), second edition (Sawyer et al. 2009), should be used concurrently;

f) The qualified botanist should map each individual western Joshua tree. For each western Joshua tree, the qualified botanist should approximate the tree’s height (feet) and age class, count the number of branching terminal flower panicles, and describe the phenological development of the tree (e.g., young leaves, leaves, flowers, open flowers, fruits, and recent fruit drop). A western Joshua tree that is reproducing asexually (e.g., rhizomes, branch sprouts, basal sprouts, clonal growth) should be documented; and,

g) The qualified botanist should assess whether there is western Joshua tree recruitment within each Joshua tree alliance and/or association. The qualified

botanist should count and map western Joshua tree offspring from sexual reproduction.

4. A thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (see https://www.wildlife.ca.gov/Conservation/Plants).

5. Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region (CEQA Guidelines § 15125[c]).

6. A full accounting of all open space and mitigation/conservation lands within and adjacent to the Project.

Analysis of Direct, Indirect, and Cumulative Impacts to Biological Resources

The DEIR should provide a thorough discussion of the direct, indirect, and cumulative impacts expected to adversely affect biological resources as a result of the Project. To ensure that Project impacts to biological resources are fully analyzed, the following information should be included in the DEIR:

1. A discussion of potential impacts from lighting, noise, human activity (e.g., recreation), defensible space, and wildlife-human interactions created by zoning of development projects or other project activities adjacent to natural areas, exotic and/or invasive species, and drainage. The latter subject should address Project-related changes on drainage patterns and water quality within, upstream, and downstream of the Project site, including: volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site.

2. A discussion of potential indirect Project impacts on biological resources, including resources in areas adjacent to the project footprint, such as nearby public lands (e.g. National Forests, State Parks, etc.), open space, adjacent natural habitats, riparian ecosystems, wildlife corridors, and any designated and/or proposed reserve or mitigation lands.

3. An evaluation of impacts to adjacent open space lands from both the construction of the Project and any long-term operational and maintenance needs.

4. A cumulative effects analysis developed as described under CEQA Guidelines section 15130. Please include all potential direct and indirect Project related impacts to riparian areas, wetlands, vernal pools, alluvial fan habitats, wildlife corridors or wildlife movement areas, aquatic habitats, sensitive species and other sensitive

habitats, open lands, open space, and adjacent natural habitats in the cumulative effects analysis. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.

Alternatives Analysis

CDFW recommends the DEIR describe and analyze a range of reasonable alternatives to the Project that are potentially feasible, would "feasibly attain most of the basic objectives of the Project," and would avoid or substantially lessen any of the Project's significant effects (CEQA Guidelines § 15126.6[a]). The alternatives analysis should also evaluate a "no project" alternative (CEQA Guidelines § 15126.6[e]).

Mitigation Measures for Project Impacts to Biological Resources

The DEIR should identify mitigation measures and alternatives that are appropriate and adequate to avoid or minimize potential impacts, to the extent feasible. The City should assess all direct, indirect, and cumulative impacts that are expected to occur as a result of the implementation of the Project and its long-term operation and maintenance. When proposing measures to avoid, minimize, or mitigate impacts, CDFW recommends consideration of the following:

1. *Fully Protected Species*: Fully protected species may not be taken or possessed at any time. Project activities described in the DEIR should be designed to completely avoid any fully protected species that have the potential to be present within or adjacent to the Project area. CDFW also recommends that the DEIR fully analyze potential adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends that the City include in the analysis how appropriate avoidance measures will reduce indirect impacts to fully protected species.

2. *Sensitive Plant Communities*: CDFW considers sensitive plant communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S-1, S-2, S-3, and S-4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDB and are included in *The Manual of California Vegetation* (Sawyer et al. 2009). The DEIR should include measures to fully avoid and otherwise protect sensitive plant communities from project-related direct and indirect impacts.

3. *California Species of Special Concern* (CSSC): CSSC status applies to animals generally not listed under the federal Endangered Species Act or the CESA, but which nonetheless are declining at a rate that could result in listing, or historically occurred in low numbers and known threats to their persistence currently exist.

CSSCs should be considered during the environmental review process. CSSC that have the potential or have been documented to occur within or adjacent to the project area, including, but not limited to loggerhead shrike (*Lanius ludovicianus*), Le Conte's thrasher (*Toxostoma lecontei*), burrowing owl (*Athene cunicularia*), and coast horned lizard (*Phrynosoma blainvillii*) (CNDDB, 2021).

4. *Mitigation*: CDFW considers adverse project-related impacts to sensitive species and habitats to be significant to both local and regional ecosystems, and the DEIR should include mitigation measures for adverse project-related impacts to these resources. Mitigation measures should emphasize avoidance and reduction of project impacts. For unavoidable impacts, onsite habitat restoration and/or enhancement, and preservation should be evaluated and discussed in detail. Where habitat preservation is not available onsite, offsite land acquisition, management, and preservation should be evaluated and discussed in detail.

   The DEIR should include measures to perpetually protect the targeted habitat values within mitigation areas from direct and indirect adverse impacts in order to meet mitigation objectives to offset project-induced qualitative and quantitative losses of biological values. Specific issues that should be addressed include restrictions on access, proposed land dedications, long-term monitoring and management programs, control of illegal dumping, water pollution, increased human intrusion, etc.

   If sensitive species and/or their habitat may be impacted from the Project, CDFW recommends the inclusion of specific mitigation in the DEIR. CEQA Guidelines section 15126.4, subdivision (a)(1)(8) states that formulation of feasible mitigation measures should not be deferred until some future date. The Court of Appeal in *San Joaquin Raptor Rescue Center* v. *County* of *Merced* (2007) 149 Cal.App.4th 645 struck down mitigation measures which required formulating management plans developed in consultation with State and Federal wildlife agencies after Project approval. Courts have also repeatedly not supported conclusions that impacts are mitigable when essential studies, and therefore impact assessments, are incomplete *(Sundstrom* v. *County* of *Mendocino* (1988) 202 Cal. App. 3d. 296; *Gentry* v. *City* of *Murrieta (1995)* 36 Cal. App. 4th 1359; *Endangered Habitat League, Inc.* v. *County* of *Orange* (2005) 131 Cal. App. 4th 777).

   CDFW recommends that the DEIR specify mitigation that is roughly proportional to the level of impacts, in accordance with the provisions of CEQA (CEQA Guidelines, §§ 15126.4(a)(4)(B), 15064, 15065, and 16355). The mitigation should provide long-term conservation value for the suite of species and habitat being impacted by the Project. Furthermore, in order for mitigation measures to be effective, they need to be specific, enforceable, and feasible actions that will improve environmental conditions.

5. *Habitat Revegetation/Restoration Plans*: Plans for restoration and revegetation should be prepared by persons with expertise in southern California ecosystems and native plant restoration techniques. Plans should identify the assumptions used to develop the proposed restoration strategy. Each plan should include, at a minimum: (a) the location of restoration sites and assessment of appropriate reference sites; (b) the plant species to be used, sources of local propagules, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) a local seed and cuttings and planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity. Monitoring of restoration areas should extend across a sufficient time frame to ensure that the new habitat is established, self-sustaining, and capable of surviving drought.

   CDFW recommends that local onsite propagules from the Project area and nearby vicinity be collected and used for restoration purposes. Onsite seed collection should be initiated in the near future in order to accumulate sufficient propagule material for subsequent use in future years. Onsite vegetation mapping at the alliance and/or association level should be used to develop appropriate restoration goals and local plant palettes. Reference areas should be identified to help guide restoration efforts. Specific restoration plans should be developed for various project components as appropriate.

6. *Nesting Birds and Migratory Bird Treaty Act:* Please note that it is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

   CDFW recommends that the DEIR include the results of avian surveys, as well as specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur. Project-specific avoidance and minimization measures may include, but not be limited to: project phasing and timing, monitoring of project-related noise (where applicable), sound walls, and buffers, where appropriate. The

DEIR should also include specific avoidance and minimization measures that will be implemented should a nest be located within the project site. If pre-construction surveys are proposed in the DEIR, the CDFW recommends that they be required no more than three (3) days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted sooner.

