
APPENDIX A: DRAFT SEIR COMMENTS RECEIVED



From: Raza, Kumail <Kumail.Raza@lus.sbcounty.gov>

Sent: Monday, March 9, 2026 10:33 AM

To: Thomas Grahn <TGrahn@ontarioca.gov>

Cc: Gonzales, Paul Paul.Gonzales@lus.sbcounty.gov; Acuna, Vincent
<Vincent.Acuna@lus.sbcounty.gov>

Subject: Notice of Availability for EIR - The Ontario Plan (TOP) 2050 Policy Plan Amendment

Good morning, Thomas,

The County of San Bernardino has received the attached Notice of Availability (NOA) for The Ontario Plan (TOP) 2050 Policy Plan Amendment Supplemental Environmental Impact Report (EIR).

Could you please provide a map identifying the sites proposed for land use changes, including any sites within the Eucalyptus Business Park Specific Plan, in addition to those addressed in the Policy Plan? I understand that the proposed amendment could result in up to 7,225 additional residential units and approximately 4.3 million square feet of additional nonresidential uses. While I was able to locate the proposed zoning map on the City's EIR webpage, it is difficult to determine which specific sites are proposed for change and their new designations without a before-and-after comparison. If a comparison map is not readily available, could you instead provide a list of the affected sites, including their addresses or APNs, acreage, and current and proposed land use/zoning designations?

A1-1

Additionally, could you please confirm whether any truck routes are proposed to be modified, or whether the update is limited to adding vibration-related impact considerations to Policy M-4.1 to address potential impacts from truck traffic?

Thank you.

Best Regards, [\[sbcounty.gov\]](mailto:[sbcounty.gov])

Kumail Raza, AICP

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Land Use Services Department

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Yana Garcia
Secretary for
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Department of Toxic Substances Control

Katherine M. Butler, MPH, Director
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Gavin Newsom
Governor

SENT VIA ELECTRONIC MAIL

March 18, 2026

Thomas Grahn
Principal Planner
City of Ontario
303 East B Street
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RE: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE ONTARIO PLAN 2050
POLICY PLAN AMENDMENT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT
DATED MARCH 6, 2026, STATE CLEARINGHOUSE NUMBER [2025110102](#)

Dear Thomas Grahn,

The Department of Toxic Substances Control (DTSC) reviewed the Draft Environmental Impact Report (DEIR) for the Ontario Plan 2050 Policy Plan Amendment Supplemental Environmental Impact Report (Project). The proposed Project is a Policy Plan Amendment to The Ontario Plan (TOP). The Policy Plan Amendment project component primarily involves modifying the currently permitted and planned TOP land use pattern across more than 1,300 acres in southern Ontario. These proposed changes to TOP are driven by requests from property owners and developers who seek to alter the allowable type or intensity of land use on their properties as well as land use changes required to improve land use compatibility, maintain compliance with state laws, uphold long-term planning goals, and plan for a cohesive land use pattern that repositions the southwest portion of the city as a regional employment and logistics center. A critical aspect of these proposed Policy Plan Amendments is to ensure compliance with state laws. DTSC recommends and requests consideration of the following comments:

A2-Intro

1. There are several areas of which DTSC has regulatory oversight over that are within the Ontario Plan 2050 Policy Plan, whether they are listed as having documented contamination, land use restrictions, are subject to a Hazardous Waste Facility Permit, or the potential for the Project site to be included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. Therefore, DTSC recommends further coordination with the Department in the event that the proposed Project may impact any of the areas that may fall under DTSC's oversight. Please review the project area in [Ontario, CA EnviroStor](#); DTSC's public-facing database and coordinate with the Department if any suspected decisions may impact these areas of which DTSC oversees.

A2-1

2. DTSC recommends all imported soil/fill material be tested to ensure all COCs meet screening levels as outlined in [DTSC's Preliminary Endangerment Assessment Guidance Manual](#). Furthermore, DTSC advises referencing the [DTSC Information Advisory Clean Imported Fill Material Fact Sheet](#) if importing soil/fill is necessary. To minimize the possibility of introducing contaminated soil/fill material, there should be documentation of the origins of the soil/fill material and, if applicable, sampling be conducted to ensure that the imported soil/fill material is suitable for the intended land use. The sampling should include analysis based on the source of the soil/fill and knowledge of prior land use.

A2-2

DTSC appreciates the opportunity to comment on the DEIR for the Ontario Plan 2050 Policy Plan Amendment Supplemental Environmental Impact Report. Thank you for your assistance in protecting California's people and environment from the harmful effects of toxic substances. If you have any questions or would like clarification on DTSC's comments, please respond to this letter or via [the CEQA Review email](#) for additional guidance.

A2-3

Thomas Grahn
March 18, 2026
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Sincerely,

Tamara Purvis

Tamara Purvis
Associate Environmental Planner
HWMP - Permitting Division – CEQA Unit
Department of Toxic Substances Control
Tamara.Purvis@dtsc.ca.gov

cc: (via email)

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Dear Mr. Thomas Grahn,

Omnitrans appreciates the opportunity to provide comments on the Ontario Plan 2050 Policy Plan Amendment Supplemental Draft Environmental Impact Report (EIR). Our comments focus on transit considerations as Ontario Ranch continues to experience significant growth:

A3-Intro

Omnitrans is supportive of the increased densities along Edison Avenue—which is identified as a transit priority corridor in SBCTA’s [Long Range Multimodal Transportation Plan](#) (LRMTP), particularly as Ontario Ranch becomes more developed. The levels of density that Edison is proposed to see meet the threshold of Bus Rapid Transit (BRT) service. We also note that Euclid Avenue and Haven Avenue are also designated as transit priority corridors in the LRMTP. Identifying connectivity with future Housing Element sites will be an important consideration for both Omnitrans and the City of Ontario as growth continues.

A3-1

As several roadways that are anticipated to absorb the impact of upzoned housing sites will be widened as envisioned in the City’s adopted Mobility Element, Omnitrans requests continued and structured coordination with the City to identify BRT/transit supportive features to improved roadways. These features include, but are not limited to:

- Safe, signalized pedestrian crossings at bus stop locations
- Curb space accommodations for future bus stops and amenities
- Transit Signal Priority (TSP) and other operational treatments at Enhanced Intersection locations
- Potential for dedicated transit lanes on BRT corridors
- Transit-supportive active transportation infrastructure such as Class IV and Class II+ buffered bike lanes, Leading Pedestrian Intervals, and other traffic calming measures.

A3-2

Omnitrans also strongly supports rerouting existing truck routes away from concentrations of high-density housing and future transit priority corridors. Changes to truck circulation patterns significantly affect transit viability and user safety, particularly regarding stop accessibility, curb space, and pedestrian or bike conflicts with truck traffic. These considerations are particularly important in Ontario Ranch as the area continues to add housing and employment and the demand for transit continues to grow. However, if truck volumes, driveway conflicts, and corridor congestion increase without proactive mitigation, transit service can become slower, less reliable, and more expensive to operate. Logistics facilities are more difficult to integrate well with transit, but with early coordination (particularly on stop access, sidewalks, crossings,

A3-3

and employer participation), transit service will have a higher chance of success in this new region.

A3-3 cont.

Omnitrans appreciates the City's commitment to the expansion of Bus Rapid Transit, as demonstrated through its partnership on the sbX Purple Line. Omnitrans requests to remain an active stakeholder in the developmental planning process, particularly as it relates to Ontario Ranch and its growth, potential, and regional significance.

Best regards,

A3-4

Youssef Kaddeche
Planner I

Cc: Alex Shippau, Development Planning Manager
Ben Nolen, Service Planning Manager





South Coast Air Quality Management District

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SENT VIA E-MAIL:

tgrahn@ontarioca.gov

Thomas Grahn, Principal Planner

City of Ontario

303 East B Street

Ontario, CA 91764

April 16, 2026

**Draft Subsequent Environmental Impact Report (SEIR) for the Proposed
The Ontario Plan 2050 Policy Plan Amendment (Proposed Project)
(SCH No.: 2025110102)**

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The City of Ontario is the California Environmental Quality Act (CEQA) Lead Agency for the Proposed Project. To provide context, South Coast AQMD staff have provided a brief summary of the project information and prepared the following comments, organized by topic of concern.

Summary of Project Information in the Draft SEIR

Based on the Draft SEIR, the Proposed Project consists of two primary components: The Ontario Plan (TOP) Policy Plan Amendment (PPA) and the Eucalyptus Business Park Specific Plan (EBPSP).

The PPA component would modify the existing and planned land use pattern within the TOP area, encompassing more than 1,300 acres in the southern portion of the City of Ontario.¹ In addition, the PPA includes updates to the City's designated truck route network to ensure consistency with Assembly Bill 98 (AB 98).² Specifically, two roadway segments would be removed from, and three segments added to, the City's official truck route system.³

The EBPSP component would establish a specific plan over approximately 189 acres, consisting of nine Planning Areas (PAs).⁴ Land uses would include approximately 137.9 acres designated for Business Park uses, 36.15 acres for Open Space–Parkland, and 14.97 acres for roadway and circulation improvements.⁵ Development within PAs 1 through 6 would accommodate up to approximately 2,939,000 square feet (sf) of industrial/business park uses. Individual building sizes would not exceed 560,000 sf, and cold storage uses would be prohibited.⁶ PAs 7 through 9 would be developed as Open Space–Parkland.⁷ Additionally, the Specific Plan allows for the potential development of a 35,000 sf publicly operated animal resource center, should the City elect to

¹ Draft SEIR. p. 2-17.

² *Ibid.* p. 2-20.

³ *Ibid.* p. 2-54.

⁴ *Ibid.* p. 2-20.

⁵ *Ibid.* p. 2-49.

⁶ *Ibid.* p. 2-50.

⁷ *Ibid.* p. 2-53.

include it in the Specific Plan areas.⁸ The EBPSP site is generally bounded by Campus Avenue to the west, Eucalyptus Avenue to the south, and Walker Avenue to the east.⁹ Based on a review of aerial imagery, the nearest sensitive receptor is located approximately 100 feet north of the EBPSP site.

The EBPSP construction is anticipated to commence in January 2027 and continue through June 2031,¹⁰ and would occur in three phases,¹¹ with the details¹² as follows:

- Phase 1 (2028)
 - o 340,700 sf industrial park
 - o 553,300 sf warehousing
 - o 326,200 sf high-cube fulfillment center (sort)
 - o 33.8-acre park
- Phase 2 (2029)
 - o 273,700 sf industrial park
 - o 553,300 sf warehousing
 - o 261,000 sf high-cube fulfillment center (sort)
 - o 5,000 sf retail
 - o 5,000 sf fast-food restaurant with drive-thru
 - o 35,000 sf public animal shelter
 - o 37.7-acre park
- Phase 3 (2031)
 - o 162,600 sf industrial park
 - o 211,700 sf manufacturing
 - o 163,600 sf warehousing
 - o 47,900 sf high-cube fulfillment center (sort)
 - o 21-acre park

A4-Intro

South Coast AQMD Comments

Truck Idling Duration and Emissions Modeling

Appendix C4 (EBPSP HRA) of the Draft SEIR evaluates truck emissions with 15 minutes of idling per truck per day to estimate diesel particulate matter (DPM) emissions for the health risk assessment (HRA).¹³ However, the actual idling times may be longer in duration since the EBPSP is anticipated to involve a total of 1,218 two-way truck trips per day.¹⁴ Moreover, it is reasonable to expect that individual trucks may experience extended periods of idling due to on-site queuing, security checks, staging, loading, and unloading operations, among other factors, particularly during peak hours or in congested circulation areas. As such, a 15-minute idling duration may underestimate actual on-site idling behavior and, consequently, DPM emissions, which are a key contributor to localized health risks.

A4-1

⁸ *Ibid.*

⁹ *Ibid.* p. 2-54.

¹⁰ *Ibid.* p. 2-75.

¹¹ *Ibid.* p. 2-77.

¹² Appendix C3: EBPSP AQ Study. p. C3-17.

¹³ Appendix C4: EBPSP HRA. p. C4-19.

¹⁴ Appendix C4: EBPSP HRA. p. C4-20.

While the California Air Resources Board (CARB) limits diesel truck idling to five minutes as set forth in the Airborne Toxic Control Measure (ATCM), an exemption from this requirement is allowed for trucks equipped with engines that meet the optional low-NOx idle emission standard, which is typically applicable to model year 2008 and newer trucks. These vehicles, often referred to as “clean idle” certified, are permitted to idle longer than five minutes when situated more than 100 feet from sensitive land uses such as homes and schools.¹⁵ Furthermore, CARB’s EMFAC2021 Volume III Technical Document (Table 4.4.2-5) indicates that heavy-duty trucks may idle for up to five hours at a single location under certain conditions.¹⁶ For these aforementioned reasons, as a practical matter, the idling duration for onsite heavy-duty trucks visiting the Proposed Project site could idle for a much longer duration than what was analyzed in the Draft EIR. Thus, the HRA may have substantially underestimated the full extent of operational health risks associated with the DPM emissions from the anticipated onsite heavy-duty truck activities.

A4-1 cont.

Accurate characterization of idling activity is essential to fully assess the potential health risk impacts, particularly for nearby sensitive receptors. Therefore, to ensure the HRA provides an accurate and health-protective estimate of potential exposure, the Lead Agency is recommended to either: 1) revise the operational emissions modeling in the Final SEIR to assume a minimum of 30 minutes of idling per truck per day, unless site-specific data or operational constraints justify a shorter duration; or 2) provide empirical evidence, such as facility-specific queuing and processing time studies, vehicle circulation modeling, or comparable industry data, to substantiate the 15-minute assumption as representative of expected operations of the Proposed Project.

