Ophir Road Warehouse Project

SCH# 2022090522

Final Environmental Impact Report

Prepared for the
City of Oroville

August 2025

Prepared by

RANEY PLANNING & MANAGEMENT, INC.
25 years
1501 Sports Drive, Suite A, Sacramento, CA 95834

Ophir Road Warehouse Project
Final Environmental Impact Report

SCH# 2022090522

Lead Agency

City of Oroville
Community Development Department
1735 Montgomery Street
Oroville, CA 95965

Patrick Piatt
Community Development Director

Wes Ervin
Principal Planner
(530) 538-2408

Prepared By

Raney Planning and Management, Inc.
1501 Sports Drive, Suite A
Sacramento, CA 95834
(916) 372-6100

Contact:
Rod Stinson
Vice President

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1. Introduction and List of Commenters

1. INTRODUCTION AND LIST OF COMMENTERS

1.1 INTRODUCTION

This Final Environmental Impact Report (EIR) contains agency and public comments received during the public review period of the Ophir Road Warehouse Project (proposed project) Draft EIR. This document has been prepared by the City of Oroville, as Lead Agency, in accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, Section 15132. The Introduction and List of Commenters chapter of the Final EIR discusses the background of the Draft EIR and purpose of the Final EIR, identifies the comment letters received on the Draft EIR, and provides an overview of the Final EIR's organization.

1.2 BACKGROUND

The Draft EIR identifies the proposed project's potential environmental impacts and the mitigation measures that would be required to be implemented. The following environmental analysis chapters are contained in the Draft EIR:

- Aesthetics;
- Air Quality, Greenhouse Gas Emissions, and Energy;
- Biological Resources;
- Cultural and Tribal Cultural Resources;
- Hazards and Hazardous Materials;
- Hydrology and Water Quality;
- Noise;
- Public Services and Utilities;
- Transportation;
- Effects Not Found to be Significant;
- Statutorily Required Sections; and
- Alternatives Analysis.

In accordance with CEQA, the Draft EIR was sent to the State Clearinghouse (SCH#: 2022090522) for distribution to State agencies on January 8, 2025 for a 45-day public review period. In addition, the Draft EIR and a Notice of Availability (NOA) for the Draft EIR were published on the City of Oroville website.

1.3 PURPOSE OF THE FINAL EIR

Under CEQA Guidelines Section 15132, the Final EIR shall consist of:

1. The Draft EIR or a revision of the Draft.
2. Comments and recommendations received on the Draft EIR.
3. A list of persons, organizations, and public agencies commenting on the Draft EIR.
4. The responses to significant environmental points raised in the review process.
5. Any other information added by the Lead Agency.

As required by CEQA Guidelines, Section 15090(a)(1)-(3), a Lead Agency must make the following three determinations in certifying a Final EIR:

1. The Final EIR has been completed in compliance with CEQA.
2. The Final EIR was presented to the decision-making body of the Lead Agency, and the decision-making body reviewed and considered the information in the Final EIR prior to approving the project.
3. The Final EIR reflects the Lead Agency's independent judgment and analysis.

Under CEQA Guidelines Section 15091, a public agency shall not approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings (Findings of Fact) for each of those significant effects. Findings of Fact must be accompanied by a brief explanation of the rationale for each finding supported by substantial evidence in the record. The Findings of Fact are included in a separate document that will be considered for adoption by the City's decision-makers.

Pursuant to CEQA Guidelines, Section 15093(b), when a Lead Agency approves a project that would result in significant and unavoidable impacts, the agency must state in writing the reasons supporting the action (Statement of Overriding Considerations). The Statement of Overriding Considerations shall be supported by substantial evidence, and are subject to adoption by the City's decision-makers along with the Findings of Fact. The proposed project would result in a significant and unavoidable impact related to exposing sensitive receptors to substantial pollutant concentrations (Impact 4.2-3), the generation of Greenhouse Gas (GHG) emissions that may have a significant impact on the environment or conflict with an applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of GHGs (Impact 4.2-7), and a conflict or inconsistency with CEQA Guidelines Section 15064.3, subdivision (b) (Impact 4.9-2) related to vehicle miles traveled (VMT). Thus, a Statement of Overriding Considerations must be adopted if the project is approved, which would be included in a separate document that will be considered for adoption by the City's decision-makers.

1.4 LIST OF COMMENTERS

The City of Oroville received nine comment letters during the public comment period on the Draft EIR for the proposed project. The comment letters were authored by the following agencies, groups, and individuals:

Agencies

Letter 1 ..... Butte County Air Quality Management District
Letter 2 ..... California Department of Fish and Wildlife
Letter 3 .....California Department of Transportation

Groups

Letter 4 ..... Advocates for the Environment
Letter 5 .....Butte County Residents for Responsible Development (Adams, Broadwell, Joseph & Cardozo) (Letter 1 of 2, 2/12/25)
Letter 6 .....Butte County Residents for Responsible Development (Adams, Broadwell, Joseph & Cardozo) (Letter 2 of 2, 2/21/25)
Letter 7 ..... Center for Biological Diversity
Letter 8 .....Golden State Environmental Justice Alliance (Blum, Collins & Ho, LLP)

Letter 9 ..... Mooretown Rancheria

1.5 ORGANIZATION OF THE FINAL EIR

The Final EIR is organized into the following chapters:

1. Introduction and List of Commenters

Chapter 1 provides an introduction and overview of the document, describing the background and organization of the Final EIR. Chapter 1 also provides a list of commenters who submitted letters in response to the Draft EIR.

2. Responses to Comments

Chapter 2 presents the comment letters received and responses to each comment. Each comment letter received has been numbered at the top and bracketed to indicate how the letter has been divided into individual comments. Each comment is given a number with the letter number appearing first, followed by the comment number. For example, the first comment in Letter 1 would have the following format: 1-1. The response to each comment will reference the comment number.

3. Revisions to the Draft EIR Text

Chapter 3 summarizes minor changes made to the Draft EIR text since its release.

4. Mitigation Monitoring and Reporting Program (MMRP)

CEQA Guidelines, Section 15097, requires lead agencies to adopt a program for monitoring the mitigation measures required to avoid the significant environmental impacts of a project. The intent of the Mitigation Monitoring and Reporting Program (MMRP) is to ensure implementation of the mitigation measures identified within the EIR for the proposed project. Chapter 4 includes the entire revised MMRP with minor changes made since its release.

2. Responses to Comments

2. RESPONSES TO COMMENTS

2.1 INTRODUCTION

The Responses to Comments chapter contains responses to each of the comment letters submitted regarding the proposed project Draft EIR during the public review period and the verbal comments received at the Draft EIR comment meeting.

2.2 RESPONSES TO COMMENTS

The following nine letters were received by the County during the public comment period for the Draft EIR. Each bracketed comment letter is followed by numbered responses to each bracketed comment. The responses amplify or clarify information provided in the Draft EIR and/or refer the reader to the appropriate place in the document where the requested information can be found. Comments that are not directly related to environmental issues (e.g., opinions on the merits of the project that are unrelated to its environmental impacts) are either discussed or noted for the record, as appropriate. Where revisions to the Draft EIR text are required in response to the comments, such revisions are noted in the response to the comment, and are also listed in Chapter 3 of this Final EIR. All new text is shown as <u>double underlined</u> and deleted text is shown as ~~struck through~~.

The changes to the text contained in the Draft EIR and the Mitigation Monitoring and Reporting Program represent only minor clarifications/amplifications and do not constitute significant new information. In accordance with CEQA Guidelines, Section 15088.5, recirculation of the Draft EIR is not required. Each letter has been considered by the City and addressed, according to CEQA Guidelines Section 15088, prior to certification of this Final EIR.

Letter 1

629 Entler Avenue, Suite 15
Chico, CA 95928

(530) 332-9400
(530) 332-9417 Fax

STEPHEN ERTLE
Air Pollution Control Officer

PATRICK LUCEY
Assistant Air Pollution Control Officer

February 19, 2025

City of Oroville, Community Development Department
Attn: Wes Ervin, Principal Planner
1735 Montgomery Street
Oroville, CA 95965

Re: Ophir Road Warehouse Project

Dear Mr. Ervin,

1-1 The Butte County Air Quality Management District (District) appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Ophir Road Warehouse Project. Based on the information reviewed, the District has the following comments:

1-2 1. Page 4.2-10, Table 4.2-3 (*clarification)* – The California Air Resources Board changed Butte County's State Attainment status to Attainment for PM2.5 and Nonattainment-Transitional for Ozone effective October 2024.

1-3 2. The District concurs that the combination of Mitigation Measure (MM) 4.2-1(a) and MM 4.2-1(b) would reduce criteria pollutant emissions from construction activities to a less than significant level.

1-4 3. The District concurs that MM 4.2-2(a) would reduce the operational emissions of criteria air pollutants and MM 4.2-2(b) would further reduce operational emissions to a less than significant level. The District recommends that additional on-site measures that reduce ROG and NOx emissions be considered and prioritized over off-site mitigation measures where feasible.

1-5 4. Impact 4.2-3: The District appreciates that an operational Health Risk Assessment (HRA) was included as part of the DEIR, especially with sensitive receptors being located approximately 500 feet from the proposed project site. The District considers an increased cancer risk above 10 in one million to be a significant impact from toxic air contaminants. The proposed actions in MM 4.2-3, if successfully implemented, are shown to bring cancer risk down to a less than significant impact according to Table 4.2-14.

The final paragraph of MM 4.2-3 however reads as follows: "*In the event that there is a disruption in the manufacturing of zero emission heavy-duty trucks or that sufficient vehicles are not commercially available, implementation of this mitigation measure would be rendered infeasible, and further pursuit of implementation shall not be required.*" It is the District's position that additional mitigation measures or project design features would be feasible to ensure that increased cancer risk at nearby sensitive receptors remains less than significant. The District recommends that project design features be introduced and additional measures that are permanent and enforceable be included with MM 4.2-14 so that increased cancer risk remains below 10 in one million at any nearby sensitive receptor.

The *Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act* publication (2022) from the California Department of Justice includes

Letter 1 Cont.

recommended measures and best practices that may be applicable to this project. The following measures may help reduce emissions of diesel particulate matter or help contribute to the success of proposed MM 4.2-14. Note that many of these measures could also result in co-benefits further reducing the operational emissions of criteria air pollutants and greenhouse gases.

- Establishing setbacks from the property line of the nearest sensitive receptor to warehouse dock doors, loading areas, and truck drive aisles, and locating warehouse dock doors, loading areas, and truck drive aisles on the opposite side of the building from the nearest sensitive receptors.
- Placing facility entry and exit points from the public street away from sensitive receptors.
- Ensuring heavy duty trucks abide by the on-site circulation plans by constructing physical barriers to block those trucks from using areas of the project site restricted to light duty vehicles or emergency vehicles only.
- Preventing truck queuing spillover onto surrounding streets by positioning entry gates after a minimum of 140 feet of space for queuing, and increasing the distance by 70 feet for every 20 loading docks beyond 50 docks.
- Screening the warehouse site perimeter and onsite areas with significant truck traffic (e.g., dock doors and drive aisles) by creating physical, structural, and/or vegetative buffers that substantially reduce pollutant dispersion from the facility to sensitive receptors. Requiring all property owners and successors in interest to maintain onsite trees and vegetation for the duration of ownership, including replacing any dead or unhealthy trees and vegetation.
- Posting signs clearly showing the designated entry and exit points from the public street for trucks and service vehicles.
- Including signs and drive aisle pavement markings that clearly identify onsite circulation patterns to minimize unnecessary onsite vehicle travel.
- Posting signs indicating that all parking and maintenance of trucks must be conducted within designated on-site areas and not within the surrounding community or public streets.
- Further limiting idling times below the limit of five minutes and requiring operators to turn off engines when not in use. Posting both interior- and exterior-facing signs, including signs directed at all dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the local air district, and the building manager.
- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity greater than 25% of the building's projected energy needs, including all electrical chargers.
- Designing all project building roofs to accommodate the maximum future coverage of solar panels and installing the maximum solar power generation capacity feasible.
- Constructing zero-emission truck charging/fueling stations proportional to the number of dock doors at the project.
- Running conduit to designated locations for future electric truck charging stations.
- Construct electric plugs for electric transport refrigeration units at every dock door and requiring truck operators with transport refrigeration units to use the electric plugs when at loading docks.
- Oversizing electrical rooms by 25 percent or providing a secondary electrical room to accommodate future expansion of electric vehicle charging capability.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel (such as natural gas or electric).

1-5 Cont.

5. The Project may need written authorization from the District through an Authority to Construct Permit prior to construction if the project will operate any of the following equipment:
   a. Stationary compression ignition (diesel-fired) engines greater than or equal to 50 horsepower, including emergency backup generators;

1-6

Letter 1 Cont.

1-6 Cont.

b. Stationary spark-ignited engines greater than 250 horsepower operating less than 200 hours per calendar year for non-emergency purposes;
c. Steam generators, water boilers, or water heaters having a maximum fuel input heating value equal to or greater than one (1) million British thermal units (MMBtu) per hour;
d. Air pollution control devices including, but not limited to, baghouses, cyclones, and coatings spray booths.

If you have any questions or comments, please contact me at (530) 332-9400 x108.

Sincerely,

Jason Mandly
Senior Air Quality Planner

LETTER 1: BUTTE COUNTY AIR QUALITY MANAGEMENT DISTRICT

Response to Comment 1-1

The comment is an introductory statement and does not address the adequacy of the Draft EIR.

Response to Comment 1-2

In response to the comment, page 4.2-10 of the Draft EIR is hereby revised as follows:

> As presented in Table 4.2-3, BCAQMD is designated non-attainment for the federal ~~and State~~ 8-hour ozone, ~~the State 1-hour ozone,~~ State 24-hour PM_{10} standard~~, and State annual $PM_{2.5}$,~~ and designated nonattainment-transitional for the State 1-hour Ozone and State 8-hour ozone. It should be noted that PM_{10} incorporates all fine particulate matter less than 10 microns in diameter and, as a result, $PM_{2.5}$ is accounted for within the BCAQMD PM_{10} standards, discussed below. Due to the nonattainment designations, the BCAQMD, along with the other air districts in the SVAB region, is required to develop plans to attain the federal and State standards for ozone and particulate matter. The air quality plans include emissions inventories to measure the sources of air pollutants to evaluate how well different control measures have worked, and show how air pollution would be reduced. In addition, the plans include the estimated future levels of pollution to ensure that the area would meet air quality goals. Each of the attainment plans currently in effect are discussed in further detail in the Regulatory Context section of this chapter.

Table 4.2-3
Butte County Attainment Status Designations

Pollutant	California Standards	Federal Standards
1-hour Ozone	**Nonattainment-Transitional**	--
8-hour Ozone	**Nonattainment-Transitional**	**Nonattainment**
Carbon Monoxide	Attainment	Attainment
Nitrogen Dioxide	Attainment	Attainment
Sulfur Dioxide	Attainment	Attainment
24-hour Respirable Particulate Matter (PM_{10})	**Nonattainment**	Attainment
24-hour Fine Particulate Matter ($PM_{2.5}$)	**--**	Attainment
Annual PM_{10}	Attainment	--
Annual $PM_{2.5}$	~~**Nonattainment**~~ Attainment	Attainment

***Source:** Butte County Air Quality Management District. Air Quality Standards & Air Pollutants. Available at: ~~https://bcaqmd.org/planning/air-quality-standards-air-pollutants/~~ https://www.bcaqmd.org/air-quality-standards-attainment-planning. Accessed ~~June 2024~~ March 2025.*

The change in attainment status for ozone and $PM_{2.5}$ would not change the applicable thresholds of significance used for analysis of air quality impacts associated with the proposed project. Thus, the foregoing minor changes are for clarification purposes and do not affect the adequacy or conclusions of the environmental analysis contained in the Draft EIR. All other references to the attainment status of ozone and $PM_{2.5}$ within the Draft EIR are hereby revised accordingly, as presented in Chapter 3, Revisions to the Draft EIR Text.

Response to Comment 1-3

The comment provides concurrence with the conclusion of Impact 4.2-1 on page 4.2-46 of the Draft EIR. The comment has been noted for the record.

Response to Comment 1-4

The Draft EIR determined that with implementation of Mitigation Measures 4.2-2(a) and 4.2-2(b), impacts related to construction emissions of criteria pollutants would be less than significant. Thus, additional mitigation measures are not required to be implemented to further reduce construction-related reactive organic gases (ROG) and nitrogen oxides (NO_X) emissions beyond what is presented in the Draft EIR. However, the commenter's preference of additional on-site measures that reduce ROG and NO_X emissions over off-site measures where feasible is noted and will be considered by the City when a project application is submitted.

Response to Comment 1-5

All of the recommended measures included in the comment are related to on-site design of the proposed project. The Draft EIR evaluated the maximum buildout allowed for a large-scale distribution center within the project site. However, as discussed therein, the proposed buildings are speculative, and future tenants are unknown at this time. In addition, a specific development application has not yet been received by the City for the project site. The City will consider the design features noted in the comment at the time that a specific development application for the project site is received. Moreover, while on-site design features such as idling restrictions, etc. may reduce on-site toxic air contaminants (TAC) emissions, the cancer risk impacts associated with the proposed project are primarily driven by the trucks travelling to and from the project site along Ophir Road, which results in TAC emissions at the sensitive receptors located along the access roadway. As such, the proposed on-site design features would not result in emissions reductions associated with the main source of the identified cancer risk impact.

While such design features will be considered by the City as future development of the site is proposed, implementation of such features would not be anticipated to substantially lessen the cancer risk impacts associated with the proposed project, and the conclusions of the Draft EIR would not change.

Response to Comment 1-6

The comment does not address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration. It is noted that the proposed project shall comply with all applicable requirements prior to the beginning of construction activities.

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Letter 2

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
North Central Region
1701 Nimbus Road
Rancho Cordova, CA 95670
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

February 21, 2025

Wes Ervin
City of Oroville
1735 Montgomery Street
Oroville, CA 95965
wervin@cityoforoville.org

Subject: Ophir Road Warehouse Project (Project)
DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)
SCH No. 2022090522

Dear Wes Ervin:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from the City of Oroville (City) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1] CDFW previously submitted comments in response to the Notice of Preparation of the DEIR.

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, CDFW appreciates 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.

2-1

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 proposed, for **example, the Project may be subject to CDFW's lake and streambed a**lteration 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 Project site is located southwest of the intersection of Ophir Road and Baggett Palermo Road in the City of Oroville, California. The approximately 170.21-acre project site **consists of two parcels (Assessor's Parcel Number [APNs] 078**-010-047 and 078-020-035) and is undeveloped grassland.

The Project consists of the development of four warehouse buildings on-site totaling approximately 3.2 million square feet (sf) and 2,152 vehicle parking spaces. Each of the buildings would consist of a five-story concrete tilt-up warehouse with depressed dock areas and will range from 774,000 sf to 869,200 sf. The buildings would each have

[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.

Letter 2 Cont.

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2-1 Cont.

between 76 and 86 dock doors. Each building would also provide approximately 20,000-sf of office space. A total of 2,152 vehicle parking spaces would be provided on-site. Site access would be provided by a new driveway off Ophir Road to the north and a new driveway off Baggett Palermo Road to the east. The southern portion of the project site would remain undeveloped. Primary Project activities include construction of the concrete tilt up warehouse, development of a new driveway, the creation of vehicle parking spaces, off-site roadway improvements, landscaping, and water, sanitary and stormwater improvements.

COMMENTS AND RECOMMENDATIONS

2-2

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. Editorial comments or other suggestions may also be included to improve the document. Based on the potential for the Project to have a significant impact on biological resources, CDFW concludes that an Environmental Impact Report is appropriate for the Project.

Comment 1: Crotch's bumble bee and short eared owl

2-3

Issue: On October 22, 2022, CDFW **responded to the City's Notice of Preparation of the** DEIR for the Ophir Road Warehouse Project with a letter offering comments and recommendations to assist the City in adequately identifying and/or mitigating the Project**'s** significant, or potentially significant, impacts on biological resources. The NOP letter recommended the DEIR provide a thorough discussion of the Project**'s potential direct,** indirect, and cumulative impacts on biological resources and specifically called attention to **the Project's potential impacts to Crotch's bumble bee** (*Bombus crotchii*) and short eared owl (*Asio flammeus*), among others. **Crotch's** bumblebee is a candidate for listing pursuant to CESA. **As a candidate species Crotch's bumblebee** is afforded CESA protections **(including prohibitions against "take" without** permit authorization). Short eared owl is a California Species of Special Concern. The Project area contains suitable habitat for both of these species. The DEIR, as written, does not appropriately analyze **the Project's** impacts to or provide adequate avoidance, minimization, and/or mitigation measures to reduce **impacts to Crotch's bumble**bee and short eared owl to a less than significant level.

Recommendation: The DEIR should appropriately analyze all direct, indirect, and cumulative impacts that are expected to occur to these species as a result of the construction and long-term operation and maintenance of the Project. The Biological Resources section of the DEIR should be amended to provide adequate avoidance, minimization, and/or mitigation measures to address the Project's significant impacts to **Crotch's bumblebee and shor**t eared owl. At a minimum, protocol level surveys should be conducted at the Project site to inform the development of appropriate and enforceable mitigation measures. Please note that mitigation measures that are adequate to reduce impacts to a less-than significant level to meet CEQA requirements may not be enough for the issuance of an Incidental Take Permit (ITP). To facilitate the issuance of an ITP, if applicable, CDFW recommends the DEIR include measures to minimize and fully mitigate the impacts to any State-listed species the Project has potential to take.

Comment 2: Special-status Plants – Mitigation Measure 4.3-1

2-4

Issue: The Project site has suitable habitat and potential to support the following California Native Plant Society (CNPS) ranked as rare species: **Ahart's paronychia** (*Paronychia ahartii*), Butte County golden clover (*Trifolium jokerstii*), and Red bluff dwarf rush (*Juncus leiospermus var. leiospermus*), and **Ahart's dwarf rush** (*Juncus leiospermus var.ahartii*). The Project site has suitable habitat and potential to support the following CESA-listed species: slender Orcutt grass (*Orcuttia tenuis*) **and Greene's tuctoria (***Tuctoria greenei*). These species are vernal pool endemics adapted to periodic or continuous inundation during the winter and spring and desiccation during the summer and fall. In addition, these species are known to occur at the elevation of the Project site. The DEIR relies heavily upon California Natural Diversity Database (CNDDB) as a key indicator of species potential to occur**. CDFW's CNDDB is not** an exhaustive or comprehensive inventory of all rare species and natural communities. The likelihood of species presence on the Project

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Letter 2 Cont.

site cannot be inferred solely from the absence of CNDDB occurrences. CNDDB should be used as a starting point in gathering information about the potential presence of species within the general area of the Project site.

According to the DEIR, surveys for special-status plants were conducted in early May of 2023, however, this time period may have missed the blooming period for slender Orcutt **grass and Greene's tuctoria** which *begins* in May, nor were the surveys conducted at a reference site to verify the correct timing. Within the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFW 2018 Protocols) specify the need for multiple field visits throughout the growing season when plants will be both evident and identifiable. Therefore, the May 12, 2023, survey may have been insufficient to determine that the special status plants do not exist at this location.

2-4 Cont.

Finally, Mitigation Measure 4.3-1 fails to comply with CEQA Guidelines § 15126.4 by deferring mitigation to a future time by not including fully enforceable compensatory mitigation to offset potentially significant impacts to special-status plants. The measure **mentions a "mitigation plan" but** does not identify when the plant mitigation plan would be prepared, or who would be responsible for preparing, reviewing, or implementing it. The measure also does not define the plan area or establish criteria for plan success. Without goals, content, and enforceability in the plant management plan, this measure does not mitigate project impacts to a less than significant level.

Recommendation: CDFW concurs with Mitigation Measure 4.3-1 in that additional protocol-level plant surveys are needed to determine the presence or absence of special status species on the site. The survey should be conducted in accordance with the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (CDFW 2018).* Several surveys shall be conducted by a qualified botanist throughout the blooming period for each of the special-status species. Prior to conducting surveys onsite, the qualified botanist shall visit a local reference population visit and confirm that the species to be surveyed for are present and identifiable.

CDFW recommends the final paragraph in 4.3-1 be reworded to require that the plant mitigation plan will be developed by a qualified botanist and submitted to the City for review and approval in consultation with CDFW, no later than 120 days prior to the start of construction activities. The plan shall include but not be limited to a description of the plan area, survey methods, surveyor qualifications, occurrence and species details, proposed relocation methods and locations, long-term monitoring, success criteria, and a contingency plan. If the occurrences can be avoided, the plan should include recommended protective buffers, construction monitoring, and post-construction monitoring.

Comment 3: Western Spadefoot

2-5

Issue: The Project site contains suitable upland aestivation and aquatic breeding habitat for western spadefoot (*Spea hammondii*), a California Species of Special Concern and candidate for listing under the federal Endangered Species Act. Impacts to western spadefoot from ground disturbing activities onsite may be considered potentially significant unless adequate mitigation is incorporated. Western spadefoot is a primarily terrestrial fossorial species. They spend most of the year in underground burrows and are rarely found on the surface (Stebbins 1972; Dimmitt and Ruibal 1980a). Spadefoots emerge from their underground burrows to breed and forage during and following relatively warm rains during late winter-spring (Morey 2000). Aquatic habitat is used for breeding and developing larvae and typically includes temporary vernal pools, sand or gravel washes, and small streams that are often seasonal (Stebbins and McGinnis 2012). However, eggs and larvae of western spadefoot have been observed in a variety of permanent and temporary wetlands, both natural and altered, including rivers, creeks, artificial ponds, livestock ponds, sedimentation and flood control ponds, irrigation and roadside ditches, roadside puddles, tire ruts, and borrow pits (CNDDB 2025).

For mitigation measures to be effective, they must be specific, enforceable, and feasible actions that will reduce the environmental impacts from the project to a less than

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significant level. The DEIR does not currently include any mitigation measures for western spadefoot. To determine whether the Project may have a significant impact on this species, the Project proponent must first determine whether they occur on the site. Western spadefoot can only be detected while they are above ground during their breeding season (late winter-early spring). Performing preconstruction surveys outside the breeding season when spadefoots are aestivating underground will result in potentially false negative findings. False negative survey results could result in unidentified and unmitigated significant impacts on this biological resource.

Recommendation: To mitigate potential impacts to western spadefoot to a less-than-significant level, CDFW recommends the following language be incorporated into the DEIR:

2-5 Cont.

"Prior to the City's issuance of a grading permit or other authorization for ground disturbance, a qualified biologist shall conduct a minimum of three nighttime visual encounter and acoustic detection (i.e., listening for male breeding call) surveys and one day time egg mass survey. Surveys shall be timed during late winter and early spring, generally February 15-April 1, but shall not begin until the site has received adequate rainfall to form breeding ponds and daytime temperatures are consistently greater than 60 degrees. Surveys shall be conducted no more than 24 hours following a rain event with at least 7 calendar days between each survey. Survey methods and results shall be provided to CDFW upon request. If any life stage of western spadefoot is encountered, CDFW shall be consulted to determine appropriate avoidance, minimization, and compensatory mitigation measures. Compensatory mitigation in the form of habitat preservation on or off-site may be required. Ground disturbing activities shall not commence until written approval is received from the City in consultation with **CDFW."**

For all future projects within the City of Oroville or its sphere of influence, CDFW recommends a qualified biologist be retained to perform western spadefoot surveys, over multiple years if feasible, prior to the public comment period. This will allow the City of Oroville time to consult with CDFW if spadefoot are present, develop effective feasible mitigation, and incorporate the survey methods, results, and proposed mitigation into the environmental document for public review and comment.

Comment 4: Swainson's hawks - Mitigation Measure 4.3-2 (a)

Issue: The DEIR does not contain adequate measures to mitigate Project impacts to **Swainson's hawk to a less**-than-significant level. The DEIR states in table 4.3-**2 that, "The project site contains suitable foraging habitat" for Swainson's hawk; however,** compensatory mitigation for the permanent loss of foraging habitat is not included. With the proposed alternative, approximately **135 acres of suitable Swainson's hawk foraging** habitat will be permanently impacted. **The primary threat to the Swainson's Hawk** population in California continues to be habitat loss, especially the loss of suitable foraging habitat (California Department of Fish and Game 2016). Unmitigated loss of foraging habitat for a CESA listed threatened species is a significant impact. As discussed above, a lack of CNDDB occurrences cannot be used to infer absence of any species, including **Swainson's hawks using the site as foraging habitat.**

2-6

Additionally, the DEIR **states that "If active Swainson's hawk nests are not identified on or** within 500 feet of the project site within the recommended survey periods, a letter report summarizing the survey results shall be *submitted* to the City of Oroville within 30 days following the final survey, and further avoidance and minimization measures for nesting **habitat are not required." However**, this distance may not be enough to avoid impacts to **Swainson's hawk.**

Recommendation: CDFW recommends that the loss of approximately 135 acres of **Swainson's hawk foraging habitat** is mitigated through permanent protection and management of equal habitat in order to reduce Project impacts to a less than significant level.

Additionally, CDFW recommends following t**he Swainson's Hawk Technical Advisory Committee's (TAC**) *Recommended Timing and Methodology for Swainson's Hawk Nesting*

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Surveys in California's Central Valley (2000) which states that surveys be conducted for a 0.5-mile radius of all project activities. Measure 4.3-2(a) should clarify that a pre-**construction survey for nesting Swainson's hawks is required in addition to protocol level** surveys annually for the Project and could be reworded as such:

> **"Prior to the initiation of construction activities, a qualified biologist** shall conduct **surveys for Swainson's hawk in accordance with the Swainson's Hawk Technical Advisory Committee's (TAC)** *Recommended Timing and Methodology for* ***Swainson's Hawk Nesting Surveys in California's Central Valley*** (2000), available **on CDFW's webpage at** https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds. Survey methods shall be closely followed by starting early in the nesting season to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted within a minimum 0.50-mile radius of the Project area or a larger area, if necessary, to identify potentially impacted active nests. Surveys shall occur annually for the duration of the Project. The qualified biologist must have a minimum of two years of experience implementing the TAC survey methodology. If an active nest is identified, a minimum 0.25-mile protective buffer shall be maintained around the nest until the young fledge. The protective buffer shall be clearly marked and be an area where no project-related activities or personnel are allowed while in place. If the minimum 0.25-**mile buffer must be reduced or take of Swainson's hawk cannot** be avoided, an Incidental Take Permit (ITP) shall be obtained. An additional pre-construction survey shall be conducted no more than seven (7) days prior to the start of construction to confirm the absence **of nesting Swainson's hawks within 0.5** miles of the Project.**"**

2-6 Cont.

Comment 5: Mitigation measures 4.3-3 (b) and 4.3-2 (B)

Issue: The Project as proposed will result in permanent impacts to federally listed vernal pool crustaceans, vernal pools and swales, and ephemeral drainages. The permanent loss of these species and habitats resulting from the Project is a significant impact. The DEIR proposes a conservation easement be placed on the southern portion of the project site to mitigate these impacts to a less-than-significant level; however, the DEIR does not provide substantial evidence to demonstrate that on-site preservation will be sufficient to offset impacts proposed by the Project. The proposed mitigation of the conservation easement is insufficient to mitigate impacts to the habitat and species to less-than-significant for the following reasons:

A) *Clear delineation of the conservation easement:* The DEIR does not clearly define the locations of the on-site preserves graphically in Figure 4.3-3 to illustrate the habitats that would be included in the parcel. Without a static legal description and an accurate visual representation of the proposed conservation easement area it is impossible to determine whether its establishment is sufficient to avoid impacts to the preserved resources.

2-7

B) *Too small for meaningful protection:* The DEIR provides no scientific evidence or assessment of whether a 35-acre preserve is sufficiently sized to successfully avoid all potential long-term impacts to a less-than-significant level within the Project area. Constructed warehouses and parking will abut the property with no assessment provided of potential adverse impacts from project-related construction and maintenance activities. Adverse impacts that could occur include but are not limited to edge effects such as exposure to herbicides and introduction of invasive species onto the habitats. Without science-based evidence that a preserve of this size is sufficient to prevent long-term impacts, impacts from adjacent development will continue to be significant. In addition to this, the small size of the preserves may make adaptative management difficult and could result in the extirpation of species and habitats at this location.

C) *Changed hydrology*: The DEIR provides no scientific evidence that permanently filling the upper watershed would not provide a permanent change in year-round

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hydrology of the downstream aquatic features in the conservation easement. A full build-out of the upper watershed may change the current ponding duration of wetland features in the easement area through a reduction or increase of stormwater, or by permanently altering the hard pan layer.

D) *Permanent protection:* The DEIR **states the "establishment of a 35**-acre **conservation easement"** will be part of the Project but fails to include additional features that would be required for the permanent protection of these lands. For effective permanent protection, an endowment, long-term management plan, and performance standards for habitat management are needed.

Recommendation: CDFW recommends the DEIR includes the following:

2-7 Cont.

A) *Clear delineation of the conservation easement*: A clear map of the proposed conservation easement including the boundaries, buffers, and the biological resources on site.

B) *Increase size of easement area*. The conservation easement area size should be significantly increased to minimize edge effects and ensure ecological functions of the preserved resources. This recommendation could be achieved through Project Alternative C. Reduced Footprint Alternative.

C) *Changed hydrology*: The appropriate hydrologic and hydraulic studies should be prepared to demonstrate that the ecological functions of the proposed conservation easement area will be maintained in perpetuity. These studies and a written explanation of how the easement area is expected to fare given the build out of the upper watershed of the site should be incorporated into the DEIR for public review and comment.

D) *Permanent protection*. The name of the organization who will hold the conservation easement, the amount of endowment funds, the timing of easement recordation, and a long-term management plan.

Comment 6: Mitigation measure 4.3-3 (c) Impacts to waters of the US

Issue: The DEIR **states that "Mitigation for direct impacts to waters of the U.S. associated with the proposed project would occur at a minimum of 1:1 ratio…"**; however, a 1:1 ratio is insufficient to mitigate project impacts to a less than significant level. Estimates suggest that close to 90 percent or more of the vernal pool habitat in the Central Valley and in other parts of the state has been lost. Recent studies have documented continuing vernal pool habitat loss in recent decades, with over 13 percent of the remaining Central Valley vernal pool habitat (137,100 acres) being lost from baseline conditions in 1976-1995 to the conditions in 2005. Agriculture and development have also altered the hydrology of land surrounding vernal pools, increasing erosion and runoff and contributing harmful pesticides and fertilizers. (CDFW 2022). The disappearance of the remaining vernal habitat marks the loss of rare and important habitat and some of the associated plant and animal species as well. On a local spatial scale, the vernal pool ecosystem, or "complex" includes vernal pools and associated uplands. In addition, adjacent drainages may also act as a hydrologic input to the vernal complex. Mitigating at a 1:1 ratio for the Project would generate a loss of these declining aquatic resources and is not sufficient to mitigate Project impacts to a less-than-significant level.

2-8

Recommendation: CDFW recommends the minimum mitigation ratio is increased to 5:1 and both the preservation and creation of in-kind aquatic resources off-site, based on the quality of the habitat on site, to ensure the Project impacts are mitigated to a less-than significant level for waters of the State.

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Comment 7: 4.3-5 Oak tree mitigation

Issue: Oak woodlands are extremely valuable wildlife habitat, and oak trees typically have a very slow growth rate. In California, oak woodlands have the greatest wildlife species richness of any other habitat in the state with over 330 species of amphibians, birds, and mammals relying upon these habitats at some point during their lives (CalPIF 2002). Oak woodlands have experienced ongoing declines due to conversion for agricultural uses, and oak woodlands are also impacted by low recruitment, novel pathogens, competition from invasive species, and fire suppression (Whipple et al. 2011). California has lost approximately 1/3 of its historic oak woodland habitat statewide (CalPIF 2002). Because oaks are slow-growing trees, the substantial habitat and ecosystem value that mature trees provide is difficult to replace. Oak woodlands provide vertical and horizontal structural habitat complexity, food sources for a wide variety of wildlife, and nesting, denning, burrowing, hibernating, and roosting structures.

The DEIR mitigation measure 4.3-5 is not enforceable mitigation for the loss of five (5) mature oak trees on-site. The DEIR **mitigation measure relies on a "site**-specific tree **management and preservation report" with recommendations but fails to include** enforceable mitigation actions or a management plan for the oak trees. Because there is no guarantee of action from the submittal of a report, the mitigation measures are unenforceable and may not reduce the **Project's** impact on oak woodland to a less-than-significant level. The mitigation proposed by the DEIR would not adequately replace the habitat value that would be lost as a result of the removal of these five (5) mature oak trees. In addition, the Project will result in the temporal loss of oak woodland habitat, due to the fact that replacement oak trees would not attain comparable size and structure until many decades or more.

2-9

Recommendation: CDFW recommends the DEIR include measures that are enforceable and do not defer the details of the mitigation to the future. This can be achieved by 1) avoiding the oak trees with appropriate set-back buffers thus negating the need to mitigate, or 2) providing sufficient details on how the loss of oak woodland will be mitigated to a less-than-significant level.

If complete avoidance of the blue oak trees is infeasible, then CDFW recommends that impacts are mitigated through the creation and permanent protection of off-site oak woodland. Oak woodland mitigation should occur on lands protected through fee title, transfer or conservation easement to an appropriate conservation entity to ensure long term preservation and successful implementation of the mitigation. Planting oak trees in the proposed on-site conservation easement area would not be appropriate as it may constitute habitat conversion from vernal pool grassland to oak woodland. The City of Oro**ville's Ordinance on Oak Tree loss mitigation states that for off-site replacement, "Each** inch in diameter at breast height (dbh) of oak removed shall be replaced by 2 inches of native oaks, using trees planted at a minimum size of one gallon. For example, a 6-inch dbh tree may be replaced by four 3-inch trees or 12 one-**inch trees."** To reduce Project impacts on oak woodland to less-than-significant, CDFW recommends that each inch in dbh of oak removed shall be replaced by 10 inches of native oaks. CDFW recommends oak plantings be monitored and maintained for a minimum of 10 years.

The DEIR should include the location details of the proposed mitigation site, the total number of oaks to be planted, establish performance standards to evaluate the success of the plantings, provide a range of options to achieve the performance standards, and commit the City and/or Project proponent to successful completion of the mitigation. Mitigation measures should also describe when the mitigation measure will be implemented and who is ultimately responsible for its success.

Comment 8: Mitigation measure 4.1-3 Lighting

2-10

Issue: The proposed Project includes the addition of new lighting; however, Mitigation measure 4.1-3 is not sufficient to reduce Project impacts to a less than significant level.

New lighting, especially in areas where no lighting or low levels of lighting currently exist, has potential for significant impacts to occur that could result in a finding of significance.

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Artificial light spillage beyond the prism of the roadway into natural areas may result in a potentially significant impact through substantial degradation of the quality of the environment. Artificial light pollution also has the potential to significantly and adversely affect biological resources and the habitat that supports them. Unlike the natural brightness created by the monthly cycle of the moon, the permanent and continuously powered lighting fixtures create an unnatural light regime that produces a constant light output. Continuous light output for 365 days a year can also have cumulatively significant impacts on fish and wildlife populations.

Artificial night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication (e.g., bird song), determining when to begin foraging (Stone et al. 2009), behavior thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004). For nocturnally migrating birds, direct mortality resulting from collisions with anthropogenic structures due to attraction to light (Gauthreux, 2006) is another direct effect of artificial light pollution. There are also more subtle effects, such as disrupted orientation (Poot et al. 2008) and changes in habitat selection (McLaren et al. 2018). While artificial light pollution can act as an attractant at local (Van Doren et al. 2017) scales.

2-10 Cont.

Recommendation: CDFW recommends the following mitigation measures are incorporated into the DEIR:

A) *Light Output Limits:* **"All LED's or bulbs installed as a result of the Project shall be** rated to emit or produce light at or under 2700 kelvin that results in the output of a warm white color spectrum."

B) *Light Pole Modifications and Shielding:* "All new or replacement light poles or sources of illumination shall be installed with the appropriate shielding to avoid excessive light pollution into natural landscapes or aquatic habitat within the Project area in coordination with the City and CDFW. In addition, the light pole arm length and mast heights should be modified to site specific conditions to reduce excessive light spillage into natural landscapes or aquatic habitat within the Project corridor."

In areas with sensitive natural landscapes, like aquatic habitat, the City should also analyze and determine if placing the light poles at non-standard intervals has the potential to further reduce the potential for excessive light pollution caused by decreasing the number of light output sources in sensitive areas.

Comment 9: Bird enhancement and mortality reduction strategies in Project design and implementation.

Issue: The proposed Project footprint will ultimately border existing open space areas including grasslands. These open space areas provide suitable habitat for nesting birds. Placement of buildings adjacent to suitable nesting bird habitat may adversely affect bird populations by introducing sources of common bird mortalities such as reflective windows that birds may collide with. Collisions with clear and reflective sheet glass and plastic is a leading cause in human-related bird mortalities. These types of mortalities contribute to declines in segments of the overall bird population and ecological benefits of healthy bird activity. Many types of windows, sheet glass, and clear plastics are invisible to birds resulting in casualties or injuries from head trauma after an unexpected collision. Birds may collide with windows as little as one meter away in an attempt to reach habitat seen through, or reflected in, clear and tinted panes, so even taking small measures to increase visibility of windows to birds can make a substantial difference in minimizing long-term impacts of urban development near natural environments.

2-11

Recommendation: CDFW recommends consideration of bird enhancement and mortality reduction strategies in Project design and implementation. Incorporation of these strategies can reduce anthropogenic effects on birds and promote sustainable development in California. CDFW recommends the applicant incorporate bird and wildlife friendly strategies such as installing screens, window patterns, or new types of glass such

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as acid-etched, fritted, frosted, ultraviolet patterned, or channel. Additional information can be found at https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds/collisions/buildings-and-glass.php.

2-11 Cont.

Incorporation of bird and wildlife strategies not only promotes environmental stewardship but also facilitates compliance with State and federal protections aimed at preserving bird populations. In addition, bird mortalities from collisions could be greatly reduced if Alternative C. Reduced Footprint Alternative were implemented instead of the proposed Project.

V. Editorial Comments and/or Suggestions

2-12

For ease of access and review, future DEIRs can be made more accessible to the public and Trustee agencies by incorporating section bookmarks and providing appendices as separate documents.

ENVIRONMENTAL DATA

2-13

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). The CNNDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

ENVIRONMENTAL DOCUMENT FILING FEES

2-14

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the City and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing 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

2-15

CDFW appreciates the opportunity to comment on the DEIR to assist the City of Oroville in identifying and mitigating Project impacts on biological resources. Due to the issues presented in this letter, CDFW concludes that the DEIR does not adequately identify or **mitigate the Project's significant, or potentially significant,** impacts on biological resources. Deficiencies in the Lead Agency CEQA document can affect later project approvals by CDFW in its role as a Responsible Agency. In addition, because of these issues, CDFW has concerns that City **may not have the basis to approve the project or make "findings" as** required by CEQA unless the environmental document is modified to eliminate and/or mitigate significant impacts, as reasonably feasible (CEQA Guidelines, § 15074, 15091 & 15092).

Questions regarding this letter or further coordination should be directed to Melissa Stanfield, Senior Environmental Scientist (Supervisor) at melissa.stanfield@wildlife.ca.gov or (916) 597-6417.

Sincerely,

DocuSigned by:
Morgan Kilgour
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Morgan Kilgour
Regional Manager

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ec: Tanya Sheya, Environmental Program Manager
Melissa Stanfield, Senior Environmental Scientist (Supervisory)
Laurel Low, Senior Environmental Scientist (Specialist)
Department of Fish and Wildlife

cc: Office of Planning and Research, State Clearinghouse, Sacramento

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LETTER 2: CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

Response to Comment 2-1

The comment is an introductory statement regarding the role of the California Department of Fish and Wildlife (CDFW) and provides a summary of the project description and setting. The comment does not address the adequacy of the Draft EIR.

Response to Comment 2-2

The comment is introductory to more detailed subsequent comments and does not specifically address the adequacy of the Draft EIR. The comment regarding the appropriateness of the Draft EIR has been noted for the record.

Response to Comment 2-3

As part of the site surveys, though not specifically identified, habitat inclusive of where the Crotch's bumble bee and short-eared owl would be found was extensively surveyed, including during times when the species would be expected to be detected, during multiple biological resource assessment surveys/other analysis of the site in 2015, 2023, and 2024. Species detection was not noted during any of the prior surveys of Crotch's bumble bee and short-eared owl. Mitigation Measure 4.3-1, requiring special-status plant species surveys, would also encompass searches of habitats utilized by Crotch's bumble bee. As with plants, if Crotch's bumble bee habitat is not found, further mitigation for Crotch's bumble bee shall not be required. Similarly, Mitigation Measure 4.3-2(c), requiring pre-construction nesting bird and raptor surveys, would also detect short-eared owl on-site, though presence is unlikely. If any special-status species is encountered, the species would be recorded in the California Natural Diversity Database (CNDDB).

As with any project throughout the State, if impacts to a listed species would occur, then consultation with CDFW would be initiated, in accordance with the California Endangered Species Act (CESA) and/or pursuant to California Fish and Game Code (CFGC) Section 2081.

Response to Comment 2-4

In response to the comment, Mitigation Measure 4.3-1 on page 4.3-36 of the Draft EIR is hereby revised as follows:

4.3-1 *If construction has not commenced prior to the first day of spring 2025 (March 19, 2025), a new round of special-status plant surveys shall be conducted by a qualified botanist throughout the blooming period in areas proposed for disturbance, prior to the commencement of construction. Prior to conducting surveys on-site, the qualified botanist shall visit a local reference population and confirm that the species to be surveyed are present and identifiable.*

The surveys shall be conducted in accordance with the USFWS Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed, and Candidate Plants, the CNPS Botanical Survey Guidelines of the California Native Plant Society, and Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. If special-status plant species are not found, further mitigation shall not be required.

> *If special-status plants are found within the proposed impact area and they are perennials such as big-scale balsamroot, then mitigation shall consist of digging up the plants and transplanting them into a suitable avoided area on-site prior to construction. If the plant found is an annual such as dwarf downingia, then mitigation shall consist of collecting seed-bearing soil and spreading it into a suitable constructed wetland at a mitigation site. If special-status plants are impacted, a mitigation plan shall be developed by a qualified botanist and approved by the City of Oroville Community Development Department in consultation with the CDFW no later than 120 days prior to the start of construction activities. The mitigation plan shall describe the proposed mitigation for impacts to the plant species, and include (at minimum) details regarding the plan area, survey methods, surveyor qualifications, occurrence and species details, proposed relocation methods and locations, long-term monitoring, success criteria, monitoring, reporting, and contingency in case of failure. If the special-status plant species can be avoided, the mitigation plan shall include recommended protective buffers, construction monitoring, and post-construction monitoring. Mitigation for the transplantation/establishment of rare plants shall not result in the net loss of individual plants after a five-year monitoring period.*

The foregoing minor text revisions add additional detail to Mitigation Measure 4.3-1 on page 4.3-36 of the Draft EIR. The foregoing changes do not affect the conclusions presented within the Draft EIR.

Response to Comment 2-5

Potential for occurrence on-site of western spadefoot (WSF) is low, as identified by both the project BRA and BRA addendum. This is secondary to a lack of aquatic habitat on-site that maintains inundation for sufficient duration to fully develop the WSF to its non-aquatic state. As noted in both the 2023 BRA and 2024 BRA Addendum, the site is grazed by cattle which collapses existing mammal burrows and other soil cavities. Additionally, the site soil composition is high in sand content, which makes for poor burrow constructability. Thus, because the potential for occurrence of WSF on-site is low, additional mitigation is not warranted.

Response to Comment 2-6

Swainson's hawk tend to nest and forage on the valley floor and near agricultural operations, and loss of a portion of the grassland within the project site would not constitute a significant impact to the species if the species is not currently using this habitat. Though occurrences of nests have been recorded within five miles (3.9 miles) of the project area, the last detection was ten years ago. Additionally, the project site has been subject to multiple biological resource surveys beginning in 2015, including during the times when Swainson's hawk would be present in the area. Swainson's hawk is easy to detect when foraging and nest-building, and if present, would have been noted and recorded by the professional biologists conducting surveys on-site. Mitigation Measure 4.3-2(a) is intended to provide adequate protection to the species in the event the species moves toward the Project Area by requiring pre-construction surveys. Nonetheless, in response to the comment, Mitigation Measure 4.3-2(a) on pages 4.3-38 and 4.3-39 of the Draft EIR is hereby revised as follows:

> *4.3-2(a)* *Within seven days prior to the commencement of construction activities during the nesting season for Swanson's hawk (between March 1 and September 15), a qualified biologist shall conduct protocol-level pre-construction surveys within at least two of the recommended survey*

periods within the nesting season that coincides with the commencement of construction activities, in accordance with the Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California (CDFW 1994) and the Swainson's Hawk Technical Advisory Committee's (TAC) Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (2000). At least one survey shall be conducted within each survey period selected; the dates should be adjusted in consideration of early or late nesting seasons for the year in which the surveys are conducted. Surveys should start early in the nesting season to maximize the likelihood to detecting an active nest as nests, adults, and chicks are more difficult to detect later in the season as vegetation increases. If the final survey is completed more than seven days prior to initiation of construction, an additional survey shall be conducted within seven days of the start of construction to ensure that nesting has not been initiated within the intervening time. The qualified biologist shall conduct surveys for nesting Swainson's hawk within 0.5-miles ~~500 feet~~ of the project site, where legally permitted. The qualified biologist shall use binoculars to visually determine whether Swainson's hawk nests occur within the 0.5-mile ~~500-foot~~ survey area, if access is denied on adjacent properties. In addition, the qualified biologist shall conduct an additional CNDDB query immediately prior to land-clearing activities to confirm new known nest sites do not occur within a 10-mile radius of the project site. Surveys shall be conducted annually for the duration of the project. The qualified biologist shall have a minimum of two years of experience implementing the TAC survey methodology.

If active Swainson's hawk nests are not identified on or within 0.5-miles ~~500 feet~~ of the project site within the recommended survey periods, a letter report summarizing the survey results shall be submitted to the City of Oroville within 30 days following the final survey, and further avoidance and minimization measures for nesting habitat are not required.

If active Swainson's hawk nests are found within 0.5-miles ~~500 feet~~ of construction activities, the qualified biologist shall contact the City of Oroville within one business day following the pre-construction survey to report the findings. For the purposes of this mitigation measure, construction activities are defined to include heavy equipment operation associated with vegetation clearing, grading, construction (use of cranes or draglines, new rock crushing) or other project-related activities that could cause nest abandonment or forced fledging within 0.5-miles ~~500 feet~~ of a nest site between March 1 and September 15. Should an active nest be present within 0.5-miles ~~500 feet~~ of the construction area, the City of Oroville shall be consulted to establish a take avoidance plan. Such a plan could include measures such as establishment of a construction setback, placement of high-visibility construction fencing along the setback boundaries, and monitoring of the nest during construction activities. A minimum 0.25-mile protective buffer shall be maintained around the nest until the young fledge. The protective buffer shall be clearly marked and project-related activities and construction personnel shall not be allowed within the buffer. If the minimum 0.25-mile buffer must be reduced or take of Swainson's hawk cannot be avoided, an Incidental Take Permit (ITP) shall be obtained. The qualified biologist shall have the authority to stop construction activities if the hawks show signs of distress; if this occurs, construction may not resume until the City of Oroville is consulted and the construction setback is increased or other take-avoidance measures are

> *modified. A letter report summarizing the survey results and describing implementation of the take avoidance measures will be submitted to the City of Oroville within 30 days of the final monitoring event. Further avoidance and minimization measures for nesting habitat would not be required after submittal of the report.*

The foregoing minor text revisions add additional detail to Mitigation Measure 4.3-2(a) on page 4.3-38 and 4.3-39 of the Draft EIR. The foregoing changes do not affect the conclusions presented within the Draft EIR.

Response to Comment 2-7

The commenter states that Mitigation Measures 4.3-3(b) and 4.3-2(b) are insufficient to mitigate impacts to a less-than-significant level for several reasons, each of which is addressed below.

A) *Clear Identification of the conservation easement*: Final identification of the boundaries of the conservation easement area would be defined during the permitting process and in consultation with the United States Fish and Wildlife Service (USFWS) and CDFW, once final building footprints have been identified. However, it should be noted that a 250-foot avoidance buffer is both the USFWS and industry standard when determining indirect affect avoidance for project activities. Therefore, honoring a 250-foot buffer of proposed preserved features would avoid both direct and indirect effects, as well as any subsequent consultation with USFWS.

B) *Too small for meaningful protection*: Per the CDFW California Wetland Mitigation Banking Report to the Legislature:

> *There is no minimum or maximum size of a conservation bank, and it may be divided into clearly defined subareas. However, the bank and each of its subareas (if any) should be large enough to be ecologically self-sustaining or part of a larger conservation strategy that has a reasonable expectation of being accomplished.* (CDFW, 2003)

Extensive invasive species exist on-site, as documented in the project BRA, BRA Addendum, and both delineations. Management of invasive species within the preserve area, as part of a Preserve Management Plan (PMP) would mean that construction of the project would not increase invasive species within the preserve area. Effective and appropriate herbicide application near the preserve would also be governed by the PMP.

C) *Changed hydrology*: The portion of the site planned for preservation is a contiguous 35-acre section located along the southern boundary of the site. The portion of the site planned for preservation is the natural low point of the site and therefore eventual receiving area of all sheet (above-grade) and perched water table (subgrade) flow. Therefore, uphill development would be unlikely to hinder water from reaching the lower portions of the site. While a document(s) analyzing hydrology and flow in respect to wetland affect, demonstrating that the ecological functions of the proposed conservation easement area would be maintained in perpetuity, would be prepared for the purposes of consultation with USFWS, the document is not required to confirm impacts are less than significant. As with other projects and agreements, language in agency permits require the purchase of mitigation in the event of a preserve failing to meet success criteria. Because impacts

would be offset by either on-site or off-site wetland preservation, they are mitigatable and not significant.

D) *Permanent protection*: The name of the organization who would hold the conservation easement, the amount of endowment funds, the timing of easement recordation, and a long-term management plan (PMP) would be provided at the time of consultation.

Response to Comment 2-8

Mitigation ratios proposed for any permanently impacted vernal pool wetlands would be three to one (3:1) total; one to one (1:1) preservation for Clean Water Act no net loss plus two to one (2:1) creation to offset impacts to species protected under the Endangered Species Act (vernal pool crustaceans). Permanently impacted seasonal wetlands, that do not serve as habitat for listed-species are proposed to be mitigated at a one to one (1:1) ratio, which is the industry standard. While a request for additional acreage is outside industry standard and one to one (1:1) is considered appropriate at this time, the request for a higher ratio will be forwarded to the decision-makers for their consideration.

Response to Comment 2-9

A small stand of five oak trees is located on the northwest corner of the property. At this time, even with full buildout, they are scheduled for avoidance. Should any removal become necessary, it would be done so in accordance with the City of Oroville Code of Ordinances, Title 17, Section 17.12.065 Oak tree loss mitigation. Section 17.12.065 of the City of Oroville Code of Ordinances requires a tree removal permit approved by the Community Development Department to remove any oak tree that meets the applicability criteria, on- or off-site replacement, and payment of an in-lieu fee for each oak tree removed. In addition, Mitigation Measure 4.3-5 of the Draft EIR requires a site-specific tree management and preservation report be prepared by a certified arborist or urban forester prior to any construction activities associated with the proposed project. The report would be required to include recommendations for the retention of healthy mature trees wherever feasible and shall promote the concept of oak regeneration corridors within project design. Proof of compliance with Mitigation Measure 4.3-5 measure, including a copy of the tree management and preservation report, shall be submitted for review and approval to the City of Oroville Community Development Department.

Response to Comment 2-10

Per Mitigation Measure 4.1-3, the applicant must submit a Lighting Plan to the City for review and approval which must demonstrate that the site is “Dark-Sky” compliant per the International Dark Sky Community (IDSC) Program Guidelines (PG).

A) *Light Output Limits*: Per the IDSC PG, Minimum Requirements For All Communities (MRFAC) Section 1.B.i., “A limit on the emission of short-wavelength light through the following restriction: the correlated color temperature of lamps must not exceed three thousand (3000) Kelvins (K). Light at the 3000K area of the color spectrum still falls within the “warm white” portion of the color spectrum, while allowing for the use of energy efficient LED bulbs. This is already in alignment with CDFW’s comment.
B) *Light Pole Modifications and Shielding*: Per the IDSC PG, MRFAC Section 1.A., “Full shielding of all lighting fixtures over 1000 initial lamp lumens” shall be required. Additionally, the IDSC PG MRFAC Section 1.F., “Requires restrictions on the installation and operation of illuminated signs.” Including:

i. "Luminance levels for operation between sunset and sunrise shall not exceed 100 nits (100 candelas per square meter) as measured under conditions of a full white display; AND
ii. Sign illumination shall be extinguished completely one (1) hour after sunset, and remain off until one (1) hour before sunrise;" (IDSC, 2018)

Compliance with the IDSC PG, including the MRFAC would align the project with CDFW's comments and reduce potential impact to less than significant.

Response to Comment 2-11

The suggestions mentioned are noted, however, the generalized impact of bird collisions with future windows within the project is not sufficiently linked to a potentially significant environmental impact that would justify adding mitigation to the EIR.

Some future instances of reflective windows on warehouse facades facing open space and areas that support nesting birds would likely occur. The most likely avian species to collide with windows are those that are most locally abundant, and windows that pose the most hazard are larger, reflective, and positioned to reflect outside vegetation. Therefore, such future bird collisions within the project would likely occur among the bird species observed during biological field surveys (e.g., scrub jay, house finch, Brewer's blackbird, etc.), or the subset of those common species that remain following development of nearby residences. Because none of those bird species are deemed sensitive using the applicable EIR criteria, there is not sufficient justification to consider future bird collisions with buildings within the project a significant impact.

The City would, however, encourage the applicant to include information to building design team to alert them of this concern and to encourage optimal land stewardship by using window treatments such as installing screens, window patterns, or new types of glass such as acid-etched, fritted, frosted, etc. that minimize bird collisions, especially on larger window panes that face open space areas. The City would review any future plans for the above-mentioned features.

Response to Comment 2-12

The comment does not address the adequacy of the Draft EIR. However, the comment has been noted.

Response to Comment 2-13

The comment does not address the adequacy of the Draft EIR. The comment has been provided to the biological consulting firm that conducted surveys of the project site.

Response to Comment 2-14

The comment does not address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration. It is noted that the proposed project shall comply with all applicable requirements related to payment of applicable fees.

Response to Comment 2-15

The comment is a conclusion statement and does not address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Letter 3

CALIFORNIA STATE TRANSPORTATION AGENCY GAVIN NEWSOM, GOVERNOR

California Department of Transportation

DISTRICT 3
703 B STREET | MARYSVILLE, CA 95901-5556
(530) 821-8401
www.dot.ca.gov

February 18, 2025

GTS# 03-BUT-2022-00354
SCH# 2022090522

Wes Ervin
City of Orville Community Development Department
1735 Montgomery Street,
Oroville, CA 95965

Ophir Road Warehouse Project Draft Environmental Impact Report

Dear Mr. Ervin:

Thank you for including the California Department of Transportation (Caltrans) in the review process for the project referenced above. We reviewed this local development for impacts to the State Highway System (SHS) in keeping with our mission, vision, and goals, some of which includes addressing equity, climate change, and safety, as outlined in our statewide plans such as the California Transportation Plan, Caltrans Strategic Plan, and Climate Action Plan for Transportation Infrastructure.

3-1 The proposed project is approximately 1 mile from State Route (SR) 70 and would include the development of four warehouse buildings on-site totaling approximately 3.2 million square feet (sf). Each of the buildings would consist of a one-story concrete tilt-up warehouse with depressed dock areas and would range from 774,000 sf to 869,200 sf. The buildings would each have between 76 and 86 dock doors. Each building would also provide approximately 20,000 sf of office space. A total of 2,152 vehicle parking spaces would be provided on-site. Site access would be provided by a new driveway off Ophir Road to the north and a new driveway off Baggett Palermo Road to the east. The southern portion of the project site would remain undeveloped. Caltrans has previously commented on the Notice of Preparation for this project. Based on the completed Draft Environmental Impact Report provided, Caltrans has the following requests and recommendations:

Highway Operations and Safety

3-2

- As discussed in the City of Oroville 2030 General Plan (Policy P3.4), the City of Oroville should be collecting fair share fees for the City of Oroville to support

Letter 3 Cont.

3-2 Cont.

all future improvements on the SHS adjacent to and near the proposed development. Provide a detailed plan of the fair share of the costs of circulation improvements.

- As requested in the first set of comments by Highway Operations, prepare a Traffic Impact Analysis (TIA) based on Caltrans guidelines. Caltrans recommends having a TIA pre-scoping meeting to discuss which intersections and roadway segments to include in the analysis. The TIA should include safety, queuing, and operational impacts caused by the project and mitigation measures.

3-3

- Replying to "Mitigation Measures" on page 1809, if mitigation measures are needed to improve traffic safety on SR 70 or SR 162, the City of Oroville and relevant sectors must comply with the Caltrans Highway Design Manual, California Manual on Uniform Traffic Control Devices, and the American Association of State Highway and Transportation Officials.
- Please provide the future anticipated levels of service and truck and vehicle volumes along with a specific trip distribution pattern on SR 70 (in all directions) connected with Ophir Road.

3-4

Please provide our office with copies of any further actions regarding this proposal. We would appreciate the opportunity to review and comment on any changes related to this development.

If you have any questions regarding these comments or require additional information, please contact Morgan Gross, Local Development Review Coordinator, by phone (530) 720-2778 or via email at morgan.gross@dot.ca.gov.

Sincerely,

Gary Arnold

GARY ARNOLD, Branch Chief
Local Development Review and Complete Streets
Division of Planning, Local Assistance, and Sustainability
California Department of Transportation, District 3

"Provide a safe and reliable transportation network that serves all people and respects the environment"

LETTER 3: CALIFORNIA DEPARTMENT OF TRANSPORTATION

Response to Comment 3-1

The comment is an introductory statement regarding the role of the California Department of Transportation (Caltrans) and provides a summary of the project description and setting. The comment does not address the adequacy of the Draft EIR.