California Endangered Species Act

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to CESA. CDFW recommends that a CESA Incidental Take Permit (ITP) be obtained if the Project has the potential to result in "take" (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of State-listed CESA species, either through construction or over the life of the project. CESA ITPs are issued to conserve, protect, enhance, and restore State-listed CESA species and their habitats.

CDFW encourages early consultation, as significant modification to the proposed Project and avoidance, minimization, and mitigation measures may be necessary to obtain a CESA ITP. The California Fish and Game Code requires that CDFW comply with CEQA for issuance of a CESA ITP. CDFW therefore recommends that the DEIR addresses all Project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of CESA.

Based on review of CNDDB (2021), and/or knowledge of the project site/vicinity/general area, CDFW is aware that the following CESA-listed species have the potential to occur onsite/have previously been reported onsite: Desert tortoise (*Gopherus agassizii*), Mojave ground squirrel (*Xerospermophilus mohavensis*), and western Joshua tree (*Yucca brevifolia*).

Lake and Streambed Alteration Program

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA

Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your Project that would eliminate or reduce harmful impacts to fish and wildlife resources.

CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if necessary, the DEIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To notify CDFW of Lake or Streambed Alteration, please go to https://epims.wildlife.ca.gov.

ADDITIONAL COMMENTS

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). Information can be submitted online or via completion of the CNDDB field survey form at https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at https://wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

FILING FEES

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

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP of a DEIR for I-15 Industrial Park Project (SCH No. 2021060397) and recommends that the City of Hesperia address the CDFW's comments and concerns in the forthcoming DEIR. If you should have any questions pertaining to the comments provided in this letter, please contact Ashley Rosales, Environmental Scientist, at (760) 219-9452 or at Ashley.Rosales@Wildlife.ca.gov.

Sincerely,

DocuSigned by:
B99F76172E234E6...
for
Alisa Ellsworth
Environmental Program Manager

ec: Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@opr.ca.gov

California Department of Fish and Wildlife

HCPB CEQA Program
Habitat Conservation Planning Branch
CEQAcommentletters@wildlife.ca.gov

Ashley Rosales
Environmental Scientist
Inland Deserts Region
Ashley.Rosales@Wildlife.ca.gov

REFERENCES

Sawyer, J. O., T. Keeler-Wolf, and J. M. Evens. 2009. A manual of California Vegetation, 2nd ed. California Native Plant Society Press, Sacramento, California. (http://vegetation.cnps.org/)

California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline)

California Department of Fish and Wildlife (CDFW). 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline)

California Natural Diversity Database (CNDDB) Government [ds45]. 2021. California Department of Fish and Wildlife. Biogeographic Information and Observation System (BIOS). Retrieved July 8, 2021 from https://apps.wildlife.ca.gov/bios/

U.S. Fish and Wildlife Service. 2009. Desert Tortoise (Mojave Population) Field Manual: (Gopherus agassizii). Region 8, Sacramento, California.

July 16, 2021

City of Hesperia
Attn: Ryan Leonard
97000 Seventh Avenue
Hesperia, CA Zip 92345

DRAFT CITY OF HESPERIA (CITY), NOTICE OF PREPARATION (NOP)/ INITIAL STUDY (IS) FOR ENVIRONMENTAL IMPACT REPORT (EIR); I-15 INDUSTRIAL PARK PROJECT (PROJECT) STATE CLEARINGHOUSE NUMBER 2021060397

Dear Mr. Ryan Leonard:

Thank you for the opportunity to review the NOP/IS prepared for the EIR for the proposed Project. The State Water Resources Control Board, Division of Drinking Water (State Water Board) is responsible for issuing water supply permits administered under the Safe Drinking Water Act and may require a new or amended water supply permit for the above referenced Project. A project requires a permit if it includes water system consolidation or changes to a water supply source, storage, or treatment (California Code of Regulations, title 22, chapter 16).

The proposed Project includes the construction of two industrial/warehouse buildings that would provide 1,850,000 square feet of industrial/warehouse space and associated improvements, including loading docks, tractor-trailer stalls, passenger vehicle parking spaces, stormwater detention basins, and landscaped area. The Project also involves the off-site construction of Sultana Street from the northwestern corner of one of the new buildings to Mesa Linda Street. The project involves a general plan amendment, specific plan amendment, zone change, tentative parcel map, and conditional use permit. The Project site is located south of Main Street, west of Cataba Road, north of I-15 and Poplar Street, and east of U.S. Highway 395 within the City of Hesperia in San Bernardino County.

The State Water Board as a responsible agency under the California Environmental Quality Act (CEQA), has the following comments on the District's draft NOP/IS:

<u>Project Description:</u>

- "Given the vacant, underdeveloped nature of the Project site, both wet and dry utilities, including domestic water, sanitary sewer, and electricity, would need to

be extended on to the Project site," page 5/ pdf page 11. Please specify in the EIR which water system will provide water supply to the development.

- Please provide a site map and a description of the new water system components with enough detail to be able to determine if a water supply permit amendment or alternative to the Waterworks Standards will be required. If a water supply permit amendment will be required, please add us to the list of Responsible agencies, in the EIR.

Section 3.10 Hydrology and Water Quality

- "Implementation of the Project would result in construction and operational activities upon a currently undeveloped, vacant site. Such activities could potentially have an adverse effect on existing drainage patterns, which could subsequently impact surface water and groundwater quality, as well as both on-site and local hydrology," page 27 / pdf page 33. Please explain in the EIR what water system infrastructure will be installed, and applicable general permits, individual permits, or waivers that would be obtained to cover construction and operational discharges.

If a Water Supply Permit Amendment is needed, when the review process has ended, please forward the following items in support of the City's permit application to the State Water Board, Division of Drinking Water San Bernardino District Office:

- The draft and final EIR and Mitigation Monitoring and Reporting Plan (MMRP)
- The Resolution or Board Minutes certifying and adopting the EIR and MMRP and approving the Project;
- The date stamped Notice of Determination filed at the San Bernardino County Clerk's Office or Governor's Office of Planning and Research, State Clearinghouse; and
- Any comment letter received and the City's responses, as appropriate.

Please contact Eric Zuniga at San Bernardino District Office, at (909) 383-4328 or email at eric.zuniga@waterboards.ca.gov if you have any questions regarding water supply permitting requirements.

Sincerely,

Lori Schmitz
Environmental Scientist
Division of Financial Assistance
Special Project Review Unit
1001 I Street, 16th Street
Sacramento, CA 95814
Lori.Schmitz@waterboards.ca.gov
(916) 449-5285

Cc:

Office of Planning and Research, State Clearinghouse

Eric Zuniga
Senior Water Resources Control Engineer
San Bernardino District

DEPARTMENT OF WATER RESOURCES
1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791

July 16, 2021

Mr. Ryan Leonard
City of Hesperia
9700 Seventh Ave.
Hesperia, California 92345
rleonard@cityofhesperia.us

SCH# 2021060397, Notice or Preparation/Initial Study (NOP/IS) for the Industrial Park Project City of Hesperia, San Bernardino County

Dear Mr. Leonard:

The California Department of Water Resources (DWR) Division of Operations and Maintenance (O&M) staff has reviewed the City of Hesperia's (City) Initial Study for the proposed I-15 Industrial Park Project and has the following comments.

Project Description

The proposed is an industrial/warehouse campus consisting of two building totaling 1,850,000 square-feet (Building 1:1,108,000 sq-ft, Building 2: 742,000 sq-ft) on approximately 98 acres in two sites located approximately 0.25 mile apart on the east mesa of Oro Grande Wash (Wash) and connected by Sultana Street. The proposed project is located upslope of the East Branch of the California Aqueduct, part of the State Water Project.

Specific Comments

2.2 Environmental Setting

Surrounding Land Uses

This section describes the surrounding land uses as vacant land, scattered residential, commercial, light industrial and utility uses. The land uses to the north include vacant land and scattered commercial, light industrial, and residential uses. The land uses to the east are described as commercial uses and I-5. The State Water Project's California Aqueduct (Aqueduct) is a significant land use to the north and northeast of the project. The Aqueduct intersects I-15 in an area northeast of the project. It is important to include the Aqueduct in the description of surrounding land uses so the lead agency is able to reach factual conclusions based on substantial evidence of all surrounding land uses.