Completion of the Overlapped Emissions Analysis

Appendix C3 (EBPSP Air Quality Study) of the Draft SEIR includes a discussion of the temporal overlap between construction and operational activities.¹⁷ However, the analysis presents combined emissions without a corresponding determination of significance.¹⁸ While the South Coast AQMD has not established specific thresholds of significance for overlapping construction and operational emissions, a standard practice is to conservatively compare the combined (overlapping) emissions to the applicable operational significance thresholds to evaluate potential impacts. Therefore, the Lead Agency is recommended to revise the air quality analysis to include a determination for overlapping construction and operational emissions using South Coast AQMD’s air quality *operational* significance thresholds. Where exceedances of applicable thresholds are identified, the analysis should identify, evaluate, and incorporate all available and feasible mitigation measures to reduce emissions to the maximum extent practicable. Such measures may include, but are not limited to, enhanced equipment emissions controls, construction scheduling refinements to minimize overlap, and increased reliance on zero- and near-zero

A4-2

¹⁵ CARB, Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling was promulgated in Chapter 13 of the California Code of Regulations, Section 2485: Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling, available at https://ww2.arb.ca.gov/sites/default/files/2022-06/13_CCR_2485_OAL_06222022-2_ADA_06272022_0.pdf

¹⁶ CARB, EMFAC2021 Volume III Technical Document, Table 4.4.2-5, p. 161., available at https://ww2.arb.ca.gov/sites/default/files/2021-03/emfac2021_volume_3_technical_document.pdf

¹⁷ Appendix C3: EBPSP AQ Study. p. C3-65.

¹⁸ Appendix C3: EBPSP AQ Study. p. C3-926.

emission technologies. The revised analysis and conclusions should be included in the Final SEIR to ensure a complete and transparent assessment of potential air quality impacts.

A4-2 cont.

Recommend Conducting a Quantitative Analysis of Human Health Consequences

Section 3.3 (Air Quality) of the Draft SEIR states that the health impacts or human health consequences analysis is not conducted.¹⁹ The health impacts are acknowledged; however, the Lead Agency relies on infeasibility arguments to conclude that the quantification of the health effects analysis is not provided in the Draft SEIR. However, the February 2023 Friant Community Plan Update and Friant Ranch Specific Plan contained a detailed quantitative analysis of Human Health Consequences Analysis,²⁰ which is evidence that this type of calculation can be performed.

For context, the Bloomington Business Park Specific Plan Project²¹ was required to recirculate its Draft EIR following a legal challenge in San Bernardino County Superior Court (Case No. CIVSB2228456). In that proceeding, the court directed the County to set aside its prior approvals, finding that the EIR was legally inadequate with respect to its analysis of air quality impacts, including the application of the Friant Ranch methodology for evaluating health effects. As articulated in the court's ruling, "*a sufficient discussion of significant impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact.*"²² This standard underscores the requirement under the CEQA that an EIR provide a meaningful, evidence-based analysis that allows decision-makers and the public to understand the extent and severity of a project's environmental and public health impacts.

A4-3

Therefore, the Lead Agency is recommended to review the analysis in the above-referenced document, perform a quantitative analysis specific to the Proposed Project, and incorporate the results in the Final SEIR.

Recommended Air Quality Mitigation Measures to Reduce Construction Emissions

Section 3.3 (Air Quality) of the Draft SEIR evaluates emissions associated with construction activities of the EBPSP and concludes that construction-related impacts would be less than significant; therefore, no mitigation measures are proposed.²³ Notwithstanding this determination, the Lead Agency is recommended to incorporate all feasible and available best management practices to further minimize criteria pollutants and precursor emissions to the maximum extent practicable.

A4-4

Furthermore, given the extent, scale, and duration of the Proposed Project, the Lead Agency is recommended to evaluate the applicability of the statewide clean-fleet and clean-construction programs under development by the California Air Resources Board (CARB). These programs provide a framework for achieving substantial near-term reductions in nitrogen oxide (NOx),

¹⁹ *Ibid.* p. 3.3-73.

²⁰ Quantitative Analysis of Human Health Consequences Analysis, Table 3.3-8. Available at: https://www.fresnocountyca.gov/files/sharedassets/county/v/1/vision-files/files/72347-friant-prr-deir_2-7-23.pdf

²¹ Bloomington Business Park Specific Plan Project (SCH: 2020120545). Available at <https://ceqanet.lci.ca.gov/2020120545/10>

²² Bloomington Business Park Specific Plan Project. Court Ruling, p. 34 of PDF. Available at https://www.climatecasechart.com/documents/california-superior-court-found-that-ceqa-review-for-industrial-rezoning-improperly-analyzed-greenhouse-gas-reduction-measures_4d86

²³ *Ibid.* p. 3.3-56.

VOC, and DPM emissions from on- and off-road fleets, which are the key precursors to the formation of ozone, which have associated adverse health impacts. Taking full advantage of these programs would provide additional opportunities to minimize the significant effects of the Proposed Project. CARB's California Clean Construction Program is designed to recognize and encourage off-road construction fleets that voluntarily exceed regulatory requirements by deploying cleaner-than-Tier 4 Final or zero-emission off-road equipment.²⁴ Similarly, CARB's Clean Fleet Connect²⁵ and Advanced Clean Fleets (ACF) programs support on-road fleet transitions toward zero-emission technologies.²⁶ These frameworks demonstrate that both construction and operational fleets can achieve meaningful emissions reductions through the adoption of newer, cleaner equipment and zero-emission technologies.

A4-4 cont.

In addition to the use of the cleanest available construction technologies (e.g., Tier 4 Final engines), renewable diesel fuel, super-compliant low-volatile organic compound (VOC) architectural coatings, and zero-emission (fully electric) equipment where feasible, the Lead Agency is recommended to consider implementing enhanced fugitive dust control measures (e.g., increased watering frequency, application of soil stabilizers, and minimizing disturbed areas), idling restrictions for on-road and off-road equipment, and optimized construction phasing and scheduling to reduce equipment overlap and associated emissions. Further measures may include the establishment of designated construction haul routes to minimize exposure to sensitive receptors and the preparation of a construction emissions management plan to ensure effective implementation and monitoring of these practices.

Incorporation of these mitigation measures would further reduce short-term air quality impacts and potential localized health risks, particularly in proximity to sensitive receptors. These additional mitigation measures should be evaluated, disclosed, and incorporated, as appropriate, in the Final SEIR to demonstrate the Lead Agency's commitment to minimizing air quality impacts beyond the identified level of significance.

Recommended Air Quality and Greenhouse Gas Mitigation Measures and Project Design Features for Consideration

CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized to minimize or eliminate any significant adverse air quality impacts. To further reduce the Proposed Project's air quality impacts, the following mitigation measures and project design considerations are recommended to be incorporated into the Final SEIR.

A4-5

Mitigation Measures to Reduce Operational Air Quality Impacts from Mobile Sources

1. Require ZE or NZE on-road haul trucks, such as heavy-duty trucks with natural gas engines that meet the CARB's adopted optional NOx emissions standard at 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible.

A4-6

²⁴ CARB – California Clean Construction Program. Available at: <https://ww2.arb.ca.gov/our-work/programs/california-clean-construction-program>.

²⁵ CARB – Clean Fleet Connect. Available at: <https://ww2.arb.ca.gov/our-work/programs/clean-fleet-connect>.

²⁶ CARB – Advanced Clean Fleets Program. Available at: <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>.

Note: Given CARB's clean truck rules and regulations aiming to accelerate the utilization and market penetration of ZE and NZE trucks, such as the Advanced Clean Trucks Rule and the Heavy-duty Low NOx Omnibus Regulation, ZE and NZE trucks will become increasingly more available for use.

2. Require a phase-in schedule to incentivize the use of cleaner operating trucks to reduce any significant adverse air quality impacts.

Note: South Coast AQMD staff are available to discuss the availability of current and upcoming truck technologies and incentive programs with the Lead Agency.

3. Limit the daily number of trucks allowed at the Proposed Project to levels analyzed in the Final EIR. If higher daily truck volumes are anticipated to visit the site, the Lead Agency should commit to re-evaluating the Proposed Project through CEQA prior to allowing this higher activity level.
4. Provide electric vehicle (EV) charging stations or, at a minimum, provide electrical infrastructure, and electrical panels should be appropriately sized. Electrical hookups should be provided for truckers to plug in any onboard auxiliary equipment.

A4-6 cont.

Mitigation Measures to Reduce Operational Air Quality Impacts from Other Area Sources

1. Maximize the use of solar energy by installing solar energy arrays.
2. Use light-colored paving and roofing materials.
3. Utilize only Energy Star heating, cooling, and lighting devices and appliances.

A4-7

Design Considerations for Reducing Air Quality and Health Risk Impacts

1. 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.).
2. 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.
3. Design the Proposed Project such that any truck check-in point is inside the Proposed Project site to ensure no trucks are queuing outside.
4. Design the Proposed Project to ensure that truck traffic inside the Proposed Project site is as far away as feasible from sensitive receptors.
5. Restrict overnight truck parking in sensitive land uses by providing overnight truck parking inside the Proposed Project site.

A4-8

Lastly, the South Coast AQMD also suggests that the Lead Agency conduct a review of the following references and incorporate additional mitigation measures as applicable to the Proposed Project in the Final EIR:

1. State of California – Department of Justice: Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act²⁷
2. South Coast AQMD 2022 Air Quality Management Plan,²⁸ specifically:
 - a) Appendix IV-A – South Coast AQMD’s Stationary and Mobile Source Control Measures
 - b) Appendix IV-B – CARB’s Strategy for South Coast
 - c) Appendix IV-C – SCAG’s Regional Transportation Strategy and Control Measure
3. United States Environmental Protection Agency (U.S. EPA) Transportation, Air Quality, and Climate Change.²⁹

A4-9

Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions (WAIRE) Program

On May 7, 2021, South Coast AQMD’s Governing Board adopted Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions (WAIRE) Program,³⁰ and Rule 316 – Fees for Rule 2305.³¹ Rules 2305 and 316 are new rules that will reduce regional and local emissions of NOx and particulate matter (PM), including DPM. These emission reductions will reduce public health impacts for communities located near warehouses from mobile sources that are associated with warehouse activities. Also, the emission reductions will help the region attain federal and state ambient air quality standards. Rule 2305 applies to owners and operators of warehouses greater than or equal to 100,000 sf. Under Rule 2305, operators are subject to an annual WAIRE Points Compliance Obligation that is calculated based on the annual number of truck trips to the warehouse. WAIRE Points can be earned by implementing actions in a prescribed menu in Rule 2305, implementing a site-specific custom plan, or paying a mitigation fee. Warehouse owners are only required to submit limited information reports, but they can opt to earn Points on behalf of their tenants if they choose, because certain actions to reduce emissions may be better achieved at the warehouse development phase, for instance, the installation of solar and charging infrastructure. Rule 316 is a companion fee rule for Rule 2305 to allow South Coast AQMD to recover costs associated with Rule 2305 compliance activities. Since the Proposed Project consists of the development of up to 2,939,000 sf of warehouses, fulfillment centers, industrial park uses, etc., the Proposed Project’s warehouse owners and operators will be required to comply with Rule 2305 once the warehouse is occupied. Therefore, South Coast AQMD staff

A4-10

²⁷ State of California – Department of Justice, Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act available at <https://oag.ca.gov/system/files/media/warehouse-best-practices.pdf>

²⁸ South Coast AQMD, 2022 Air Quality Management Plan (AQMP) available at <http://www.aqmd.gov/home/air-quality/clean-air-plans/air-quality-mgt-plan>

²⁹ United States Environmental Protection Agency (U.S. EPA) Transportation, Air Quality, and Climate Change available at <https://www.epa.gov/transportation-air-pollution-and-climate-change>

³⁰ South Coast AQMD Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions (WAIRE) Program available at <http://www.aqmd.gov/docs/default-source/rule-book/reg-xxiii/r2305.pdf>.

³¹ South Coast AQMD Rule 316 – Fees for Rule 2305 available at <https://www.aqmd.gov/docs/default-source/rule-book/reg-iii/r316.pdf>

recommends that the Lead Agency review South Coast AQMD Rule 2305 to determine the potential WAIRE Points Compliance Obligation for future operators and explore whether additional project requirements and CEQA mitigation measures can be identified and implemented at the Proposed Project that may help future warehouse operators meet their compliance obligation. South Coast AQMD staff is available to answer questions concerning Rule 2305 implementation and compliance by phone or email at (909) 396-3140 or waire-program@aqmd.gov. For implementation of guidance documents and compliance and reporting tools, please visit South Coast AQMD's WAIRE Program webpage.³²

A4-10 cont.

South Coast AQMD Air Permits and Role as a Responsible Agency

Appendix C3 (EBPSP AQ Study) of the Draft SEIR states that the Proposed Project would include a total of two emergency fire pumps in Phase 1, four emergency fire pumps in Phase 2, and five emergency fire pumps in Phase 3.³³ Thus, air permits from South Coast AQMD will be required. The Final SEIR should include a discussion about the South Coast AQMD rules that may be applicable to the Proposed Project. Those rules may include, for example, Rule 201 – Permit to Construct,³⁴ Rule 203 – Permit to Operate,³⁵ Rule 401 – Visible Emissions,³⁶ Rule 402 – Nuisance,³⁷ Rule 403 – Fugitive Dust,³⁸ Rule 1110.2 – Emissions from Gaseous and Liquid Fueled Engines,³⁹ Rule 1113 – Architectural Coatings,⁴⁰ and Rule 1470 – Requirements for Stationary Diesel-Fueled Internal Combustion and Other Compression Ignition Engines,⁴¹ etc.

It is important to note that if air permits from the South Coast AQMD are required, South Coast AQMD's role under CEQA will become the Responsible Agency of the Proposed Project. Per CEQA Guidelines Section 15086, the Lead Agency is required to consult with South Coast AQMD. CEQA Guidelines Section 15096 sets forth specific procedures for a Responsible Agency, including making a decision on the adequacy of the CEQA document for use as part of the process for conducting a review of the Proposed Project and issuing discretionary approvals. Also, as set forth in CEQA Guidelines Section 15096(h), the Responsible Agency is required to make Findings in accordance with CEQA Guidelines Section 15091 for each significant effect of the project and issue a Statement of Overriding Considerations in accordance with CEQA Guidelines Section 15093, if necessary. Lastly, as set forth in CEQA Guidelines Section 15096(i), the Responsible Agency may file a Notice of Determination.