Response to Comment 3-2

The comment does not address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration. It is noted that the proposed project shall comply with all applicable requirements related to payment of applicable fees.

Response to Comment 3-3

A Transportation Impact Analysis Report was prepared for the proposed project and was included as Appendix L to the Draft EIR. As discussed therein, the report was prepared in accordance with Senate Bill 743, the Vehicle Miles Traveled-Focused Transportation Study Guide (TISG), the Interim Local Development and Intergovernmental Review (LDIGR) Safety Review Practitioners Guide, the Butte County Association of Government (BCAG) guidance and regulations, the City of Oroville 2030 General Plan, the City of Oroville Bicycle Transportation Plan (BTP) 2010, the Balanced Mode Circulation Plan, the Oroville Climate Action Plan, and the City of Oroville Code of Ordinance.

Additionally, as discussed on page 4.9-6 of the Draft EIR, the evaluation of VMT over level of service (LOS) is consistent with Senate Bill (SB) 743, which passed in 2013. As a result of SB 743 and Section 15064.3 of the CEQA Guidelines, local jurisdictions may not rely on LOS and similar measures related to delay as the basis for determining the significance of transportation impacts under CEQA. Thus, consistent with the CEQA Guidelines, VMT is the primary metric used to identify transportation impacts to roadway systems within the chapter. It should be noted that although the City may consider potential effects related to LOS as part of an evaluation of the proposed project's consistency with General Plan policies for planning purposes, the Draft EIR is not required to include or consider a LOS analysis, pursuant to the requirements established by CEQA.

Nonetheless, the request to provide LOS information has been received by the City and will be considered accordingly. As discussed within the Draft EIR, the proposed buildings are speculative, and future tenants are unknown at this time; thus, the Draft EIR evaluated the maximum buildout allowed for a large-scale distribution center within the project site. In addition, a specific development application has not yet been received by the City for the project site. The City will require an LOS analysis per Caltrans' request at the time a specific development application for the project site is submitted.

Response to Comment 3-4

The comment consists of a conclusion statement and does not address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Letter 4

February 21, 2025

Advocates for the Environment

A non-profit public-interest law firm
and environmental advocacy organization



Wes Ervin
Principal Planner
City of Oroville
1735 Montgomery Street
Oroville, CA 95965

Via U.S. Mail and email to wervin@cityoforoville.org

Re: Comments on Draft Environmental Impact Report for Ophir Road Warehouse Project, SCH No. 2022090522

Dear Mr. Ervin:

4-1 Advocates for the Environment submits the comments in this letter regarding the Draft Environmental Impact Report (**DEIR**) for the Ophir Road Warehouse Project (**Project**). The Project Site is located southwest of the intersection of Ophir Road and Baggett Palermo Road in the City of Oroville (**City**). The Project proposes to develop the 170.21-acre Project Site by constructing four warehouse buildings totaling approximately 3.2 million square feet. We have reviewed the DEIR released in January 2025 and submit comments regarding the sufficiency of the DEIR's Greenhouse-Gas (**GHG**) analysis under the California Environmental Quality Act (**CEQA**).

The City Should Require the Project to be Net-Zero

4-2 Given the current regulatory context and technological advancements, a net-zero significance threshold is feasible and extensively supportable. GHG emissions from buildings, including indirect emissions from offsite generation of electricity, direct emissions produced onsite, and from construction with cement and steel, amounted to 21% of global GHG emissions in 2019. (IPCC Sixth Assessment Report, Climate Change 2022, WGIII, Mitigation of Climate Change, p. 9-4.) This is a considerable portion of global GHG emissions. It is much more affordable to construct new building projects to be net-zero than to obtain the same level of GHG reductions by expensively retrofitting older buildings to comply with climate change regulations. Climate damages will keep increasing until we reach net zero GHG emissions, and there is a California state policy requiring the state to be net-zero by 2045. It therefore is economically unsound to construct new buildings that are not net-zero.

Environmental groups have achieved tremendous outcomes by litigation under CEQA. Two of the largest mixed-use development projects in the history of California, Newhall Ranch (now FivePoint Valencia), and Centennial (part of Tejon Ranch) decided to move forward as net-zero communities after losing CEQA lawsuits to environmental groups. The ability for these large projects

10211 Sunland Blvd., Shadow Hills, CA 91040 (818) 650-0030 X101 dw@aenv.org

Letter 4 Cont.

to become net-zero indicates that it is achievable, even for large-scale developments. The Applicant for this Project should do the same.

We urge the City to adopt net-zero as the GHG significance threshold for this project. This threshold is well-supported by plans for the reduction of GHG emissions in California, and particularly the CARB Climate Change Scoping Plans. The CARB 2017 Scoping Plan states that "achieving no net additional increase in GHG emissions, resulting in no contribution to GHG impacts, is an appropriate overall objective for new development." (CARB 2017 Scoping Plan, p. 101.) Additionally, the CARB 2022 Scoping Plan reaffirms the necessity of a net zero target by expressing: "it is clear that California must transition away from fossil fuels to zero-emission technologies with all possible speed … in order to meet our GHG and air quality targets." (CARB 2022 Scoping Plan, p. 184.) CARB further encourages a net-zero threshold in its strategies for local actions in Appendix D to the 2022 Scoping Plan. (CARB 2022 Scoping Plan, Appendix D p. 24-26.)

4-2 Cont.

Moving this Project forward as a net-zero project would not only be the right thing for the City to do, but also would help protect the City and the Applicant from CEQA GHG litigation.

GHG Mitigation is Insufficient under CEQA

The calculated project-related emissions amount to 11,228 metric tons of carbon dioxide equivalent (**MTCO2e**) per year (DEIR, p. 4.2-65). The City adopted a significance threshold based on Appendix G of the CEQA Guidelines. It combined its Air Quality, Greenhouse Gas, and Energy analyses into a single section. As a result, this comment letter considers Section 4.2-7 as the sole portion of the DEIR's analysis that addresses greenhouse gas emissions. The City elected to use the City of Oroville's Climate Action Plan (**CAP**) to assess the Project's GHG emissions and determined that the Project would result in significant GHG emissions. To reduce this identified significant GHG impact, the GHG Analysis offered Mitigation Measures (**MM**) 4.2-7(a) and 4.7-2(b). (DEIR, p. 4.2-73.) The lead agency did not quantify the amount of GHG emissions the mitigation measures would reduce but concluded that the remaining emissions after mitigation would still be significant.

4-3

The DEIR did not provide evidence that there was no further feasible mitigation, generally declaring the GHG impact "significant and unavoidable" (DEIR, p. 4.2-72.) The City did not provide any specific rationale why, in this instance, existing regulations and the adopted mitigation measures would be the only feasible mitigation for this Project. Nor did the City reject any mitigation measures for being infeasible. Despite the availability of other feasible GHG mitigation measures, the DEIR declared that the Project's mitigated emissions were unavoidable. However, because this conclusion is not supported by substantial evidence, the DEIR should have included additional mitigation to reduce the Project's GHG emissions to the extent required by CEQA.

4-4

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Letter 4 Cont.

Lack of Certainty and Enforceability

CEQA mitigation measures must be enforceable and effective. Here, some of the mitigation measures are unenforceable and not guaranteed to be effective; they are thus improper as CEQA mitigation. For example, MM 4.2-7(a) requires that 25% of heavy-duty off-road vehicles used in project construction be electric. However, the DEIR concedes that this measure's feasibility depends on the availability of electric vehicles, meaning it may not be achievable at the time of construction. (DEIR, p. 4.2-72.) While CEQA allows some flexibility in mitigation details, it requires agencies to commit to enforceable mitigation and establish clear performance standards. Here, MM 4.2-7(a) lacks a contingency plan to ensure GHG reductions if electric vehicles are unavailable. The measure provides no alternative mitigation actions, leaving a gap in enforceability and effectiveness. Without a backup plan, the City fails to guarantee that project emissions will be reduced as required under CEQA, rendering the mitigation inadequate.

4-5

Infeasibility Finding Lacks Substantial Evidence

The conclusion that the Project will not be able to achieve any mitigation beyond which was identified in the proposed mitigation measures is not supported with substantial evidence. CEQA requires that the lead agency identifies specific reasons for infeasibility of further mitigation when concluding significant and unavoidable impact. The City did not attempt to specify any infeasible mitigation measures when concluding that the Project's GHG impact would be unavoidable, nor did it provide any reasoning that the identified mitigation measures represent the maximum feasible mitigation of the Project's significant GHG impact.

4-6

There are other readily available mitigation measures, especially considering that about 67%[1] of the Project's GHG impact originates from mobile emissions which the mitigation measures were not primarily focused on reducing. Even though the Project would require that 25% of the energy demand be produced onsite through solar, this would not impact the GHG emissions from the heavy-duty truck vehicle fleet that would be utilized during Project operations. For instance, the City and Applicant together can commit to design and technology specifications that reduce emissions, especially in the heavy-duty truck and transportation vehicle fleet. Constructing infrastructure necessary for the zero-emission future of the goods movement would help reduce the Project emissions now, and can also save money over time as regulations tighten and demand for zero-emission infrastructure grows.

4-7

Although CARB and other authorities have regulatory power over heavy-duty trucks, there are still opportunities for local jurisdictions to mitigate mobile emissions at the project level. For example, the Project could incorporate a mitigation measure that would require future tenants to enroll in the United States Environmental Protection Agency's SmartWay program and require tenants to use

4-8

[1] $\left(\frac{7{,}497\ MTCO2e}{11{,}228\ MTCO2e}\right) x\ 100 = 66.77\%$

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Letter 4 Cont.

4-8 Cont.

SmartWay carriers.[2] To further encourage fleet upgrades to zero-emission vehicles, the applicant could provide tenants with information on fleet upgrade incentive programs such as the Carl Moyer Program[3] and the Voucher Incentive Program[4] to upgrade their fleets. Thus, the conclusion that further mitigation is infeasible was not supported by substantial evidence.

The Project's GHG Impacts Must be Fully Mitigated

CEQA requires that the Project include fair-share mitigation for all significant cumulative impacts. (*Napa Citizens for Honest Gov't v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 364.) Here, this means mitigation of the full extent of the Project's GHG impacts.

4-9

An agency must consider a project's GHG impact over time to reasonably evaluate the full extent of environmental impact as CEQA requires. The City did not estimate or account for the GHG impact across the Project's lifespan. However, the reasonable lifespan of a commercial building averages 50 to 60 years.[5] Therefore, the Project would likely contribute over half a million MTCO2e during its entire lifespan.[6] This would be a good starting point from which to subtract the effect of additional non-offset mitigation measures, before implementing offset purchases. Mitigation measures which consider the long-term viability of the Project will have the most impact on reducing the Project's lifetime GHG impact.

4-10

CEQA does not distinguish between mobile and non-mobile sources of GHG emissions; the lead agency can mitigate cumulative GHG impacts through any measure that would reduce GHG emissions. While the report discusses refrigerated trucks and their designated docking areas (DEIR, p. 4.7-19), there is no proposed mitigation for warehouse refrigeration storage or Transportation Refrigeration Units (TRUs), which are reasonably foreseeable. The City should commit to using low-warming HFCs or alternative refrigerants, as well as energy-efficient refrigeration systems, to reduce the project's climate impact.

4-11

Beyond addressing these gaps, the Project could incorporate additional on-site mitigation strategies. In addition to implementing zero-emission vehicle fleets to the extent feasible, the Project could install solar panels to offset 100% of the warehouse's operational energy usage rather than the 25% on-site renewable energy generation required by the CAP. (DEIR, p. 4.2-66.) Other feasible measures include requiring all generators to be powered by non-diesel fuel, installing solar water heaters, and automatic light switches. Such features could be adopted individually or as part of a comprehensive goal of sustainable building certification, such as achieving higher levels of Leadership

[2] https://www.epa.gov/smartway
[3] https://ww2.arb.ca.gov/our-work/programs/carl-moyer-memorial-air-quality-standards-attainment-program
[4] https://ww2.arb.ca.gov/our-work/programs/road-heavy-duty-voucher-incentive-program
[5] https://bciconstruction.us/which-factors-determine-the-lifespan-of-a-building/#:~:text=Use%20of%20the%20Building,-Finally%2C%20the%20use&text=A%20warehouse%20used%20to%20produce,for%20major%20repairs%20or%20renovations.
[6] 11,228 MTCO2e per year × 50 years = 561,400 MTCO2e

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Letter 4 Cont.

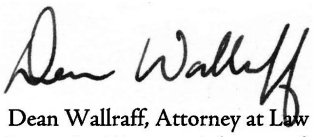
4-11 Cont. and Energy and Environmental Design (**LEED**) certification beyond the certified level and extending further beyond CALGreen requirements.

Even after implementing operational emissions reductions to the maximum-feasible extent, the City could also require the Applicant to purchase offsets for the Project's remaining GHG emissions. **4-12** Overall, there are more options available to mitigate emissions to the full extent of project emissions, and the City failed to acknowledge or implement many mitigation measures which are feasible and could help reduce the Project's GHG impact to the fair share extent.

Conclusion

The DEIR fails to require all feasible mitigation, despite concluding that the significant GHG **4-13** impact will be unavoidable. The lead agency has not met its burden of showing that such measures are infeasible, and therefore the DEIR should be amended to reflect all feasible mitigation to the fair-share extent. Please put me on the interest list to receive updates about the progress of this Project. We make this request under Public Resources Code, section 21092.2.

Sincerely,



Dean Wallraff, Attorney at Law
Executive Director, Advocates for the Environment

10211 Sunland Blvd., Shadow Hills, CA 91040 (818) 650-0030 X101 dw@aenv.org

LETTER 4: ADVOCATES FOR THE ENVIRONMENT

Response to Comment 4-1

The comment is introductory and does not address the adequacy of the Draft EIR.

Response to Comment 4-2

The California Air Resources Board (CARB) 2022 Scoping Plan Update lays out a path to achieve targets for carbon neutrality and reduce GHG emissions by 85 percent below 1990 levels by 2045, as directed by Assembly Bill (AB) 1279. Appendix D to the CARB 2022 Scoping Plan Update provides examples of key project attributes that could be considered to assess a project's compliance with the State's 2030 GHG emissions reductions goals. Thus, general implementation of the suggested project attributes within the 2022 Scoping Plan Update would be considered to demonstrate the project's compliance with SB 32. As discussed under Impact 4.2-7 in Chapter 4.2, Air Quality, Greenhouse Gas Emissions, and Energy, of the Draft EIR, the proposed project would generally be consistent with the key attributes of the 2022 Scoping Plan Update, and, therefore, would comply with the State's 2030 GHG emissions reductions goals. However, neither the City, nor the Butte County Air Quality Management District (BCAQMD), nor any other regulatory agency with approval authority over the proposed project has a specific requirement that the project be net zero. Thus, a nexus for the City to require the proposed project to be net zero does not exist. Any obligation for the proposed project to be net zero would be voluntary, and the City has not indicated such voluntary measures would be implemented, although future applicants may take this into consideration. Nonetheless, the comment is noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 4-3

As discussed in Chapter 4.2, Air Quality, Greenhouse Gas Emissions, and Energy, of the Draft EIR, the BCAQMD has not adopted numerical thresholds of significance for GHG emissions that would apply to the project. Therefore, for analysis purposes, the proposed project was evaluated for impacts related to GHG emissions in accordance with the City's Climate Action Plan (CAP). According to the City of Oroville CAP, the CAP serves as a Qualified GHG Reduction Strategy under Section 15183.5(b) of the CEQA Guidelines. Accordingly, projects can rely on consistency with the CAP to meet project-level CEQA evaluation requirements for GHG emissions. As noted within the CAP, project-specific environmental documents that rely on the CAP can qualitatively evaluate GHG impacts by identifying all applicable CAP actions and describing how such actions have been incorporated into the project design and/or identified as mitigation. If a project can demonstrate consistency with applicable CAP strategies, that project can also be determined to have a less-than-significant cumulative impact on GHG emissions and climate change.

The Draft EIR provided an analysis of the proposed project's consistency with both the City's CAP and the CARB 2022 Scoping Plan Update. The project's quantified GHG emissions are presented for disclosure purposes only, consistent with BCAQMD recommendations. Because the proposed project is not subject to quantitative GHG thresholds, a calculation of the reduction of GHG emissions with implementation of Mitigation Measures 4.2-7(a) and 4.2-7(b) is not required. Implementation of the aforementioned Mitigation Measures would ensure project consistency with the City's CAP, which is the applicable threshold for evaluating impacts related to GHGs under CEQA.

Response to Comment 4-4

Please see Response to Comment 4-3. Mitigation Measures 4.2-7(a) and 4.2-7(b) would require measures that would ensure consistency with Action LUT-7.1 and Action LUT-2.1 of the City of Oroville CAP, as well as provide subsequent reductions in GHG emissions. As stated in the Draft EIR, the feasibility of Mitigation Measure 4.2-7(a) relies on the adequate availability of electric heavy-duty off-road vehicles at the time of construction. If a disruption in the manufacturing of electric heavy-duty off-road vehicles occurs or sufficient vehicles are not commercially available, Mitigation Measure 4.2-7(a) may not be feasible at the time of construction. Thus, the Draft EIR conservatively concluded that the impacts would remain significant and unavoidable, as such uncertainties are beyond the control of the City. However, Mitigation Measure 4.2-7(a) would be required to be implemented to the maximum extent feasible at the time of construction.

In addition, due to uncertainties regarding the ability for Transportation Demand Management (TDM) programs to reduce VMT impacts to a less-than-significant level, VMT impacts would be considered significant and unavoidable. Consequently, even with implementation of Mitigation Measure 4.2-7(b), the proposed project would still be considered inconsistent with Action LUT-7.1 of the City's CAP, as well as the 2022 Scoping Plan Update.

The relevant threshold for assessing GHG emissions associated with the proposed project is the proposed project's consistency with both the City's CAP and the CARB 2022 Scoping Plan Update. The mitigation measures included in the Draft EIR are targeted at ensuring project consistency with the City's CAP. The additional mitigation measures suggested within the comment do not result in the project being further consistent with the City's CAP. However, such recommended measures will be added to a list of considerations that the City will use to evaluate future project applications, as specific applications for the project site come forward.

Response to Comment 4-5

Please see Responses to Comments 4-3 and 4-4. Further, the comment supports the significant and unavoidable impact related to GHG emissions that was determined within the Draft EIR.

Response to Comment 4-6

Please see Responses to Comments 4-3, 4-4, and 4-5.

Response to Comment 4-7

Please see Responses to Comments 4-3, 4-4, 4-5, and 6-8. Additionally, a specific development application has not yet been received by the City for the project site. The City will consider the design features noted in the comment at the time that a specific development application for the project site is received. Moreover, Mitigation Measure 4.2-3 of the Draft EIR includes the requirement for a portion of the heavy-duty truck fleet associated with the proposed warehouse buildings to be all electric. The comment is noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 4-8

The comment recommends requiring tenants to enroll in the USEPA's SmartWay program and providing tenants with information on incentive programs, such as the Carl Moyer Program and Voucher Incentive Program, to upgrade their fleets. Please see Responses to Comments 4-3, 4-4, and 4-5. Additionally, such recommendations will be considered by the City as future development of the site is proposed, as the proposed buildings are speculative, future tenants are

unknown at this time, and a specific development application has not yet been received by the City for the project site. However, implementation of such features would not change the conclusions of the Draft EIR, as the GHG impacts identified for the proposed project are related to consistency with specific measures included within the City's CAP and the 2022 Scoping Plan. The comment is noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 4-9

Please see Responses to Comments 4-3, 4-4, 4-5, 4-7, and 4-8. In addition, the intent of the City's CAP is to provide CAP actions intended to reduce Citywide GHG emissions, and the 2022 Scoping Plan Update provides examples of key project attributes that could be considered to assess a project's compliance with the State's GHG emissions reductions goals. Thus, the actions included in the City's CAP and the 2022 Scoping Plan Update's key project attributes include design features that by nature would inherently reduce GHG emissions over the lifetime of a project. The Draft EIR included an analysis of the proposed project's consistency with City's CAP and the 2022 Scoping Plan Update, and included mitigation measures intended to ensure project consistency with the City's CAP and the 2022 Scoping Plan Update to the maximum extent feasible. The comment is noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 4-10

The comment recommends using low-warming HFCs or alternative refrigerants, as well as energy efficient refrigeration systems. Please see Responses to Comments 4-3, 4-4, and 4-5. Additionally, a specific development application has not yet been received by the City for the project site. The City will consider the design features noted in the comment at the time that a specific development application for the project site is received. The comment is noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 4-11

The comment recommends installing solar panels to offset 100 percent of the warehouse's operational energy, use of non-diesel emergency generators, installing solar water heaters, and use of automatic light switches. Please see Responses to Comments 4-3, 4-4, and 4-5. Additionally, a specific development application has not yet been received by the City for the project site. The City will consider the design features noted in the comment at the time that a specific development application for the project site is received. The comment is noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 4-12

The comment recommends purchasing offset fees to reduce the proposed project's GHG emissions. Please see Responses to Comments 4-3, 4-4, and 4-5. As discussed therein, the project's quantified GHG emissions are presented for disclosure purposes only, consistent with BCAQMD recommendations, and the Mitigation Measures included in the Draft EIR are intended to ensure consistency with the City of Oroville CAP and 2022 Scoping Plan Update. Thus, payment of offset fees would not be required of the proposed project, as neither the City of Oroville, not BCAQMD require GHG reductions to be quantified or reduced to a numeric level of significance. Additionally, while not required, the City will consider the design features noted in Responses to Comments 4-7, 4-8, 4-10, and 4-11 at the time that a specific development

application for the project site is received. The comment is noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 4-13

Please see Responses to Comments 4-3, 4-4, and 4-5. The commenter has been added to the City's list of interested parties.

Letter 5

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209
kcarmichael@adamsbroadwell.com

SO. SAN FRANCISCO OFFICE
601 GATEWAY BLVD., SUITE 1000
SO. SAN FRANCISCO, CA 94080
TEL: (650) 589-1660
FAX: (650) 589-5062

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSON
RACHAEL E. KOSS
AIDAN P. MARSHALL
ALAURA R. McGUIRE

Of Counsel
MARC D. JOSEPH
DANIEL L. CARDOZO

February 12, 2025

Via Email and Overnight Mail

Patrick Piatt
Director, Community Development Department
City of Oroville
1735 Montgomery Street
Oroville, CA 95965
Email: ppiatt@cityoforoville.org

Kayla Reaster
Assistant City Clerk
City of Oroville
1735 Montgomery Street
Oroville, CA 95965
Email: Cityclerk@cityoforoville.org

Via Email Only

Wes Ervin, Principal Planner
wervin@cityoforoville.org
planning@cityoforoville.org

Re: Request to Extend the Public Comment Period for the Draft Environmental Impact Report - Ophir Road Warehouse Project (SCH 2022090522)

Dear Mr. Piatt, Mr. Ervin, and Ms. Reaster:

We are writing on behalf of Butte County Residents for Responsible Development ("Residents") to request that the City of Oroville ("City") extend the public review and comment period for the Draft Environmental Impact Report ("DEIR") for the Ophir Road Warehouse Project (SCH No. 2022090522) ("Project") **by at least 45 days due to the City's failure to provide timely access to the documents referenced and relied upon in the DEIR.** These documents were requested in Residents' January 16, 2025, letter requesting access to DEIR reference documents. This extension request is made pursuant to the California Environmental Quality Act[1] ("CEQA") Section 21092(b)(1), which requires that "all

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[1] Public Resources Code §§ 21000 et seq. (hereinafter "PRC"); 14 Cal. Code Regs. §§ 15000 et seq. (hereinafter "CEQA Guidelines").

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Letter 5 Cont.

documents referenced in the draft environmental impact report or negative declaration" be available for review and "readily accessible" during the entire comment period.[2]

We are also writing to advise the City that it failed to provide access to any public records in response to Residents' January 16, 2024 California Public Records Act ("CPRA") request for access to public records related to the Project, in violation of the CPRA. With this letter, we request that by no later than **Friday February 14, 2025**, the City provide us with immediate access to the requested records.

5-1 Cont.

Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential impacts associated with Project development. Residents include the International Brotherhood of Electrical Workers Local 340, Plumbers & Pipefitters Local 228, Sprinkler Fitters Local 669, Sheet Metal Workers Local 104, District Council of Ironworkers, their members and families, and other individuals that live and/or work in the City of Oroville and Butte County. Butte County Residents have a strong interest in enforcing the state's environmental laws that encourage sustainable development and ensure a safe working environment for its members.

On January 16, 2025, Residents submitted a letter to the City pursuant to CEQA Section 21092(b)(1) requesting immediate access to ***"copies of any and all documents referenced or relied upon***" in the DEIR ("DEIR Request").[3] On the same date, Residents submitted a separate CPRA request[4] seeking access to "***any and all public records referring or related"*** to the Project ("CPRA Request").[5] The DEIR Request and the CPRA Request were sent separately to avoid confusion as to what documents and records were sought and the bases for the requests.

On January 22, 2025, after receiving no records or response to either request, our office emailed the City requesting confirmation that the DEIR Request was received and that the City provide a timeline for the production of the requested

[2] PRC §§ 21092(b)(1) (emphasis added); 14 Cal. Code Regs. ("CCR") § 15087(c)(5).
[3] Letter from Adams Broadwell Joseph & Cardozo ("ABJC"), re Request for Immediate Access to Documents Referenced or Relied Upon in the Draft Environmental Impact Report (SCH 2022090522) for the Ophir Road Warehouse Project (January 16, 2024) (emphasis added).
[4] The CPRA Request was sent pursuant to the California Public Records Act, Government Code §§ 7920.000, *et seq.* and Article I, section 3(b) of the California Constitution.
[5] Letter from ABJC, re Public Records Act Request – Ophir Road Warehouse Project (SCH: 2022090522) (January 16, 2025) (emphasis added).
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Letter 5 Cont.

5-1 Cont.

reference documents.[6] In response, the City provided links to the Notice of Availability and DEIR for the Project, but failed to provide any of the reference documents requested by Residents.[7]

On January 23, 2025, after not receiving a satisfactory response, our office sent an email to the City identifying specific documents and files referenced in the DEIR, but which are not included in the DEIR or its appendices and are not accessible through weblinks in the DEIR. This request included 23 reference documents cited in DEIR section 8-1, and all unlocked emissions modeling input files in their native formats including:

- Native format American Meteorological Society/Environmental Protection Agency (AMS/EPA) Regulatory Model (AERMOD) input files used for the Project's construction and operational health risk assessment
- Native format California Emissions Estimator Model (CalEEMOD) input files for construction and operational criteria pollutant and GHG emissions assessment.
- Native format Hotspot Analysis Reporting Program Version 2 (HARP 2) input files used to analyze the Project's cancer and non-cancer health risks associated with DPM emissions from project related heavy-duty truck trips.

On February 5, 2025, the City uploaded several of the requested DEIR Request documents to the City's Public Records Portal under request number 25-11 in response to Residents' PRA Request.[8] However, not only was the DEIR Request confused with the PRA Request, several DEIR reference documents and files were not provided. Specifically, the City's response failed to include the air-modeling files which were specifically requested.

To date, over three weeks later, the City has not provided access to all of the DEIR reference documents responsive to our DEIR Request, nor to any public records related to the Project in response to our PRA Request, resulting in separate violations of CEQA and the CPRA.

[6] Email from ABJC, re Ophir Road Warehouse Project – Document Requests (January 22, 2025).
[7] Email from Wes Ervin (City of Oroville), re Request for Notice of CEQA Actions and Mailed Notice of Public Hearings Related to the Ophir Road Warehouse Project (7727) (January 22, 2025).
[8] City of Oroville, NextRequest, Request No. 25-11, available at https://cityoforovilleca.nextrequest.com/requests/25-11.
7727-005j

Letter 5 Cont.

A. CEQA Violations and Request to Extend DEIR Public Comment Period

CEQA requires that "all documents referenced in the draft environmental impact report or negative declaration" be available for review and "readily accessible" during the entire public comment period.[9] The courts have held that the failure to provide even a few pages of a CEQA document for a portion of the CEQA review period invalidates the entire CEQA process, and that such a failure must be remedied by permitting additional public comment.[10] It is also well settled that an EIR may not rely on hidden studies or documents that are not provided to the public.[11] Residents submitted the DEIR Request on January 16 to obtain access to DEIR reference documents which were not available on the City's website or CEQANet. To date, the City has not provided Residents with copies or links to all of the requested documents, nor provided Residents with information on where or how to obtain access to reference documents that are not available online. By failing to make all documents referenced in the DEIR "readily available" during the current comment period, the City is violating the clear procedural mandates of CEQA, to the detriment of Residents and other members of the public who wish to meaningfully review and comment on the DEIR.

5-1 Cont.

As noted above, the unlocked emissions modeling input files have not been provided in response to Residents' request. Furthermore, upon subsequent review, Residents identified additional reference documents that are not available for in the DEIR or its appendices. Specifically, according to the DEIR, "[t]he vehicle trip estimate for the proposed project is based on rates derived from Fehr & Peers data collection and research that collected 72 hours of driveway vehicle classification counts at 39 warehousing buildings across San Joaquin County in June 2021."[12] Per the DEIR, this "data was used to develop average trip generation rates per thousand square feet (ksf) for warehousing uses."[13] However, this data is not provided, nor is there a link to any report that would allow the public to independently verify the City's findings.

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[9] PRC § 21092(b)(1); 14 CCR § 15087(c)(5).
[10] *Ultramar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.
[11] *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 ("Whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.").
[12] DEIR, p. 4.9-15.
[13] *Ibid.*
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Letter 5 Cont.

5-1 Cont.

These reference documents are critical to understanding and commenting on the DEIR's analysis of the Project's impacts to several critical resource areas, including, in particular, the DEIR's analysis of the Project's air quality, health risk, transportation, greenhouse gas, and energy impacts.

Without access to these critical DEIR reference documents during the public comment period on the DEIR, Residents and other members of the public are precluded from having the meaningful opportunity to comment on the DEIR required by CEQA. The City's failure to make the underlying DEIR documents available during the entire comment period makes public review particularly burdensome in this case because of the DEIR's reliance on missing documents for significance determinations and mitigation measures to address the Project's environmental impacts. Without having access to these documents, Residents and other members of the public are unable to fully evaluate the accuracy of the DEIR's impact analysis, or the efficacy of the DEIR's proposed mitigation measures. Additionally, the size of the DEIR and the Project's complexity make it difficult to effectively comment on the DEIR without the referenced documents by the current comment deadline of February 21, 2025.

Accordingly, we request that:

1) The City immediately provide us with access to all reference documents relied upon in the DEIR that are not accompanied by weblinks, including but not limited to the unlocked emissions modeling input files and the vehicle trip data relied upon in the DEIR.

2) The City **extend the public review and comment period on the DEIR for at least 45 days from the date on which the City releases these documents for public review**.[14] If the missing documents are provided today, we request an extension to March 29, 2025.

[14] This Project has a 45-day public comment period, pursuant to 14 CCR § 15105 (projects submitted to the State Clearinghouse).

Letter 5 Cont.

B. CPRA Violations

The CPRA expressly forbids an agency to "delay or obstruct the inspection or copying of public records."[15] Even in instances where there are "unusual circumstances" in which requested documents are too voluminous or difficult to locate immediately or within 10 days, the CPRA limits any extension for an agency's substantive response to a maximum of 14 days.[16] Furthermore, the CPRA requires public records to be "open to inspection at all times during the office hours of the state or local agency" and provides that "every person has a right to inspect any public record."[17] Despite these clear requirements, the City has not provided access to any public records in over three weeks since Residents submitted its CPRA Request.

5-1 Cont.

On January 28, 2025, 12 days after Residents' CPRA request was filed, the City sent an email requesting an additional 14 days to respond to the CPRA request citing to a repealed and replaced government code section 6253(c).[18] The email did not provide any facts supporting the City's asserted need for a 14-day extension. Indeed, no extension is warranted in this case, which seeks basic records that should be readily accessible in the City's electronic files for a project undergoing active land use and CEQA review by the City, **such as the Project application, project plans, and recent electronic and hard copy correspondence to and from the City related to the Project.** In any event, the City's requested 14-day extension has now expired, and no documents have been produced. The City's unwillingness to provide access to any Project records demonstrates the delay and obstruction of access to public records that is prohibited by the CPRA. The City must correct these violations and provide us with immediate access to the requested records, including providing access to records on a rolling basis if necessary in order to expedite the City's response time.

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[15] Gov. Code § 7922.500.
[16] Gov. Code § 7922.535.
[17] Gov. Code § 7922.525.
[18] *See* State of California, Assembly Bill 473 (Approved by Governor October 07, 2021. Filed with Secretary of State October 07, 2021) which repealed the CPRA provisions formerly existing in Government Code Division 7, titled, "Miscellaneous," and recodified them in a new division: Division 10, titled, "Access to Public Records." The CPRA code sections formerly codified in Government Code sections 6250 through 6276.48 are now found in Government Code sections 7920.000 through 7930.215.

Letter 5 Cont.

5-1 Cont.

As explained in our CPRA request, we request access to the records in the form maintained by the City. If any of the requested records are available online, please provide us with the URL web address at which the records may be downloaded. If any of the requested records are retained by the City in electronic format such as PDF, please provide us with those records via email. We reserve the right to have a copy service make copies of any and all requested records.

C. Conclusion

The City has improperly delayed access to DEIR reference documents and public records to which Residents and other members of the public have a right to immediate access. Given the short time before the close of the current DEIR public comment deadline, please contact me as soon as possible with your response to this letter, but **no later than Friday, February 14, 2025.**

Please contact me with any questions regarding the above request by telephone at (916) 444-6201 or via email at kcarmichael@adamsbroadwell.com. Thank you for your prompt attention to this matter.

Sincerely,

Kevin Carmichael

KTC:ljl

7727-005j

LETTER 5: BUTTE COUNTY RESIDENTS FOR RESPONSIBLE DEVELOPMENT (ADAMS BROADWELL JOSEPH AND CARDOZO)

Response to Comment 5-1

The comment does not address the adequacy of the Draft EIR. On February 13, 2025, the City of Oroville denied the commenter's request to extend the public comment period beyond the February 21, 2025 deadlines, as the City provided the legally mandated minimum review period pursuant to CEQA Guidelines Section 15105(a).[1] To date, all requested materials have been provided.

[1] City of Oroville Community Development Department. *Re: Response for Extension of Public Comment Period for Draft Environmental Impact Report (EIR) – Ophir Road Warehouse Project (SCH 2022090522)*. February 13, 2025.

Letter 6

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209
kcarmichael@adamsbroadwell.com

SO. SAN FRANCISCO OFFICE
601 GATEWAY BLVD., SUITE 1000
SO. SAN FRANCISCO, CA 94080
TEL: (650) 589-1660
FAX: (650) 589-5062

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
DARION N. JOHNSON
RACHAEL E. KOSS
AIDAN P. MARSHALL
ALAURA R. McGUIRE

Of Counsel
MARC D. JOSEPH
DANIEL L. CARDOZO

February 21, 2025

Via Email and Overnight Mail
Wes Ervin, Planner
City of Oroville
Community Development Department
1735 Montgomery Street
Oroville, CA 95965
Email: wervin@cityoforoville.org

Re: Comments on the Draft Environmental Impact Report for the Ophir Road Warehouse Project (SCH 2022090522)

Dear Mr. Ervin:

We are writing on behalf of Butte County Residents for Responsible Development ("Residents") to provide comments on the Draft Environmental Impact Report ("DEIR") for the Ophir Road Warehouse Project (SCH No. 2022090522) ("Project") prepared by the City of Oroville ("City").[1]

6-1 The Project proposes the construction of approximately 3.2 million square feet ("SF") of warehouse space comprised of four buildings ranging in size from 774,000 SF to 869,200 SF.[2] The Project proposes a maximum building height of 100 feet to accommodate potential requirements of future tenants.[3] As such, City approval of a Use Permit would be required for the proposed project to allow for an increased building height on-site.[4] The proposed warehouse buildings are speculative warehouses, and, according to the DEIR, tenants for the buildings were unknown at the time the DEIR was prepared.[5]

[1] City of Oroville, Ophir Road Warehouse Project Draft Environmental Impact Report (SCH No. 2022090522) (hereinafter "DEIR") (January 2025) available at https://ceqanet.opr.ca.gov/2022090522/2.
[2] DEIR, p. 2-1.
[3] DEIR, p. 3-4.
[4] DEIR, p. 3-8.
[5] DEIR, p. 3-4.
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Letter 6 Cont.

6-1 Cont.

The Project site is located southwest of the intersection of Ophir Road and Baggett Palermo Road in the City of Oroville, California, on two parcels totaling approximately 170.21-acres (Assessor's Parcel Numbers 078-010-047 and 078-020-035).[6]

Residents reviewed the DEIR and its technical appendices with the assistance of air quality and public health expert James Clark, Ph.D.,[7] noise expert Deborah Jue,[8] and transportation expert Norm Marshall.[9] The City must separately respond to these technical comments.

6-2

Based upon Residents' review of the DEIR and supporting documentation, Residents conclude that the DEIR fails to comply with the requirements of the California Environmental Quality Act ("CEQA").[10] In summary, the DEIR's Project description is inadequate because the DEIR fails to analyze impacts from all reasonably foreseeable uses for the speculative warehouses proposed by the Project. Next, the DEIR's impacts analyses are not supported by substantial evidence. The DEIR underestimates the Project's emissions of criteria air pollutants, toxic air contaminants ("TACs"), and greenhouse gases ("GHGs") by failing to analyze emissions from stationary equipment. The DEIR fails to adequately analyze the Project's cumulative health risk and air quality impacts in light of the community's existing pollution burden resulting from similar warehouse projects. The DEIR claims that the Project's air quality and greenhouse gas ("GHG") impacts are significant and unavoidable, but fails to identify all feasible mitigation measures. The DEIR fails to analyze all impacts associated with construction of infrastructure improvements. As a result of its shortcomings, the DEIR lacks substantial evidence to support its conclusions, violates CEQA's disclosure and analytical requirements, and fails to properly mitigate the Project's significant environmental impacts.

[6] DEIR, p. 3-1.
[7] Dr. Clark's technical comments and curricula vitae are attached hereto as **Exhibit A** ("Clark Comments")
[8] Ms. Jue's technical comments and curricula vitae are attached hereto as **Exhibit B** ("Jue Comments")
[9] Mr. Marshall's technical comments and curricula vitae are attached hereto as **Exhibit C** ("Marshall Comments").
[10] PRC § 21100 et seq.
7727-006j

6-3 Residents urges the City to remedy the deficiencies in the DEIR by preparing a legally adequate revised DEIR and recirculating it for public review and comment.[11] Residents reserves the right to provide supplemental comments at any and all later proceedings related to this Project.[12]

I. STATEMENT OF INTEREST

Butte Residents is an unincorporated association of individuals and labor organizations with members who may be adversely affected by the potential public and worker health and safety hazards and environmental and public service impacts of the Project. The association includes Oroville residents, Andrew Willman and Wang Yang, along with the International Brotherhood of Electrical Workers Local 340, Plumbers & Pipefitters Local 228, Sprinkler Fitters Local 669, Sheet Metal Workers Local 104, District Council of Ironworkers, and their members and their families, and other individuals that live, recreate and/or work in and around the City.

6-4 Butte Residents supports the development of sustainable commercial and industrial centers where properly analyzed and carefully planned to minimize impacts on public health and the environment. Industrial warehouse projects like the Project should avoid adverse impacts to air quality, noise levels, transportation, and public health, and should take all feasible steps to ensure that unavoidable impacts are mitigated to the maximum extent feasible. Only by maintaining the highest standards can commercial and industrial development truly be sustainable.

The individual members of Butte Residents and the members of the affiliated labor organizations live, work, recreate and raise their families in and around the City. They would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work constructing the Project itself. They would be the first in line to be exposed to any health and safety hazards which

[11] We reserve the right to supplement these comments at later hearings on this Project. Gov. Code § 65009(b); Public Resources 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.

[12] Gov. Code § 65009(b); PRC § 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.

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may be present on the Project site. They each have a personal interest in protecting the Project area from unnecessary, adverse environmental and public health impacts.

Butte Residents and its members also have an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for the members they represent. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for industry to expand in the City, and by making it less desirable for businesses to locate and people to live and recreate in the City, including the Project vicinity. Continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

6-4 Cont.

Finally, Butte Residents is concerned with projects that can result in serious environmental harm without providing countervailing economic benefits. CEQA provides a balancing process whereby economic benefits are weighed against significant impacts to the environment.[13] It is in this spirit we offer these comments.

II. LEGAL BACKGROUND

CEQA requires public agencies to analyze the potential environmental impacts of their proposed actions in an EIR.[14] "The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language."[15]

6-5

CEQA has two primary purposes. First, CEQA is designed to inform decisionmakers and the public about the potential significant environmental effects of a project.[16] "Its purpose is to inform the public and its responsible officials of the

[13] PRC § 21081(a)(3); *Citizens for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 171.
[14] PRC § 21100.
[15] *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal ("Laurel Heights I")* (1988) 47 Cal.3d 376, 390 (internal quotations omitted).
[16] Pub. Resources Code § 21061; CEQA Guidelines §§ 15002(a)(1); 15003(b)-(e); *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 517 ("[T]he basic purpose of an EIR is to provide public agencies and the public in general with detailed information about the effect [that] a proposed

6-5 Cont.

environmental consequences of their decisions before they are made. Thus, the EIR 'protects not only the environment but also informed self-government.'"[17] 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."[18] As the CEQA Guidelines explain, "[t]he EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected."[19]

Second, CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring consideration of environmentally superior alternatives and adoption of all feasible mitigation measures.[20] The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to "identify ways that environmental damage can be avoided or significantly reduced."[21] If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment" to the greatest extent feasible and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns."[22]

While 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."[23] As the courts have explained, a prejudicial abuse of discretion occurs "if the failure to include relevant information precludes informed decision-making and informed public participation, thereby

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project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.").
[17] *Citizens of Goleta Valley,* 52 Cal.3d at p. 564 (quoting *Laurel Heights I*, 47 Cal.3d at 392).
[18] *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810; *see also Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal.App.4th 1344, 1354 ("*Berkeley Jets*") (purpose of EIR is to inform the public and officials of environmental consequences of their decisions *before* they are made).
[19] CEQA Guidelines § 15003(b).
[20] CEQA Guidelines § 15002(a)(2), (3); *see also Berkeley Jets*, 91 Cal.App.4th at 1354; *Citizens of Goleta Valley,* 52 Cal.3d at p. 564.
[21] CEQA Guidelines § 15002(a)(2).
[22] PRC § 21081(a)(3), (b); CEQA Guidelines §§ 15090(a), 15091(a), 15092(b)(2)(A), (B); *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.
[23] *Berkeley Jets*, 91 Cal.App.4th at p. 1355 (emphasis added) (quoting *Laurel Heights I*, 47 Cal.3d at 391, 409, fn. 12).
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6-5 Cont.

thwarting the statutory goals of the EIR process."[24] "The ultimate inquiry, as case law and the CEQA guidelines make clear, is whether the EIR includes enough detail 'to enable who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.'"[25]

III. THE DEIR FAILS TO PROVIDE AN ACCURATE AND STABLE PROJECT DESCRIPTION

6-6

The DEIR does not meet CEQA's requirements because it fails to include an accurate and complete Project description, rendering the entire analysis inadequate. California courts have repeatedly held that "an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR."[26] CEQA requires that a project be described with enough particularity that its impacts can be assessed.[27] Without a complete project description, the environmental analysis under CEQA is impermissibly limited, thus minimizing the project's impacts and undermining meaningful public review.[28] Accordingly, a lead agency may not hide behind its failure to obtain a complete and accurate project description.[29]

CEQA Guidelines section 15378 defines "project" to mean "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment."[30] "The term "project" refers to the activity which is being approved, and which may be subject to several discretionary approvals by governmental

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[24] *Berkeley Jets*, 91 Cal.App.4th at p. 1355; *see also San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722 (error is prejudicial if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process); *Galante Vineyards*, 60 Cal.App.4th at p. 1117 (decision to approve a project is a nullity if based upon an EIR that does not provide decision-makers and the public with information about the project as required by CEQA); *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946 (prejudicial abuse of discretion results where agency fails to comply with information disclosure provisions of CEQA).
[25] *Sierra Club*, 6 Cal.5th at p. 516 (quoting *Laurel Heights I*, 47 Cal.3d at 405).
[26] *Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 17; *Communities for a Better Environment v. City of Richmond* ("*CBE v. Richmond*") (2010) 184 Cal.App.4th 70, 85–89; *County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 Cal.App.3d 185, 193.
[27] 14 CCR § 15124; *see, Laurel Heights I, supra,* 47 Cal.3d 376, 192-193.
[28] *Id.*
[29] *Sundstrom v. County of Mendocino* ("*Sundstrom*") (1988) 202 Cal.App.3d 296, 311.
[30] CEQA Guidelines § 15378.
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6-6 Cont.

agencies. The term project does not mean each separate governmental approval."[31] Courts have explained that a complete description of a project must "address not only the immediate environmental consequences of going forward with the project, but also all "*reasonably foreseeable* consequence[s] of the initial project."[32] "If a[n]...EIR...does not adequately apprise all interested parties of the true scope of the project for intelligent weighing of the environmental consequences of the project, informed decision-making cannot occur under CEQA and the final EIR is inadequate as a matter of law."[33]

A. The DEIR Fails to Identify Reasonably Foreseeable Use of Transportation Refrigeration Units

6-7

CEQA is concerned with a project's environmental impacts, regardless of who ultimately uses or operates a project.[34] However, courts have held that where the tenant or type of business is foreseeable and there is evidence that an impact unique to that tenant or type of business will result, an EIR must disclose that information.[35] An EIR must include an analysis of the environmental effects of a proposed future use or action at a project site if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.[36] A failure to describe anticipated project operations can result in a flawed impact analysis, in violation of CEQA.[37] An EIR is required to "adequately apprise all interested parties of the true scope of the project for intelligent weighing of the environmental consequences of the project," otherwise, informed decisionmaking is precluded and the EIR may be deemed inadequate as a matter of law.[38]

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[31] *Id.*, § 15378(c).
[32] *Laurel Heights I,* 47 Cal. 3d 376, 398 (emphasis added); *see also Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 449-50.
[33] *Riverwatch v. Olivenhain Municipal Water Dist.* (2009) 170 Cal. App. 4th 1186, 1201.
[34] *Maintain Our Desert Env't v. Town of Apple Valley* (2004) 124 CA4th 430.
[35] *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 CA4th 1184, 1213.
[36] *Laurel Heights I,* 47 Cal. 3d 376, 396.
[37] See *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722.
[38] *Id; City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1438, 1454-1455.
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Here, the Project is being developed for unknown future tenants, but for reasonably foreseeable future uses. The DEIR states that the proposed warehouse buildings are speculative warehouses and tenants for the buildings were unknown at the time the DEIR was prepared.[39] However, according to the Noise Study attached as Appendix I to the DEIR, the Project's unknown future tenants may engage in refrigerated warehouse operations.[40] Specifically, the Noise Study states:

> Since the end use of the warehouses had not been determined at the time of this study, Saxelby Acoustics analyzed two primary project scenarios: non-refrigerated and refrigerated truck loading docks. These scenarios differ acoustically in that semi-truck trailers used in food transportation are equipped with refrigeration units which produce noise from a diesel-powered engine and a refrigeration compressor, typically referred to as "reefers."[41]

6-8

Similarly, the DEIR's noise section acknowledges the potential use of TRUs, stating that "operation of the proposed project with refrigerated trucks could result in a potentially significant impact."[42] Based on the lack of specificity of future Project tenants, and the explicit acknowledgement of potential refrigerated warehouse use in the DEIR, it is reasonable to conclude that future Project tenants may engage in refrigerated warehouse operations. However, despite the explicit acknowledgement of potential future refrigerated warehouse use in the Noise Study and Noise section of the DEIR, the remainder of the DEIR is silent on whether TRUs will be present at the Project site.

Refrigerated warehouse uses employ the use of transportation refrigeration units ("TRUs") which, in addition to increased noise, produce diesel particulate and GHG emissions greater than non-refrigerated trucks.[43] The DEIR's Project description fails to disclose the possibility of refrigeration at the Project site and the potentially significant impacts resulting from operation of TRUs were not disclosed or analyzed in the DEIR's air quality, energy use, health risk, nor GHG emissions analyses.[44]

[39] DEIR, p. 3-4.
[40] DEIR, Appendix I: Saxelby Acoustics LLC, Environmental Noise Assessment, Ophir Road Warehouse (hereinafter "Noise Study") (July 31, 2023) p. 8.
[41] Noise Study, p. 8.
[42] DEIR, p. 4.7-19.
[43] Clark Comments, p. 4.
[44] Clark Comments, p. 5.
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6-8 Cont.

The DEIR's omission of information about the reasonably foreseeable operations at the Project site that could have significant impacts is similar to the omission of critical operational analysis from an EIR reviewed by the court in *Bakersfield Citizens for Local Control v. City of Bakersfield*. In *Bakersfield,* the court found that an EIR's simple statement that "no stores have been identified" for the subject shopping center "without disclosing the type of retailers envisioned for the proposed project is not only misleading and inaccurate, but it hints at mendacity."[45] Since the Project is being designed to be capable of supporting refrigerated warehouse use at the Project site, the DEIR must be revised to include specific use information and to analyze the impacts of the most intensive reasonably foreseeable uses of the Project site. The DEIR must also include all known information about the types of future users at the Project site. The DEIR's failure to provide information about the reasonably foreseeable use causes the DEIR to fail as an informational document.

B. The DEIR Fails to Describe Reasonably Foreseeable High Intensity Warehouse Uses

6-9

The DEIR explains that the Project is proposed as a speculative warehouse without specific end uses or tenants,[46] yet the DEIR fails to describe or analyze the Project's reasonably foreseeable end uses, in violation of CEQA. In the absence of more specific information or restrictions on the types of warehouse uses that will occur after Project buildout, the City has a duty to analyze the impacts of *all* reasonably foreseeable uses of the Project site.[47] Instead, the DEIR limits its analysis to low-intensity categories of warehouse use, thereby omitting an analysis of impacts from common warehouse uses that would result in more severe air quality, transportation, energy and noise impacts.

6-10

In order to determine the vehicle trips expected to be generated by the proposed Project, the DEIR relies on trip generation rates derived from data collected by Fehr & Peers that purportedly analyzed 72 hours of driveway vehicle classification counts at 39 warehousing buildings across San Joaquin County in June 2021.[48] The trip generation rates and the underlying data relied on in the DEIR are not included in the DEIR nor its appendices, nor was the data provided to

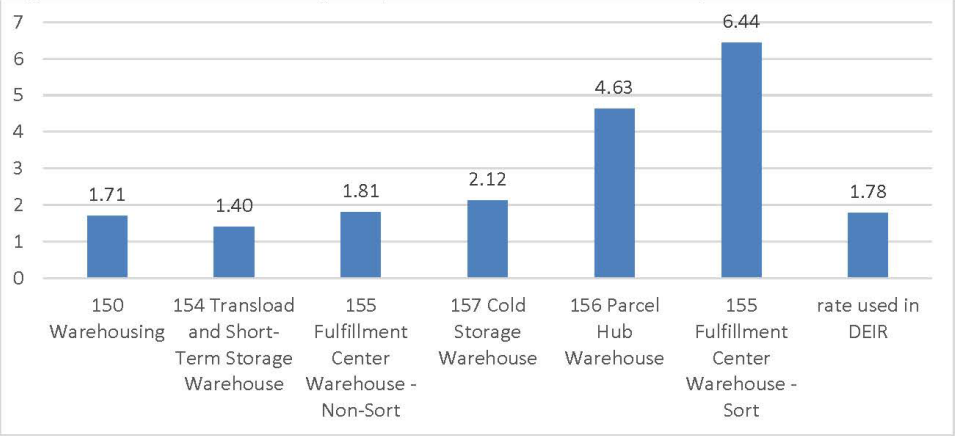
[45] *Bakersfield Citizens for Local Control v. City of Bakersfield* ("*Bakersfield*") (2004) 124 Cal.App.4th 1184, 1213.
[46] DEIR, p. 2-2.
[47] *Sundstrom,* 202 Cal.App.3d at 311.
[48] DEIR, p. 4.9-15.
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6-10 Cont.

Residents in response to their numerous requests for access to the study. Mr. Marshall explains that it is standard practice to provide trip generation rates in trip generation analyses, and the lack of disclosure casts the City's conclusions into doubt.[49] However, assuming that the City correctly applied the trip generation rates to the proposed 3.2 million SF Project, Mr. Marshall found that the daily trip generation rate assumed in the DEIR is approximately 1.78 trips per one-thousand square feet ("t/kSF").[50]

However, warehouse trip generation rates and air quality impacts vary greatly between the reasonably foreseeable future uses of the Project.[51] The standard trip generation reference, *Trip Generation*, published by the Institute of Transportation Engineers, provides substantial evidence that reasonably foreseeable future uses of the Project's warehouse buildings could generate significantly higher trips during Project operation. **Figure 1** below shows the rate of 1.78 t/kSF generation rate assumed in the DEIR is significantly lower than the rates for Cold Storage, Parcel Hub, and Fulfillment Center warehouses.[52]

Figure 1. Warehouse Daily Trip Generation Rates Per 1,000 SF

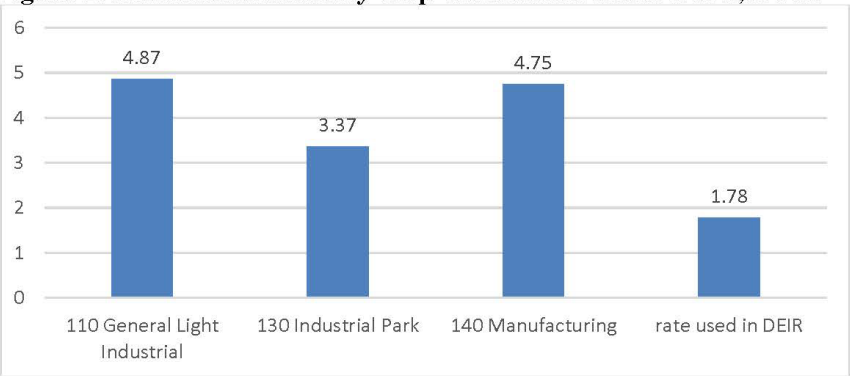


[49] Marshall Comments, p. 4.
[50] Marshall Comments, p. 4.
[51] Marshall Comments, p. 4.
[52] Marshall Comments, p. 5.
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Additionally, the DEIR states that the project could be a "mix of smaller-scale industrial and distribution uses."[53] Mr. Marshall found that if the Project is built out for smaller-scale industrial and distribution uses, the trip generation rates could be significantly greater as well.[54] As shown in Figure 2 below, the trip generation rates for industrial uses are much higher than the rate assumed in the DEIR.

Figure 2. ITE Industrial Daily Trip Generation Rates Per 1,000 SF



6-10 Cont.

Because the proposed Project is "speculative" it is reasonably foreseeable that the Project could generate a significantly greater number of trips than assumed in the DEIR, resulting in more severe air quality, GHG emissions and transportation impacts which the DEIR fails to disclose and analyze. As a result of the City's reliance on a 1.78 t/kSF rate, the DEIR substantially underestimates the severity of each of these impacts that will result if one or more of the above reasonably foreseeable uses occur at the Project site. The DEIR must be revised to calculate impacts based on the reasonably foreseeable higher trip generating uses of the Project site.

C. The DEIR Fails to Accurately Describe the Scope of the Project

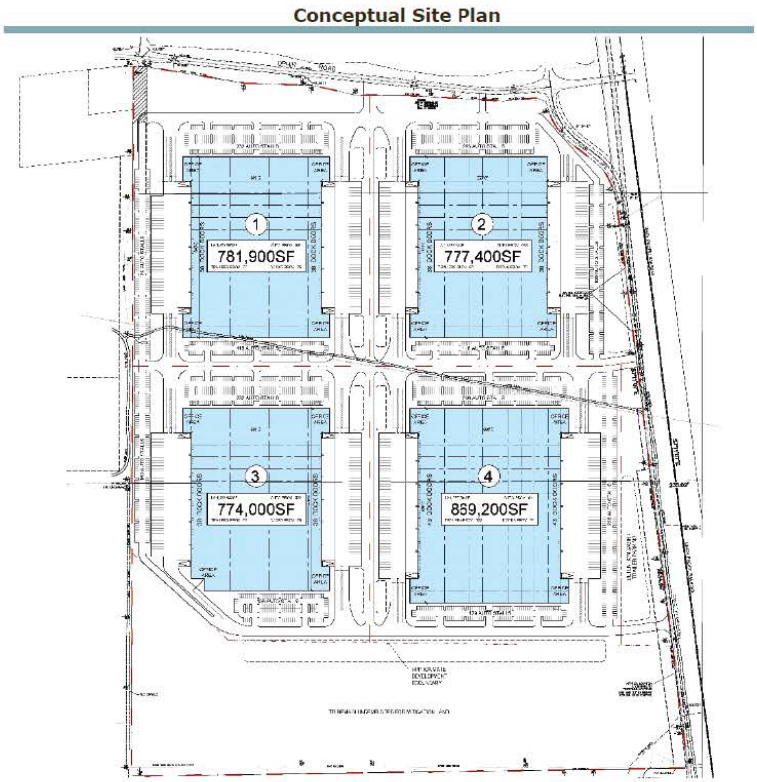
6-11

According to the DEIR, the proposed Project will construct four warehouse buildings totaling a maximum of approximately 3.2 million square feet.[55] The DEIR includes the following conceptual site plan depicting the Project buildings.

[53] DEIR, p. 3-4.
[54] Marshall Comments, p. 5.
[55] DEIR, p. 3-4.
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6-11 Cont.

DEIR Conceptual Site Plan[56]



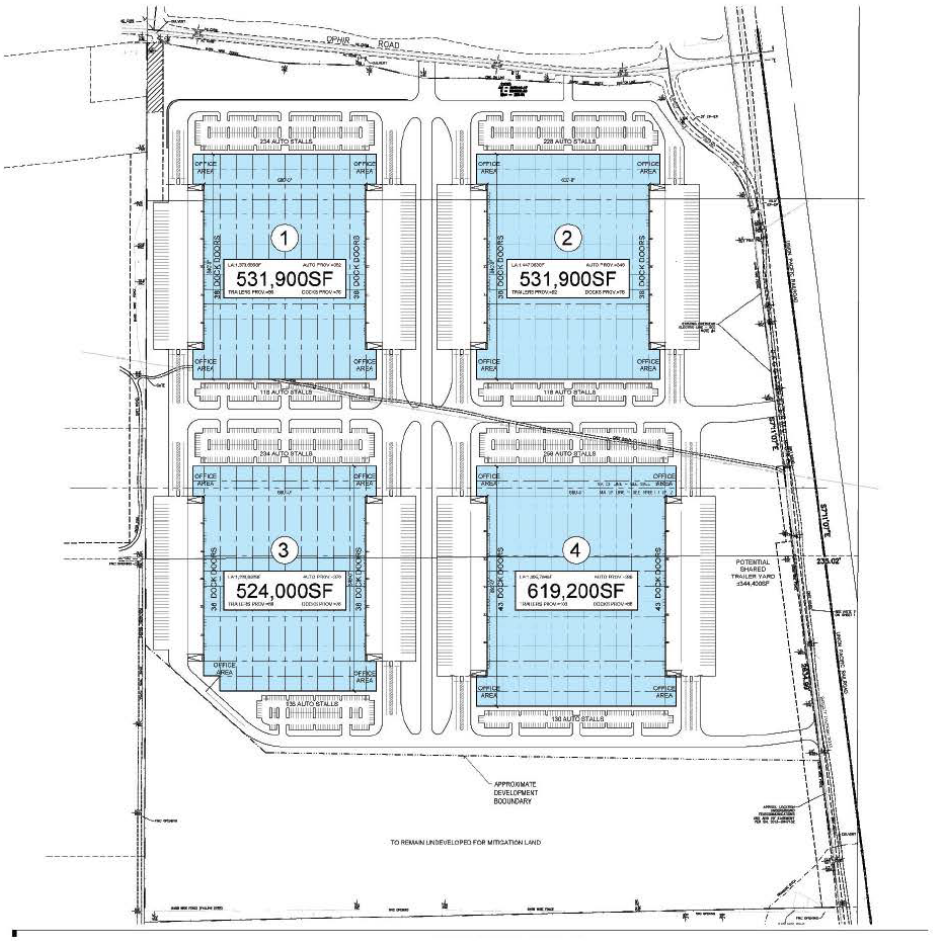
However, the Noise Study conducted for the Project references a different design for the Project as seen below.

[56] DEIR, p. 3-5.
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6-11 Cont.

Noise Study Conceptual Site Plan[57]



While the difference between the two site plans may be explained by the inclusion of approximately 250,000 SF of mezzanine represented in the DEIR's

[57] Noise Study, p. 2.
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version of the site plan[58], the similarities stop there. Specifically, the Site Data Table included in the DEIR includes a total of 2,152 parking spaces provided at the Project site, whereas the Noise Study analyzes a version of the Project which provides a total of 1,456 parking spaces as seen in the Site Plan Data Tables included below.

6-11 Cont.