DWR requests that the Aqueduct is added to the surrounding land use description section.

2.3 Project Characteristics

Utility Improvements

The initial study explains the project's stormwater would be managed on site using at-grade detention basins and subsurface catch basins to capture and treat on-site stormwater. DWR requests the Draft EIR explain whether the project's stormwater management system improvements would have the capacity for on-site infiltration of all project stormwater.

3.7 Geology and Soils

The initial study explains that the pervious areas of the project site would be landscapes that would help retain on-site soils and prevent erosion, resulting in operational impact related to soil erosion that would be less than significant, with no further analysis required.

The geology and soils discussion in the initial study does not explain how the project's on-site stormwater at-grade detention basins and subsurface catch basins would result in no significant impacts related to soil erosion. We request this analysis be conducted in the Draft EIR.

The initial study does not analyze the potential off-site erosion resulting from off-site stormwater flows that may occur in either normal stormwater system operations or in the event the on-site stormwater system is overwhelmed. We request the Draft EIR include an analysis of the potential impacts of off-site erosion, especially at the Oro Grande Wash below the Cataba collector pipeline discharge location at the concrete apron on the open mesa.

3.10 Hydrology and Water Quality

The initial study explains the project's stormwater would be managed on site using at-grade detention basins and subsurface catch basins to capture and treat on-site stormwater. In addition, the project's potentially significant impacts on existing drainage patterns and local hydrology will be analyzed in the Draft EIR.

The initial study does not adequately analyze project drainage. There is no information regarding the amount of surface water runoff from the proposed 98 acres of the I-15 Industrial Park Project will drain to the Cataba Road stormwater pipeline. It appears that the approximately 65-acre eastern parcel(s) may be connected to the pipeline. DWR requests the Draft EIR includes in its drainage patterns and local hydrology analysis the potential significant impacts to the drainage patters and local hydrology through the wash, including:

-the conditions under which any projected amount of stormwater releases could drain into the Cataba Road stormwater pipeline from this 98-acre project;
-whether any portion of the project would be connected to the Cataba stormwater pipeline, especially the approximately 65-acre eastern parcel(s).
-an analysis explaining how the project's storm water detention plans would be consistent with the City of Hesperia's Master Plan of Drainage for this area;
-whether any project runoff would contribute to stormwater flows with the energy/velocity dissipation for the flows to be directed down into the Wash channel based on the 70+ feet of

elevation loss between the ground level on the east mesa of the Wash and the bottom of the Wash channel;
-whether any project runoff would enter the DWR maintained cross-drainage culvert at Milepost 394.5. This culvert conveys all stormwater flows in the Wash channel through a fill section of the Aqueduct embankment and eventually to the Mojave River.

3.19 Utilities and Service Systems

DWR requests an analysis of the potentially significant impacts of project runoff to the storm water drainage system in the project area, including impacts to the following facilities:

-the City of Hesperia's Cataba Road stormwater pipeline, which is the primary stormwater management feature for commercial and residential development of the east mesa portion of the Wash bounded by Highway 395 to the west, Interstate 15 to the south and east, the Aqueduct to the north and the centerline of the Wash to the northwest;
-the existing 66-inch diameter Cataba Road stormwater collector;
-the Cataba collector pipeline discharge, a concrete apron on the open mesa. Stormwater from commercial and residential projects located on the east mesa is directed down into the Wash via approximately 290 feet south of the DWR right-of-way boundary;
-the erosion associated with the Cataba collector discharge (photos attached); and
-DWR's cross-drainage culvert at Milepost 394.5 that conveys all stormwater flows in the Wash channel through a fill section of the Aqueduct embankment and eventually to the Mojave River.

3.21 Mandatory Findings of Significance

DWR requests the Draft EIR includes a thorough discussion of the following.

Cumulative Impacts to Geology and Soils

The cumulative erosion and sedimentation impacts are a result of developments in the Project area which directs stormwater runoff into the Cataba Road stormwater pipeline which discharges into the Oro Grande Wash. DWR requests the Draft EIR analyze these cumulative impacts and provide a hydrologic analysis of existing and new stormwater runoff calculations in the analysis.

The potentially significant cumulative erosion impacts are a result of the Cataba Road stormwater pipeline system discharges into the Wash. The discharged water erodes the soil in the Wash and then deposits the resulting sediment eroded by the system into down flow areas of the Wash, DWR's right of way, and DWR's cross-drainage culvert at Milepost 394.5. The impacts include potentially significant and dangerous erosion to the Wash and increasing sediment deposits at the DWR facilities which could compromise the structural integrity of the Aqueduct if not removed.

It is critical to analyze and mitigate the potentially significant cumulative erosion impact described above, because of the potential catastrophic direct and/or indirect erosion damage impacts, especially at the culvert inlet, if the pipeline discharges would increase unabated.

The potential significant impact of the cumulative sedimentation deposits at the culvert inlet, especially unexpected significant deposits in a short period of time, would require emergency actions by DWR to prevent catastrophic damage to the Aqueduct.

To ensure that these potentially significant cumulative impacts to these resources are fully analyzed, the following information should be included in the analysis:

-The City of Hesperia installed the 66-inch diameter Cataba Road stormwater pipeline was developed to be the primary stormwater management feature for commercial and residential development where the project would be located (within the east mesa portion of the Wash bounded by Highway 395 to the west, Interstate 15 to the south and east, the Aqueduct to the north and the centerline of the Wash to the northwest). The Cataba collector pipeline carries the stormwater away from the developed area and discharges the water at a concrete apron on the open mesa approximately 290 feet south of the DWR right-of-way boundary.
-The cumulative impact to drainage patterns and erosion resulting from the additional flows of this project and from the approximately 120 additional acres of impermeable-surface commercial and residential construction development in the mesa since the Cataba Road stormwater pipeline was installed. While cumulative impacts may be mitigated by previous projects' on-site stormwater facilities, DWR does not have documented evidence of such mitigation.
-Currently, stormwater is discharged from the Cataba Road stormwater pipeline into the Wash without attenuation, resulting in severe erosion downslope of the pipeline's discharge apron (see Photographs below). The material scoured by these erosive flows is deposited immediately upslope of DWR's culvert. In one severe storm event this sediment deposition was substantial enough to block the culvert completely. The Draft EIR needs to analyze the cumulative impacts of current and project sediment deposition.
-DWR has advised the City informally that any future development in the watershed served by the stormwater system must address the cumulative impact of erosion caused by stormwater discharges from the existing development along with the additional flows from a new project in the stormwater system. DWR requests that erosion cumulative erosion impacts are analyzed in the Draft EIR.

Cumulative Impacts to Utilities and Service Systems

The project would increase the Cataba Road stormwater pipeline system's discharge into the Wash, which could be a potentially significant cumulative impact to the function of the stormwater discharge system. DWR requests a discussion of the impacts to the whole stormwater system, including the cumulative impacts of the energy/velocity dissipation for the flows to be directed down into the Wash channel based on the 70+ feet of elevation loss between the ground level on the east mesa of the Wash and the bottom of the Wash channel.

Substantial Adverse Effects on Human Beings.

While the City requires the section of the Oro Grande Wash below the Cataba Road collector pipeline discharge location to maintain its function as drainage channels, the open space characteristic of the drainage channel attracts people to the area as a recreational area and a

dump site. DWR staff frequents the area for SWP operational and maintenance activities. The erosion that is a result of the Cantaba Road pipeline into the Wash's drainage channel has resulted in a 70+ feet of elevation loss between the ground level on the east mesa of the Wash (where Cataba Road ends) and the bottom of the wash channel.

This drop in elevation is a safety issue for humans. The erosion pattern has created an open deep ravine with inadequate warnings as to the danger, especially people driving down Cataba Road who could become disoriented and inadvertently drive into the ravine. DWR requests the Draft EIR analyze the potentially substantial adverse safety effects of inadequate notice of the dangerous conditions of the Wash at the Cataba Road discharge location.

If you have any questions or need additional information, please contact Scott Williams at (916) 653-5746 or Scott.Williams@water.ca.gov.