A4-11

CEQA Guidelines Section 15096 sets forth specific procedures for a Responsible Agency, including making a decision on the adequacy of the CEQA document for use as part of the process for conducting a review of the Proposed Project and issuing discretionary approvals. Moreover, it is important to note that if a Responsible Agency determines that a CEQA document is not adequate to rely upon for its discretionary approvals, the Responsible Agency must take further actions listed in CEQA Guideline Section 15096(e), which could have the effect of delaying the

³² South Coast AQMD WAIRE Program available at <http://www.aqmd.gov/waire>.

³³ Appendix C3: EBPSP AQ Study. p. C3-59.

³⁴ South Coast AQMD, Rule 201 available at <https://www.aqmd.gov/docs/default-source/rule-book/reg-ii/rule-201.pdf>

³⁵ South Coast AQMD, Rule 203 available at <https://www.aqmd.gov/docs/default-source/rule-book/reg-ii/rule-203.pdf>

³⁶ South Coast AQMD, Rule 401 available at <https://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-401.pdf>

³⁷ South Coast AQMD, Rule 402 available at <https://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-402.pdf>

³⁸ South Coast AQMD, Rule 403 available at <https://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-403>

³⁹ South Coast AQMD, Rule 1110.2 available at https://www.aqmd.gov/docs/default-source/rule-book/reg-xi/r1110_2.pdf

⁴⁰ South Coast AQMD, Rule 1113 available at <https://www.aqmd.gov/docs/default-source/rule-book/reg-xi/r1113.pdf>

⁴¹ South Coast AQMD, Rule 1470 available at <https://www.aqmd.gov/docs/default-source/rule-book/reg-xiv/rule-1470.pdf>

implementation of the Proposed Project. In its role as CEQA Responsible Agency, the South Coast AQMD is obligated to ensure that the CEQA document prepared for this Proposed Project contains a sufficient project description and analysis to be relied upon in order to issue any discretionary approvals that may be needed for air permits.

For these reasons, the final CEQA document should be revised to include a discussion about any and all new stationary and portable equipment requiring South Coast AQMD air permits, provide the evaluation of their air quality and greenhouse gas impacts, and identify South Coast AQMD as a Responsible Agency for the Proposed Project as this information will be relied upon as the basis for the permit conditions and emission limits for the air permit(s). Please contact South Coast AQMD's Engineering and Permitting staff at (909) 396-3385 for questions regarding what types of equipment would require air permits. For more general information on permits, please visit South Coast AQMD's webpage at <https://www.aqmd.gov/home/permits>.

A4-11 cont.

Conclusion

As set forth in Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(a-b), the Lead Agency shall evaluate comments from public agencies on environmental issues and prepare a written response at least 10 days prior to certifying the Final SEIR. As such, please provide South Coast AQMD written responses to all comments contained herein at least 10 days prior to the certification of the Final SEIR. In addition, as provided by CEQA Guidelines Section 15088(c), if the Lead Agency's position is at variance with recommendations provided in this comment letter, detailed reasons supported by substantial evidence in the record to explain why specific comments and suggestions are not accepted must be provided.

A4-12

Thank you for the opportunity to provide comments. South Coast AQMD staff are available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Danica Nguyen, Air Quality Specialist, at dnguyen1@aqmd.gov should you have any questions.

Sincerely,

Sam Wang

Sam Wang

Program Supervisor, CEQA IGR

Planning, Rule Development & Implementation

SW:DN

SBC260305-02

Control Number

EUNICE M. ULLOA
Mayor



KAREN C. COMSTOCK
CHRISTOPHER FLORES
MARC LUCIO
Council Members

CURTIS BURTON
Mayor Pro Tem

DR. LINDA REICH
City Manager

CITY of CHINO

April 16, 2026

Sent Via Email and US Mail:

tgrahn@ontarioca.gov

Thomas Grahn
City of Ontario Planning Department
303 East B Street
Ontario, CA 91764

Re: NOTICE OF AVAILABILITY OF A DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT The Ontario Plan 2050 Policy Plan Amendment (State Clearinghouse No. 2025110102)

Dear Thomas:

This letter is in response to an email regarding a Notice of Availability of a Draft Supplemental EIR for The Ontario Plan 2050 Policy Plan Amendment. Thank you for giving the City of Chino the opportunity to review the information and provide comments. In reviewing the proposed changes to the Ontario Plan

A5-Intro

- As the Proposed Land Use Plan identifies intensifying the Business Park Land Use Type along Eucalyptus Avenue, The City of Chino requests the EIR identify how this project will address its compliance with AB98. Specifically, to ensure that the existing residential sensitive land uses west of Euclid Avenue are protected from increased commercial vehicle traffic through truck routing maps, signage, enforcement policies, and cooperation with neighboring jurisdictions.
- The Proposed Truck Route changes add Eucalyptus Avenue east of Euclid as a truck route, the City of Chino requests that the EIR include the identification of mitigation measures to prevent commercial traffic from using Eucalyptus Avenue west of Euclid Avenue through residential areas. The City of Chino requests that the City of Ontario work collaboratively on truck route signage along the shared Euclid Avenue boundary.
- The Proposed Truck Routes remove a portion of Edison Avenue from Euclid Avenue to Walker Avenue while maintaining Edison Avenue easterly all the way to I-15 in the City of Eastvale. This presents inconsistent regional commercial route planning that differs from previous plans. The City of Chino is concerned that this change presents further concerns with regional truck routes as mentioned above.

A5-1

A5-2

A5-3



13220 Central Avenue, Chino, California 91710
Mailing Address: P.O. Box 667, Chino, California 91708-0667
(909) 334-3250 • (909) 334-3720 Fax
Web Site: www.cityofchino.org

- The City of Chino is concerned that with the proposed truck route changes, commercial traffic will be concentrated on Euclid Avenue beyond originally anticipated intersection capacities at buildout. Further, this change is likely to impact SR-60 and SR-71 interchanges that may require additional improvement considerations beyond what has been identified to date. The EIR and traffic impact analysis should review both interchanges to determine how intensifying commercial traffic on Euclid Avenue affects the Level of Service to these locations. A5-4
- The City of Chino requests that the City of Ontario coordinate Active Transportation facilities along Euclid Avenue and through east-west streets to provide seamless regional connectivity. A5-5

If you have any questions, please contact Chris Cortez, Assistant Planner, by email at ccortez@cityofchino.org, or by phone at 909-334-3525.

Sincerely,

A handwritten signature in blue ink, appearing to read 'W. Morelion', with a stylized, wavy line extending to the right.

Warren Morelion, AICP
Director of Development Services

cc: Michael Hitz, AICP, Principal Planner



Land Use Services Department Planning

www.SBCounty.gov

Miguel Figueroa
Director

Thomas Bustamonte
Assistant Director

SENT VIA EMAIL

April 20, 2026

Thomas Grahn
Principal Planner
City of Ontario
303 East B Street,
Ontario, CA 91764

RE: NOTICE OF AVAILABILITY FOR EIR - THE ONTARIO PLAN (TOP) 2050 POLICY PLAN AMENDMENT

Dear Mr. Grahn,

Thank you for providing the Notice of Preparation (NOP) for the proposed amendments to the Ontario Plan (TOP) 2050 Policy Plan.

Based on the information provided, the project is located entirely within the City of Ontario, and direct impacts to unincorporated County areas are expected to be limited. The proposed truck routes also appear consistent with those already evaluated by the County.

A6-1

Please continue to include County departments, including Land Use Services and Public Works - Traffic, as well as regional partners such as the San Bernardino County Transportation Authority (SBCTA), to ensure impacts to County roadways and truck routes remain limited and coordination is maintained.

Best Regards,

A blue ink signature of Paul Gonzales, consisting of a stylized 'P' and 'G'.

Paul Gonzales
Planning Chief

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DISTRICT 8
464 WEST 4TH STREET
SAN BERNARDINO CA, 92401 (909) 925-7520
www.dot.ca.gov

City of Ontario
Principle Planner
Thomas Grahm
303 East B Street
Ontario, CA 91764

April 20, 2026

Route I-10, I-15, SR-60, SR-83
GTS I D: 39418
SCH #:2025110102

Subject: Ontario Plan 2050 Plan Amendment

The California Department of Transportation (Caltrans) Local Development Review (LDR) Branch has completed its review of the Ontario Plan 2050 Policy Plan Amendment Supplemental Environmental Impact Report documents. The City of Ontario is in the southwestern corner of San Bernardino County and is surrounded by the cities of Chino and Montclair and unincorporated San Bernardino County to the west; the cities of Upland and Rancho Cucamonga to the north; the City of Fontana and unincorporated San Bernardino County to the east; and the cities of Eastvale and Jurupa Valley to the south.

The Policy Plan Amendment project component primarily involves modifying the currently permitted and planned TOP land use pattern across more than 1,300 acres in southern Ontario. These proposed changes to TOP are driven by requests from property owners and developers who seek to alter the allowable type or intensity of land use on their properties as well as land use changes required to improve land use compatibility, maintain compliance with state laws, uphold long-term planning goals, and plan for a cohesive land use pattern that repositions the southwest portion of the city as a regional employment and logistics center.

Given that the project is proposing to work within Caltrans' ROW, further review and the issuance of a Caltrans Encroachment Permit prior to construction to address impacts to Caltrans' will be necessary. Based on the information currently available, these comments are preliminary and subject to revision as the project design and development progress.

Based on the information available, we are submitting the following comments:

Modal Planning Programs

In the Eucalyptus Business Park Specific Plan, Project Level VMT Impact Assessment contains a revised truck map removing Archibald Avenue as one of the current truck routes (page K1-48). Given the decrease in future truck trips with the proposed change to the existing truck route, the City should make a concerted effort to implement the mobility plan/Ontario Active Transportation Master Plan

A7-Intro

A7-1

(2021), prioritizing streets where trucks are prohibited or will be restricted, as it is notable that there are no continuous north-south bicycle facilities south of SR-60, five years following the completion of the Active Transportation Master Plan.

A7-1
cont.

Traffic Operations

- Exhibit 1-4 on Page 11: The study area should include the intersection of Euclid Avenue (SR-83) and Bickmore Avenue.
- Provide Synchro (Version 12) input files that are used to analyze intersections.
- On Page 38 under Section 2.3: CA MUTCD should be updated to CA MUTCD 2026
- Intersection #1 in Table 7-1 on Page 97: The Synchro output for this ramp intersection showed failure. The HCS output showed the WB left off-ramp failed. This left-turn movement should be improved. Also, a double left on NB Euclid to the WB on ramp should be considered.
- Intersection #2 in Table 7-3 on Page 102: A double SB left without a project is the same as with a project. Verify
- Intersection #21 in Table 7-3 on Page 102: Additional trips add onto the SR-60 WB ramps and Grove Avenue. So, the improvement of these WB ramps should be considered
- The EB left off-ramp at intersection #22 in Table 7-3 on Page 102: Is adding an exclusive left-turn lane? which is a three-lane approach to Grove Ave. Verify

A7-2

Traffic Operations-San Bernadino County does not consider the TIA report to be completed or approved for this proposed project. Additional comments may be provided after the next submittal is reviewed.

Caltrans Encroachment Permit

Be advised that any permanent work or temporary traffic control that encroaches onto Caltrans' ROW requires a Caltrans-issued encroachment permit. For information regarding the Encroachment Permit application and submittal requirements, contact:

Caltrans Office of Encroachment Permits

464 West 4th Street, Basement, MS 619
San Bernardino, CA 92401-1400
(909)383-4526

D8.E-permits@dot.ca.gov

<https://dot.ca.gov/programs/traffic-operations/ep>

Important Note: All new permit applications must now be submitted through our new CEPS Online Portal at: <https://ceps.dot.ca.gov/>
[Local Development Review and Encroachment Permit Process](#)

A7-3

Please note that this LDR Letter is **not** a Caltrans approval nor an entitlement. However, once the above comments have been properly addressed, the project may proceed with the Caltrans Office of Encroachment Permits for an in-depth review and permit issuance.

Thank you again for including the Caltrans LDR Branch in the review process. Should you have any questions regarding this letter, or for future notifications and requests for review of new projects, please email LDR-D8@dot.ca.gov or call 909-963-9608.

A7-4

Sincerely,

A handwritten signature in black ink that reads "Janki Patel". The script is cursive and fluid, with the first letter of each word being capitalized and prominent.

Janki Patel

Branch Chief – Local Development Review
Division of Transportation Planning
Caltrans District 08

BLUM, COLLINS & HO LLP
ATTORNEYS AT LAW
10250 CONSTELLATION BOULEVARD
SUITE 2300
LOS ANGELES, CALIFORNIA 90067
(213) 572-0400

April 16, 2026

Thomas Grahn
Principal Planner
City of Ontario
303 East B Street
Ontario, CA 91764

Via Email to:
tgrahn@ontarioca.gov

Subject: Comments on Eucalyptus Business Park Specific Plan / The Ontario Plan 2050 Policy Plan Amendment Supplemental Environmental Impact Report EIR (SCH NO. 2025110102)

Dear Mr. Grahn,

Thank you for the opportunity to comment on the Supplemental Environmental Impact Report (EIR) for the proposed Eucalyptus Business Park Specific Plan/The Ontario Plan 2050 Policy Plan Amendment 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.