DEIR Site Plan Data Table[59]

SITE DATA TABLE														
BUILDING	LAND AREA AC	LAND AREA SF	FAR %	BLDG FOOT PRINT	OFFICE MEZZ.	WHSE MEZZ.	TOTAL BLDG SF	OFFICE SF	WAREHOUSE SF	OFFICE PRKG.	WHSE PRKG.	PRKG REQ.	PRKG PROV.	PRKG RATIO
1	±33.18	±1,445,112	54.1%	521,900	10,000	250,000	781,900	20,000	761,900	67	381	448	530	0.68/1000
2	±31.55	±1,374,416	56.6%	517,400	10,000	250,000	777,400	20,000	757,400	67	379	446	483	0.62/1000
3	±29.88	±1,301,387	59.5%	514,000	10,000	250,000	774,000	20,000	754,000	67	377	444	528	0.68/1000
4	+34.33	±1,495,250	58.1%	609,200	10,000	250,000	869,200	20,000	849,200	67	425	492	611	0.70/1000
TOTAL	+128.94	±5,616,165	57.0%	2,162,500	40,000	1,000,000	3,202,500	80,000	3,122,500	268	1,561	1,830	2,152	0.67/1000
										(1/300)	(0.5/1000)			

Noise Study Site Plan Data Table[60]

SITE DATA TABLE													
BUILDING	LAND AREA AC	LAND AREA SF	FAR%	BLDG FOOT PRINT	BLDG MEZZ.	TOTAL BLDG SF	OFFICE SF	WAREHOUSE SF	OFFICE PRKG.	WAREHOUSE PRKG.	PRKG REQ.	PRKG PROV.
1	31.53 AC	1,373,595	38%	521,900	10,000	531,900	20,000	511,900	67	256	323	352
2	33.22 AC	1,447,063	36%	521,900	10,000	531,900	20,000	511,900	67	256	323	346
3	28.21 AC	1,228,832	42%	514,000	10,000	524,000	20,000	504,000	67	252	319	370
4	32.04 AC	1,395,784	44%	609,200	10,000	619,200	20,000	599,200	67	300	367	388
TOTAL	125.00 AC	5,445,274	40%	2,167,000	40,000	2,207,000	80,000	2,127,000	268	1,063	1,332	1,456
									(1/300)	(.5/1000)		

As a result, the Noise Study for the Project relies on an inaccurate description of the Project, which results in an underestimation of the noise generated by on-site vehicles. This inconsistency must be addressed in a revised and recirculated DEIR for the Project.

IV. THE DEIR FAILS TO DISCLOSE, ANALYZE AND MITIGATE POTENTIALLY SIGNIFICANT IMPACTS

6-12

An EIR must fully disclose all potentially significant impacts of a Project and implement all feasible mitigation to reduce those impacts to less than significant levels. The lead agency's significance determination with regard to each impact

[58] DEIR, p. 1-2. Specifies that "due to the inclusion of a 250,000-sf mezzanine in each building, the building footprints would range from 514,000 sf to 609,200 sf."
[59] DEIR, p. 3-5.
[60] Noise Study, p. 2.
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must be supported by accurate scientific and factual data.[61] An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.[62]

Even when the substantial evidence standard is applicable to agency decisions to certify an EIR and approve a project, reviewing courts will not '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.'"[63]

6-12 Cont.

Moreover, the failure to provide information required by CEQA is a failure to proceed in the manner required by CEQA.[64] Challenges to an agency's failure to proceed in the manner required by CEQA, such as the failure to address a subject required to be covered in an EIR or to disclose information about a project's environmental effects or alternatives, are subject to a less deferential standard than challenges to an agency's factual conclusions.[65] In reviewing challenges to an agency's approval of an EIR based on a lack of substantial evidence, the court will "determine de novo whether the agency has employed the correct procedures, scrupulously enforcing all legislatively mandated CEQA requirements."[66]

Additionally, CEQA requires agencies to commit to all feasible mitigation measures to reduce significant environmental impacts.[67] In particular, the lead agency may not make required CEQA findings, including finding that a project impact is significant and unavoidable, unless the administrative record demonstrates that it has adopted all feasible mitigation to reduce significant environmental impacts to the greatest extent feasible.[68]

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[61] CEQA Guidelines § 15064(b).
[62] *Kings Cty. Farm Bur. v. Hanford* (1990) 221 Cal.App.3d 692, 732.
[63] *Berkeley Jets*, 91 Cal.App.4th at 1355.
[64] *Sierra Club v. State Bd. Of Forestry* (1994) 7 Cal.4th 1215, 1236.
[65] *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.
[66] *Id., Madera Oversight Coal., Inc. v. County of Madera* (2011) 199 Cal. App. 4th 48, 102.
[67] CEQA Guidelines § 15002(a)(2).
[68] PRC § 21081(a)(3), (b); CEQA Guidelines §§ 15090, 15091; *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.
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A. The DEIR Fails to Adequately Disclose and Mitigate the Project's Significant Health Risks from Construction Emissions.

The DEIR acknowledges that the Project's construction activities would create Toxic Air Contaminant ("TAC") emissions, stating that "[s]hort-term, construction-related activities could result in the generation of TACs, specifically DPM [i.e., diesel particulate matter], from on-road haul trucks and off-road equipment exhaust emissions."[69] However, the DEIR fails to disclose the Project's DPM emissions or their impacts on nearby sensitive receptors in a Health Risk Assessment ("HRA") for the Project.[70]

6-13

Construction equipment emits DPM, which is a hazardous air pollutant ("HAP") and a potent carcinogen. Construction workers, nearby residents and other sensitive receptors will be exposed to DPM emissions during construction. The DEIR estimates that Project construction will take place over 19-months[71], during which time, nearby sensitive receptors will be exposed to harmful TAC emissions from construction equipment. The DEIR states that the nearest sensitive receptor to the Project site is a residence located 500 feet from the site.[72] Under the Office of Environmental Health Hazard Assessment ("OEHHA")[73] risk assessment guidelines, which are used throughout California for assessing health risks under CEQA, the Project's construction phase should also be subject to a quantified HRA.[74]

[69] DEIR, p. 4.2-51.
[70] DEIR, p. 4.2-51.
[71] DEIR, Appendix C, Ophir Road Warehouse Final Custom Report, p. 33 of 40. *See* Section 5.1. Construction Schedule which states that Project construction will take place between June 1, 2024, and January 20, 2026.
[72] DEIR, p. 4.2-51.
[73] Office of Environmental Health Hazard Assessment (hereinafter "OEHHA") is the organization responsible for providing recommendations and guidance on how to conduct health risk assessments in California. See OEHHA organization description, available at http://oehha.ca.gov/about/program.html.
[74] OEHHA, Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessment (hereinafter "OEHHA HRA Manual") (February 2015) p. 8-18. Available at https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf.
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6-13 Cont.

Project construction would produce diesel exhaust which has been linked to a range of serious health problems including an increase in respiratory disease, lung damage, cancer, and premature death.[75] Diesel exhaust is a complex mixture of inorganic and organic compounds that exists in gaseous, liquid, and solid phases.[76] CARB and U.S. EPA identify 40 components of the exhaust as suspected human carcinogens, including formaldehyde, 1,3-butadiene, and benzo[a]pyrene.[77] The inhalation unit risk factor identified by OEHHA for use in risk assessments is for the particulate matter fraction of diesel exhaust and not the vapor phase components identified by CARB and U.S. EPA.[78] Fine DPM is deposited deep in the lungs in the smallest airways and can result in increased respiratory symptoms and disease; decreased lung function, particularly in children and individuals with asthma; alterations in lung tissue and respiratory tract defense mechanisms; and premature death.[79] Exposure to DPM increases the risk of lung cancer and causes non-cancer effects including chronic bronchitis, inflammation of lung tissue, thickening of the alveolar walls, immunological allergic reactions, and airway constriction.[80] DPM is a TAC that is recognized by state and federal agencies as causing severe health risk.[81]

A quantified HRA is commonly conducted to determine if a Project's construction TAC/HAP emissions would cause a significant health impact.[82] The HRA is based on pollutants other than criteria air quality pollutants; that is, other than ROG, NOx, PM10, PM2.5, CO, and SO_2. The City reasons that because of the

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[75] Clark Comments, p. 8.
[76] Clark Comments, p. 8.
[77] Clark Comments, p. 8.
[78] Clark Comments, p. 8.
[79] Clark Comments, p. 8; *see also* California Air Resources Board ("CARB"), Overview: Diesel Exhaust & Health (2022) available at https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health#:~:text=Diesel%20Particulate%20Matter%20and%20Health&text=In%201998%2C%20CARB%20identified%20DPM,and%20other%20adverse%20health%20effects.
[80] Clark Comments, p. 8.
[81] CARB, Overview: Diesel Exhaust & Health (2022) ("in 1998, CARB identified DPM as a toxic air contaminant based on published evidence of a relationship between diesel exhaust exposure and lung cancer and other adverse health effects. In 2012, additional studies on the cancer-causing potential of diesel exhaust published since CARB's determination led the International Agency for Research on Cancer (IARC, a division of the World Health Organization) to list diesel engine exhaust as "carcinogenic to humans".)
[82] OEHHA HRA Manual, p. 8-18.
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temporary nature of construction and the "relatively short duration of potential exposure to associated emissions" the impacts to nearby sensitive receptors would be low.[83] Additionally, the DEIR states that

> Prevailing winds are from the south and southwest. As a result, construction-related emissions would primarily flow towards the north and northeast, away from the nearest sensitive receptors. Therefore, construction associated with the proposed project would not be expected to expose any sensitive receptors to substantial pollutant concentrations.[84]

6-13 Cont.

Based on the above, the DEIR concludes that the Project will not expose any sensitive receptors to substantial pollutant concentrations. However, this conclusion is incorrect and unsupported by any evidence.

Based on meteorological data relied upon in the DEIR, Dr. Clark found that wind flows to the west towards the nearest sensitive receptor at least 18% of the time.[85] These winds will carry TACs generated by Project construction equipment to nearby sensitive receptors to the west which must be analyzed in an HRA. Dr. Clark explains that the inherent toxicity of TACs requires the City to first quantify the concentration released into the environment at each of the sensitive receptor locations through air dispersion modeling, calculate the dose of each TAC at that location, and quantify the cancer risk and hazard index for each of the chemicals of concern. Only after conducting this analysis can the City determine the relative significance of the emissions.

6-14

The DEIR's failure to quantify the health risk from DPM exposure is also a failure to proceed in the manner required by law. CEQA expressly requires that an EIR discuss, inter alia, "health and safety problems caused by the physical changes" resulting from the project.[86] When a project results in exposure to toxic contaminants, this analysis requires a "human health risk assessment."[87] OEHHA guidance also sets a recommended threshold for preparing an HRA of a construction

[83] DEIR, p. 4.2-51.
[84] DEIR, p. 4.2-51.
[85] Clark Comments, p. 7.
[86] 14 C.C.R § 15126.2(a).
[87] *Sierra Club,* 6 Cal.5th at 520; *Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs.* ("*Berkeley Jets*") (2001) 91 Cal.App.4th 1344, 1369; *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1219–1220 (CEQA requires that there must be some analysis of the correlation between the project's emissions and human health impacts).
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Letter 6 Cont.

6-14 Cont.

period of two months or more.[88] As noted above, Project construction will take place over 19-months, far exceeding the threshold established by OEHHA. A detailed health risk analysis is necessary to determine the significance of Project construction emissions and whether mitigation measures are sufficient to avoid risks to public health.

6-15

The City failed to analyze health risk impacts from exposure to TACs during Project construction, and thus fails to support its finding of a less-than-significant health risk impact with substantial evidence.

B. The DEIR Fails to Adequately Disclose and Mitigate the Project's Significant Health Risks from Operational Emissions.

The DEIR states that adverse health impacts caused by exposure to TACs from the Project's *operational* emissions will be significant and unavoidable despite implementation of mitigation measures. However, as explained above, the DEIR fails to disclose the full extent of the Project's health risk impacts, particularly from TAC emissions from TRUs, and fails to include all feasible, effective and enforceable mitigation measures to reduce the Project's health risk impacts from operational emissions.

6-16

Under CEQA, mitigation measures must be fully enforceable through permit conditions, agreements or other legally binding instruments.[89] A CEQA lead agency is precluded from making the required CEQA findings to approve a project unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved. For this reason, an agency may not rely on mitigation measures of uncertain efficacy or feasibility.[90] This approach helps "insure the integrity of the process of decision by precluding stubborn problems or serious criticism from being swept under the rug."[91]

In this case, the DEIR includes a mitigation measure which is allegedly designed to reduce the Project's significant health risk impacts. Specifically, Mitigation Measure 4.2-3 states that prior to occupancy of the last two of the four

[88] See OEHHA HRA Manual, p. 8-18.
[89] CEQA Guidelines, § 15126.4, subd. (a)(2).
[90] *Kings County Farm Bureau v. County of Hanford* (1990) 221 Cal.App.3d 692, 727-28 (a groundwater purchase agreement found to be inadequate mitigation because there was no record evidence that replacement water was available).
[91] *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935.
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6-16 Cont.

proposed warehouse buildings, the tenants shall provide proof of electrification of their heavy-duty truck fleet.[92] However, the measure also includes the following language:

> In the event that there is a disruption in the manufacturing of zero emission heavy-duty trucks or that sufficient vehicles are not commercially available, implementation of this mitigation measure would be rendered infeasible, and further pursuit of implementation shall not be required.[93]

Additionally, the DEIR states that the feasibility of MM 4.2-3 depends on PG&E's ability to provide adequate charging infrastructure, at the time of building occupancy for the remaining two warehouse buildings.[94] MM 4.2-3 is unenforceable and ineffective because it lacks a definition of what would qualify as a disruption in zero emissions heavy duty truck manufacturing, or what would make such vehicles "not commercially available", and further is contingent on PG&E's ability to supply sufficient infrastructure which was not analyzed in the DEIR.

6-17

Finally, MM 4.2-3 includes the provision that "[i]f neighboring residences agree to the project applicant installing MERV 13 filters at their residences, the fleet mix may be adjusted accordingly."[95] Dr. Clark found that while this measure may reduce indoor exposure to particulate matter, it will do nothing to reduce exposures outside of the home, and in any event would not reduce the cancer risk to less than significant levels.[96] Moreover, installation of MERV 13 filters on the neighboring residences requires resident approval and neither the City nor the applicant "can legally impose such improvements on the private properties."[97]

MM 4.2-3 is therefore infeasible, unenforceable, and ineffective to reduce Project impacts below the significance threshold. The City may not approve the Project unless it revises the DEIR to include all feasible and enforceable mitigation measures to reduce the Project's operational health risks to the greatest extent feasible.

[92] DEIR, p. 4.2-56.
[93] DEIR, p. 4.2-56.
[94] DEIR, p. 4.2-55.
[95] DEIR, p. 4.2-56.
[96] Clark Comments, p. 9.
[97] DEIR, p. 4.2-56.
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C. The DEIR Underestimates Project Generated Truck Trip Lengths

The DEIR's air quality modeling relies on an average truck trip length of approximately 7.05-miles.[98] The 7.05-mile average drastically underestimates the reasonably foreseeable truck trip lengths and results in underestimation of Project air quality impacts. According to the DEIR, among the Project's objectives is the goal to:

6-18

> Serve residents and businesses north of Sacramento and into Oregon by providing a location that is adjacent to or within a mile of a State Highway or Interstate, and balanced north-south to minimize miles traveled by the truck fleet.[99]

A one-way trip from the Project site to the Oregon border is approximately 215 miles, and a one-way trip from the Project site to the City of Sacramento is approximately 65 miles. The distances that Project related truck trips will actually travel are clearly higher than assumed in the DEIR, resulting in underestimation of Project related GHG emissions and air quality impacts.[100]

The DEIR must be revised and recirculated to accurately reflect the Project's reasonably foreseeable truck trip lengths and resultant emissions impacts.

D. The DEIR Fails to Analyze Air Quality Impacts from TRUs

The DEIR fails to analyze air quality and GHG emissions impacts associated with the use of TRUs.

6-19

The California Air Resources Board has stated, "[f]reight facilities, such as warehouse and distribution facilities, can result in high daily volumes of heavy-duty diesel truck traffic and operation of on-site equipment (e.g., forklifts and yard tractors) that emit toxic diesel emissions, and contribute to regional air pollution and global climate change."[101] The impacts generated by the particular operations of different users within this broad category can also result in significant impacts.

[98] Clark Comments, p. 11.
[99] DEIR, p. 7-2.
[100] Clark Comments, p. 12.
[101] CARB Comments re: Rubidoux Commerce Park Notice of Preparation of DEIR, December 17, 2020, p. 1; CARB NOP Comments regarding the Mariposa Industrial Park DEIR.
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6-19 Cont.

The adverse impacts generated by cold storage warehouses, for example, are far more severe than those from a high-cube warehouse without cold storage.[102] Warehouses with cold storage capabilities and the ability to accommodate refrigerated trucks, or TRUs, require more truck trips per square foot and have higher energy demands due to the low temperatures required by the trucks, whose refrigeration units are most often powered by diesel internal combustion engines.[103]

6-20

Dr. Clark concludes that the DEIR's failure to analyze emissions from TRUs underestimates the health risk impacts to the community, as well as the associated GHG emissions from operation of the TRUs. The DEIR must be revised and recirculated to adequately analyze impacts from TRUs in the DEIR and in the health risk assessment before the Project can lawfully be approved.

E. The DEIR Fails to Adopt All Feasible Air Quality and GHG Measures

6-21

The DEIR identifies several significant impacts relating to the Project's operational emissions of criteria air pollutants and GHGs, which it concludes are unavoidable. The DEIR acknowledges that the Project would result in significant air quality impacts related to the exposure of sensitive receptors to substantial pollutant concentrations and that the Project will result in cumulatively significant and unavoidable impacts from GHG emissions.[104] Regarding GHGs, the DEIR acknowledges that Project construction would result in the generation of ROG and NOx emissions which exceed the numerical GHG threshold established by the Butte County Air Quality Management District ("BCAQMD") of 137 lbs/day for each.[105] The DEIR claims that these impacts would be less than significant with the implementation of air quality mitigation measure 4.2-1. But the DEIR fails to identify all feasible mitigation measures that would reduce these impacts.

[102] *Id.*
[103] *See, e.g.*, CARB Transport Refrigeration Unit Regulations, http://ww2.arb.ca.gov/sites/default/files/truckstop/trus/trus.html; CARB Technology Assessment for Transport Refrigerators, August 2015, https://ww2.arb.ca.gov/sites/default/files/2020-06/TRU%20Tech%20Assessment%20Report%20ada.pdf; CARB Comments on Mariposa Industrial Park DEIR, October 8, 2021.
[104] DEIR, p. 7-4.
[105] DEIR, p. 4.2-45.
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6-21 Cont.

Dr. Clark found that Mitigation Measure 4.2-1(a), which requires that construction on-road vehicles be model year 2010 or newer, does not adequately address the significant GHG emissions from Project construction.[106] Based on his research, Dr. Clark explains that further restricting the age of on-road Project construction vehicles from model year 2010 to 2018 would result in a 44% reduction in NOx emissions from heavy duty trucks operating on site, a 37% reduction in DPM emissions, and a 47% reduction in ROG emissions.

The City must implement more stringent model year restrictions for Project construction vehicles to reduce the Project's significant GHG emissions impacts.

F. The DEIR Fails to Analyze and Mitigate the Project's Significant Noise Impacts

6-22

The CEQA Guidelines require an EIR to consider "whether a project would result in... a substantial permanent increase in ambient noise levels in the vicinity of the project" or a "temporary or periodic increase in ambient noise levels in the vicinity of the project . . ."[107] Off-site operational noise from traffic caused by the Project and on-site operational noise are considered a permanent noise impact, while construction noise is considered a temporary noise impact. As discussed below, the DEIR's Noise impact analysis fails to contain the baseline ambient noise data necessary to assess the significance of the Project's estimated 19-month construction and lifetime operational noise impacts on sensitive receptors in the vicinity of the Project. Additionally, the DEIR fails to analyze noise impacts to nearby sensitive receptors from nighttime Project operation and fails to analyze noise impacts from operation of rooftop mechanical equipment.

1. The DEIR's Noise Analysis Contains Inadequate Baseline Data.

6-23

The DEIR relies on the Traffic Noise Prediction Model ("TNM") to establish the existing noise at the site.[108] However, there is no evidence that the model was validated with noise measurements concurrent with the traffic counts taken at the site.[109] The TNM is a software program that has been developed by the Federal

[106] DEIR, p. 4.2-46.
[107] CEQA Guidelines, Appendix G, Sec. XII(c)-(d).
[108] Noise Study, p. 7.
[109] Jue Comments, p. 4.
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6-23 Cont.

Highway Administration ("FHWA") to evaluate off-site noise increases from Project activities. The Caltrans Technical Noise Supplement ("TeNS") provides guidance on best practices in using the TNM.[110] Pursuant to the TeNS, to validate the TNM, the following data must be collected simultaneously:

- Noise measurements: conducted over a period of 10 to 30 minutes, depending on traffic volume; 10 minutes for volumes greater than 1,000 vehicles per hour per lane, as much as 30 minutes
- Meteorological conditions: Data such as prevailing wind direction and speed, temperature, etc.
- Traffic counts: including vehicle direction, speed, vehicle type, and travel lane where relevant

Here, the DEIR relies on two 24-hour noise level measurements at one location west of the project site and one short-term noise level measurement at one location east of the project site.[111] There is no evidence that traffic counts were conducted concurrently to validate the TNM. As a result, the TNM cannot accurately predict off-site noise increases from Project construction and operation activities. Without a validated noise model, the DEIR fails to accurately establish the baseline ambient noise data that is necessary to assess the significance of the Project's construction and operational noise on sensitive receptors in the vicinity of the Project.[112]

The DEIR's operational off-site noise analysis for the Project is based on this unvalidated TNM, potentially resulting in an underestimation of the Project's operational noise impacts.[113] The DEIR should be revised to include an updated baseline analysis that properly validates the TNM model with 20-minute noise and traffic measurements during periods where truck volumes are comparable to the actual peak noise hour conditions. The results of the revised noise calculations should be included in a recirculated DEIR.

[110] Jue Comments, p. 2.
[111] DEIR, p. 4.7-12.
[112] Jue Comments, p. 4.
[113] Jue Comments, p. 4.
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2. The DEIR Fails to Analyze Noise Impacts From 24-Hour Operation

Residents' noise expert found that the DEIR fails to analyze Project operational noise impacts from truck trips during nighttime hours. According to the DEIR, the Project will generate 1,640 daily commercial vehicle trips. As the DEIR does not specify the operating hours of the Project, it is reasonable to assume 24-hour operation during which a portion of Project related trips will occur during nighttime hours. By averaging the total number of daily trips over a 24-hour period, Ms. Jue found that approximately 68 truck trips will occur per hour during nighttime hours.[114]

6-24

Ms. Jue explains that noise from truck operations at night causes sleep disturbance. Specifically, truck noise at low speed is dominated by engine noise, and when acceleration and deceleration are taken into account the maximum noise from one heavy duty truck can disturb sleep and generate noise impacts.[115] The DEIR lacks any discussion of these effects on the sensitive receptors in the vicinity of the Project site.

Ms. Jue found that at a distance of 400 ft, a heavy truck moving at 25 mph would generate a noise level of 47 dBA inside a home with windows open; at 45 mph the noise would be 53 dBA.[116] Ms. Jue explains that each heavy truck passing the sensitive receptors west of the Project site will have an 11% to 13% probability of disturbing sleep, and the probability of heavy trucks causing at least one sleep disturbance is virtually 100% for the project trucks alone.[117]

6-25

The DEIR fails to analyze the Project's nighttime noise impacts which Ms. Jue found to be significant. The City must include mitigation measures in order to address the impacts from nighttime noise on nearby sensitive receptors. For example, the City may choose to include mitigation measures which require operational conditions prohibiting line-haul trucks during nighttime hours or routing night-time line-haul trucks away from residential areas. Alternatively, the

[114] Jue Comments, p. 3.
[115] Jue Comments, p. 3.
[116] Jue Comments, p. 4.
[117] Jue Comments, p. 4.

6-25 Cont.

mitigation measures could include off-site mitigation in the form of new windows and mechanical ventilation for bedrooms affected by the nighttime line-haul operations.

The City must revise the DEIR's noise analysis to include a study of noise impacts from nighttime operations and include the results of the analysis and any necessary mitigation measures in a revised and recirculated DEIR for the Project.

3. The DEIR Fails to Analyze Noise Impacts from Rooftop Mechanical Equipment

6-26

Ms. Jue found that the DEIR's Noise Study fails to include analysis of noise generated by Project rooftop mechanical equipment, thereby underestimating the Project's noise impacts. Based on industry standards, Ms. Jue found that the Project's buildings 1, 2 and 3 would need 55 25-ton HVAC units and building 4 would need 61 25-ton HVAC units.[118] A standard 25-ton unit has a sound power level of 95 dBA.[119] Ms. Jue calculated the noise impact on the nearest sensitive receptor from operation of 25% of the total units to be 55 dBA.[120] Additionally, when combined with the on-site non-refrigerated truck operations[121] the nighttime noise would exceed the City's established nighttime noise threshold of 45 dBA resulting in a significant noise impact.[122]

While a parapet wall on the Project buildings could potentially reduce rooftop mechanical noise by 10 dBA, the truck operations and HVAC noise combined would still exceed the noise limit resulting in a significant noise impact.[123] The DEIR must include mitigation measures which require sound screening and specify HVAC and refrigeration equipment design as necessary to reduce the Project's noise impacts to a less than significant level at all noise sensitive receptors.

[118] Jue Comments, p. 3.
[119] Jue Comments, p. 3.
[120] Jue Comments, p. 3.
[121] DEIR, p.4.7-20, Figure 4.7-2.
[122] DEIR, p. 4.7-7, Table 4.7-4.
[123] Jue Comments, p. 3.
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V. THE DEIR FAILS TO CONSIDER FEASIBLE MITIGATION MEASURES TO REDUCE THE PROJECT'S SIGNIFICANT IMPACTS

6-27

CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring consideration of environmentally superior alternatives and adoption of all feasible mitigation measures.[124] A feasible mitigation measure is one that is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors.[125] If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment" to the greatest extent feasible and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns."[126]

Public Resources Code §21081(a)(3) provides that when an agency rejects any of the mitigation measures for a significant impact recommended in an EIR, it must make specific findings that the rejected measures are "infeasible."[127] These findings must show the agency's reasons for rejecting mitigation measures that the EIR recommends.[128] Section 15091(f) of the CEQA Guidelines provides that a statement of overriding considerations is not a substitute for the required findings on the feasibility of mitigation measures.[129] A finding that the project's benefits override its environmental impacts is insufficient because such a finding has no bearing on whether it was infeasible to adopt the mitigation measures.[130]

[124] 14 C.C.R. § 15002(a)(2), (3); *see also Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs.* ("*Berkeley Jets*" (2001) 91 Cal.App.4th 1344, 1354; *Citizens of Goleta Valley*, 52 Cal.3d at 564.
[125] Pub. Resources Code, § 21061.1; Cal. Code Regs., tit. 14, § 15364.
[126] Pub. Resources Code § 21081(a)(3), (b); 15091(a), 15092(b)(2)(A), (B); *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883;
Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 565.
[127] Pub Res C §21081(a)(3); 14 Cal Code Regs §15091(a)(3).
[128] 14 Cal Code Regs §15091(c). See *Village Laguna of Laguna Beach, Inc. v Board of Supervisors* (1982) 134 CA3d 1022; *Burger v County of Mendocino* (1975) 45 CA3d 322.
[129] 14 Cal Code Regs §15091(f).
[130] *Village Laguna of Laguna Beach, Inc. v Board of Supervisors* (Cal. Ct. App. 1982) 134 Cal.App.3d 1022
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6-27 Cont.

Here, the DEIR fails to consider feasible measures proposed in the City's Climate Action Plan,[131] and in the Attorney General's guidance document for Warehouse Projects.[132] The DEIR is also inconsistent with General Plan policies calling for certain air quality and GHG mitigation measures.

A. The DEIR Fails to Mitigate the Project's Significant Transportation Impacts

6-28

The DEIR concludes that the Project will result in a significant and unavoidable VMT impact from Project operation generating 25.4 VMT, far exceeding the City's VMT threshold of 6.7.[133] The factors that contribute to the Project's significant VMT impacts include the Project's rural location and surrounding low-intensity land uses – causing vehicle trips to necessarily be longer to reach the Project site, and the City's relatively low unemployment rate of 4.9% resulting in the need to source potential future employees from outside of the City.[134]

The DEIR attempts to reduce the Project's VMT impacts through implementation of Mitigation Measure 4.9-2, which requires that the Project applicant develop a transportation demand management plan ("TDM") in compliance with Section 10.28.010 of the City Municipal Code which would only reduce the Project's VMT impacts by a maximum of 4%.[135] However, the DEIR fails to consider additional measures which could further ameliorate the Project's significant and unavoidable VMT impacts despite the plethora of measures available in the CAPCOA handbook which are both feasible and proven effective.

Mr. Marshall found that in order to reduce the Project's VMT impacts below the City's 6.7 VMT threshold, the Project would require a 74% reduction in VMT.[136]

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[131] City of Oroville, Climate Action Plan 2019 Update (Adopted May 2021), available at https://www.applevalley.org/home/showpublisheddocument/31233/637623641454430000.
[132] State of California Department of Justice, Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act (updated September 2022), available at https://oag.ca.gov/system/files/media/warehouse-best-practices.pdf.
[133] DEIR, p. 4.9-17.
[134] DEIR, p. 4.9-17.
[135] DEIR, p. 4.2-68.
[136] Marshall Comments, p. 3.
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6-28 Cont.

While such a reduction may very well be impossible, additional feasible mitigation measures are available which could incrementally decrease Project VMT which the City must consider for inclusion in the DEIR.

Mr. Marshall found that not all of the VMT impacts are unavoidable because much greater mitigation is possible. As the DEIR notes, Mitigation Measure 4.9-2 is derived from the California Air Pollution Control Officers Association ("CAPCOA") *Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity* ("Handbook").[137] The Handbook includes data regarding GHG emissions and proven effective methods that a local agency can employ to reduce GHG impacts, including reduction in GHG impacts from VMT.[138]

The language of Section 10.28.010 of the City Municipal Code is found in the Handbook as "T-5 Implement Commute Trip Reduction Program (Voluntary)."[139] This voluntary measure provides for the reduction of GHG emissions from employee VMT of only 0-4 percent.[140] The Handbook also includes an alternative version "T-6 Implement Commute Trip Reduction Program (Mandatory Implementation and Monitoring)" with up to a 26 percent reduction in GHG emissions from VMT.[141] Furthermore, the Handbook states that the VMT reduction (and therefore, GHG emissions reduction) could be as great as 45 percent with the implementation of additional measures which include:

- T-7 Implement Commute Trip Reduction Marketing
- T-8 Provide Ridersharing Program
- T-9 Implement Subsidized or Discounted Transit Program
- T-10 Provide End-of Trip Bike Facilities
- T-11 Provide Employer-Sponsored Vanpool
- T-12 Price Workplace Parking
- T-13 Implement Employee Parking Cash-Out[142]

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[137] DEIR, p. 4.9-17; *Also see* California Air Pollution Control Officers Association ("CAPCOA") Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity (hereinafter "CAPCOA Handbook") (December 2021) available at https://www.airquality.org/ClimateChange/Documents/Final%20Handbook_AB434.pdf
[138] CAPCOA Handbook, p. 35.
[139] CAPCOA Handbook, p. 83.
[140] CAPCOA Handbook, p. 84.
[141] CAPCOA Handbook, pp. 86-87.
[142] CAPCOA Handbook, pp. 89-115.
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Mr. Marshall notes that many of the individual measures included in the Handbook offer high potential reductions even if only one measure is used.[143] For example, the maximum reduction produced by "T-11 Provide Employer-Sponsored Vanpool" is 20.4 percent, over 5 times the maximum reduction in the mitigation proposed in the DEIR.[144]

6-28 Cont.

The DEIR fails to include any analysis of the feasibility of the above methods, or any other methods, to reduce the Project's significant impacts and therefore lacks substantial evidence to conclude that the City has eliminated or substantially lessened all significant effects on the environment to the greatest extent feasible. Therefore, the DEIR violates CEQA and the City cannot conclude that the Project's VMT impacts are significant and unavoidable.[145] The City must evaluate the feasibility and effectiveness of additional mitigation measures in a revised and recirculated DEIR for the Project.

B. The DEIR Fails to Require Feasible Measures from the Attorney General's Warehouse Guidance

The DEIR fails to implement several feasible air quality and GHG measures recommended in the Attorney General's guidance document for warehouse projects.[146] These measures include the following:

6-29

- Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations
- Forbidding trucks from idling for more than three minutes and requiring operators to turn off engines when not in use
- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity that is equal to or greater than the building's projected energy needs, including all electrical chargers.
- Designing all project building roofs to accommodate the maximum future coverage of solar panels and installing the maximum solar power generation capacity feasible.
- Constructing zero-emission truck charging/fueling stations proportional to the number of dock doors at the project.

[143] Marshall Comments, p. 4.
[144] CAPCOA Handbook, p. 104.
[145] CEQA Guidelines § 15002(a)(2).
[146] State of California Department of Justice, Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act (updated September 2022).
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6-29 Cont.

- Oversizing electrical rooms by 25 percent or providing a secondary electrical room to accommodate future expansion of electric vehicle charging capability.
- Constructing and maintaining electric light-duty vehicle charging stations proportional to the number of employee parking spaces (for example, requiring at least 10% of all employee parking spaces to be equipped with electric vehicle charging stations of at least Level 2 charging performance)
- Running conduit to an additional proportion of employee parking spaces for a future increase in the number of electric light-duty charging stations.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel.
- Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks
- Requiring operators to establish and promote a rideshare program that discourages single-occupancy vehicle trips and provides financial incentives for alternate modes of transportation, including carpooling, public transit, and biking.
- Meeting CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking.
- Designing to LEED green building certification standards.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations.
- Improving and maintaining vegetation and tree canopy for residents in and around the project area.
- Requiring that every tenant train its staff in charge of keeping vehicle records in diesel technologies and compliance with CARB regulations, by attending CARB-approved courses. Also require facility operators to maintain records on-site demonstrating compliance and make records available for inspection by the local jurisdiction, air district, and state upon request.
- Requiring tenants to enroll in the United States Environmental Protection Agency's SmartWay program, and requiring tenants who own, operate, or hire trucking carriers with more than 100 trucks to use carriers that are SmartWay carriers.
- Providing tenants with information on incentive programs, such as the Carl Moyer Program and Voucher Incentive Program, to upgrade their fleets.

6-29 Cont.

The DEIR fails to consider any of the measures listed above. For example, as explained above, the DEIR fails to include enforceable mitigation measures that would ensure that future tenants use zero-emission light- and medium-duty vehicles as part of business operations. The DEIR fails to require a three-minute idling limit. Additionally, the DEIR fails to require solar photovoltaic systems with capacity that is equal to or greater than the buildings' projected energy needs and fails to require CalGreen Tier 2 green building standards. The DEIR violates CEQA by failing to consider these measures without evidence in the record demonstrating that these measures are infeasible.

C. The DEIR Fails to Include Sufficient Investigation into Energy Conservation Measures

6-30

The DEIR does not consider energy conservation measures that might be available or appropriate for the Project, in violation of CEQA. The DEIR concludes that operational energy impacts of the Project would be less than significant because "all proposed structures would be built in compliance with existing statewide mandatory energy efficiency standards, such as those contained in the California Building Energy Efficiency Standards and the CALGreen Code."[147] However, compliance with these regulations alone does not support a conclusion that energy impacts are less than significant, and the DEIR does not sufficiently consider energy conservation measures like solar facilities, use of alternate fuel sources, or passive energy efficiency measures to ensure the Project's energy consumption would not be wasteful, inefficient, or unnecessary. This lack of analysis violates CEQA.

CEQA requires an environmental document to discuss mitigation measures for significant environmental impacts, including "measures to reduce the wasteful, inefficient, and unnecessary consumption of energy."[148] The CEQA Guidelines require discussion of energy conservation measures when relevant, and provide examples in Appendix F:

1) Potential measures to reduce wasteful, inefficient and unnecessary consumption of energy during construction, operation, maintenance and/or removal. The discussion should explain why certain measures were incorporated in the project and why other measures were dismissed.

[147] DEIR, p. 4.2-73.
[148] Pub. Resources Code, § 21100(b)(3); *Tracy First v. City of Tracy* (2009) 177 Cal.App.4th 912, 930.
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6-30 Cont.

2) The potential of siting, orientation, and design to minimize energy consumption, including transportation energy, increase water conservation and reduce solid waste.
3) The potential for reducing peak energy demand.
4) Alternate fuels (particularly renewable ones) or energy systems.
5) Energy conservation which could result from recycling efforts.[149]

6-31

Courts have rejected CEQA documents that fail to include adequate analysis investigation into energy conservation measures that might be available or appropriate for a project.[150] In *California Clean Energy Commission v. City of Woodland* ("*CCEC*"),[151] the Court of Appeal reviewed an EIR for a shopping center on undeveloped agricultural land. Similar to the DEIR here, the EIR in *CCEC* concluded that, due to the proposed project's compliance with Title 24 guidelines and regulations, the project would be expected to have a less-than-significant impact regarding the wasteful, inefficient, or unnecessary consumption of energy. But the lead agency's EIR did not include discussion regarding the different renewable energy options that might be available or appropriate for the project. The Court held "the City's EIRs failed to comply with the requirements of Appendix F to the Guidelines by not discussing or analyzing renewable energy options."[152] The lead agency argued that compliance with the Building Code sufficed to address energy impact concerns for the project.[153] But the Court explained:

> Although the Building Code addresses energy savings for components of a new commercial construction, it does not address many of the considerations required under Appendix F of the CEQA Guidelines... These considerations include whether a building should be constructed at all, how large it should be, where it should be located, whether it should incorporate renewable energy resources, or anything else external to the building's envelope. Here, a requirement that Gateway II comply with the Building Code does not, by

[149] 14 Cal. Code Regs., § 15126.4(a)(1)(C) (stating "'Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant.").
[150] *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 CA4th 256; *Spring Valley Lake Ass'n v. City of Victorville* (2016) 248 CA4th 91.
[151] (2014) 225 CA4th 173.
[152] *Id.* at 213.
[153] *Id.* at 210, 211.
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itself, constitute an adequate assessment of mitigation measures that can be taken to address the energy impacts during construction and operation of the project.[154]

The Supreme Court of California agreed with the *CCEC* court's decision in *League to Save Lake Tahoe Mtn. Area Preservation Found. v County of Butte*, holding that even projects that find a less-than-significant energy impact must "discuss whether any renewable energy features could be incorporated into the project."[155] In *Save Lake Tahoe*, the Court considered an EIR for a land use specific plan and rezoning to permit residential and commercial development and preserve forest land near Truckee and Lake Tahoe. The EIR did not consider whether it was feasible to power the project on 100 percent renewable electrical energy or some lesser percentage, nor evaluate strategies for reducing reliance on fossil fuels, increasing reliance on renewable resources, reducing peak loads, and reducing the impacts of relying on remote generation facilities. The lead agency reasoned that this analysis was not required because energy impacts would be less than significant. Citing CEQA Guidelines Section 15126.2, subdivision (b) and the decision in *CCEC*, the Court held that when an EIR analyzes the project's energy use to determine if it creates significant effects, it should discuss whether any renewable energy features could be incorporated into the project. The Court found that the EIR violated CEQA for not discussing whether the project could increase its reliance on renewable energy sources to meet its energy demand.

Here, the DEIR lacks basic analysis of energy consumption measures in violation of CEQA Guidelines Appendix F. The DEIR states that "[t]he proposed project would be required to comply with Section 17.16.185 of the City's Municipal Code, which would ensure that 25 percent of the project energy needs would be met through the use of on-site solar."[156] But the DEIR fails to adequately analyze the feasibility of installing onsite solar facilities *in excess* of the City Code's mandatory standards. The DEIR fails to analyze which aspects of the Project could support solar facilities, such as rooftop, parking lot, or ground-level solar photovoltaics. The DEIR's analysis must address considerations such as the technical and economic feasibility of installing solar facilities on the Project site, the potential size of the Project's solar zone, and the potential magnitude of mitigation provided by installing solar facilities.

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[154] *CECC* (2014) 225 CA4th 173, 213.
[155] (2022) 75 CA5th 63, 167–68.
[156] DEIR, p. 4.2-66.
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The DEIR also fails to evaluate the extent to which mobile source energy consumption could be reduced during Project operations through electric vehicle charging infrastructure (above what is required by existing regulations). Increased provision of EV charging infrastructure is required by the Tier 2 measures in Appendix A5, Nonresidential Voluntary Measures, of the 2022 California Green Building Standards Code.[157]

In sum, the DEIR's energy analysis fails to adequately analyze measures to reduce the wasteful, inefficient, and unnecessary consumption of energy, and fails to meaningfully address Appendix F's considerations of whether a building should be constructed at all, how large it should be, where it should be located, whether it should incorporate renewable energy resources, or anything else external to the building's envelope.[158] This analysis must be provided in a revised and recirculated EIR.

D. The City Cannot Make the Findings Required to Approve the Project's Use Permit

Pursuant to the Oroville Municipal Code, in order for the City Planning Commission to approve the Project's Use Permit application, the Commission must make the following findings:

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a. The granting of the permit will not be incompatible with or detrimental to the general health, safety or public welfare of the surrounding area or of the city as a whole.
b. The proposed use follows sound principles of land use by having a suitable location relative to the community as a whole, as well as to transportation facilities, public services and other land uses in the vicinity.
c. Public utilities and facilities, including streets and highways, water and sanitation, are adequate to serve the proposed use or will be made adequate prior to the establishment of the proposed use.
d. The location, size, design and operating characteristics of the proposed use will be harmonious and compatible with the surrounding neighborhood and will not adversely affect abutting properties.

[157] *see* CALGreen Section A5.106.5.1.2 (Tier 2 standards require 50% of spaces to be reserved for clean air vehicles, and Tier 1 standards require 35%); *see* Section A5.106.5.3.2 (Tier 2 standards require large projects with 201 or more parking spaces to provide 45% to be EV capable, and Tier 1 standards would require 30% of the total spaces to be EV capable.)
[158] *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 CA4th 256, 264.
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e. The subject site is physically suitable for the type and intensity of land use being proposed.
f. The size, intensity and location of the proposed use will provide services that are necessary or desirable for the neighborhood and community as a whole.
g. The permit complies with all applicable laws and regulations, including the requirements of the general plan, of this title and of the city municipal code.[159]

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The City lacks substantial evidence to make findings (a) and (d) because the Project's significant and unmitigated air quality, health risk, GHG emissions, VMT, and noise impacts will result in incompatible and detrimental impacts to the general health of surrounding residents. As detailed above, the Project will result in additional health risk impacts from exposure to DPM and TACs from Project construction, and sensitive receptors in the vicinity of the Project will be subjected to long term noise impacts which exceed the City's threshold of significance for nighttime noise during Project operations.

E. The Statement of Overriding Consideration Must Consider Whether the Project Provides Employment Opportunities for Highly Trained Workers

6-33

The DEIR concludes that the Project will have significant and unavoidable environmental impacts related to air quality, VMT, and GHG emissions.[160] Therefore, in order to approve the Project, CEQA requires the City to adopt a statement of overriding considerations, providing that the Project's overriding benefits outweigh its environmental harm.[161] An agency's determination that a project's benefits outweigh its significant, unavoidable impacts "lies at the core of the lead agency's discretionary responsibility under CEQA."[162]

[159] Oroville Municipal Code ("OMC") § 17.28.010 (E)(4).
[160] DEIR, p. 7-4.
[161] CEQA Guidelines, § 15043.
[162] *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392.
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6-33 Cont.

The City must set forth the reasons for its action, pointing to supporting substantial evidence in the administrative record.[163] This requirement reflects the policy that public agencies must weigh a project's benefits against its unavoidable environmental impacts, and may find the adverse impacts acceptable only if the benefits outweigh the impacts.[164] Importantly, a statement of overriding considerations is legally inadequate if it fails to accurately characterize the relative harms and benefits of a project.[165]

In this case, the City must find that the Project's significant, unavoidable impacts are outweighed by the Project's benefits to the community. CEQA specifically references employment opportunities for highly trained workers as a factor to be considered in making the determination of overriding benefits.[166] Currently, there is not substantial evidence in the record showing that the Project's significant, unavoidable impacts are outweighed by benefits to the community. For example, there is no evidence in the record that the Applicant has made any commitments to employ graduates of state approved apprenticeship programs or taken other steps to ensure employment of highly trained and skilled craft workers on Project construction, an action contemplated by CEQA Section 21081. Absent substantial evidence in the record demonstrating that the Project's benefits outweigh its environmental costs, the City would not fulfill its obligations under CEQA if it adopted a statement of overriding considerations and approved the Project.

This approach is consistent with the City's General Plan which includes policies designed to reduce environmental impacts of Projects as well as goals and policies aimed at increasing the number and quantity of employment choices for City residents. Inclusion of workforce development requirements in the Project's Statement of Overriding Considerations are supported by the following goals and policies contained in the General Plan:

Goal ED-7

P7.3 Promote the development of skilled employment uses that improve the city's jobs-housing balance.

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[163] Pub. Resources Code, § 21081, subd. (b); CEQA Guidelines, § 15093, subds. (a) and (b); *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, 357.
[164] Pub. Resources Code, § 21081(b); CEQA Guidelines, § 15093, subds. (a) and (b)
[165] *Woodward Park Homeowners Association v. City of Fresno* (2007) 150 Cal.App.4th 683, 717.
[166] Pub. Resources Code, § 21081, subds. (a)(3) and (b).
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P7.4 Continue to support the City's workforce development partners to provide training desired by businesses.
P7.5 Help existing businesses communicate their workforce needs to regional workforce development partners and to school district partners.[167]

6-33 Cont.

We urge the City to prepare and circulate a revised DEIR which identifies the Project's significant impacts, requires all feasible mitigation measures and analyzes all feasible alternatives to reduce impacts to a less than significant level. If a Statement of Overriding Considerations is adopted for the Project, we urge the City to consider whether the Project will result in employment opportunities for highly trained workers consistent with the above referenced General Plan Policies.

VI. CONCLUSION

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The DEIR is inadequate and must be withdrawn. Residents urge the City to prepare and circulate a revised DEIR which accurately discloses all of the Project's potentially significant impacts, and requires all feasible mitigation measures to reduce the Project's significant environmental and public health impacts. Residents thank you for the opportunity to provide these comments on the DEIR.

Sincerely,

Kevin Carmichael

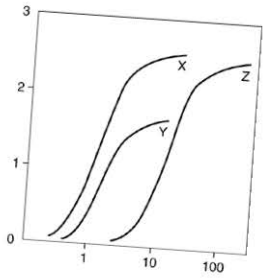
KTC:ljl

[167] City of Oroville, 2030 General Plan, Economic Development Element, p. 5-20.
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EXHIBIT A

Letter 6 Cont.



Clark & Associates
Environmental Consulting, Inc.

OFFICE
12405 Venice Blvd
Suite 331
Los Angeles, CA 90066

PHONE
310-907-6165

EMAIL
jclark.assoc@gmail.com

February 21, 2025

Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080

Attn: Mr. Kevin Carmichael

Subject: Comments On Draft Environmental Impact Report (DEIR) Ophir Road Warehouse Project, City of Orville, California SCH# 2022090522

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed the materials related to the City of Oroville's (the City's) DEIR[1] for the above referenced project.

Clark's review does not constitute validation or endorsement of the conclusions or content presented in the DEIR. Any lack of comment on specific items should not be interpreted as acceptance or approval of those items.

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Project Description:

The proposed project would include the development of four warehouse buildings totaling a maximum of approximately 3.2 million square feet (sf). Each of the buildings would consist of a five-story tall concrete tilt-up warehouse with depressed dock areas and would range from 774,000 sf to 869,200 sf; however, due to the inclusion of a 250,000-sf mezzanine in each building, the building footprints would range from 514,000 sf to 609,200 sf. Each building would also provide approximately 20,000-sf of office space, including 10,000 sf of office mezzanine space. The buildings would each have a cross-dock layout, but could be subdivided to accommodate multiple tenants based on

[1] Raney Planning and Management, Inc. 2025. Ophir Road Warehouse Project SCH# 2022090522 Draft Environmental Impact Report Dated January 2025.

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market needs. Between 76 and 86 dock doors would be provided per building. The building height would average 40 feet to 65 feet based on the articulation, design, and variation. At the time of the preparation of the DEIR, the proposed buildings are speculative and future tenants are unknown at this time.



Figure 1: Project Site Boundaries

A total of 2,152 vehicle parking spaces would be provided on-site, including 530 parking spaces associated with building one, 483 parking spaces associated with building two, 526 parking spaces associated with building three, and 611 parking spaces associated with building four.

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BITE DATA TABLE

Figure 2: Conceptual Site Plan

The proposed project would also require the construction of several off-site roadway and utility improvements. The off-site roadway improvements would occur along a segment of Ophir Road, including the portion of the roadway along the project frontage, consistent with the City's Circulation Element. Off-site sewer utility improvements would generally include construction of an approximately one-mile-long off-site sewer transmission line, and to an existing South Feather Water and Power Agency (SFWPA) water transmission main located within Ophir Road, approximately 400 feet east of the project site. Finally, off-site water system improvements would generally include extension of the existing 12-inch water main on Kusel Road approximately 1,600 feet west, across the

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Union Pacific Railroad (UPRR) right-of-way (ROW), to the project site's eastern boundary, as well as the construction of an approximately 2,000-foot extension of an eight-inch water main, which would be installed along Kusel Road and would connect the proposed 12-inch water main extension to the existing eight-inch water main along Ophir Road.

Specific Comments

1. The Air Quality Analysis Fails To Analyze For Transportation Refrigeration Units (TRUs) Onsite During Normal Operations.

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The analysis performed of the Project fails to consider the use of the site as a cold storage facility and the use of Transport Refrigeration Units (TRUs) onsite. Transport Refrigeration Units (TRU) are refrigeration systems powered by diesel internal combustion engines designed to refrigerate or heat perishable products that are transported in various containers, including truck vans, semi-truck trailers, and shipping containers. CARB defines diesel exhaust as a complex mixture of inorganic and organic compounds that exists in gaseous, liquid, and solid phases. CARB and U.S. EPA identify 40 components of the exhaust as suspected human carcinogens, including formaldehyde, 1,3-butadiene, and benzo[a]pyrene.

According to CalEEMod analysis of the Project's construction and operational emissions provided in Appendix C to the DEIR, the Project is modeled as a refrigerated warehouse with no rail access.[2] The CalEEMod analysis does include the back-up generators for the facilities that would be required but it does not include the TRUs on trucks accessing the Project site. Nowhere in the CalEEMod analysis or in the air quality section of the DEIR are the emissions from the TRUs (primarily diesel particulate matter) quantified. In Appendix I to the DEIR (Noise Analysis), Saxelby Acoustics LLLC (Saxelby) presents an Environmental Noise Assessment.[3] Saxelby notes that "The primary noise sources associated with operation of the proposed project include parking lot circulation of passenger vehicles and heavy trucks as well as warehouse loading docks. Since the end use of the warehouses had not been determined at the time of this study, Saxelby Acoustics analyzed two primary

[2] *Ibid. pg 457 of pdf.*

[3] Saxelby. 2023. Environmental Noise Assessment, Ophir Road Warehouse, City of Oroville, California. Prepared July 31, 2023.

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project scenarios: non-refrigerated and refrigerated truck loading docks. These scenarios differ acoustically in that semi-truck trailers used in food transportation are equipped with refrigeration units which produce noise from a diesel-powered engine and a refrigeration compressor, typically referred to as "reefers."" [4]

Given that the DEIR identified the warehouses as refrigerated warehouses it is therefore reasonable to conclude that TRUs are a foreseeable project component. The TRU emissions have not been quantified in the Air Quality Analysis of the DEIR, intentionally underestimating the foreseeable health risk to the community as well as the associated GHG emissions from the operation of the TRUs. The City must assess these impacts in a revised EIR since it is allowing for the potential future use of TRUs onsite.

2. The DEIR Fails To Analyze The Health Risk From The Construction Phase Of The Project.

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According to the DEIR,[5] "Because construction equipment on-site would not operate for long periods of time and would be used at varying locations within the sites, associated emissions of DPM would not occur at the same location (or be evenly spread throughout the entire project site) for long periods of time. Due to the temporary nature of construction and the relatively short duration of potential exposure to associated emissions, the potential for any one sensitive receptor in the area to be exposed to concentrations of pollutants for a substantially extended period of time would be low. In addition, as discussed above, the nearest sensitive receptors to the project site are the rural residences located west of the project site, with the nearest residence located approximately 500 feet from the site. DPM is a highly dispersive gas, and concentrations of DPM decline rapidly with distance.[46] Prevailing winds are from the south and southwest. As a result, construction-related emissions would primarily flow towards the north and northeast, away from the nearest sensitive receptors. Therefore, construction associated with the proposed project would not be expected to expose any sensitive receptors to substantial pollutant concentrations." The City did perform an HRA on the operational phase of the Project. This HRA included an air dispersion model that assumed point sources for the back-up generators on site and volume sources for trucks entering and exiting the

[4] *Ibid.* Pg 8

[5] Raney Planning and Management, Inc. 2025. Ophir Road Warehouse Project SCH# 2022090522 Draft Environmental Impact Report Dated January 2025. Pg. 4.2-51

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Project site. The dispersion model failed to include the buildings themselves in the model and failed to include an analysis of building downwash which increases the concentration of pollutants in the lee of the building. In addition to the issues with the operational HRA, the City's failure to perform an HRA of the construction phase is clearly a major flaw in the DEIR and may be placing the residents of the adjacent structures at risk from the construction phase of the Project.

The dispersion model for the operational phase of the Project used surface and upper air meteorological files from the Oroville Municipal Airport. The airport is located approximately 2.75 miles to the northwest of the Project site.

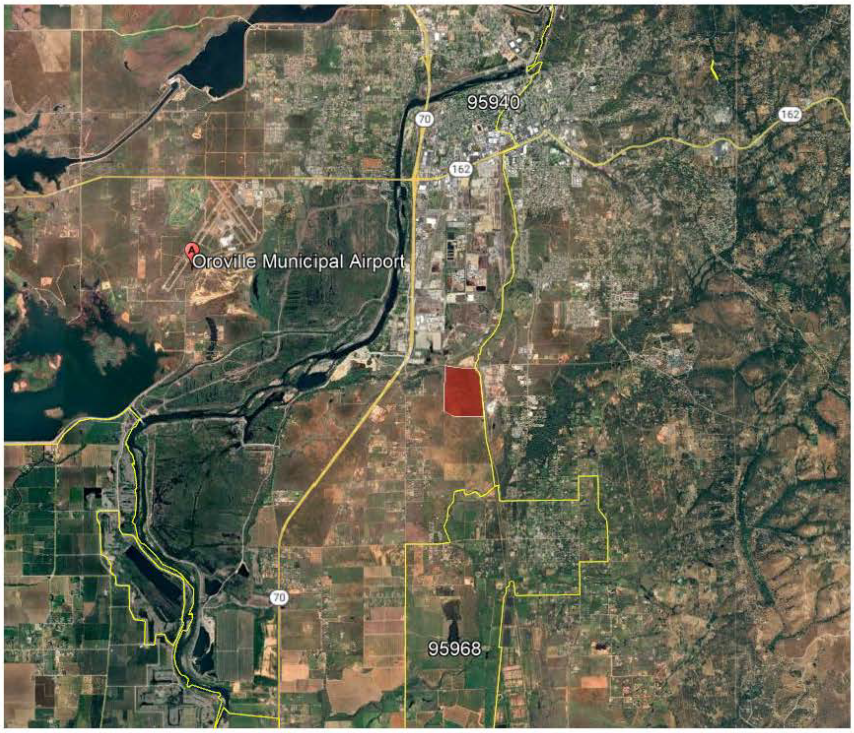


Figure 3: Project Site and Oroville Municipal Airport

In the surface meteorological file used in the dispersion model of emissions from the operational phase of the Project (from the Oroville Municipal Airport), the windrose shows that predominant wind flow is from the southeast to the northwest. At least 18% of the time wind flows to the west towards the nearest residence. Assuming that the emissions will not reach the residence

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just by virtue of the predominant wind flow does not actually assess the predictable impacts of the construction phase of the Project.

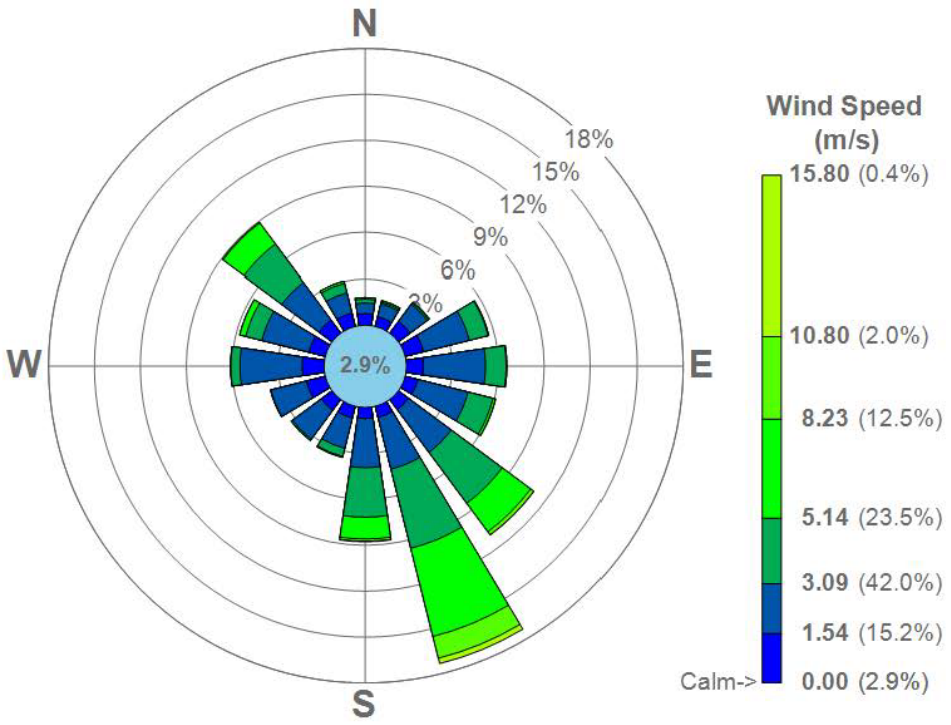


Figure 4: Windrose For Oroville Municipal Airport

Diesel exhaust, in particular DPM, is classified by the State of California as a TAC. TACs, including DPM, contribute to a host of respiratory impacts and may lead to the development of various cancers. Failing to quantify the carcinogenic and other health risk impacts places the community at risk for unwanted adverse health impacts. Even brief exposures to the TACs could lead to the development of adverse health impacts over the life of an individual.

Diesel exhaust contains nearly 40 toxic substances, including TACs, and may pose a serious public health risk for residents in the vicinity of the Project. TACs are airborne substances that are capable of causing short-term (acute) and/or long-term (chronic or carcinogenic, i.e., cancer causing) adverse human health effects (i.e., injury or illness). TACs include both organic and inorganic

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chemical substances. The current California list of TACs includes approximately 200 compounds, including particulate emissions from diesel-fueled engines.

Diesel exhaust has been linked to a range of serious health problems including an increase in respiratory disease, lung damage, cancer, and premature death. Fine DPM is deposited deep in the lungs in the smallest airways and can result in increased respiratory symptoms and disease; decreased lung function, particularly in children and individuals with asthma; alterations in lung tissue and respiratory tract defense mechanisms; and premature death. Exposure to DPM increases the risk of lung cancer. It also causes non-cancer effects including chronic bronchitis, inflammation of lung tissue, thickening of the alveolar walls, immunological allergic reactions, and airway constriction. DPM is a TAC that is recognized by state and federal agencies as causing severe health risk because it contains toxic materials, unlike $PM_{2.5}$ and PM_{10}.

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The inherent toxicity of TACs requires the City to first quantify the concentration released into the environment during the construction phase at each of the sensitive receptor locations through air dispersion modeling, calculate the dose of each TAC at that location, and quantify the cancer risk and hazard index for each of the chemicals of concern. It is important to model both the construction phase and operational phase risks from the Project to ensure the safety of the residents near the Project since they are the ones who will receive the greatest impacts. Following that analysis, then the City can make a determination of the relative significance of the emissions. The City must assess the potential impacts from the DPM in a revised EIR.

3. Mitigation Measure 4.2-3 Will Not Reduce Risks To Sensitive Receptors In Any Meaningful Manner..

Mitigation Measure 4.2-3 will not have a significant impact on the exposure of the sensitive receptors near the Project Site. Firstly, the measure assumes that it can restrict 2 of the 4 warehouse buildings to tenants with fleets primarily consisting of heavy duty diesel trucks. The DEIR specifically says "In the event that there is a disruption in the manufacturing of zero emission heavy-duty trucks, sufficient vehicles are not commercially available, or PG&E cannot provide adequate charging infrastructure, Mitigation Measure 4.2-3 may not be feasible at the time of occupancy for the remaining two warehouse buildings."[6] The caveat that MM 4.2-3 may not be feasible at the time of occupancy nullifies its value.

[6] *Ibid.* pg 4.2-55

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Second, the installation of Minimum Efficiency Report Value (MERV) filtration at residences near along Serene Lane will not reduce the concentrations of DPM in the environment below the risk significance threshold. According to the DEIR,[7] "the inclusion of MERV 13 filters in the Heating, Ventilation, and Air Conditioning (HVAC) systems for the existing sensitive receptors to the west of the project site, along Serene Lane, would dramatically reduce resident $PM_{2.5}$ exposure. In fact, the installation of upgraded MERV rating filters has been shown to reduce indoor $PM_{2.5}$ exposure by 19 to 28 percent.[50] A linear relationship exists between $PM_{2.5}$ concentration and the associated cancer risk when all other variables, including exposure time, remains constant. Therefore, in the case of the proposed project, a 19 to 28 percent reduction in $PM_{2.5}$ concentration would equate to a 19 to 28 percent reduction in cancer risk. After installation of MERV 13 filters, the total cancer risk can reasonably be expected to range between 10.45 to 11.75 cases per million." Clearly the installation the filters would be insufficient to reduce the risk level below the 10 in 1,000,000 risk threshold.

Third, the MERV filtration systems will do nothing to eliminate DPM in the outdoor environment. Residents spend time indoors and outdoors daily, depending on their specific activity patterns. Daily contact with DPM in the outdoor air will increase the calculated health risk from exposure the DPM released from the Project Site.

Fourth, and finally, the installation of the filters require resident approval and neither the City nor the applicant "can legally impose such improvements on the private properties." [8] This measure then will not be effective at all for residents who chose not to participate.

Given the flaws outlined above, thhe City must revise the mitigation measures in the EIR to ensure that the risk to residents near the Project Site are not adversely impacted and present the results in a revised EIR.

