# 5.4 HAZARDS AND HAZARDOUS MATERIALS

This section evaluates the potential impacts of the Mercury Lane Residential project (proposed project) on human health and the environment due to exposure to hazardous materials or conditions associated with the project site, project construction, and project operations. Potential project impacts and appropriate mitigation measures or standard conditions are included as necessary. The analysis in this section is based, in part, upon the following source:

- *Phase I Environmental Site Assessment Report,* PlaceWorks, May 2018

A complete copy of this study is included in Appendix G in this Draft EIR.

## 5.4.1 Environmental Setting

### 5.4.1.1 AGENCIES THAT REGULATE HAZARDOUS MATERIALS

Hazardous materials are substances that exhibit corrosive, poisonous, flammable, and/or reactive properties and have the potential to harm human health and/or the environment. Hazardous materials are used in products (e.g., household cleaners, industrial solvents, paint, pesticides, etc.) and manufacturing (e.g., of electronics, newspapers, plastic products, etc.). Examples of hazardous materials are petroleum, natural and synthetic gas, and other toxic chemicals that may be used in agriculture or commercial and industrial uses, businesses, hospitals, and households. Accidental releases of hazardous materials have a variety of causes, including highway incidents, warehouse fires, train derailments, shipping accidents, and industrial incidents.

The term "hazardous materials," as used in this section, includes all materials defined in the California Health and Safety Code:

> A material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the unified program agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (§§ 25411, 25501)

Federal and state hazardous waste definitions are similar, but different enough that separate classifications are in place for federal Resource Conservation and Recovery Act (RCRA) hazardous wastes and state non-RCRA hazardous wastes.

#### Federal Agencies

Several federal agencies regulate hazardous materials.

- **US Environmental Protection Agency.** The EPA is the primary federal agency that regulates hazardous materials and waste. In general, the EPA develops and enforces regulations that implement

environmental laws enacted by Congress. The agency is responsible for researching and setting national standards for a variety of environmental programs, and delegates to states and tribes the responsibility for issuing permits and for monitoring and enforcing compliance. EPA programs promote handling hazardous wastes safely, cleaning up contaminated land, and reducing trash. Under the authority of the RCRA and in cooperation with state and tribal partners, the Waste Management Division manages a hazardous waste program, an underground storage tank program, and a solid waste program, which includes development of waste reduction strategies such as recycling. The EPA has also promulgated regulations for the transport of hazardous wastes. These more stringent requirements include tracking shipments with manifests to ensure that wastes are delivered to their intended destinations.

- **Occupational Safety and Health Administration.** OSHA oversees administration of the Occupational Safety and Health Act, which requires specific training for hazardous materials handlers, provision of information to employees who may be exposed to hazardous materials, and acquisition of material safety data sheets from manufacturers. Material safety data sheets describe the risks associated with particular hazardous materials, and proper handling and procedures. Employee training must include response and remediation procedures for hazardous materials releases and exposures.

- **US Department of Transportation.** The USDOT has developed regulations pertaining to the transport of hazardous materials and hazardous wastes by all modes of transportation. The US Postal Service has developed additional regulations for the transport of hazardous materials by mail. USDOT regulations specify packaging requirements for different types of materials.

### State Agencies

Responsible state agencies that regulate hazardous materials and waste in accordance with the federal and state laws include:

- **California Environmental Protection Agency.** CalEPA was created in 1991 by Governor's Executive Order. Six boards, departments, and offices were placed under the CalEPA umbrella to create a cabinet-level voice for the protection of human health and the environment and to ensure the coordinated deployment of state resources. CalEPA oversees hazardous materials and hazardous waste compliance throughout California. Among those responsible for hazardous materials and waste management are the Department of Toxic Substances Control, Department of Pesticide Regulation, and Office of Environmental Health Hazard Assessment. CalEPA also oversees the unified hazardous waste and hazardous materials management regulatory program (Unified Program), which consolidates and coordinates:

  - Hazardous Materials Release Response Plans and Inventories (Business Plans)
  - Underground Storage Tank Program
  - Aboveground Petroleum Storage Tank Act
  - Hazardous Waste Generator and Onsite Hazardous Waste Treatment Programs

- California Uniform Fire Code: Hazardous Material Management Plans and Inventory Statements
- California Accidental Release Prevention Program.

- **California Department of Toxic Substances Control.** DTSC is the department of CalEPA that carries out the RCRA and CERCLA programs in California to protect people from exposure to hazardous substances and wastes. The department regulates hazardous waste, cleans up existing contamination, and looks for ways to control and reduce the hazardous waste produced in California primarily under the authority of RCRA and in accordance with the California Hazardous Waste Control Law (Health and Safety Code Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Divisions 4 and 4.5). Permitting, inspection, compliance, and corrective action programs ensure that people who manage hazardous waste follow state and federal requirements and other laws that affect hazardous waste specific to handling, storage, transportation, disposal, treatment, reduction, cleanup, and emergency planning.

- **California Department of Forestry and Fire Protection.** CAL FIRE is dedicated to the fire protection and stewardship of over 31 million acres of California's wildlands. The Office of the State Fire Marshal (OSFM) supports CAL FIRE's mission to protect life and property through fire prevention engineering programs, law and code enforcement, and education. OSFM provides for fire prevention by enforcing fire-related laws in state-owned or -operated buildings; investigating arson fires; licensing those who inspect and service fire protection systems; approving fireworks for use in California; regulating the use of chemical flame retardants; evaluating building materials against fire safety standards; regulating hazardous liquid pipelines; and tracking incident statistics for local and state government emergency response agencies. The California Fire Plan is the state's road map for reducing the risk of wildfire through planning and prevention to reduce firefighting costs and property losses, increase firefighter safety, and contribute to ecosystem health. The California Fire Plan is a cooperative effort between the State Board of Forestry and Fire Protection and CAL FIRE.