01-1

1.0 Summary

The Project includes two aspects: 1) Project-level analysis of adoption of the Eucalyptus Business Park Specific Plan (EBPSP) to construct 2,939,000 s.f. of industrial business park uses and 2) program-level analysis of substantial amendments to seven chapters (Land Use Element, Housing Element, Mobility Element, Community Design Element, Parks and Recreation Element, Safety Element, and Environmental Resources Element) of the City's General Plan known as The Ontario Plan (TOP Policy Plan Amendment (PPA)) to accommodate the proposed EBPSP, unaccounted for land use changes that increase TOP buildout by 1,395,416 square feet of nonresidential building area, and other changes to TOP. The EBPSP proposes demolition of

all existing onsite structures to accommodate the construction and operation of an industrial business park area. The EBSPSP would establish 9 planning areas that provide for development of the site with approximately 2,939,000 SF of industrial business park uses on 137.9 acres (Planning Areas 1-6) and 36.15 acres of Open Space–Parkland (Planning Areas 7-9). The remaining 14.97 acres would be utilized for roadway improvements. The Business Park land use designation is intended to provide for uses such as employee intensive office spaces, technology centers, research and development facilities, warehouse and distribution, and light manufacturing. No cold storage would be permitted. The Specific Plan would also allow a maximum of 10,000 SF of commercial uses within the Business Park planning areas to support the Business Park operations and a 35,000 SF publicly operated animal resource center if the City of Ontario decides to locate an animal resource center in the Specific Plan.

01-1 cont.

Executive Summary 2.2. Type and Purpose of this Draft SEIR

The amendments to TOP are analyzed at a programmatic level as a Supplemental EIR to the existing TOP EIR. The EBSPSP portion of the Project is analyzed as a Project Supplemental EIR. However, CEQA requires that TOP be analyzed as a Subsequent EIR. The EIR states that, “The proposed land use changes necessitate updates and modifications across the Land Use Element and various other elements of TOP 2050 Policy Plan.” This justification language is vague and overly simplifies the extent of the PPA amendments to TOP. The existing TOP has a total of nine chapters, and the PPA modifies seven of them – Land Use Element, Housing Element, Mobility Element, Community Design Element, Parks and Recreation Element, Safety Element, and Environmental Resources Element. The Project also includes changes to the City’s Development Code and Zoning Map to reflect the changes within TOP.

01-2

CEQA Guidelines Section 21166 requires that a subsequent EIR be prepared when any of the following apply: 1) substantial changes to the approved Project will require major revisions to the certified EIR, 2) substantial changes occur with respect to the circumstances under which the approved Project is being undertaken will require major revisions to the certified EIR, or 3) new information, that was not known and could not have been known at the time the EIR for the approved Project was certified becomes available. All three of these circumstances apply to the proposed Project. The approved Project (existing TOP) is changed so fundamentally and substantially that the RHNA sites inventory of the Housing Element is altered, new land use designations are created, existing land use designations are altered, and the Development Code and Zoning Map must also be updated as a result in order to accommodate these substantial changes.

Further, substantial changes and revisions to the existing TOP EIR are necessary in that the proposed Project has prepared new analyses for Air Quality, GHG, Truck Routes, Noise, VMT, and Water Supply. New information that was not known and could not have been known at the time the EIR for the approved Project (existing TOP) was certified becomes available, including but not limited to the proposed revisions to seven chapters of TOP to accommodate the EBSP, the Redondo Beach case law requirements for Housing Elements, and state law requirements such as SB 330, SB 166, SB 1000, and AB 98.

CEQA Guidelines Section 15163(a)(2) allows preparation of a Supplemental EIR if “only minor additions or changes would be necessary to make the previous EIR adequately apply to the Project in the changed situation.” The Project creates a completely new situation that is changed entirely from the previously certified EIR. The Project includes substantial changes to seven of the nine chapters within The Ontario Plan and requires major revisions of the previous EIR due to involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects (CEQA Guidelines Section 15162(a)(1)). Therefore, a Subsequent EIR is required to be prepared and circulated for public review.

O1-2
cont.

1.1 Project Piecemealing

The EIR does not accurately or adequately describe the Project, meaning “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” (CEQA § 15378). The proposed Project is a piecemeal portion of a larger overall project to be developed by Sares Regis within the City.

The EIR misleads the public and decision makers by circumventing adequate and accurate environmental analysis for the whole of the action - construction and operation of all Sares Regis buildings as a whole. At minimum, known piecemealed Projects include the development of the Meredith International Centre (3,001,160 s.f. of industrial distribution space across seven buildings^{1,2}). Cumulatively, the proposed EBSP Project and the piecemealed Project will construct 5,940,160 sf of warehouse/industrial building area. The proposed TOP Policy Plan Amendment increases TOP buildout for nonresidential building area by 4,334,416 sf, which cumulatively develops 7,335,576 sf of nonresidential building area.

O1-3

¹ <https://www.rga-architects.com/meredith-international-centre>

² <https://www.oltmans.com/projects/meredith-international-centre-bldgs-1-7-infrastructure-and-solar>

CEQA Section 15161 describes Project EIRs as examining “the environmental impacts of a specific development Project. This type of EIR should focus primarily on the changes in the environment that would result from the development Project. The EIR shall examine all phases of the Project, including planning, construction, and operation.” The specific development Project is the construction and operation of all Sares Regis buildings as a whole, including, at a minimum, the projects listed above and any future projects associated with the undisclosed increase of 1,395,416 square feet of nonresidential building area in the TOP, as fully discussed in the Project Description section below.

O1-3 cont.

Additionally, CEQA Guidelines Section 15146 requires that the degree of specificity in an EIR “will correspond to the degree of specificity involved in the underlying activity which is described in the EIR. (a) An EIR on a construction Project will necessarily be more detailed in the specific effects of the Project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy.” Because there are multiple buildings as part of a single Project, the Project EIR must be more detailed in the specific effects of the Project.

A Project EIR must be prepared, which accurately represents the whole of the action without piecemealing the Project into separate, smaller development projects to present unduly low environmental impacts. The EIR must be revised to comply with CEQA Guidelines Section 15161 by preparing a Project EIR to adequately and accurately disclose the Project-specific and cumulative impacts of all Sares Regis projects.

2.0 Project Description

The EBSP aspect of the Project proposes to construct 2,939,000 sf of nonresidential building area. Table 2-4: Comparison of Approved TOP 2050 to Policy Plan Amendment within the EIR states that the TOP PPA will increase the allowable development of nonresidential building square feet by 4,334,416 square feet. This leaves 1,395,416 square feet of nonresidential building area unaccounted for. The land use changes that generate this specific increase in nonresidential building area are not discussed in the EIR. The EIR is inadequate as an informational document, and this does not comply with CEQA’s requirements for meaningful disclosure. The EIR must be revised and include a complete list of affected Assessors Parcel Numbers, the parcel size, the existing and proposed TOP land use designations, and the existing and proposed Zoning designation to adequately disclose the land use changes for the 1,395,416 square feet of nonresidential building area increase over existing conditions.

O1-4

The EIR has also excluded copies of the Eucalyptus Business Park Specific Plan document, revised Draft Housing Element, and changes to the City's Zoning Map and Development Code to implement the Policy Plan Amendments from the EIR. This does not comply with CEQA's requirements for adequate informational documents and meaningful disclosure (CEQA Guidelines Section 15121 and PRC Section 21003(b)). Incorporation by reference (CEQA Guidelines Section 15150 (f)) is not appropriate as the Eucalyptus Business Park Specific Plan document, revised Draft Housing Element, and changes to the City's Zoning Map and Development Code to implement the Policy Plan Amendments contribute directly to the analysis of the problem at hand and is relied upon throughout the EIR to support less than significant findings. A revised EIR must be prepared to include the Eucalyptus Business Park Specific Plan document, revised Draft Housing Element, and changes to the City's Zoning Map and Development Code to implement the Policy Plan Amendments as appendices to the EIR for review, analysis, and comment by the public and decision makers.

01-5

The EIR does not include a detailed floor plan, a detailed site plan, a detailed grading plan, or detailed building elevations. The basic components of a Planning Application include a detailed site plan, floor plan, grading plan, written narrative, and detailed elevations. The site plan provided in Figure 2-12 has been edited for public review to remove meaningful information such as the legend, key notes, floor area ratio calculation, and site coverage. All these basic items are necessary to conduct any type of analysis, and the EIR is inadequate as an informational document, as it is not possible to ascertain any meaningful analysis based upon the information provided. Further, no building elevations are included. A revised EIR must be prepared to include a wholly accurate, adequate, and legible detailed site plan, floor plan, and building elevations for public review.

01-6

Additionally, the grading plan provided in Figure 2-15 has been edited for public review to remove meaningful information. For example, it does not provide any detailed information, such as earthwork quantity notes. Providing the grading plan and earthwork quantity notes is vital as the Project Description states that, "...the site needs to export approximately 51,000 CY of organic materials." The EIR has not provided substantial evidence to support this claim. 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. A revised EIR must be prepared to include wholly accurate and adequate detailed Project grading plans for public review.

01-7

3.3 Air Quality, 3.6 Energy, and 3.8 Greenhouse Gas Emissions

The EIR does not include relevant environmental justice issues for analysis in reviewing potential impacts, including cumulative impacts from the proposed Project. This conflicts 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 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 4.0³, CalEPA’s screening tool that ranks each census tract in the state for pollution and socioeconomic vulnerability, the proposed Project’s census tract (6071001903) is highly burdened by pollution and ranks in the 99th percentile for overall pollution burden, meaning that it is among the most polluted census tracts in the state. The 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 77th percentile for ozone burden, 93rd percentile for particulate matter (pm) 2.5 burden, and 57th percentile for diesel pm burden. These environmental factors are attributed to heavy truck activity in the area. Ozone can cause lung irritation, inflammation, and worsening of existing chronic health conditions, even at low levels of exposure⁴. Exhaust fumes contain toxic chemicals that can damage DNA, cause cancer, make breathing difficult, and cause low birth weight and premature births⁵. The very small particles of diesel PM can reach deep into the lung, where they can contribute to a range of health problems. These include irritation to the eyes, throat, and nose, heart and lung disease, and lung cancer⁶. See also the attached air quality comments and analysis from SWAPE.

01-8

The census tract ranks among the most severely impacted in several areas that impact water quality. The census tract ranks in the 98th percentile for groundwater threats. People who live near contaminated groundwater may be exposed to chemicals moving from the soil into the air inside their homes⁷. Accordingly, the census tract ranks in the 100th 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

³ CalEnviroScreen 4.0 <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>

⁴ OEHHA Ozone <https://oehha.ca.gov/calenviroscreen/indicator/air-quality-ozone>

⁵ OEHHA Traffic <https://oehha.ca.gov/calenviroscreen/indicator/traffic-density>

⁶ OEHHA Diesel Particulate Matter <https://oehha.ca.gov/calenviroscreen/indicator/diesel-particulate-matter>

⁷ OEHHA Groundwater Threats <https://oehha.ca.gov/calenviroscreen/indicator/groundwater-threats>

more often than people in other parts of the state⁸. The census tract also ranks in the 87th percentile for impaired waters. Water pollution can harm wildlife habitats and change the number and types of plants and animals in the environment⁹. When fish and shellfish are contaminated, people who eat them can be exposed to toxic substances¹⁰.

The census tract ranks in the 99th percentile for solid waste facility impacts. Solid waste facilities can expose people to hazardous chemicals, release toxic gases into the air (even after these facilities are closed), and chemicals can leach into soil around the facility and pose a health risk to nearby populations¹¹. The census tract also bears more impacts from cleanup sites than 80% of the state. Chemicals in the buildings, soil, or water at cleanup sites can move into nearby communities through the air or movement of water¹².

The census tract ranks in the 100th percentile for toxic releases. People living near facilities that emit toxic releases may breathe contaminated air regularly or if contaminants are released during an accident¹³. The census tract also ranks in the 87th percentile for hazardous waste facility impacts. Hazardous waste generators and facilities contribute to the contamination of air, water, and soil near waste generators and facilities can harm the environment as well as people¹⁴.

O1-8 cont.

Further, the census tract is a diverse community including 29% Hispanic, 5% African-American, and 37% Asian-American residents, who are especially vulnerable to the impacts of pollution. The community has a high rate of low educational attainment, meaning 53% 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 35% 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 care¹⁵. Poor communities are often located in areas with high levels of pollution¹⁶. Poverty can cause stress that weakens the immune system and causes people to become ill from pollution¹⁷. Living in poverty is also an

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.

¹¹ OEHHA Solid Waste Facilities <https://oehha.ca.gov/calenviroscreen/indicator/solid-waste-sites-and-facilities>

¹² OEHHA Cleanup Sites <https://oehha.ca.gov/calenviroscreen/indicator/cleanup-sites>

¹³ OEHHA Toxic Releases <https://oehha.ca.gov/calenviroscreen/indicator/toxic-releases-facilities>

¹⁴ OEHHA Hazardous Waste Generators and Facilities <https://oehha.ca.gov/calenviroscreen/indicator/hazardous-waste-generators-and-facilities>

¹⁵ OEHHA Poverty <https://oehha.ca.gov/calenviroscreen/indicator/poverty>

¹⁶ Ibid.

¹⁷ Ibid.

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 29th percentile for incidence of cardiovascular disease and 49th percentile for low birth weights. The community also has a high rate of linguistic isolation, meaning 69% of the census tract speaks little to no English and faces further inequities as a result.

O1-8
cont.

3.9 Hazards and Hazardous Materials

The EBSP area of the Project is within Referral Area C and Safety Zone III of the Chino Airport Land Use Compatibility Plan¹⁸. The City's Development Code Reference I: Chino Airport Land Use Compatibility Plan¹⁹ (it must be noted that this is the City's adopted Chino Airport ALUCP and not the statutorily authorized Chino Airport ALUCP) states that regarding statutorily required airport land use compatibility analysis, "San Bernardino County and its cities elected to follow the Alternative Process when this option became available as a result of the 1994 legislation (Assembly Bill 2831). Specific requirements for implementation of the Alternative Process are set forth in Public Utilities Code Section 21670.1(c)(2)." Further, "The California Division of Aeronautics approved the San Bernardino County Alternative Process in 1996. The approval of the Alternative Process designated the City of Chino as the local jurisdiction responsible for leading the compatibility planning process for Chino Airport. The current Chino Airport Land Use Compatibility Plan (ALUCP) does not reflect the guidance set forth in the 2011 Caltrans Airport Land Use Planning Handbook. Although the City of Ontario does not have the formal responsibility under the "alternative process" to prepare a compatibility plan for Chino Airport, the City of Ontario has prepared an airport land compatibility plan for Chino Airport consistent with the 2011 Caltrans Airport Land Use Planning Handbook solely to address impacts within Ontario's boundaries."