4. **Mitigation Measures AQ 4.2-1(a) Assumes The Fleet of Heavy Duty Trucks Entering the Site During The Construction Phase Will Be From Year 2010 Or Later. Limiting The Trucks To 2018 Or Newer Would Reduce NOx Emissions Significantly.**

To address concerns over the exceedances of oxide of nitrogen (NOx) emissions from the construction phase of the Project, Mitigation Measures AQ 4.2-1(a) assumes that construction on-road

[7] *Ibid.* pg 4.2-56

[8] *Ibid.* pg 4.2-56

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vehicles will be model year 2010 or later must be updated to include newer year models.

Table 4.2-8
Maximum Unmitigated Construction Emissions

Pollutant	Project Emissions	Threshold of Significance	Exceeds Threshold?
On-Site Emissions			
ROG	7.47 lbs/day 0.83 tons/yr	137 lbs/day 4.5 tons/yr	NO
NO_X	36.00 lbs/day 2.15 tons/yr	137 lbs/day 4.5 tons/yr	NO
PM_{10}	21.40 lbs/day	80 lbs/day	NO
Off-Site Roadway Improvement Emissions			
ROG	5.65 lbs/day 0.20 tons/yr	137 lbs/day 4.5 tons/yr	NO
NO_X	163.71 lbs/day 4.66 tons/yr	137 lbs/day 4.5 tons/yr	YES
PM_{10}	10.83 lbs/day	80 lbs/day	NO
Off-Site Water Line Improvements			
ROG	4.56 lbs/day 0.18 tons/yr	137 lbs/day 4.5 tons/yr	NO
NO_X	45.22 lbs/day 1.72 tons/yr	137 lbs/day 4.5 tons/yr	NO
PM_{10}	8.11 lbs/day	80 lbs/day	NO
Off-Site Sewer Line Improvements			
ROG	4.56 lbs/day 0.17 tons/yr	137 lbs/day 4.5 tons/yr	NO
NO_X	45.22 lbs/day 1.69 tons/yr	137 lbs/day 4.5 tons/yr	NO
PM_{10}	11.01 lbs/day	80 lbs/day	NO
Total Project Emissions			
ROG	22.24 lbs/day 1.38 tons/yr	137 lbs/day 4.5 tons/yr	NO
NO_X	290.15 lbs/day 10.22 tons/yr	137 lbs/day 4.5 tons/yr	YES
PM_{10}	51.35 lbs/day	80 lbs/day	NO

Sources: CalEEMod, August 2023; RoadMod, August 2023 (see Appendix C).

Figure 5: Unmitigated Operational Emissions

6-35 Cont.

Based on the results outlined in Table 4.2-8 it is clear that the NOx emissions will exceed the BCAQMD thresholds, even with this mitigation (MM 4-2.1(a)).[9] Although the DEIR claims that with MM 4.2-1(b) impacts would be less than significant, the Mitigation Measure doesn't reduce total project emissions, it only requires that off-site improvements won't be performed simultaneously with project construction. This flaw is a substantial error in the City's assessment.

Using the California Air Resources Board's (CARB) EMission FACtor (EMFAC) model, it is possible to estimates the emissions from onroad mobile sources in California, including but not limited to heavy duty trucks. The model calculates emissions factors and emissions inventories for:

- Carbon monoxide (CO)
- Nitrogen oxides (NO_x)
- Hydrocarbons (HC): HC can be expressed as TOG (total organic gases), ROG (reactive organic gases), THC (total hydrocarbon), or CH4 (methane). The TOG class includes all organic gases

[9] *Ibid.* pg 4.2-46

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emitted into the atmosphere. The ROG class is same as EPA's VOC (volatile organic compounds) definition and does not contain compounds exempt from regulation.

- Particulate matter (PM): PM estimates are provided for total suspended particulates for particulate matters 10 microns or less in diameter (PM_{10}), and particulate matters 2.5 microns or less in diameter ($PM_{2.5}$).
- Sulfur oxides (SOx): Emissions of oxides of sulfur are a function of the sulfur content of fuel. The model calculates these emissions by multiplying the fuel consumption by the weight fraction of sulfur in a gallon of fuel.
- Greenhouse Gases (GHG): GHG emissions are consisted of complete combustion CO2, Nitrous Oxide (N2O) and Methane (CH4). These are the greenhouse gases that are now included in the EMFAC2017 but not in EMFAC2014 or prior versions

Based on the averaged emissions from EMFAC it is clear that changing the minimum allowable model year from 2010 to 2018 would result in:

- A 44% reduction in NOx emissions from HHDT vehicles operating on site. (Average of 2010 to 2025 = 2.38; Average of 2018 to 2025 = 1.33; and reduction equal to 43.9% (1-(1.33/2.38)).
- A 37% reduction in diesel particulate matter (DPM) emissions from HHDT vehicles measured as particulate matter less than 2.5 microns ($PM_{2.5}$) operating on site. (Average of 2010 to 2025 = 3.13E-02; Average of 2018 to 2025 = 1.96E-02; and reduction equal to 37.3% (1-(1.96E-02/3.13E-02)).
- A 37% reduction in diesel particulate matter (DPM) emissions from HHDT vehicles measured as particulate matter less than 10 microns (PM_{10}) operating on site. (Average of 2010 to 2025 = 3.28E-02; Average of 2018 to 2025 = 2.05E-02; and reduction equal to 37.3% (1-(2.05E-02/3.28E-02)).
- A 47% reduction in reactive organic gases (ROGs) from HHDT vehicles operating on site. (Average of 2010 to 2025 = 3.23E-02; Average of 2018 to 2025 = 1.70E-02; and reduction equal to 47.3% (1-(1.70E-02/3.23E-02)).
- A 45% reduction in NOx emissions from MHDT vehicles operating on site. (Average of 2010 to 2025 = 1.18; Average of 2018 to 2025 = 0.648; and reduction equal to 45.3% (1-(0.648/1.18)).
- A 41% reduction in diesel particulate matter (DPM) emissions from MHDT vehicles measured as particulate matter less than 2.5 microns ($PM_{2.5}$) operating on site. (Average of 2010 to 2025

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= 1.33E-02; Average of 2018 to 2025 = 7.85E-03; and reduction equal to 41.2% (1-(7.85E-03/1.33E-02)).

- A 41% reduction in diesel particulate matter (DPM) emissions from MHDT vehicles measured as particulate matter less than 10 microns (PM_{10}) operating on site. (Average of 2010 to 2025 = 1.39E-02; Average of 2018 to 2025 = 8.21E-03; and reduction equal to 41.2% (1-(1.39E-02/8.21E-03)).
- A 47% reduction in reactive organic gases (ROGs) from MHDT vehicles operating on site. (Average of 2010 to 2025 = 1.32E-02; Average of 2018 to 2025 = 7.06E-03; and reduction equal to 46.7% (1-(7.06E-03/1.32E-02)).

From the DEIR's air quality assessment of criteria pollutants, it is clear the largest sources of NOx are mobile emissions from heavy duty vehicles using the site. Further restricting the age of the on-road vehicles accessing the Project Site to the latest model years would significantly reduce the construction emissions, in particular the NOx emissions. The City should revise the mitigation measures and present the results in a revised EIR.

5. The DEIR Significantly Underestimates Project Operational Emissions In Its Air Quality Analysis.

The Air Quality Analysis uses a trip generation rate of 7.05 miles for trucks entering and exiting the Project Site. The regional air quality impacts from this mobile source is severely underestimating the NOx and DPM emissions associated with the Project.

The DEIR's omission of realistic truck trip lengths to and from key ports, such as the Cities of Sacramento (approximately 70 miles away from Project Site) or Stockton (approximately 120 miles away from Project Site), is a major flaw in the air quality analysis, as it underestimates the emission associated with heavy-duty trucks traveling significant distances. This underestimation skews the projected impacts on local air quality, particularly regarding DPM and NOx emissions, both of which contribute substantially to regional air quality issues.

For a fact-based analysis that accurately reflects the Project's operational impacts, the City must revise air quality analysis using realistic, reasonably foreseeable truck trip distances based on regional logistics data. To ensure transparency and address these discrepancies, a RDEIR is essential

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for presenting accurate emissions estimates and evaluating the Project's cumulative impact on air quality.

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Conclusion

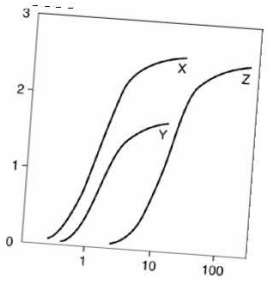
The facts presented in this comment letter lead me to reasonably conclude that the Project will result in significant impacts without additional mitigation efforts.

Sincerely,



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Clark & Associates
Environmental Consulting, Inc

OFFICE
12405 Venice Blvd.
Suite 331
Los Angeles, CA 90066

PHONE
310-907-6165

FAX
310-398-7626

EMAIL
jclark.assoc@gmail.com

James J. J. Clark, Ph.D.

Principal Toxicologist

Toxicology/Exposure Assessment Modeling

Risk Assessment/Analysis/Dispersion Modeling

Education:

Ph.D., Environmental Health Science, University of California, 1995

M.S., Environmental Health Science, University of California, 1993

B.S., Biophysical and Biochemical Sciences, University of Houston, 1987

Professional Experience:

Dr. Clark is a well recognized toxicologist, air modeler, and health scientist. He has 20 years of experience in researching the effects of environmental contaminants on human health including environmental fate and transport modeling (SCREEN3, AEROMOD, ISCST3, Johnson-Ettinger Vapor Intrusion Modeling); exposure assessment modeling (partitioning of contaminants in the environment as well as PBPK modeling); conducting and managing human health risk assessments for regulatory compliance and risk-based clean-up levels; and toxicological and medical literature research.

Significant projects performed by Dr. Clark include the following:

LITIGATION SUPPORT

Case: James Harold Caygle, et al, v. Drummond Company, Inc. Circuit Court for the Tenth Judicial Circuit, Jefferson County, Alabama. Civil Action. CV-2009

Client: Environmental Litgation Group, Birmingham, Alabama

Dr. Clark performed an air quality assessment of emissions from a coke factory located in Tarrant, Alabama. The assessment reviewed include a comprehensive review of air quality standards, measured concentrations of pollutants from factory, an inspection of the facility and detailed assessment of the impacts on the community. The results of the assessment and literature have been provided in a declaration to the court.

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Case Result: Settlement in favor of plaintiff.

Case: Rose Roper V. Nissan North America, et al. Superior Court of the State Of California for the County Of Los Angeles – Central Civil West. Civil Action. NC041739

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to multiple chemicals, including benzene, who later developed a respiratory distress. A review of the individual's medical and occupational history was performed to prepare an exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to respiratory irritants. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: O'Neil V. Sherwin Williams, et al. United States District Court Central District of California

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to petroleum distillates who later developed a bladder cancer. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Summary judgment for defendants.

Case: Moore V., Shell Oil Company, et al. Superior Court of the State Of California for the County Of Los Angeles

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to chemicals while benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

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Case Result: Settlement in favor of plaintiff.

Case: Raymond Saltonstall V. Fuller O'Brien, KILZ, and Zinsser, et al. United States District Court Central District of California

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Richard Boyer and Elizabeth Boyer, husband and wife, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-7G.

Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

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Case: JoAnne R. Cook, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-9R

Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of an individual exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Patrick Allen And Susan Allen, husband and wife, and Andrew Allen, a minor, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-W

Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Michael Fahey, Susan Fahey V. Atlantic Richfield Company, et al. United States District Court Central District of California Civil Action Number CV-06 7109 JCL.

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Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Constance Acevedo, et al., V. California Spray-Chemical Company, et al., Superior Court of the State Of California, County Of Santa Cruz. Case No. CV 146344

Dr. Clark performed a comprehensive exposure assessment of community members exposed to toxic metals from a former lead arsenate manufacturing facility. The former manufacturing site had undergone a DTSC mandated removal action/remediation for the presence of the toxic metals at the site. Opinions were presented regarding the elevated levels of arsenic and lead (in attic dust and soils) found throughout the community and the potential for harm to the plaintiffs in question.

Case Result: Settlement in favor of defendant.

Case: Michael Nawrocki V. The Coastal Corporation, Kurk Fuel Company, Pautler Oil Service, State of New York Supreme Court, County of Erie, Index Number I2001-11247

Client: Richard G. Berger Attorney At Law, Buffalo, New York

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the

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known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Judgement in favor of defendant.

SELECTED AIR MODELING RESEARCH/PROJECTS

Client – Confidential

Dr. Clark performed a comprehensive evaluation of criteria pollutants, air toxins, and particulate matter emissions from a carbon black production facility to determine the impacts on the surrounding communities. The results of the dispersion model will be used to estimate acute and chronic exposure concentrations to multiple contaminants and will be incorporated into a comprehensive risk evaluation.

Client – Confidential

Dr. Clark performed a comprehensive evaluation of air toxins and particulate matter emissions from a railroad tie manufacturing facility to determine the impacts on the surrounding communities. The results of the dispersion model have been used to estimate acute and chronic exposure concentrations to multiple contaminants and have been incorporated into a comprehensive risk evaluation.

Client – Los Angeles Alliance for a New Economy (LAANE), Los Angeles, California

Dr. Clark is advising the LAANE on air quality issues related to current flight operations at the Los Angeles International Airport (LAX) operated by the Los Angeles World Airport (LAWA) Authority. He is working with the LAANE and LAX staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

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Client – City of Santa Monica, Santa Monica, California

Dr. Clark is advising the City of Santa Monica on air quality issues related to current flight operations at the facility. He is working with the City staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

Client: Omnitrans, San Bernardino, California

Dr. Clark managed a public health survey of three communities near transit fueling facilities in San Bernardino and Montclair California in compliance with California Senate Bill 1927. The survey included an epidemiological survey of the effected communities, emission surveys of local businesses, dispersion modeling to determine potential emission concentrations within the communities, and a comprehensive risk assessment of each community. The results of the study were presented to the Governor as mandated by Senate Bill 1927.

Client: Confidential, San Francisco, California

Summarized cancer types associated with exposure to metals and smoking. Researched the specific types of cancers associated with exposure to metals and smoking. Provided causation analysis of the association between cancer types and exposure for use by non-public health professionals.

Client: Confidential, Minneapolis, Minnesota

Prepared human health risk assessment of workers exposed to VOCs from neighboring petroleum storage/transport facility. Reviewed the systems in place for distribution of petroleum hydrocarbons to identify chemicals of concern (COCs), prepared comprehensive toxicological summaries of COCs, and quantified potential risks from carcinogens and non-carcinogens to receptors at or adjacent to site. This evaluation was used in the support of litigation.

Client – United Kingdom Environmental Agency

Dr. Clark is part of team that performed comprehensive evaluation of soil vapor intrusion of VOCs from former landfill adjacent residences for the United Kingdom's Environment

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Agency. The evaluation included collection of liquid and soil vapor samples at site, modeling of vapor migration using the Johnson Ettinger Vapor Intrusion model, and calculation of site-specific health based vapor thresholds for chlorinated solvents, aromatic hydrocarbons, and semi-volatile organic compounds. The evaluation also included a detailed evaluation of the use, chemical characteristics, fate and transport, and toxicology of chemicals of concern (COC). The results of the evaluation have been used as a briefing tool for public health professionals.

EMERGING/PERSISTENT CONTAMINANT RESEARCH/PROJECTS

Client: Ameren Services, St. Louis, Missouri

Managed the preparation of a comprehensive human health risk assessment of workers and residents at or near an NPL site in Missouri. The former operations at the Property included the servicing and repair of electrical transformers, which resulted in soils and groundwater beneath the Property and adjacent land becoming impacted with PCB and chlorinated solvent compounds. The results were submitted to U.S. EPA for evaluation and will be used in the final ROD.

Client: City of Santa Clarita, Santa Clarita, California

Dr. Clark is managing the oversight of the characterization, remediation and development activities of a former 1,000 acre munitions manufacturing facility for the City of Santa Clarita. The site is impacted with a number of contaminants including perchlorate, unexploded ordinance, and volatile organic compounds (VOCs). The site is currently under a number of regulatory consent orders, including an Immanent and Substantial Endangerment Order. Dr. Clark is assisting the impacted municipality with the development of remediation strategies, interaction with the responsible parties and stakeholders, as well as interfacing with the regulatory agency responsible for oversight of the site cleanup.

Client: Confidential, Los Angeles, California

Prepared comprehensive evaluation of perchlorate in environment. Dr. Clark evaluated the production, use, chemical characteristics, fate and transport, toxicology, and remediation of perchlorate. Perchlorates form the basis of solid rocket fuels and have recently been detected in water supplies in the United States. The results of this research

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were presented to the USEPA, National GroundWater, and ultimately published in a recent book entitled *Perchlorate in the Environment.*

Client – Confidential, Los Angeles, California

Dr. Clark is performing a comprehensive review of the potential for pharmaceuticals and their by-products to impact groundwater and surface water supplies. This evaluation will include a review if available data on the history of pharmaceutical production in the United States; the chemical characteristics of various pharmaceuticals; environmental fate and transport; uptake by xenobiotics; the potential effects of pharmaceuticals on water treatment systems; and the potential threat to public health. The results of the evaluation may be used as a briefing tool for non-public health professionals.

PUBLIC HEALTH/TOXICOLOGY

Client: Brayton Purcell, Novato, California

Dr. Clark performed a toxicological assessment of residents exposed to methyl-tertiary butyl ether (MTBE) from leaking underground storage tanks (LUSTs) adjacent to the subject property. The symptomology of residents and guests of the subject property were evaluated against the known outcomes in published literature to exposure to MTBE. The study found that residents had been exposed to MTBE in their drinking water; that concentrations of MTBE detected at the site were above regulatory guidelines; and, that the symptoms and outcomes expressed by residents and guests were consistent with symptoms and outcomes documented in published literature.

Client: Confidential, San Francisco, California

Identified and analyzed fifty years of epidemiological literature on workplace exposures to heavy metals. This research resulted in a summary of the types of cancer and non-cancer diseases associated with occupational exposure to chromium as well as the mortality and morbidity rates.

Client: Confidential, San Francisco, California

Summarized major public health research in United States. Identified major public health research efforts within United States over last twenty years. Results were used as a briefing tool for non-public health professionals.

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Client: Confidential, San Francisco, California

Quantified the potential multi-pathway dose received by humans from a pesticide applied indoors. Part of team that developed exposure model and evaluated exposure concentrations in a comprehensive report on the plausible range of doses received by a specific person. This evaluation was used in the support of litigation.

Client: Covanta Energy, Westwood, California

Evaluated health risk from metals in biosolids applied as soil amendment on agricultural lands. The biosolids were created at a forest waste cogeneration facility using 96% whole tree wood chips and 4 percent green waste. Mass loading calculations were used to estimate Cr(VI) concentrations in agricultural soils based on a maximum loading rate of 40 tons of biomass per acre of agricultural soil. The results of the study were used by the Regulatory agency to determine that the application of biosolids did not constitute a health risk to workers applying the biosolids or to residences near the agricultural lands.

Client – United Kingdom Environmental Agency

Oversaw a comprehensive toxicological evaluation of methyl-*tertiary* butyl ether (*M*tBE) for the United Kingdom's Environment Agency. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of *M*tBE. The results of the evaluation have been used as a briefing tool for public health professionals.

Client – Confidential, Los Angeles, California

Prepared comprehensive evaluation of *tertiary* butyl alcohol (TBA) in municipal drinking water system. TBA is the primary breakdown product of *M*tBE, and is suspected to be the primary cause of *M*tBE toxicity. This evaluation will include available information on the production, use, chemical characteristics, fate and transport in the environment, absorption, distribution, routes of detoxification, metabolites, carcinogenic potential, and remediation of TBA. The results of the evaluation were used as a briefing tool for non-public health professionals.

Client – Confidential, Los Angeles, California

Prepared comprehensive evaluation of methyl *tertiary* butyl ether (MTBE) in municipal drinking water system. MTBE is a chemical added to gasoline to increase the octane

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rating and to meet Federally mandated emission criteria. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MTBE. The results of the evaluation have been were used as a briefing tool for non-public health professionals.

Client – Ministry of Environment, Lands & Parks, British Columbia

Dr. Clark assisted in the development of water quality guidelines for methyl tertiary-butyl ether (MTBE) to protect water uses in British Columbia (BC). The water uses to be considered includes freshwater and marine life, wildlife, industrial, and agricultural (e.g., irrigation and livestock watering) water uses. Guidelines from other jurisdictions for the protection of drinking water, recreation and aesthetics were to be identified.

Client: Confidential, Los Angeles, California

Prepared physiologically based pharmacokinetic (PBPK) assessment of lead risk of receptors at middle school built over former industrial facility. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

Client: Kaiser Venture Incorporated, Fontana, California

Prepared PBPK assessment of lead risk of receptors at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

RISK ASSESSMENTS/REMEDIAL INVESTIGATIONS

Client: Confidential, Atlanta, Georgia

Researched potential exposure and health risks to community members potentially exposed to creosote, polycyclic aromatic hydrocarbons, pentachlorophenol, and dioxin compounds used at a former wood treatment facility. Prepared a comprehensive toxicological summary of the chemicals of concern, including the chemical characteristics, absorption, distribution, and carcinogenic potential. Prepared risk characterization of the carcinogenic and non-carcinogenic chemicals based on the exposure assessment to quantify the potential risk to members of the surrounding community. This evaluation was used to help settle class-action tort.

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Client: Confidential, Escondido, California

Prepared comprehensive Preliminary Endangerment Assessment (PEA) of dense non-aqueous liquid phase hydrocarbon (chlorinated solvents) contamination at a former printed circuit board manufacturing facility. This evaluation was used for litigation support and may be used as the basis for reaching closure of the site with the lead regulatory agency.

Client: Confidential, San Francisco, California

Summarized epidemiological evidence for connective tissue and autoimmune diseases for product liability litigation. Identified epidemiological research efforts on the health effects of medical prostheses. This research was used in a meta-analysis of the health effects and as a briefing tool for non-public health professionals.

Client: Confidential, Bogotá, Columbia

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of a 13.7 hectares plastic manufacturing facility in Bogotá, Colombia The risk assessment was used as the basis for the remedial goals and closure of the site.

Client: Confidential, Los Angeles, California

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally cadmium) and VOCs from soil and soil vapor at 12-acre former crude oilfield and municipal landfill. The site is currently used as a middle school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and was used as the basis for regulatory closure of site.

Client: Confidential, Los Angeles, California

Managed remedial investigation (RI) of heavy metals and volatile organic chemicals (VOCs) for a 15-acre former manufacturing facility. The RI investigation of the site included over 800 different sampling locations and the collection of soil, soil gas, and groundwater samples. The site is currently used as a year round school housing approximately 3,000 children. The Remedial Investigation was performed in a manner

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that did not interrupt school activities and met the time restrictions placed on the project by the overseeing regulatory agency. The RI Report identified the off-site source of metals that impacted groundwater beneath the site and the sources of VOCs in soil gas and groundwater. The RI included a numerical model of vapor intrusion into the buildings at the site from the vadose zone to determine exposure concentrations and an air dispersion model of VOCs from the proposed soil vapor treatment system. The Feasibility Study for the Site is currently being drafted and may be used as the basis for granting closure of the site by DTSC.

Client: Confidential, Los Angeles, California

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally lead), VOCs, SVOCs, and PCBs from soil, soil vapor, and groundwater at 15-acre former manufacturing facility. The site is currently used as a year round school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and will be basis for regulatory closure of site.

Client: Confidential, Los Angeles, California

Prepared comprehensive evaluation of VOC vapor intrusion into classrooms of middle school that was former 15-acre industrial facility. Using the Johnson-Ettinger Vapor Intrusion model, the evaluation determined acceptable soil gas concentrations at the site that did not pose health threat to students, staff, and residents. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

Client –Dominguez Energy, Carson, California

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of 6-acre portion of a 500-acre oil and natural gas production facility in Carson, California. The risk assessment was used as the basis for closure of the site.

Kaiser Ventures Incorporated, Fontana, California

Prepared health risk assessment of semi-volatile organic chemicals and metals for a fifty-year old wastewater treatment facility used at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

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ANR Freight - Los Angeles, California

Prepared a comprehensive Preliminary Endangerment Assessment (PEA) of petroleum hydrocarbon and metal contamination of a former freight depot. This evaluation was as the basis for reaching closure of the site with lead regulatory agency.

Kaiser Ventures Incorporated, Fontana, California

Prepared comprehensive health risk assessment of semi-volatile organic chemicals and metals for 23-acre parcel of a 1,100-acre former steel mill. The health risk assessment was used to determine clean up goals and as the basis for granting closure of the site by lead regulatory agency. Air dispersion modeling using ISCST3 was performed to determine downwind exposure point concentrations at sensitive receptors within a 1 kilometer radius of the site. The results of the health risk assessment were presented at a public meeting sponsored by the Department of Toxic Substances Control (DTSC) in the community potentially affected by the site.

Unocal Corporation - Los Angeles, California

Prepared comprehensive assessment of petroleum hydrocarbons and metals for a former petroleum service station located next to sensitive population center (elementary school). The assessment used a probabilistic approach to estimate risks to the community and was used as the basis for granting closure of the site by lead regulatory agency.

Client: Confidential, Los Angeles, California

Managed oversight of remedial investigation most contaminated heavy metal site in California. Lead concentrations in soil excess of 68,000,000 parts per billion (ppb) have been measured at the site. This State Superfund Site was a former hard chrome plating operation that operated for approximately 40-years.

Client: Confidential, San Francisco, California

Coordinator of regional monitoring program to determine background concentrations of metals in air. Acted as liaison with SCAQMD and CARB to perform co-location sampling and comparison of accepted regulatory method with ASTM methodology.

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Client: Confidential, San Francisco, California

Analyzed historical air monitoring data for South Coast Air Basin in Southern California and potential health risks related to ambient concentrations of carcinogenic metals and volatile organic compounds. Identified and reviewed the available literature and calculated risks from toxins in South Coast Air Basin.

IT Corporation, North Carolina

Prepared comprehensive evaluation of potential exposure of workers to air-borne VOCs at hazardous waste storage facility under SUPERFUND cleanup decree. Assessment used in developing health based clean-up levels.

Professional Associations

American Public Health Association (APHA)
Association for Environmental Health and Sciences (AEHS)
American Chemical Society (ACS)
California Redevelopment Association (CRA)
International Society of Environmental Forensics (ISEF)
Society of Environmental Toxicology and Chemistry (SETAC)

Publications and Presentations:

Books and Book Chapters

Sullivan, P., **J.J. J. Clark,** F.J. Agardy, and P.E. Rosenfeld. (2007). *Synthetic Toxins In The Food, Water and Air of American Cities.* Elsevier, Inc. Burlington, MA.

Sullivan, P. and **J.J. J. Clark**. 2006. *Choosing Safer Foods, A Guide To Minimizing Synthetic Chemicals In Your Diet.* Elsevier, Inc. Burlington, MA.

Sullivan, P., Agardy, F.J., and **J.J.J. Clark**. 2005. *The Environmental Science of Drinking Water.* Elsevier, Inc. Burlington, MA.

Sullivan, P.J., Agardy, F.J., **Clark, J.J.J.** 2002. *America's Threatened Drinking Water: Hazards and Solutions.* Trafford Publishing, Victoria B.C.

Clark, J.J.J. 2001. "TBA: Chemical Properties, Production & Use, Fate and Transport, Toxicology, Detection in Groundwater, and Regulatory Standards" in *Oxygenates in the Environment.* Art Diaz, Ed.. Oxford University Press: New York.

Clark, J.J.J. 2000. "Toxicology of Perchlorate" in *Perchlorate in the Environment.* Edward Urbansky, Ed. Kluwer/Plenum: New York.

Clark, J.J.J. 1995. Probabilistic Forecasting of Volatile Organic Compound Concentrations At The Soil Surface From Contaminated Groundwater. UMI.

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Baker, J.; **Clark, J.J.J.**; Stanford, J.T. 1994. Ex Situ Remediation of Diesel Contaminated Railroad Sand by Soil Washing. Principles and Practices for Diesel Contaminated Soils, Volume III. P.T. Kostecki, E.J. Calabrese, and C.P.L. Barkan, eds. Amherst Scientific Publishers, Amherst, MA. pp 89-96.

Journal and Proceeding Articles

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 Equialency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. Organohalogen Compounds, Volume 70 (2008) page 002254.

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

Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** (2007). "Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." *Environmental Research.* 105:194-199.

Rosenfeld, P.E., **Clark, J. J.,** Hensley, A.R., and Suffet, I.H. 2007. "The Use Of An Odor Wheel Classification For The Evaluation of Human Health Risk Criteria For Compost Facilities" Water Science & Technology. 55(5): 345-357.

Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** 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, August 21 – 25, 2006. Radisson SAS Scandinavia Hotel in Oslo Norway.

Rosenfeld, P.E., **Clark, J. J.** and Suffet, I.H. 2005. "The Value Of An Odor Quality Classification Scheme For Compost Facility Evaluations" The U.S. Composting Council's 13th Annual Conference January 23 - 26, 2005, Crowne Plaza Riverwalk, San Antonio, TX.

Rosenfeld, P.E., **Clark, J. J.** and Suffet, I.H. 2004. "The Value Of An Odor Quality Classification Scheme For Urban Odor" WEFTEC 2004. 77th Annual Technical Exhibition & Conference October 2 - 6, 2004, Ernest N. Morial Convention Center, New Orleans, Louisiana.

Clark, J.J.J. 2003. "Manufacturing, Use, Regulation, and Occurrence of a Known Endocrine Disrupting Chemical (EDC), 2,4-Dichlorophnoxyacetic Acid (2,4-D) in California Drinking Water Supplies." National Groundwater Association Southwest Focus Conference: Water Supply and Emerging Contaminants. Minneapolis, MN. March 20, 2003.

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Rosenfeld, P. and **J.J.J. Clark**. 2003. "Understanding Historical Use, Chemical Properties, Toxicity, and Regulatory Guidance" National Groundwater Association Southwest Focus Conference: Water Supply and Emerging Contaminants. Phoenix, AZ. February 21, 2003.

Clark, J.J.J., Brown A. 1999. Perchlorate Contamination: Fate in the Environment and Treatment Options. In Situ and On-Site Bioremediation, Fifth International Symposium. San Diego, CA, April, 1999.

Clark, J.J.J. 1998. Health Effects of Perchlorate and the New Reference Dose (RfD). Proceedings From the Groundwater Resource Association Seventh Annual Meeting, Walnut Creek, CA, October 23, 1998.

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Letter 6 Cont.

6-36 Cont.

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Letter 6 Cont.

EXHIBIT B

Letter 6 Cont.

WILSON IHRIG
ACOUSTICS, NOISE & VIBRATION

CALIFORNIA
WASHINGTON
NEW YORK

WI #25-001.06

February 21, 2025

Kevin Carmichael, Esquire
Adams Broadwell Joseph & Cardozo
520 Capitol Mall, Suite 350
Sacramento, California 95814

SUBJECT: Ophir Road Warehouse Project Draft EIR, Comments on the Noise and Vibration Analysis

Dear Mr. Carmichael,

Per your request, I have reviewed the subject matter documents for the Ophir Road Warehouse (Project) Draft Environmental Impact Report (DEIR) in the City of Oroville, California. The DEIR includes a noise analysis as Appendix I (Environmental Noise Assessment). The project would construct four new warehouse buildings providing up to 344 truck trailer docks for all four buildings with warehouse and office areas in each building.

6-37 Wilson Ihrig, Acoustical Consultants, has practiced exclusively in the field of acoustics since 1966. During our 58 years of operation, we have prepared hundreds of noise studies for Environmental Impact Reports and Statements. We have one of the largest technical laboratories in the acoustical consulting industry. We also utilize industry-standard acoustical programs such as Roadway Construction Noise Model (RCNM), SoundPLAN, and CADNA. In short, we are well qualified to prepare environmental noise studies and review studies prepared by others.

Adverse Effects of Noise[1]

6-38 **Noise-Induced Hearing Loss.** If a person is repeatedly exposed to loud noises, he or she may experience noise-induced hearing impairment or loss. In the United States, both the Occupational Health and Safety Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) promote standards and regulations to protect the hearing of people exposed to high levels of industrial noise.

6-39 **Speech Interference.** Another common problem associated with noise is speech interference. In addition to the obvious issues that may arise from misunderstandings, speech interference also leads to problems with concentration fatigue, irritation, decreased working capacity, and automatic stress reactions. For complete speech intelligibility, the sound level of the speech should be 15 to 18 dBA higher than the background noise. Typical indoor speech levels are 45 to 50 dBA at 1 meter, so any noise above 30 dBA begins to interfere with speech intelligibility. The common reaction to higher background noise levels is to raise one's voice. If this is required persistently for long periods of time, stress reactions and irritation will likely result.

6-40 **Sleep Disturbance.** Noise can disturb sleep by making it more difficult to fall asleep, by waking someone after they are asleep, or by altering their sleep stage, e.g., reducing the amount of rapid eye movement (REM) sleep. Noise exposure for people who are sleeping has also been linked to increased blood pressure, increased heart rate, increase in body movements, and other physiological effects. Not surprisingly, people whose sleep is disturbed by noise often experience secondary effects such as cognitive decline, increased fatigue, depressed mood, and decreased work performance.

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

5900 HOLLIS STREET, SUITE T1 | EMERYVILLE, CA 94608 | (510) 658-6719 | WWW.WILSONIHRIG.COM

Letter 6 Cont.

WILSON IHRIG
Ophir Road, DEIR

6-41 **Cardiovascular and Physiological Effects.** Human's bodily reactions to noise are rooted in the "fight or flight" response that evolved when many noises signaled imminent danger. These include increased blood pressure, elevated heart rate, and vasoconstriction. Prolonged exposure to acute noises can result in permanent effects such as hypertension and heart disease.

6-42 **Impaired Cognitive Performance.** Studies have established that noise exposure impairs people's abilities to perform complex tasks (tasks that require attention to detail or analytical processes), and it makes reading, paying attention, solving problems, and memorizing more difficult. Therefore, there are standards for classroom background noise levels, which is why offices and libraries are designed to provide quiet work environments. One societal change brought about by the COVID-19 pandemic is that many people now routinely work and learn from home, and this has given rise to more noise complaints from loud daytime activities such as construction work.

Errors and Omissions

The DEIR and Environmental Noise Assessment contain several errors and lack several items. Several of these items are explored in more detail following this list:

6-43 1. The DEIR lacks noise analysis of nighttime truck activity. The Project Description states an assumption that a distribution center would be the worst case since this is a speculative project (DEIR page 3-4). Distribution centers usually entail lots of heavy trucks at all hours, some coming in from ports and trains, and the others heading to fulfillment centers.

6-44 2. Sleep disturbance is a potential noise impact from nighttime activities such as medium and heavy trucks. The DEIR and Environmental Noise Assessment lack this analysis.

6-45 3. The DEIR lacks noise analysis of rooftop HVAC and refrigeration equipment which would generate significant noise impacts. With warehouse operations running 24/7 the worst case noise evaluation would also require rooftop HVAC units operating continuously during occupied hours. Worst case assumptions for noise should also include rooftop refrigeration units which would operate 24/7.

6-46 4. The Environmental Noise Assessment relies on an old traffic noise model from the 1970s that has since been replaced by FHWA TNM v2.5 or v3.2. Common Caltrans practice accepts models that could be +/- 3 dBA off from actual conditions when used *with* validation measurements[2].

6-47 5. The Environmental Noise Assessment appears to use an incorrect number of commercial vehicle trips. The Transportation analysis identifies 1,640 trips, but the noise analysis only appears to include 249.

Item #1-2 Increase in Nighttime Trucks Would Cause Significant Impacts On Sleep

6-48 Section 4.9 identifies 1,640 daily commercial vehicle trips (p. 4.9-15), which are assumed to be one-way trips. Assuming equal distribution over 24 hours this would mean about 68 trucks per hour during nighttime hours. In the immediate vicinity on Serene Lane and Ophir Road. Noise from truck operations at night can cause sleep disturbance. Truck noise at low speed is dominated by engine noise, furthermore when acceleration and deceleration are taken into account the maximum noise from individual truck passbys can disturb sleep and generate noise impacts. The DEIR lacks any discussion of these effects.

[2] Caltrans Technical Noise Supplement (2013). Page 4-8: "TNM cannot account for all the variables present in the real world. It uses relatively simple algorithms to approximate physical processes that are complex in nature. TNM for projects involving existing roadways should always be validated for accuracy by comparing measured sound levels to modeled sound levels using traffic data collected during the measurement. If modeled sound levels do not match measured sound levels within ±3 dB the model parameters should be reviewed and adjusted if necessary to ensure that they accurately represent actual site conditions. If the measurements and model results are still not in agreement, the model should be calibrated." https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/env/tens-sep2013-a11y.pdf

Letter 6 Cont.

WILSON IHRIG
Ophir Road, DEIR

6-48 Cont.

The current FHWA Traffic Noise Model v. 3.1 and 3.2 uses a reference noise level of 82 dBA for a heavy truck at 50 ft distance and 45 mph under cruise throttle (no acceleration or deceleration), and 76 dBA at 25 mph.[3] Adjusting moving sources for distance out to 400 ft It is commonly accepted that a home with windows open would reduce noise by 15 dBA. Thus, at distance of 400 ft heavy truck moving at 25 mph would generate a noise level of 47 dBA inside a home with windows open; at 45 mph the noise would be 53 dBA. An indoor **Lmax** noise level of 47 dBA from a single heavy truck has an approximately 11% chance of disturbing sleep as shown in Figure 1[4]. Each heavy truck passby at these noise levels has an 11 to 13% probability of disturbing sleep, and the probability of heavy trucks causing at least one sleep disturbance is virtually 100% for the project trucks alone. Even if individuals believe that they have "gotten used" to or habituated to sleep disturbances from existing traffic, health studies show that their senses "continue to react to noise events even after several years of noise exposure."[5]

Reliance on the CNEL as the significance threshold is inadequate to assess the significance of truck noise on sleep disturbance. Noise mitigation measures could include operational conditions such as prohibiting line-haul trucks during nighttime hours or routing nighttime line-haul trucks away from residential areas or off-site mitigation in the form of new windows and mechanical ventilation for bedrooms affected by the nighttime line-haul operations.

Item #3 HVAC Noise is Underpredicted and the Total Operational Noise Would be Significant.

Guidance for HVAC design and warehouses indicates that the air exchange rate is typically on the order of 6 to 30 changes per hour based on a number of factors defined by ANSI/ASHRAE[6]. With 5 stories, assuming an interior height of 70 ft the cubic volume of Buildings 1, 2, and 3 would be over 54 million cubic feet and Building 4 would be over 60 million cubic feet. Common HVAC equipment sizes for warehouses are 25 to 50 ton units. Assuming the minimum 6 changes per hour, Buildings 1, 2 and 3 would need 55 25-ton units; Building 4 would need 61 25-ton units.

6-49

Trane is a common manufacturer and their 25-ton unit has a sound power level of 95 dBA[7]. Assuming only one quarter of these units on Buildings 1 and 3 contribute to noise at homes on Serene Lane, 28 units combined would generate a continuous noise of about 55 dBA at the nearest home. Combined with the on-site non-refrigerated truck operations (DEIR Figure 4.7-2) the nighttime noise would exceed the Oroville 45 dBA noise limit. A parapet wall could potentially reduce noise by 10 dBA, but the truck operations and HVAC noise combined would still exceed the noise limit. The DEIR must include a mitigation measure which requires sound screens and HVAC and refrigeration equipment design as necessary to reduce the noise impact to a less than significant level at all noise sensitive receptors.

Item #4 Traffic Noise Analysis is not Validated and Traffic Noise Increase is Potentially Significant

6-50

The Environmental Noise Assessment does not appear to include traffic counts to tie the ambient measurements to the modeled results presented in DEIR Table 4.7-3. Without validation, it is not appropriate to use the noise model to predict the absolute noise levels and compare them to the Noise Element Land use compatibility guidance. In turn, the existing noise level determines the traffic noise significance thresholds (p.

[3] TNM 3.1 Technical Manual, September 2021. Figure 6.
[4] Basner, "WHO Environmental Noise Guidelines for the European Region: A Systematic Review on Environmental Noise and Effects on Sleep," Figure 4 is a review of sleep study results where road noise such as trucks caused study participants to waken or shift from a deeper sleep state to a light sleep state (S1).
[5] Basner, page 4.
[6] https://www.sdcexec.com/warehousing/design-build/article/22043713/robovent-8-considerations-in-warehouse-ventilation-design
[7] Trane Product Catalog for Packaged Rooftop Air Conditioners Voyager™, page 22. https://www.trane.com/content/dam/Trane/Commercial/lar/Peru/Manuales/Voyager-II/RT-PRC028YEN_Catalog.pdf

Letter 6 Cont.

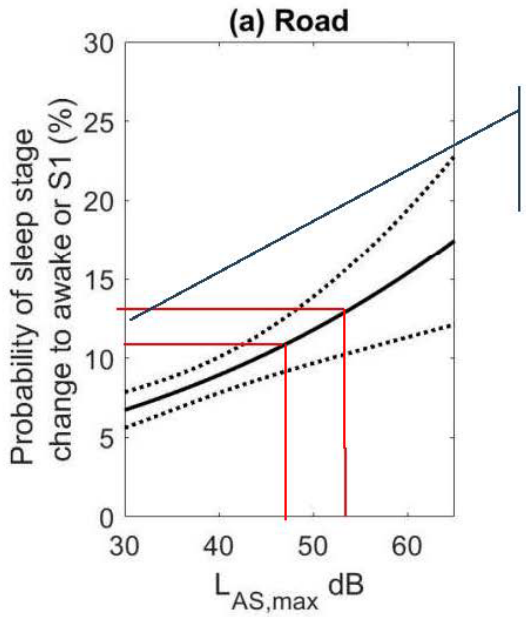
6-50 Cont.

4.7-17), and if the existing noise at Ophir Road (West of Baggett Marysville) is greater than 65 Ldn the threshold would be 1.5 and the relative increase with the Project would be significant.

Item #5 Truck Noise is Incorrectly Calculated

Section 4.9 identifies 1,640 daily commercial vehicle trips (p. 4.9-15), which are assumed to be one-way trips. The Environmental Noise Assessment appears to use incorrect traffic (its Appendix C-1 and C-2) as the total number of Project-related medium and heavy trucks on access roads near the project on Ophir, Lone Tree, and Baggett Marysville only add up to 249. This difference could underpredict the truck noise contribution by 8 dBA.

6-51



Probability range of sleep disturbance from each truck.

Figure 1 From Basner (2018), Figure 4 Probability of Sleep Disturbance

Conclusions

6-52

The noise analysis for DEIR contains substantial omissions and errors. Correcting these issues would identify that the Project would generate additional significant noise impacts and warrant additional mitigation measures to manage the anticipated impacts and full disclosure of any impacts that would remain significant.

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

Very truly yours,

WILSON IHRIG

Deborah A. Jue, INCE-USA
Principal

Letter 6 Cont.

WILSON IHRIG
ACOUSTICS, NOISE & VIBRATION



DEBORAH JUE

Principal

Since joining Wilson Ihrig in 1990, Ms. Jue has been involved in with many projects from environmental assessments and entitlements, through design development, construction documents and construction administration support. As an acoustical consultant, she has provided noise measurement, analysis and recommendations to control noise and vibration both at the interior of the project and at the neighboring properties. She has authored many reports concerning compliance with the requirements of California Noise Insulation Standards, Title 24, local Noise Elements, environmental assessments and Federal noise criteria, and is well aware of the additional design and construction technique requirements to achieve industry standards. Ms. Jue has authored or provided input for many environmental documents and technical studies in accordance with NEPA and California's CEQA regulations, most of them related to surface transportation, and she gives presentations to public officials when necessary to explain construction noise problems, noise mitigation goals, and noise control methods. She can develop construction noise and vibration criteria to address vibration damage potential to nearby buildings and sensitive structures, and vibration annoyance or disruption potential for occupants of nearby buildings.

Education

- M.S. in Mechanical Engineering, University of California, Berkeley, 1998
- B.S. in General Engineering: Acoustics, Stanford University, 1988

6-53

Professional Associations (Member)

- American Society of Mechanical Engineers
- Acoustical Society of America
- National Council of Acoustical Consultants
- Institute of Noise Control Engineering
- WTS
- Transportation Research Board, AEP80 Standing Committee Member (2021-2024)

Research and Published Papers

- ACRP Report 175, ACRP 07-14, *Improving Intelligibility of Airport Terminal Public Address Systems*
- NCHRP 25-25, *Current Practices to Address Construction Vibration and Potential Effects to Historic Buildings Adjacent to Transportation Projects*
- *Transportation Research Record*, V. 2502, "Considerations to Establish Ground-Borne Noise Criteria to Define Mitigation for Noise-Sensitive Spaces"

Relevant Experience

- California High Speed Rail Caltrain Corridor EIR/EIS, San Francisco to San Jose
- UC Berkeley Northgate Hall A/V Renovations, Berkeley
- MacArthur Station, *long-term construction noise and vibration monitoring*, Oakland
- Safeway @ Claremont & College, *HVAC noise and construction noise monitoring*, Oakland
- ACTC I-80/Ashby, *interchange traffic noise analysis*, Berkeley and Emeryville
- ACTC I-680 Express Lanes, *traffic noise analysis*, Contra Costa County, CA
- Chase Arena, *construction noise and vibration monitoring*, San Francisco

Letter 6 Cont.

EXHIBIT C

Letter 6 Cont.

794 Sawnee Bean Road
Thetford Center VT 05075

Norman Marshall, President
(802) 356-2969

nmarshall@smartmobility.com

February 20, 2025

Kevin T. Carmichael
Adams Broadwell Joseph & Cardozo
520 Capitol Mall, Suite 350
Sacramento, CA 95814

Subject: Ophir Road Warehouse (SCH No. 2022090522)

Dear Mr. Carmichael,

I have reviewed the Draft Environmental Impact Report ("DEIR") dated January 2025 for the Ophir Road Warehouse Project in the City of Oroville. I make the following findings:

6-54 1) the proposed project would result in home-based work vehicle miles traveled ("VMT") per employee of 25.4 that is 3.8 times the City's VMT threshold of 6.7 – a highly significant impact.

6-55 2) The proposed project has fundamental problems of long commutes and lack of alternatives to auto that make it impossible to significantly reduce the VMT impacts. The DEIR discusses a possible 4 percent reduction that would reduce the project's home-based work VMT per employee from 25.4 to 24.4, which would still be 3.6 times the City's VMT threshold.

6-56 3) An employer-sponsored vanpool program should be required in combination with a voluntary commute trip reduction program in order to reduce the project's VMT to the maximum extent possible.

6-57 4) Trip generation could be significantly higher than assumed in the DEIR because the ultimate uses are unknown and some types of warehouses and most non-warehouse industrial uses have higher trip generation rates than assumed in the DEIR.

6-58 5) There are discrepancies in the air quality analysis relative to the rest of the DEIR that should be corrected regarding project size, trip generation, and trip length.

6-59 6) The trip lengths assumed in the air quality analysis are too short for both passenger vehicles and commercial vehicles and should be corrected.

1

Letter 6 Cont.

The Project Would Result in a Highly Significant VMT Impact

As shown in the table below reproduced from DEIR p. 4-9-17 (PDF p. 360 of 1812), the proposed project would result in home-based work VMT per employee of 25.4 that is 3.8 times the City's VMT threshold of 6.7.

Table 4.9-3
VMT Impact Evaluation

VMT Metric	Threshold[1,2]	Project[2]
Home-Based Work VMT per Employee	6.7	25.4

[1] Threshold based on the 2040 City of Oroville General Plan VMT performance.
[2] Based on the 2020 baseline plus project model run.

Source: Fehr & Peers, 2023.

The DEIR states:

> The project exceeds the city's threshold resulting in a significant impact due to several factors including the following:
>
> - Location – The proposed project is located in a rural area within Oroville's city limits. Biking and walking facilities do not exist, and public transportation offers limited service.
> - Land use – land uses around the proposed project area consist of light industrial uses and scattered single family housing. Employees would have to commute from residences in other jurisdictions including those outside Butte County.
> - Jobs/Housing Balance – Under baseline conditions, jobs and housing in Butte County are in general balance with an unemployment rate of about 4.9 percent. The project as modeled under baseline plus project conditions, presumes the entire project is built and occupied. Therefore, all the new employees must be matched to home locations to predict VMT. With baseline conditions in the county largely in balance, many of the project's employee commute trips were assigned to locations outside the county, which produces much longer trip lengths than average. (DEIR, PDF p. 1806-1807 of 1812)

6-60

The DEIR concludes that there is not a sufficient workforce in the area to fill the jobs in this project, and that this will result in long average commute lengths. Furthermore, almost all commutes to the project will be by auto because "biking and walking facilities do not exist, and public transportation offers limited service."

Letter 6 Cont.

Only a Small Portion of the Project's VMT Impacts Could Be Mitigated

The proposed project's fundamental problems of long commutes and lack of alternatives to auto are impossible to mitigate significantly. The DEIR states:

> Offering multiple strategies through the permit would qualify as a voluntary trip reduction program according to the *Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity* (California Air Pollution Control Officers Association, 2021). This type of program has a maximum VMT reduction for employee work trips of approximately 4 percent. (PDF p. 1807 of 1812)

If the full 4 percent reduction were achieved, this would reduce the project's home-based work VMT per employee from 25.4 to 24.4, which would still be 3.6 times the City's VMT threshold.

The DEIR further states:

> The City may also require additional VMT reduction strategies be included in the trip reduction permit to achieve home-based work VMT per employee rates at or below the 6.7 future citywide average. (PDF p. 1807 of 1812)

6-61

Reducing the project's home-based work VMT per employee from 25.4 to 6.7 would be require a 74 percent reduction that is impossible. If the City required the Project to meet the City's VMT threshold, it would kill the project. In the CAPCOA *Handbook* referenced above, Measure T-5 Implement Commute Trip Reduction Program (Voluntary) has a maximum reduction of 4 percent as cited in the DEIR. Measure T-6 Implement Commute Trip Reduction Program (Mandatory and Monitoring) has a maximum reduction of 26 percent, which is only about one third of the necessary reduction. Furthermore, Measure T-6 includes components that are not applicable to the proposed site including "subsidized or discounted transit service" and "provide end-of-trip bicycle facilities."

The largest possible VMT reduction for this project at this site would be from CAPCOA Measure T-11 (Provide Employer Sponsored Vanpools). This measure would require a major commitment by the employer along with significant ongoing costs. The Handbook states: "Employer costs primarily include the capital costs of vehicle acquisition and the labor costs of drivers, either through incentives to current employees or the hiring of dedicated drivers." The maximum reduction of 20.4% is based on a maximum 15% participation rate plus a higher average commute distance for vanpool commuters than for those not in vanpools.

Even with a comprehensive employer-sponsored vanpool program in combination with the voluntary trip reduction measures proposed in the DEIR, only about a third of the VMT reduction required to meet the City's threshold could be achieved.

Letter 6 Cont.

6-62

Trip Generation Could be Significantly Higher Than Assumed in the DEIR

The DEIR states:

> The proposed project would include the development of four warehouse buildings totaling a maximum of approximately 3.2 million square feet (sf). (DEIR, p. 1-2)
>
> It should be noted that the proposed buildings are speculative and future tenants are unknown at this time. This EIR has evaluated the maximum buildout allowed for a large-scale distribution center within the project site. This EIR has evaluated the maximum buildout allowed for a large-scale distribution center within the project site. In the event that the site is not ultimately developed exclusively for large-scale distribution, or developed to the scale analyzed within this EIR, the analysis included herein is intended to generally be adequate for an undetermined mix of smaller-scale industrial and distribution uses to be developed over time. (DEIR, p. 1-3)

The DEIR also states:

> The vehicle trip estimate for the proposed project is based on rates derived from Fehr & Peers data collection and research that collected 72 hours of driveway vehicle classification counts at 39 warehousing buildings across San Joaquin County in June 2021. The data collection was performed by National Data & Surveying Services (NDS) using cameras to count and classify vehicles entering and exiting the individual building driveways. The 39 warehousing buildings totaled over 25.7 million square feet, representing roughly 28 percent of warehousing building space in San Joaquin County based on Colliers 21Q1 estimates. The data was used to develop average trip generation rates per thousand square feet (ksf) for warehousing uses.
>
> Development of the proposed project is anticipated to generate 4,060 daily passenger vehicle trips and 1,640 daily commercial vehicle trips. (DEIR, p. 4.9-15)

This trip generation study is referenced multiple times, but the daily trip generation rates are never given as is standard practice in trip generation analyses. Therefore, it is impossible to confirm that the number of daily trips given is based on the 3.2 million sf in the project description. The table below shows calculated trip generation rates assuming that the data from the study was correctly applied.

DEIR Daily Trip Generation Estimate

	rate per ksf	daily trips
passenger	1.27	4,060
commercial	0.51	1,640
total	1.78	5,700

The DEIR does not provide enough information about the 2021 data collection to determine whether the warehouses studied are comparable to the proposed project. In particular, it is likely that most, if not all of the facilities counted, are significantly smaller than the 3.2 million sf proposed in this project. The DEIR describes the facilities counted only as "warehousing buildings," but the standard trip generation reference, *Trip Generation*, published by the Institute of Transportation Engineers ("ITE") segments warehouses into multiple categories with widely different trip generation rates. To evaluate

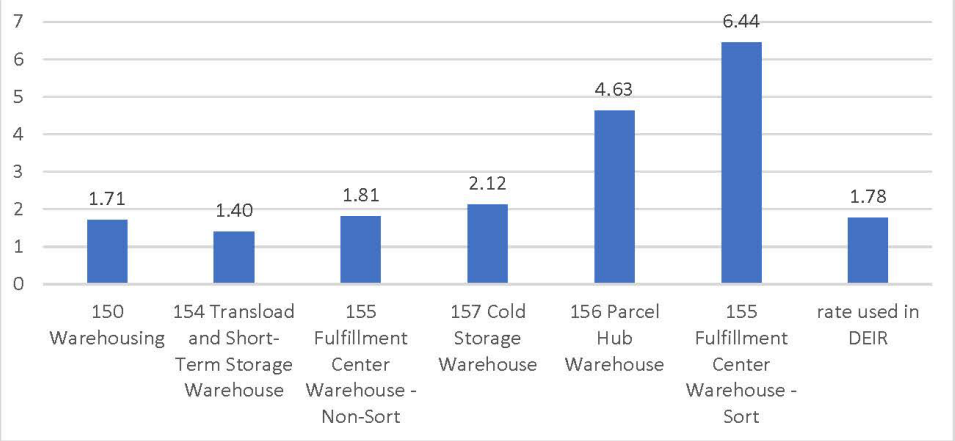
6-62 Cont.

whether the trip generation study is applicable to this, it is necessary to get information about the sizes and types of warehouses counted. We requested the study report and it has not been provided.

The figure below compares the ITE warehouse trip generation rates to the rate assumed in the DEIR.

6-63

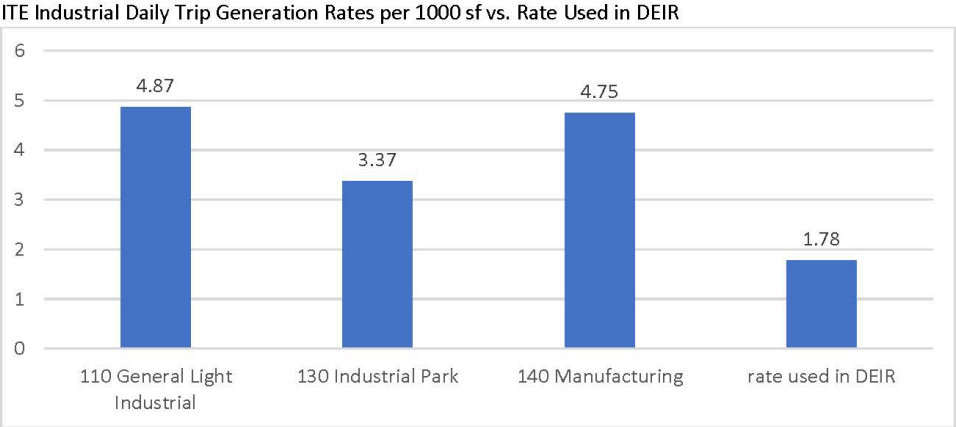
Warehouse Daily Trip Generation Rates per 1000 sf– ITE and DEIR



As shown in the figure below, the trip generation rate assumed is significantly lower than the rates for Cold Storage, Parcel Hub, and Fulfillment Center warehouses. Cold storage is included in the DEIR descriptions in multiple spaces including refrigerated trucks at loading docks (DEIR p. 2-30), throughout the Noise analysis, and throughout the CalEEMod analysis. Therefore, it would be appropriate to apply the higher Cold Storage trip generation rate, at a minimum. The DEIR states that the project could be a "mix of smaller-scale industrial and distribution uses." As shown in the figure below, the trip generation rates for industrial uses are much higher than the rate assumed in the DEIR.

6-64

ITE Industrial Daily Trip Generation Rates per 1000 sf vs. Rate Used in DEIR



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Letter 6 Cont.

6-64 Cont. The project is "speculative" and could end up being a composite of buildings with higher and lower warehouse and industrial rates, with an average rate significantly higher than assumed in the DEIR. The number of trips assumed also affects the air quality and traffic analyses.

There are Discrepancies Between the Air Quality Analysis and the Rest of the DEIR

6-65 Project Size – The DEIR describes the project as 3.2 million sf. (DEIR, p. 1-2) The air quality analysis uses a slightly smaller number of "3.1225 msf." (DEIR, PDF p. 490 of 1812) The air quality analysis should be redone with 3.2 million sf.

Trip Generation – As documented above, the DEIR states that the project will generate 5,700 trips per day. The air quality analysis uses an estimate of 6,619 trips per day (DEIR, PDF p. 488 of 1812) The numbers should be made consistent.

6-66

Land Use Type	Trips/Weekday	Trips/Saturday	Trips/Sunday
Refrigerated Warehouse-No Rail	6,619	6,619	6,619
Parking Lot	0.00	0.00	0.00

Trip Lengths

The CalEEMod "User Changes to Default Data" output section states: "Trip lengths modified to align VMT with the transportation analysis VMT." (DEIR, PDF p. 490 of 1872) This was not done. The output shows 6,619 trips per day equaling 46,669 VMT per day, i.e. an average of 7.05 miles per trip. (DEIR, PDF p. 488 of 1812)

6-67

Land Use Type	Trips/Weekday	Trips/Saturday	Trips/Sunday	Trips/Year	VMT/Weekday
Refrigerated Warehouse-No Rail	6,619	6,619	6,619	2,415,803	46,669
Parking Lot	0.00	0.00	0.00	0.00	0.00

As documented above, the DEIR estimates that the project will result in 25.4 home-based work VMT per employee per day. This implies a one-way commute trip length of 12.7 miles, which is significantly greater than the 7.05 average in the air quality analysis. Furthermore, the DEIR estimates that 29 percent of the daily trips are from commercial vehicles, and the largest share of these will be heavy trucks that will have a significantly longer average trip length. The air quality analysis should be redone using a 12.7 mile trip length for passenger vehicles and a longer trip length for commercial vehicles supported by evidence.

Sincerely,

Norman L. Marshall

Norman L. Marshall

6

Letter 6 Cont.

Resume

NORMAN L. MARSHALL, PRESIDENT

nmarshall@smartmobility.com

EDUCATION:

Master of Science in Engineering Sciences, Dartmouth College, Hanover, NH, 1982
Bachelor of Science in Mathematics, Worcester Polytechnic Institute, Worcester, MA, 1977

PROFESSIONAL EXPERIENCE: (37 Years, 23 at Smart Mobility, Inc.)

Norm Marshall helped found Smart Mobility, Inc. in 2001. Prior to this, he was at RSG for 14 years where he developed a national practice in travel demand modeling. He specializes in analyzing the relationships between the built environment and travel behavior and doing planning that coordinates multi-modal transportation with land use and community needs.

Regional Land Use/Transportation Scenario Planning

Portland Area Comprehensive Transportation System (PACTS) – the Portland Maine Metropolitan Planning Organization. Updating regional travel demand model with new data (including AirSage), adding a truck model, and multiclass assignment including differentiation between cash toll and transponder payments.

Loudoun County Virginia Dynamic Traffic Assignment – Enhanced subarea travel demand model to include Dynamic Traffic Assignment (Cube). Model being used to better understand impacts of roadway expansion on induced travel.

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Vermont Agency of Transportation-Enhanced statewide travel demand model to evaluate travel impacts of closures and delays resulting from severe storm events. Model uses innovate Monte Carlo simulations process to account for combinations of failures.

California Air Resources Board – Led team including the University of California in $250k project that reviewed the ability of the new generation of regional activity-based models and land use models to accurately account for greenhouse gas emissions from alternative scenarios including more compact walkable land use and roadway pricing. This work included hands-on testing of the most complex travel demand models in use in the U.S. today.

Climate Plan (California statewide) – Assisted large coalition of groups in reviewing and participating in the target setting process required by Senate Bill 375 and administered by the California Air Resources Board to reduce future greenhouse gas emissions through land use measures and other regional initiatives.

Chittenden County (2060 Land use and Transportation Vision Burlington Vermont region) – led extensive public visioning project as part of MPO's long-range transportation plan update.

Flagstaff Metropolitan Planning Organization – Implemented walk, transit and bike models within regional travel demand model. The bike model includes skimming bike networks including on-road and off-road bicycle facilities with a bike level of service established for each segment.

Chicago Metropolis Plan and Chicago Metropolis Freight Plan (6-county region)— developed alternative transportation scenarios, made enhancements in the regional travel demand model, and used the enhanced

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model to evaluate alternative scenarios including development of alternative regional transit concepts. Developed multi-class assignment model and used it to analyze freight alternatives including congestion pricing and other peak shifting strategies.

Municipal Planning

City of Grand Rapids – Michigan Street Corridor – developed peak period subarea model including non-motorized trips based on urban form. Model is being used to develop traffic volumes for several alternatives that are being additional analyzed using the City's Synchro model

City of Omaha - Modified regional travel demand model to properly account for non-motorized trips, transit trips and shorter auto trips that would result from more compact mixed-use development. Scenarios with different roadway, transit, and land use alternatives were modeled.

City of Dublin (Columbus region) – Modified regional travel demand model to properly account for non-motorized trips and shorter auto trips that would result from more compact mixed-use development. The model was applied in analyses for a new downtown to be constructed in the Bridge Street corridor on both sides of an historic village center.