Sincerely,

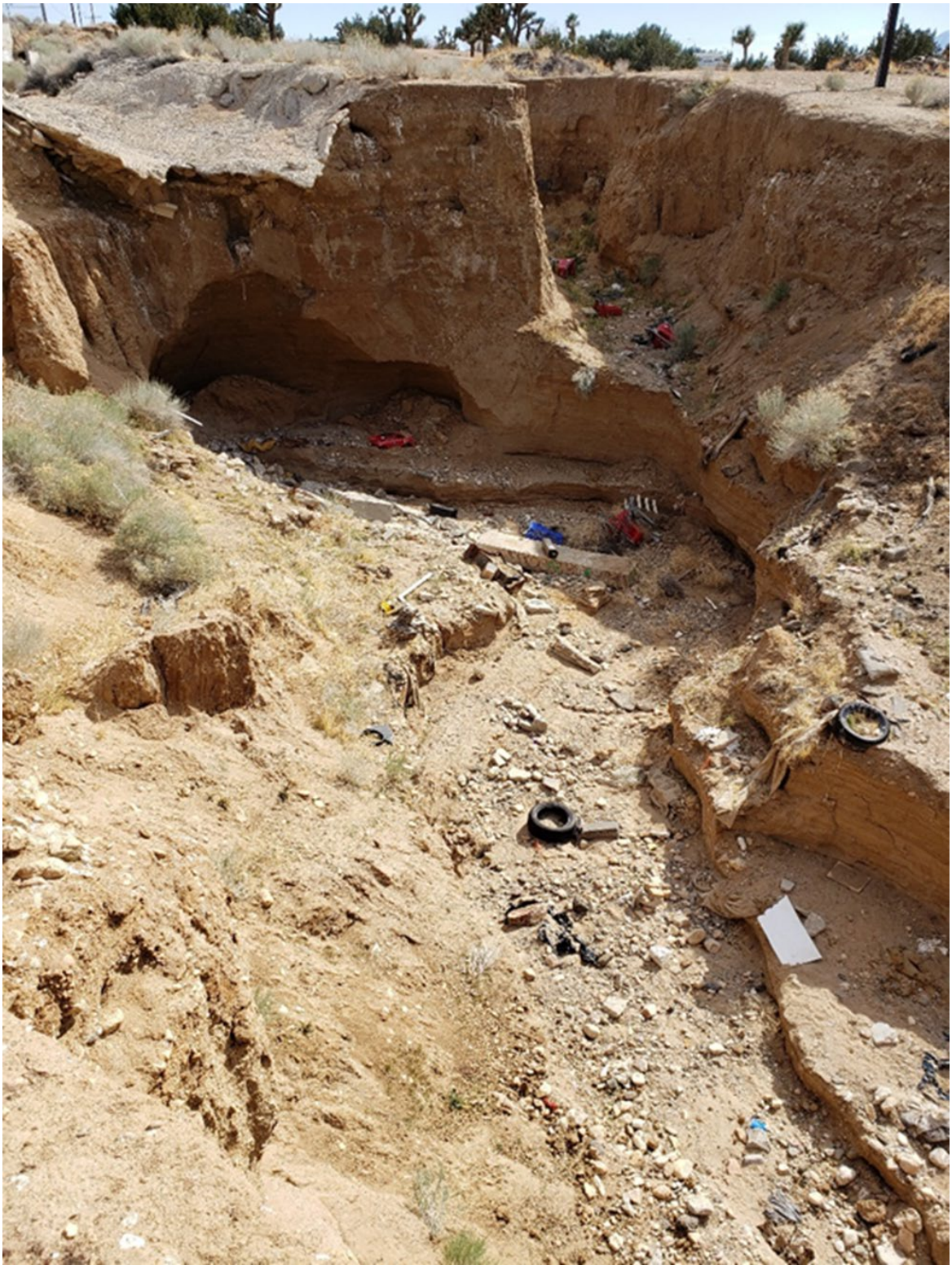
Nancy Finch

Nancy Finch
Attorney

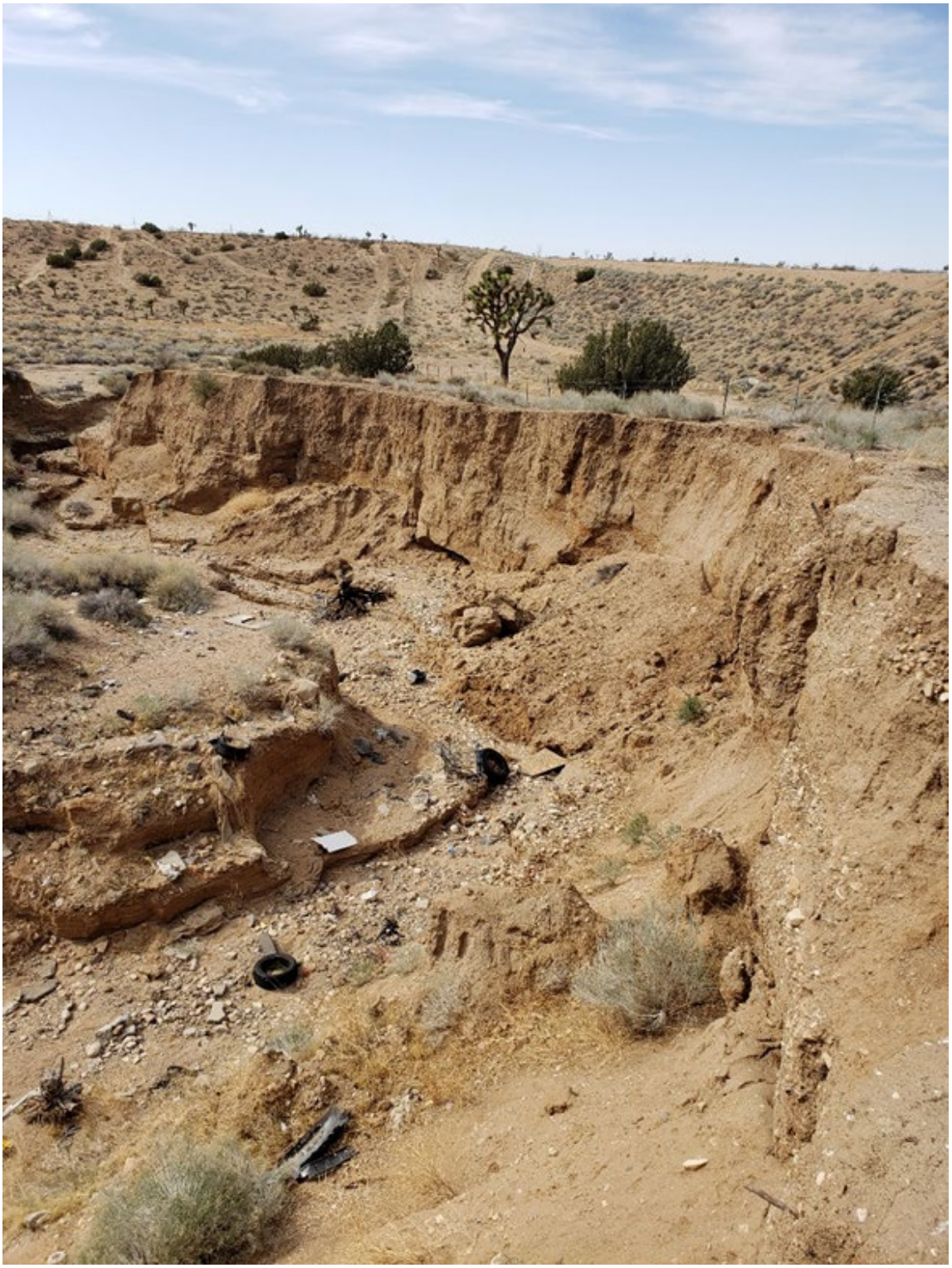
Attachments:

Photo 1. Erosion immediately downslope of Cataba Road storm drain concrete discharge apron.

Photo 2. Erosion channel scoured downslope of Cataba Road storm drain with Aqueduct embankment in background.