O1-9

Even though the City of Ontario has adopted an ALUCP for the Chino Airport, analysis of compliance with the City's ALUCP does not satisfy the statutory requirements of Public Utilities Code Section 21670.1. Only the City of Chino is authorized via the approved Alternative Process as the local jurisdiction responsible for the compatibility planning process for the Chino Airport. The City of Ontario is not authorized to determine this statutorily required review. The EIR must be revised to disclose this information and utilize it for analysis. The proposed Project extensively amends seven of nine TOP chapters, amends a specific plan, and amends the City's development code; all of these actions require ALUCP compatibility review by the City of

¹⁸ <https://lus.sbcounty.gov/wp-content/uploads/sites/48/Airports/Chino.pdf>

¹⁹ https://content.ontarioca.gov/sites/default/files/2024-12/Reference%20I_Chino%20Airport%20Land%20Use%20Compatibility%20Plan_Rev%2005.02.2023.pdf

Chino, which is the authorized lead. The EIR has not provided any substantial evidence to support a less-than-significant finding; the Project directly conflicts with Public Utilities Code Section 21670.1 and all statutory requirements for airport compatibility planning, and a revised EIR must be prepared to include a finding of significance.

01-9 cont.

Further, the EIR has not included substantial evidence to demonstrate that the Project has obtained a “Determination of No Hazard to Air Navigation” from the FAA. The EIR must be revised to include a finding of significance.

3.11 Land Use and Planning

The EIR has also excluded copies of the Eucalyptus Business Park Specific Plan document, revised Draft Housing Element, and changes to the City’s Zoning Map and Development Code to implement the Policy Plan Amendments from the EIR. This does not comply with CEQA’s requirements for adequate informational documents and meaningful disclosure (CEQA Guidelines Section 15121 and PRC Section 21003(b)). Incorporation by reference (CEQA Guidelines Section 15150 (f)) is not appropriate as the Eucalyptus Business Park Specific Plan document, revised Draft Housing Element, and changes to the City’s Zoning Map and Development Code to implement the Policy Plan Amendments contribute directly to the analysis of the problem at hand and is relied upon throughout the EIR to support less than significant findings. A revised EIR must be prepared to include the Eucalyptus Business Park Specific Plan document, revised Draft Housing Element, and changes to the City’s Zoning Map and Development Code to implement the Policy Plan Amendments as appendices to the EIR for review, analysis, and comment by the public and decision makers.

01-10

The EBSP aspect of the Project proposes to construct 2,939,000 sf of nonresidential building area. Table 2-4: Comparison of Approved TOP 2050 to Policy Plan Amendment within the EIR states that the TOP PPA will increase the allowable development of nonresidential building square feet by 4,334,416 square feet. This leaves 1,395,416 square feet of nonresidential building area unaccounted for. The land use changes that generate this specific increase in nonresidential building area are not discussed in the EIR. The EIR is inadequate as an informational document, and this does not comply with CEQA’s requirements for meaningful disclosure. The EIR must be revised and include a complete list of affected Assessors Parcel Numbers, the parcel size, the existing and proposed TOP land use designations, and the existing and proposed Zoning designation to adequately disclose the land use changes for the 1,395,416 square feet of nonresidential building area increase over existing conditions.

01-11

The EIR excludes from its analysis the Project's required General Plan Amendment and Zone Change applications to allow development of the proposed uses on the Project site. The site was not anticipated to be developed with the proposed use and is therefore not accounted for in regional and local plans adopted for purposes of avoiding or mitigating environmental effects, including but not limited to the AQMP, RTP/SCS, and General Plan. A revised EIR must be prepared to include this information for analysis and include a finding of significance.

01-12

The EBSPP aspect of the Project proposes to change the land use designations of several sites identified for residential development in the Housing Element sites inventory to non-residential land use designations. This requires the proposed Policy Plan Amendment (PPA) to revise the existing inventory to remove the EBSPP sites, include new additional replacement sites, and revise the land use/zoning designations on multiple sites within the existing inventory as part of the Policy Plan Amendment (PPA). The EIR is not clear regarding the acreage of land attributed to each existing land use designations for the overall Project site (EBSPP and PPA) in order to calculate if there is a net loss of housing capacity. Specifically, the EIR only provides a list of all APNs affected by the PPA beginning on pages 2-18. The EIR excludes meaningful information for these sites, including but not limited to the existing/proposed General Plan land use designation, existing/proposed Zoning designation, acreage, total unit capacity, realistic unit capacity for HCD Housing Element analysis, and whether the parcel is in the existing sites inventory.

01-13

Government Code Section 66300(b)(1)(A) requires that agencies shall not "change the general plan land use designation, specific plan land use designation, or zoning to a less intensive use below what was allowed under the land use designation and zoning ordinances in effect at the time of the proposed change." Under Government Code Section 66300(b)(1)(A), a "less intensive use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or any other action that would individually or cumulatively reduce residential development capacity. Pursuant to SB 330, replacement capacity for any displaced residential units must be provided concurrently at the time of Project approval.

01-14

Government Code Section 66300 (h)(i)(1) states that, "this section does not prohibit an affected county or an affected city, including the local electorate acting through the initiative process, from changing a land use designation or zoning ordinance to a less intensive use, or reducing the intensity of land use, if the city or county concurrently changes the development standards,

01-15

policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity.” The EIR is inadequate in that it does not provide the acreage of each existing General Plan land use and Zoning designation within the overall Project area. The total acreage for each existing General Plan land use and Zoning designation is necessary to calculate the existing total residential development capacity to ensure there is no net loss of capacity. The EIR must be revised to include this information for analysis.

As an example, the total residential unit capacity of only the EBSP parcels that are within the existing HCD Certified Housing Element sites inventory may be calculated because the existing Housing Element includes the necessary information.

Table B-2: Housing Element Sites Inventory within the City’s HCD Certified Housing Element²⁰ identifies 16 parcels from the EBSP portion of the Project site as part of its identified sites inventory to accommodate its RHNA allocation.

1. APN 0216-322-01

Site 2-70

Acres: 9.1

Current GP: MDR

Proposed GP: MU-BC

Current Zoning: SP-AG

Proposed Zoning: SP-AG-AH

Min Density: 25

Max Density: 45

Opportunity Area: Great Park Corridor

VLI: 40 units

Low: 24 units

Mod: 32 units

Above Mod: 32 units

Total HE Capacity: 127 units

Max Density Capacity: 409 units

2. APN 0216-322-02

Site 2-71

²⁰ <https://hcdpowerbi.blob.core.windows.net/housing-elements/ontario-6th-adopted031122.pdf>

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Acres: 3.1

Current GP: MDR

Proposed GP: MU-BC

Current Zoning: SP-AG

Proposed Zoning: SP-AG-AH

Min Density: 25

Max Density: 45

Opportunity Area: Great Park Corridor

VLI: 13 units

Low: 8 units

Mod: 11 units

Above Mod: 11 units

Total HE Capacity: 42 units

Max Density Capacity: 139 units

3. APN 0216-321-06

Site 2-67

Acres: 5.7

Current GP: MDR

Proposed GP: MU-BC

Current Zoning: SP-AG

Proposed Zoning: SP-AG-AH

Min Density: 25

Max Density: 45

Opportunity Area: Great Park Corridor

VLI: 25 units

Low: 15 units

Mod: 20 units

Above Mod: 20 units

Total HE Capacity: 79 units

Max Density Capacity: 256 units

4. APN 0216-321-07

Site 2-68

Acres: 9.1

Current GP: MDR

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cont.

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Proposed GP: MU-BC
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 25
Max Density: 45
Opportunity Area: Great Park Corridor
VLI: 40 units
Low: 24 units
Mod: 32 units
Above Mod: 32 units
Total HE Capacity: 128 units
Max Density Capacity: 409 units

5. APN 0216-322-10a
Site 2-129
Acres: 11.8
Current GP: MDR
Proposed GP: MDR
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 20
Max Density: 30
Opportunity Area: Great Park Corridor
VLI: 81 units
Low: 48 units
Mod: 65 units
Above Mod: 65 units
Total HE Capacity: 258 units
Max Density Capacity: 354 units

6. APN 0216-322-10b
Site 2-130
Acres: 11.8
Current GP: MDR
Proposed GP: MU-BC
Current Zoning: SP-AG

O1-15 cont.

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Page 14
Proposed Zoning: SP-AG-AH
Min Density: 25
Max Density: 45
Opportunity Area: Great Park Corridor
VLI: 52 units
Low: 31 units
Mod: 41 units
Above Mod: 41 units
Total HE Capacity: 165 units
Max Density Capacity: 531 units

7. APN 0216-321-01
Site 2-64
Acres: 8.8
Current GP: MDR
Proposed GP: MU-BC
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 25
Max Density: 45
Opportunity Area: Great Park Corridor
VLI: 38 units
Low: 22 units
Mod: 31 units
Above Mod: 31 units
Total HE Capacity: 121 units
Max Density Capacity: 396 units

8. APN 0216-321-02
Site 2-65
Acres: 7.5
Current GP: MDR
Proposed GP: MU-BC
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 25

O1-15 cont.

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Page 15
Max Density: 45
Opportunity Area: Great Park Corridor
VLI: 32 units
Low: 19 units
Mod: 26 units
Above Mod: 26 units
Total HE Capacity: 103 units
Max Density Capacity: 337 units

9. APN 1053-551-01
Site 2-118
Acres: 26.7
Current GP: MDR
Proposed GP: MU-BC
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 25
Max Density: 45
Opportunity Area: Great Park Corridor
VLI: 118 units
Low: 69 units
Mod: 93 units
Above Mod: 93 units
Total HE Capacity: 373 units
Max Density Capacity: 1,201 units

10. APN 1053-541-01
Site 2-117
Acres: 5.5
Current GP: MDR
Proposed GP: MDR
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 20
Max Density: 30
Opportunity Area: Great Park Corridor

O1-15 cont.

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VLI: 38 units
Low: 22 units
Mod: 30 units
Above Mod: 30 units
Total HE Capacity: 121 units
Max Density Capacity: 165 units

11. APN 1053-571-01
Site 2-119
Acres: 9.1
Current GP: MDR
Proposed GP: MDR
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 20
Max Density: 30
Opportunity Area: Great Park Corridor
VLI: 62 units
Low: 37 units
Mod: 50 units
Above Mod: 50 units
Total HE Capacity: 199 units
Max Density Capacity: 273 units

12. APN 1053-571-02
Site 2-120
Acres: 9.1
Current GP: MDR
Proposed GP: MDR
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 20
Max Density: 30
Opportunity Area: Great Park Corridor
VLI: 62 units
Low: 37 units

O1-15 cont.

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Page 17
Mod: 50 units
Above Mod: 50 units
Total HE Capacity: 200 units
Max Density Capacity: 273 units

13. APN 1053-531-01
Site 2-115
Acres: 3.0
Current GP: MDR
Proposed GP: MDR
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 20
Max Density: 30
Opportunity Area: Great Park Corridor
VLI: 21 units
Low: 12 units
Mod: 17 units
Above Mod: 17 units
Total HE Capacity: 66 units
Max Density Capacity: 90 units

14. APN 1053-531-04
Site 2-116
Acres: 2.9
Current GP: MDR
Proposed GP: MDR
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 20
Max Density: 30
Opportunity Area: Great Park Corridor
VLI: 20 units
Low: 12 units
Mod: 16 units
Above Mod: 16 units

O1-15 cont.

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Total HE Capacity: 63 units
Max Density Capacity: 87 units

15. APN 1053-581-04
Site 2-122
Acres: 9.0
Current GP: MDR
Proposed GP: MDR
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 20
Max Density: 30
Opportunity Area: Great Park Corridor
VLI: 62 units
Low: 36 units
Mod: 50 units
Above Mod: 50 units
Total HE Capacity: 197 units
Max Density Capacity: 270 units

O1-15 cont.

16. APN 1053-581-03
Site 2-121
Acres: 9.1
Current GP: MDR
Proposed GP: MDR
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 20
Max Density: 30
Opportunity Area: Great Park Corridor
VLI: 63 units
Low: 37 units
Mod: 50 units
Above Mod: 50 units
Total HE Capacity: 200 units
Max Density Capacity: 273 units

Total EBSP Sites Maximum Density: 5,463 units

The EBSP area sites have a maximum density of 5,463 residential units. The Project proposes to change the General Plan Land Use and Zoning designations for these sites, which will reduce their total residential capacity to 0 dwelling units. It is not possible to calculate if the identified replacement sites provide zoning capacity for at least 5,463 units because the EIR does not provide the necessary information to conduct this analysis. It is also not possible to calculate the overall existing zoning capacity of all affected APNs at each income level, nor the proposed overall zoning capacity of all affected APNs at each income level, because the EIR does not provide the necessary information to conduct this analysis.

01-15

The EIR does not provide any information to determine the Project's compliance or noncompliance with statutory requirements of the Housing Crisis Act (HCA) of 2019/Senate Bill (SB) 330²¹/SB 8²². The HCA/SB 330/SB 8 requires replacement housing sites when any land designated for housing development (including land not in the Housing Element sites inventory) experiences land use changes to ensure no net loss of housing capacity. The EIR has not included substantial evidence to support compliance with these laws nor a less-than-significant finding. The EIR must be revised to include a finding of significance and recirculated for public review.