City of Portland, Maine – Implemented model improvements that better account for non-motorized trips and interactions between land use and transportation and applied the enhanced model to two subarea studies.

6-68 Cont.

City of Honolulu – Kaka'ako Transit Oriented Development (TOD) – applied regional travel demand model in estimating impacts of proposed TOD including estimating internal trip capture.

City of Burlington (Vermont) Transportation Plan – Led team that developing Transportation Plan focused on supporting increased population and employment without increases in traffic by focusing investments and policies on transit, walking, biking and Transportation Demand Management.

Transit Planning

Regional Transportation Authority (Chicago) and Chicago Metropolis 2020 – evaluated alternative 2020 and 2030 system-wide transit scenarios including deterioration and enhance/expand under alternative land use and energy pricing assumptions in support of initiatives for increased public funding.

Capital Metropolitan Transportation Authority (Austin, TX) Transit Vision – analyzed the regional effects of implementing the transit vision in concert with an aggressive transit-oriented development plan developed by Calthorpe Associates. Transit vision includes commuter rail and BRT.

Bus Rapid Transit for Northern Virginia HOT Lanes (Breakthrough Technologies, Inc and Environmental Defense.) – analyzed alternative Bus Rapid Transit (BRT) strategies for proposed privately-developing High Occupancy Toll lanes on I-95 and I-495 (Capital Beltway) including different service alternatives (point-to-point services, trunk lines intersecting connecting routes at in-line stations, and hybrid).

Roadway Corridor Planning

I-30 Little Rock Arkansas – Developed enhanced version of regional travel demand model that integrates TransCAD with open source Dynamic Traffic Assignment (DTA) software, and used to model I-30 alternatives. Freeway bottlenecks are modeled much more accurately than in the base TransCAD model.

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Letter 6 Cont.

6-68 Cont.

South Evacuation Lifeline (SELL) – In work for the South Carolina Coastal Conservation League, used Dynamic Travel Assignment (DTA) to estimate evaluation times with different transportation alternatives in coastal South Caroline including a new proposed freeway.

Hudson River Crossing Study (Capital District Transportation Committee and NYSDOT) – Analyzing long term capacity needs for Hudson River bridges which a special focus on the I-90 Patroon Island Bridge where a microsimulation VISSIM model was developed and applied.

PUBLICATIONS AND PRESENTATIONS (partial list)

DTA Love: Co-leader of workshop on Dynamic Traffic Assignment at the June 2019 Transportation Research Board Planning Applications Conference.

Forecasting the Impossible: The Status Quo of Estimating Traffic Flows with Static Traffic Assignment and the Future of Dynamic Traffic Assignment. *Research in Transportation Business and Management* 2018.

Assessing Freeway Expansion Projects with Regional Dynamic Traffic Assignment. Presented at the August 2018 Transportation Research Board Tools of the Trade Conference on Transportation Planning for Small and Medium Sized Communities.

Vermont Statewide Resilience Modeling. With Joseph Segale, James Sullivan and Roy Schiff. Presented at the May 2017 Transportation Research Board Planning Applications Conference.

Assessing Freeway Expansion Projects with Regional Dynamic Traffic Assignment. Presented at the May 2017 Transportation Research Board Planning Applications Conference.

Pre-Destination Choice Walk Mode Choice Modeling. Presented at the May 2017 Transportation Research Board Planning Applications Conference.

A Statistical Model of Regional Traffic Congestion in the United States, presented at the 2016 Annual Meeting of the Transportation Research Board.

MEMBERSHIPS/AFFILIATIONS

Associate Member, Transportation Research Board (TRB)

Member and Co-Leader Project for Transportation Modeling Reform, Congress for the New Urbanism (CNU)

LETTER 6: BUTTE COUNTY RESIDENTS FOR RESPONSIBLE DEVELOPMENT (ADAMS BROADWELL JOSEPH AND CARDOZO)

Response to Comment 6-1
The comment provides a description of the proposed project and is introductory to the remainder of the comment letter. The comment does not address the adequacy of the Draft EIR.

Response to Comment 6-2
The comment is an expression of dissatisfaction with the analysis of the Draft EIR, the specific criticisms of which are addressed in more detail below.

Response to Comment 6-3
Please see Responses to Comments 6-6 through 6-31. Based on the conclusions therein, recirculation of the Draft EIR is not required.

Response to Comment 6-4
The comment describes the interests of Butte County Residents for Responsible Development. The comment does not address the adequacy of the Draft EIR.

Response to Comment 6-5
The comment describes the purpose of CEQA. The comment does not address the adequacy of the Draft EIR.

Response to Comment 6-6
The comment describes the requirements of CEQA. The comment does not specifically address the adequacy of the Draft EIR. Indeed, the project description analyzed in the Draft EIR represents the worst case buildout scenario with worst case conditions assumed so as to provide a conservative analysis. The analysis presented in the Draft EIR adequately addresses such conditions.

Response to Comment 6-7
The comment describes the requirements of CEQA. The comment does not specifically address the adequacy of the Draft EIR.

Response to Comment 6-8
The assertion made by the commenter is incorrect. As shown on page 7 of the CalEEMod modeling results, provided as Appendix C of the Draft EIR, the modeling assumed a total of 3,112,000 sf of refrigerated warehouse uses would be developed as part of the proposed project. As such, the CalEEMod modeling represented a conservative analysis of the potential warehouse uses, and the analysis included within the Draft EIR included an assumption of the reasonably foreseeable refrigerated warehouse uses. In addition, as shown in Table 4.2-15 of the Draft EIR, operations of the proposed project would result in 0.03 metric tons of CO_2 equivalents ($MTCO_2e$) per year from refrigerants. Furthermore, the Health Risk Assessment (HRA) conducted for the proposed project included idling points at all warehouse buildings and assumed idling would occur 24 hours a day. Furthermore, the trip generation estimate on page 4.9-15 of the Draft EIR includes 1,640 daily commercial vehicle (e.g., truck) trips. These trips consist of 1,390 heavy trucks and

250 medium trucks. Conceptually, TRUs are included in the mix given the truck trip rates were derived from the 39 sites in San Joaquin County representing a variety of warehouse uses and truck types. Emission rates were calculated using EMFAC data for heavy-duty diesel vehicles in combination with the trip generation estimate described above. Thus, the idling emissions estimated within the HRA conducted for the proposed project represent a worst-case scenario, where TRUs can reasonably be assumed to be accounted for within the modeling.

Response to Comment 6-9

As discussed on page 3-4 of the Draft EIR, the proposed warehouse buildings are speculative warehouses, and, therefore, tenants for the buildings are unknown at this time. The Draft EIR evaluated the maximum buildout allowed for a large-scale distribution center within the project site. In the event that the site is not ultimately developed exclusively for large-scale distribution, or developed to the scale analyzed within the Draft EIR, the analysis included therein is intended to generally be adequate for an undetermined mix of smaller-scale industrial and distribution uses to be developed over time. In the case of a smaller project, some of the impacts considered significant within this EIR may be reduced to insignificance. The City of Oroville will evaluate any such changes at the time of an actual project submittal.

The conceptual plan of the maximum buildout allowed for a large-scale distribution center on-site was prepared, allowing for a project-level analysis of the potential environmental impacts that would result from such development, pursuant to CEQA Guidelines Section 15161. Therefore, the project description for the proposed project includes all available information and is adequate pursuant to the requirements of CEQA. In addition, please see Response to Comment 6-8.

Response to Comment 6-10

As part of development of the Draft EIR, a trip generation evaluation was conducted by Fehr & Peers in consultation with City staff. The evaluation considered multiple trip generation rate sources including the Institute of Transportation Engineers (ITE) Trip Generation Manual and survey-based data. ITE Land Use Codes 130, 150, 154, and 155 were all considered. Multiple concerns were raised with use of ITE rates beginning with these rates being a collection of trip rates from around the U.S. that are not calibrated or validated to California. The rates were collected from studies conducted as far back as the 1980s and all before the COVID-19 pandemic. In addition, some uses like Land Use Code 155: Fulfillment Center Warehouse – Sort, suffer from very small sample sizes of just two studies. Under these circumstances and as general best practices, ITE and other professional guidance including National Cooperative Highway Research Program (NCHRP) Report 716 – Travel Demand Forecasting: Parameters and Techniques, Transportation Research Board (2012) recommend using surveys to collect locally valid estimates. Per NCHRP Report 716, "When sufficient local data are available, best practice for the development of trip generation models is to estimate the model parameters from household activity/travel survey data using statistical techniques such as linear regression." Based on such evidence, Fehr & Peers determined that 2021 data collected from 39 warehousing sites in San Joaquin County would better represent potential project trip generation for warehousing type uses in Northern California. The trip generation data from the 39 warehousing sites is attached as Appendix A of this Final EIR.[2]

Because the specific uses of each project building are uncertain, as disclosed in the Draft EIR, some variation in actual trip generation compared against the Draft EIR could occur. However,

[2] Fehr & Peers. *San Joaquin Countywide Warehousing Data Collection*. June 2021.

such variation would not change the conclusions of the Draft EIR. As discussed under Impact 4.9-2 of the Draft EIR, the proposed project would result in a significant VMT impact based in part on the trip generation rates. The City may consider that higher trip generation and VMT is possible as they consider the feasibility of the proposed mitigation measures and the calculation of any fair-share contributions towards improvements. As stated in the Draft EIR, the significant impacts would remain significant and unavoidable, and that conclusion would not change with the use of other trip generation rates as suggested in the comment.

Response to Comment 6-11

A Responses to Comments on the CEQA Noise/Vibration Analysis Memo was prepared by Saxelby Acoustics and is attached as Appendix B of this Final EIR.[3] As discussed therein, Figure 1 of the noise study did show the incorrect site plan. However, according to Saxelby Acoustics, the basis of the noise analysis used the correct site plan and the correct number of project trips. A revised figure showing the correct site plan is included in the CEQA Noise/Vibration Analysis Memo.

Response to Comment 6-12

The comment describes the requirements of CEQA. The comment does not address the adequacy of the Draft EIR.

Response to Comment 6-13

Health risks resulting from exposure to toxic air contaminants (TACs) are dependent both on dosage and the exposure period. Both factors were considered when assessing the potential impacts resulting from emission of diesel particulate matter (DPM) during project construction. Page 4.2-51 of the Draft EIR presents a discussion of the limited duration of potential exposure, as well as the existing regulations that would reduce the emission of DPM during construction activities. For instance, construction of the on-site components of the proposed project is anticipated to occur over an approximately one-year period, and the three proposed off-site improvements (i.e., roadway improvements to Ophir Road, sewer line improvements, and water line improvements) were each assumed to be constructed over an approximately five-month period. In addition, all off-road equipment operating at the site would be subject to the In-Use Off-Road Diesel Vehicle Regulation, which requires increasingly stringent emissions standards be met by off-road equipment. Thus, nearby receptors would not be exposed to emissions from on-site construction equipment for a substantial amount of time, and emissions from on-site construction equipment must be reduced in compliance with the existing statewide regulations related to off-road diesel vehicles.

In addition, a key finding of the CARB's Air Quality and Land Use Handbook: A Community Health Perspective is that emissions of DPM are highly dispersive, and concentrations diminish rapidly with distance from the source. Because DPM is highly dispersive, the fact that construction equipment would operate intermittently throughout the entire approximately 170.21-acre project site would have a large effect on the potential for project construction to result in health-related impacts through emissions of DPM. The large area of the project site would allow DPM to disperse and concentrations to decrease prior to exposure of receptors at the nearest residence located approximately 500 feet from the site. Such dispersal reduces the likelihood that the proposed project would result in health-related impacts.

[3] Saxelby Acoustics. *Responses to Comments on the CEQA Noise/Vibration Analysis for the Ophir Road Warehouse Project – City of Oroville, California*. May 9, 2025.

Furthermore, as discussed under Impact 4.2-3 of the Draft EIR, an operational HRA was conducted for the proposed project to assess the increase in DPM emissions associated with heavy-duty diesel trucks travelling to and from the project site. The operational HRA assumed that residents would be exposed for the lifetime of the project (assumed to be 30 years for industrial/commercial land uses) and exposure would begin during the third trimester of pregnancy. In addition, the specific meteorological data for the project area, including wind direction, was accounted for within the modeling. Given the locations of the truck routes and the idling points (i.e., loading docks), as well as the 30-year exposure period assumed in the operational HRA, DPM exposure that would occur during operation of the proposed project, and the subsequent cancer risk, is anticipated to be greater than the DPM exposure and associated cancer risk that would occur during project construction activities. Therefore, consistent with the discussion presented in Impact 4.3-3 of the Draft EIR, a quantitative analysis of health risks related to project construction is not warranted, as the specific details of project construction have been analyzed and determined not to represent a significant risk to public health.

Response to Comment 6-14

The claim that the "OEHHA guidance also sets a recommended threshold for preparing an HRA of a construction period of two months or more" is misleading. The quoted text from the comment cites page 8-18, within Section 8.2.10, of the OEHHA guidance document as the source of this information; however, page 8-18 does not contain such a recommendation. Rather, page 8-18 includes recommendations related to how to conduct a HRA for short-term projects, not whether or not short-term projects should be evaluated if such projects exceed two-months. The likely source of the commenter's claim is presented in the following quoted text from page 8-18 the OEHHA Guide:

> Due to the uncertainty in assessing cancer risk from very short-term exposures, we do not recommend assessing cancer risk for projects lasting less than two months at the MEIR. We recommend that exposure from projects longer than 2 months but less than 6 months be assumed to last 6 months (e.g., a 2-month project would be evaluated as if it lasted 6 months). Exposure from projects lasting more than 6 months should be evaluated for the duration of the project. In all cases, for assessing risk to residential receptors, the exposure should be assumed to start in the third trimester to allow for the use of the ASFs (OEHHA, 2009). Thus, for example, if the District is evaluating a proposed 5-year mitigation project at a hazardous waste site, the cancer risks for the residents would be calculated based on exposures starting in the third trimester through the first five years of life.

Based on the quoted text above, the commenter appears to misconstrue the OEHHA's recommendation that projects shorter than two months not be analyzed, as direction that all projects longer than two months be analyzed. However, in the context of the entire paragraph presented above, the OEHHA guide seems instead to be providing recommendations on the exposure periods to be used in preparing HRAs without providing direct guidance as to whether or not a HRA should be prepared. In fact, in the Introduction section of the OEHHA Guide, OEHHA states "[t]he Hot Spots Act requires that each local Air Pollution Control District or Air Quality Management District (hereinafter referred to as District) determine which facilities will prepare a HRA."[4] The quoted text from the Introduction section of the OEHHA Guide demonstrates that the OEHHA Guide is not intended to define what projects must be assessed in a HRA, but instead that the guide is intended to establish consistent methodologies for the assessment of health risks where such assessments are deemed necessary by other entities. The conclusion that the

[4] Office of Environmental Health Hazard Assessment. *Air Toxics Hot Spots Program Risk Assessment Guidelines* [pg 1-3]. February 2015.

OEHHA Guide is intended to provide methodological guidance rather than prescriptive guidance on when a HRA should be prepared is supported by the first paragraph of the section cited by the commenter, section 8.2.10 of the OEHHA Guidelines:

> The local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation. Frequently, the issue of how to address cancer risks from short-term projects arises.

Based on the text above, Section 8.2.10, which the commenter interprets as recommending HRAs for short-term projects, seems to instead be intended to provide information for such projects, without making conclusions as to where or when such HRAs should be prepared. Please also see Response to Comment 6-13.

Response to Comment 6-15

Please see Response to Comment 6-13.

Response to Comment 6-16

Please see Response to Comment 1-5. As discussed therein, while on-site design features such as idling restrictions, etc. may reduce on-site TAC emissions, the cancer risk impacts associated with the proposed project are primarily driven by the trucks travelling to and from the project site along Ophir Road, which results in TAC emissions at the sensitive receptors located along the roadway. As such, any on-site design features would not result in emissions reductions associated with the main source of the identified cancer risk impact.

Mitigation Measure 4.2-3 included in the Draft EIR would include requirements aimed at reducing health risk impacts related to trucks traveling off-site. However, as noted in the Draft EIR, in the event that there is a disruption in the manufacturing of zero emission heavy-duty trucks, sufficient vehicles are not commercially available, or PG&E cannot provide adequate charging infrastructure, Mitigation Measure 4.2-3 may not be feasible at the time of occupancy for the remaining two warehouse buildings. In addition, because installation of MERV rated filters in the existing residences would require resident approval, neither the City of Oroville, nor the project applicant, can legally impose such improvements on the private properties. In addition, the Draft EIR concluded that even with the installation of MERV 13 filters, cancer risks would still exceed the BCAQMD's threshold of significance. As such, the Draft EIR concluded that a significant and unavoidable impact would occur related to exposure of sensitive receptors to substantial pollutant concentrations.

Response to Comment 6-17

Please see Response to Comment 6-16.

Response to Comment 6-18

The commenter states that a truck trip length of approximately 7.05 miles was used within the modeling prepared for the proposed project. However, this trip length is incorrect and unsubstantiated. As stated on page 4.2-40 of the Draft EIR, Fehr & Peers provided specific VMT data for the proposed project. The trip lengths were adjusted in the CalEEMod modeling for the proposed project to reflect the project-specific data provided. The VMT data provided by Fehr & Peers was obtained using the Butte County Area of Governments (BCAG) Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) Travel Demand Model, and



includes VMT from all vehicles associated with the proposed project, including passenger vehicles, light trucks, medium trucks, and heavy-duty trucks. Given that the VMT is based on a combination of all project-related vehicle types, the trip lengths assumed within the modeling are based on an average trip length distance for the entire fleet, not just heavy-duty trucks.

Response to Comment 6-19

Please see Response to Comment 6-8.

Response to Comment 6-20

Please see Response to Comment 6-8.

Response to Comment 6-21

The Draft EIR determined that with implementation of Mitigation Measures 4.2-1(a) and 4.2-1(b), impacts related to construction emissions of criteria pollutants would be less than significant. Thus, additional mitigation measures are not required to be implemented to further reduce construction-related ROG and NO_X emissions beyond what is presented in the Draft EIR. In addition, it should be noted that the commenter erroneously refers to the BCAQMD numerical significance thresholds for emissions of ROG, NO_X, and PM_{10} as the "GHG threshold." The BCAQMD does not have any adopted numerical thresholds of significance for GHG emissions.

Response to Comment 6-22

Specific responses to the claims summarized in this comment are provided in Responses to Comments 6-23 through 6-26 below.

Response to Comment 6-23

The comment incorrectly states that the Federal Highway Administration (FHWA) TNM noise model was used for the noise analysis. As stated on page 4.7-12 in Chapter 4.7, Noise, of the Draft EIR, the Federal Highway Administration Highway Traffic Noise Prediction Model (FHWA RD-77-108) was used to analyze the potential impact of project-generated traffic. Additionally, because the proposed project does not include federal or State funding for highway improvements, FHWA and Caltrans guidelines are not required. Use of the TNM noise model is also not required. Both the FHWA TNM and RD-77-108 noise models are widely used for calculating changes in traffic noise levels for off-site traffic increases due to projects. However, for this type of use, the models are not typically calibrated as they are being used for screening purposes, not design level work. Calibrating the noise models under this type of screening use would be impractical, considering the number of roadway segments often analyzed for development projects adding traffic to the local roadway network. The method for evaluating project-generated traffic used for the proposed project is the standard practice for CEQA review.

Response to Comment 6-24

The assertion of the commenter is incorrect. The traffic noise level increases associated with the proposed project were evaluated in terms of dBA $L_{dn,}$ which as defined on page 4.7-1 of the Draft EIR, is the day/night average noise level based on the average noise level over 24 hours, with an additional 10 dB weighting applied to noise that occurs during nighttime hours (10:00 PM to 7:00 AM). The 10 dB nighttime penalty is applied to account for the assumption that people are more sensitive to nighttime noise exposures as compared to daytime noise exposures. In addition, the traffic noise analysis assumes that traffic flows at a continuous rate of speed. While an accelerating vehicle can produce periods of higher noise levels than a vehicle that may be

coasting or breaking, steady flows of traffic at full speed tends to result in higher noise levels. The traffic noise analysis is conservative in this respect, and the Draft EIR's analysis of traffic noise increases remains adequate.

Response to Comment 6-25

Please see Response to Comment 6-24. In addition, using the methodology discussed in Chapter 4.7, Noise, of the Draft EIR, the increase in traffic noise levels at existing sensitive receptors due to the proposed project would be considered less than significant, and mitigation measures are not required to reduce transportation noise. With respect to operational noise, as discussed under Impact 4.7-2, operation noise from the refrigerated truck scenario was predicted to generate noise levels of up to 47 dBA L_{eq} and 54 dBA L_{max} at the nearest sensitive receptors, which would exceed the Butte County evening and nighttime noise level standards of 50 and 45 dBA L_{eq}, respectively. Mitigation Measure 4.7-2 was included in order to reduce operational noise to below the Butte County evening and nighttime noise level standards. Furthermore, the mitigation in the form of new windows and mechanical ventilation for bedrooms, as recommended by the commenter, would be infeasible, as neither the City of Oroville, nor the project applicant, can legally impose such improvements on the private properties.

Response to Comment 6-26

According to Saxelby, rooftop HVAC equipment is usually inaudible at the project boundary of an industrial warehouse site and does not contribute substantially to off-site noise levels because HVAC noise is 10 dBA less than truck noise. Noise generated by truck circulation and loading activities are typically the predominant noise sources. Additionally, how the commenter calculated the number of tons of heating or cooling based on the possible number of air changes required per hour for the proposed project is unclear. The estimate of tons of cooling appears vastly overstated. However, even if the number of HVAC units assumed by the commenter were installed, Saxelby does not believe noise levels would exceed the applicable exterior noise standards. Additionally, a more reasonable expected sound rating for a 25-ton unit would be 86 dBA based on the outdoor sound specifications of the Carrier WeatherMaker gas heat and electric cooling rooftop unit.

Saxelby Acoustics included 55 25-ton rooftop units, each with a sound power level of 87 dBA, on each building and assumed that the western load docks would be restricted to non-refrigerated trucks only (consistent with the requirements of Draft EIR Mitigation Measure 4.7-2). The exterior noise levels were determined to comply with the applicable exterior noise standards. Please see Figure 5 of the Responses to Comments on the CEQA Noise/Vibration Analysis Memo prepared by Saxelby Acoustics (attached as Appendix B of this Final EIR) for the revised project noise contours. As shown therein, the maximum project noise exposure would be 44 dBA L_{eq} under the hypothetical HVAC noise scenario, which would comply with the 45 dBA L_{eq} adjusted nighttime noise standard. Additionally, considering existing average ambient noise levels of 42-45 dBA L_{eq} and the revised project noise exposure of 44 dBA L_{eq}, the increase in ambient noise levels would not be more than 4.12 dBA. Thus, even with 55 25-ton rooftop HVAC units on each buildings, operational noise would be less than the 5 dBA increase criteria with implementation of Mitigation Measure 4.7-2, and the conclusions of the Draft EIR would not change.

Response to Comment 6-27

The comment describes the requirements of CEQA. Specific responses to the claims summarized in this comment are provided in Responses to Comments 6-28 through 6-32 below.

Response to Comment 6-28

While the California Air Pollution Control Officers Association (CAPCOA) Handbook contains multiple VMT reduction strategies, the Handbook also identifies limitations on their effectiveness based on land use context. Only three strategies are identified as being applicable in rural areas: improving the pedestrian network, transit-oriented development, and employer sponsored vanpool. The first two strategies can be effective in rural town centers where development is concentrated. The strategies would not be effective in an industrial area with large warehouses. The employer sponsored vanpool has more applicability, but is a service that is dependent on a specific employer/tenant. The proposed project is a speculative warehouse and does not have any known tenants at this time, but when a development application is submitted, the City will consider an employer sponsored vanpool as a potential TDM strategy if sufficient evidence exists at that time that the strategy would be effective and enforceable. As part of that consideration, the City should also consider that the VMT impact is expected to diminish over time, as documented in the Draft EIR cumulative analysis under Impact 4.9-4.

Response to Comment 6-29

The comment provides a list of recommended mitigation measures to add to the Draft EIR in order to further reduce the proposed projects air quality and GHG emissions. All recommendations provided in the list have been reviewed, and the following responses have been provided:

With regard to bullet point #1, the recommendation is a State requirement that would inherently be included as part of the proposed project in compliance with California Code of Regulations Title 13, Division 3, Chapter 1, Article 4.5, Section 2025 and the Advanced Clean Cars II Program which requires that all new light- and medium-duty vehicles sold in the State be zero-emission vehicles (ZEVs) by 2035. The Advanced Clean Cars II Program mandates a gradual increase in ZEV sales starting from the 2026 model year. Such requirements were considered in the air quality and GHG modeling prepared for the proposed project. However, it should be noted that in late April to early May, the U.S. House of Representatives passed three Congressional Review Act (CRA) resolutions to rescind the U.S EPA's waiver for the Advanced Clean Cars II Program. The Senate passed all three resolutions on May 22, 2025, and President Donald Trump signed the CRA resolutions on June 12, 2025. Subsequently, a lawsuit has been filed by the State Attorney General on June 12, 2025, against the federal government's use of the CRA to upend California's clean vehicles program.[5] As such, the future enforceability of the Advanced Clean Cars II Program is currently unknown.

Bullet point #2 recommends limiting truck idling to three minutes and bullet point #10 includes recommendations related to queuing and idling of trucks. The proposed project would be required to comply with the State's Heavy-Duty Truck and Bus Regulation (Title 13, Division 3, Chapter 1, Section 2025) and Heavy-Duty Vehicle Idling Emission Reduction Program which require diesel-fueled vehicles with gross vehicle weights greater than 10,000 pounds to idle no more than five minutes at any location, and include requirements related to posting signage notifying drivers of such restrictions. Thus, the recommendation to limit idling by two extra minutes would not be warranted, and a nexus for the proposed project to require such recommendations included in bullet point #2 and #10 does not exist.

[5] State of California Department of Justice. *California Will Not Waver in Defending Itself from Federal Overreach: Attorney General Bonta Sues Trump Administration for Attack on California's Clean Vehicles Program*. Available at: https://oag.ca.gov/news/press-releases/california-will-not-waver-defending-itself-federal-overreach-attorney-general. Accessed June 12, 2025.

Bullet points #3, #4, #9, #12, #13, #14, #16, #17, and #18 include recommendations related to installing solar photovoltaic (PV) systems; requiring all stand-by emergency generators to be powered by a non-diesel fuel; meeting CalGreen Tier 2 green building standards, achieving certification of compliance with LEED green building standards; providing meal options on-site or shuttles to and from nearby meal destinations; requiring tenants attend CARB approved courses; requiring tenants to enroll in the USEPA's SmartWay program; and providing tenants with information on incentive programs, such as the Carl Moyer Program and Voucher Incentive Program, to upgrade their fleets. With regard to the solar recommendation included in bullets #3 and #4, the proposed project would be required to comply with the provisions of the 2022 CBSC, which require the new non-residential buildings be built solar ready. The proposed project would also be provided electricity by PG&E, which is required to procure an increasing proportion of electricity from renewable sources. In addition, while the City of Oroville does not currently require projects to be built in compliance with the CalGreen Tier 2 green building standards, and, thus, the recommendations of bullet point #12 would be voluntary, the proposed project would be required to comply with all mandatory measures included in the CalGreen Code. With respect to the recommendations included in bullet point #16, it should be noted that the project modeling was conducted consistent with the most current EMFAC data for average vehicle fleets. All future tenants would be anticipated to maintain their fleets as a good business practice. All future fleets operating on-site would also be required to comply with all federal, State, and local requirements. Overall, any obligation for the proposed project to include the recommendations of bullet points #3, #4, #9, #12, #13, #14, #16, #17, and #18 would be voluntary by future tenants. Nonetheless, such recommendations will be forwarded to the decision-makers for their consideration at the time that a specific development application for the project site is received.

With regard to bullet point #5 related to EV charging stations for trucks, if additional EV charging stations are required on-site for ZEV trucks, such stations would be installed on an as-needed basis, as tenants using electric trucks within their fleets (consistent with Mitigation Measure 4.2-3 of the Draft EIR) begin occupying the proposed warehouse buildings.

Bullet point #6 is related to on-site design of the proposed project. The Draft EIR evaluated the maximum buildout allowed for a large-scale distribution center within the project site. However, as discussed therein, the proposed buildings are speculative, and future tenants are unknown at this time. In addition, a specific development application has not yet been received by the City for the project site. The City will consider the design features noted in bullet point #6 at the time that a specific development application for the project site is received.

With regard to bullet points #7 and #8, as discussed under Impact 4.2-5 and Impact 4.2-7 in the Draft EIR, the 2022 CBSC requires new developments to include the necessary electrical infrastructure for EV charging stations. A total of 2,152 vehicle parking stalls would be provided on-site. Based on the 2022 CBSC, for non-residential projects that include more than 201 parking spaces, 20 percent of the parking spaces are required to be EV capable, and 25 percent of the EV capable spaces are required to include EV supply equipment (EVSE), which is installed charging receptacles or permanently installed chargers. Therefore, under the 2022 CBSC, a total of 431 EV capable spaces would be required on-site, and 108 of the EV capable spaces would be required to include EVSE.

Bullet point #11 recommends that operators discourage single-occupancy vehicle trips and provide financial incentives for alternative modes of transportation. Mitigation Measure 4.9- requires that the project applicant develop a TDM plan, including vehicle trip reduction strategies

included in Section 10.28.010 of the City of Oroville Municipal Code. Thus, the project applicant would be required to implement measures similar to those recommended by the commenter.

Bullet point #15 include recommendations related to improving landscaping vegetation and the tree canopy for sensitive receptors/residents within the project area. However, because planting of additional landscaping vegetation/trees within private properties would require resident approval, neither the City of Oroville, nor the project applicant, can legally impose such improvements on the private properties. Thus, implementation of such recommendations is infeasible.

Based on the above, the analyses and conclusions in the Air Quality, Greenhouse Gas Emissions, and Energy chapter of the Draft EIR are adequate, and implementation of the recommended mitigation measures is not warranted for the proposed project. Nonetheless, the comment has been noted for the record and will be forwarded to the decision-makers as part of their consideration of the proposed project and future specific development applications for the project site. Because the proposed buildings are speculative and future tenants are unknown at this time, a specific development application has not yet been received by the City for the project site. When a specific development application for the project site is received, the City will consider the then-proposed design features proposed by the commenter at that time. The City will prepare project conditions when such an application is filed, including that the applicant consider the measures suggested in the comment.

Response to Comment 6-30

As discussed in Chapter 4.2, Air Quality, Greenhouse Gas Emissions, and Energy, of the Draft EIR, based on Appendix G of the CEQA Guidelines, an impact related to energy is considered significant if the proposed project would result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, or conflict with or obstruct a State or local plan for renewable energy or energy efficiency. The Draft EIR considered the construction energy use, building energy demand, and transportation energy demand associated with the proposed project, as well as consistency with the applicable State and local plans, including the CARB In-Use Off-Road Diesel Vehicle Regulation, the CARB Diesel Off-road Online Reporting System, applicable BCAQMD rules and regulations, the CALGreen Code, and the Building Energy Efficiency Standards. As discussed in the Draft EIR, the proposed project would comply with all such applicable standards and regulations, and would not result in the wasteful, inefficient, and unnecessary consumption of energy. Furthermore, as discussed in Chapter 6, Statutorily Required Sections, the proposed project would likely result in, or contribute to, irreversible consumption of energy and natural resources, such as water and electricity, associated with project buildout.

Additional energy conservation measures, such as solar facilities, use of alternate fuel sources, or passive energy efficiency measures, are related to on-site design of the proposed project. The Draft EIR evaluated the maximum buildout allowed for a large-scale distribution center within the project site. However, as discussed therein, the proposed buildings are speculative, and future tenants are unknown at this time. In addition, a specific development application has not yet been received by the City for the project site. The City will consider additional energy conservation measures noted in the comment at the time that a specific development application for the project site is received.

Response to Comment 6-31
Please see Response to Comment 6-30.

Response to Comment 6-32
The comment does not address the adequacy of the Draft EIR. In addition, the City's Planning Commission would be responsible for making the findings for the Use Permit, and whether the proposed buildings would conflict with any of the findings listed in the comment. At the time of project approval or denial, the Planning Commission would consider the general health, safety and public welfare, land use principles, etc. when making its findings and using its discretionary authority.

Response to Comment 6-33
Consideration of the benefits of the proposed project that may outweigh the project's significant and unavoidable impacts will be addressed in a Statement of Overriding Considerations considered by the Oroville City Council. The analysis presented in the Draft EIR with respect to potentially significant impacts, mitigation measures, and alternatives is adequate pursuant to the requirements of the CEQA Guidelines.

Response to Comment 6-34
Please see Responses to Comments 6-6 through 6-31. Based on the conclusions therein, recirculation of the Draft EIR is not required.

Response to Comment 6-35
Please see Responses to Comments 6-8, 6-13, 6-16, 6-18, and 6-21.

Response to Comment 6-36
The comment is a summary of the commenter's qualifications and does not address the adequacy of the Draft EIR.

Response to Comment 6-37
The comment is introductory and does not address the adequacy of the Draft EIR.

Response to Comment 6-38
The comment describes adverse effects of noise and does not address the adequacy of the Draft EIR.

Response to Comment 6-39
Please see Response to Comment 6-38.

Response to Comment 6-40
Please see Response to Comment 6-38.

Response to Comment 6-41
Please see Response to Comment 6-38.

Response to Comment 6-42
Please see Response to Comment 6-38.

Response to Comment 6-43
Please see Response to Comment 6-24.

Response to Comment 6-44
Please see Response to Comment 6-24.

Response to Comment 6-45
Please see Response to Comment 6-26.

Response to Comment 6-46
Please see Response to Comment 6-23.

Response to Comment 6-47
In response to the comment, the traffic noise predictions were updated and are shown in the Responses to Comments on the CEQA Noise/Vibration Analysis Memo prepared by Saxelby Acoustics (see Appendix B of this Final EIR). Table 4.7-8 in Chapter 4.7, Noise, of the Draft EIR is hereby revised as follows:

Table 4.7-8
Project-Related Traffic Noise Level Increases

Roadway	Segment	Predicted Exterior Noise Level at Closest Sensitive Receptors (dBA L_{dn})				
		Existing No Project	Existing + Project	Change	Criteria	Significant?
Ophir Road*	West of Baggett Marysville Road	63.1	~~64.6~~ 66.0	~~1.5~~ 2.9	+3.0	No
Ophir Road*	East of Kusel Road	53.6	53.7	0.1	+5.0	No
Baggett Marysville Road	East of Baggett Palermo Road	48.9	52.5	3.5	+5.0	No
Georgia Pacific Way	East of Merde Avenue	46.2	50.8	4.6	+5.0	No
Lone Tree Road*	South of Serene Lane	52.6	53.6	1.1	+5.0	No
I-70*	South of Ophir Road	60.0	60.6	0.6	+5.0	No
I-70*	South of Palermo Road	57.7	58.2	0.6	+5.0	No
* Road segment is located within unincorporated Butte County, outside of the City boundaries.						
Source: Saxelby Acoustics, LLC., ~~2023~~ 2025.						

Page 4.7-18 in Chapter 4.7, Noise, is hereby revised as follows:

> The existing ambient noise level at the nearest sensitive receptor along Baggett Marysville Road is 48.9 dBA; thus, the allowable increase in noise levels along the road segment is five dB. As shown in Table 4.7-8, above, development of the proposed project would result in a maximum noise level increase of 3.5 dBA along Baggett Marysville Road, which is

> below the maximum allowable increase in noise level. The highest existing ambient noise level in the project vicinity, 63.1 dBA, occurs along Ophir Road, west of Baggett Marysville Road. The noise level increase along Ophir Road is predicted to be ~~1.5~~ 2.9 dBA, which is less than the applicable significant increase criterion of three dB. The greatest noise level increase resulting from development of the proposed project would be an increase of 4.6 dBA along Georgia Pacific Way, near the proposed project driveway. The existing ambient noise level at the nearest sensitive receptor along Georgia Pacific Way is 46.2 dBA; as such, the increase of 4.6 dBA is less than the five dB allowable increase. As shown in Table 4.7-8, project-related traffic noise level increases at all other segments fall below the applicable significant increase criteria. Therefore, the increase in traffic noise levels at existing sensitive receptors due to the proposed project would be considered less than significant.

As shown above, the predicted traffic noise levels would remain below the applicable increase criteria for each of the evaluated roadway segments. Specifically, the largest increases of 3.5 dBA and 4.6 dBA under Existing Plus Project conditions would be less than the 5.0 dBA increase criteria for roadways with existing noise levels of less than 60 dBA. The next largest increase of 2.9 dBA would be less than the 3.0 dBA increase criterion for roadway with existing noise levels ranging between 60 to 65 dBA. Therefore, the increase in traffic noise levels at existing sensitive receptors due to the proposed project would remain less than significant, and the conclusions of the Draft EIR would not change.

Response to Comment 6-48
Please see Response to Comments 6-24, 6-25, and 6-47.

Response to Comment 6-49
Please see Response to Comment 6-26.

Response to Comment 6-50
Appendix C of the Environmental Noise Assessment (see Appendix I of the Draft EIR) includes the existing average daily traffic (ADT) counts used in determining the existing noise levels due to traffic.

Response to Comment 6-51
Please see Response to Comment 6-47.

Response to Comment 6-52
Please see Responses to Comments 6-43 through 6-51. Based on the conclusions therein, recirculation of the Draft EIR is not required.

Response to Comment 6-53
The comment is a summary of the commenter's qualifications and does not address the adequacy of the Draft EIR.

Response to Comment 6-54
The comment summarizes the conclusions of the Draft EIR related to VMT, and does not address the adequacy of the Draft EIR.

Response to Comment 6-55
The comment does not address the adequacy of the Draft EIR. The comment summarizes the conclusions of the Draft EIR related to VMT.

Response to Comment 6-56
Please see Response to Comment 6-28. The trip reduction measure options included in Table 4.9-2 of the Draft EIR (as required by Mitigation Measure 4.9-2) were determined to be feasible measures for the proposed project. Such measures include providing transit schedules, offering on-site availability of transit passes/tickets, construction of secure bike racks, offering flextime, providing discount transit passes, constructing transit shelters, providing commuter matching services, and allowing referential parking for carpools.

Response to Comment 6-57
Please see Responses to Comments 6-6 and 6-8.

Response to Comment 6-58
What discrepancies the commenter is referring to is unclear. The comment does not provide adequate information to provide a detailed response.

Response to Comment 6-59
Please see Response to Comment 6-18.

Response to Comment 6-60
The comment summarizes the conclusions of the Draft EIR related to VMT, but does not address the adequacy of the Draft EIR.

Response to Comment 6-61
The comment does not address the adequacy of the Draft EIR. For the reasons cited by the commenter, the Draft EIR determined that impacts related to VMT would be significant and unavoidable.

Response to Comment 6-62
Please see Response to Comment 6-10.

Response to Comment 6-63
Please see Response to Comment 6-10.

Response to Comment 6-64
Please see Response to Comment 6-10.

Response to Comment 6-65
The commenter is incorrect. As shown in the CalEEMod modeling results for the proposed project, attached as Appendix C to the Draft EIR, the modeling assumed a total of 3,122,000 sf of refrigerated warehouse uses and 80,000 sf of general office uses. As stated on page 3-4 of the Draft EIR, each industrial building would provide approximately 20,000-sf of office space. Thus, the air quality modeling conducted for the proposed project accurately reflects the proposed uses.

Response to Comment 6-66

The commenter is correct in that the air quality modeling conducted for the proposed project assumed a greater number of trips per day than the trip generation included in the Transportation Impact Analysis Report. The air quality modeling that created the basis of the assessment in the Draft EIR was completed prior to the completion of the Transportation Impact Analysis Report. Because the air quality modeling used a greater trip generation rate than what was included in the Transportation Impact Analysis Report, the modeling was not updated. If the trip generation rates were to be updated, mobile emissions would be reduced. As such, the Draft EIR provides a conservative analysis of air quality impacts, and revisions to the Draft EIR are not necessary.

Response to Comment 6-67

Please see Response to Comment 6-18.

Response to Comment 6-68

The comment is a summary of the commenter's qualifications and does not address the adequacy of the Draft EIR.

Letter 7

CENTER *for* BIOLOGICAL DIVERSITY *Because life is good.*

February 20, 2025

Sent via email

Wes Ervin
Principal Planner
City of Oroville
Community Development Department
1735 Montgomery Street
Oroville, CA 95965
wervin@cityoforoville.org

Re: Comments on the Draft Environmental Impact Report for the Ophir Road Warehouse Project (State Clearinghouse No. 2022090522)

Dear Mr. Ervin,

7-1 This letter is submitted on behalf of the Center for Biological Diversity ("Center") regarding the Draft Environmental Impact Report ("DEIR") for the Ophir Road Warehouse Project ("Project") (State Clearinghouse No. 2022090522). The Center strongly urges the City to adopt the Electric Fleet Alternative to ameliorate the significant harms to public health and climate caused by diesel truck traffic.

7-2 The Center is concerned that in the Project as proposed, the City has not adequately mitigated significant impacts as required by the California Environmental Quality Act ("CEQA"). The Project's significant impacts regarding wildfire, air quality, and greenhouse gas emissions will hurt the residents of Oroville. The City must adopt the Electric Fleet alternative in order to comply with CEQA's mandate to mitigate these significant impacts.

7-3 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 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 throughout Butte County.

I. THE DEIR'S GREEHOUSE GAS ANALYSIS FAILS TO ACCURATLEY DISCLOSE, ANALYZE, OR MITIGATE SIGNIFICANT IMPACTS

7-4 Longstanding CEQA case law provides that lead agencies must support their thresholds of significance with substantial evidence. (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1111.) The DEIR falls short in two ways. First, it fails to support its threshold of significance with substantial evidence, using instead a threshold of significance intended for non-industrial land uses. Second, in applying this unsupported

7-4 Cont.

threshold of significance it overlooks numerous impacts the Project will have on climate change and fails to adequately assess others. The Center urges the City to correct these errors and produce a DEIR in compliance with CEQA.

A. Climate Change is a Catastrophic and Pressing Threat to California

A strong, international scientific consensus has established that human-caused climate change is causing widespread harms to human society and natural systems, and that climate change threats are becoming increasingly dangerous. The Intergovernmental Panel on Climate Change (IPCC), the leading international scientific body for the assessment of climate change, concluded in its 2023 Sixth Assessment Report that: "[u]nsustainable and unequal energy and land use as well as more than a century of burning fossil fuels have unequivocally caused global warming, with global surface temperature reaching 1.1°C above 1850-1900 in 2011-2020." (IPCC, 2023). The increase in global surface temperature has resulted in sea level rise, increased frequency of extreme weather events, and has resulted in "irreversible losses" at the species and ecosystem levels. (IPCC, 2023). These findings were echoed in the United States' own 2023 Fifth National Climate Assessment, prepared by scientific experts and reviewed by the National Academy of Sciences and multiple federal agencies. The 2023 Assessment concluded that "[t]he global warming observed over the industrial era is unequivocally caused by greenhouse gas emissions from human activities–primarily burning fossil fuels" and long-term responses include "sea level rise, ice sheet losses, and associated disruptions to human health, social systems, and ecosystems." (US Global Change Research Program, 2023).

7-5

In its 2020 update, the National Academy of Sciences and the Royal Society concluded that climate change is largely a result of human activity, as "natural causes alone are inadequate to explain the recent observed changes in climate." (National Academy of Sciences & Royal Society, 2020). The additional carbon input from human activities has significantly disturbed the natural carbon cycle, resulting in an imbalance in the system that fosters global climate stability. (National Academy of Sciences & Royal Society, 2020). Based on observed and expected harms from climate change, in 2009 the U.S. Environmental Protection Agency found that greenhouse gas pollution endangers the health and welfare of current and future generations. (74 Fed. Reg. 66496 (Dec. 15, 2009) [U.S. EPA, Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act; Final Rule].) In 2021, EPA again recognized the critical nature of the climate crisis, stating that: "[t]he changing climate is affecting people's health and livelihoods and damaging infrastructure, ecosystems, and social systems in communities in every region of the nation." (US Environmental Protection Agency, 2021).

These authoritative climate assessments decisively recognize the dominant role of greenhouse gases in driving climate change. In its 2023 Assessment Report, IPCC stated that "the extent to which current and future generations will experience a hotter and different world depends on choices now and in the near term." (IPCC, 2023). In order to prevent global warming from reaching an irreversible point, policies must be implemented to reach net zero CO2 emissions and achieve significant reductions in other greenhouse gases. (IPCC, 2023).

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7-5 Cont.

The impacts of climate change will be felt by humans and wildlife. Climate change is increasing stress on species and ecosystems—causing species-level changes in morphology, behavior, phenology, and geographic range shifts, and ecosystem-level changes such as the increasing frequency of extreme weather events, widespread changes in productivity, species interactions, and vulnerability to biological invasions (Weiskopf et al., 2020). Climate-change-related local extinctions are already widespread and have occurred in hundreds of species. (Wiens, 2016). Catastrophic levels of species extinctions are projected during this century if climate change continues unabated (Maclean & Wilson, 2011; Thomas et al., 2004; Urban, 2015). Conservation actions aimed at protecting biodiversity can slow the progression of climate change–the ecosystem services provided by biodiverse ecosystems are an integral part in the balanced functioning of our climate system (Shin et al., 2022).

Therefore, immediate and aggressive greenhouse gas emissions reductions are necessary to keep warming well below 2°C above pre-industrial levels. The IPCC Sixth Assessment Report and other expert assessments have established global carbon budgets, or the total amount of carbon that can be burned while maintaining some probability of staying below a given temperature target. According to the IPCC, "[t]he best estimates of the remaining carbon budgets from the beginning of 2020 are 500 GtCO2 for a 50% likelihood of limiting global warming to 1.5°C and 1150 GtCO2 for a 67% likelihood of limiting warming to 2°C." (IPCC, 2023). Additionally, "[i]f the annual CO2 emissions between 2020-2030 stayed, on average, at the same level as 2019, the resulting cumulative emissions would almost exhaust the remaining carbon budget for 1.5°C (50%), and deplete more than a third of the remaining carbon budget for 2°C (67%)." (IPCC, 2023). As of 2023, climate policies by the world's countries would lead to an estimated 2.7°C of warming, and possibly up to 3.4°C of warming, well above the level needed to avoid the worst dangers of climate change (Climate Action Tracker, 2023).

The United States has contributed more to climate change than any other country. The U.S. is the world's biggest cumulative emitter of greenhouse gas pollution, responsible for 24 percent of cumulative global CO2 emissions from 1850 to 2022, and the U.S. is currently the world's second highest emitter on an annual and per capita basis (Friedlingstein et al., 2023; Friedrich et al., 2023). U.S. climate policy is wholly inadequate to meet the international climate target to hold global average temperature rise to well below 2°C above pre-industrial levels to avoid the worst dangers of climate change. Current U.S. climate policy has been ranked as "insufficient" by an international team of climate policy experts and climate scientists which concluded: "[w]ithout additional, drastic emission reductions measures, the US will still be far from meeting its domestic climate target, let alone get its emissions onto a 1.5°C trajectory." (Climate Action Tracker, 2023). In its 2018 Special Report on Global Warming of 1.5°C, the IPCC—the leading international scientific body for the assessment of climate change—described the devastating harms that would occur at 2°C warming. The report highlights the necessity of limiting warming to 1.5°C to avoid catastrophic impacts to people and life on Earth (IPCC, 2018). The report also provides overwhelming evidence that climate hazards are more urgent and more severe than previously thought, and that aggressive reductions in emissions within the next decade are essential to avoid the most devastating climate change harms.

In California, climate change will transform our climate, resulting in such impacts as increased temperatures and wildfires, and a reduction in snowpack and precipitation levels and

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7-5 Cont.

water availability (Turco et al., 2023). In response to inadequate action on the national level, California has taken steps through legislation and regulation to fight climate change and reduce statewide GHG emissions. Enforcement and compliance with these steps are essential to help stabilize the climate and avoid catastrophic impacts to our environment. California has a mandate under AB 1279, the California Climate Crisis Act, to achieve net zero GHG emissions by no later than 2045, and achieve and maintain net negative GHG emissions thereafter, and to ensure that by 2045, statewide GHG emissions are reduced to 85% the level in 1990. (AB 1279 2022.) In 2019, Governor Newsom issued an executive order to leverage state investments to further California's climate goals (Executive Order N-19-19 (2019).) Newsom has continued to issue climate-related executive orders, such as a 2020 order requiring that, by 2035, all passenger vehicles will be zero-emission, in addition to other motor vehicle emission goals. (Executive Order N-79-20 (2020).) Through these bills and orders, California has laid a path that may allow the state to achieve tangible climate solutions, but there is still work to be done.

Although some sources of GHG emissions may seem insignificant, climate change is a problem with cumulative impacts and effects. (Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Admin., (9th Cir. 2008) 538 F.3d 1172, 1217 ("the impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis" that agencies must conduct).) One source or one small project may not appear to have a significant effect on climate change, but the combined impacts of many sources can drastically damage California's climate as a whole. Therefore, project-specific GHG emission disclosure, analysis and mitigation is vital to California meeting its climate goals and maintaining our climate.

B. The DEIR's Greenhouse Gas Analysis Uses a Threshold of Significance That Is Not Supported by Substantial Evidence and Does Not Capture Significant Impacts.

7-6

Despite the established scientific and regulatory consensus that climate change is a critical threat to public health and the environment, the City failed to use a threshold of significance that captures all significant impacts of the industrial uses contemplated in the DEIR. Instead, the DEIR uses qualitative thresholds for other land uses from the 2022 Scoping Plan Appendix D—a document that "focuses primarily on climate action plans and local authority over new *residential* development" and "*does not address other land use types* (e.g., industrial)." (CARB Appendix D at 4 [emphases added]; DEIR at 3.6-24-25.) The 2022 Scoping Plan Appendix D further makes plain that the attributes the DEIR uses as the threshold of significance "address the largest sources of operational emissions *for residential projects*" (CARB at 23 [emphasis added]) and that this approach to determining significance "is *only* intended for residential and mixed-use development projects." (CARB at 24 [emphasis added].) Nevertheless, the City references these project attributes throughout its assessment of climate change emission impacts for this industrial use.

7-7

The threshold in the DEIR is inappropriate because it comes from guidance on residential land uses, not industrial uses. The BAAQMD threshold for stationary sources of 10,000 metric tons per year of CO2 or SCAQMD's and the City of American Canyon's 10,000 MTCO2e CEQA threshold of significance for industrial facilities should have been used, not the residential threshold from CARB. The DEIR estimates the Project's unmitigated GHG emissions to total

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7-7 Cont.

11,228 MTCO2e per year. (DEIR at 4.2-65.) Over 11,000 MTCO2e per year is a significant level of emissions, exceeding BAAQMD's and the City of American Canyon's 10,000 MTCO2e CEQA threshold of significance for industrial facilities. Further, the DEIR admits in several instances that the CARB Scoping Plan is inapplicable to many of the project's key attributes. (DEIR 4.2-70-72.) CARB's 2022 Scoping Plan Appendix D lists eight key project attributes to consider assessing a project's compliance with the State's 2030 GHG emission reduction goals. As stated in the DEIR, *half* of these key project attributes are, "not applicable to the proposed project." (DEIR 4.2-70-72.) This again shows the overwhelming significance of the Project's GHG emissions and highlights that the threshold the City selected to characterize these impacts obscures the Project's climate impacts and misleads the public.

7-8

The City's failure to use a threshold that captures industrial uses violates CEQA. Industrial development poses unique critical threats to the environment and carries serious environmental justice consequences. For one example, warehouses are well-known for truck trips, which have earned the neighborhoods near warehouses the nickname "diesel death zones," with truck trips often the greatest source of warehouse GHG emissions. Industrial development also generates GHGs from heavy-duty equipment like forklifts and pallet jacks, from industrial refrigeration of massive warehouse buildings, and from diesel-powered generators—none of which are common in homes. As a result, evaluating industrial development using a threshold of significance for residential projects forecloses consideration of the very things that make industrial development harmful.

C. The City Must Adopt the Electric Fleet Alternative

7-9

As the DEIR admits, this Project will result in a significant GHG impact. (DEIR at 4.2-72.) In fact, the most significant source of GHG emissions from this project is from mobile sources. (DEIR at 4.2-47.) CEQA requires that if a responsible agency finds that any alternatives or mitigation measures within its powers are feasible and would substantially lessen or avoid a significant effect of the project, the responsible must adopt those mitigation measures or alternatives. 14 Cal Code Regs §15096(g)(2). *See also* Pub Res C §21081(a). As stated in the DEIR, the adoption of the Electric Fleet Alternative meets the project objectives. (DEIR at 7-10.) Because there is a significant GHG impact from this project, the City must adopt the Electric Fleet Alternative because it will substantially lessen a significant impact of the project, is economically feasible, and meets the project's objectives.

a. Electric Trucks are Economically Feasible

7-10

Most significant logistic and operational barriers for using electric trucks have been overcome, making the adoption of electric trucks feasible for the Project. First, the prices of battery packs for semi-trucks and all heavy-duty vehicles have decreased significantly and will continue to decline over the next decade. (CARB, California's Plan for Zero-Emission Vehicles.) Batteries on electric vehicles have also greatly improved and will continue to become more efficient as this technology becomes more widespread. (Lawrence Berkeley National Laboratory, 2021.) As battery costs have fallen, the weight and size of the battery has gotten more efficient. (Lawrence Berkeley National Laboratory, 2021.) The physical changes reflect a rising energy density within the battery. As a result, electric trucks with a range up to 375 miles might entail

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little to no reduction in payload carrying capacity. (Lawrence Berkeley National Laboratory, 2021.)

7-10 Cont.

The total cost of ownership for battery electric and fuel cell electric trucks will be less expensive than diesel trucks and continue to significantly decrease through 2035. (CARB, Advanced Clean Fleets Regulation.) By 2030, nearly half of medium and heavy-duty trucks will be cheaper to buy, operate, and maintain as zero emissions vehicles than traditional diesel-powered combustion engine vehicles. (Lenda 2022.)

b. Electric Fleet Alternative Will Substantially Lessen the Significant Impact of GHGs

7-11

The City must adopt the electric fleet alternative as a feasible mitigation measure for construction and operational emissions and include infrastructure to support electric trucks. The integration of electric trucks will be essential as California transitions to economy-wide carbon neutrality by 2045. (CARB, California's Plan for Zero-Emission Vehicles.) Electrification of warehouse and industrial projects such as this one can lower the projects GHG emissions up to 70%. (Electric Power Research Institute, Electrifying Transportation Reduces Greenhouse Gases and Improves Air Quality.)

Mobile sources including cars, trucks, and other on-road vehicles contribute the largest portion of GHG emissions and are a significant source of toxic air contaminants that directly impact community health. (CARB, Mobile Source Strategy.)

II. THE DEIR FALSELY CLAIMS NO SIGNIFICANT WILDFIRE IMPACT

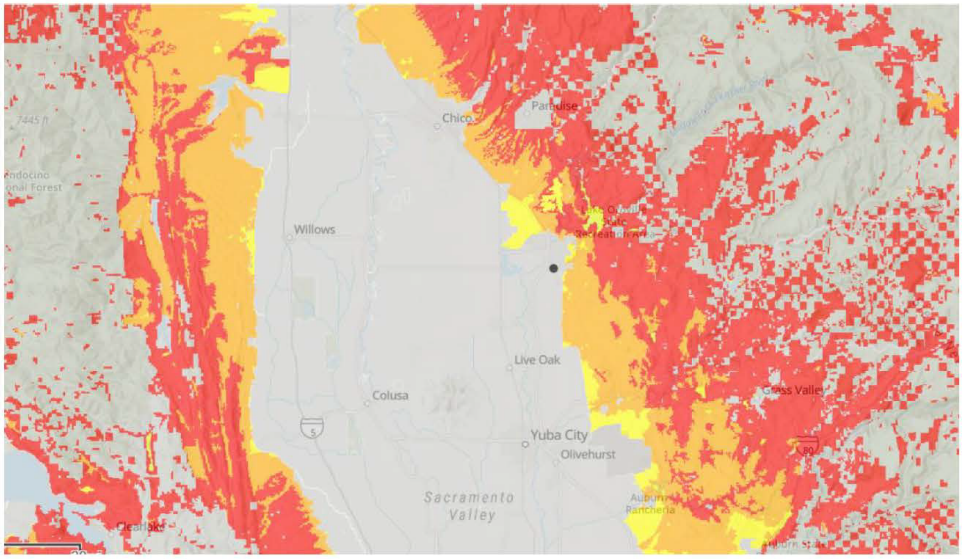
A. The Project is Located Near a State-Designated Responsibility Area

7-12

The DEIR erroneously concludes that the Project will have no impact to wildfire risk. (DEIR at 5.10). The DEIR states that the Project is not located in or near a state-designated responsibility area. (DEIR at 5.10). Yet, the project location is less than two miles from a state-designated responsibility area. (See Map *Infra*). CEQA Guidelines Appendix G require the project to implement and incorporate mitigation measures if the project is located "in or near a state responsibility area or lands classified as very high fire hazard severity zones." (CEQA Guidelines Appendix G.) A distance of two miles in "undeveloped land and rural residences" is sufficiently near the very high fire hazard severity zone because of the rapid spread of wildfires. (DEIR at 1-2.) A wildfire can travel at a rate of up to 14.27 miles per hour. (Western Fire Chiefs Assocation, 2024). The 2018 Camp Fire location is less than 25 miles from the project site. That fire spread at a rate of one football field every second, and burned 19,000 structures; the smoke caused dangerously high levels of air pollution in the Sacramento Valley and Bay Area and CARB found that high levels of heavy metals like lead and zinc traveled more than 150 miles. (California Air Resources Board, 2021). Similar conditions could manifest here, thus sufficient mitigation measures need to be properly analyzed under CEQA.

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7-12 Cont.



1

7-13

B. The Project Meets the Threshold of Significance, Requiring a Mitigation Analysis

The DEIR incorrectly states that the project does not involve components that would exacerbate wildfire risks, and therefore does not meet the threshold of significance. (DEIR at 5-7.) This is incorrect. This project will require the installation and maintenance of associated infrastructure, and a significance increase of VMT in the project area that will exacerbate fire risk. This project will result in an annual VMT of approximately 18,553,315. (DEIR at 4.2-61.) . Therefore the second and third prongs have been met for the threshold of significance. (CEQA Guidelines Appendix G.)

Almost all (95-97%) contemporary wildfires in California have been unintentionally caused by people, including car sparks, powerlines, etc. (Balch et al., 2017; Keeley & Syphard, 2019). As detailed in a 2021 Center Report (Yap et al., 2021), development in highly fire-prone areas such as the proposed Project increases unintentional ignitions, places more people at risk (within and downwind of the project area), and destroys native shrubland habitats that support high levels of biodiversity. Almost all contemporary wildfires in California (95-97%) are caused by humans in the wildland urban interface (Balch et al., 2017; Keeley & Syphard, 2019; Radeloff

1 Board of Forestry, State Responsibility Area Five Year Review. State Responsibility Area Viewer. Available at: https://experience.arcgis.com/experience/bd8234bfe71548b087b11210a0d7d45e?id=468717e399fa4238ad86861638765ce1

Letter 7 Cont.

7-13 Cont.

et al., 2018; Syphard et al., 2007). For example, the 2020 Apple Fire and 2018 Carr fire were caused by sparks from vehicles. Further, the 2019 Kincade Fire, 2018 Camp and Woolsey fires, and 2017 Tubbs and Thomas fires were sparked by powerlines or electrical equipment.

7-14

Recent wildfires have been exceptionally harmful to people. Between 2015 and 2020 almost 200 people in the state were killed in wildfires, more than 50,000 structures burned, hundreds of thousands of people had to evacuate their homes and endure power outages, and millions were exposed to unhealthy levels of smoke and air pollution. Human-caused wildfires at the urban wildland interface that burn through developments are becoming more common with housing and human infrastructure extending into fire-prone habitats, and homes and structures can add fuel to fires and increase spread (Knapp et al., 2021). This is increasing the frequency and toxicity of emissions near communities in and downwind of the fires. Buildings and structures often contain plastic materials, metals, and various stored chemicals that release toxic chemicals when burned, such as pesticides, solvents, paints, and cleaning solutions (Weinhold, 2011).

C. EV Vehicles Will Decrease Wildfire Risks From Vehicle Ignitions

Electric vehicles are less likely to ignite and therefore will reduce the wildfire impact of the Project. Data from the National Transportation Safety Board showed that EVs were involved in approximately 25 fires for every 100,000 sold. (Weil, 2024). Comparatively, approximately 1,530 gasoline-powered vehicles and 3,475 hybrid vehicles were involved in fires for every 100,000 sold. Reporting from other countries supports the assertion that EVs are less fire-prone than gas-powered vehicles. Data from Norway, Sweden, and Australia is consistent with findings in the U.S., showing that the prevalence of EV fires remains relatively low. (Jolly, 2023).

7-15

Catalytic converters are a primary contributor to car fires. (Texas Commission on Environmental Quality, 2025). The heat generated from the converters can cause the metal temperature of the converter to regularly approach 800-1000° Fahrenheit under conditions of high engine loading. *Id.* If there is any partial ignition system failure, such as one or more misfiring spark plug or defective ignition wires, the temperatures of the catalytic converter surfaces and the exhaust system downstream from the converter may reach 1200 to 1400 F. *Id.* Further, once hot, the converter will take longer to cool off than other parts of the exhaust system because of its greater mass. When this happens, it can lead to the charring or burning of undercoating inadvertently sprayed on the catalyst or exhaust system, charring of floor mats in the car, or ignition of dry vegetation if the vehicle is operated off-road. *Id.*

Electric vehicles do not have catalytic converters, thus this risk for the ignition of dry vegetation caused by an overheated catalytic converter does not exist. This Project expecting a VMT of an annual VMT increase of approximately 18,553,315 is especially concerning given the project location is characterized by hot, dry summers and rainy winters. (DEIR at 4.2-1.) Rainy winters allows fuels such as grass and shrubs to grow exponentially in the spring and then dry out over the summers, creating the perfect conditions for rapid growing wildfires. The implementation of electric vehicles would mitigate the risk of wildfires caused by vehicle sparks. Therefore, the City must adopt the Electric Fleet Alternative.