Attachment 1. Erosion immediately downslope of Cataba Road storm drain concrete discharge apron.



Attachment 2. Erosion channel scoured downslope of Cataba Road storm drain with the Aqueduct embankment in the background.

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VIA E-MAIL

July 7, 2021

Ryan Leonard
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RE: Notice of Preparation of an Environmental Impact Report for the I-15 Industrial Park Project

Dear Mr. Leonard

On behalf of the Southwest Regional Council of Carpenters ("**Commenter**" or "**Southwest Carpenters**"), my Office is submitting these comments on the City of Hesperia ("**City**") Notice of Preparation of an Environmental Impact Report ("**NOP**") (SCH No. 2021060397) for the I-15 Industrial Park Project ("**Project**").

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

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

Commenter expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Commenter incorporates by reference all comments raising issues regarding the environmental impact report ("**EIR**") submitted prior to certification of the EIR for the Project. *Citizens for Clean Energy v City of Woodland* (2014) 225 Cal. App. 4th 173, 191

(finding that any party who has objected to the Project's environmental documentation may assert any issue timely raised by other parties).

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

The City should require the Applicant to provide additional community benefits such as requiring local hire and use of a skilled and trained workforce to build the Project. The City should require the use of workers who have graduated from a Joint Labor Management apprenticeship training program approved by the State of California, or have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state approved apprenticeship training program or who are registered apprentices in an apprenticeship training program approved by the State of California.

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

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

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

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

> . . . labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California's workforce can positively affect returns on climate mitigation efforts. In other words, well trained workers are key to delivering emissions reductions and moving California closer to its climate targets.[1]

Recently, on May 7, 2021, the South Coast Air Quality Management District found that that the "[u]se of a local state-certified apprenticeship program or a skilled and trained workforce with a local hire component" can result in air pollutant reductions.[2]

Cities are increasingly adopting local skilled and trained workforce policies and requirements into general plans and municipal codes. For example, the City of Hayward 2040 General Plan requires the City to "promote local hiring . . . to help achieve a more positive jobs-housing balance, and reduce regional commuting, gas consumption, and greenhouse gas emissions."[3]

In fact, the City of Hayward has gone as far as to adopt a Skilled Labor Force policy into its Downtown Specific Plan and municipal code, requiring developments in its Downtown area to requiring that the City "[c]ontribute to the stabilization of regional construction markets by spurring applicants of housing and nonresidential developments to require contractors to utilize apprentices from state-approved, joint

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

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

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

labor-management training programs, . . ."[4] In addition, the City of Hayward requires all projects 30,000 square feet or larger to "utilize apprentices from state-approved, joint labor-management training programs."[5]

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

> People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.[6]

In addition, local hire mandates as well as skill training are critical facets of a strategy to reduce vehicle miles traveled. As planning experts Robert Cervero and Michael Duncan noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions since the skill requirements of available local jobs must be matched to those held by local residents.[7] Some municipalities have tied local hire and skilled and trained workforce policies to local development permits to address transportation issues. As Cervero and Duncan note:

> In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing." The city's First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When

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

[5] City of Hayward Municipal Code, Chapter 10, § 28.5.3.020(C).

[6] California Planning Roundtable (2008) Deconstructing Jobs-Housing Balance at p. 6, *available at* https://cproundtable.org/static/media/uploads/publications/cpr-jobs-housing.pdf

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

> needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

The City should consider utilizing skilled and trained workforce policies and requirements to benefit the local area economically and mitigate greenhouse gas, air quality and transportation impacts.

Also, the City should require the Project to be built to standards exceeding the current 2019 California Green Building Code and 2020 County of Los Angeles Green Building Standards Code to mitigate the Project's environmental impacts and to advance progress towards the State of California's environmental goals.

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

A. Background Concerning the California Environmental Quality Act

CEQA has two basic purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 California Code of Regulations ("**CCR**" or "**CEQA Guidelines**") § 15002(a)(1).[8] "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR 'protects not only the environment but also informed self-government.' [Citation.]" *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564. The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal. App. 4th 1344, 1354 ("*Berkeley Jets")*; *County of Inyo v. Yorty* (1973) 32 Cal. App. 3d 795, 810.

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. CEQA Guidelines § 15002(a)(2) and (3). *See also, Berkeley Jets,* 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta*

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

Valley v. Board of Supervisors (1990) 52 Cal. 3d 553; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1988) 47 Cal. 3d 376, 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to "identify ways that environmental damage can be avoided or significantly reduced." CEQA Guidelines § 15002(a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns" specified in CEQA section 21081. CEQA Guidelines § 15092(b)(2)(A–B).

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

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

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR's function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Communities for a Better Environment v. Richmond* (2010) 184 Cal. App. 4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 449–450).

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

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

Public health risks related to construction work requires a mandatory finding of significance under CEQA. Construction work has been defined as a Lower to High-risk activity for COVID-19 spread by the Occupations Safety and Health Administration. Recently, several construction sites have been identified as sources of community spread of COVID-19.[9]

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

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

Construction Site Design:

- The Project Site will be limited to two controlled entry points.
- Entry points will have temperature screening technicians taking temperature readings when the entry point is open.
- The Temperature Screening Site Plan shows details regarding access to the Project Site and Project Site logistics for conducting temperature screening.
- A 48-hour advance notice will be provided to all trades prior to the first day of temperature screening.

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

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

Testing Procedures:

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

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

Planning

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

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

SWRCC has also developed a rigorous Infection Control Risk Assessment ("**ICRA**") training program to ensure it delivers a workforce that understands how to identify and

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

..

control infection risks by implementing protocols to protect themselves and all others during renovation and construction projects in healthcare environments.[11]

ICRA protocols are intended to contain pathogens, control airflow, and protect patients during the construction, maintenance and renovation of healthcare facilities. ICRA protocols prevent cross contamination, minimizing the risk of secondary infections in patients at hospital facilities.

The City should require the Project to be built using a workforce trained in ICRA protocols.

If the City has any questions or concerns, feel free to contact my Office.

Sincerely,

Mitchell M. Tsai
Attorneys for Southwest Regional
Council of Carpenters

Attached:

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

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

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

[11] For details concerning SWRCC's ICRA training program, *see* https://icrahealthcare.com/.

EXHIBIT A

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

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March 8, 2021

Mitchell M. Tsai
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Subject: Local Hire Requirements and Considerations for Greenhouse Gas Modeling

Dear Mr. Tsai,

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

Worker Trips and Greenhouse Gas Calculations

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

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

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

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

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

> "$VMT_d = \Sigma(\text{Average Daily Trip Rate}_i * \text{Average Overall Trip Length}_i)_n$
>
> Where:
>
> n = Number of land uses being modeled."[5]

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

> "$\text{Emissions}_{pollutant} = VMT * EF_{running,pollutant}$
>
> Where:
>
> $\text{Emissions}_{pollutant}$ = emissions from vehicle running for each pollutant
>
> VMT = vehicle miles traveled
>
> $EF_{running,pollutant}$ = emission factor for running emissions."[6]

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

Default Worker Trip Parameters and Potential Local Hire Requirements

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

[4] "Appendix A Calculation Details for CalEEMod." CAPCOA, October 2017, *available at:* http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 14-15.
[5] "Appendix A Calculation Details for CalEEMod." CAPCOA, October 2017, *available at:* http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 23.
[6] "Appendix A Calculation Details for CalEEMod." CAPCOA, October 2017, *available at:* http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 15.
[7] "CalEEMod User's Guide." CAPCOA, November 2017, *available at:* http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.
[8] CalEEMod User Guide, *available at:* http://www.caleemod.com/, p. 1, 9.

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

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

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

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

[9] "CalEEMod User's Guide." CAPCOA, November 2017, *available at:* http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.
[10] "Appendix A Calculation Details for CalEEMod." CAPCOA, October 2017, *available at:* http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 15.
[11] "Appendix A Calculation Details for CalEEMod." CAPCOA, October 2017, *available at:* http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 14.
[12] "Appendix A Calculation Details for CalEEMod." CAPCOA, October 2017, *available at:* http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 21.
[13] "Appendix D Default Data Tables." CAPCOA, October 2017, *available at:* http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4, p. D-84 – D-86.