## Regional Agencies

Responsible regional agencies that regulate hazardous materials and waste in accordance with the federal and state laws include:

- **Orange County Health Agency, Environmental Health Division**. The Environmental Health Division was designated as the Certified Unified Program Agency (CUPA) for the County of Orange, and the county and city fire agencies within the county have partnered with the CUPA as participating agencies. The Environmental Health Division administers all programs for the City of Brea. The CUPA is the local administrative agency that coordinates the regulation of hazardous materials and hazardous wastes in Orange County through six programs:
  - Hazardous Materials Disclosure
  - Business Emergency Plan
  - Hazardous Waste

- Underground Storage Tank
- Aboveground Petroleum Storage Tank
- California Accidental Release Prevention

### 5.4.1.2 REGULATORY FRAMEWORK

Hazardous wastes require special handling and disposal because of their potential to impact public health and the environment. Some materials are designated "acutely" or "extremely" hazardous under relevant statutes and regulations. Hazardous materials and wastes can pose significant actual or potential hazards to human health and the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Many federal, state, and local programs regulate the use, storage, and transportation of hazardous materials and hazardous waste. These programs are designed to reduce the danger that hazardous substances may pose to people and businesses under normal, daily conditions and as a result of emergencies.

#### Federal Regulations

##### *Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984*

The RCRA of 1976 is the principal federal law enacted by Congress that regulates the generation, management, and transportation of waste. The EPA is the primary federal agency that regulates hazardous materials and waste. In general, the EPA works to develop and enforce regulations that implement environmental laws enacted by Congress. The agency is responsible for researching and setting national standards for a variety of environmental programs and delegates to states and tribes the responsibility for issuing permits and for monitoring and enforcing compliance. EPA programs promote handling hazardous wastes safely, cleaning up contaminated land, and reducing trash. Hazardous waste management includes the treatment, storage, or disposal of hazardous waste. The RCRA gave the EPA the authority to control hazardous waste from "cradle to grave," that is, from generation to transportation, treatment, storage, and disposal. The RCRA also set up a framework for the management of nonhazardous wastes. The 1986 amendments to RCRA enabled the EPA to address environmental problems that could result from underground tanks storing petroleum and other hazardous substances. It should be noted that RCRA focuses only on active and future facilities and does not address abandoned or historical sites.

##### *Comprehensive Environmental Response, Compensation, and Liability Act and the Superfund Amendments and Reauthorization Act of 1986*

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, commonly known as Superfund, established prohibitions and requirements concerning closed and abandoned hazardous waste sites, provided for liability of persons responsible for releases of hazardous waste at these sites, and established a trust fund to provide for cleanup when no responsible party could be identified. CERCLA was amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986. SARA stressed the importance of permanent remedies and innovative treatment technologies in cleaning up hazardous waste sites, required Superfund actions to consider the standards and requirements found in other state and federal environmental laws and regulations, provided new enforcement authorities and settlement

tools, increased state involvement in every phase of the Superfund program, increased the focus on human health problems posed by hazardous waste sites, encouraged greater citizen participation in site cleanup decisions, and increased the size of the trust fund to $8.5 billion. CERCLA also enabled the revision of the National Contingency Plan, which provided the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants. The National Contingency Plan also established the National Priority List of Superfund sites.

### *Emergency Planning and Community Right-to-Know Act*

The Emergency Planning and Community Right-to-Know Act (EPCRA), also known as SARA Title III, was enacted by Congress as the national legislation on community safety. This law helps local communities protect public health, safety, and the environment from chemical hazards. The primary purpose of EPCRA is to inform communities and citizens of chemical hazards in their areas by requiring businesses to report the locations and quantities of chemicals stored onsite to state and local agencies. These reports help communities prepare to respond to chemical spills and similar emergencies.

Section 3131 of EPCRA requires manufacturers to report releases to the environment (air, soil, and water) of more than 600 designated toxic chemicals, report off-site transfers of waste for treatment or disposal at separate facilities, develop pollution prevention measures and activities, and participate in chemical recycling. These annual reports are submitted to the EPA and state agencies. EPCRA Sections 301 through 312 are administered by the EPA's Office of Emergency Management. The EPA's Office of Information Analysis and Access implements the EPCRA Section 313 program. In California, SARA Title III is implemented through the California Accidental Release Prevention Program.

The EPA maintains and publishes a database that contains information on toxic chemical releases and other waste management activities by certain industry groups and federal facilities. This online, publicly available, national digital database is called the Toxics Release Inventory and was expanded by the Pollution Prevention Act of 1990.

### *Disaster Mitigation Act of 2000*

The Disaster Mitigation Act of 2000 requires state and local governments to prepare mitigation plans that identify hazards, potential losses, mitigation needs, goals, and strategies. It is intended to facilitate cooperation between state and local governments.

### *Toxic Substances Control Act*

The Toxic Substances Control Act of 1976 was enacted by Congress to give the EPA the ability to track the 75,000 industrial chemicals currently produced by or imported into the United States. The EPA repeatedly screens these chemicals and can require reporting or testing of any that may pose an environmental or human health hazard. It can ban the manufacture and import of chemicals that pose an unreasonable risk. Also, the EPA has mechanisms in place to track the thousands of new chemicals that industry develops each year with either unknown or dangerous characteristics. It then can control these chemicals as necessary to protect

human health and the environment. The act supplements other federal statutes, including the Clean Air Act and the Toxics Release Inventory under EPCRA.

### *Hazardous Materials Transportation Act*

The USDOT regulates hazardous materials transportation under Title 49 of the Code of Federal Regulations (CFR). State agencies that have primary responsibility for enforcing federal and state regulations and responding to hazardous materials transportation emergencies are the California Highway Patrol and the California Department of Transportation (Caltrans). These agencies also govern permitting for hazardous materials transportation. Title 49 CFR reflects laws passed by Congress as of January 2, 2006.

### *Federal Response Plan*

The Federal Response Plan of 1999 is a signed agreement among 27 federal departments and agencies and the American Red Cross that: 1) provides the mechanism for coordinating delivery of federal assistance and resources to augment efforts of state and local governments overwhelmed by a major disaster or emergency; 2) supports implementation of the Robert T. Stafford Disaster Relief and Emergency Act as well as individual agency statutory authorities; and 3) supplements other federal emergency operations plans developed to address specific hazards. The Federal Response Plan is implemented in anticipation of a significant event likely to result in a need for federal assistance or in response to an actual event requiring federal assistance under a presidential declaration of a major disaster or emergency.