Letter 7 Cont.

III. AIR QUALITY IMPACTS WILL BE SIGNIFICANT, THUS THE ELECTRIC FLEET ALTERNATIVE MUST BE ADOPTED

Air quality is a significant environmental and public health concern in California. Unhealthy, polluted air contributes to and exacerbates many diseases and increases mortality rates. The U.S. government has estimated that between 10 to 12 percent of total health costs can be attributed to air pollution. (VCAPCD 2003.) Greenhouse gases, such as the air pollutant carbon dioxide, which is released by fossil fuel combustion, contribute directly to human-induced climate change (EPA 2016), and in a positive feedback loop, poor air quality that contributes to climate change will in turn worsen the impacts of climate change and attendant air pollution. (BAAQMD 2016.) Warehouse projects are well-documented sources of air quality degradation that can create serious, negative health outcomes for surrounding communities. (Betancourt 2012, pp. 4-5.) Particulate emissions from diesel vehicles that carry freight to and from warehouses contribute to "cardiovascular problems, cancer, asthma, decreased lung function and capacity, reproductive health problems, and premature death." (*Id.* at 5.)

7-16

The DIER has acknowledged that this project will cause significant impacts to air quality due to diesel exhaust. (DEIR at 6-6.) Thus, project must adopt the Electric Fleet Mitigation Measure. Electric vehicles do not emit HGH or pollutants from the tailpipe, and therefore will not contribute diesel fuels. (Argonne National Laboratory, 2023). A study of the adoption of electric vehicles in China supports the conclusion that the use of electric vehicles decreases air pollution. There, a study of over 11 billion VMT of electric vehicles in comparison to gas vehicles found a decrease of CO2 emissions by 611,824 tons and the amount of gasoline used by 1.6 billion gallons. (Zhao, et al, 2023.)

IV. CONCLUSION

Thank you for the opportunity to submit comments on the DEIR for the Ophir Road Warehouse Project. Given the possibility that the Center will be required to pursue legal remedies in order to ensure that the City complies with its legal obligations including those arising under CEQA, we would like to remind the City of its statutory duty to maintain and preserve all documents and communications that may constitute part of the "administrative record" of this proceeding. (§ 21167.6(e); *Golden Door Properties, LLC v. Superior Court* 53 Cal.App.5th 733.) The administrative record encompasses any and all documents and communications that relate to any and all actions taken by the City 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 includes all correspondence, emails, and text messages sent to or received by the City's representatives or employees, that relate to the Project, including any correspondence, emails, and text messages sent between the City's representatives or employees and the Applicant'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.

7-17

Letter 7 Cont.

7-17 Cont.

Please include the Center to your notice list for all updates to the Project and do not hesitate to contact the Center with any questions at the number or email listed below.

Sincerely,

Scout Coberg
Legal Fellow
Center for Biological Diversity
2100 Franklin St., Suite 375
Oakland, CA 94612

Letter 7 Cont.

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LETTER 7: CENTER FOR BIOLOGICAL DIVERSITY

Response to Comment 7-1
The comment does not address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 7-2
The comment is an introductory statement and provides a summary of the commenter's general concerns regarding wildfire, air quality, and GHG emissions, as well as the commenter's favor for the Electric Fleet Alternative. Detailed responses regarding the commenter's concerns are provided in Responses to Comments 7-4 through 7-17 below.

Response to Comment 7-3
The comment is an introductory statement regarding the role of the Center for Biological Diversity and does not address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 7-4
The comment provides a general summary of the commenter's concerns regarding GHG emissions. Detailed responses regarding the commenter's concerns are provided in Responses to Comments 7-6 through 7-8 below.

Response to Comment 7-5
The comment provides information regarding climate change, but does not address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their information.

Response to Comment 7-6
As discussed on page 4.2-39 of the Draft EIR, the BCAQMD does not have any adopted numerical thresholds of significance for GHG emissions. Thus, the proposed project was evaluated for impacts related to GHG emissions in accordance with the City's CAP. As discussed on page 4.2-36 of the Draft EIR, according to the City of Oroville CAP, the CAP serves as a Qualified GHG Reduction Strategy under Section 15183.5(b) of the CEQA Guidelines. However, the City's CAP was prepared prior to the passing of SB 32. Therefore, while the CAP is qualified with regard to AB 32, additional reductions required under SB 32 were not considered within the City's GHG reduction strategies. As such, to ensure consistency with SB 32, the proposed project was also evaluated for impacts in accordance with the CARB 2022 Scoping Plan Update, which provides examples of key project attributes that could be considered to assess a project's compliance with the State's 2030 GHG emissions reductions goals. While the commenter is correct that the key project attributes in the 2022 Scoping Plan Update are focused on residential development, the City determined that including a 2022 Scoping Plan Update consistency analysis is adequate, given the absence of another plan option. Additionally, contrary to the commenter's claims, the GHG analysis included in the Draft EIR was not based solely on the 2022 Scoping Plan, but rather, the 2022 Scoping Plan was used to supplement the analysis within the Draft EIR, the majority of which was based on consistency with the City's CAP, as recommended by BCAQMD.

Response to Comment 7-7

Please see Response to Comment 7-6. In addition, as shown in the mitigated (All-Electric Forklifts) modeling that was prepared for the proposed project, Mitigation Measure 4.2-2(a), which was required in order to reduce the proposed project's operational criteria pollutant emissions, would result in a co-benefit with regard to the proposed project's GHG emissions. Thus, with implementation of Mitigation Measure 4.2-2(a), the proposed project's GHG emissions would be reduced to 10,257 $MTCO_2e$/yr, which is just over the 10,000 $MTCO_2e$/yr threshold recommended by the commenter. While similar reductions were not required to be calculated for Mitigation Measures 4.2-7(a) and 4.2-7(b), which are required to ensure the project's consistency with the City's CAP, implementation of such mitigation measures is anticipated to further reduce the operational GHG emissions associated with the proposed project. Regardless, due to potential infeasibility and uncertainties regarding the requirements of Mitigation Measures 4.2-7(a) and 4.2-7(b), the Draft EIR concluded a significant and unavoidable impact would occur related to GHG emissions, even with implementation of Mitigation Measures 4.2-7(a) and 4.2-7(b). Similarly, such conclusions would remain even if the thresholds of significance recommended by the commenter were used in the GHG analysis. Thus, the Draft EIR analysis remains adequate. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 7-8

Please see Responses to Comments 7-6 and 7-7 related to the GHG thresholds used within the Draft EIR. In addition, diesel particulate matter is considered a Toxic Air Contaminant (TAC), and was addressed through preparation of an Health Risk Assessment (HRA), as discussed in detail within Impact 4.2-3 of the Draft EIR. Furthermore, with regard to diesel emissions associated with on-site stationary equipment, as discussed on pages 4.2-47 through 4.2-49 of the Draft EIR, Mitigation Measure 4.2-2(a) requires that off-road equipment (i.e., forklifts) to be used during operations of the proposed project be all electric.

Response to Comment 7-9

The Draft EIR is intended to provide an analysis of the reasonable alternatives to the proposed project. As the CEQA Lead Agency, the City determines whether the project (or one of the alternatives assessed in the Draft EIR) is approved. The comment does not specifically address the adequacy of the Draft EIR. However, the comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 7-10

CEQA is not required to evaluate socioeconomic and/or environmental justice issues; rather, the Draft EIR is required to focus on the potential environmental impacts of the proposed project on the existing environment. The comment does not address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration. In addition, implementation of Mitigation Measure 4.2-3 included in the Draft EIR would restrict the proposed project to allow for only two of the proposed warehouses to be occupied with tenants whose fleets are comprised primarily of diesel-powered heavy-duty trucks. However, as discussed on page 4.2-55 of the Draft EIR, the feasibility of Mitigation Measure 4.2-3 relies on the adequate availability of zero emission heavy-duty trucks, as well as PG&E's ability to provide adequate charging infrastructure, at the time of building occupancy for the remaining two warehouse buildings. In the event that there is a disruption in the manufacturing of zero emission heavy-duty trucks, sufficient vehicles are not commercially available, or PG&E cannot provide adequate charging infrastructure, Mitigation Measure 4.2-3 may not be feasible at the time of occupancy for the remaining two warehouse buildings. However, Mitigation Measure 4.2-



3 would be required to be implemented to the maximum extent feasible at the time of building occupancy.

Response to Comment 7-11

The Draft EIR is intended to provide an analysis of the reasonable alternatives to the proposed project. As the CEQA Lead Agency, the City determines whether the project is approved. The comment does not address the adequacy of the Draft EIR. However, the comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 7-12

Wildfire risk associated with the proposed project is discussed in Chapter 5, Effects Not Found to be Significant, in the Draft EIR. As discussed therein, the project site is not located within land designated as a State Responsibility Area (SRA) or a Very High Fire Hazard Severity Zone (FHSZ). Rather, the project site is located within a Local Responsibility Area (LRA) that is not designated as a High or Very High FHSZ.

The nearest SRA is approximately 1.20 miles to the east of the site. However, the nearest SRA designated lands to the project site are designated as a Moderate FHSZ, with the nearest High FHSZ located approximately 1.46 miles to the east of the project site. In addition, the nearest Very High FHSZ is located even further away, at approximately 4.5 miles to the east of the site. Intervening development exists between the nearest SRA and Very High FHSZ and the project site that would help to prevent the spread of wildfire. Even so, the Draft EIR provided a conservative analysis to evaluate the potential impacts of the proposed project based on the significance standards provided by CEQA. As discussed in Chapter 5, Effects Not Found to be Significant, in the Draft EIR, the proposed project does not involve any development that would exacerbate wildfire risks, as the proposed warehouse buildings that would not include operational activities that would increase the risk of wildfire. In fact, through development of the project, existing fuel sources would be removed, thereby lowering the risk of wildfire. In addition, the proposed project would not involve installation or maintenance of roads, fuel breaks, or emergency water sources, and all utilities associated with the project would be installed underground. The project site does not feature steep or significant slopes and would be graded to be more level through project construction activities. Therefore, the project would not be vulnerable to risks, such as post-fire downslope or downstream flooding or landslides. Based on the above, the proposed project was determined to have no impact regarding wildfire risk.

The proposed project's impact on fire protection services is also discussed in detail on pages 4.8-17 and 4.8-18 of Chapter 4.8, Public Services and Utilities, of the Draft EIR. The proposed project would be required to adhere to regulations regarding fire safety and pay development impact fees to the Oroville Fire Department (OFD), including the submittal of final improvement plans for review by the OFD in order to ensure compliance with fire and safety standards and that the proposed project would be constructed consistent with the California Building Code (CBC), California Fire Code (CFC), and all applicable State adopted Codes and Standards as published by the National Fire Protection Association (NFPA). Compliance with the above would reduce the potential for fires to occur within the proposed structures, which would reduce the demand for fire protection services from the project site.

Additionally, the proposed project's potential to impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan was analyzed on pages 4.5-14 and 4.5-15 of Chapter 4.5, Hazards and Hazardous Materials, of the Draft EIR. The

proposed project was determined to have no impact regarding the possibility to physically interfere with the Emergency Operations Plan (EOP) during construction and operations of the proposed project, particularly with any roadways needed in the case of an emergency evacuation within the City. Furthermore, the proposed project would not include land uses or operations that could impair implementation of the plan. Therefore, the proposed project would not interfere with or impair implementation of an adopted emergency response plan or emergency evacuation plan, and would not pose an additional hazard regarding evacuation in the event of a wildfire.

Response to Comment 7-13

Please see Response to Comment 7-12. Additionally, the commenter expresses concern with increased VMT and the possible associated wildfire risk with the proposed project. The new roadways created within the proposed project would be paved, and all vegetation added within the proposed project plans would be maintained, decreasing the risk of ignition sparks leading to wildfire. Also, the proposed project would be connected to roadways in which vehicle travel already occurs. Based on the above, combined with the fact that the project site is not located within a SRA or High or Very High FHSZ, the proposed project would not create an increased impact regarding wildfire risk. However, the comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 7-14

The comment does not address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 7-15

The Draft EIR is intended to provide an analysis of the reasonable alternatives to the proposed project. As the CEQA Lead Agency, the City determines whether the project is approved. The comment does not specifically address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 7-16

The Draft EIR is intended to provide an analysis of the reasonable alternatives to the proposed project. As the CEQA Lead Agency, the City determines whether the project is approved. The comment does not specifically address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 7-17

The comment is a concluding statement and does not address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Letter 8

BLUM, COLLINS & HO LLP
ATTORNEYS AT LAW
AON CENTER
707 WILSHIRE BOULEVARD
SUITE 4880
LOS ANGELES, CALIFORNIA 90017
(213) 572-0400

February 19, 2025

Wes Ervin
Principal Planner
Community Development Department
City of Oroville
1735 Montgomery Street
Oroville, CA 95965

Via Email to:
wervin@cityoforoville.org

Subject: Comments on Ophir Road Warehouse Project EIR (SCH NO. 2022090522)

Dear Mr. Ervin,

8-1 Thank you for the opportunity to comment on the Environmental Impact Report (EIR) for the proposed Ophir Road Warehouse Project. Please accept and consider these comments on behalf of Golden State Environmental Justice Alliance. Also, Golden State Environmental Justice Alliance formally requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. Send all communications to Golden State Environmental Justice Alliance P.O. Box 79222 Corona, CA 92877.

1.0 Summary

8-2 The project proposes the construction and operation of four new industrial fulfillment center warehouse buildings totaling 3,200,000 square feet on an approximately 170 acre site. Each of the buildings would consist of a five-story tall concrete tilt-up warehouse with depressed dock areas and would range from 774,000 sf to 869,200 square feet (sf). Due to the inclusion of a 250,000-sf mezzanine in each building, the building footprints would range from 514,000 sf to 609,200 sf. Each building would also provide approximately 20,000-sf of office space, including 10,000 sf of office mezzanine space. The buildings would each have a cross-dock layout, but could be subdivided to accommodate multiple tenants based on market needs. Between 76 and 86 dock doors would be provided per building. Building height would average from 40 feet to 65 feet; However, approval of a Use Permit would allow for a maximum building height of 100 feet to accommodate any specific user requirements of future tenants. A total of 2,152 vehicle parking spaces would be provided on-site, including 530 parking spaces associated with building one, 483

Letter 8 Cont.

8-2 Cont.

parking spaces associated with building two, 526 parking spaces associated with building three, and 611 parking spaces associated with building four.

3.0 Project Description

The EIR does not include a floor plan, building elevations, detailed site plan or a detailed grading plan. The basic components of a Planning Application include a detailed site plan, floor plan, conceptual grading plan, written narrative, and detailed elevations. The site plan provided in Figure 3-3: Conceptual Site Plan has been edited for public review to remove meaningful information such as the notes and legend. The figure is also blurry and not entirely legible, which does not comply with CEQA's requirements for meaningful disclosure and adequate informational documents (CEQA § 15121 and PRC 21003(b)).

8-3

The EIR does not provide any grading plan or information regarding the quantity of import/export material associated with project construction or site preparation. Verification of the import/export materials is vital as it directly informs the quantity of necessary truck hauling trips due to soil import/export during the grading phase of construction. There are also no building elevations provided to verify building height, paint colors, or materials, which is especially necessary as the project requests approval of a Use Permit to allow buildings up to 100 feet in height. A revised EIR must be prepared to include wholly accurate and adequate detailed project site plan, floor plan, grading plan, elevations, and project narrative for public review.

4.2 Air Quality, Greenhouse Gas Emissions, and Energy

The EIR does not include for analysis relevant environmental justice issues in reviewing potential impacts, including cumulative impacts from the proposed project. This is in conflict with CEQA Guidelines Section 15131 (c), which requires that "Economic, social, and particularly housing factors shall be considered by public agencies together with technological and environmental factors in deciding whether changes in a project are feasible to reduce or avoid the significant

8-4

effects on the environment identified in the EIR. If information on these factors is not contained in the EIR, the information must be added to the record in some other manner to allow the agency to consider the factors in reaching a decision on the project." This is especially significant as the surrounding community is highly burdened by pollution.

According to CalEnviroScreen 4.0[1], CalEPA's screening tool that ranks each census tract in the state for pollution and socioeconomic vulnerability, the proposed project's census tract (6007003300) ranks worse than 59% of the rest of the state overall in pollution burden. The

[1] CalEnviroScreen 4.0 https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40

Letter 8 Cont.

8-4 Cont.

surrounding community bears the impact of multiple sources of pollution and is more polluted than other census tracts in many pollution indicators measured by CalEnviroScreen. For example, the project census tract ranks in the 68th percentile for ozone burden. Ozone can cause lung irritation, inflammation, and worsening of existing chronic health conditions, even at low levels of exposure[2].

The census tract ranks in the 91st percentile for solid waste facility impacts. Solid waste facilities can expose people to hazardous chemicals, release toxic gases into the air (even after these facilites are closed), and chemicals can leach into soil around the facility and pose a health risk to nearby populations[3].

The census tract ranks in the 89th percentile for cleanup sites impacts. Cleanup sites are places that are contaminated with harmful chemicals and need to be cleaned up by the property owners or government[4]. People living near these sites are more likely to be exposed to chemicals from the sites than people living further away[5]. Some studies have shown that neighborhoods with cleanup sites are generally poorer and have more people of color than other neighborhoods[6].

The census tract ranks among the most severely impacted in several areas that impact water quality. The census tract ranks in the 49th percentile for groundwater threats. People who live near contaminated groundwater may be exposed to chemicals moving from the soil into the air inside their homes[7]. Accordingly, the census tract ranks in the 87th percentile for drinking water impacts, which indicates that it ranks with the worst quality drinking water in the state. Poor communities and people in rural areas are exposed to contaminants in their drinking water more often than people in other parts of the state[8]. The census tract also ranks in the 90th percentile for impaired waters. Water pollution can harm wildlife habitats and change the number and types of plants and animals in the environment[9]. When fish and shellfish are contaminated, people who eat them can be exposed to toxic substances[10].

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[2] OEHHA Ozone https://oehha.ca.gov/calenviroscreen/indicator/air-quality-ozone
[3] OEHHA Solid Waste Facilities https://oehha.ca.gov/calenviroscreen/indicator/solid-waste-sites-and-facilities
[4] OEHHA Cleanup Sites https://oehha.ca.gov/calenviroscreen/indicator/cleanup-sites
[5] Ibid.
[6] Ibid.
[7] OEHHA Groundwater Threats https://oehha.ca.gov/calenviroscreen/indicator/groundwater-threats
[8] OEHHA Drinking Water https://oehha.ca.gov/calenviroscreen/drinking-water
[9] OEHHA Impaired Waters https://oehha.ca.gov/calenviroscreen/indicator/impaired-water-bodies
[10] Ibid.

Letter 8 Cont.

8-4 Cont.

Further, the project's census tract is a diverse community including 12% Hispanic, 4% Other, and 5% Asian-American residents, whom are especially vulnerable to the impacts of pollution. The community has a high rate of low educational attainment, meaning 59% of the census tract over age 25 has not attained a high school diploma, which is an indication that they may lack health insurance or access to medical care. The community also has a high rate of poverty, meaning 60% of the households in the census tract have a total income before taxes that is less than the poverty level. Income can affect health when people cannot afford healthy living and working conditions, nutritious food and necessary medical care[11]. Poor communities are often located in areas with high levels of pollution[12]. Poverty can cause stress that weakens the immune system and causes people to become ill from pollution[13]. Living in poverty is also an indication that residents may lack health insurance or access to medical care. Medical care is vital for this census tract as it ranks in the 73rd percentile for incidence of cardiovascular disease and 47th percentile for incidence of asthma. The community also has a high rate of linguistic isolation, meaning 49% of the census tract speaks little to no English and faces further inequities as a result.

8-5

The EIR's discussion does not quantify the project's Energy consumption. The EIR states that, "the project would involve consumption of diesel, gasoline, natural gas, and electricity throughout construction and operations. However, all proposed structures would be built in compliance with existing statewide mandatory energy efficiency standards, such as those contained in the California Building Energy Efficiency Standards and the CALGreen Code. Compliance with the energy efficiency standards would reduce the amount of electricity consumed by the proposed development." The State of California lists three approved compliance modeling softwares[14] for non-residential buildings: CBECC-Com, EnergyPro, and IES VE. The EIR does not provide specific Energy calculations but does include CalEEMod modeling for Air Quality and GHG analysis that provide incidental Energy consumption data. CalEEMod is not listed as an approved software. The CalEEMod modeling does not comply with the 2022 Building Energy Efficiency Standards and under-reports the project's significant Energy impacts and fuel consumption to the public and decision makers. Since the EIR did not accurately or adequately model the energy impacts in compliance with Title 24, it cannot conclude the project will generate less than significant impacts and a finding of significance must be made. A revised EIR with modeling using one of the approved software types must be prepared and circulated for public review in order to adequately analyze the project's significant environmental impacts. This is vital as the

[11] OEHHA Poverty https://oehha.ca.gov/calenviroscreen/indicator/poverty
[12] Ibid.
[13] Ibid.
[14] California Energy Commission 2022 Energy Code Compliance Software https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency-1

Letter 8 Cont.

8-5 Cont.

EIR utilizes utilizes unapproved software programs as sources in its methodology and analysis, which does not adequately analyze the project's impacts in accordance with California Energy requirements.

4.9 Transportation

8-6

Regarding Impact Threshold 4.9-1: "Conflict with a program, plan, ordinance, or policy addressing the circulation system, including pedestrian, bicycle, and transit facilities," the EIR states that, "Based on the analysis below, the impact is less than significant. As discussed throughout this chapter, LOS is no longer the applicable metric when evaluating transportation impacts of a project. The evaluation of VMT is discussed in Impact 4.9-2 of this chapter. Therefore, the following discussion focuses on whether the proposed project would result in impacts to existing or planned pedestrian, bicycle, or transit facilities and services within the project area." The EIR is inaccurate as an informational document as it must take into account all programs, plans, ordinances, and policies addressing the circulation system applicable to the project site. The City's General Plan includes the following applicable Policy that has been directly excluded from analysis:

Policy CIR P2.1: Maintain a Level of Service (LOS) D or better as defined in the most current edition of the Highway Capacity Manual or subsequent revisions for roadways and intersections, except as specified below: City/County Roadways:

1. Lincoln Boulevard – Baggett Marysville Road to Ophir Road (LOS E)
2. Ophir Road – Highway 70 to Lincoln Boulevard (LOS E)
3. Ophir Road – Lincoln Boulevard to Lower Wyandotte Road (LOS F)
4. Table Mountain Boulevard – Cottonwood Road to Garden Drive (LOS E)

Level of service thresholds exist for the project site and surrounding roadways as part of the existing General Plan. The EIR Transportation analysis has not provided a project-specific level of service analysis, and therefore the EIR must be revised to include a finding of significance.

8-7

The EIR has not adequately analyzed the project's potential to substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses; or the project's potential to result in inadequate emergency access. There are no exhibits depicting the available truck turning radius at the intersection of the project driveways and adjacent streets. The EIR states that, "Although the specific designs of the proposed improvements are not currently known, the frontage improvements would be required to comply with the standards established in Chapter 12.12, Installation of Curbs, Gutters, Sidewalks, and Streets, of the City's Municipal Code." The EIR does not provide any information regarding the list of code requirements and the

Letter 8 Cont.

8-7 Cont.

project's compliance or noncompliance with these items. Deferring this environmental analysis required by CEQA to the construction permitting phase is improper mitigation and does not comply with CEQA's requirement for meaningful disclosure and adequate informational documents (CEQA § 15121 and PRC 21003(b)). A revised EIR must be prepared to include a finding of significance as the EIR has not provided any meaningful evidence to support a less than significant finding.

8-8

The EIR also utilizes uncertain and misleading analysis in stating that, "the project site is not located in a central area of the City, and construction on the project site would not be anticipated to result in substantial road closures or otherwise interfere with citywide vehicle circulation. Similarly, because truck traffic associated with operations of the proposed project would not add significant traffic to the central area of the City, project operations would not interfere with citywide vehicle circulation. Therefore, temporary or long-term roadway hazards associated with construction activities or project operations would not occur. As a result, impacts related to hazards and vehicle safety due to a geometric design feature would not occur." The EIR's illogical reasoning relies upon the notion that the project site is in an outlying area of the City, without providing any meaningful evidence such as traffic modeling or counts to support these claims. A revised EIR must be prepared to include a finding of significance as the EIR has not provided any meaningful evidence to support a less than significant finding.

8-9

There are also no exhibits adequately depicting the onsite turning radius available for trucks maneuvering throughout the site. The EIR states that, "Given compliance with the City of Oroville Construction Standards, on-site travel lanes would be adequately sized to allow two-way circulation and truck circulation, as well as emergency vehicle access and circulation." However, the EIR has not provided any details regarding the City's standards for emergency access, stacking/queuing distances, or lines of sight, or meaningful analysis of the project's compliance or noncompliance with these requirements. Deferring this environmental analysis required by CEQA to the construction permitting phase is improper mitigation and does not comply with CEQA's requirement for meaningful disclosure and adequate informational documents. A revised EIR must be prepared to include a finding of significance as the EIR has not provided any meaningful evidence to support a less than significant finding.

8-10

Further, Appendix L includes, "the following potential safety concerns were identified during field observations on April 14, 2023.

1. The proposed project would take direct access to Ophir Road to the north and Baggett Palermo Road to the east. Ophir Road has deteriorating pavement quality along much of the study segment, incomplete or faded striping, and stop signs installed at a lower height than specified

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in the City of Oroville Improvement Standards. Figure 3 shows the deteriorating pavement on Ophir Road and lack of pedestrian and bicycle facilities.

2. The second access point for the proposed project is on Baggett Palermo Road from the east. Baggett Palermo Road shows signs of pavement deterioration (e.g., alligator cracking) and lack of shoulders as shown in Figure 4.
3. The intersection of Ophir Road and Lincoln Boulevard showed some fading, alligator cracking on the pavement, and broken signposts in the right-of-way as shown in Figure 5. Although crosswalks exist at the intersection, there are no pedestrian walkways or bicycle facilities present on connecting roadway segments.

8-10 Cont.

4. Poor pavement condition was observed on all study area roadways likely to provide access to the project site: Ophir Road, Baggette Palermo, Lincoln Boulevard, Palermo Road, Baggette Marysville Road, Feather River Boulevard, and Power House Hill Road. Pavement in better condition at the Ophir Road and Palermo Road intersections with SR-70 but the segments of SR 70 connecting to these intersections showed some alligator cracking

None of these recommendations are included as mitigation measures in the EIR, indicating that they are not required to be completed by the proposed project and outstanding project traffic queuing and safety exist. The EIR must be revised to include a finding of significance as it has not provided meaningful evidence to support the conclusion that the project will result in less than significant impacts.

5.6 Effects Found Not to be Significant: Land Use and Planning/Population and Housing

8-11

The EIR does not adequately, accurately, or meaningfully analyze the potentially significant impacts of the proposed project. For example, Table LU-4: Density and Intensity of Land Use Development within the City's General Plan Land Use Element states that the maximum floor area ratio (FAR) for the Industrial designation is 0.40. Per available data in Figure 3-3: Conceptual Site Plan, the FAR for the entire site is 0.57, and the FAR for Building 1 is 0.54, Building 2 is 0.56, Building 3 is 0.59, and Building 4 is 0.58. The FAR of each building and the site overall exceeds the maximum allowed development intensity allowed by the General Plan by nearly 20%. This is a significant impact and demonstrates that the project does not comply with the General Plan Land Use Element nor the buildout projections of the City's General Plan, which it tiers from. The EIR must be revised to include a finding of significance.

8-12

The EIR does not provide any information regarding the buildout conditions of the City's General Plan. Notably, the horizon year of the City's General Plan and its associated EIR is 2030. The project is proposed within five years of the horizon and buildout timeline of the prior environmental analysis. The EIR must be revised to provide a cumulative analysis discussion of

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8-12 Cont.

projects approved since General Plan adoption and projects "in the pipeline" to determine if the project will exceed the City's General Plan buildout scenario.

The EIR does not provide substantial or meaningful evidence to support the claim that the project does not conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. This is vital as the proposed project will result in significant and unavoidable impacts to Air Quality, Greenhouse Gas Emissions, and Transportation (VMT). A revised EIR must be prepared to provide a consistency analysis with all of the most updated versions of the General Plan objectives, goals, policies, and actions, including but not limited to the following:

1. LU Element Policy P1.6: Ensure all new development conforms to current land use and zoning designations.
2. LU Element Policy P1.7: Require preparation and approval of Specific Plans for large newly developing areas on the periphery of the City prior to annexation and development of these areas. At a minimum, Specific Plans shall be prepared for the Rio d'Oro, Oro Bay, and South Ophir Road Specific Plan Areas as mapped in Figure LU-6. Specific Plans shall comply with the requirements of this Land Use Element.

8-13

3. P5.3 Locate only industries that are compatible with nearby residential areas in the area east of the mainline Union Pacific Railroad.
4. P1.2 Maintain a compact growth pattern that allows a mix of uses, high connectivity, and a range of housing types for the subsequent development of the community. Locate new development proposals in locations that have support infrastructure currently in place and suitable serviceability.
5. P1.3 Require compliance with the City of Oroville Design Guidelines as part of any project approval process.
6. Goal CD-6: Maintain high quality commercial, industrial, and business park districts with uses that are compatible in design with surrounding uses.
7. CD Element Policy P6.1: New development in commercial, industrial, and business park districts shall include human-scale details in the design of buildings to create a visually interesting pedestrian environment. Blank walls adjacent to pedestrian circulation areas shall be discouraged.
8. CD Element Policy P6.2: New industrial and business park development shall be designed, sited, and include buffers to be compatible with surrounding uses and not negatively detract from the character of surrounding residential development. This can be provided

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by trees and landscaping buffers, building setbacks and placement, and by appropriately placed walls on the back and sides of industrial and business park projects.

9. CD Element Policy P6.3: New industrial and business park development should provide for convenient and direct pedestrian access to surrounding uses and neighborhoods.

10. ED Element Policy P4.1: Promote the development of clean industries that do not create environmental problems or pose health risks associated with water and air pollution, or generate hazardous materials or waste. (Land Use Element Policy P8.3)

8-13 Cont.

11. Goal CIR-2: Create and maintain a roadway network that provides for the safe and efficient movement of people and goods throughout the City while maintaining the quality of life for residents.

12. Circulation Element Policy P2.1 Maintain a Level of Service (LOS) D or better as defined in the most current edition of the Highway Capacity Manual or subsequent revisions for roadways and intersections, except as specified below: City/County Roadways: Lincoln Boulevard – Baggett Marysville Road to Ophir Road (LOS E), Ophir Road – Highway 70 to Lincoln Boulevard (LOS E), Ophir Road – Lincoln Boulevard to Lower Wyandotte Road (LOS F), and Table Mountain Boulevard – Cottonwood Road to Garden Drive (LOS E).

13. Circulation Element Policy P3.3: New development shall ensure that safe and efficient emergency vehicle access is provided.

8-14

This is also notable as the Project Description states that, "It should be noted that APN 078-020-035 is within the South Ophir Specific Plan area." The EIR does not include any analysis or discussion of the project's compliance with the South Ophir Specific Plan. Per LU Element Policy P1.7, the preparation and approval of the South Ophir Specific Plan is required prior to the development of the area. The EIR has not indicated whether the South Ophir Specific Plan exists. The EIR must be revised to clarify whether the South Ophir Specific Plan has been adopted. If it has not been adopted, the EIR must include a finding of significance as the proposed project is directly in conflict with LU Element Policy P1.7.

8-15

6.2 Growth-Inducing Impacts

The EIR states that, "the proposed project would be consistent with the existing land use and zoning designations for the project site. Therefore, development of the project site with the proposed uses has been anticipated by the City and the proposed project would not result in a substantial increase in permanent population or demand for housing in the vicinity of the project site." However, as noted above, Table LU-4: Density and Intensity of Land Use Development within the City's General Plan Land Use Element states that the maximum floor area ratio (FAR) for the Industrial designation is 0.40. Per available data in Figure 3-3: Conceptual Site Plan, the

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8-15 Cont.

FAR for the entire site is 0.57, and the FAR for Building 1 is 0.54, Building 2 is 0.56, Building 3 is 0.59, and Building 4 is 0.58. The FAR of each building and the site overall exceeds the maximum allowed development intensity allowed by the General Plan by nearly 20%. This is a significant impact and demonstrates that the project does not comply with the General Plan Land Use Element nor the buildout projections of the City's General Plan, which it tiers from. The EIR must be revised to include a finding of significance.

8-16

The EIR also states that, "long-term employment opportunities would also *likely* be filled from the local employee base," and that, "it is reasonable to assume that the magnitude of economic growth would not be substantial such that new business growth would result elsewhere in the region which could necessitate additional housing to support the employment base. Thus, while the project would foster economic growth, a less-than-significant impact related to population and economic growth would occur." The EIR does not provide any meaningful evidence to support this conclusion, such as data regarding the City's unemployment rate, and the unemployed workforce's qualifications and interest in work in the industrial sector. The EIR also does not provide any quantification of the total employees generated by the proposed project, or how such a quantity of employees is within the City's General Plan buildout.

8-17

The EIR has also excluded for discussion for the precedence setting action that approval of the discretionary actions required to implement the proposed project for future changes in the City. The EIR must be revised to include a finding of significance as the required discretionary actions to implement the project will result in significant and unavoidable impacts to Air Quality, Greenhouse Gas Emissions, and Transportation (VMT), and approval of the proposed project will set precedent for approval of other projects with SU impacts and will encourage and facilitate other activities that will have significant negative impacts to the environment.

8-18

6.3 Cumulative Impacts

The EIR states that it uses a "projection" approach for cumulative impact analysis, which "uses a summary of projections in adopted General Plans or related planning documents to identify potential cumulative impacts. The majority of the cumulative analysis in this EIR is based upon the buildout projections included in the adopted City of Oroville General Plan." However, the EIR has excluded the specific buildout projection data and associated calculations from public review. This does not comply with CEQA's requirements for adequate informational documents and meaningful disclosure (CEQA § 15121 and 21003(b)). Incorporation by reference (CEQA § 15150 (f)) is not appropriate as the buildout projection data and associated calculations contribute directly to analysis of the problem at hand and is a component of the proposed project. A revised

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8-18 Cont. EIR must be prepared to include the buildout projection data and associated calculations t for review, analysis, and comment by the public and decision makers.

7.0 Alternatives

8-19 The EIR is required to evaluate a reasonable range of alternatives to the proposed project which will avoid or substantially lessen any of the significant effects of the project (CEQA § 15126.6.) The alternatives chosen for analysis include the CEQA required "No Project" alternative and only two others - Electric Fleet Alternative and Reduced Footprint Alternative. The EIR does not evaluate a reasonable range of alternatives as only two alternatives beyond the required No Project alternative is analyzed. The EIR does not include an alternative that meets the project objectives and also eliminates all of the project's significant and unavoidable impacts. The EIR must be revised to include analysis of a reasonable range of alternatives and foster informed decision making (CEQA § 15126.6). This must include alternatives such as development of the site with a project that reduces all of the proposed project's significant and unavoidable impacts to less than significant levels.

Conclusion

8-20 For the foregoing reasons, GSEJA believes the EIR is flawed and a revised EIR must be prepared for the proposed project and circulated for public review. Golden State Environmental Justice Alliance requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. Send all communications to Golden State Environmental Justice Alliance P.O. Box 79222 Corona, CA 92877.

Sincerely,

Vashon Simien
Blum, Collins & Ho, LLP

Attachments:
1. SWAPE Technical Analysis

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

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

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

Paul E. Rosenfeld, PhD
(310) 795-2335
prosenfeld@swape.com

February 17, 2025

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

Subject: Comments on the Ophir Road Warehouse Project (SCH No. 2022090522)

Dear Mr. Ho

We have reviewed the January 2025 Draft Environmental Impact Report ("DEIR") for the Ophir Road Warehouse Project ("Project") located in the City of Oroville ("City"). The Project proposes to construct four warehouse buildings totaling 3,200,000-square-feet ("SF") with 20,000-SF of office space in each building, as well as 2,152 total parking spaces, on the 170.21-acre site.

8-21 Our review concludes that the DEIR fails to sufficiently evaluate air quality, health risk, and greenhouse gas ("GHG") impacts. The emissions and health risk impacts associated with construction and operation of the proposed Project may be underestimated and inappropriately addressed. A revised Environmental Impact Report ("EIR") should be prepared to reassess and, if necessary, mitigate the potential air quality, health risk, and GHG impacts that the project may have.

Air Quality

Unsubstantiated Input Parameters Used to Estimate Project Emissions

8-22 When reviewing the Project's CalEEMod output files, provided in Appendix C to the DEIR, we identified several model inputs that are inconsistent with information disclosed in the DEIR. By misrepresenting the information provided in the DEIR and omitting aspects of the Project description, the Project's construction emissions calculations may be underestimated. A revised EIR should be prepared to include an updated air quality analysis that more accurately estimates the impacts the Project will have on local and regional air quality.

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8-23

Unsubstantiated Changes to Construction Schedule

Review of "Ophir Road Warehouse - Project Lifetime" CalEEMod output files reveals that the model includes changes to the default construction schedule (see screenshot below) (Appendix C, pp. 586).

8. User Changes to Default Data

Screen	Justification
Land Use	3.1225 msf per applicant. 2152 parking spaces (get landscaping sf and non-asphalt drive aisles and loading docks) estimated 1.9 acres of road reconstruction and slope work (2800 linear feet x est. 30 feet wide ROW).
Construction: Construction Phases	removed demo phase since the parcels are vacant. Estimated phasing similar to Roseville Industrial Park, scaled by size.
Operations: Off-Road Equipment	Forklifts assumed to be all-electric based on compliance with MM 4.2-2(a).
Operations: Vehicle Data	Trip lengths modified to align VMT with the transportation analysis VMT.

The model includes the following construction schedule due to these changes (see screenshot below) (Appendix C, pp. 572, 573).

Phase Name	Phase Type	Start Date	End Date	Days Per Week	Work Days per Phase
Site Preparation	Site Preparation	6/1/2024	8/14/2024	5.00	53.0
Grading	Grading	8/15/2024	10/28/2024	5.00	53.0
Building Construction	Building Construction	10/29/2024	11/4/2025	5.00	266
Paving	Paving	11/5/2025	1/20/2026	5.00	55.0
Architectural Coating	Architectural Coating	11/12/2024	11/18/2025	5.00	266

As the CalEEMod User's Guide requires any changes to model defaults be justified, the "User Changes to Default Data" table provides the following justification for these changes:[1]

> "Removed demo phase since the parcels are vacant. Estimated phasing similar to Roseville Industrial Park, scaled by size" (Appendix C, pp. 586).

The DEIR states that construction of the Project was "assumed to commence in June 2024 and occur over an approximately one-year period" (p. 4.2-40). The model, however, utilizes an 18-month construction duration and therefore overestimates the construction duration of the Project by approximately 6 months.[2] Furthermore, the DEIR, fails to mention or substantiate the individual construction phase lengths. Until the model's total construction length and individual phase lengths are verified, the model should have included proportionately altered individual phase lengths to match the proposed construction duration of 18 months.[3]

According to the CalEEMod User's Guide, each construction phase is associated with different emissions activities (see excerpt below).[4]

[1] "CalEEMod User Guide Version 2022.1." CAPCOA, April 2022, *available at:* https://www.caleemod.com/documents/user-guide/01_User%20Guide.pdf, p. 1, 10.
[2] 18 months – 12 months = 6 months.
[3] See Attachment A for proportionately altered construction schedule.
[4] "CalEEMod User Guide Version 2022.1." CAPCOA, April 2022, *available at:* https://www.caleemod.com/documents/user-guide/01_User%20Guide.pdf, p. 34, Table. 3.

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Table 3. CalEEMod Default Construction Phases [a]

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

By inconsistently modifying the individual construction phase lengths without a suitable justification, the models assume there are a greater number of days to complete the construction activities required by the prolonged phases; thus, there will be less construction activities required per day and, consequently, less pollutants emitted per day. Until the construction schedule is verified, the model may underestimate the peak daily emissions associated with some phases of construction.

Potentially Significant Omission of Material Import and Export

The "Ophir Road Warehouse - Project Lifetime" CalEEMod model omits any material import and export input values (see screenshot below) (Appendix C, pp. 575).

8-24

5.6. Dust Mitigation

5.6.1. Construction Earthmoving Activities

Phase Name	Material Imported (cy)	Material Exported (cy)	Acres Graded (acres)	Material Demolished (sq. ft.)	Acres Paved (acres)
Site Preparation	—	—	79.5	0.00	—
Grading	—	—	159	0.00	—
Paving	0.00	0.00	0.00	0.00	60.4

The DEIR, however, states that the sewer, water, and roadway improvements are expected to disturb approximately 3.64 acres, 2.48 acres, and 1.9 acres, respectively (p. 4.2-40). The inclusion of material import and export within the model is required to calculate emissions produced from material movement, including truck loading and unloading, and additional hauling truck trips.[5] A revised EIR should therefore be prepared to represent the Project specifics. The revised EIR should clarify the estimated construction grading details and input the amount of required material import and export in the model if needed.

Unsubstantiated Implementation of Mitigation Measure

8-25

The DEIR concludes a less than significant operational criteria air pollutant emissions impact based on the implementation of Mitigation Measure ("MM") 4.2-2(b), which entails the payment of a "one-time fee of up to $771,120.00 to the Off-Site Mitigation Program" (p. 4.2-49). The DEIR states that the Project

[5] "Emission Calculation Details for CalEEMod." CAPCOA, April 2022, *available at:* https://www.caleemod.com/documents/user-guide/04_Appendix%20C.pdf, p. C-17.

8-25 Cont.

Applicant will participate in an Off-site Mitigation Program through the Butte County Air Quality Management District ("BCAQMD") to offset relative organic gasses ("ROG") and nitrous oxides ("NO_x") emissions exceeding significance thresholds (p. 4.2-49).

While we acknowledge the validity of off-site measures as a method of mitigation under the BCAQMD, the DEIR's determination lacks sufficient support. The California Environmental Quality Act ("CEQA") requires mitigation to be specific and enforceable.[6] However, MM 4.2-2(b) states that a payment will be made to BCAQMD without explaining how the funds will reduce emissions or how enforcement will be ensured. By omitting this information, we are unable to verify whether the Project's mitigation will in practice reduce ROG and NO_x emissions to the maximum extent feasible. It is our opinion that, until further information is provided, the DEIR's operational air quality analysis should not be relied upon to determine Project significance.

Diesel Particulate Matter Emissions Incompletely Evaluated

The DEIR conducts a health risk assessment ("HRA") evaluating exposure to diesel particulate matter ("DPM") from heavy-duty diesel trucks during Project operation and estimates a significant cancer risk of 14.51 in one million (see excerpt below) (p. 4.2-52, Table 4.2-13).

Table 4.2-13
Maximum Unmitigated Cancer Risk and Hazard Index Associated with Heavy-Duty Diesel Trucks

	Cancer Risk (per million persons)	Acute Hazard Index	Chronic Hazard Index
At Maximally Exposed Receptor	14.51	0.00	0.003
Thresholds of Significance	*10*	*1.0*	*1.0*
Exceed Thresholds?	**YES**	**NO**	**NO**

Sources: EMFAC, AERMOD, and HARP 2 RAST, September 2023 (see Appendix C).

8-26

However, the DEIR fails to quantify the additional health risk impacts from Project construction. The DEIR claims that a construction HRA isn't required due to the "relatively short duration" of the construction phase and the Project site's distance from the nearest sensitive receptor (p. 4.2-51). This omission ignores relevant guidance.

CEQA requires all proposed projects to connect their emissions with potential adverse impacts on human health caused by those emissions.[7] As the DEIR does not establish a connection between the Project's construction-related DPM emissions and potential health risks to nearby sensitive receptors, the Project may breach CEQA's requirement. An assessment of the health risk posed to nearby existing

[6] "Cal. Code Regs. Tit. 14, § 15126.4 - Consideration and Discussion of Mitigation Measures Proposed to Minimize Significant Effects." Cornell Legal Information Institute, *available at:* https://www.law.cornell.edu/regulations/california/14-CCR-15126.4.
[7] "Sierra Club v. County of Fresno." Supreme Court of California, December 2018, a*vailable at:* https://ceqaportal.org/decisions/1907/Sierra%20Club%20v.%20County%20of%20Fresno.pdf, p. 4.

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receptors due to Project construction should be conducted to comply with the most relevant guidance and compared to the applicable BCAQMD threshold.

Additional mitigation measures, including those that target construction-related DPM emissions, are available to further reduce emissions. Below, we have included a list of feasible mitigation measures to consider in a revised EIR under the section titled "Feasible Mitigation Measures Available to Reduce Emissions."[8]

Greenhouse Gas

Failure to Adequately Evaluate Greenhouse Gas Impacts

The DEIR claims a significant and unavoidable impact, estimating that the Project would result in net annual GHG emissions of 11,228-metric tons of carbon dioxide equivalents per year ("MT CO_2e/year"), (see excerpt below) (p. 4.2-65, Table 4.2-15).

8-27

Table 4.2-15
Unmitigated Project Operational GHG Emissions ($MTCO_2e$/yr)

Source	Annual GHG Emissions
Mobile	7,497
Area	1.17
Energy	408
Water	1,217
Waste	939
Refrigerants	0.03
Off-Road Equipment	1,119
Stationary Sources	45.8
Total Annual Operational GHG Emissions	**11,228**

Source: CalEEMod, August 2023 (see Appendix C).

This DEIR's conclusion is based on the implementation of MM 4.2-7(a) and 4.2-7(b) which requires the Project to comply with the City's Climate Action Plan (p. 4.2-64). Although we agree that the Project would result in a significant GHG impact, the DEIR's significant and unavoidable conclusion lacks adequate substantiation.

CEQA requires the DEIR to implement all feasible mitigation to minimize impacts to the maximum extent feasible.[9] An impact can only be deemed significant-and-unavoidable after considering all available feasible mitigation. While the DEIR implements MM 4.2-7(a) and 4.2-7(b), the DEIR does not apply all feasible mitigation measures. A revised EIR should be prepared to include and provide evidence for the implementation of additional feasible mitigation measures which we recommend below in the section titled, "Feasible Mitigation Measures Available to Reduce Emissions".

[8] "NEPA and CEQA: Integrating Federal and State Environmental Reviews." Executive Office of the President of the United States, February 2014, *available at:* https://lci.ca.gov/ceqa/docs/NEPA_CEQA_Handbook_Feb2014.pdf.
[9] *Ibid*.

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Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

To reduce the DPM emissions associated with Project construction, we recommend the DEIR consider several mitigation measures (see list below).

The California Air Resources Board ("CARB") recommends: [10]

8-28

- Requires all off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers) used during project construction be battery powered.
- Require all loading/unloading docks and trailer spaces be equipped with electrical hookups for trucks with transport refrigeration units (TRU) or auxiliary power units.
- Requiring all TRUs entering the project-site be plug-in capable.
- Restrict trucks and support equipment from idling longer than two minutes while on site.
- Require the installation of vegetative walls or other effective barriers that separate loading docks and people living or working nearby.

The California Department of Justice ("CA DOJ") suggests:[11]

- Using electric-powered hand tools, forklifts, and pressure washers, and providing electrical hook ups to the power grid rather than use of diesel-fueled generators to supply their power.
- Designating an area in the construction site where electric-powered construction vehicles and equipment can charge.
- Posting both interior- and exterior-facing signs, including signs directed at all dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the local air district, and the building manager.

8-29

- Constructing zero-emission truck charging/fueling stations proportional to the number of dock doors at the project.
- Running conduit to designated locations for future electric truck charging stations.
- Installing and maintaining, at the manufacturer's recommended maintenance intervals, air filtration systems at sensitive receptors within a certain radius of facility for the life of the project.
- Installing and maintaining, at the manufacturer's recommended maintenance intervals, an air monitoring station proximate to sensitive receptors and the facility for the life of the project, and making the resulting data publicly available in real time. While air monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality or avoid exposure to unhealthy air.

[10] "Recommended Air Pollution Emission Reduction Measures for Warehouses and Distribution Centers." CARB, August 2023, *available at*: https://ww2.arb.ca.gov/sites/default/files/2023-08/CARB%20Comments%20-%20NOP%20for%20the%20%20Oak%20Valley%20North%20Project%20DEIR.pdf; Attachment A, p. 5 – 8.
[11] "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act." State of California Department of Justice, September 2022, *available at*: https://oag.ca.gov/system/files/media/warehouse-best-practices.pdf, p. 8 – 10.

Letter 8 Cont.

8-29 Cont.

- Requiring all stand-by emergency generators to be powered by a non-diesel fuel.

The South Coast Air Quality Management District ("SCAQMD") staff recommends: [12]

- Clearly mark truck routes with trailblazer signs so that trucks will not travel next to or near sensitive land uses (e.g., residences, schools, daycare centers, etc.).
- Design the Proposed Project such that truck entrances and exits are not facing sensitive receptors and trucks will not travel past sensitive land uses to enter or leave the Proposed Project site.

8-30

- Design the Proposed Project such that any truck check-in point is inside the Proposed Project site to ensure no trucks are queuing outside.
- Design the Proposed Project to ensure that truck traffic inside the Proposed Project site is as far away as feasible from sensitive receptors.
- Restrict overnight truck parking in sensitive land uses by providing overnight truck parking inside the Proposed Project site.

8-31

The CalEEMod User's Guide confirms that the methods for mitigating DPM emissions include the use of "alternative fuel, electric equipment, diesel particulate filters (DPF), oxidation catalysts, newer tier engines, and dust suppression."[13]

Additionally, to reduce the DPM emissions associated with Project construction and operation, we recommend the DEIR consider several mitigation measures (see list below).

CARB recommends: [14]

8-32

- Ensure the cleanest possible construction practices and equipment are used. This includes eliminating the idling of diesel-powered equipment and providing the necessary infrastructure (e.g., electrical hookups) to support zero and near-zero equipment and tools.
- Requires all off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers) used during project construction be battery powered.
- Require all heavy-duty trucks entering the construction site during the grading and building construction phases be model year 2014 or later. All heavy-duty haul trucks should also meet CARB's lowest optional low-oxides of nitrogen (NOx) standard starting in the year 2022.
- Require all construction equipment and fleets to be in compliance with all current air quality regulations.

[12] "Draft Environmental Impact Report (EIR) for the Proposed CADO Menifee Industrial Warehouse Project (Proposed Project)." SCAQMD, April 2024, *available at*: https://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2024/april-2024/RVC240313-05.pdf?sfvrsn=8, p. 3 - 4.
[13] "Calculation Details for CalEEMod." CAPCOA, May 2021, *available at:* http://www.aqmd.gov/docs/default-source/caleemod/user-guide-2021/appendix-a2020-4-0.pdf?sfvrsn=6, Appendix A, p. 60.
[14] "Recommended Air Pollution Emission Reduction Measures for Warehouses and Distribution Centers." CARB, August 2023, *available at*: https://ww2.arb.ca.gov/sites/default/files/2023-08/CARB%20Comments%20-%20NOP%20for%20the%20%20Oak%20Valley%20North%20Project%20DEIR.pdf; Attachment A, p. 5 – 8.

Letter 8 Cont.

8-32 Cont.

- Require tenants to use the cleanest technologies available, and to provide the necessary infrastructure to support zero-emission vehicles and equipment that will be operating on site.
- Require future tenants to exclusively use zero-emission light and medium-duty delivery trucks and vans.
- Restrict trucks and support equipment from idling longer than two minutes while on site.
- Require the installation of vegetative walls or other effective barriers that separate loading docks and people living or working nearby.

The CA DOJ suggests:[15]

8-33

- Designating an area in the construction site where electric-powered construction vehicles and equipment can charge.
- Posting both interior- and exterior-facing signs, including signs directed at all dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the local air district, and the building manager.
- Running conduit to designated locations for future electric truck charging stations.
- Installing and maintaining, at the manufacturer's recommended maintenance intervals, air filtration systems at sensitive receptors within a certain radius of facility for the life of the project.
- Installing and maintaining, at the manufacturer's recommended maintenance intervals, an air monitoring station proximate to sensitive receptors and the facility for the life of the project, and making the resulting data publicly available in real time. While air monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality or avoid exposure to unhealthy air.

SCAQMD staff recommends: [16]

8-34

- Clearly mark truck routes with trailblazer signs so that trucks will not travel next to or near sensitive land uses (e.g., residences, schools, daycare centers, etc.).
- Design the Proposed Project such that truck entrances and exits are not facing sensitive receptors and trucks will not travel past sensitive land uses to enter or leave the Proposed Project site.
- Design the Proposed Project such that any truck check-in point is inside the Proposed Project site to ensure no trucks are queuing outside.
- Design the Proposed Project to ensure that truck traffic inside the Proposed Project site is as far away as feasible from sensitive receptors.

[15] "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act." State of California Department of Justice, September 2022, *available at*: https://oag.ca.gov/system/files/media/warehouse-best-practices.pdf, p. 8 – 10.
[16] "Draft Environmental Impact Report (EIR) for the Proposed CADO Menifee Industrial Warehouse Project (Proposed Project)." SCAQMD, April 2024, *available at*: https://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2024/april-2024/RVC240313-05.pdf?sfvrsn=8, p. 3 - 4.

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8-34 Cont.

- Restrict overnight truck parking in sensitive land uses by providing overnight truck parking inside the Proposed Project site.

8-35

The CalEEMod User's Guide confirms that the methods for mitigating DPM emissions include the use of "alternative fuel, electric equipment, diesel particulate filters (DPF), oxidation catalysts, newer tier engines, and dust suppression."[17]

Furthermore, to reduce the GHG emissions associated with the Project, we recommend several mitigation measures (see list below).

The CA DOJ recommends: [18]

8-36

- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity that is equal to or greater than the building's projected energy needs, including all electrical chargers.
- Designing all project building roofs to accommodate the maximum future coverage of solar panels and installing the maximum solar power generation capacity feasible.
- Designing to LEED green building certification standards.
- Constructing and maintaining electric light-duty vehicle charging stations proportional to the number of employee parking spaces.
- Running conduit to an additional proportion of employee parking spaces for a future increase in the number of electric light-duty charging stations.
- Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.
- Requiring tenants to enroll in the United States Environmental Protection Agency's SmartWay program, and requiring tenants who own, operate, or hire trucking carriers with more than 100 trucks to use carriers that are SmartWay carriers.

SCAQMD staff recommends: [19]

8-37

- Maximizing the use of solar energy by installing solar energy arrays.
- Using light-colored paving and roofing materials.
- Utilizing only Energy Star heating, cooling, and lighting devices and appliances.

8-38

We have provided several mitigation measures that would reduce Project-related DPM and GHG emissions developed from sources including CARB, the CA DOJ and others. These measures offer

[17] "Calculation Details for CalEEMod." CAPCOA, May 2021, *available at:* http://www.aqmd.gov/docs/default-source/caleemod/user-guide-2021/appendix-a2020-4-0.pdf?sfvrsn=6, Appendix A, p. 60.
[18] "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act." State of California Department of Justice, September 2022, *available at*: https://oag.ca.gov/system/files/media/warehouse-best-practices.pdf, p. 8 – 10.
[19] "Draft Environmental Impact Report (EIR) for the Proposed CADO Menifee Industrial Warehouse Project (Proposed Project)." SCAQMD, April 2024, *available at*: https://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2024/april-2024/RVC240313-05.pdf?sfvrsn=8, p. 3.

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8-38 Cont.

feasible methods to incorporate lower-emitting design features into the proposed Project, which will reduce emissions released during Project construction and operation.

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

8-39

Disclaimer

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

Sincerely,

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

Paul E. Rosenfeld, Ph.D.

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Attachment A: Matt Hagemann CV
Attachment B: Paul Rosenfeld CV

Model Outputs

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Attachment A

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

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

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

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

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

Education:

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

Professional Certifications:

California Professional Geologist
California Certified Hydrogeologist
Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

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

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

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt's responsibilities have included:

- Lead analyst and testifying expert in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.

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

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

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- 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

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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

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principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

Geology:

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

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

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

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

Teaching:

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

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

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

Invited Testimony, Reports, Papers and Presentations:

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

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

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, 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).

Letter 8 Cont.

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.

Letter 8 Cont.

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.

Letter 8 Cont.

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

Other Experience:

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

Letter 8 Cont.

Attachment 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.
Mobil: (310) 795-2335
Office: (310) 452-5555
Fax: (310) 452-5550
Email: prosenfeld@swape.com

Paul Rosenfeld, Ph.D.

Chemical Fate and Transport & Air Dispersion Modeling

Principal Environmental Chemist

Risk Assessment & Remediation Specialist

Education

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

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

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

Professional Experience

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

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

Letter 8 Cont.

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
UCLA School of Public Health; 2003 to 2006; Adjunct Professor
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
UCLA Institute of the Environment, 2001-2002; Research Associate
Komex H_2O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

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

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

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

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

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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.

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

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

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

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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.

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

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

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

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

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

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

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Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research*. 131(1-4), 247-262.

Chollack, T. and **P. Rosenfeld. (**1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

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

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

Presentations:

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

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

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

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

Rosenfeld, P.E. (April 19-23, 2009). 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.

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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.

Letter 8 Cont.

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.

Letter 8 Cont.

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

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

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

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

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

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

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

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

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

Letter 8 Cont.

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

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

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

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

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

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

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

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

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

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

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

Letter 8 Cont.

In the Circuit Court of Cook County Illinois
Joseph Ruepke vs. BNSF
Case No. 2019 L 007730
Rosenfeld Deposition 11-5-2021

In the United States District Court For the District of Nebraska
Steven Gillett vs. BNSF
Case No. 4:20-cv-03120
Rosenfeld Deposition 10-28-2021

In the Montana Thirteenth District Court of Yellowstone County
James Eadus vs. Soo Line Railroad and BNSF
Case No. DV 19-1056
Rosenfeld Deposition 10-21-2021

In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al.cvs. Cerro Flow Products, Inc.
Case No. 0i9-L-2295
Rosenfeld Deposition 5-14-2021
Trial October 8-4-2021

In the Circuit Court of Cook County Illinois
Joseph Rafferty vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a AMTRAK,
Case No. 18-L-6845
Rosenfeld Deposition 6-28-2021

In the United States District Court For the Northern District of Illinois
Theresa Romcoe vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail
Case No. 17-cv-8517
Rosenfeld Deposition 5-25-2021

In the Superior Court of the State of Arizona In and For the Cunty of Maricopa
Mary Tryon et al. vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case No. CV20127-094749
Rosenfeld Deposition 5-7-2021

In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al vs. CNA Insurance Company et al.
Case No. 1:17-cv-000508
Rosenfeld Deposition 3-25-2021

In the Superior Court of the State of California, County of San Bernardino
Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021

In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse
Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020

In the Circuit Court of Jackson County, Missouri
Karen Cornwell, Plaintiff, vs. Marathon Petroleum, LP, Defendant.
Case No. 1716-CV10006
Rosenfeld Deposition 8-30-2019

Letter 8 Cont.

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

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

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

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

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

In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosciences, LLC, et al., Defendants
Cause No. 1923
Rosenfeld Deposition 11-17-2017

In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintifs vs. Chevron Corporation, et al., Defendants
Cause No. C12-01481
Rosenfeld Deposition 11-20-2017

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

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

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

In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., Plaintiffs, vs. Meritor Inc., et al., Defendants
Case No. 4:16-cv-52-DMB-JVM
Rosenfeld Deposition July 2017



Letter 8 Cont.