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

Practical Application of a Local Hire Requirement and Associated Impact

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

Local Hire Provision Net Change	
Without Local Hire Provision	
Total Construction GHG Emissions (MT CO_2e)	3,623
Amortized Construction GHG Emissions (MT CO_2e/year)	120.77
With Local Hire Provision	
Total Construction GHG Emissions (MT CO2e)	3,024
Amortized Construction GHG Emissions (MT CO_2e/year)	100.80
% Decrease in Construction-related GHG Emissions	***17%***

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

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

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

Disclaimer

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

Sincerely,

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

Paul E. Rosenfeld, Ph.D.

EXHIBIT B

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.
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Email: prosenfeld@swape.com

Paul Rosenfeld, Ph.D.

Chemical Fate and Transport & Air Dispersion Modeling

Principal Environmental Chemist

Risk Assessment & Remediation Specialist

Education

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

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

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

Professional Experience

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

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

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:

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.

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

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.

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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.

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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.

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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.

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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).

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

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

Presentations:

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

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

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

Rosenfeld, P.E. (April 19-23, 2009). 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 from University of Massachusetts, Amherst MA.

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

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

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

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in 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. Course focused on the health effects of environmental contaminants.

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

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

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

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

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

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

Academic Grants Awarded:

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

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

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

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

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

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

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

Deposition and/or Trial Testimony:

In the United States District Court For The District of New Jersey
Duarte et al, *Plaintiffs,* vs. United States Metals Refining Company et. al. *Defendant.*
Case No.: 2:17-cv-01624-ES-SCM
Rosenfeld Deposition. 6-7-2019

In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk, *Plaintiffs,* vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS "Conti Perdido" *Defendant.*
Case No.: 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition. 5-9-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No.: No. BC615636
Rosenfeld Deposition, 1-26-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No.: No. BC646857
Rosenfeld Deposition, 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado
Bells et al. Plaintiff vs. The 3M Company et al., Defendants
Case: No 1:16-cv-02531-RBJ
Rosenfeld Deposition, 3-15-2018 and 4-3-2018

In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow 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., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No C12-01481
Rosenfeld Deposition, 11-20-2017

In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition, 8-23-2017

In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC
Case No.: LC102019 (c/w BC582154)
Rosenfeld Deposition, 8-16-2017, Trail 8-28-2018

In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., *Plaintiffs,* vs. Meritor Inc., et al., *Defendants*
Case Number: 4:16-cv-52-DMB-JVM
Rosenfeld Deposition: July 2017

In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No.: No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial, March 2017

In The Superior Court of the State of California, County of Alameda
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No.: RG14711115
Rosenfeld Deposition, September 2015

In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No.: LALA002187
Rosenfeld Deposition, August 2015

In The Iowa District Court For Wapello County
Jerry Dovico, et al., Plaintiffs vs. Valley View Sine LLC, et al., Defendants
Law No,: LALA105144 - Division A
Rosenfeld Deposition, August 2015

In The Iowa District Court For Wapello County
Doug Pauls, et al.,, et al., Plaintiffs vs. Richard Warren, et al., Defendants
Law No,: LALA105144 - Division A
Rosenfeld Deposition, August 2015

In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action N0. 14-C-30000
Rosenfeld Deposition, June 2015

In The Third Judicial District County of Dona Ana, New Mexico
Betty Gonzalez, et al. Plaintiffs vs. Del Oro Dairy, Del Oro Real Estate LLC, Jerry Settles and Deward DeRuyter, Defendants
Rosenfeld Deposition: July 2015

In The Iowa District Court For Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No 4980
Rosenfeld Deposition: May 2015

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case Number CACE07030358 (26)
Rosenfeld Deposition: December 2014

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

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

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

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

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

EXHIBIT C

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

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

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

Education:

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

Professional Certifications:

California Professional Geologist
California Certified Hydrogeologist
Qualified SWPPP Developer and Practitioner

Professional Experience:

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

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

Positions Matt has held include:

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

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

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt's responsibilities have included:

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

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

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

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

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

Executive Director:

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

Hydrogeology:

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

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

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

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

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

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

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

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

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

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

Policy:

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

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

Geology:

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

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

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

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

Teaching:

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

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

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

Invited Testimony, Reports, Papers and Presentations:

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

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

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, 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 at schools in Southern California, Los Angeles.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Other Experience:

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

7/16/2021

Sent via email and U.S. Mail (references sent by U.S. Mail)

Ryan Leonard, Senior Planner
City of Hesperia
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Re: Comments on Notice of Preparation of Draft Environmental Impact Report for I-15 Industrial Park Project

Dear Mr. Leonard:

These comments are submitted on behalf of the Center for Biological Diversity (the "Center") regarding City of Hesperia's Notice of Preparation ("NOP") of a Draft Environmental Impact Report ("DEIR") for the I-15 Industrial Park Project (the "Project"). The Center is concerned about the significant impacts the Project may impose on Joshua Trees. The Center urges the City to fully evaluate, disclose, and plan to mitigate the environmental impacts of this Project as required by the California Environmental Quality Act ("CEQA").

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California and across the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in San Bernardino County.

I. The Project site is home to a natural community of concern.

The Project site is located in the western part of Hesperia, just west of Interstate 15. The City is located within the range of the western Joshua tree South population ("YUBR South"). The geographic area in which YUBR South is situated is comprised of 3.7 million acres, with over 50% in private ownership, 48% federally owned, and under 2% state, county and local owned. (USFWS 2018.) The USFWS (2018) estimates that 3,255,088 acres of this area are suitable for Joshua trees based on soil characteristics, moisture level, and other factors. However, Joshua trees actually occupy only a fraction of this area, as they have a sparse and scattered distribution, and large areas of habitat have been lost to development and agricultural conversion.

Increasing development, climate change, persistent drought, more frequent and intense wildfires, invasive species, and other threats have led to ongoing reductions in western Joshua trees and western Joshua tree habitat throughout their historic range. Protecting western Joshua trees and their habitat from continued destruction and habitat loss is therefore vitally important to the persistence of the species in California. However, within the City and surrounding communities in particular, western Joshua tree habitat is shrinking at an alarming rate due to increasing development. While western Joshua trees currently persist in the less-developed areas of the City, they are absent from more developed areas and agricultural lands in the region, making the Project site especially valuable as habitat for the species.

The DEIR and associated mitigation plans should acknowledge that the Project site is composed of ecologically significant habitat for Joshua trees. The City should carefully study and disclose the extent to which Joshua trees and their habitat would be impacted by the Project, and take all necessary and prudent actions to mitigate any such impacts. Joshua tree woodland is a community recognized by the California Department of Fish and Wildlife ("CDFW") as a Natural Community of Concern. Sensitive natural communities are communities that are of limited distribution statewide or within a county or region and are often vulnerable to environmental effects of projects. (CDFW 2018.) CDFW's List of California Terrestrial Natural Communities is based on the best available information, and indicates which natural communities are considered sensitive at the current stage of the California vegetation classification effort.

II. Western Joshua Trees are a Special Status Species, the impacts to which are presumed to be significant.

The CEQA Guidelines indicate that a Project can be expected to have significant impacts to biological resources if the Project has a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. (CEQA Guidelines, Appendix G, subd. IV(a).) CEQA Guidelines section 15065(a)(1) requires that lead agencies conducting an initial study make a mandatory finding of significance where a proposed project has the potential to substantially reduce the number or restrict the range of a listed species. Further, California Fish and Game Code section 2085 requires that species that are candidates for listing as threatened or endangered under the California Endangered Species Act ("CESA") be treated as threatened or endangered pending the final listing decision.

On September 22, 2020, the California Fish and Game Commission ("CFGC") advanced the western Joshua tree to candidacy under CESA, protecting these imperiled plants from harm during the ongoing review process. (CFGC 2020.) Consequently, the Project's impacts to the western Joshua trees must be considered significant and fully evaluated and disclosed to the public. Accordingly, the DEIR should acknowledge the Project's significant impacts on Joshua trees, and make appropriate plans to mitigate or avoid those impacts.