### *Occupational Safety and Health Administration Regulation 29 CFR Standard 1926.62*

OSHA Regulation 29 CFR Standard 1926.62 regulates the demolition, renovation, or construction of buildings involving lead materials. It includes requirements for the safe removal and disposal of lead and the safe demolition of buildings containing lead-based paint or other lead materials.

## State Regulations

### *California Health and Safety Code and Code of Regulations*

California Health and Safety Code Chapter 6.95 and California Code of Regulations (CCR), Title 19, Section 2729 describe the minimum requirements for business emergency plans and chemical inventory reporting. These regulations require businesses to provide emergency response plans and procedures, training program information, and a hazardous material inventory disclosing hazardous materials stored, used, or handled on-site. A business that uses hazardous materials or mixtures containing them in certain quantities must establish and implement a business plan.

### *Tanner Act*

Although numerous state policies deal with hazardous waste, the most comprehensive is the Tanner Act (Assembly Bill 2948), which was adopted in 1986. The Tanner Act governs the preparation of hazardous waste management plans and the siting of hazardous waste facilities in California. To be in compliance with the Tanner Act, local or regional hazardous waste management plans need to include provisions that define

1) the planning process for waste management, 2) the permit process for new and expanded facilities, and 3) the appeals process to the state available for certain local decisions.

### *California Building Code*

The state of California provided a minimum standard for building design through the California Building Code (CBC), which is in Part 2 of Title 24 of the CCR. The 2013 CBC is based on the International Building Code, modified for California conditions. It is generally adopted on a jurisdiction-by-jurisdiction basis, subject to further modification based on local conditions. Commercial and residential buildings are plan checked by city and county building officials for compliance with the CBC.

### *Asbestos-Containing Materials Regulations*

State-level agencies, in conjunction with the EPA and OSHA, regulate removal, abatement, and transport procedures for asbestos-containing materials. Releases of asbestos from industrial, demolition, or construction activities are prohibited by these regulations, and medical evaluation and monitoring are required for employees performing activities that could expose them to asbestos. Additionally, the regulations include warnings and practices to reduce risks of asbestos emissions and exposure. Finally, federal, state, and local agencies must be notified prior to the onset of demolition or construction activities with the potential to release asbestos.

### *Polychlorinated Biphenyls*

The EPA prohibited the use of polychlorinated biphenyls (PCBs) in the majority of new electrical equipment starting in 1979, and initiated a phase-out for much of the existing PCB-containing equipment. The inclusion and handling of PCBs in electrical equipment are regulated by the provisions of the Toxic Substances Control Act, 15 US Code Sections 2601 et seq. Relevant regulations include labeling and periodic inspection requirements for certain types of PCB-containing equipment and highly specific safety procedures for their disposal. The State of California likewise regulates as hazardous waste PCB-laden electrical equipment and materials contaminated above a certain threshold, and how such materials are treated, transported, and disposed of. At lower concentrations for nonliquids, regional water quality control boards may exercise discretion over the classification of such wastes.

### *Lead-Based Paint*

CCR Title 8, Section 1532 is the California Occupational Safety and Health Administration's Lead in Construction Standard. The regulations address permissible exposure limits; exposure assessment; compliance methods; respiratory protection; protective clothing and equipment; housekeeping; medical surveillance; medical removal protection; employee information, training, and certification; signage; record keeping; monitoring; and agency notification.

### *State Hazardous Waste Management Programs*

State programs that regulate hazardous materials and waste include:

### *Underground Storage Tank Program*

Releases of petroleum and other products from USTs are the leading source of groundwater contamination in the United States. The RCRA Subtitle I established regulations governing the storage of petroleum products and hazardous substances in USTs and the prevention and cleanup of leaks. In EPA Region 9 (California, Arizona, Hawaii, Nevada, Pacific Islands, and over 140 tribal nations), the UST program operates primarily through state agency programs with EPA oversight. In California, the State Water Resources Control Board (SWRCB), under the umbrella of CalEPA, provides assistance to local agencies enforcing UST requirements. The purpose of the UST program is to protect public health and safety and the environment from releases of petroleum and other hazardous substances. The program consists of four elements: leak prevention, cleanup, enforcement, and tank tester licensing. In September 2004, the SWRCB adopted regulations that require electronic submittal of information for groundwater cleanup programs, including groundwater analytical data, the surveyed locations of monitoring wells, and other data. The SWRCB's GeoTracker system currently has information submitted by responsible parties for over 10,000 leaking UST (LUST) sites statewide and has been extended to include all SWRCB groundwater cleanup programs, including the LUST, non-LUST (Spill, Leaks, Investigation, and Cleanup), Department of Defense, and landfill programs.

The Orange County Health Agency's Environmental Health Division is charged with the responsibility of conducting compliance inspections of regulated facilities in Orange County. Regulated facilities are those that handle hazardous materials, generate or treat hazardous waste, and/or operate a UST. All new installations of USTs require an inspection, as do removals of old tanks under strict chain-of-custody protocol.

### *Hazardous Materials Disclosure Programs*

Both the federal government (CFR, EPA, SARA, and Title III) and the State of California (Health and Safety Code, Division 20, Chapter 6.95, §§ 25500–25520; 19 CCR, Chapter 2, Subchapter 3, Article 4, §§ 2729–2734) require all businesses that handle more than a specified amount of hazardous materials or extremely hazardous materials, termed a reporting quantity, to submit a hazardous materials emergency/contingency plan (also known as a hazardous materials business plan) to their local Certified Unified Program Agency. The responsible CUPA in Orange County is the Orange County Health Agency's Environmental Health Division, which is responsible for conducting compliance inspections of regulated facilities in Brea.