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

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

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

In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action No. 14-C-30000
Rosenfeld Deposition June 2015

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

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case No. CACE07030358 (26)
Rosenfeld Deposition December 2014

In the County Court of Dallas County Texas
Lisa Parr et al, Plaintiff, vs. Aruba et al, Defendant.
Case No. cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial April 2014

In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., Plaintiffs, vs. Republic Services, Inc., et al., Defendants
Case No. 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition October 2012

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

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

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

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1.1. Basic Project Information

Data Field	Value
Project Name	Ophir Road Warehouse
Construction Start Date	6/1/2024
Lead Agency	—
Land Use Scale	Project/site
Analysis Level for Defaults	County
Windspeed (m/s)	2.90
Precipitation (days)	42.2
Location	39.46281381490297, -121.56369533983064
County	Butte
City	Oroville
Air District	Butte County AQMD
Air Basin	Sacramento Valley
TAZ	224
EDFZ	3
Electric Utility	Pacific Gas & Electric Company
Gas Utility	Pacific Gas & Electric
App Version	2022.1.1.29

1.2. Land Use Types

Land Use Subtype	Size	Unit	Lot Acreage	Building Area (sq ft)	Landscape Area (sq ft)	Special Landscape Area (sq ft)	Population	Description
Refrigerated Warehouse-No Rail	3,122	1000sqft	0.00	0.00	59,564	—	—	—
Parking Lot	2,152	Space	19.4	0.00	0.10	—	—	—

Other Non-Asphalt Surfaces	41.0	Acre	41.0	0.00	0.10	—	—	—
General Office Building	80.0	1000sqft	1.84	80,000	0.10	—	—	—

1.3. User-Selected Emission Reduction Measures by Emissions Sector

No measures selected

2. Emissions Summary

2.1. Construction Emissions Compared Against Thresholds

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Un/Mit.	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	105	105	36.0	34.1	0.06	1.60	19.8	21.4	1.47	10.1	11.6	—	6,768	6,768	0.28	0.06	1.39	6,793
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	1.60	1.34	11.7	14.6	0.02	0.50	0.24	0.74	0.46	0.06	0.52	—	2,786	2,786	0.11	0.06	0.04	2,806
Average Daily (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	4.54	4.48	6.96	7.58	0.01	0.30	0.94	1.24	0.27	0.40	0.68	—	1,446	1,446	0.06	0.02	0.21	1,454
Annual (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	0.83	0.82	1.27	1.38	< 0.005	0.05	0.17	0.23	0.05	0.07	0.12	—	239	239	0.01	< 0.005	0.04	241

2.2. Construction Emissions by Year, Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Year	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e

Daily - Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
2024	4.45	3.75	36.0	34.1	0.06	1.60	19.8	21.4	1.47	10.1	11.6	—	6,768	6,768	0.28	0.06	1.39	6,793
2025	105	105	10.9	14.8	0.02	0.43	0.24	0.67	0.40	0.06	0.46	—	2,804	2,804	0.11	0.06	1.31	2,824
Daily - Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
2024	1.60	1.34	11.7	14.6	0.02	0.50	0.24	0.74	0.46	0.06	0.52	—	2,786	2,786	0.11	0.06	0.04	2,806
2025	1.49	1.26	10.9	14.4	0.02	0.43	0.24	0.67	0.40	0.06	0.46	—	2,779	2,779	0.11	0.06	0.03	2,798
Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
2024	0.91	0.77	6.96	7.58	0.01	0.30	0.94	1.24	0.27	0.40	0.68	—	1,446	1,446	0.06	0.02	0.21	1,454
2025	4.54	4.48	2.71	3.62	0.01	0.11	0.06	0.17	0.10	0.01	0.11	—	680	680	0.03	0.01	0.14	685
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
2024	0.17	0.14	1.27	1.38	< 0.005	0.05	0.17	0.23	0.05	0.07	0.12	—	239	239	0.01	< 0.005	0.04	241
2025	0.83	0.82	0.49	0.66	< 0.005	0.02	0.01	0.03	0.02	< 0.005	0.02	—	113	113	< 0.005	< 0.005	0.02	113

3. Construction Emissions Details

3.1. Demolition (2024) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Onsite	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	3.12	2.62	24.9	21.7	0.03	1.06	—	1.06	0.98	—	0.98	—	3,425	3,425	0.14	0.03	—	3,437

Demolition	—	—	—	—	—	—	0.00	0.00	—	0.00	0.00	—	—	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	0.10	0.09	0.82	0.71	< 0.005	0.03	—	0.03	0.03	—	0.03	—	113	113	< 0.005	< 0.005	—	113
Demolition	—	—	—	—	—	—	0.00	0.00	—	0.00	0.00	—	—	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	0.02	0.02	0.15	0.13	< 0.005	0.01	—	0.01	0.01	—	0.01	—	18.6	18.6	< 0.005	< 0.005	—	18.7
Demolition	—	—	—	—	—	—	0.00	0.00	—	0.00	0.00	—	—	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	0.10	0.09	0.06	1.01	0.00	0.00	0.11	0.11	0.00	0.03	0.03	—	127	127	0.01	< 0.005	0.52	129
Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00

Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	0.03	0.00	0.00	< 0.005	< 0.005	0.00	< 0.005	< 0.005	—	3.79	3.79	< 0.005	< 0.005	0.01	3.85
Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	< 0.005	0.00	0.00	< 0.005	< 0.005	0.00	< 0.005	< 0.005	—	0.63	0.63	< 0.005	< 0.005	< 0.005	0.64
Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00

3.3. Site Preparation (2024) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Onsite	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	4.34	3.65	36.0	32.9	0.05	1.60	—	1.60	1.47	—	1.47	—	5,296	5,296	0.21	0.04	—	5,314
Dust From Material Movement	—	—	—	—	—	—	19.7	19.7	—	10.1	10.1	—	—	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	0.08	0.07	0.69	0.63	< 0.005	0.03	—	0.03	0.03	—	0.03	—	102	102	< 0.005	< 0.005	—	102
Dust From Material Movement	—	—	—	—	—	—	0.38	0.38	—	0.19	0.19	—	—	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	0.02	0.01	0.13	0.12	< 0.005	0.01	—	0.01	0.01	—	0.01	—	16.8	16.8	< 0.005	< 0.005	—	16.9
Dust From Material Movement	—	—	—	—	—	—	0.07	0.07	—	0.04	0.04	—	—	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	0.11	0.11	0.07	1.18	0.00	0.00	0.13	0.13	0.00	0.03	0.03	—	149	149	0.01	0.01	0.60	151
Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	0.02	0.00	0.00	< 0.005	< 0.005	0.00	< 0.005	< 0.005	—	2.58	2.58	< 0.005	< 0.005	< 0.005	2.62

Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	< 0.005	0.00	0.00	< 0.005	< 0.005	0.00	< 0.005	< 0.005	—	0.43	0.43	< 0.005	< 0.005	< 0.005	0.43
Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00

3.5. Grading (2024) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Onsite	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	4.19	3.52	34.3	30.2	0.06	1.45	—	1.45	1.33	—	1.33	—	6,598	6,598	0.27	0.05	—	6,621
Dust From Material Movement	—	—	—	—	—	—	9.20	9.20	—	3.65	3.65	—	—	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	0.22	0.18	1.78	1.57	< 0.005	0.08	—	0.08	0.07	—	0.07	—	343	343	0.01	< 0.005	—	345

Dust From Material Movement	—	—	—	—	—	—	0.48	0.48	—	0.19	0.19	—	—	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	0.04	0.03	0.33	0.29	< 0.005	0.01	—	0.01	0.01	—	0.01	—	56.9	56.9	< 0.005	< 0.005	—	57.1
Dust From Material Movement	—	—	—	—	—	—	0.09	0.09	—	0.03	0.03	—	—	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	0.13	0.12	0.08	1.35	0.00	0.00	0.15	0.15	0.00	0.03	0.03	—	170	170	0.01	0.01	0.69	173
Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	0.01	0.01	< 0.005	0.05	0.00	0.00	0.01	0.01	0.00	< 0.005	< 0.005	—	8.01	8.01	< 0.005	< 0.005	0.02	8.14
Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	0.01	0.00	0.00	< 0.005	< 0.005	0.00	< 0.005	< 0.005	—	1.33	1.33	< 0.005	< 0.005	< 0.005	1.35

Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00

3.7. Building Construction (2024) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Onsite	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	1.44	1.20	11.2	13.1	0.02	0.50	—	0.50	0.46	—	0.46	—	2,398	2,398	0.10	0.02	—	2,406
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	1.44	1.20	11.2	13.1	0.02	0.50	—	0.50	0.46	—	0.46	—	2,398	2,398	0.10	0.02	—	2,406
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	0.45	0.38	3.51	4.11	0.01	0.16	—	0.16	0.14	—	0.14	—	751	751	0.03	0.01	—	753
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Off-Roa Equipment	0.08	0.07	0.64	0.75	< 0.005	0.03	—	0.03	0.03	—	0.03	—	124	124	0.01	< 0.005	—	125
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	0.16	0.16	0.10	1.73	0.00	0.00	0.19	0.19	0.00	0.04	0.04	—	217	217	0.01	0.01	0.88	221
Vendor	0.01	0.01	0.33	0.14	< 0.005	< 0.005	0.05	0.05	< 0.005	0.01	0.02	—	197	197	< 0.005	0.03	0.51	206
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	0.14	0.13	0.13	1.30	0.00	0.00	0.19	0.19	0.00	0.04	0.04	—	191	191	0.01	0.01	0.02	194
Vendor	0.01	0.01	0.36	0.14	< 0.005	< 0.005	0.05	0.05	< 0.005	0.01	0.02	—	197	197	< 0.005	0.03	0.01	206
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	0.05	0.04	0.04	0.41	0.00	0.00	0.06	0.06	0.00	0.01	0.01	—	61.7	61.7	< 0.005	< 0.005	0.12	62.6
Vendor	< 0.005	< 0.005	0.11	0.04	< 0.005	< 0.005	0.02	0.02	< 0.005	< 0.005	0.01	—	61.7	61.7	< 0.005	0.01	0.07	64.4
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	0.01	0.01	0.01	0.08	0.00	0.00	0.01	0.01	0.00	< 0.005	< 0.005	—	10.2	10.2	< 0.005	< 0.005	0.02	10.4
Vendor	< 0.005	< 0.005	0.02	0.01	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	—	10.2	10.2	< 0.005	< 0.005	0.01	10.7
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00

3.9. Building Construction (2025) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Onsite	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	1.35	1.13	10.4	13.0	0.02	0.43	—	0.43	0.40	—	0.40	—	2,398	2,398	0.10	0.02	—	2,406
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	1.35	1.13	10.4	13.0	0.02	0.43	—	0.43	0.40	—	0.40	—	2,398	2,398	0.10	0.02	—	2,406
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	0.30	0.25	2.31	2.88	0.01	0.10	—	0.10	0.09	—	0.09	—	530	530	0.02	< 0.005	—	532
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	0.05	0.05	0.42	0.53	< 0.005	0.02	—	0.02	0.02	—	0.02	—	87.8	87.8	< 0.005	< 0.005	—	88.1
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Worker	0.16	0.14	0.09	1.61	0.00	0.00	0.19	0.19	0.00	0.04	0.04	—	213	213	0.01	0.01	0.81	216
Vendor	0.01	0.01	0.32	0.13	< 0.005	< 0.005	0.05	0.05	< 0.005	0.01	0.02	—	193	193	< 0.005	0.03	0.50	202
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	0.13	0.12	0.12	1.21	0.00	0.00	0.19	0.19	0.00	0.04	0.04	—	187	187	0.01	0.01	0.02	190
Vendor	0.01	0.01	0.34	0.14	< 0.005	< 0.005	0.05	0.05	< 0.005	0.01	0.02	—	194	194	< 0.005	0.03	0.01	202
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	0.03	0.03	0.02	0.27	0.00	0.00	0.04	0.04	0.00	0.01	0.01	—	42.7	42.7	< 0.005	< 0.005	0.08	43.3
Vendor	< 0.005	< 0.005	0.07	0.03	< 0.005	< 0.005	0.01	0.01	< 0.005	< 0.005	< 0.005	—	42.8	42.8	< 0.005	0.01	0.05	44.7
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	0.01	0.01	< 0.005	0.05	0.00	0.00	0.01	0.01	0.00	< 0.005	< 0.005	—	7.06	7.06	< 0.005	< 0.005	0.01	7.18
Vendor	< 0.005	< 0.005	0.01	0.01	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	< 0.005	—	7.08	7.08	< 0.005	< 0.005	0.01	7.40
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00

3.11. Paving (2025) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Onsite	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	0.95	0.80	7.45	9.98	0.01	0.35	—	0.35	0.32	—	0.32	—	1,511	1,511	0.06	0.01	—	1,517
Paving	3.90	3.90	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	0.03	0.03	0.27	0.36	< 0.005	0.01	—	0.01	0.01	—	0.01	—	53.8	53.8	< 0.005	< 0.005	—	54.0
Paving	0.14	0.14	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	0.01	0.01	0.05	0.06	< 0.005	< 0.005	—	< 0.005	< 0.005	—	< 0.005	—	8.91	8.91	< 0.005	< 0.005	—	8.94
Paving	0.03	0.03	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	0.09	0.08	0.05	0.94	0.00	0.00	0.11	0.11	0.00	0.03	0.03	—	125	125	0.01	< 0.005	0.47	127
Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	0.03	0.00	0.00	< 0.005	< 0.005	0.00	< 0.005	< 0.005	—	4.03	4.03	< 0.005	< 0.005	0.01	4.09

Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	< 0.005	0.00	0.00	< 0.005	< 0.005	0.00	< 0.005	< 0.005	—	0.67	0.67	< 0.005	< 0.005	< 0.005	0.68
Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00

3.13. Architectural Coating (2025) - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Location	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Onsite	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	0.15	0.13	0.88	1.14	< 0.005	0.03	—	0.03	0.03	—	0.03	—	134	134	0.01	< 0.005	—	134
Architectural Coatings	105	105	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	0.01	< 0.005	0.03	0.04	< 0.005	< 0.005	—	< 0.005	< 0.005	—	< 0.005	—	5.12	5.12	< 0.005	< 0.005	—	5.14

Architectural	4.02	4.02	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Off-Road Equipment	< 0.005	< 0.005	0.01	0.01	< 0.005	< 0.005	—	< 0.005	< 0.005	—	< 0.005	—	0.85	0.85	< 0.005	< 0.005	—	0.85
Architectural Coatings	0.73	0.73	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Onsite truck	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Offsite	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	0.03	0.03	0.02	0.32	0.00	0.00	0.04	0.04	0.00	0.01	0.01	—	42.6	42.6	< 0.005	< 0.005	0.16	43.3
Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Average Daily	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	0.01	0.00	0.00	< 0.005	< 0.005	0.00	< 0.005	< 0.005	—	1.48	1.48	< 0.005	< 0.005	< 0.005	1.50
Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Worker	< 0.005	< 0.005	< 0.005	< 0.005	0.00	0.00	< 0.005	< 0.005	0.00	< 0.005	< 0.005	—	0.25	0.25	< 0.005	< 0.005	< 0.005	0.25
Vendor	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00
Hauling	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	—	0.00	0.00	0.00	0.00	0.00	0.00

4. Operations Emissions Details

4.10. Soil Carbon Accumulation By Vegetation Type

4.10.1. Soil Carbon Accumulation By Vegetation Type - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Vegetation	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Total	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Total	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Total	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

4.10.2. Above and Belowground Carbon Accumulation by Land Use Type - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Land Use	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Total	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Total	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Total	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

4.10.3. Avoided and Sequestered Emissions by Species - Unmitigated

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Species	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Avoided	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Subtotal	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Sequestered	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Subtotal	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Removed	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Subtotal	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Avoided	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Subtotal	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Sequestered	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Subtotal	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Removed	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Subtotal	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Annual	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Avoided	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Subtotal	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Sequestered	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Subtotal	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Removed	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Subtotal	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

5. Activity Data

5.1. Construction Schedule

Phase Name	Phase Type	Start Date	End Date	Days Per Week	Work Days per Phase	Phase Description
Demolition	Demolition	6/1/2024	6/18/2024	5.00	12.0	—
Site Preparation	Site Preparation	6/19/2024	6/27/2024	5.00	7.00	—
Grading	Grading	6/28/2024	7/24/2024	5.00	19.0	—
Building Construction	Building Construction	7/25/2024	4/23/2025	5.00	195	—
Paving	Paving	4/24/2025	5/12/2025	5.00	13.0	—
Architectural Coating	Architectural Coating	5/13/2025	5/30/2025	5.00	14.0	—

5.2. Off-Road Equipment

5.2.1. Unmitigated

Phase Name	Equipment Type	Fuel Type	Engine Tier	Number per Day	Hours Per Day	Horsepower	Load Factor
Demolition	Rubber Tired Dozers	Diesel	Average	2.00	8.00	367	0.40
Demolition	Excavators	Diesel	Average	3.00	8.00	36.0	0.38
Demolition	Concrete/Industrial Saws	Diesel	Average	1.00	8.00	33.0	0.73
Site Preparation	Rubber Tired Dozers	Diesel	Average	3.00	8.00	367	0.40

Site Preparation	Tractors/Loaders/Back	Diesel	Average	4.00	8.00	84.0	0.37
Grading	Graders	Diesel	Average	1.00	8.00	148	0.41
Grading	Excavators	Diesel	Average	2.00	8.00	36.0	0.38
Grading	Tractors/Loaders/Back hoes	Diesel	Average	2.00	8.00	84.0	0.37
Grading	Scrapers	Diesel	Average	2.00	8.00	423	0.48
Grading	Rubber Tired Dozers	Diesel	Average	1.00	8.00	367	0.40
Building Construction	Forklifts	Diesel	Average	3.00	8.00	82.0	0.20
Building Construction	Generator Sets	Diesel	Average	1.00	8.00	14.0	0.74
Building Construction	Cranes	Diesel	Average	1.00	7.00	367	0.29
Building Construction	Welders	Diesel	Average	1.00	8.00	46.0	0.45
Building Construction	Tractors/Loaders/Back hoes	Diesel	Average	3.00	7.00	84.0	0.37
Paving	Pavers	Diesel	Average	2.00	8.00	81.0	0.42
Paving	Paving Equipment	Diesel	Average	2.00	8.00	89.0	0.36
Paving	Rollers	Diesel	Average	2.00	8.00	36.0	0.38
Architectural Coating	Air Compressors	Diesel	Average	1.00	6.00	37.0	0.48

5.3. Construction Vehicles

5.3.1. Unmitigated

Phase Name	Trip Type	One-Way Trips per Day	Miles per Trip	Vehicle Mix
Demolition	—	—	—	—
Demolition	Worker	15.0	10.3	LDA,LDT1,LDT2
Demolition	Vendor	—	4.50	HHDT,MHDT
Demolition	Hauling	0.00	20.0	HHDT
Demolition	Onsite truck	—	—	HHDT
Site Preparation	—	—	—	—
Site Preparation	Worker	17.5	10.3	LDA,LDT1,LDT2

Site Preparation	Vendor	—	4.50	HHDT,MHDT
Site Preparation	Hauling	0.00	20.0	HHDT
Site Preparation	Onsite truck	—	—	HHDT
Grading	—	—	—	—
Grading	Worker	20.0	10.3	LDA,LDT1,LDT2
Grading	Vendor	—	4.50	HHDT,MHDT
Grading	Hauling	0.00	20.0	HHDT
Grading	Onsite truck	—	—	HHDT
Building Construction	—	—	—	—
Building Construction	Worker	25.6	10.3	LDA,LDT1,LDT2
Building Construction	Vendor	13.1	4.50	HHDT,MHDT
Building Construction	Hauling	0.00	20.0	HHDT
Building Construction	Onsite truck	—	—	HHDT
Paving	—	—	—	—
Paving	Worker	15.0	10.3	LDA,LDT1,LDT2
Paving	Vendor	—	4.50	HHDT,MHDT
Paving	Hauling	0.00	20.0	HHDT
Paving	Onsite truck	—	—	HHDT
Architectural Coating	—	—	—	—
Architectural Coating	Worker	5.12	10.3	LDA,LDT1,LDT2
Architectural Coating	Vendor	—	4.50	HHDT,MHDT
Architectural Coating	Hauling	0.00	20.0	HHDT
Architectural Coating	Onsite truck	—	—	HHDT

5.4. Vehicles

5.4.1. Construction Vehicle Control Strategies

Non-applicable. No control strategies activated by user.

5.5. Architectural Coatings

Phase Name	Residential Interior Area Coated (sq ft)	Residential Exterior Area Coated (sq ft)	Non-Residential Interior Area Coated (sq ft)	Non-Residential Exterior Area Coated (sq ft)	Parking Area Coated (sq ft)
Architectural Coating	0.00	0.00	120,000	40,000	157,778

5.6. Dust Mitigation

5.6.1. Construction Earthmoving Activities

Phase Name	Material Imported (cy)	Material Exported (cy)	Acres Graded (acres)	Material Demolished (sq. ft.)	Acres Paved (acres)
Demolition	0.00	0.00	0.00	—	—
Site Preparation	—	—	10.5	0.00	—
Grading	—	—	57.0	0.00	—
Paving	0.00	0.00	0.00	0.00	60.4

5.6.2. Construction Earthmoving Control Strategies

Non-applicable. No control strategies activated by user.

5.7. Construction Paving

Land Use	Area Paved (acres)	% Asphalt
Refrigerated Warehouse-No Rail	0.00	0%
Parking Lot	19.4	100%
Other Non-Asphalt Surfaces	41.0	0%
General Office Building	0.00	0%

5.8. Construction Electricity Consumption and Emissions Factors

kWh per Year and Emission Factor (lb/MWh)

Year	kWh per Year	CO2	CH4	N2O
2024	0.00	204	0.03	< 0.005

2025	0.00	204	0.03	< 0.005

5.18. Vegetation

5.18.1. Land Use Change

5.18.1.1. Unmitigated

Vegetation Land Use Type	Vegetation Soil Type	Initial Acres	Final Acres

5.18.1. Biomass Cover Type

5.18.1.1. Unmitigated

Biomass Cover Type	Initial Acres	Final Acres

5.18.2. Sequestration

5.18.2.1. Unmitigated

Tree Type	Number	Electricity Saved (kWh/year)	Natural Gas Saved (btu/year)

6. Climate Risk Detailed Report

6.1. Climate Risk Summary

Cal-Adapt midcentury 2040–2059 average projections for four hazards are reported below for your project location. These are under Representation Concentration Pathway (RCP) 8.5 which assumes GHG emissions will continue to rise strongly through 2050 and then plateau around 2100.

Climate Hazard	Result for Project Location	Unit
Temperature and Extreme Heat	26.9	annual days of extreme heat
Extreme Precipitation	7.35	annual days with precipitation above 20 mm
Sea Level Rise	—	meters of inundation depth
Wildfire	0.00	annual hectares burned

Temperature and Extreme Heat data are for grid cell in which your project are located. The projection is based on the 98th historical percentile of daily maximum/minimum temperatures from observed historical data (32 climate model ensemble from Cal-Adapt, 2040–2059 average under RCP 8.5). Each grid cell is 6 kilometers (km) by 6 km, or 3.7 miles (mi) by 3.7 mi.
Extreme Precipitation data are for the grid cell in which your project are located. The threshold of 20 mm is equivalent to about ¾ an inch of rain, which would be light to moderate rainfall if received over a full day or heavy rain if received over a period of 2 to 4 hours. Each grid cell is 6 kilometers (km) by 6 km, or 3.7 miles (mi) by 3.7 mi.
Sea Level Rise data are for the grid cell in which your project are located. The projections are from Radke et al. (2017), as reported in Cal-Adapt (Radke et al., 2017, CEC-500-2017-008), and consider inundation location and depth for the San Francisco Bay, the Sacramento-San Joaquin River Delta and California coast resulting different increments of sea level rise coupled with extreme storm events. Users may select from four scenarios to view the range in potential inundation depth for the grid cell. The four scenarios are: No rise, 0.5 meter, 1.0 meter, 1.41 meters
Wildfire data are for the grid cell in which your project are located. The projections are from UC Davis, as reported in Cal-Adapt (2040–2059 average under RCP 8.5), and consider historical data of climate, vegetation, population density, and large (> 400 ha) fire history. Users may select from four model simulations to view the range in potential wildfire probabilities for the grid cell. The four simulations make different assumptions about expected rainfall and temperature are: Warmer/drier (HadGEM2-ES), Cooler/wetter (CNRM-CM5), Average conditions (CanESM2), Range of different rainfall and temperature possibilities (MIROC5). Each grid cell is 6 kilometers (km) by 6 km, or 3.7 miles (mi) by 3.7 mi.

6.2. Initial Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	3	0	0	N/A
Extreme Precipitation	3	0	0	N/A
Sea Level Rise	N/A	N/A	N/A	N/A
Wildfire	1	0	0	N/A
Flooding	0	0	0	N/A
Drought	0	0	0	N/A
Snowpack Reduction	N/A	N/A	N/A	N/A
Air Quality Degradation	0	0	0	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.
The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.
The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores do not include implementation of climate risk reduction measures.

6.3. Adjusted Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	3	1	1	3
Extreme Precipitation	3	1	1	3
Sea Level Rise	N/A	N/A	N/A	N/A

Wildfire	1	1	1	2
Flooding	1	1	1	2
Drought	1	1	1	2
Snowpack Reduction	N/A	N/A	N/A	N/A
Air Quality Degradation	1	1	1	2

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.
The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.
The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores include implementation of climate risk reduction measures.

6.4. Climate Risk Reduction Measures

7. Health and Equity Details

7.1. CalEnviroScreen 4.0 Scores

The maximum CalEnviroScreen score is 100. A high score (i.e., greater than 50) reflects a higher pollution burden compared to other census tracts in the state.

Indicator	Result for Project Census Tract
Exposure Indicators	—
AQ-Ozone	68.2
AQ-PM	10.8
AQ-DPM	6.92
Drinking Water	86.8
Lead Risk Housing	30.5
Pesticides	84.0
Toxic Releases	4.03
Traffic	2.23
Effect Indicators	—
CleanUp Sites	89.4
Groundwater	49.0

Haz Waste Facilities/Generators	1.80
Impaired Water Bodies	90.1
Solid Waste	91.0
Sensitive Population	—
Asthma	47.1
Cardio-vascular	73.3
Low Birth Weights	42.8
Socioeconomic Factor Indicators	—
Education	58.7
Housing	20.3
Linguistic	0.00
Poverty	59.8
Unemployment	60.6

7.2. Healthy Places Index Scores

The maximum Health Places Index score is 100. A high score (i.e., greater than 50) reflects healthier community conditions compared to other census tracts in the state.

Indicator	Result for Project Census Tract
Economic	—
Above Poverty	34.21018863
Employed	2.925702554
Median HI	22.25073784
Education	—
Bachelor's or higher	25.15077634
High school enrollment	27.10124471
Preschool enrollment	23.02065957
Transportation	—
Auto Access	66.18760426
Active commuting	44.4629796

Social	—
2-parent households	34.72346978
Voting	63.37738997
Neighborhood	—
Alcohol availability	88.73347876
Park access	2.194276915
Retail density	1.73232388
Supermarket access	2.399589375
Tree canopy	88.23302964
Housing	—
Homeownership	88.14320544
Housing habitability	61.37559348
Low-inc homeowner severe housing cost burden	36.44296163
Low-inc renter severe housing cost burden	88.01488515
Uncrowded housing	54.07416913
Health Outcomes	—
Insured adults	30.60438855
Arthritis	0.0
Asthma ER Admissions	29.4
High Blood Pressure	0.0
Cancer (excluding skin)	0.0
Asthma	0.0
Coronary Heart Disease	0.0
Chronic Obstructive Pulmonary Disease	0.0
Diagnosed Diabetes	0.0
Life Expectancy at Birth	21.5
Cognitively Disabled	1.5
Physically Disabled	2.3

Heart Attack ER Admissions	25.6
Mental Health Not Good	0.0
Chronic Kidney Disease	0.0
Obesity	0.0
Pedestrian Injuries	51.6
Physical Health Not Good	0.0
Stroke	0.0
Health Risk Behaviors	—
Binge Drinking	0.0
Current Smoker	0.0
No Leisure Time for Physical Activity	0.0
Climate Change Exposures	—
Wildfire Risk	0.0
SLR Inundation Area	0.0
Children	69.7
Elderly	12.6
English Speaking	94.6
Foreign-born	12.4
Outdoor Workers	18.5
Climate Change Adaptive Capacity	—
Impervious Surface Cover	99.3
Traffic Density	2.1
Traffic Access	0.0
Other Indices	—
Hardship	68.4
Other Decision Support	—
2016 Voting	48.1

7.3. Overall Health & Equity Scores

Metric	Result for Project Census Tract
CalEnviroScreen 4.0 Score for Project Location (a)	54.0
Healthy Places Index Score for Project Location (b)	23.0
Project Located in a Designated Disadvantaged Community (Senate Bill 535)	No
Project Located in a Low-Income Community (Assembly Bill 1550)	Yes
Project Located in a Community Air Protection Program Community (Assembly Bill 617)	No

a: The maximum CalEnviroScreen score is 100. A high score (i.e., greater than 50) reflects a higher pollution burden compared to other census tracts in the state.
b: The maximum Health Places Index score is 100. A high score (i.e., greater than 50) reflects healthier community conditions compared to other census tracts in the state.

7.4. Health & Equity Measures

No Health & Equity Measures selected.

7.5. Evaluation Scorecard

Health & Equity Evaluation Scorecard not completed.

7.6. Health & Equity Custom Measures

No Health & Equity Custom Measures created.

8. User Changes to Default Data

Screen	Justification
Land Use	Consistent with DEIR's model.
Construction: Construction Phases	See comment on: "Unsubstantiated Changes to Construction Schedule".

LETTER 8: GOLDEN STATE ENVIRONMENTAL JUSTICE ALLIANCE

Response to Comment 8-1

The comment is introductory and does not address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 8-2

The comment summarizes the components of the proposed project and does not address the adequacy of the Draft EIR.

Response to Comment 8-3

As discussed on page 3-4 of the Draft EIR, the proposed warehouse buildings are speculative. Because specific development applications have not been submitted, the building details requested in the comment are not yet available. Pursuant to the CEQA Guidelines, an EIR is required to demonstrate how a project would comply with all applicable regulations related to avoiding potentially significant environmental impacts, and is required to provide all documentation necessary to do so. Where specific information is not yet available, such as building design and import/export amounts, the worst-case conditions are assumed so as to provide a conservative analysis. As such, although the information mentioned in the comment would provide for a more detailed analysis, the analysis presented in the Draft EIR adequately addresses the worst-case scenario with respect to project buildout.

Furthermore, as discussed on pages 5-2 and 5-3 of Chapter 5, Effects Not Found to be Significant, of the Draft EIR, pursuant to Oroville Municipal Code Section 15.88.070, prior to approval of any grading permits, a soils report and geological hazard report shall be required as part of the application. All grading and foundation plans for the development would be designed by a Civil and Structural Engineer and reviewed and approved by the Director of Public Works/City Engineer, Chief Building Official, and a qualified Geotechnical Engineer prior to issuance of grading and building permits to ensure that all geotechnical recommendations specified in the Geotechnical Analysis are properly incorporated and utilized in the project design. It should be noted that preparation of the soils and geological hazard reports would be required as a Condition of Approval by the City of Oroville. As such, a final grading plan is not yet available for public review. If the amount of soil required to be imported according to a final grading plan prepared for the proposed project is inconsistent with the assumptions of the Draft EIR, then the environmental analysis would need to be updated.

As described on page 3-4 of the Draft EIR, building height would average from 40 feet to 65 feet but approval of a Use Permit would allow for a maximum building height of 100 feet to accommodate any specific user requirements of future tenants. In addition, pursuant to Section 17.52.020 of the City's Municipal Code, the proposed project will be evaluated for compliance with all applicable standards, including those related to building elevation and architectural design, through the Development Review process. As such, the inclusion of architectural building elevations are not required to be included in the Draft EIR to ensure that the design of the proposed project would be consistent with the applicable requirements and regulations. Therefore, the Draft EIR is considered to be adequate.

Response to Comment 8-4

Contrary to the claim of the commenter, potential cumulative impacts of the proposed project are discussed throughout the Draft EIR at the end of each environmental analysis chapters (Chapters

4.1 through 4.9). With respect to Chapter 4.2, Air Quality, Greenhouse Gas Emissions, and Energy, of the Draft EIR, Impacts 4.2-6 through 4.2-8 evaluate potentially significant cumulative impacts related to increases in emissions of criteria pollutants; generation of greenhouse gas (GHG) emissions and consistency with the City's Climate Action Plan (CAP) and CARB 2022 Scoping Plan Update; and use of energy. Furthermore, potential impacts related to ozone generated by construction and operation of the proposed project are addressed under Impacts 4.2-1 and 4.2-2, respectively. As discussed therein, with implementation of mitigation, impacts associated with the proposed project would be reduced to a less-than-significant level.

CEQA is not required to evaluate socioeconomic issues; rather, the Draft EIR is required to focus on the potential environmental impacts of the proposed project on the existing environment. As specified in CEQA Guidelines Section 15131(a), "Economic or social effects of a project shall not be treated as significant effects on the environment." Section 15131, including the subsection cited by the comment, specifies the manner in which an EIR may choose to include such information as economic or social changes result in physical changes to the environment. Overall, social and economic factors are considerations for the decision makers (i.e., the "public agency" cited in Section 15131[c]) to incorporate into their decision, and are not a requirement of the EIR.

Similarly, environmental justice is not a required topic of analysis under CEQA. Nonetheless, because the proposed project is not residential in nature, the project would not result in new residents being introduced to an area that is already severely impacted with respect to environmental justice. Furthermore, the potential environmental effects of buildout of the proposed project are addressed throughout the technical chapters of the Draft EIR. All such impacts are either dismissed as less than significant or are mitigated to the maximum extent feasible. For example, potential impacts related to hazardous materials, such as cleanup sites, are discussed within Chapter 4.5, Hazards and Hazardous Materials, of the Draft EIR. As discussed therein, if the on-site groundwater monitoring wells are not abandoned in accordance with current regulatory guidelines, a significant impact could occur related to creating a significant hazard through reasonably foreseeable upset and accident conditions. However, implementation of Mitigation Measure 4.5-2 would ensure such impacts are reduced to less-than-significant levels. In addition, as discussed under Impacts 4.6-1 and 4.6-2 in Chapter 4.6, Hydrology and Water Quality, of the Draft EIR, with implementation of mitigation, the proposed project would not result in significant impacts to water quality during construction or operation. Therefore, the proposed project would not contribute to or exacerbate existing adverse water quality conditions.

Response to Comment 8-5

The CEQA Guidelines do not require that an EIR include modeling that was conducted with the California Building Energy Code Compliance (CBECC) software, EnergyPro, or Integrated Environmental Solutions Virtual Environment (IESVE) software. The commenter is conflating use of the foregoing software to demonstrate compliance with the Building Energy Efficiency Standards (Title 24, Part 6 of the California Code of Regulations [CCR]), with compliance with CEQA, which does not specify the use of the aforementioned software in order to conduct an energy analysis for an EIR.

Furthermore, as discussed on page 4.2-39 of the Draft EIR, the use of the California Emissions Estimator Model (CalEEMod) in the Draft EIR was for the purposes of estimating the proposed project's construction and operational emissions. It should be noted that CalEEMod is the recommended model for estimating a development project's construction and operational emissions. A project's compliance with State regulations is inherently incorporated as part of the

model. The current version of CalEEMod incorporates a project's compliance with the requirements set forth by the 2019 California Building Standards Code (CBSC) (CCR Title 24) related to energy efficiency. However the proposed project would be subject to the currently adopted 2022 CBSC requirements, which include more stringent standards related to energy efficiency, relative to those set forth by the 2019 CBSC. As such, compliance with the 2022 CBSC would result in greater energy efficiency and less associated emissions for the proposed project than the levels estimated as part of the Draft EIR. Thus, the Draft EIR provides a conservative analysis and does not underreport the project's potential energy impacts, as claimed by the commenter. Furthermore, as discussed on page 4.2-60, the proposed project would be required to comply with all applicable standards and regulations regarding energy conservation and fuel efficiency, including the CARB standards, which would ensure that the proposed project would be designed to be energy efficient to the maximum extent practicable.

Response to Comment 8-6

As discussed on page 4.9-6 of the Draft EIR, the evaluation of vehicle miles traveled (VMT) over level of service (LOS) is consistent with Senate Bill (SB) 743, which passed in 2013. As a result of SB 743 and Section 15064.3 of the CEQA Guidelines, local jurisdictions may not rely on LOS and similar measures related to delay as the basis for determining the significance of transportation impacts under CEQA. Thus, consistent with the CEQA Guidelines, VMT is the primary metric used to identify transportation impacts to roadway systems within the chapter. It should be noted that although the City may consider potential effects related to LOS as part of an evaluation of the proposed project's consistency with General Plan policies for planning purposes, the Draft EIR is not required to include or consider a LOS analysis, pursuant to the requirements established by CEQA.

Response to Comment 8-7

Potential impacts associated with the proposed project related to substantially increasing hazards due to a geometric design feature or incompatible uses, or result in inadequate emergency access, are addressed under Impact 4.9-3 in Chapter 4.9, Transportation, of the Draft EIR. As discussed therein, the project does not include the approval of individual site plans, which would be necessary to provide the level of detail necessary for a comprehensive analysis of the possibility for the project to substantially increase hazards due to a geometric design feature of the future site plan's on-site circulation. As noted by the commenter, the Draft EIR states that the proposed project would be required to be designed consistent with the standards established in Chapter 12.12 of the City's Municipal Code; compliance with such would be required by law. Furthermore, pursuant to Section 17.52.020 of the City's Municipal Code, the proposed project will be evaluated for compliance with all applicable standards through the Development Review process. If the Development Review process indicates that final project site designs do not meet the City's standards, then project development would not be allowed until appropriate changes are made. Therefore, the analysis adequately addresses potential impacts related to substantially increasing hazards due to a geometric design feature, and a revised EIR is not required.

Response to Comment 8-8

The project site is located in the southernmost portion of the City of Oroville; the City limit line constitutes the site's western and eastern boundaries. In addition, as discussed in Chapter 3, Project Description, of the Draft EIR, and as shown in Figure 3-2, Project Site Boundaries, the project site is surrounded on three sides by undeveloped land. Therefore, the statement that the project site is not located in the central area of the City is reasonable, and additional analysis or documentation is not required to support the statement. Furthermore, as discussed on page 4.2-

41 in Chapter 4.2, Air Quality, Greenhouse Gas Emissions, and Energy, of the Draft EIR, emissions from operational traffic associated with the proposed project were calculated assuming that off-site truck traffic would occur on a segment of Ophir Road located between the project site access and SR 70. Given the proximity of the project site to SR 70, the assumption that project-related vehicle traffic would be significantly diverted to the north, through the center of the City, is not reasonable. Therefore, the conclusions of the Draft EIR are accurate, and additional analysis is not required.

Response to Comment 8-9

Please see Response to Comment 8-7.

Response to Comment 8-10

In *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369 (*CBIA*), the California Supreme Court held that "agencies subject to CEQA generally are not required to analyze the impact of existing environmental conditions on a project's future users or residents. But when a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must analyze the potential impact of such hazards on future residents or users. In those specific instances, it is the project's impact on the environment—and not the environment's impact on the project—that compels an evaluation of how future residents or users could be affected by exacerbated conditions." (Id. at pp. 377-378.) In light of the California Supreme Court's decision, the presence of poor road conditions would only be considered to result in a significant CEQA impact if the proposed project would exacerbate the existing conditions. The commenter does not provide support for the assertion that the existing road conditions in the project area would result in the creation of traffic queueing and safety impacts associated with the proposed project. Nonetheless, the comment has been noted for the record and will be forwarded to the decision-makers for their consideration. It should be noted that Ophir Road is currently (as of summer 2025) undergoing pavement rehabilitation; therefore, the roadway conditions mentioned by the commentor would likely no longer exist if/when a project application is ultimately filed. In addition, independent of CEQA, a future LOS traffic analysis will be required of any applicant to determine whether any road improvements would be triggered on Ophir Road and surrounding roadways.

Response to Comment 8-11

As stated on page 3-4 in Chapter 3, Project Description, of the Draft EIR:

> It should be noted that the proposed warehouse buildings are speculative warehouses, and, therefore, tenants for the buildings are unknown at this time. […] In the event that the site is not ultimately developed exclusively for large-scale distribution, or developed to the scale analyzed within this EIR, the analysis included herein is intended to generally be adequate for an undetermined mix of smaller-scale industrial and distribution uses to be developed over time. In the case of a smaller project, some of the impacts considered significant within this EIR may be reduced to insignificance. The City of Oroville will evaluate any such changes at the time of an actual project submittal.

The analysis presented throughout the Draft EIR is based on a Conceptual Site Plan provided by the City. The Conceptual Site Plan is meant to present the most intense possible buildout of the project site. As stated above, the City of Oroville would evaluate any changes in the assumed on-site uses and building sizes; any such changes would mostly likely result in a reduction in warehouse size. As such, the analysis in the Draft EIR would be considered conservative. Furthermore, future development of the project site would be required to be consistent with the

applicable standards established for the site's zoning designations, including a maximum 0.4 floor area ratio (FAR).

Response to Comment 8-12

As discussed in Section 1.6, Definition of Baseline, of Chapter 1, Introduction, of the Draft EIR, "The baseline condition is the physical condition that exists when the NOP is published. The NOP for the proposed project was published on September 27, 2022. Therefore, conditions existing at that time are considered to be the baseline against which changes that would result from the proposed project are evaluated. Impacts could include both direct and indirect physical changes to the baseline condition." As such, the baseline condition that the analysis of the Draft EIR is based upon includes the most recently adopted General Plan, which is the City's 2030 General Plan. The contents of the General Plan are incorporated by reference and, thus, the buildout conditions described therein do not need to be reiterated in the Draft EIR. In addition, the cumulative setting for each impact area is described in the relevant technical chapter in the Draft EIR, and is further defined as the buildout projections included in the adopted City of Oroville General Plan in Section 6.3, Cumulative Impacts, of Chapter 6, Statutorily Required Sections, of the Draft EIR.

Response to Comment 8-13

The scope of an EIR is limited to a local agency's evaluation of potentially significant environmental impacts of a project, which are, by definition, limited to physical conditions. The majority of the policies listed by the comment are related to specific design issues, rather than physical environmental impacts. The determination that the proposed project is consistent or inconsistent with such General Plan policies or other applicable plans and policies is ultimately the decision of the City of Oroville City Council. For example, the ultimate meaning of General Plan policies related to a project's design, character, compatibility, and/or location is a determination of the City Council. However, the City Council may rely on the analysis within the Draft EIR as support for the conclusion that the development is consistent with the General Plan, as the Draft EIR includes an analysis of various environmental issues included in the comment. For example, pedestrian access, roadway hazards, and emergency vehicle access are addressed in Chapter 4.9, Transportation, of the Draft EIR. The City's Design Guidelines are discussed throughout Chapter 4.1, Aesthetics, of the Draft EIR. As discussed above in Response to Comment 8-4, potential impacts related to hazardous materials are discussed within Chapter 4.5, Hazards and Hazardous Materials, of the Draft EIR and implementation of Mitigation Measure 4.5-2 would ensure such impacts are reduced to less-than-significant levels. In addition, as discussed under Impacts 4.6-1 and 4.6-2 in Chapter 4.6, Hydrology and Water Quality, of the Draft EIR, with implementation of mitigation, the proposed project would not result in significant impacts to water quality during construction or operation. Furthermore, although CEQA analysis may identify some areas of general consistency with City policies, the City has the ability to impose additional requirements or conditions of approval on a project, at the time of its approval, to bring a project into more complete conformance with existing policies.

CEQA Guidelines Section 15126.2(a) requires an EIR to identify and focus on the significant effects of a project on the environment. Thus, from the standpoint of potential impacts on the environment, the Draft EIR adequately evaluates the proposed project's consistency with the City's General Plan goals, objectives, and policies related to avoiding potential environmental impacts through assessing the potential for the proposed project to result in physical impacts related to the environmental issue areas required for analysis under CEQA.

In addition, please see Response to Comment 8-6 related to LOS.

Response to Comment 8-14

As discussed under Response to Comment 8-13, the determination that the proposed project is consistent or inconsistent with General Plan policies or other applicable plans and policies is ultimately the decision of the City of Oroville City Council. City actions related to the South Ophir Specific Plan have not occurred since the City's General Plan was adopted in 2015; however, as discussed on page 3-36 of the General Plan, the development anticipated for the South Ophir Specific Plan area included between 150 to 300 acres of industrial development. Therefore, the proposed project would be within the development parameters of the Specific Plan.

Response to Comment 8-15

Please see Response to Comment 8-11.

Response to Comment 8-16

Consistent with the CEQA Guidelines, population growth itself does not constitute a significant physical environmental effect. Rather, the determination of significance is based on whether population growth associated with a project has been previously planned for, and whether such growth could result in indirect impacts from associated development. As discussed throughout Chapter 4.8, Public Services and Utilities, as well as in Section 6.2, Growth-Inducing Impacts, which starts on page 6-1 of Chapter 6, Statutorily Required Sections, of the Draft EIR, the proposed project would not increase population such that service levels, facility capacity, or infrastructure demand would require construction of new facilities that could cause significant environmental impacts. Therefore, the Draft EIR adequately addresses the environmental impacts associated with population growth that would occur as a result of the proposed project, and additional analysis is not required.

Response to Comment 8-17

A jurisdiction's decision on a project is independent of any other unrelated projects within the same jurisdiction. In cases in which a proposed project's significant effects cannot be mitigated or avoided, an agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a Statement of Overriding Considerations setting forth the specific reasons why the agency found that the "benefits of the project outweigh the significant effects on the environment." (Public Resources Code, Section 21081, sub. (b); see also, CEQA Guidelines, Sections 15093, 15043, sub.(b).) In the Statement of Overriding Considerations, the agency can identify the specific economic, social, and other considerations that, in its judgment, outweigh the significant environmental effects that the proposed project will cause. Therefore, revisions to the Draft EIR are not required.

Response to Comment 8-18

As stated by the commenter, the Draft EIR uses the projection approach for the cumulative analysis, which is based upon a summary of projections contained in the City of Oroville General Plan. The projection approach presented in the Draft EIR, including incorporating by reference the buildout conditions of the General Plan, is consistent with CEQA Guidelines Section 15130. Therefore, the analysis of cumulative impacts presented in the Draft EIR is consistent with the CEQA guidelines, and revision of the Draft EIR is not warranted.

Response to Comment 8-19

As stated on page 7-1 in Chapter 7, Alternatives Analysis, of the Draft EIR, Section 15126.6(f) of CEQA Guidelines states, "The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice." Section 15126.6(f) of CEQA Guidelines further states:

> The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determined could feasibly attain most of the basic objectives of the project.

With respect to the selection of alternatives, CEQA does not require alternatives that reduce every significant and unavoidable impact while meeting project objectives. As discussed in Chapter 7, Alternatives Analysis, of the Draft EIR, the primary intent of the alternatives analysis is to disclose other ways that the project objectives could be attained, while reducing or avoiding one or more, rather than every, of the significant environmental impacts of the proposed project. In addition, an EIR is not required to analyze alternatives when the effects of the alternative "cannot be reasonably ascertained and whose implementation is remote and speculative." In addition, with respect to the selection of alternatives, CEQA only requires "'enough of a variation to allow informed decision-making.'" (*Santa Cruz*, *supra*, 177 Cal.App.4th at p. 988, quoting *Mann v. Community Redevelopment Agency* (1991) 233 Cal.App.3d 1143, 1151 ("*Mann*").)

Response to Comment 8-20

The comment is a conclusion statement and does not specifically address the adequacy of the Draft EIR beyond what has been discussed above.

Response to Comment 8-21

The comment is an introductory statement and summarizes the project components, as well as the commenter's concerns regarding the air quality, health risk, and GHG impacts analyzed within the EIR. Please see Responses to Comments 8-22 to 8-40 below for responses to the commenter's detailed concerns.

Response to Comment 8-22

Although the comment asserts information provided in the Draft EIR is misrepresented and omitted, the comment does not provide specific alternative inputs for consideration. Specific revisions to the Draft EIR are included in the responses below.

Response to Comment 8-23

Construction information, including the anticipated length of construction phases, was based on construction phasing assumed for an industrial development project similar to the proposed project. As such, default construction phase lengths were adjusted to match a more realistic anticipated construction schedule for the project. Thus, the information used within the Draft EIR represents a more accurate depiction of project construction, as opposed to the CalEEMod defaults that are based on a survey conducted by an air district with jurisdiction over a portion of the State located approximately 435 miles away from the project site. Thus, the emissions modeling included as Appendix C of the Draft EIR was not revised.

Nevertheless, in response to the comment, pages 4.2-39 and 4.2-40 of the Draft EIR are hereby revised as shown below to provide greater specificity regarding the overall length of construction

and the construction phase timing that was assumed within the emissions modeling prepared for the proposed project and included as Appendix C to the Draft EIR:

> CalEEMod is a statewide model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify air quality emissions from land use projects. The model applies inherent default values for various land uses, including trip generation rates based on the Institute of Transportation Engineers (ITE) Manual, vehicle mix, trip length, average speed, etc. However, where project-specific data was available, such data was input into the model. CalEEMod was used to estimate emissions associated with construction of all on-site structures, as well as site preparation, grading, and paving activities. Construction was assumed to commence in June 2024,[3] and occur over an approximately ~~one-year~~ 18-month period. In addition, the site preparation, grading, paving, and building construction phase timing was adjusted consistent with construction phase timing assumed for similar industrial development projects as the proposed project, and based on typical construction practices, the architectural coating phase of construction was assumed to begin two weeks after the commencement of the building construction phase and occur over a similar number of days. Demolition was not assumed to occur, as the project site is currently undeveloped.

The foregoing minor text revisions clarify the inputs used in the emissions modeling and reproduces information that was available in Appendix C of the Draft EIR. The foregoing changes do not affect the conclusions presented within the Draft EIR.

Response to Comment 8-24

CalEEMod was used to estimate emissions associated with on-site development only. As discussed on page 4.2-40 of the Draft EIR, RoadMod was used to model construction of the off-site sewer and water line improvements, as well as the off-site improvements to the segment of Ophir Road located north of the project site. All RoadMod results were included in Appendix C to the Draft EIR. As shown therein, the sewer line improvements were anticipated to result in the export of 1.75 cubic yards (CY) of soil per day over the course of the 2.25-month grading/excavation period, the water line improvements were anticipated to result in the export of 1.20 CY of soil per day over the course of the 2.25-month grading/excavation period. In addition, the Ophir Road improvements were anticipated to result in the import of 11,313 CY of soil during the 2.25-month grading/excavation period and the import of 424 CY of asphalt during the 0.75-month paving period. Thus, contrary to the commenter's claim, soil movement was anticipated within the modeling prepared for the Draft EIR. As such, the analysis and conclusions presented within the Draft EIR remain adequate and preparation of a revised EIR is not warranted.

Response to Comment 8-25

Contrary to the comment, page 4.2-49 in Chapter 4.2, Air Quality, Greenhouse Gas Emissions, and Energy, of the Draft EIR, includes the following statement:

> Based on the current calculations, the proposed project would be required to pay a one-time fee of up to $771,120.00 to the Off-Site Mitigation Program, which would be used by the BCAQMD for a variety of emission reduction programs located throughout the Air District.

Based on the above, the Draft EIR provides a sufficient explanation of how the project's paid funds would be used at BCAQMD's discretion to fund emission reduction programs, such as the State's Clean Vehicle Incentives Programs and Clean Off-Road Equipment Voucher Project.

Because the specific use of the one-time fee is up to BCAQMD, and because the use is not yet known, the Draft EIR cannot present such information.

In addition, Mitigation Measure 4.2-2(b), presented on page 4.2-49 of the Draft EIR, includes the following language:

> *Prior to issuance of the first certificate of occupancy for each phase of development, the project applicant shall pay the fee amount proportionate to said phase to BCAQMD, or, if the project is not phased, the total payment for the project shall be made prior to issuance of the first certificate of occupancy. Proof of payment(s) shall be submitted to the City of Oroville Community Development Department. The final details of the Off-site Mitigation Program shall be determined in coordination with, and reviewed and approved by, the BCAQMD and the City of Oroville Community Development Department.*

Therefore, enforcement would be ensured by requiring proof of payment to the City of Oroville prior to issuance of the first certificate of occupancy.

Response to Comment 8-26

Please see Response to Comment 6-13.

Response to Comment 8-27

Please see Responses to Comments 4-3 and 4-4.

Response to Comment 8-28

Of the recommendations included in the comment, only bullet points #1 and #4 relate to construction. A nexus for requiring the proposed project to include the recommendations in the comment does not exist, given that the measures are intended to reduce construction-related DPM emissions associated with the proposed project, which were determined to be less than significant with implementation of the mitigation measures prescribed in the Draft EIR, or, in regard to construction-related GHG emissions, would not be required for CAP consistency. In addition, with regard to bullet point #4, the proposed project would be required to comply with the State's Heavy-Duty Truck and Bus Regulation (Title 13, Division 3, Chapter 1, Section 2025) and Heavy-Duty Vehicle Idling Emission Reduction Program which require diesel-fueled vehicles with gross vehicle weights greater than 10,000 pounds to idle no more than five minutes at any location, and include requirements related to posting signage notifying drivers of such restrictions. Thus, the recommendation to limit idling by extra minutes would not be warranted.

Overall, any obligation for the proposed project to include the recommendations within the comment would be voluntary by the project applicant, and a project applicant has not indicated such voluntary measures would be implemented. Nonetheless, such recommendations will be forwarded to the decision-makers for their consideration.

Response to Comment 8-29

The majority of the recommendations included in the comment relate to measures that address project operations instead of construction. For example, bullet points #4 through #7 are related to EV charging stations, as well as air filtration and air monitoring systems. As noted in Response to Comment 8-28, construction emissions are less than significant and thus a nexus for requiring construction mitigation does not exist.

With respect to power supply, electric charging stations, and emergency generator requirements during construction (i.e., bullet points #1, #2, and #8), such measures would not be required during construction because construction-related DPM emissions associated with the proposed project were determined to be less than significant with implementation of the mitigation measures prescribed in the Draft EIR. Nonetheless, such recommendations will be forwarded to the decision-makers for their consideration at the time that a specific development application for the project site is received.

Bullet point #3 recommends posting signage related to idling restrictions. The proposed project would be required to comply with the State's Heavy-Duty Truck and Bus Regulation (Title 13, Division 3, Chapter 1, Section 2025) and Heavy-Duty Vehicle Idling Emission Reduction Program which require diesel-fueled vehicles with gross vehicle weights greater than 10,000 pounds to idle no more than five minutes at any location, and include requirements related to posting signage notifying drivers of such restrictions. Thus, the recommendations included in bullet point #3 would be inherently required through compliance with State regulations.

Response to Comment 8-30

The proposed project would not be subject to recommendations from the South Coast Air Quality Management District (SCAQMD), as the project site is located approximately 353 miles from the SCAQMD's jurisdictional boundaries. In addition, the measures recommended in the comment relate to project operations, not construction.

Response to Comment 8-31

As discussed throughout this chapter, construction-related DPM emissions associated with the proposed project were determined to be less than significant. Therefore, further mitigation, such as the measures recommended by the comment, would not be required. However, the comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 8-32

With respect to bullet points #1, #5, and #6, please see Response to Comment 6-29. With respect to compliance with current air quality regulations (bullet point #4), all construction equipment and future fleets operating on-site would also be required to comply with all federal, State, and local requirements.

With respect to the remaining recommendations, because the proposed buildings are speculative and future tenants are unknown at this time, a specific development application has not yet been received by the City for the project site. When a specific development application for the project site is received, the City will consider the then-proposed design features at that time. The City will prepare project conditions when such an application is filed. The project conditions considered at that time can include recommending CARB and Department of Justice (DOJ) measures.

Response to Comment 8-33

Please see Response to Comment 8-32 above related to the City's conditioning of future development applications.

Response to Comment 8-34

Please see Response to Comment 8-30.

Response to Comment 8-35
Please see Response to Comment 8-31.

Response to Comment 8-36
Please see Response to Comment 8-29 related to idling and Responses to Comments 6-29 and 8-32 with respect to the other recommendations included within the comment.

Response to Comment 8-37
Please see Response to Comment 8-30.

Response to Comment 8-38
The comment is a conclusion statement and does not specifically address the adequacy of the Draft EIR beyond what has been discussed above.

Response to Comment 8-39
The comment is conclusionary and does not specifically address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 8-40
The comment includes the sources and modeling outputs referenced throughout the above comments, as well as the commenter's qualifications, and does not specifically address the adequacy of the Draft EIR. The attachments are included for clarity but do not require further response.

Letter 9

Mooretown Rancheria
#1 Alverda Drive
Oroville, CA 95966
(530) 533-3625 Office
(530) 533-3680 Fax

RECEIVED
JAN 21 2025
CITY OF OROVILLE
PLANNING DIVISION

January 14, 2025

Mr. Wes Ervin
Principal Planner
City of Oroville
Community Development Department
1735 Montgomery Street
Oroville, CA 95965

Re: Proposed Ophir Road Warehouse Project (SCH# 2022090522)– Oroville, Butte County, CA

Dear Mr. Ervin:

9-1 Thank you for your letter dated, 1/8/2025, seeking information regarding the proposed warehouse project in Butte County, California on APNs: 078-010-047 and 078-020-035. Based on the information provided, the Mooretown Rancheria is aware of a possibility of inadvertent discovery of cultural resources being found or impacted by this project, and would like to consult further.

9-2 As the project progresses, if any new information, questions arise, cultural items or human remains are found, we do have a process to protect such important and sacred artifacts (especially near rivers or streams).

Please contact the following individual:

THPO
Matthew.hatcher@mooretown.org

Thank you for providing us with this notice and opportunity to comment.

Sincerely,

Matthew Hatcher
Tribal Historic Preservation Officer

"Concow - Maidu"

LETTER 9: MOORETOWN RANCHERIA

Response to Comment 9-1

The comment does not address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

Response to Comment 9-2

The comment does not address the adequacy of the Draft EIR. The comment has been noted for the record and will be forwarded to the decision-makers for their consideration.

3. Revisions to the Draft EIR Text

3. REVISIONS TO THE DRAFT EIR TEXT

3.1 INTRODUCTION

The Revisions to the Draft EIR Text chapter presents minor corrections, additions, and revisions made to the Draft EIR published by the Lead Agency (City of Oroville).

The changes represent minor clarifications/amplifications of the analysis contained in the Draft EIR and do not constitute significant new information that, in accordance with CEQA Guidelines, Section 15088.5, would trigger the need to recirculate portions or all of the Draft EIR.

3.2 DESCRIPTION OF CHANGES

New text is double underlined and deleted text is ~~struck through~~. Text changes are presented in the page order in which they appear in the Draft EIR.

4.2 AIR QUALITY, GREENHOUSE GAS EMISSIONS, AND ENERGY

Page 4.2-10 in Chapter 4.2, Air Quality, Greenhouse Gas Emissions, and Energy, of the Draft EIR is hereby revised as follows:

> As presented in Table 4.2-3, BCAQMD is designated non-attainment for the federal ~~and State~~ 8-hour ozone, ~~the State 1-hour ozone,~~ State 24-hour PM_{10} standard~~, and State annual $PM_{2.5}$~~, and designated nonattainment-transitional for the State 1-hour Ozone and State 8-hour ozone. It should be noted that PM_{10} incorporates all fine particulate matter less than 10 microns in diameter and, as a result, $PM_{2.5}$ is accounted for within the BCAQMD PM_{10} standards, discussed below. Due to the nonattainment designations, the BCAQMD, along with the other air districts in the SVAB region, is required to develop plans to attain the federal and State standards for ozone and particulate matter. The air quality plans include emissions inventories to measure the sources of air pollutants to evaluate how well different control measures have worked, and show how air pollution would be reduced. In addition, the plans include the estimated future levels of pollution to ensure that the area would meet air quality goals. Each of the attainment plans currently in effect are discussed in further detail in the Regulatory Context section of this chapter.

Table 4.2-3
Butte County Attainment Status Designations

Pollutant	California Standards	Federal Standards
1-hour Ozone	**Nonattainment-Transitional**	--
8-hour Ozone	**Nonattainment-Transitional**	**Nonattainment**
Carbon Monoxide	Attainment	Attainment
Nitrogen Dioxide	Attainment	Attainment
Sulfur Dioxide	Attainment	Attainment
24-hour Respirable Particulate Matter (PM_{10})	**Nonattainment**	Attainment

Table 4.2-3
Butte County Attainment Status Designations

Pollutant	California Standards	Federal Standards
24-hour Fine Particulate Matter ($PM_{2.5}$)	--	Attainment
Annual PM_{10}	Attainment	--
Annual $PM_{2.5}$	~~**Nonattainment**~~ Attainment	Attainment

***Source:** Butte County Air Quality Management District. Air Quality Standards & Air Pollutants. Available at: ~~https://bcaqmd.org/planning/air-quality-standards-air-pollutants/~~ https://www.bcaqmd.org/air-quality-standards-attainment-planning. Accessed ~~June 2024~~ March 2025.*

The aforementioned attainment status of ozone and $PM_{2.5}$ is referenced in several locations throughout the Draft EIR. The revisions presented above are hereby applied to all such similar attainment discussions throughout the Draft EIR.

Pages 4.2-39 and 4.2-40 in Chapter 4.2, Air Quality, Greenhouse Gas Emissions, and Energy, of the Draft EIR are hereby revised as follows:

> CalEEMod is a statewide model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify air quality emissions from land use projects. The model applies inherent default values for various land uses, including trip generation rates based on the Institute of Transportation Engineers (ITE) Manual, vehicle mix, trip length, average speed, etc. However, where project-specific data was available, such data was input into the model. CalEEMod was used to estimate emissions associated with construction of all on-site structures, as well as site preparation, grading, and paving activities. Construction was assumed to commence in June 2024,[3] and occur over an approximately ~~one-year~~ 18-month period. In addition, the site preparation, grading, paving, and building construction phase timing was adjusted consistent with construction phase timing assumed for similar industrial development projects as the proposed project, and based on typical construction practices, the architectural coating phase of construction was assumed to begin two weeks after the commencement of the building construction phase and occur over a similar number of days. Demolition was not assumed to occur, as the project site is currently undeveloped.

Page 4.2-56 in Chapter 4.2, Air Quality, Greenhouse Gas Emissions, and Energy, of the Draft EIR are hereby revised as follows:

> *4.2-3* *If the total cumulative square footage onsite does not exceed 1,555,900 sf, further mitigation is not required. The following requirement shall apply to all warehouse buildings that result in a cumulative total on-site square footage of 1,555,901 sf or greater:*
>
> *Prior to occupancy ~~of the last two of the four proposed warehouse buildings~~, the tenants shall provide proof of electrification of their heavy-duty truck fleet, and/or other options as technology become available, such that the DPM emissions and the combined resulting cancer risk associated with the ~~remaining two~~ all warehouse buildings that result in a cumulative total on-site square footage of 1,555,901 sf or greater would not exceed 2.52 risks per million persons. If neighboring residences agree to the project applicant*

installing MERV 13 filters at their residences, the fleet mix may be adjusted accordingly.

The aforementioned requirements shall be included in lease and purchase agreements for the warehouse buildings. Documentation of the requirements contained in the lease/purchase agreements, as well as recordkeeping of the heavy-duty truck fleet information to demonstrate compliance with such requirements shall be provided to the City of Oroville Community Development Department for review and approval.

In the event that there is a disruption in the manufacturing of zero emission heavy-duty trucks or that sufficient vehicles are not commercially available, implementation of this mitigation measure would be rendered infeasible, and further pursuit of implementation shall not be required.

The foregoing minor changes are for clarification purposes only and do not affect the adequacy or conclusions of the environmental analysis contained in the Draft EIR.

4.3 BIOLOGICAL RESOURCES

Page 4.3-36 in Chapter 4.3, Biological Resources, of the Draft EIR is hereby revised as follows:

4.3-1 *If construction has not commenced prior to the first day of spring 2025 (March 19, 2025), a new round of special-status plant surveys shall be conducted by a qualified botanist throughout the blooming period in areas proposed for disturbance, prior to the commencement of construction. Prior to conducting surveys on-site, the qualified botanist shall visit a local reference population and confirm that the species to be surveyed are present and identifiable.*

The surveys shall be conducted in accordance with the USFWS Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed, and Candidate Plants, the CNPS Botanical Survey Guidelines of the California Native Plant Society, and Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. If special-status plant species are not found, further mitigation shall not be required.