Table 3.11-1 Policy Plan Amendment Consistency with SCAG Connect SoCal includes a general and broad discussion of the Project and excludes analysis with specific policies of the RTP/SCS. The sweeping generalizations exclude analysis that the project will result in significant and unavoidable impacts to Air Quality (inconsistent with AQMP, local and regional construction emissions, localized construction emissions, and cumulative health risks), Greenhouse Gases (project-related emissions and inconsistency with the City's Community Climate Action Plan), and Transportation (increase in VMT). The EIR's findings of significance directly conflict with its generalizations that the Project is consistent with key goals related to mobility and environmental goals and policies related to sustainable development, air quality, clean transportation, and climate resilience. The EIR has not provided any analysis here with the policies of SCAG's Connect SoCal RTP/SCS, and a revised EIR must be prepared to at minimum include consistency analysis of the following:

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²¹ Housing Crisis Act of 2019/SB 330

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB330

²² SB 8 https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB8

1. Equitable Engagement and Decision-Making Policy 46. Promote racial equity that is grounded in the recognition of the past and current harms of systemic racism and one that advances restorative justice.
2. Equitable Engagement and Decision-Making Policy 47. Increase equitable, inclusive, and meaningful representation and participation of people of color and disadvantaged communities in planning processes.
3. Sustainable Development Policy 48. Promote sustainable development and best practices that enhance resource conservation, reduce resource consumption, and promote resilience.
4. Sustainable Development Policy 49. Support communities across the region to advance innovative, sustainable development practices.
5. Sustainable Development Policy 50. Recognize and support the diversity of communities across the region by promoting local place-making, planning, and development efforts that advance equity, mobility, resilience, and sustainability.
6. Air Quality Policy 51. Reduce hazardous air pollutants and greenhouse gas emissions and improve air quality throughout the region through planning and implementation efforts.
7. Air Quality Policy 52. Support investments that reduce hazardous air pollutants and greenhouse gas emissions.
8. Air Quality Policy 53. Reduce the exposure and impacts of emissions and pollutants and promote local and regional efforts that improve air quality for vulnerable populations, including but not limited to Priority Equity Communities and the AB 617 Communities.
9. Climate Resilience Policy 64. Prioritize the most vulnerable populations and communities subject to climate hazards to help the people, places, and infrastructure that are most at risk for climate change impacts. In doing so, recognize that disadvantaged communities are often overburdened.
10. Climate Resilience Policy 65. Support local and regional climate and hazard planning and implementation efforts for transportation, land use, and other factors.
11. Climate Resilience Policy 66. Support nature-based solutions to increase regional resilience of the natural and built environment.

A revised EIR must be prepared to disclose the Project's inconsistency with these policies and include a finding of significance.

Additionally, the EIR has not analyzed the Policy Plan Amendment in accordance with the existing General Plan policies. The EIR concludes that the Project will result in significant and unavoidable impacts to Air Quality (inconsistent with AQMP, local and regional construction emissions, localized construction emissions, and cumulative health risks), Cultural Resources

01-16

01-17

(Historic Resources), Noise (Construction Noise, Traffic Noise, Construction Vibration, Heavy Truck Vibration, and Exterior Airport Noise Exposure), Greenhouse Gases (Project related emissions and inconsistency with the City's Community Climate Action Plan), Transportation (increase in VMT). The PPA is directly inconsistent with several TOP items listed below, including but not limited to Policy LU-2.4, Policy LU-2.10, Policy LU-5.1, Policy LU-5.2, Policy LU-5.6, Policy H-2.4, Policy H-4.6, Goal ER-4, Policy ER-4.6, Goal CE-3, and Policy CE3-1. The EIR relying upon approval of the PPA itself to determine consistency with TOP circumvents CEQA's requirements for meaningful disclosure and informational documents. The EIR must be revised to include an analysis of the proposed PPA in accordance with the existing TOP goals and policies in order to provide an adequate and accurate environmental analysis.

01-17
cont.

Further, Table 3.11-3 EBSP Policy Plan Consistency Analysis has not provided consistency analysis with all TOP items, and a revised EIR must be prepared to include a consistency analysis with all goals and policies of the TOP, including but not limited to the following:

1. Goal LU-1. A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.
2. Policy LU-1.7 *Revenues and Costs*. We require future amendments to our Land Use Plan to be accompanied by analyses of fiscal impacts.
3. Policy LU-2.4 *Regulation of Nuisances*. We regulate the location, concentration, and operation of potential nuisances.
4. Policy LU-2.10 *Sensitive Uses*. We monitor and share information with the community about stationary and non-stationary emission sources. We encourage siting and design of facilities to minimize health and safety risks on existing and proposed sensitive uses, especially in environmental justice areas.
5. Policy LU-2.11 *Context-Aware Transitions and Connections*. We require new development projects and land-planning efforts to provide context-aware and appropriate transitions and connections between existing and planned neighborhoods, blocks, sites, and buildings.
6. Goal LU-5. Integrated airport systems and facilities that minimize negative impacts on the community and maximize economic benefits.
7. Policy LU-5.1 *Coordination with Airport Authorities*. We collaborate with the FAA, Caltrans Division of Aeronautics, airport owners, neighboring jurisdictions, and other stakeholders in the preparation, update, and maintenance of airport-related plans.

01-18

8. Policy LU-5.2 *Airport Planning Consistency*. We coordinate with airport authorities to ensure The Ontario Plan is consistent with state law, federal regulations, and/or adopted master plans, and airport land use compatibility plans for ONT and Chino Airport.
9. Policy LU-5.6 *Alternative Process*. We fulfill our responsibilities and comply with state law with regard to the Alternative Process for proper airport land use compatibility planning.
10. Policy H-2.4 *Ontario Ranch*. We support a premier lifestyle community in the Ontario Ranch, distinguished by diverse housing, the highest design quality, and cohesive and highly amenitized neighborhoods.
11. Policy H-4.6 *Fair Housing*. We further fair housing by prohibiting discrimination in the housing market, lifting barriers that restrict access to housing, and providing education, support, and enforcement services to address discriminatory practices.
12. Policy PR-1.5 *Acreage Standard*. We strive to provide 5 acres of parkland (public and private) per 1,000 residents.
13. Policy PR-1.6 *Private Parks*. We expect development to provide a minimum of 2 acres of developed private park space per 1,000 residents.
14. Goal ER-1. A reliable and cost-effective system that permits the City to manage its diverse water resources and needs.
15. Policy ER-1.1 *Local Water Supply*. We increase local water supplies to reduce our dependence on imported water. New and redevelopment projects are aligned with our available water supply and/or to enhance our available water supply.
16. Policy ER-1.2 *Matching Supply to Use*. We match water supply and quality to the appropriate use.
17. Goal ER-4. Improved indoor and outdoor air quality and reduced locally generated pollutant emissions.
18. Policy ER-4.6 *Particulate Matter*. We support efforts to reduce particulate matter to meet State and Federal Clean Air Standards.
19. Policy ER-4.9. *New Localized Air Pollution Sources Near Existing Sensitive Receptors*. We require new developments to conduct a Health Risk Assessment for land uses that generate more than 100 trucks per day or 40 trucks per day by trucks operating transportation refrigeration units (TRUs) within 1,000 feet of sensitive land uses (California Health and Safety Code § 42705.5(a)(5)). If the health risk assessment determines the new development poses health hazards that increase the incremental cancer risk above the threshold established by the South Coast Air Quality Management District (AQMD), we will only approve permits upon the condition that adequate mitigation measures are proposed and implemented for potential impacts on the sensitive uses around

O1-18 cont.

the site and along the route within Ontario taken by the trucks to and from freeways. We require new developments that must perform a health risk assessment to conduct additional public outreach by sending notifications in multiple languages to all residents living within 500 feet, and encourage hosting a public meeting.

20. Goal CE-3. Decision-making deliberations that incorporate the full short-term and long-term economic and fiscal implications of proposed City Council actions.
21. Policy CE3-1 *Fiscal Impact Disclosure*. We require requests for City Council action to disclose the full fiscal impacts, including direct and indirect costs.
22. Policy CE-3.2 *General Plan Amendments*. We require those proposing General Plan amendments to disclose reasonably foreseeable impacts through a fiscal analysis.
23. Policy CE-3.3 *Long-Term Funding Disclosure*. We require those requesting City support or funding for projects or programs to disclose if and how they can be continued without further City support.
24. Policy SR-2.7 *Community Engagement*. We promote targeted outreach and education to historically underrepresented groups to encourage meaningful participation in the decision-making process for projects whose outcomes will affect land use in environmental justice areas.
25. Policy M-3.2 *Alternative Transit Facilities at New Development*. We require new development adjacent to an existing or planned transit stop to contribute to the creation of transit facilities, such as bus shelters, transit bays and turnouts, and bicycle facilities, such as secure storage areas.

O1-18
cont.

It is vital for the EIR to provide an analysis of the project in accordance with these General Plan items, particularly as there are requirements for fiscal impact disclosure and fiscal analysis applicable to the proposed Project that are not provided for analysis. Additionally, as discussed fully in the Hazards and Hazardous Materials section, the Project has not met the statutory requirements for airport compatibility planning via the Alternative Process for the Chino Airport. The EIR is inadequate as an informational document and does not meet CEQA's requirements for meaningful disclosure due to the lack of analysis with these requirements. The Project ultimately does not comply with these requirements, and the EIR must be revised to include a statement regarding the inconsistency and include a finding of significance.

O1-19

Table 3.11-3 EBSP Policy Plan Consistency Analysis includes misleading and erroneous consistency analysis for several items, and the EIR must be revised to remove these statements and provide accurate information. For example, the EIR concludes the project is consistent with "Policy ER-4.1. Land Use. We reduce GHG and other local pollutant emissions through

compact, mixed use, and transit-oriented development and development that improves the regional jobs-housing balance,” because, “The EBPSp would provide employment land uses in close proximity to major transportation corridors (Interstate 10, Interstate 15, State Route 60, State Route 83, State Route 71, and State Route 91) and near bus rapid transit (BRT) corridors along Edison Avenue/Ontario Ranch Road and Euclid Avenue. Therefore, the Specific Plan area provides local employment opportunities for residents and serves to improve the regional jobs-housing balance.

01-19 cont.

Additionally, the Specific Plan area provides an integrated system of sidewalks, bikeways, and multipurpose trails on internal and perimeter roadways to encourage non-vehicular modes of transportation.” The analysis here excludes the possibility that the proposed Project will result in significant and unavoidable cumulatively considerable GHG emissions and impacts. The EIR has not provided substantial evidence to support the conclusion that the Project does not conflict with this policy, and the EIR’s own findings conclude that the Project will have significant and unavoidable impacts. A revised EIR must be prepared to include an accurate analysis that discloses and employs the Project’s significant and unavoidable impacts for analysis and includes a finding of significance due to direct inconsistencies with this policy.

01-20

Similarly, the EIR concludes the project is consistent with, “Policy ER-4.3: Greenhouse Gases (GHG) Emissions Reductions. We will reduce GHG emissions in accordance with regional, state, and federal regulations,” because, “As discussed in Section 3.8, Greenhouse Gas Emissions, the Specific Plan would be consistent with applicable regional, State, and federal regulations related to the reduction of GHG emissions and would not obstruct implementation of any GHG reduction plans/programs.” The analysis here excludes the possibility that the proposed Project will result in significant and unavoidable cumulative GHG emissions and impacts, including inconsistency with the City’s Community Climate Action Plan and emissions that will impede regional, state, and federal GHG reduction targets. A revised EIR must be prepared to include an accurate analysis that discloses and employs the Project’s significant and unavoidable impacts for analysis and includes a finding of significance due to direct inconsistencies with this policy.

01-21

The EIR also concludes that the Project is consistent with “Policy M1-6: Reduced Vehicle Miles Traveled. We will strive to reduce VMT through a combination of land use, transportation projects, travel demand management strategies, and other trip reduction measures in coordination with development projects and public capital improvement projects,” because, “Uses internal to the Specific Plan would be connected through internal circulation systems, including sidewalks,

01-22

bike lanes, and multi-purpose trails, reducing vehicle miles traveled.” The analysis here excludes the possibility that the proposed Project will increase VMT and result in significant and unavoidable cumulative considerable VMT impacts. A revised EIR must be prepared to include an accurate analysis that discloses and employs the Project’s significant and unavoidable impacts for analysis and includes a finding of significance due to direct inconsistencies with this policy.

01-22
cont.

The EIR concludes the Project is consistent with “Policy M1-5: Level of Service. Maintain a peak hour Level of Service (LOS) E or better at all intersections. Maintain Level of Service D or better on arterial streets in the City. Develop and maintain a list of locations where LOS E or LOS F is considered acceptable and would be exempt from this level of service policy. Considerations for LOS exemption include being restricted by environmental constraints, lacking available right-of-way, deterring an increase in VMT, or degrading other modes of travel (such as bicycle or pedestrian infrastructure),” because, “The Traffic Analysis identifies improvements and fair share contributions to be assessed of the EBSP to maintain acceptable LOS at affected intersections.” However, as stated in the Transportation analysis below, none of these improvements and fair share contributions are included as Mitigation Measures in the EIR nor discussed as required improvements. Without implementation of these requirements, the impacts remain significant and unavoidable, and a finding of significance must be included in a revised EIR.

01-23

3.14 Population and Housing

The EIR has excluded the revised Draft Housing Element as an appendix to the EIR. This does not comply with CEQA’s requirements for adequate informational documents and meaningful disclosure (CEQA Guidelines Section 15121 and PRC Section 21003(b)). Incorporation by reference (CEQA Guidelines Section 15150 (f)) is not appropriate as the revised Draft Housing Element contributes directly to the analysis of the problem at hand and is relied upon throughout the EIR to support less than significant findings. A revised EIR must be prepared to include the revised Draft Housing Element as an appendix to the EIR for review, analysis, and comment by the public and decision makers.