The business plan includes the business owner/operator identification page, hazardous materials inventory chemical description page, and an emergency response plan and training plan. Business plans must include an inventory of the hazardous materials at the facility. The entire business plan needs to be reviewed and recertified every three years. Business plans are required to include emergency response plans and procedures to be used in the event of a significant or threatened significant release of a hazardous material. These plans need to identify the procedures to follow for immediate notification to all appropriate agencies and personnel of a release, identification of local emergency medical assistance appropriate for potential accident scenarios, contact information for all emergency coordinators of the business, a listing and location of emergency equipment at the business, an evacuation plan, and a training program for business personnel. All facilities must keep a copy of their plan on-site.

Business plans are designed to be used by responding agencies, such as the Brea Fire Department, during a release or spill to allow for a quick and accurate evaluation of each situation for appropriate response. Businesses that handle hazardous materials are required by law to provide an immediate verbal report of any release or threatened release of hazardous materials if there is a reasonable belief that the release or threatened release poses a significant present or potential hazard to human health and safety, property, or the environment. If a release involves a hazardous substance listed in Title 40 of the CFR in an amount equal to or exceeding the reportable quantity for that material, a notice must be filed with the California Office of Emergency Services within 15 days of the incident.

### *Hazardous Materials Incident Response*

Under Title III of SARA, the Local Emergency Planning Committee is responsible for developing an emergency plan for preparing for and responding to chemical emergencies in that community. This emergency plan must include:

- An identification of local facilities and transportation routes where hazardous material are present.
- The procedures for immediate response in case of an accident (this must include a community-wide evacuation plan).
- A plan for notifying the community that an incident has occurred.
- The names of response coordinators at local facilities.
- A plan for conducting exercises to test the plan.

The plan is reviewed by the State Emergency Response Commission and publicized throughout the community. The Local Emergency Planning Committee is required to review, test, and update the plan each year.

### *Hazardous Material Spill/Release Notification Guidance*

All significant spills, releases, or threatened releases of hazardous materials must be immediately reported. Federal and state emergency notification are required for all significant releases of hazardous materials. Requirements for immediate notification of all significant spills or threatened releases cover owners, operators, persons in charge, and employers. Notification is required regarding significant releases from facilities, vehicles, vessels, pipelines, and railroads. Many state statutes require emergency notification of a hazardous chemical release:

- Health and Safety Codes, Sections 25270.7, 25270.8, and 25507
- Vehicle Code, Section 23112.5
- Public Utilities Code, Section 7673 (PUC General Orders #22-B, 161)
- Government Code, Sections 51018, 8670.25.5 (a)

- Water Code, Sections 13271, 13272
- California Labor Code, Section 6409.1 (b)10

In addition, all releases that result in injuries or workers harmfully exposed must be immediately reported to California Occupational Safety and Health Administration (California Labor Code, Section 6409.1 [b]). For additional reporting requirements, refer to the Safe Drinking Water and Toxic Enforcement Act of 1986, better known as Proposition 65, and Section 9030 of the California Labor Code.

The California Accidental Release Prevention Program (CalARP) became effective on January 1, 1997, in response to Senate Bill 1889. CalARP replaced the California Risk Management and Prevention Program. Under the CalARP, the Governor's Office of Emergency Services must adopt implementing regulations and seek delegation of the program from the EPA. CalARP aims to be proactive and therefore requires businesses to prepare risk management plans, which are detailed engineering analyses of the potential accident factors present at a business and the mitigation measures that can be implemented to reduce this accident potential. In most cases, local governments will have the lead role for working directly with businesses in this program. The Orange County Health Agency's Environmental Health Division is the CUPA designated as the administering agency for CalARP.

## Regional Regulations

### *Asbestos Emissions from Demolition/Renovation Activities*

South Coast Air Quality Management District Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities) provides requirements for limiting asbestos emissions from building demolition and renovation activities.

### *County of Orange and Orange County Fire Authority Local Hazard Mitigation Plan*

The County of Orange and County Fire Authority Local Hazard Mitigation Plan was approved by the Federal Emergency Management Agency (FEMA) in November 2015. The local hazard mitigation plan (LHMP) is a multi-jurisdiction plan developed jointly between the County of Orange, a local government, and the Orange County Fire Authority, a joint powers authority. The LHMP focuses on mitigating all natural hazards impacting unincorporated areas of the county as well as facilities owned by the County and Orange County Fire Authority. The City of Brea is a member of the Orange County Emergency Management Organization, which is a standing subcommittee of the Orange County Operational Executive Board, tasked with developing and reviewing plans across the county to ensure consistency.

## Local Regulations

### *City of Brea General Plan*

The City of Brea General Plan Chapter 6, Public Safety, includes goals and policies aimed at ensuring public safety and protecting the community from hazards associated with hazardous materials, wildland fires, flooding, and seismic activity and geologic conditions. Applicable policies include:

- **Policy PS-4.2.** Reduce the risks associated with ground transportation hazards.
- **Policy PS-4.3.** Work with responsible Federal, State, and County agencies to identify and regulate the disposal of toxic materials.
- **Policy PS-4.4.** Provide education and information to City residents regarding the proper use and disposal of household hazardous materials.

### *City of Brea Municipal Code*

Title 8, Health, Safety, and Welfare, of the City of Brea Municipal Code provides for the preparation and carrying out of plans for the protection of people and property in the event of an emergency, and provides information on the storage, accumulation, collection, and disposal of refuse, trash, rubbish, solid waste, debris, other discarded materials, and recyclable materials.

### *City of Brea Emergency Preparedness Program*

The City of Brea's Emergency Preparedness Program is coordinated by a professional emergency manager and consists of five elements:

- Development and maintenance of the City's Emergency Response Plan
- Development and maintenance of the City's Emergency Operations Center
- Coordination of preparedness, training, and exercises for City staff to be sure they are ready to respond to any emergency
- Public education and outreach to the residents and businesses of Brea
- Fund recovery following disasters

## 5.4.1.3 EXISTING CONDITIONS

### Historical Use of the Project Site

The project site is currently vacant and undeveloped and is used for sorting charitable donations. The project site was used as an orchard from at least 1938 until approximately 1970, when it became vacant land. From approximately 2010 to 2014, it was used as a nursery. The history of the site's development is based on review of historical aerial photographs, topographic maps, and databases, included in Appendix G of this DEIR.