If special-status plants are found within the proposed impact area and they are perennials such as big-scale balsamroot, then mitigation shall consist of digging up the plants and transplanting them into a suitable avoided area on-site prior to construction. If the plant found is an annual such as dwarf downingia, then mitigation shall consist of collecting seed-bearing soil and spreading it into a suitable constructed wetland at a mitigation site. If special-status plants are impacted, a mitigation plan shall be developed by a qualified botanist and approved by the City of Oroville Community Development Department in consultation with the CDFW no later than 120 days prior to the start of construction activities. The mitigation plan shall describe the proposed mitigation for impacts to the plant species, and include (at minimum) details regarding the plan area, survey methods, surveyor qualifications, occurrence and species details, proposed relocation methods and locations, long-term monitoring, success criteria, monitoring, reporting, and contingency in case of failure. If the special-

status plant species can be avoided, the mitigation plan shall include recommended protective buffers, construction monitoring, and post-construction monitoring. Mitigation for the transplantation/establishment of rare plants shall not result in the net loss of individual plants after a five-year monitoring period.

Pages 4.3-38 and 4.3-39 in Chapter 4.3, Biological Resources, of the Draft EIR are hereby revised as follows:

4.3-2(a) *Within seven days prior to the commencement of construction activities during the nesting season for Swanson's hawk (between March 1 and September 15), a qualified biologist shall conduct protocol-level pre-construction surveys within at least two of the recommended survey periods within the nesting season that coincides with the commencement of construction activities, in accordance with the Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California (CDFW 1994) and the Swainson's Hawk Technical Advisory Committee's (TAC) Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (2000). At least one survey shall be conducted within each survey period selected; the dates should be adjusted in consideration of early or late nesting seasons for the year in which the surveys are conducted. Surveys should start early in the nesting season to maximize the likelihood to detecting an active nest as nests, adults, and chicks are more difficult to detect later in the season as vegetation increases. If the final survey is completed more than seven days prior to initiation of construction, an additional survey shall be conducted within seven days of the start of construction to ensure that nesting has not been initiated within the intervening time. The qualified biologist shall conduct surveys for nesting Swainson's hawk within 0.5-miles ~~500 feet~~ of the project site, where legally permitted. The qualified biologist shall use binoculars to visually determine whether Swainson's hawk nests occur within the 0.5-mile ~~500-foot~~ survey area, if access is denied on adjacent properties. In addition, the qualified biologist shall conduct an additional CNDDB query immediately prior to land-clearing activities to confirm new known nest sites do not occur within a 10-mile radius of the project site. Surveys shall be conducted annually for the duration of the project. The qualified biologist shall have a minimum of two years of experience implementing the TAC survey methodology.*

If active Swainson's hawk nests are not identified on or within 0.5-miles ~~500 feet~~ of the project site within the recommended survey periods, a letter report summarizing the survey results shall be submitted to the City of Oroville within 30 days following the final survey, and further avoidance and minimization measures for nesting habitat are not required.

If active Swainson's hawk nests are found within 0.5-miles ~~500 feet~~ of construction activities, the qualified biologist shall contact the City of Oroville within one business day following the pre-construction survey to report the findings. For the purposes of this mitigation measure, construction activities are defined to include heavy equipment operation associated with vegetation clearing, grading, construction (use of cranes or draglines, new rock crushing) or other project-related activities that could cause nest abandonment or forced fledging within 0.5-miles ~~500 feet~~

of a nest site between March 1 and September 15. Should an active nest be present within 0.5-miles ~~500 feet~~ of the construction area, the City of Oroville shall be consulted to establish a take avoidance plan. Such a plan could include measures such as establishment of a construction setback, placement of high-visibility construction fencing along the setback boundaries, and monitoring of the nest during construction activities. A minimum 0.25-mile protective buffer shall be maintained around the nest until the young fledge. The protective buffer shall be clearly marked and project-related activities and construction personnel shall not be allowed within the buffer. If the minimum 0.25-mile buffer must be reduced or take of Swainson's hawk cannot be avoided, an Incidental Take Permit (ITP) shall be obtained. The qualified biologist shall have the authority to stop construction activities if the hawks show signs of distress; if this occurs, construction may not resume until the City of Oroville is consulted and the construction setback is increased or other take-avoidance measures are modified. A letter report summarizing the survey results and describing implementation of the take avoidance measures will be submitted to the City of Oroville within 30 days of the final monitoring event. Further avoidance and minimization measures for nesting habitat would not be required after submittal of the report.

The foregoing minor changes are for clarification purposes only and do not affect the adequacy or conclusions of the environmental analysis contained in the Draft EIR.

4.4 CULTURAL AND TRIBAL CULTURAL RESOURCES

Page 4.4-1 in Chapter 4.4, Cultural and Tribal Cultural Resources, of the Draft EIR is hereby revised as follows:

[1] ~~Genesis Society. *Archaeological Inventory Survey.* June 4, 2022~~. Natural Investigations Company. *Cultural Resources Investigations for the Ophir Road Warehouse Project Oroville, Butte County, California.* January 2023.

The foregoing minor change is for clarification purposes only and does not affect the adequacy or conclusions of the environmental analysis contained in the Draft EIR.

4.7 NOISE

Table 4.7-8 on page 4.7-17 in Chapter 4.7, Noise, of the Draft EIR is hereby revised as follows:

Table 4.7-8
Project-Related Traffic Noise Level Increases

Roadway	Segment	Predicted Exterior Noise Level at Closest Sensitive Receptors (dBA L_{dn})				
		Existing No Project	Existing + Project	Change	Criteria	Significant?
Ophir Road*	West of Baggett Marysville Road	63.1	~~64.6~~ 66.0	~~1.5~~ 2.9	+3.0	No
Ophir Road*	East of Kusel Road	53.6	53.7	0.1	+5.0	No
Baggett Marysville Road	East of Baggett Palermo Road	48.9	52.5	3.5	+5.0	No

Table 4.7-8
Project-Related Traffic Noise Level Increases

Roadway	Segment	Predicted Exterior Noise Level at Closest Sensitive Receptors (dBA L_{dn})				
		Existing No Project	Existing + Project	Change	Criteria	Significant?
Georgia Pacific Way	East of Merde Avenue	46.2	50.8	4.6	+5.0	No
Lone Tree Road*	South of Serene Lane	52.6	53.6	1.1	+5.0	No
I-70*	South of Ophir Road	60.0	60.6	0.6	+5.0	No
I-70*	South of Palermo Road	57.7	58.2	0.6	+5.0	No
* Road segment is located within unincorporated Butte County, outside of the City boundaries.						
Source: Saxelby Acoustics, LLC., ~~2023~~ 2025.						

Page 4.7-18 in Chapter 4.7, Noise, of the Draft EIR is hereby revised as follows:

> The existing ambient noise level at the nearest sensitive receptor along Baggett Marysville Road is 48.9 dBA; thus, the allowable increase in noise levels along the road segment is five dB. As shown in Table 4.7-8, above, development of the proposed project would result in a maximum noise level increase of 3.5 dBA along Baggett Marysville Road, which is below the maximum allowable increase in noise level. The highest existing ambient noise level in the project vicinity, 63.1 dBA, occurs along Ophir Road, west of Baggett Marysville Road. The noise level increase along Ophir Road is predicted to be ~~1.5~~ 2.9 dBA, which is less than the applicable significant increase criterion of three dB. The greatest noise level increase resulting from development of the proposed project would be an increase of 4.6 dBA along Georgia Pacific Way, near the proposed project driveway. The existing ambient noise level at the nearest sensitive receptor along Georgia Pacific Way is 46.2 dBA; as such, the increase of 4.6 dBA is less than the five dB allowable increase. As shown in Table 4.7-8, project-related traffic noise level increases at all other segments fall below the applicable significant increase criteria. Therefore, the increase in traffic noise levels at existing sensitive receptors due to the proposed project would be considered less than significant.

The foregoing minor changes are for clarification purposes only and do not affect the adequacy or conclusions of the environmental analysis contained in the Draft EIR.

8 REFERENCES

Page 8-3 in Chapter 8, References, of the Draft EIR is hereby revised as follows:

> 60. ~~Genesis Society. *Archaeological Inventory Survey.* June 4, 2022.~~ Natural Investigations Company. *Cultural Resources Investigations for the Ophir Road Warehouse Project Oroville, Butte County, California.* January 2023.

Page 8-5 in Chapter 8, References, of the Draft EIR is hereby revised as follows:

> ~~99. United States Census Bureau. *QuickFacts: Livermore city, California*. Available at: https://www.census.gov/quickfacts/livermorecitycalifornia. Accessed May 2023.~~

The foregoing minor changes are for clarification purposes only and do not affect the adequacy or conclusions of the environmental analysis contained in the Draft EIR.

4. Mitigation Monitoring and Reporting Program

4. MITIGATION MONITORING AND REPORTING PROGRAM

4.1 INTRODUCTION

Section 15097 of the California Environmental Quality Act (CEQA) requires all State and local agencies to establish monitoring or reporting programs for projects approved by a public agency whenever approval involves the adoption of either a "mitigated negative declaration" or specified environmental findings related to environmental impact reports.

The following is the Mitigation Monitoring and Reporting Program (MMRP) for the Ophir Road Warehouse Project (proposed project). The intent of the MMRP is to ensure implementation of the mitigation measures identified within the EIR for the proposed project. Unless otherwise noted, the cost of implementing the mitigation measures as prescribed by this MMRP shall be funded by the applicant.

4.2 COMPLIANCE CHECKLIST

The MMRP contained herein is intended to satisfy the requirements of CEQA as they relate to the EIR prepared for the proposed project. This MMRP is intended to be used by the City of Oroville staff and mitigation monitoring personnel to ensure compliance with mitigation measures during project implementation. Mitigation measures identified in this MMRP were developed in the EIR.

The EIR presents a detailed set of mitigation measures that will be implemented throughout the lifetime of the project. Mitigation is defined by CEQA Guidelines, Section 15370, as a measure that:

- Avoids the impact altogether by not taking a certain action or parts of an action;
- Minimizes impacts by limiting the degree or magnitude of the action and its implementation;
- Rectifies the impact by repairing, rehabilitating, or restoring the impacted environment;
- Reduces or eliminates the impact over time by preservation and maintenance operations during the life of the project; or
- Compensates for the impact by replacing or providing substitute resources or environments.

The intent of the MMRP is to ensure the implementation of adopted mitigation measures. The MMRP will provide for monitoring of construction activities as necessary and in-the-field identification and resolution of environmental concerns.

Monitoring and documenting the implementation of mitigation measures will be coordinated by the City of Oroville. The table attached to this report identifies the mitigation measures, the monitoring action for each mitigation measure, the responsible party for the monitoring action, and timing of the monitoring action. The applicant will be responsible for fully understanding and

effectively implementing the mitigation measures contained within the MMRP. The City of Oroville will be responsible for monitoring compliance.

4.3 DESCRIPTION OF CHANGES

Based on the comments received, there are a few minor corrections, additions and revisions to the MMRP. New text is double underlined and deleted text is ~~struck through~~. The entire edited MMRP is provided in this chapter. None of the changes constitute significant new information that would trigger the need to recirculate the document.

4.3 MITIGATION MONITORING AND REPORTING PROGRAM

The following table indicates the mitigation measure number, the impact the measure is designed to address, the measure text, the monitoring agency, implementation schedule, and an area for sign-off indicating compliance.

MITIGATION MONITORING AND REPORTING PROGRAM Ophir Road Warehouse Project					
Impact Number	**Impact**	**Mitigation Measures**	**Monitoring Agency**	**Implementation Schedule**	**Sign-off**
4.1 Aesthetics					
4.1-3	Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.	*4.1-3* *Prior to improvement plan approval, the project applicant shall submit a lighting plan to the City of Oroville Community Development Department for review and approval demonstrating that the proposed lighting is Dark-Sky compliant as specified by the International Dark-Sky Association, as well as applicable standards established by the City of Oroville Design Guidelines. The lighting plan shall include, but not necessarily be limited to, the following provisions:* • *Shield or screen lighting fixtures to direct the light downward and prevent light spill on adjacent properties;* • *Place and shield or screen flood and area lighting needed for construction activities and/or security so as not to disturb adjacent residential areas and passing motorists;* • *For public lighting, prohibit the use of light fixtures that are of unusually high intensity or brightness (e.g., harsh mercury vapor, low-pressure sodium, or fluorescent bulbs) or that blink or flash; and* • *Use appropriate building materials (such as low-glare glass, low-glare building glaze or finish, neutral, earth-toned colored paint and roofing materials), shielded or screened lighting, and appropriate signage to*	City of Oroville Community Development Department	Prior to Improvement Plan approval	

MITIGATION MONITORING AND REPORTING PROGRAM Ophir Road Warehouse Project					
Impact Number	**Impact**	**Mitigation Measures**	**Monitoring Agency**	**Implementation Schedule**	**Sign-off**
		prevent light and glare from adversely affecting motorists on nearby roadways			
4.2 Air Quality, Greenhouse Gas Emissions, and Energy					
4.2-1	Conflict with or obstruct implementation of the applicable air quality plan during project construction.	*4.2-1(a) Prior to approval of any Improvement Plans, the project applicant shall provide proof of compliance with the following to the satisfaction of the City of Oroville Community Development Department:* *The project applicant shall show on the plans via notation that the contractor shall ensure that the heavy-duty off-road vehicles (50 horsepower or more) to be used in the construction of the off-site roadway improvements, including owned, leased, and subcontractor vehicles, shall be a combination of engine Tier 3 or Tier 4 off-road construction equipment, or hybrid, electric, or alternatively fueled equipment (or any combination of the above), and/or all on-road heavy-duty haul trucks be model year 2010 or newer, sufficient to achieve a fleet-wide average reduction in construction-related NOX emissions to below the applicable BCAQMD thresholds of significance (137 lbs/day and 4.5 tons/yr). For instance, the emissions presented in Table 4.2-9 were achieved by requiring all equipment used during construction to be engine Tier 4 final and all on-road heavy-duty haul trucks to be model year 2010 or newer.*	City of Oroville Community Development Department	Prior to approval of any Improvement Plans	

MITIGATION MONITORING AND REPORTING PROGRAM Ophir Road Warehouse Project					
Impact Number	**Impact**	**Mitigation Measures**	**Monitoring Agency**	**Implementation Schedule**	**Sign-off**
		In addition, all off-road equipment operating at the construction site must be maintained in proper working condition according to manufacturer's specifications. Idling shall be limited to five minutes or less in accordance with the In-Use Off-Road Diesel Vehicle Regulation as required by CARB. Clear signage regarding idling restrictions shall be placed at the entrances to the construction site. *Portable equipment over 50 horsepower must have either a valid BCAQMD Permit to Operate (PTO) or a valid statewide Portable Equipment Registration Program (PERP) placard and sticker issued by CARB.* *Conformance with the foregoing requirements shall be included as notes and be confirmed through review and approval of grading plans by the City of Oroville Community Development Department.*			
		4.2-1(b) The project applicant shall show on Improvement Plans via notation that the project contractor shall restrict all construction of the off-site roadway improvements from occurring simultaneously with all other components of the proposed project (i.e., on-site construction, construction of the off-site water line improvements, and construction of	City of Oroville Community Development Department	Prior to approval of any Improvement Plans	

MITIGATION MONITORING AND REPORTING PROGRAM Ophir Road Warehouse Project						
Impact Number	**Impact**	**Mitigation Measures**		**Monitoring Agency**	**Implementation Schedule**	**Sign-off**
			the off-site sewer line improvements). Conformance with this requirement shall be confirmed through review and approval of plans by the City of Oroville Community Development Department .			
4.2.2	Conflict with or obstruct implementation of the applicable air quality plan during project operation.	*4.2-2(a)*	*Prior to approval of any Improvement Plans, the project applicant shall provide proof of compliance with the following to the satisfaction of the City of Oroville Community Development Department:* • *The project applicant shall show on the Improvement Plans via notation that all off-road equipment (i.e., forklifts) to be used during operations of the proposed project shall be electric.*	City of Oroville Community Development Department	Prior to approval of any Improvement Plans	
		4.2-2(b)	*The project applicant shall participate in an Off-site Mitigation Program coordinated through BCAQMD to offset the project's contribution of ROG and NOX pollutants that exceed the BCAQMD thresholds of significance. The total payment for the proposed project is estimated to be up to $771,120.00, which would be sufficient to reduce the total ROG and NOX emissions of the proposed project to below the BCAQMD applicable thresholds of significance. Prior to issuance of the first certificate of occupancy for each phase of development, the project applicant shall pay the fee amount proportionate to said phase to BCAQMD, or, if the project is not phased, the total payment for*	Butte County Air Quality Management District and City of Oroville Community Development Department	Prior to issuance of the first certificate of occupancy for each phase of development or prior to issuance of the first certificate of occupancy if project is not phased	

MITIGATION MONITORING AND REPORTING PROGRAM Ophir Road Warehouse Project						
Impact Number	**Impact**	**Mitigation Measures**		**Monitoring Agency**	**Implementation Schedule**	**Sign-off**
			the project shall be made prior to issuance of the first certificate of occupancy. Proof of payment(s) shall be submitted to the City of Oroville Community Development Department. The final details of the Off-site Mitigation Program shall be determined in coordination with, and reviewed and approved by, the BCAQMD and the City of Oroville Community Development Department.			
4.2-3	Expose sensitive receptors to substantial pollutant concentrations.	*4.2-3*	*If the total cumulative square footage onsite does not exceed 1,555,900 sf, further mitigation is not required. The following requirement shall apply to all warehouse buildings that result in a cumulative total on-site square footage of 1,555,901 sf or greater:* *Prior to occupancy, the tenants shall provide proof of electrification of their heavy-duty truck fleet, and/or other options as technology become available, such that the DPM emissions and the combined resulting cancer risk associated with all warehouse buildings that result in a cumulative total on-site square footage of 1,555,901 sf or greater would not exceed 2.52 risks per million persons. If neighboring residences agree to the project applicant installing MERV 13 filters at their residences, the fleet mix may be adjusted accordingly.* *The aforementioned requirements shall be included in lease and purchase agreements for the warehouse buildings. Documentation of the requirements contained in the*	City of Oroville Community Development Department	Prior to the occupancy of all warehouse buildings that result in a cumulative total on-site square footage of 1,555,901 sf or greater	

MITIGATION MONITORING AND REPORTING PROGRAM Ophir Road Warehouse Project						
Impact Number	**Impact**	**Mitigation Measures**		**Monitoring Agency**	**Implementation Schedule**	**Sign-off**
			lease/purchase agreements, as well as recordkeeping of the heavy-duty truck fleet information to demonstrate compliance with such requirements shall be provided to the City of Oroville Community Development Department for review and approval. *In the event that there is a disruption in the manufacturing of zero emission heavy-duty trucks or that sufficient vehicles are not commercially available, implementation of this mitigation measure would be rendered infeasible, and further pursuit of implementation shall not be required*			
4.2-6	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or State ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).	*4.2-6*	*Implement Mitigation Measure 4.2-1(a), 4.2-1(b), 4.2-2(a), and 4.2-2(b).*	See Mitigation Measure 4.2-1(a), 4.2-1(b), 4.2-2(a), and 4.2-2(b)	See Mitigation Measure 4.2-1(a), 4.2-1(b), 4.2-2(a), and 4.2-2(b)	
4.2-7	Generation of GHG emissions that may have a significant impact on the environment or conflict with an applicable plan, policy or regulation of an agency adopted for the purpose	*4.2-7(a)*	*The following requirements shall be noted on project improvement plans, subject to review and approval by the City of Oroville Community Development Department:* • *The project contractor shall ensure that 25 percent of the heavy-duty off-road vehicles (50 horsepower or*	City of Oroville Community Development Department	Prior to approval of any Improvement Plans	

MITIGATION MONITORING AND REPORTING PROGRAM Ophir Road Warehouse Project					
Impact Number	**Impact**	**Mitigation Measures**	**Monitoring Agency**	**Implementation Schedule**	**Sign-off**
	of reducing the emissions of GHGs.	*more) to be used in the construction of the proposed project, including owned, leased, and subcontractor vehicles, shall be electric.* • *Natural gas usage and infrastructure shall be prohibited for all proposed structures.* *4.7-2(b) Implement Mitigation Measure 4.9-2.*	See Mitigation Measure 4.9-2	See Mitigation Measure 4.9-2	
4.3 Biological Resources					
4.3-1	Impacts to special-status plant species either directly (e.g., threaten to eliminate a plant community) or through substantial habitat modifications.	*4.3-1 If construction has not commenced prior to the first day of spring 2025 (March 19, 2025), a new round of special-status plant surveys shall be conducted by a qualified botanist throughout the blooming period in areas proposed for disturbance, prior to the commencement of construction. Prior to conducting surveys on-site, the qualified botanist shall visit a local reference population and confirm that the species to be surveyed are present and identifiable.* *The surveys shall be conducted in accordance with the USFWS Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed, and Candidate Plants, the CNPS Botanical Survey Guidelines of the California Native Plant Society, and Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. If*	City of Oroville Community Development Department	Prior to the commencement of construction if construction has not commenced prior to the first day of spring 2025 (March 19, 2025)	

MITIGATION MONITORING AND REPORTING PROGRAM Ophir Road Warehouse Project					
Impact Number	**Impact**	**Mitigation Measures**	**Monitoring Agency**	**Implementation Schedule**	**Sign-off**
		special-status plant species are not found, further mitigation shall not be required. *If special-status plants are found within the proposed impact area and they are perennials such as big-scale balsamroot, then mitigation shall consist of digging up the plants and transplanting them into a suitable avoided area on-site prior to construction. If the plant found is an annual such as dwarf downingia, then mitigation shall consist of collecting seed-bearing soil and spreading it into a suitable constructed wetland at a mitigation site. If special-status plants are impacted, a mitigation plan shall be developed by a qualified botanist and approved by the City of Oroville Community Development Department in consultation with the CDFW no later than 120 days prior to the start of construction activities. The mitigation plan shall describe the proposed mitigation for impacts to the plant species, and include (at minimum) details regarding the plan area, survey methods, surveyor qualifications, occurrence and species details, proposed relocation methods and locations, long-term monitoring, success criteria, monitoring, reporting, and contingency in case of failure. If the special-status plant species can be avoided, the mitigation plan shall include recommended protective buffers, construction monitoring, and post-construction monitoring. Mitigation for the transplantation/establishment of rare plants shall not result in the net loss of individual plants after a five-year monitoring period.*			

MITIGATION MONITORING AND REPORTING PROGRAM Ophir Road Warehouse Project					
Impact Number	**Impact**	**Mitigation Measures**	**Monitoring Agency**	**Implementation Schedule**	**Sign-off**
4.3-2	Have a substantial adverse effect, either directly or through habitat modifications, on special-status wildlife species.	*Swainson's Hawk* *4.3-2(a) Within seven days prior to the commencement of construction activities during the nesting season for Swanson's hawk (between March 1 and September 15), a qualified biologist shall conduct protocol-level pre-construction surveys within at least two of the recommended survey periods within the nesting season that coincides with the commencement of construction activities, in accordance with the Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California (CDFW 1994) and the Swainson's Hawk Technical Advisory Committee's (TAC) Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (2000). At least one survey shall be conducted within each survey period selected; the dates should be adjusted in consideration of early or late nesting seasons for the year in which the surveys are conducted. Surveys should start early in the nesting season to maximize the likelihood of detecting an active nest as nests, adults, and chicks are more difficult to detect later in the season as vegetation increases. If the final survey is completed more than seven days prior to initiation of construction, an additional survey shall be conducted within seven days of the start of construction to ensure that nesting has not been initiated within the intervening time. The qualified biologist shall conduct surveys for nesting Swainson's hawk within 0.5-mile of the project*	City of Oroville Community Development Department	Within seven days prior to the commencement of construction activities during the nesting season for Swanson's hawk (between March 1 and September 15)	

MITIGATION MONITORING AND REPORTING PROGRAM Ophir Road Warehouse Project					
Impact Number	**Impact**	**Mitigation Measures**	**Monitoring Agency**	**Implementation Schedule**	**Sign-off**
		site, where legally permitted. The qualified biologist shall use binoculars to visually determine whether Swainson's hawk nests occur within the 0.5-mile survey area, if access is denied on adjacent properties. In addition, the qualified biologist shall conduct an additional CNDDB query immediately prior to land-clearing activities to confirm there are no new known nest sites within a 10-mile radius of the project site. Surveys shall be conducted annually for the duration of the project. The qualified biologist shall have a minimum of two years of experience implementing the TAC survey methodology. *If active Swainson's hawk nests are not identified on or within 0.5-mile of the project site within the recommended survey periods, a letter report summarizing the survey results shall be submitted to the City of Oroville within 30 days following the final survey, and no further avoidance and minimization measures for nesting habitat are required.* *If active Swainson's hawk nests are found within 0.5-mile of construction activities, the qualified biologist shall contact the City of Oroville within one business day following the pre-construction survey to report the findings. For the purposes of this mitigation measure, construction activities are defined to include heavy equipment operation associated with vegetation clearing, grading, construction (use of cranes or draglines, new rock crushing) or*			

MITIGATION MONITORING AND REPORTING PROGRAM Ophir Road Warehouse Project					
Impact Number	**Impact**	**Mitigation Measures**	**Monitoring Agency**	**Implementation Schedule**	**Sign-off**
		other project-related activities that could cause nest abandonment or forced fledging within 0.5-mile of a nest site between March 1 and September 15. Should an active nest be present within 0.5-mile of the construction area, the City of Oroville shall be consulted to establish a take avoidance plan. Such a plan could include measures such as establishment of a construction setback, placement of high-visibility construction fencing along the setback boundaries, and monitoring of the nest during construction activities. A minimum 0.25-mile protective buffer shall be maintained around the nest until the young fledge. The protective buffer shall be clearly marked and project-related activities and construction personnel shall not be allowed within the buffer. If the minimum 0.25-mile buffer must be reduced or take of Swainson's hawk cannot be avoided, an Incidental Take Permit (ITP) shall be obtained. The qualified biologist shall have the authority to stop construction activities if the hawks show signs of distress; if this occurs, construction may not resume until the City of Oroville is consulted and the construction setback is increased or other take-avoidance measures are modified. A letter report summarizing the survey results and describing implementation of the take avoidance measures will be submitted to the City of Oroville within 30 days of the final monitoring event. No further avoidance and minimization measures for nesting habitat would be			

MITIGATION MONITORING AND REPORTING PROGRAM Ophir Road Warehouse Project					
Impact Number	**Impact**	**Mitigation Measures**	**Monitoring Agency**	**Implementation Schedule**	**Sign-off**
		required after submittal of the report. *Vernal Pool Crustaceans* *4.3-2(b) Prior to any ground disturbance on-site, the southern portion of the project site shall be dedicated as a conservation easement and construction activities will not occur within 250 feet of the vernal pool in the southwest corner of the site (the only on-site wetland feature likely to support special-status invertebrates). The area shall be fenced and flagged to prevent access.* *The proposed project shall include a copy of the Biological Opinion (BO) provided by the U.S. Fish & Wildlife Service, as applicable, within its construction documents making the primary contractor responsible for implementing all requirements and obligations included within the BO, and to educate and inform all other contractors involved in the Project as to the requirements of the BO. Proof of compliance with this measure, including a copy of the BO, shall be submitted for review and approval to the City of Oroville Community Development Department.* *Nesting Birds and Raptors* *4.3-2(c) If project construction begins during the nesting season (February 1 to August 31), a qualified biologist shall conduct a nesting bird survey within 7 days prior to construction activities. A separate preconstruction survey*	City of Oroville Community Development Department City of Oroville Community Development Department	Prior to any ground disturbance on-site Within seven days prior to construction activities if project construction begins during the nesting	

MITIGATION MONITORING AND REPORTING PROGRAM Ophir Road Warehouse Project					
Impact Number	**Impact**	**Mitigation Measures**	**Monitoring Agency**	**Implementation Schedule**	**Sign-off**
		shall be conducted for the project site if the components of the project are not constructed concurrently. The nesting bird survey shall include walking transects to search for ground nesting birds, and an examination of all trees on-site and within all accessible areas within 200 feet of the entire project site (i.e., within a zone of influence of nesting birds). If nesting birds are not found within the project site or adjacent areas, further mitigation shall not be required. *If migratory birds are identified nesting on or within the zone of influence, the Wildlife Agencies shall be notified immediately of nest locations. A qualified biologist shall establish a temporary protective nest buffer around the nest(s). The nest buffer shall be staked with orange construction fencing. The buffer must be of sufficient size to protect the nesting site from construction-related disturbance and shall be established by a qualified ornithologist or biologist with extensive experience working with nesting birds near and on construction sites. Typically, adequate nesting buffers are 75 feet from the nest site or nest tree dripline for small birds and up to 300 feet for sensitive nesting birds. Upon completion of nesting surveys, if nesting birds are identified on or within a zone of influence of the project site, a qualified ornithologist/biologist that frequently works with nesting birds shall prescribe adequate nesting buffers to protect the nesting birds from harm while the project is*		season (February 1 to August 31)	

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		constructed. *Construction or earth-moving activity shall not occur within any established nest protection buffer prior to September 1 unless a qualified ornithologist/biologist determines that the young have fledged and have attained sufficient flight skills to avoid project construction zones, or that the nesting cycle is otherwise completed. In the region of the project site, most species complete nesting by mid-July; however, the date may be significantly earlier or later, and would have to be determined by the qualified biologist. At the end of the nesting cycle, and fledging from the nest by its occupants, as determined by a qualified biologist, temporary nesting buffers may be removed and construction may commence in established nesting buffers without further regard for the nest site. If active nesting buffers are established and a biologist does not confirm that the nesting cycle is completed, then the nesting buffers must be maintained until the end of the CDFW recognized nesting season (August 31).* *Should construction activities cause a nesting bird to do any of the following in a way that would be considered a result of construction activities, then the exclusionary buffer shall be increased such that activities are far enough from the nest to stop the following agitated behavior: vocalize, make defensive flights at intruders, get up from a brooding position, or*			

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		fly off the nest. The revised non-disturbance buffer shall remain in place until the chicks have fledged or as otherwise determined by a qualified biologist in consultation with the City of Oroville. *A report detailing compliance with the provisions set forth herein shall be prepared by the qualified biologist and submitted for review and approval to the City of Oroville Community Development Department.*			
4.3-3	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS, or on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.	*4.3-3(a) Prior to the issuance of grading permits, the project applicant shall submit the Wetland Delineation report to USACE and the RWQCB for verification to firmly establish the boundaries and current jurisdictional status of the on-site aquatic features and Ophir Road ROW. If the roadside ditch is deemed non-jurisdictional by USACE and RWQCB, further mitigation shall not be required. If, on the other hand, the ditch is subject to USACE and/or RWQCB jurisdiction, then the applicant shall comply with applicable Conditions related to impacts to aquatic resources, as determined by the USACE and RWQCB.* *4.3-3(b) Prior to initiation of construction, the proposed project shall establish an approximately 35-acre conservation easement in the southern portion of the project site. The aim of this conservation easement is to avoid and protect the most valuable wetland features and sensitive natural communities, including all northern hardpan vernal pool habitat, 1.29*	United States Army Corps of Engineers (USACE) and the Regional Water Quality Control Board (RWQCB) City of Oroville Community Development Department	Prior to the issuance of grading permits Prior to initiation of construction	

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		acres of delineated vernal pool, 0.62-acre of vernal swale, approximately 2.09 acres of seasonal wetlands, and 0.96-acre of seasonal swale. The conservation easement shall also act as a buffer to protect adjacent habitats, such as the seasonal stock pond and eucalyptus grove south of the project site, as well as remnant oak woodland and riparian communities southeast of the site. The conservation easement area shall be fenced to prevent disturbance to potentially jurisdictional waters of the U.S. by construction crews and equipment.			
		4.3-3(c) Prior to initiation of construction activities, the contractor shall obtain permit authorization to fill wetlands under Section 404 of the federal CWA (Section 404 Permit) from USACE. As a condition of the USACE permit, 401 Water Quality Certification and Waste Discharge Requirements shall also be secured from Regional Water Quality Control Board (RWQCB). The California Department of Fish and Wildlife (CDFW) shall be notified of the project and confirm whether a Lake or Streambed Alteration permit is required. The Section 404 Permit application shall include an assessment of directly impacted, avoided, and preserved acreages to waters of the U.S. Mitigation measures shall be developed as part of the Section 404 Permit to ensure no net loss of wetland function and values. Mitigation for direct impacts to waters of the U.S. associated with the proposed project would	United States Army Corps of Engineers (USACE)	Prior to initiation of construction activities	

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			occur at a minimum of 1:1 ratio and shall be accomplished through the establishment of a 35-acre conservation easement in the southern portion of the project site, as well as any additional purchase of credits from an agency approved mitigation bank (potentially the Porter Ranch Mitigation Bank) if recommended by the USACE. A Mitigation Plan shall be prepared and submitted with permit application documents; however, final mitigation requirements shall be developed in consultation with USACE. In addition, a Water Quality Certification or waiver pursuant to Section 401 of the CWA must be obtained for Section 404 permit actions.			
4.3-5	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance, or have a substantial adverse effect on the environment by converting oak woodlands.	*4.3-5*	*Prior to project construction, a site-specific tree management and preservation report shall be prepared by a certified arborist or urban forester for the proposed project. The report shall include recommendations for the retention of healthy mature trees wherever feasible and shall promote the concept of oak regeneration corridors within project design. Proof of compliance with this measure, including a copy of the tree management and preservation report, shall be submitted for review and approval to the City of Oroville Community Development Department.*	City of Oroville Community Development Department	Prior to project construction	
4.4 Cultural and Tribal Cultural Resources						
4.4-2	Cause a substantial adverse change in the significance of a unique archeological resource pursuant to CEQA	*4.4-2*	*The following requirements shall be included through a notation on all project grading plans prior to the issuance of grading permits, to the satisfaction of the City Engineer:*	City of Oroville City Engineer	Prior to the issuance of grading permits and during project construction	

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	Guidelines, Section 15064.5 or disturb human remains, including those interred outside of dedicated cemeteries.	*In the event subsurface deposits believed to be cultural or human in origin are discovered during construction, all work shall halt within a 50-foot radius of the discovery. A qualified professional archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for precontact and historic archaeologist, shall be retained to evaluate the significance of the find, and shall have the authority to modify the no-work radius as appropriate, using professional judgment. The following notifications shall apply, depending on the nature of the find:* • *If the professional archaeologist determines that the find does not represent a cultural resource, work may resume immediately, and agency notifications are not required.* • *If the professional archaeologist determines that the find does represent a cultural resource from any time period or cultural affiliation, he or she shall immediately notify the City of Oroville and applicable landowner. The project applicant shall consult on a finding of eligibility and implement appropriate treatment measures, if the find is determined to be a Historical Resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines. Appropriate treatment measures that preserve or restore the character and integrity of a find may*			

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		be, but are not limited to, processing materials for reburial, minimizing handling of historical objects, leaving objects in place within the landscape, construction monitoring of further construction activities, and/or returning objects to a location within the project area where they will not be subject to future impacts. Work shall not resume within the no-work radius until the applicant, through consultation, as appropriate, determines that the site either: 1) is not a historical resource under CEQA, as defined in Section 15064.5(a) of the CEQA Guidelines; or 2) that the treatment measures have been completed to the City's satisfaction. • *If the find includes human remains, or remains that are potentially human, he or she shall ensure reasonable protection measures are taken to protect the discovery from disturbance (Assembly Bill [AB] 2641). The archaeologist shall notify the City of Oroville and the Butte County Coroner (per Section 7050.5 of the Health and Safety Code). The provisions of Section 7050.5 of the California Health and Safety Code, Section 5097.98 of the California PRC, and AB 2641 shall be implemented. If the Coroner determines the remains are*			

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		Native American and not the result of a crime scene, the Coroner shall notify the NAHC, which then shall designate a Native American Most Likely Descendant (MLD) for the proposed project (Section 5097.98 of the PRC). The designated MLD shall have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If the landowner does not agree with the recommendations of the MLD, the NAHC shall mediate (Section 5097.94 of the PRC). If an agreement is not reached, the landowner shall rebury the remains where they shall not be further disturbed (Section 5097.98 of the PRC). The burial shall also include either recording the site with the NAHC or the appropriate information center, using an open space or conservation zoning designation or easement, or recording a reinternment document with Butte County (AB 2641). Work shall not resume within the no-work radius until the City, through consultation as appropriate, determines that the treatment measures have been completed to their satisfaction.			
4.4-3	Cause a substantial adverse change in the significance of a tribal	*4.4-3 Implement Mitigation Measure 4.4-2.*	See Mitigation Measure 4.4-2	See Mitigation Measure 4.4-2	

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	cultural resource as defined in PRC Section 21074.					
4.5 Hazards and Hazardous Materials						
4.5-2	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment.	*4.5-2*	*Prior to any ground-disturbing activities, the project applicant shall hire a licensed contractor to obtain the applicable abandonment permit(s) from Butte County Public Health Department (BCPHD), and properly abandon the on-site groundwater monitoring wells for review and approval by the BCPHD.*	Butte County Public Health Department (BCPHD)	Prior to any ground-disturbing activities	
4.6 Hydrology and Water Quality						
4.6-1	Violate any water quality standards or waste discharge requirements, or otherwise substantially degrade water quality during construction.	*4.6-1*	*Prior to issuance of any grading permits, the contractor shall prepare a Storm Water Pollution Prevention Plan (SWPPP) for review and approval by the CVRWQCB. The contractor shall file the Notice of Intent (NOI) and associated fee to the SWRCB. The SWPPP shall serve as the framework for identification, assignment, and implementation of BMPs. The contractor shall implement BMPs to reduce pollutants in stormwater discharges to the maximum extent practicable. Construction (temporary) BMPs for the project may include, but are not limited to: fiber rolls, straw bale barrier, straw wattles, storm drain inlet protection, velocity dissipation devices, silt fences, wind erosion control, stabilized construction entrance, hydroseeding, revegetation techniques, and dust control measures. The SWPPP shall be submitted to*	City of Oroville Director of Public Works and the City Engineer	Prior to issuance of any grading permits	

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		both the City Director of Public Works and the City Engineer for review and approval and shall remain on the project site during all phases of construction. Following implementation of the SWPPP, the contractor shall subsequently demonstrate the SWPPP's effectiveness and provide for necessary and appropriate revisions, modifications, and improvements to reduce pollutants in stormwater discharges to the maximum extent practicable.			
4.6-2	Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality during operations.	*4.6-2(a) Prior to approval of final project improvement plans, a detailed Best Management Practice (BMP) and water quality maintenance plan shall be submitted to the City's Community Development Department and the City Engineer for review and approval as part of preparation of the project's Final Drainage Report. The BMP and water quality maintenance plan shall meet the standards of the California Stormwater Quality Association (CASQA) Stormwater BMP Handbook for New Development and Redevelopment. Site-design measures, source-control measures, hydromodification management, and Low-Impact Development (LID) standards, as necessary, shall be incorporated into the design and shown on the improvement plans.*	City of Oroville Community Development Department and the City Engineer	Prior to approval of final project Improvement Plans	
		4.6-2(b) Prior to approval of final project improvement plans, the applicant shall prepare and submit an acceptable Stormwater Control Operation and Maintenance Plan, identifying the maintenance entity for the project's storm	City of Oroville Community Development Department	Prior to approval of final project Improvement Plans	

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		drainage system and maintenance requirements, for review and approval to the City's Community Development Department. The Stormwater Control Operation and Maintenance Plan shall be incorporated into the project's Final Drainage Plan. Typical routine maintenance consists of the following: • *Limit the use of fertilizers and/or pesticides. Mosquito larvicides shall be applied only when absolutely necessary.* • *Visually inspect for ponding water to ensure that filtration is occurring.* • *After all major storm events, inspect basins to ensure that the system is functioning as intended and is not clogged.* • *Continue general landscape maintenance, including pruning and cleanup throughout the year.* • *Irrigate throughout the dry season. Irrigation shall be provided with sufficient quantity and frequency to allow plants to thrive.* • *Excavate, clean and or replace and screen or filter media to ensure ongoing infiltration.*			
4.6-4	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course	*4.6-4 As part of the Improvement Plan submittal process, the preliminary drainage report provided during environmental review shall be submitted in final format. The final drainage report may require more detail than that*	City of Oroville Community Development Department and the City	Prior to approval of project Improvement Plans	

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	of a stream or river or through the addition of impervious surfaces, in a manner which would: substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; or create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.	*provided in the preliminary report, and will be reviewed in concert with the Improvement Plans to confirm conformity between the two. The report shall be prepared by a Registered Civil Engineer and shall, at a minimum, include: written text addressing existing conditions; the effects of the proposed improvements; all appropriate calculations; watershed maps; changes in flows and patterns; and proposed on- and off-site improvements to accommodate flows from the project.* *The report shall identify water quality protection features and methods to be used during construction, as well as long-term post-construction water quality measures.* *The final drainage report shall be prepared in conformance with the requirements set forth by the City of Oroville at the time of Improvement Plan submittal and shall be approved by the City's Community Development Department, and the City Engineer.*	Engineer		
4.7 Noise					
4.7-1	Generation of a substantial temporary increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or	*4.7-1* *The following requirements shall be included in the project improvement plans prior to their approval by the City's Community Development Department:* • *Construction activities (excluding activities that would result in a safety concern to the public or construction*	City of Oroville Community Development Department	Prior to approval of project Improvement Plans	

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	applicable standards of other agencies.	*workers) shall be limited to between the hours of 7:00 AM and 9:00 PM Monday through Friday and 10:00 AM and 6:00 PM on Saturdays, Sundays, and holidays.* • *Construction equipment shall be properly maintained and equipped with noise-reduction intake and exhaust mufflers and engine shrouds, in accordance with manufacturers' recommendations. Equipment engine shrouds shall be closed during equipment operation.* • *When not in use, motorized construction equipment shall not be left idling for more than five minutes.* • *Stationary equipment (power generators, compressors, etc.) shall be located at the furthest practical distance from nearby noise-sensitive land uses or sufficiently shielded to reduce noise-related impacts.*			
4.7-2	Generation of a substantial permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.	*4.7-2 The following requirement shall be included in the project improvement plans, subject to approval by the City's Community Development Department:* • *The two western-most loading docks shall be restricted to allow non-refrigerated trailers only. All other loading docks may allow refrigerated trailer docking; or*	City of Oroville Community Development Department	Prior to approval of project Improvement Plans	

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		• *Restrict operation of the two western-most loading docks to daytime hours (7 AM to 7 PM).*			
4.9 Transportation					
4.9-2	Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b).	*4.9-2 Prior to issuance of building permits, the project applicant shall develop a TDM Plan, including two vehicle trip reduction strategies from Row A of Table 4.9-2, and one strategy from Row B. The TDM Plan shall be submitted for review and approval by the City of Oroville Public Works Department.*	City of Oroville Public Works Department	Prior to issuance of building permits	

Appendix A

June 2021 - San Joaquin Countywide Warehousing Data Collection									
Id	City	Customer	Prologis	# Driveways	Type	Square Feet	Employees	Daily Total Trip Rate	Daily Truck Trip Rate
501	Lathrop	California Logistics	Yes	3	Transload	1,235,000		1.52	0.30
502	Lathrop	Tesla, Inc.	Yes	1	Manufacturing	92,747		6.88	3.80
503	Manteca	Ford Motor Company	Yes	2	Transload	608,860		0.67	0.18
504	Stockton	Innovel Solutions Inc	Yes	2	Transload	780,393		0.60	0.25
505	Tracy	Hollingsworth Fulfillment	Yes	2	Fulfillment	795,732		0.35	0.11
506	Stockton	Pratt Corrugated Holdings	Yes	2	Transload	350,892		1.53	0.62
507	Stockton	HJ Heinz	Yes	2	Transload	500,199		0.75	0.31
508	Stockton	Prism Team Services, Inc.	Yes	3	Transload	443,640		0.61	0.32
509	Tracy	Leggett & Platt	Yes	1	Warehousing	158,065		1.62	0.26
510	Tracy	Orchard Supply Company	Yes	2	Transload	346,524		0.54	0.06
511	Stockton	Fox Head, Inc.	Yes	2	Transload	388,000		0.56	0.04
512	Stockton	General Mills Sales, Inc.	Yes	2	Transload	735,980		0.84	0.31
513	Stockton	Amazon.com Services, Inc.	Yes	2	Transload	388,183		1.35	0.62
514	Stockton	Pitney Bowes	Yes	2	Fulfillment	186,944		0.67	0.11
515	Stockton	Niagara Bottling, LLC	Yes	1	Transload	512,000		0.43	0.30
517	Stockton	Homesite Services, Inc.	Yes	1	Warehousing	39,200		3.60	0.20
518	Stockton	Masonite Corporation	Yes	2	Warehousing	180,000		1.71	0.39
519	Stockton	Kraft Foods Group, Inc.	Yes	1	Transload	351,788		0.83	0.48
520	Stockton	Coastal Pacific Food	Yes	1	Transload	500,004		1.80	0.57
521	Tracy	Restoration Hardware	Yes	4	Transload	283,712		2.11	0.15
522	Tracy	IPC Best Buy	Yes	5	Transload	641,364	330	1.12	0.19
601	Lathrop	Wayfair	No	2	Transload	1,167,000	238	1.14	0.09
602	Lathrop	Home Depot	No	1	Transload	953,000	112	0.96	0.37
603	Lodi	Pacific Coast Producers	No	4	Transload	1,500,000		0.63	0.18
604	Lodi	Dart Container	No	2	Transload	340,000		0.77	0.15
605	Manteca	Lowes	No	3	Transload	570,000		0.79	0.29
606	Stockton	Dollar Tree	No	1	Transload	855,000		1.20	0.29
607	Manteca	UPS	No	2	Transload	560,000		0.16	0.02
608	Manteca	Cargill Food	No	2	Transload	350,000		2.25	0.89
609	Stockton	KeHE Distributors	No	2	Transload	770,000		1.34	0.29
610	Tracy	International Paper	No	1	Manufacturing	375,000		1.23	0.35
702	Tracy	IPC Zinus	Yes	2	Transload	664,333	135	0.52	0.10
703	Tracy	IPC Medline	Yes	3	Transload	1,005,500	468	2.38	0.61
704	Tracy	IPC Smuckers	Yes	3	Transload	403,560	204	0.91	0.37
710	Tracy	IPC Amazon	Yes	4	Fulfillment	1,001,449	1,365	2.01	0.38
804	Tracy	PP Costco	No	2	Transload	1,161,306	800	4.29	2.16
811	Tracy	PP Safeway	No	4	Transload	2,200,000	1,650	1.69	0.82
907	Tracy	NEI Amazon	Yes	3	Fulfillment	1,124,921	640	5.72	0.65
908	Tracy	NEI Crate & Barrel	Yes	5	Transload	1,225,680	700	1.32	0.27
					Total	**25,745,976**		**1.52**	**0.45**

Appendix B

May 9, 2025

Rod Stinson
Raney Planning & Management
1501 Sports Drive
Sacramento, California 95834
rods@raneymanagement.com

Subject: **Response to Comments on the CEQA Noise/Vibration Analysis for the Ophir Road Warehouse Project – City of Oroville, California**

Dear Mr. Stinson:

The following is our response to comments received on our noise study prepared for this project.

Response to Comment 6-11:

This comment notes that the noise study references an old site plan with incorrect site data, including the total size of the project and the number of parking spaces, etc.

Figure 1 of the noise study did show the incorrect site plan. However, the basis of the noise analysis utilized the correct site plan and correct number of project trips. A revised figure has been prepared showing the correct site plan.

Response to Comment 6-23:

This comment alleges that the off-site traffic noise was not properly calibrated according to Federal Highway Administration (FHWA) and Caltrans guidelines.

The comment incorrectly states that the FHWA TNM noise model was used for this project. The FHWA RD-77-108 noise model was used. Additionally, because this project does not include Federal or State funding for highway improvements, FHWA and Caltrans guidelines are not required. Additionally, use of the TNM noise model is also not required. Both The FHWA TNM and RD-77-108 noise models are widely used for calculating changes in traffic noise levels for off-site traffic increases due to projects. However, for this type of use the models are not typically calibrated as they are being used for screening purposes, not design level work. It would be impractical to calibrate these noise models under this type of screening use considering the number of roadway segments often analyzed for development projects adding traffic to the local roadway network.

Response to Comment 6-26:

This comment notes that rooftop HVAC was not included in the noise analysis.

In our experience rooftop HVAC equipment is usually inaudible at the project boundary of an industrial warehouse site and does not contribute substantially to off-site noise levels because it is 10 dBA less than truck noise. Noise generated by truck circulation and loading activities are typically the predominant noise sources. Additionally, it is unclear how the commenter calculated the number of tons of heating or colling based on the possible number of air changes required per hour for the project. It appears to us that the estimate of tons of cooling is vastly overstated. However, even if this many HVAC units were installed, we do not believe this will cause noise levels to exceed the applicable exterior noise standards. Additionally, we believe a more reasonable expected sound rating for a 25-ton unit would be 86 dBA based on the outdoor sound specifications of the Carrier WeatherMaker gas heat and electric cooling rooftop unit.

Saxelby Acoustics included 55 25-ton rooftop units, each with a sound power level of 87 dBA, on each building and found that exterior noise levels would comply with the applicable exterior noise standards. See the revised **Figure 5** for the revised project noise contours. This figure indicates that the maximum project noise exposure would be 44 dBA L_{eq} under this hypothetical HVAC noise scenario. This complies with the 45 dBA L_{eq} adjusted nighttime noise standard, as discussed in the noise section. Additionally, considering existing average ambient noise levels of 42-45 dBA L_{eq} and the revised project noise exposure of 44 dBA L_{eq}, the increase in ambient noise levels would be no more than 4.12 dBA. This is less than the 5 dBA increase criteria. Therefore, this remains a less than significant impact.

Response to Comment 6-46:

This commenter notes that commercial vehicle trips were not properly accounted for in the traffic noise analysis.

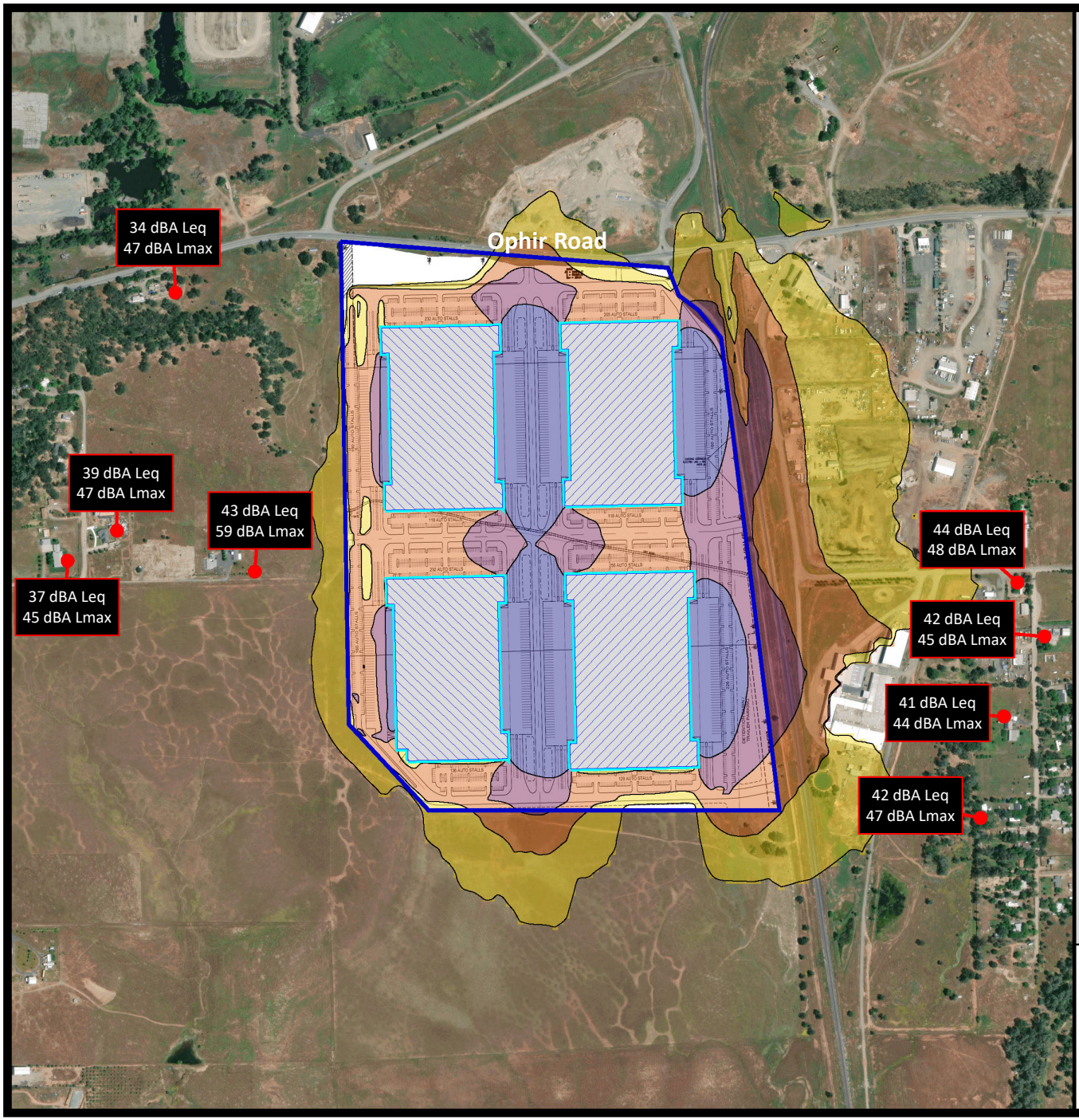
The commenter is correct that truck percentages used in the original noise analysis were too low. The traffic noise predictions were updated with the correct number of trucks and are shown below and in the attached revised Appendix. The predicted traffic noise levels remain below the applicable increase criteria for each of the evaluated roadway segments. Specifically, the largest increases of 3.5 dBA and 4.6 dBA under existing plus project conditions are less than the 5.0 dBA increase criteria for roadways with existing noise levels of less than 60 dBA. The next largest increase of 2.9 dBA is less than the 3.0 dBA increase criterion for roadway with existing noise levels ranging between 60 to 65 dBA. Therefore, this remains a less than significant impact.

TABLE 1: PREDICTED TRAFFIC NOISE LEVEL AND PROJECT-RELATED TRAFFIC NOISE LEVEL INCREASES

Roadway	Segment	Predicted Exterior Noise Level (dBA L_{dn}) at Closest Sensitive Receptors		
		Existing No Project	Existing + Project	Change
Ophir Road	West of Baggett Marysville Rd.	63.1	66.0	2.9
Ophir Road	East of Kusel Rd.	53.6	53.7	0.1
Baggett Marysville Rd.	East of Baggett Palermo Rd.	48.9	52.5	3.5
Georgia Pacific Way	East of Merde Ave.	46.2	50.8	4.6
Lone Tree Rd	South of Serene Ln.	52.6	53.6	1.1
I-70	South of Ophir Road	60.0	60.6	0.6
I-70	South of Palermo Road	57.7	58.2	0.6

TABLE 2: PREDICTED FUTURE (2040) TRAFFIC NOISE LEVEL AND PROJECT-RELATED TRAFFIC NOISE LEVEL INCREASES

Roadway	Segment	Predicted Exterior Noise Level (dBA L_{dn}) at Closest Sensitive Receptors		
		2040 No Project	2040 + Project	Change
Ophir Road	West of Baggett Marysville Rd.	63.5	65.9	2.5
Ophir Road	East of Kusel Rd.	54.0	54.5	0.5
Baggett Marysville Rd.	East of Baggett Palermo Rd.	50.5	53.0	2.6
Georgia Pacific Way	East of Merde Ave.	47.9	50.9	3.0
Lone Tree Rd	South of Serene Ln.	53.2	54.5	1.3
I-70	South of Ophir Road	59.5	59.6	0.2
I-70	South of Palermo Road	57.2	57.4	0.1



Ophir Road Warehouse

City of Oroville, California

Figure 5

Project Noise Levels
Refrigerated Trucks Except Western Docks

Leq Day and Night, dB(A)

Noise Level, dB(A)

45 <	<=	50
50 <	<=	55
55 <	<=	60
60 <		

Legend

- Project Site
- Project Building

Scale 1:810

0 100 200 400 600 800 feet

N

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I hope this information is helpful, please don't hesitate to contact me with any questions.

Sincerely,

Saxelby Acoustics LLC





Luke Saxelby, INCE Bd. Cert.
Principal Consultant
Board Certified, Institute of Noise Control Engineering

Appendix C: Traffic Noise Calculation Inputs and Results



Appendix C-1

FHWA-RD-77-108 Highway Traffic Noise Prediction Model

Project #: 220109
Description: Airport S. Indrustrial Park - Existing
Ldn/CNEL: Ldn
Hard/Soft: Soft

Segment	Roadway	Segment	ADT	Day %	Eve %	Night %	% Med. Trucks	% Hvy. Trucks	Speed	Distance	Offset (dB)	Contours (ft.) - No Offset 60 dBA	65 dBA	70 dBA	Level, dBA
1	Ophir Road	West of Baggett Marysville Rd.	12,545	76	0	24	1.0%	1.0%	45	130	0	209	97	45	63.1
2	Ophir Road	East of Kusel Rd.	13,687	84	0	16	1.0%	1.0%	45	500	0	186	87	40	53.6
3	Baggett Marysville R	East of Baggett Palermo Rd.	1,196	88	0	12	1.0%	1.0%	45	180	0	33	15	7	48.9
4	Georgria Pacific Way	East of Merde Ave.	633	88	0	12	1.0%	1.0%	45	180	0	22	10	5	46.2
5	Lone Tree Rd	South of Serene Ln.	1,495	88	0	12	1.0%	1.0%	45	120	0	38	18	8	52.6
6	I-70	South of Ophir Road	21,089	88	0	12	1.0%	1.0%	65	420	0	422	196	91	60.0
7	I-70	South of Palermo Road	22,442	84	0	16	1.0%	1.0%	65	700	0	490	227	106	57.7

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Appendix C-2

FHWA-RD-77-108 Highway Traffic Noise Prediction Model

Project #: 220109
Description: Airport S. Indrustrial Park - Existing Plus Project
Ldn/CNEL: Ldn
Hard/Soft: Soft

Segment	Roadway	Segment	ADT	Day %	Eve %	Night %	% Med. Trucks	% Hvy. Trucks	Speed	Distance	Offset (dB)	Contours (ft.) - No Offset 60 dBA	65 dBA	70 dBA	Level, dBA
1	Ophir Road	West of Baggett Marysville Rd.	16,120	86	0	14	1.5%	8.7%	45	130	0	327	152	70	66.0
2	Ophir Road	East of Kusel Rd.	13,904	84	0	16	1.0%	1.1%	45	500	0	189	88	41	53.7
3	Baggett Marysville R	East of Baggett Palermo Rd.	2,200	88	0	12	1.0%	2.5%	45	180	0	57	26	12	52.5
4	Georgria Pacific Way	East of Merde Ave.	1,432	88	0	12	1.0%	2.9%	45	180	0	44	20	9	50.8
5	Lone Tree Rd	South of Serene Ln.	1,779	88	0	12	1.0%	1.5%	45	120	0	45	21	10	53.6
6	I-70	South of Ophir Road	23,647	88	0	12	1.0%	1.4%	65	420	0	464	215	100	60.6
7	I-70	South of Palermo Road	24,994	84	0	16	1.0%	1.3%	65	700	0	535	248	115	58.2

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Appendix C-3

FHWA-RD-77-108 Highway Traffic Noise Prediction Model

Project #: 220109
Description: Airport S. Indrustrial Park - Cumulative
Ldn/CNEL: Ldn
Hard/Soft: Soft

Segment	Roadway	Segment	ADT	Day %	Eve %	Night %	% Med. Trucks	% Hvy. Trucks	Speed	Distance	Offset (dB)	Contours (ft.) - No Offset 60 dBA	65 dBA	70 dBA	Level, dBA
1	Ophir Road	West of Baggett Marysville Rd.	13,635	76	0	24	1.0%	1.0%	45	130	0	221	103	48	63.5
2	Ophir Road	East of Kusel Rd.	15,168	84	0	16	1.0%	1.0%	45	500	0	200	93	43	54.0
3	Baggett Marysville R	East of Baggett Palermo Rd.	1,701	88	0	12	1.0%	1.0%	45	180	0	42	19	9	50.5
4	Georgria Pacific Way	East of Merde Ave.	929	88	0	12	1.0%	1.0%	45	180	0	28	13	6	47.9
5	Lone Tree Rd	South of Serene Ln.	1,724	88	0	12	1.0%	1.0%	45	120	0	42	20	9	53.2
6	I-70	South of Ophir Road	18,567	88	0	12	1.0%	1.0%	65	420	0	388	180	84	59.5
7	I-70	South of Palermo Road	20,280	84	0	16	1.0%	1.0%	65	700	0	458	212	99	57.2

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Appendix C-4

FHWA-RD-77-108 Highway Traffic Noise Prediction Model

Project #: 220109
Description: Airport S. Indrustrial Park - Cumulative Plus Project
Ldn/CNEL: Ldn
Hard/Soft: Soft

Segment	Roadway	Segment	ADT	Day %	Eve %	Night %	% Med. Trucks	% Hvy. Trucks	Speed	Distance	Offset (dB)	Contours (ft.) - No Offset 60 dBA	65 dBA	70 dBA	Level, dBA
1	Ophir Road	West of Baggett Marysville Rd.	15,533	86	0	14	1.6%	9.0%	45	130	0	324	150	70	65.9
2	Ophir Road	East of Kusel Rd.	16,421	84	0	16	1.0%	1.3%	45	500	0	216	100	46	54.5
3	Baggett Marysville R	East of Baggett Palermo Rd.	2,623	88	0	12	1.0%	2.2%	45	180	0	62	29	13	53.0
4	Georgria Pacific Way	East of Merde Ave.	1,554	88	0	12	1.0%	2.3%	45	180	0	44	21	10	50.9
5	Lone Tree Rd	South of Serene Ln.	2,146	88	0	12	1.0%	1.7%	45	120	0	52	24	11	54.5
6	I-70	South of Ophir Road	19,112	88	0	12	1.0%	1.1%	65	420	0	397	184	86	59.6
7	I-70	South of Palermo Road	20,799	84	0	16	1.0%	1.1%	65	700	0	467	217	101	57.4

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