01-24

The Project faces significant inconsistency with the State Housing Element Law. Pursuant to Government Code Section 65863²³, a jurisdiction shall ensure that its housing element sites inventory “can accommodate, at all times throughout the planning period, its remaining unmet share of the regional housing need allocated pursuant to Section 65584” and “at no time...shall a

01-25

²³ Government Code Section 65863

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=65863

city, county, or city and county by administrative, quasi-judicial, legislative, or other action permit or cause its inventory of sites identified in the housing element to be insufficient to meet its remaining unmet share of the regional housing need.” Further, this Section states the following:

“No city, county, or city and county shall, by administrative, quasi-judicial, legislative, or other action, reduce, or require or permit the reduction of, the residential density for any parcel to, or allow development of any parcel at, a lower residential density, as defined in paragraphs (1) and (2) of subdivision (g), unless the city, county, or city and county makes written findings supported by substantial evidence of both of the following:

(A) The reduction is consistent with the adopted general plan, including the housing element.

(B) The remaining sites identified in the housing element are adequate to meet the requirements of Section 65583.2 and to accommodate the jurisdiction’s share of the regional housing need pursuant to Section 65584. The finding shall include a quantification of the remaining unmet need for the jurisdiction’s share of the regional housing need at each income level and the remaining capacity of sites identified in the housing element to accommodate that need by income level.”

O1-25
cont.

Table B-2: Housing Element Sites Inventory within the City’s HCD Certified Housing Element²⁴ identifies 16 parcels from the EBSP portion of the Project site as part of its identified sites inventory to accommodate its RHNA allocation.

1. APN 0216-322-01

Site 2-70

Acres: 9.1

Current GP: MDR

Proposed GP: MU-BC

Current Zoning: SP-AG

Proposed Zoning: SP-AG-AH

Min Density: 25

Max Density: 45

²⁴ <https://hcdpowerbi.blob.core.windows.net/housing-elements/ontario-6th-adopted031122.pdf>

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Opportunity Area: Great Park Corridor

VLI: 40 units

Low: 24 units

Mod: 32 units

Above Mod: 32 units

Total HE Capacity: 127 units

Max Density Capacity: 409 units

2. APN 0216-322-02

Site 2-71

Acres: 3.1

Current GP: MDR

Proposed GP: MU-BC

Current Zoning: SP-AG

Proposed Zoning: SP-AG-AH

Min Density: 25

Max Density: 45

Opportunity Area: Great Park Corridor

VLI: 13 units

Low: 8 units

Mod: 11 units

Above Mod: 11 units

Total HE Capacity: 42 units

Max Density Capacity: 139 units

3. APN 0216-321-06

Site 2-67

Acres: 5.7

Current GP: MDR

Proposed GP: MU-BC

Current Zoning: SP-AG

Proposed Zoning: SP-AG-AH

Min Density: 25

Max Density: 45

Opportunity Area: Great Park Corridor

VLI: 25 units

O1-25
cont.

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Low: 15 units
Mod: 20 units
Above Mod: 20 units
Total HE Capacity: 79 units
Max Density Capacity: 256 units

4. APN 0216-321-07
Site 2-68
Acres: 9.1
Current GP: MDR
Proposed GP: MU-BC
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 25
Max Density: 45
Opportunity Area: Great Park Corridor
VLI: 40 units
Low: 24 units
Mod: 32 units
Above Mod: 32 units
Total HE Capacity: 128 units
Max Density Capacity: 409 units

5. APN 0216-322-10a
Site 2-129
Acres: 11.8
Current GP: MDR
Proposed GP: MDR
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 20
Max Density: 30
Opportunity Area: Great Park Corridor
VLI: 81 units
Low: 48 units
Mod: 65 units

O1-25
cont.

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Above Mod: 65 units
Total HE Capacity: 258 units
Max Density Capacity: 354 units

6. APN 0216-322-10b
Site 2-130
Acres: 11.8
Current GP: MDR
Proposed GP: MU-BC
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 25
Max Density: 45
Opportunity Area: Great Park Corridor
VLI: 52 units
Low: 31 units
Mod: 41 units
Above Mod: 41 units
Total HE Capacity: 165 units
Max Density Capacity: 531 units

7. APN 0216-321-01
Site 2-64
Acres: 8.8
Current GP: MDR
Proposed GP: MU-BC
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 25
Max Density: 45
Opportunity Area: Great Park Corridor
VLI: 38 units
Low: 22 units
Mod: 31 units
Above Mod: 31 units
Total HE Capacity: 121 units
Max Density Capacity: 396 units

01-25 cont.

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8. APN 0216-321-02

Site 2-65

Acres: 7.5

Current GP: MDR

Proposed GP: MU-BC

Current Zoning: SP-AG

Proposed Zoning: SP-AG-AH

Min Density: 25

Max Density: 45

Opportunity Area: Great Park Corridor

VLI: 32 units

Low: 19 units

Mod: 26 units

Above Mod: 26 units

Total HE Capacity: 103 units

Max Density Capacity: 337 units

01-25 cont.

9. APN 1053-551-01

Site 2-118

Acres: 26.7

Current GP: MDR

Proposed GP: MU-BC

Current Zoning: SP-AG

Proposed Zoning: SP-AG-AH

Min Density: 25

Max Density: 45

Opportunity Area: Great Park Corridor

VLI: 118 units

Low: 69 units

Mod: 93 units

Above Mod: 93 units

Total HE Capacity: 373 units

Max Density Capacity: 1,201 units

10. APN 1053-541-01

Site 2-117

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Acres: 5.5

Current GP: MDR

Proposed GP: MDR

Current Zoning: SP-AG

Proposed Zoning: SP-AG-AH

Min Density: 20

Max Density: 30

Opportunity Area: Great Park Corridor

VLI: 38 units

Low: 22 units

Mod: 30 units

Above Mod: 30 units

Total HE Capacity: 121 units

Max Density Capacity: 165 units

11. APN 1053-571-01

Site 2-119

Acres: 9.1

Current GP: MDR

Proposed GP: MDR

Current Zoning: SP-AG

Proposed Zoning: SP-AG-AH

Min Density: 20

Max Density: 30

Opportunity Area: Great Park Corridor

VLI: 62 units

Low: 37 units

Mod: 50 units

Above Mod: 50 units

Total HE Capacity: 199 units

Max Density Capacity: 273 units

12. APN 1053-571-02

Site 2-120

Acres: 9.1

Current GP: MDR

01-25 cont.

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Proposed GP: MDR

Current Zoning: SP-AG

Proposed Zoning: SP-AG-AH

Min Density: 20

Max Density: 30

Opportunity Area: Great Park Corridor

VLI: 62 units

Low: 37 units

Mod: 50 units

Above Mod: 50 units

Total HE Capacity: 200 units

Max Density Capacity: 273 units

13. APN 1053-531-01

Site 2-115

Acres: 3.0

Current GP: MDR

Proposed GP: MDR

Current Zoning: SP-AG

Proposed Zoning: SP-AG-AH

Min Density: 20

Max Density: 30

Opportunity Area: Great Park Corridor

VLI: 21 units

Low: 12 units

Mod: 17 units

Above Mod: 17 units

Total HE Capacity: 66 units

Max Density Capacity: 90 units

14. APN 1053-531-04

Site 2-116

Acres: 2.9

Current GP: MDR

Proposed GP: MDR

Current Zoning: SP-AG

O1-25 cont.

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Proposed Zoning: SP-AG-AH
Min Density: 20
Max Density: 30
Opportunity Area: Great Park Corridor
VLI: 20 units
Low: 12 units
Mod: 16 units
Above Mod: 16 units
Total HE Capacity: 63 units
Max Density Capacity: 87 units

15. APN 1053-581-04
Site 2-122
Acres: 9.0
Current GP: MDR
Proposed GP: MDR
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 20
Max Density: 30
Opportunity Area: Great Park Corridor
VLI: 62 units
Low: 36 units
Mod: 50 units
Above Mod: 50 units
Total HE Capacity: 197 units
Max Density Capacity: 270 units

16. APN 1053-581-03
Site 2-121
Acres: 9.1
Current GP: MDR
Proposed GP: MDR
Current Zoning: SP-AG
Proposed Zoning: SP-AG-AH
Min Density: 20

O1-25 cont.

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Max Density: 30

Opportunity Area: Great Park Corridor

VLI: 63 units

Low: 37 units

Mod: 50 units

Above Mod: 50 units

Total HE Capacity: 200 units

Max Density Capacity: 273 units

Total EBSP Sites Maximum Density: 5,463 units

The EBSP area sites have a maximum density of 5,463 residential units. The Project proposes to change the General Plan Land Use and Zoning designations for these sites, which will reduce their total residential capacity to 0 dwelling units. The EIR has not provided substantial evidence to demonstrate that the remaining sites identified in the housing element are adequate to meet the requirements of Government Code Section 65583.2 and to accommodate the jurisdiction's share of the regional housing need pursuant to Government Code Section 65584 through the end of the 2021-2029 planning period. As an example, Table B-2: Housing Element Sites Inventory within the Housing Element was not updated to reflect or disclose the proposed changes associated with the overall Project. This means that the EIR's calculations to accommodate the City's RHNA are not supported by substantial evidence, such as the list of parcels in the inventory, parcel size, existing/proposed land use and zoning designations, and quantity of units per income level, which are not specified. The EIR has not demonstrated that the City's Housing Element can accommodate at all times throughout the planning period its remaining unmet share of the regional housing need. The EIR must be revised to include a finding of significance because it has not demonstrated that the City can continue to accommodate its RHNA following the potential approval of the proposed Project.

O1-25 cont.

Government Code Section 65585(b)(1) requires that prior to submitting the revised draft Housing Element to HCD, the City must provide seven days' notice prior to submitting to HCD, post the draft revised document on its website, and send an email notification to interested parties. The City has not posted the draft revised Housing Element on its website in compliance with Government Code Section 65585(b)(1). The document is not posted as part of the Project webpage²⁵ and this page does not include any information regarding submittal to HCD. The

O1-26

²⁵ <https://www.myinput.com/OntarioPPA>

document is buried at the bottom of the CEQA documents for the overall Project, which is unusual and misleading since the draft revised Housing Element is not listed in the EIR as an attachment or appendix for public review and was not forwarded to the Governor's Office of Land Use and Climate Innovation (formerly OPR) CEQAnet clearinghouse as part of the CEQA record. The EIR does not provide substantial evidence to demonstrate that the lead agency has complied with these requirements. A finding of significance must be included in a revised EIR, and the lead agency must take action to comply.

01-26
cont.

The EIR has not addressed the Second District Court of Appeal's October 10, 2025, decision in the *New Commune DTLA LLC et al. v. City Redondo Beach et al.* (2025) Cal.App.5th, 2025 WL 2886322²⁶. The Court held that, "An overlay cannot be used to satisfy the minimum density and residential use requirements set out in section 65583.2, subdivision (h)(2) (hereafter section 65583.2(h)(2)), where the base zoning expressly permits development that does not include housing." The proposed Mixed-Use designations for the affected APNs in the revised Housing Element sites inventory permit the development of a variety of non-residential land uses, including but not limited to office, commercial, hospitality, and retail. The underlying land use and zoning designations permit development that does not include housing on the identified sites. This fails to satisfy the requirements of Government Code section 65583.2. Additionally, the Mixed-Use designation violates the requirement of section 65583.2(h)(2) that at least 50 percent of lower-income housing sites be "designated for residential use and for which nonresidential uses or mixed uses are not permitted" because it does not satisfy the mixed-use exception.

01-27

Further, as a result of the Redondo Beach case, any other zoning overlay in the Housing Element that is utilized to accommodate the City's RHNA does not meet statutory requirements. All zoning overlays applied to sites where the base zoning expressly permits development that does not include housing must be removed and replaced with residential zoning designations to accommodate the RHNA.

The Project website indicates that "Discovery" was conducted from August to October 2025, and Environmental Review was conducted from November 2025 to February 2026. The case decision was issued during the Discovery phase and was available throughout the entirety of the Environmental Review phase. The EIR is inadequate as an informational document and must be revised to include this information for analysis and include a finding of significance due to the Project's noncompliance with the Housing Element law.

²⁶ <https://www.courts.ca.gov/opinions/archive/B336042.PDF>

Further, since Table B-2: Housing Element Sites Inventory within the Housing Element was not updated to reflect or disclose the proposed changes associated with the overall Project, it is not possible to determine if the revised site inventory meets all statutory requirements because parcel-level data is excluded. Government Code Section 65583(a)(3) requires that the Housing Element contain an, “inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality’s housing need for a designated income level . . .” Government Code Section 65583.2 contains additional specific requirements for the sites inventory. Neither the EIR nor the draft revised Housing Element as posted on the Project EIR webpage of the City’s website contains the statutorily required information. The EIR must be revised to include this information for analysis and provide a finding of significance due to these inconsistencies with state law.

01-28

It must be noted that the only information the public can ascertain regarding the site's inventory is found in Figure 2-7 Policy Plan Amendment Affordability Sites Inventory Changes. This figure demonstrates that the only identified RHNA sites within the highest resource area of the City are located within the EBSP area. These sites are proposed to be removed from the inventory as part of project implementation, meaning that no RHNA sites will be located within a Highest Resource Area of the City. Figure 2-7 depicts that new sites are added on the south side of Holt Boulevard, west of Grove Avenue near the Ontario Airport. The TCAC Opportunity Map²⁷ identifies these sites as within a Low Resource Area (Census Tract06071001600). HUD also identifies these sites as within a Racially or Ethnically Concentrated Area of Poverty (R/ECAP – Tract 001600)²⁸. These actions directly conflict with the City’s statutory requirements to affirmatively further fair housing (Government Code Article 10.6).