III. The DEIR should fully assess and disclose the Project's impacts on Joshua trees, including destruction or modification of habitat and cumulative impacts.

The DEIR should provide sufficient information about the Joshua tree population and Joshua tree habitat on the current Project site. In addition to the number, size, location, and distribution of Joshua trees on the site, the DEIR should indicate how much of the Project site is suitable Joshua tree habitat and Joshua tree woodland. Additionally, the DEIR should disclose the extent to which Joshua trees at the site will be removed or destroyed and the amount of Joshua tree habitat that would be converted or developed. If any Joshua trees will be preserved, the DEIR should describe the Project's impacts on those Joshua trees, and explain the measures, including monitoring, that will be taken to ensure their continued heath after the Project is constructed.

The DEIR should also describe in detail all potentially significant direct or indirect impacts associated with the destruction or adverse modification of the western Joshua tree's habitat. Development, climate change, and increasing wildfire occurrences exacerbated by drought and invasive species negatively impact western Joshua trees and their habitat (DeFalco et al. 2010; Harrower and Gilbert 2018). Research suggests that even under the most optimistic climate scenarios, western Joshua trees will be eliminated from significant portions of their range by the end of the century; under warming scenarios consistent with current domestic and global emissions trajectories, the species will likely be close to being functionally extinct in the wild in California by century's end (Dole et al. 2003; Cole et al. 2011; Sweet et al. 2019). Studies indicate that the species' range is contracting at lower elevations, recruitment is limited, and mortality is increasing, all of which would likely reflect a population already starting to decline due to recent warming. Even greater changes are projected to occur over the coming decades. The DEIR should consider the Project's impacts to the Joshua tree in light of its rapidly diminishing habitat. Additionally, the City is currently considering (or has approved) numerous other warehouse projects that will destroy Joshua tree habitat; the DEIR must consider the Project's cumulative impacts to the species and its habitat. (CEQA Guidelines § 15355.)

The DEIR should also consider the significant impacts to Joshua trees associated with the reduction in habitat connectivity. Maintaining habitat connectivity is particularly important to western Joshua trees. For successful reproduction and recruitment, Joshua trees require the presence of their obligate pollinator, yucca moths, and rodents to disperse and cache seeds and nurse plants to shelter emerging seedlings. (Pellmyr and Segraves 2003; Godsoe, et al. 2008.; Harrower and Gilbert 2018.) Therefore, to the degree that any Joshua trees are left remaining on the Project site, these moths and rodents must have access to be maintained on site to ensure remnant Joshua trees can successfully reproduce. The DEIR should analyze how construction on the project site will affect habitat connectivity necessary for sustainable Joshua tree recruitment onsite. The City should also evaluate whether the Project would result in further habitat fragmentation, potentially resulting in significant adverse impacts to remnant Joshua tree woodland in nearby areas if pollinator or disperser populations are reduced.

IV. Reliance on a relocation plan is not adequate to mitigate potential significant impacts to Joshua Trees and Joshua Tree habitat.

The DEIR cannot rely solely on a Joshua tree relocation to mitigate the Project's significant impacts to Joshua trees. Though a relocation plan may be designed to fulfill the

requirements of the city of Hesperia's Protect Plant Policy (Hesperia Municipal Code § 16.24), compliance with this City requirement does not satisfy the requirements of CESA and CEQA. Further, relocation success rates for Joshua trees are low, as a proposed relocation plan for another warehouse project in the City has already acknowledged. The California Fish and Game Commission has also noted the inadequacy of translocation as mitigation. When it adopted its California Policy for Native Plants in 2015, the Commission stated that "transplantation as a means of mitigating for listed plant species" is "largely ineffectual over time and often damaging to species or population survival" as documented by "experience and numerous studies." (California Fish and Game Code, 2020.) Moreover, even if individual trees were to survive transplantation, there is no guarantee of long-term viability of the species on the Project or translocation site. Successful recruitment would be constrained by lack of nurse plants and it remains highly uncertain whether pollinating moths, vital to Joshua tree pollination, will be able to persist with the resultant lower Joshua tree densities (Harrower and Gilbert 2018 ["Having robust, dense, flowering trees is important to support and attract enough moths for successful seed set"]).

If the City does develop a relocation plan as *part* of its overall mitigation, that plan must comply with CEQA and relevant state and local requirements and include sufficient detail for the public to discern the effectiveness of that mitigation plan. The CEQA Guidelines prohibit agencies from deferring the formulation of mitigation measures to after project approval except in certain, strictly limited circumstances. (CEQA Guidelines § 15126.4(a)(1)(B).) An agency may develop the specifics of mitigation after project approval only "when it is impractical or infeasible to include those details during the project's environmental review." (Id.) That is, "practical considerations" must "prevent[] the formulation of mitigations measures at the usual time in the planning process." (*POET, LLC v. State Air Res. Bd.* (2013) 218 Cal.App.4th 681, 736.) Unless those considerations are "readily apparent," an EIR must explain an agency's decision to defer finalizing the specifics of mitigation. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281.) Any mitigation for the Project's impacts to Joshua trees should therefore be released and approved alongside the EIR, and not deferred.

Any relocation plan should include detailed information and planning regarding where Joshua trees will be transplanted. This information is vital to determining whether transplantation will be successful. Pro forma descriptions of 'suitable habitat' ignore important recent work on demographic trends in Joshua trees showing suitable habitat of Joshua trees under current climate conditions is vastly overestimated. It is also unclear whether transplanted Joshua trees will be able to survive long-term in areas that are deemed current suitable habitat, even if initial transplants are successful (Cole et al. 2011, Smith 2018). A relocation plan cannot use arbitrary standards for sufficient survival rates of transplanted trees. Targets for transplant survival and success should be clearly linked to significant impacts of the Project and designed to adequately mitigate for the destruction of Joshua trees and Joshua tree habitat at the Project site.

Any relocation plan should include a robust monitoring scheme to ensure short-term success and long-term persistence of transplanted trees. Such a monitoring scheme should include frequent and long-term data collection on the number, condition, and reproductive success of transplanted trees. The success of such translocation will be inaccurate if such monitoring efforts do not account for seedling recruitment, availability of obligate pollinators,

and presence of rodent seed dispersers in addition to general tree health (Pellmyr and Segraves 2003; Yoder et al. 2013; Lenz 2001). While some impacts such as reduced recruitment may be readily observable, impacts such as adult mortality and consequent population declines and range reductions may have a lag time before their presence is felt on the landscape (Svenning and Sandel 2013). Accordingly, the DEIR's proposed mitigation must include the required specific performance standards "for evaluating the efficacy of the measures implemented." (*See POET, LLC v. State Air Res. Bd.* (2013) 218 Cal.App.4th 681, 738.)

V. The EIR should require preservation of offsite Joshua trees and Joshua tree habitat at a 5:1 ratio.

In addition to Project design measures that will avoid and minimize onsite impacts, offsite mitigation will be necessary. This should be in the form of protection and preservation of western Joshua trees in other areas at a suitable mitigation ratio. Given the high number of Joshua Trees affected and the important vegetation habitat involved, a high level of mitigation is warranted to offset the Project's significant impacts. A 5:1 mitigation ratio is appropriate here and is consistent with mitigation required by CDFW for projects impacting important desert tortoise habitat.

There are multiple paths to meeting offsite mitigation requirements for Joshua trees. For example, the City and/or Project proponent may purchase credits from a CDFW approved conservation or mitigation bank, which is a privately or publicly owned land managed for its natural resource values. Credits are established for the specific CESA-listed species that occur on the site. As a result of the recent advancement to candidacy of the species under CESA, CDFW has established a Western Joshua Tree Mitigation Fund through which payments may be made for mitigation purposes. (*See* Cal. Code Regs., tit. 14, § 749.10.) This is likely the simplest and most effective plan, and would align CEQA mitigation requirements with those needed to meet incidental take permit conditions under CESA. Alternatively, the Project proponent could work with a land trust or other qualified organization to acquire a conservation easement over habitat of equal or greater value. (*See* Gov. Code § 65965 et seq., Civil Code § 813 et seq.) Regardless of which path the City and Project proponent follow, these mitigation approaches are eminently feasible; in order to comply with CEQA, the City must consider and adopt additional feasible mitigation for the Project's significant adverse impacts to western Joshua trees.