### Hazardous Sites

The Phase I Environmental Site Assessment (ESA) included a search of regulatory agency databases for documented environmental concerns on the project site and in close proximity to the site. According to the Phase I ESA (see Appendix G), the project site is not listed on the following databases:

- Federal NPL Sites
- Federal Delisted NPL Sites
- CERCLIS Sites
- CERCLIS-NFRAP Sites
- Federal ERNS
- RCRA non-CORRACTS TSD Facilities
- RCRA CORRACTS Facilities
- RCR Generators
- Federal Institutional/Engineering Control Registry
- State and Tribal Equivalent NPL Sites
- State Tribal Equivalent CERCLIS Sites
- State Tribal Registered Storage Tanks
- State and Tribal Landfills and Solid Waste Disposal Sites
- State and Tribal Leaking Underground Storage Tanks
- State and Tribal Institutional Controls/Engineering Control
- State and Tribal Voluntary Cleanup Sites
- State and Tribal Brownfield Sites
- Orphan Site List
- HAZNET

Although the project site was not identified on any of the above databases, other nearby sites that have prepared hazardous materials business plans are shown in Table 5.4-1, *Hazardous Materials Site near the Mercury Residential Lane Project*.

**Table 5.4-1 Hazards Materials Sites near the Mercury Residential Lane Project**

| Name | Address | Approximate Distance to Mercury Lane Residential Project | Database |
|---|---|---|---|
| Thompson-Hayward Chemical | 111 S. Berry Street | 0.069-mile to the northwest | CERCLIS-NFRAP site |
| Ameron Corrosion Resistant Piping | 536 Vanguard Way | 0.261-mile to the northeast | CERCLIS-NFRAP site |
| Calafia Industry Inc. | 540 W. Lambert Road | 0.367-mile to the northeast | CERCLIS-NFRAP site |
| Honetreat | 400 N. Berry Street | 0.399-mile to the north | CERCLIS-NFRAP site |
| Tyler Refrigeration | 221 S. Berry Street | 0.062-mile to the northwest | RCRA Large Quantity Generator |
| Rite Aid #5732 | 405 Imperial Highway | 0.152-mile to the southeast | RCRA Large Quantity Generator |
| Electronic Precision | 545 Mercury Lane | 0.152-mile to the northeast | RCRA Large Quantity Generator |
| Salvage Inc. | 577-B Mercury Lane | 0.022-mile to the northeast | RCRA Small Quantity Generator |
| Moravek Biochemicals | 577-B Mercury Lane | 0.022-mile to the northeast | RCRA Small Quantity Generator |
| NCR | 114 Berry Street | 0.062-mile to the northeast | RCRA Small Quantity Generator |

**Table 5.4-1 Hazards Materials Sites near the Mercury Residential Lane Project**

| Name | Address | Approximate Distance to Mercury Lane Residential Project | Database |
|---|---|---|---|
| Hill Phoenix | 221 Berry Street | 0.062-mile to the northwest | RCRA Small Quantity Generator |
| The Agriculture and Nutrition Company | 111 Berry Street | 0.068-mile to the northwest | RCRA Small Quantity Generator |
| McLachlan Investment | 200 Berry Street | 0.105-mile to the north | RCRA Small Quantity Generator |
| Zapp Packaging | 200 Berry Street | 0.105-mile to the north | RCRA Small Quantity Generator |
| B&G Imports | 138 Viking Avenue | 0.146-mile to the west | RCRA Small Quantity Generator |
| Recold | 550 Mercury Lane | 0.049-mile to the east | RCRA Small Quantity Generator |
| Industrial Painting and Waterproofing | 509 Mercury Lane | 0.150-mile to the northeast | RCRA Small Quantity Generator |
| S and H Landscape | 286 Viking Avenue | 0.156-mile to the southwest | RCRA Small Quantity Generator |
| Martinaire Inc. | 239 Viking Avenue | 0.173-mile to the southwest | RCRA Small Quantity Generator |
| Teds Painting | 157 Viking Avenue | 0.173-mile to the northwest | RCRA Small Quantity Generator |
| Arovista Business Park | 115 Arovista Circle | 0.209-mile to the northwest | RCRA Small Quantity Generator |
| Associated Machine Technology | 890 Mariner Street | 0.26-mile southwest | RCRA Small Quantity Generator |
| Thompson Hayward | 111 S. Berry Street | 0.068-mile to the north | EnviroStor |
| Thompson Drill Company | 16500 Birch Street | 0.238-mile to the east | Envirostor |
| Creative Packaging | 536 Vanguard Way | 0.26-mile to the northeast | EnviroStor |
| Ameron Inc. | 595 West Lambert Road | 0.357-mile to the northeast | EnviroStor |
| Honetreat | 400 North Berry Street | 0.399-mile to the north | EnviroStor |
| CC Industries | 428 Berry Street | 0.486-mile to the northeast | EnviroStor |
| Albertsons Distribution | 200 Puente Street | 0.547-mile to the northwest | EnviroStor |
| Fineline Circuits and Technology | 594 Apollos Street | 0.548-mile to the north | EnviroStor |
| Gordons Auto Repair | 318 North Orange Avenue | 0.681-mile to the northeast | EnviroStor |
| McGraw and Sons | 320 North Orange Avenue | 0.688-mile to the northeast | EnviroStor |
| R&R Circuits Division | 584 Explorer Street | 0.694-mile to north | EnviroStor |
| Kirkhill Rubber Company | 300 Cypress Street | 0.753-mile to the northeast | EnviroStor |
| Winonics Brea | 660 N. Puente Street | 0.83-mile to the northwest | EnviroStor |
| Heraeus Amersil, Inc. | 520 West Central Avenue | 0.837-mile to the north | EnviroStor |
| Ciratech Brea | 351 Thor Place | 0.859-mile to the northeast | EnviroStor |
| Electronic Precision | 537 Mercury Lane | 0.15-mile to the northeast | EnviroStor |
| NI Industries Inc. | 1225 W. Imperial Highway | 0.698-mile to the west | EnviroStor |
| Guthery Development | 201 N. Berry Street | 0.104-mile to the northwest | LUST |
| Zapp Packaging Inc. | 200 N. Berry Street | 0.105-mile to the north | LUST |
| N L Shaffer | 200 Berry Street | 0.105-mile to the north | LUST |

**Table 5.4-1 Hazards Materials Sites near the Mercury Residential Lane Project**

| Name | Address | Approximate Distance to Mercury Lane Residential Project | Database |
|---|---|---|---|
| American Protective Coating | 201 North Berry Street | 0.164-mile to the northwest | LUST |
| Thrifty Oil #014 | 120 Imperial Highway | 0.353-mile to the northeast | LUST |
| Chevron #99686 | 255 Brea Boulevard | 0.367-mile to the southeast | LUST |
| Shell Service Station | 300 S Brea Boulevard | 0.398-mile to the southeast | LUST |
| Brea Redevelopment | 146 Brea Boulevard | 0.406-mile to the east | LUST |
| Albertsons Distribution Center | 200 North Puente Street | 0.43-mile to the northwest | LUST |
| Cylinder Head Specialists | 120 N Brea Boulevard | 0.458-mile to the east | LUST |
| CAL MAT | 136 North Brea Boulevard | 0.459-mile to the east | LUST |
| C Industries | 428 Berry Way | 0.486-mile to the northeast | LUST |
| Chevron | 700 Imperial Highway | 0.158-mile to the southwest | LUST |
| Firestone | 891 Imperial Highway | 0.256-mile to the southeast | LUST |
| N C R Bus Forms and Supplies | 114 South Berry Street | 0.062-mile to the northeast | UST |
| Ameron International | 201 North Berry Street | 0.164-mile to the northwest | UST |
| Mercury Insurance Group | 555 West Imperial Highway | 0.05-mile to the southeast | UST |

Source: Phase I ESA (Appendix G).

Further, according to the Phase I report, based on the distance, topography, and regulatory status, the aforementioned sites are not expected to have impacted the project site.

### *California Accidental Release Prevention*

A search of The-Right-to-Know (RTK) Network and South Coast Air Quality Management District's Facility INformation Detail (FIND) database was conducted to determine if the project is near facilities that store a substantial quantity of hazardous materials. Under the auspices of the CalARP Program, should a stationary source use more than a threshold quantity of a regulated hazardous substance, a risk management plan, which includes a risk assessment of accidental releases, is required, pursuant to the provisions of the federal Accidental Release Prevention program (40 CFR Part 68) and Article 2, Chapter 6.95 of the Health and Safety Code. Based on the database search, one facility near the project site used chemicals in its processes in excess of defined threshold quantities and is required to submit a risk management plan. Although the project site is in an industrial area, other industrial users near the site do not store regulated hazardous substances in excess of threshold quantities.

- **Albertsons Distribution Center**. The project site is approximately 845 feet southeast of the Albertsons Distribution Center (Facility ID 100000071165), which was listed on the RTK database (RTK 2019). The Albertsons Distribution Center utilizes refrigeration-grade anhydrous ammonia for refrigeration of products in storage. Pursuant to 40 CFR 68 and the Process Safety Management (PSM), Albertsons has developed a comprehensive written PSM program to protect its employees and surrounding community from exposure to the hazardous chemicals (anhydrous ammonia) utilized on-site (RTK 2019). In the last five years, the Albertsons Distribution Center has not experienced a release of anhydrous ammonia involving consequences that affected the environment or off-site parties (RTK 2019). The Albertsons

Distribution Center stores a total of 83,000 lbs of anhydrous ammonia in two tanks (36,000 lbs and 47,000 lbs). The Albertsons Distribution Center's emergency response plan is reviewed and modified as needed (annually at a minimum), and the facility maintains an onsite emergency response team whose members complete an initial 24-hour training course and then receive annual 8-hour refresher training (RTK 2019).

## 5.4.2 Thresholds of Significance

According to Appendix G of the CEQA Guidelines, a project would normally have a significant effect on the environment if the project would:

H-1 Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

H-2 Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

H-3 Emit hazardous emissions or handle hazardous or acutely hazardous materials, substance, or waste within one-quarter mile of an existing or proposed school.

H-4 Be located on a site which is included on a list of hazardous materials compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment.

H-5 For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would result in a safety hazard or excessive noise for people residing or working in the project area.

H-6 Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

H-7 Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires.

## 5.4.3 Plans, Programs, and Policies

RR HAZ-1 Any project-related hazardous materials and hazardous wastes will be transported to and/or from the project site in compliance with any applicable state and federal requirements, including the US Department of Transportation regulations listed in the Code of Federal Regulations (Title 49, Hazardous Materials Transportation Act); California Department of Transportation standards; and the California Occupational Safety and Health Administration standards.

RR HAZ-2 Any project-related hazardous waste generation, transportation, treatment, storage, and disposal will be conducted in compliance with the Subtitle C of the Resource Conservation

and Recovery Act (Code of Federal Regulations, Title 40, Part 263), including the management of nonhazardous solid wastes and underground tanks storing petroleum and other hazardous substances. The proposed project will be designed and constructed in accordance with the regulations of the Orange County Environmental Health Department, which is the designated Certified Unified Program Agency and which implements state and federal regulations for the following programs: (1) Hazardous Waste Generator Program, (2) Hazardous Materials Release Response Plans and Inventory Program, (3) California Accidental Release Prevention, (4) Aboveground Storage Tank Program, and (5) Underground Storage Tank Program.

RR HAZ-3 Any project-related demolition activities that have the potential to expose construction workers and/or the public to asbestos-containing materials or lead-based paint will be conducted in accordance with applicable regulations, including, but not limited to:

- South Coast Air Quality Management District's Rule 1403
- California Health and Safety Code (Section 39650 et seq.)
- California Code of Regulations (Title 8, Section 1529)
- California Occupational Safety and Health Administration regulations (California Code of Regulations, Title 8, Section 1529 [Asbestos] and Section 1532.1 [Lead])
- Code of Federal Regulations (Title 40, Part 61 [asbestos], Title 40, Part 763 [asbestos], and Title 29, Part 1926 [asbestos and lead])

RR HAZ-4 The removal of other hazardous materials, such as polychlorinated biphenyls (PCBs), mercury-containing light ballast, and mold, will be completed in accordance with applicable regulations pursuant to 40 CFR 761 (PCBs), 40 CFR 273 (mercury-containing light ballast), and 29 CFR 1926 (molds) by workers with the hazardous waste operations and emergency response (HAZWOPER) training, as outlined in 29 CFR 1910.120 and 8 CCR 5192.