Conclusion

Given the possibility that the Center will be required to pursue appropriate legal remedies to ensure enforcement of CEQA, we would like to remind the City of its duty to maintain and preserve all documents and communications that may constitute part of the "administrative record" for this Project. As you may know, the administrative record encompasses any and all documents and communications which relate to any and all actions taken by the County with respect to the Project, and includes "pretty much everything that ever came near a proposed [project] or [] the agency's compliance with CEQA . . . ." (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further contains all correspondence, emails, and text messages sent to or received by the City's representatives or employees, which relate to the Project, including any correspondence, emails, and text messages sent between the

City's representatives or employees and the project proponent's representatives or employees. Maintenance and preservation of the administrative record requires that, inter alia, the City (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made.

Thank you for the opportunity to submit comments on the NOP for the I-15 Industrial Park Project. The Center is deeply concerned by the potentially significant environmental impacts of the proposed Project. We urge the City to carefully prepare a DEIR and associated mitigation plans for public review and comment so that the extent of Project impacts can be assessed in a legally compliant manner. Please place me and Center attorney Peter Broderick (pbroderick@biologicaldiversity.org) on the City's notice list for all future updates, notices, and materials associated with the Project and its environmental review, and do not hesitate to contact the Center with any questions at the number or email listed below.

Sincerely,

Peter Slag
Law Clerk
Urban Wildlands Program
Center for Biological Diversity
1212 Broadway, Suite #800
Oakland, CA 94612
Tel: (510) 844-7100
pslag@biologicaldiversity.org

CC: Peter J. Broderick (pbroderick@biologicaldiversity.org)

REFERENCES

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July 16, 2021

Ryan Leonard
City of Hesperia, Planning Department
9700 Seventh Avenue
Hesperia, California 92345

Submitted via email

Re: I-15 Industrial Park Project Initial Study/Notice of Preparation (SCH #2021060397)

Dear Mr. Leonard,

I am writing on behalf of the Center for Community Action and Environmental Justice to respond to the Initial Study/Notice of Preparation for the proposed I-15 Industrial Park Project. We are concerned about the continued expansion of warehousing uses, especially in areas which are not presently developed. One area of concern is for the ecosystem of the desert and how development of this project would impact the biodiversity of the region which continues to face pressure that is leading to the addition of species such as the Joshua Trees to the endangered species list.

Another concern is for air quality. The analyses of other similarly-sized projects in the region show significant air quality issues with logistics centers which remain unmitigated. To combat these issues, the South Coast Air Quality Management District has adopted Rule 2305 to reduce pollution due to indirect sources. However, Hesperia is outside the boundaries of the SCAQMD so this Project would not be subject to the rule. That is unfortunate and the EIR must explore how any air quality impacts would be mitigated to a less-than-significant level, up to and including the City encouraging the development of a similar rule in the Mojave Desert Air Quality Management District where the city and Project are located.

Finally, we want to ensure that the Project would not be located near existing or planned housing, particularly for disadvantaged communities. Doing so would be detrimental to health and well-being of individuals in those situations and create further environmental injustices in the future.

Thank you for your time and if there are any questions, please feel free to reach out.

Sincerely,

Ana Gonzalez

Ana Gonzalez
Executive Director

CCAEJ is a long-standing community based organization with over 40 years of experience advocating for stronger regulations through strategic campaigns and building a base of community power. Most notably, CCAEJ's founder Penny Newman won a landmark federal case against Stringfellow Construction which resulted in the `Stringfellow Acid Pits' being declared one of the first Superfund sites in the nation. ***CCAEJ*** prioritizes community voices as we continue our grassroots efforts to bring lasting environmental justice to the Inland Valley Region.

Mailing Address
P.O. Box 33124
Jurupa Valley CA 92519

Physical Address
3840 Sunnyhill Drive, Suite A
Jurupa Valley CA 92509

Tel: **951-360-8451**
Fax: 951-360-5950
www.ccaej.org

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MEETING MINUTES

Date:	Thursday, July 8, 2021
Time:	5:00 p.m.
Subject:	I-15 Industrial Park Project Scoping Meeting Minutes
Location:	City Council Chambers, 9700 Seventh Avenue, Hesperia 92345

Meeting Minutes

Introductions were made by Patrick Cruz, Dudek, CEQA Environmental Planner. Mr. Cruz presented the material included within the I-15 Industrial Park Project Scoping Meeting Presentation and solicited comments from the participants.

The participants introduced themselves, stated who they were representing, and made requests about the project that did not pertain to CEQA (these comments primarily pertained to a local hire requirement, which is an economic and socioeconomic concern). Mr. Cruz replied that the comments should be submitted to the City given that the comments were worthwhile for the City to consider. With no further questions received, Mr. Cruz concluded the meeting and encouraged the participants to submit his comments in writing before July 16th, 2021.

Meeting Attendees

City of Hesperia

- Ryan Leonard (Senior Planner)
- Chris Borchert (Principal Planner)
- Maricruz Montes (Planning Staff)

Dudek (CEQA Consultant)

- Patrick Cruz
- Hayley Ward

Members of the Public

- Angel Esparza, Southwest Regional Council of Carpenters
- Sean Silva, CARE CA

I-15 Industrial Park Project
Scoping Meeting
Sign-in Sheet
July 8, 2021

(Contact information submitted will receive official CEQA notifications about the project)

Name (Please print)	Agency/Affiliation	Email Address	Address (Optional)	Phone Number (Optional)
ANGEL ESPARZA	SOUTHWEST REGIONAL COUNCIL of CARPENTERS	AESPARZA@SWCARPENTERS.ORG		909.301.2723
SEAN SILVA	CARE CA	sean@creadla.com		626.278.8244

City of Hesperia

REQUEST TO SPEAK FORM

Public Comments: Interested parties or their authorized legal representatives may address any matter concerning the City's/District's business, during Public Comments.

COMMENTS ARE LIMITED TO THREE (3) MINUTES FOR GENERAL COMMENTS AND FIVE (5) MINUTES FOR PUBLIC HEARING ITEMS

Please refrain from using any obscene, vulgar, or profane language while speaking. Any disruptive conduct including addressing the legislative body without first being recognized and failing to relinquish the podium when requested to do so, may result in removal from the meeting at the request of the Mayor/Chair. By submitting this form the speaker understands that City Council meetings are broadcast live and any comments made will become part of the official record.

Please complete a separate form for each item to be addressed. Completed forms must be submitted to the City Clerk **prior** to the start of the meeting.

I request to comment on:

Agenda Item No. I-15 INDUSTRIAL PROJECT **OR** General Public Comments _____
(for items not listed on the agenda)

ANGEL ESPARZA SW CARPENTERS
Name and Organization (Please Print)

17420 Adobe ST HESPERIA 92345
Address City Zip

909 3012723
Telephone Number

AESPARZA@SWCARPENTERS.ORG
Email Address

PLEASE SILENCE YOUR CELL PHONES AND OTHER ELECTRONIC DEVICES WHILE THE MEETING IS IN SESSION

I-15 Industrial Park Project
Scoping Meeting

Please leave comment card in one of the drop-off boxes or mail this card by the end of the scoping period (July 16, 2021). Comments may also be sent via email to rleonard@cityofhesperia.us.

Name: SEAN SILVA

Agency/Affiliation: CARE CA

Address: 501 SHATTO PL. SUITE 200
LOS ANGELES, CA 90020

Email Address: Sean@creedla.com
community@careca.org

Comment:

I am a representative of CARE CA, a statewide community coalition group whose focus is to monitor and engage with new development across the state [cont.]

Place Stamp Here

ATTN: Ryan Leonard
City of Hesperia
Planning Department
9700 Seventh Avenue
Hesperia, California 92345

Comment continued: We advocate for environmental safety and the mitigation of environmental impacts during construction. Our particular interests include air pollution, noise, greenhouse gas emissions, onsite hazardous materials and soil contamination.

We hope the EIR will comprehensively address these issues and more. We firmly believe the decisions made by developers have an enormous impact on our environment and communities.