RR HAZ-5 Any project-related new construction, excavations, and/or new utility lines within 10 feet or crossing existing high-pressure pipelines, natural gas/petroleum pipelines, or electrical lines greater than 60,000 volts will be designed and constructed in accordance with the California Code of Regulations (Title 8, Section 1541).

## 5.4.4 Environmental Impacts

The purpose of this environmental evaluation is to identify the significant effects of the proposed project on the environment, not the significant effects of the environment on the proposed project. *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369 (Case No. S213478). CEQA does not require an analysis of the environmental effects of attracting development and people to an area. However, the environmental document must analyze the impacts of environmental hazards on future users when a proposed project exacerbates an existing environmental hazard or condition. While the project is located in an industrial area, residential, commercial, and office uses do not use substantial quantities of

hazards and hazardous materials and would not exacerbate existing hazards associated with use, storage, and transport of hazards at these existing facilities. The following impact analysis addresses thresholds of significance for potentially significant impacts. The applicable thresholds are identified in brackets after the impact statement.

**Impact 5.4-1: Project construction and operations of the proposed project could involve the transport, use, and/or disposal of hazardous materials; however, compliance with existing local, state, and federal regulations would ensure impacts are minimized. [Threshold H-1]**

Project construction would require small amounts of hazardous materials, including fuels, greases and other lubricants, and coatings such as paint. The handling, use, transport, and disposal of hazardous materials by the construction phase of the project would comply with existing regulations of several agencies—the EPA, the Orange County Environmental Health Division, OSHA, California Division of Occupational Safety and Health, and USDOT. The project would operate as a residential development. Project maintenance and operation may require the use of cleaners, solvents, paints, and other custodial products that are potentially hazardous. These materials would be used in relatively small quantities, clearly labeled, and stored in compliance with state and federal requirements. Moreover, the residents living in the workforce housing units may also use such products. With the exercise of normal safety practices, the project would not create substantial hazards to the public or the environment. Therefore, a less than significant impact would occur.

Additionally, construction projects typically maintain supplies on-site for containing and cleaning small spills of hazardous materials. However, construction activities would not involve a significant amount of hazardous materials, and their use would be temporary. Furthermore, project construction workers would be trained on the proper use, storage, and disposal of hazardous materials. Operation of the site would not warrant use of hazardous materials in quantities that could result in hazardous conditions. All on-site activities during construction and operation would be required to adhere to federal, state, and local regulations for the management and disposal of hazardous materials. Therefore, transport, use, and/or disposal of hazardous materials during construction of new developments in accordance with the proposed project would be properly managed, and impacts would be less than significant.

***Level of Significance Before Mitigation:*** Based on the analysis above, Impact 5.4-1 would be less than significant.

**Impact 5.4-2: Construction activities may disturb pesticides in the soil associated with the site's former use as an orchard and could create a significant hazard to the public or the environment. [Threshold H-2]**

Based on the Phase I ESA, one "recognized environmental condition" was identified on the project site. The project site was used as an orchard from at least 1938 to approximately 1970, when the site became vacant, and it was used as a nursery from approximately 2010 to 2014. The project site was an orchard during a time when organochlorine and lead arsenate pesticides were used. Since the project site was formerly used as an orchard, a limited Phase II investigation is recommended to assess the surface soil at the site for residual organochlorine and lead arsenate pesticides. Although it is unlikely that organochlorine and lead arsenate

pesticides are still present, in the event they are discovered onsite, a Phase II investigation would detail the necessary steps to ensure that removal of the soil would not release of hazardous materials into the environment.

***Level of Significance Before Mitigation:*** Based on the analysis above, Impact 5.4-2 would be potentially significant.

**IMPACT 5.4-3: The project site is within one-quarter mile of an existing school; however, the proposed project would not emit substantial quantities of hazardous emissions, and use of hazardous materials on-site would be regulated by existing local, state, and federal regulations. [Threshold H-3]**

The proposed project is located within one-quarter mile of Christ Lutheran Elementary School. Operation of the proposed project would not result in the release of hazardous emissions. No significant hazardous materials, substances, or wastes would be transported, used, or disposed of in conjunction with the proposed project's operation. The on-site use of hazardous materials at the proposed facility would be restricted to cleaning solvents and paints used by facilities maintenance staff and cleaning solvents used by residents of the workforce housing units. The materials used by facilities maintenance staff would be used in small quantities and stored in compliance with state and federal requirements. No significant impacts would affect occupants at Christ Lutheran Elementary School. Also, the project site and Christ Lutheran Elementary School are separated by urban development and Imperial Highway/State Route-90.

***Level of Significance Before Mitigation:*** Based on the analysis above, Impact 5.4-3 would be less than significant.

**Impact 5.4-4: The project site is not on a list of hazardous materials sites. [Threshold H-4]**

The environmental regulatory records review conducted as part of the Phase I ESA searched the following databases to identify whether the project site was listed: Federal NPL Sites, Federal Delisted NPL Sites, CERCLIS Sites, CERCLIS-NFRAP Sites, Federal ERNS, RCRA non-CORRACTS TSD Facilities, RCRA CORRACTS Facilities, RCRA Generators, Federal Institutional/Engineering Control Registry, State and Tribal Equivalent NPL Sites, State and Tribal Equivalent CERCLIS Sites, State and Tribal Registered Storage Tanks, State and Tribal Landfills and Solid Waste Disposal Sites, State and Tribal Leaking Storage Tanks, State and Tribal Institutional Controls/Engineering Control, State and Tribal Voluntary Cleanup Sites, State and Tribal Brownfield Sites, Orphan Site List, HAZNET.

Based on the Phase I ESA and a review of environmental records collected for the project site, the site is not listed on EnviroStor or GeoTracker (DTSC 2018; SWRCB 2015). However, there was a cleanup site for a leaking underground storage tank, where the potential contaminants were waste oil, motor oil, and hydraulic and lubricating fluids, on 200 Berry Street; the case was closed on March 22, 1988 (DTSC 2018; SWRCB 2015). Construction activities would occur within the boundaries of the project site and would not disturb off-site properties. Therefore, no impacts would occur.

***Level of Significance Before Mitigation:*** Based on the analysis above, Impact 5.4-4 would result in no impact.

**Impact 5.4-5: The project site is not in the vicinity of an airport or within the jurisdiction of an airport land use plan. [Threshold H-5]**

The project site is not within an airport land use plan area or within two miles of a public use airport. The nearest public-use airport is the Fullerton Municipal Airport, approximately five miles southwest of the project site (Airnav 2018). Therefore, the proposed project would not result in a safety or noise hazard for people residing at the proposed project.

***Level of Significance Before Mitigation:*** Based on the analysis above, Impact 5.4-5 would result in no impact.

**Impact 5.4-6: Project development would not affect the implementation of an emergency responder or evacuation plan. [Threshold H-6]**

The proposed project would not conflict with adopted emergency response or evacuation plans. The surrounding roadways would continue to provide emergency access to the project site and surrounding properties during construction and postconstruction. The proposed project would not result in inadequate emergency access, and impacts to adopted emergency response and evacuation plans are less than significant.

***Level of Significance Before Mitigation:*** Based on the analysis above, Impact 5.4-6 would be less than significant.

**Impact 5.4-7: The project site is not in a designated Very High Fire Hazard Severity Zone and would not expose structures and/or residences to fire danger. [Threshold H-7]**

The project site is in a built-out portion of the City of Brea and is not in a fire hazard zone designated by the California Department of Forestry and Fire Protection (CALFIRE 2011).

***Level of Significance Before Mitigation:*** Impact 5.4-7 would be less than significant.

## 5.4.1 Cumulative Impacts

Past, existing, and planned developments in the City could pose risks to public health and safety as they relate to the use, storage, handling, generation, transport, and disposal of hazardous materials and wastes. The proposed project and other development in the project vicinity could increase these risks if they are not remediated and/or managed properly in accordance with applicable regulations. Compliance with applicable regulations related to public health and safety and hazardous materials would ensure that impacts are reduced to a less than significant level, individually and cumulatively.

Other projects in the City of Brea would require assessments for hazardous materials, such as assessments of structures on-site (over certain ages) for lead-based paint, asbestos-containing materials, and other

contamination from past uses and/or releases. Cleanup of hazardous materials in soil, soil vapor, and/or groundwater to regulatory cleanup levels for the relevant types of land uses would be required in compliance with applicable federal, state, and regional regulations, as listed in Section 5.4.2. Therefore, the use, storage, transport, and disposal of hazardous materials by construction and operation of other projects would result in site-specific impacts and would be reduced to a less than significant level. Combined with the proposed project, impacts would not be cumulatively considerable.

## 5.4.2 Level of Significance Before Mitigation

Upon implementation of regulatory requirements and standard conditions of approval, some impacts would be less than significant: 5.4-1, 5.4-3, 5.4-4, 5.4-5, 5.4-6, and 5.1-7.

Without mitigation, this impact would be **potentially significant**:

- **Impact 5.4-2** Construction activities onsite could uncover residual organochlorine and lead arsenate pesticides in the surface soil.

## 5.4.3 Mitigation Measures

### Impact 5.4-2

HAZ-1 Prior to construction activities onsite, a limited Phase II investigation shall be conducted to assess the surface soil of the project site for residual organochlorine and lead arsenate pesticides. The Phase II investigation shall be conducted in accordance with guidelines developed by the Department of Toxic Substances Control (DTSC) and Environmental Protection Agency (EPA) for site assessments. The Phase II investigation shall estimate the potential threat to public health and the environment if concentrations of pesticides are encountered using methods outlined in DTSC's Preliminary Endangerment Assessment Guidance Manual and DTSC's Screening Level Human Health Risk Assessment guidance for implementing screening level risk analysis. The Phase II investigation shall be submitted to the City of Brea Community Development Department for review and approval by an independent third party reviewer. If the Phase II testing reveals concentrations of organochlorine pesticides and lead arsenic above health-based screening levels for residential exposure, remediation of the site shall be required to address residual organochlorine and lead arsenate pesticides above health-based level of concern. Remediation may include excavation and disposal of impacted soil or capping elevated areas beneath paved areas. The Construction Contractor shall implement the recommendations outlined in the Phase II.

## 5.4.4 Level of Significance After Mitigation

### Impact 5.4-2

Although it is unlikely that organochlorine and lead arsenate pesticides are still present, in the event they are discovered onsite, a Phase II investigation would detail the necessary steps to ensure that removal of the soil

would not release of hazardous materials into the environment. Mitigation Measure HAZ-1 would ensure that the risks associated with potential residual pesticides from historical agriculture use would be minimized. Mitigation Measure HAZ-1 would reduce potential impacts of hazards and hazardous materials to less than significant.

## 5.4.5 References

Airnav, LLC. 2018. Airport Information. Accessed May 16, 2018. http://www.airnav.com/airports.

California Department of Forestry and Fire Protection (CALFIRE). 2011, July. Very High Fire Hazard Severity Zones in LRA as Recommended by CAL FIRE. http://www.fire.ca.gov/fire_prevention/fhsz_maps/FHSZ/orange/c30_Brea_vhfhsz_2.pdf.

Department of Toxic Substances Control (DTSC). 2018. Envirostor. Database. Accessed May 16, 2018. https://www.envirostor.dtsc.ca.gov/public/.

Right to Know (RTK). 2018. Risk Management Plan (RMP) Database. Facility ID 100000071165. RTK.net, hosted by the *Houston Chronicle*. Accessed February 12, 2019. http://www.rtk.net/rmp/search.php.

State Water Resources Control Board (SWRCB). 2015. Geotracker. Database. Accessed May 16, 2018. https://geotracker.waterboards.ca.gov/.

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