01-29

As a result of the proposed changes to the site's inventory, the following figures must be revised and included as part of the draft revised Housing Element:

1. Figure 3-14 Sites Inventory and Median Income
2. Figure 3-15 Sites Inventory and R/ECAPs
3. Figure 3-16 Sites Inventory and Familial Status
4. Figure 3-17 Sites Inventory and Population with Disability
5. Figure 3-18 Sites Inventory and Proximity to Jobs

²⁷ <https://belonging.berkeley.edu/2026-ctcached-affh-mapping-tool>

²⁸ <https://hudgis-hud.opendata.arcgis.com/maps/HUD::racially-or-ethnically-concentrated-areas-of-poverty-r-ecaps/about>

6. Figure 3-19 Sites Inventory and CalEnviroScreen
7. Figure 3-20 Sites Inventory and Overcrowding
8. Figure 3-21 Sites Inventory and Overpayment (Owner-Occupied Housing)
9. Figure 3-22 Sites Inventory and Overpayment (Renter-Occupied Housing)

O1--29
cont.

The EIR relies upon the regional SCAG jobs-housing balance to conclude that the Project will have less than significant impacts. This does not address the impacts of the Project on the City. Notably, Table 3.14-7: Comparison of Approved TOP 2050 and Proposed Project to SCAG Forecasts incorrectly calculated the SCAG projected jobs-housing ratio for 2050. Table 3.14-7 depicts SCAG projecting a 2.2 jobs-housing ratio, which is the same as the proposed Project. However, the calculation of 187,700 jobs divided by 95,500 housing units yields a 1.9 jobs-housing ratio. The EIR must be revised to correct the calculation and accurately state that the proposed Project increases the severity of the imbalanced jobs-housing ratio in the City. As stated and sourced by the EIR, the American Planning Association recommends a target of 1.5 jobs per housing unit and recommends a range of 1.3 to 1.7 jobs per housing unit. SCAG considers an area balanced when the jobs-housing balance is 1.36; communities with more than 1.36 jobs per dwelling unit are considered jobs-rich, while those with fewer than 1.36 are housing-rich²⁹. The approval of the proposed Project will exacerbate the City's imbalance of jobs and housing by adding more jobs without providing the residential capacity to help achieve a jobs-housing balance in accordance with SCAG's threshold. The EIR must be revised to include a finding of significance due to this.

O1-30

SCAG's Connect SoCal Demographics and Growth Forecast³⁰ notes that the City will add 42,100 jobs from 2019 – 2035 and 23,600 jobs from 2035 – 2050, with an overall total of 187,700 jobs in the City in 2050. Table 3.14-7 Comparison of Approved TOP 2050 and Proposed Project to SCAG Forecasts depicts that the existing approved TOP would accommodate a total of 299,204 jobs in 2050, and the proposed Project would accommodate a total of 301,035 jobs in 2050. The total jobs accommodated by the proposed Project are more than 1.5 times the SCAG projection. The proposed Project is inconsistent with regional forecasts and would generate substantial unplanned population growth in the area. A revised EIR must be prepared with a finding of significance.

²⁹ <https://scag.ca.gov/sites/default/files/old/file-attachments/neweconomyjobshousingbalance.pdf>

³⁰ SCAG Connect SoCal Demographics and Growth Forecast adopted April 2024
<https://scag.ca.gov/sites/default/files/2024-05/23-2987-tr-demographics-growth-forecast-final-040424.pdf>

The EIR states that “Operations of the EBSP land uses have the potential to generate up to 1,590 employees,” but there is no methodology or source provided to disclose how this number of employees was generated. This does not comply with CEQA’s requirements for adequate informational documents and meaningful disclosure (CEQA Guidelines Section 15121 and PRC Section 21003(b)). Incorporation by reference (CEQA Guidelines Section 15150 (f)) is not appropriate as the methodology for EBSP employment generation contributes directly to the analysis of the problem at hand by providing the methodology for calculating the jobs generated by the Project. A revised EIR must be prepared to include the methodology for EBSP employment generation for review, analysis, and comment by the public and decision makers.

01-31

Utilizing the EIR’s calculation of 1,590 employees in the interim, the Project represents 3.7% of the City’s employment growth from 2019 to 2035. A single project accounting for this amount of the projected growth over 16 years (SCAG) represents a significant amount of growth. The EIR must be revised to include this information for analysis and include a finding of significance due to this significant and unavoidable cumulative considerable impact.

The EIR does not provide any cumulative analysis discussion of projects approved since 2016 and projects “in the pipeline” to determine if the Project will exceed the employment/population growth forecasts by SCAG and/or the General Plan. For example, other recent industrial projects such as PDEV21-003³¹ (23,100 square foot industrial building), PDEV21-007³² (808,639 sf of industrial buildings), PDEV21-010³³ (1,438,926 sf industrial building), PDEV21-016³⁴ (38,445 sf industrial building), PDEV21-018³⁵ (168,772 sf of industrial buildings), PDEV21-020³⁶ (50,121 sf industrial building), PDEV21-024³⁷ (198,496 sf industrial building), PDEV21-026³⁸

01-32

³¹ Ontario Monthly Application Activity February 2021 <https://www.ontarioca.gov/sites/default/files/Ontario-Files/Planning/Monthly-Activity-Reports/2021/02-2021%20Monthly%20Activity%20Report%20-%20New%20Apps.pdf>

³² Ibid.

³³ Ontario Monthly Application Activity March 2021 <https://www.ontarioca.gov/sites/default/files/Ontario-Files/Planning/Monthly-Activity-Reports/2021/03-2021%20Monthly%20Activity%20Report%20-%20New%20Apps.pdf>

³⁴ Ontario Monthly Application Activity April 2021 <https://www.ontarioca.gov/sites/default/files/Ontario-Files/Planning/04-2021%20Monthly%20Activity%20Report%20-%20New%20Apps.pdf>

³⁵ Ontario Monthly Application Activity May 2021 <https://www.ontarioca.gov/sites/default/files/Ontario-Files/Planning/05-2021%20Monthly%20Activity%20Report%20-%20New%20Apps.pdf>

³⁶ Ontario Monthly Application Activity June 2021 <https://www.ontarioca.gov/sites/default/files/Ontario-Files/Planning/06-2021%20Monthly%20Activity%20Report%20-%20New%20Apps.pdf>

³⁷ Ontario Monthly Application Activity July 2021 <https://www.ontarioca.gov/sites/default/files/Ontario-Files/Planning/07-2021%20Monthly%20Activity%20Report%20-%20New%20Apps.pdf>

³⁸ Ibid.

(45,000 sf industrial building), PDEV21-028³⁹ (32,425 sf industrial building), PDEV21-029⁴⁰ (15,132 sf industrial building), PDEV21-030⁴¹ (175,047 sf industrial building), PDEV21-031⁴² (38,155 sf industrial building), PDEV21-034⁴³ (32,000 sf industrial building), PDEV21-035⁴⁴ (60,455 sf industrial building), PDEV21-040⁴⁵ (1,255,320 sf industrial building), PDEV21-047⁴⁶ (4,281,128 sf industrial building), PDEV21-037⁴⁷ (167,600 sf industrial building), PDEV22-010 & PMTT22-008: East State Street Warehouse Project⁴⁸ (336,761 square foot warehouse), South Ontario Logistics Center Specific Plan⁴⁹ (5,333,518 sf industrial space), 5355 East Airport Drive⁵⁰ (270,337 sf industrial building), and Euclid Mixed Use Specific Plan (1,386,777 s.f. industrial space) combined with the EBSP aspect of the proposed Project will cumulatively generate 19,500,154 sf of industrial space. This is approximately 16,318 employees (utilizing SCAG employment generation factors for warehouses⁵¹), which is 38.7% of the City's employment growth forecast over 16 years, accounted for only by a limited quantity of industrial projects. When combined with the PPA total increase in nonresidential building area of 4,334,416 s.f., the proposed Project will cumulatively generate 20,895,570 s.f. of industrial space. This is approximately 17,485 employees, which is 41.5% of the City's employment growth forecast over 16 years, accounted for only by a limited quantity of industrial projects. These totals increase exponentially when other industrial and commercial development activities are added to the calculation. A revised EIR must be prepared to include this information for analysis, and also provide a cumulative analysis discussion of projects approved since 2019 and projects "in the pipeline" to determine the City's progress towards SCAG and TOP employment/population growth forecasts and buildout scenarios.

01-32

³⁹ Ibid.

⁴⁰ Ontario Monthly Application Activity August 2021 <https://www.ontarioca.gov/sites/default/files/Ontario-Files/Planning/08-2021%20Monthly%20Activity%20Report%20-%20New%20Apps.pdf>

⁴¹ Ontario Monthly Application Activity September 2021 <https://www.ontarioca.gov/sites/default/files/Ontario-Files/Planning/09-2021%20Monthly%20Activity%20Report%20-%20New%20Apps.pdf>

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ontario Monthly Application Activity October 2021 <https://www.ontarioca.gov/sites/default/files/Ontario-Files/Planning/10-2021%20Monthly%20Activity%20Report%20-%20New%20Apps.pdf>

⁴⁵ Ontario Monthly Application Activity November 2021 <https://www.ontarioca.gov/sites/default/files/Ontario-Files/Planning/11-2021%20Monthly%20Activity%20Report%20-%20New%20Apps.pdf>

⁴⁶ Ontario Monthly Application Activity December 2021 <https://www.ontarioca.gov/sites/default/files/Ontario-Files/Planning/12-2021%20Monthly%20Activity%20Report%20-%20New%20Apps.pdf>

⁴⁷ PDEV21-037 <https://ceqanet.opr.ca.gov/2022110019>

⁴⁸ <https://ceqanet.opr.ca.gov/2022120581>

⁴⁹ <https://ceqanet.opr.ca.gov/Project/2021010318>

⁵⁰ <https://ceqanet.opr.ca.gov/2022090006/2>

⁵¹ <https://www.mwcog.org/file.aspx?A=QTTITR24POOOUIw5mPNzK8F4d8djdJe4LF9Exj6lXOU%3D>

3.17 Transportation

The EIR includes a general and broad discussion of the Project and excludes analysis with specific policies of the RTP/SCS. The sweeping generalizations exclude analysis that the Project will result in significant and unavoidable impacts to Air Quality (inconsistent with AQMP, local and regional construction emissions, localized construction emissions, and cumulative health risks), Greenhouse Gases (Project-related emissions and inconsistency with the City's Community Climate Action Plan), and Transportation (increase in VMT). The EIR's findings of significance directly conflict with its generalizations that the Project is consistent with key goals related to mobility and environmental goals and policies related to sustainable development, air quality, clean transportation, and climate resilience. The EIR has not provided any analysis here with the policies of SCAG's Connect SoCal RTP/SCS, and a revised EIR must be prepared to at minimum include consistency analysis of the following:

1. Equitable Engagement and Decision-Making Policy 46. Promote racial equity that is grounded in the recognition of the past and current harms of systemic racism and one that advances restorative justice.
2. Equitable Engagement and Decision-Making Policy 47. Increase equitable, inclusive, and meaningful representation and participation of people of color and disadvantaged communities in planning processes.
3. Sustainable Development Policy 48. Promote sustainable development and best practices that enhance resource conservation, reduce resource consumption, and promote resilience.
4. Sustainable Development Policy 49. Support communities across the region to advance innovative, sustainable development practices.
5. Sustainable Development Policy 50. Recognize and support the diversity of communities across the region by promoting local place-making, planning, and development efforts that advance equity, mobility, resilience, and sustainability.
6. Air Quality Policy 51. Reduce hazardous air pollutants and greenhouse gas emissions and improve air quality throughout the region through planning and implementation efforts.
7. Air Quality Policy 52. Support investments that reduce hazardous air pollutants and greenhouse gas emissions.
8. Air Quality Policy 53. Reduce the exposure and impacts of emissions and pollutants and promote local and regional efforts that improve air quality for vulnerable populations, including but not limited to Priority Equity Communities and the AB 617 Communities.
9. Climate Resilience Policy 64. Prioritize the most vulnerable populations and communities subject to climate hazards to help the people, places, and infrastructure that are most at risk

for climate change impacts. In doing so, recognize that disadvantaged communities are often overburdened.

10. Climate Resilience Policy 65. Support local and regional climate and hazard planning and implementation efforts for transportation, land use, and other factors.
11. Climate Resilience Policy 66. Support nature-based solutions to increase regional resilience of the natural and built environment.

A revised EIR must be prepared to disclose the Project's inconsistency with these policies and include a finding of significance.

01-33
cont.

Appendix K3 includes several requirements necessary to implement the Project, including lists of requirements in Table 1-5: Existing and E+P Improvements Required to Maintain General Plan Consistency, Table 1-6: Improvements Required to Maintain General Plan Consistency, and a list of 55 on-site circulation improvements necessary for the EBPSP, "based on the minimum improvements needed to accommodate site access and maintain acceptable peak hour operations for the proposed EBPSP." It must be noted that several of the requirements in Tables 1-5 and 1-6 are outside the jurisdiction of the lead agency and under the jurisdiction of Caltrans, City of Chino, or City of Eastvale. There is no reasonable assurance or substantial evidence that implementation of these requirements will be achieved in order to maintain General Plan consistency; a finding of significance must be included in a revised EIR due to inconsistency with the General Plan.

01-34

The EIR does not acknowledge these extensive lists of requirements. As stated in Appendix K3, these requirements are necessary for General Plan Consistency and to ensure adequate site access and operational safety of the EBPSP. The EIR also has not included these requirements as Mitigation Measures. The EIR must be revised to include a finding of significance, as there is no substantial evidence to support a less-than-significant finding.

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. The EIR has not provided any exhibits depicting the available truck/trailer turning radius at the intersection of the Project driveways and adjacent streets to determine if there is enough space available to accommodate heavy truck maneuvering. Further, there are no exhibits providing on-site analysis regarding available space on the property to accommodate heavy truck maneuvering. Several

areas for potential conflicts exist. For example, passenger vehicle parking stalls are located within the truck/trailer loading courts of Buildings 4, 5, 6, 7, 10, 11, 12, 15, 16, and 17.

Similarly, truck/trailer parking stalls are located within the gated truck/trailer loading dock court of Buildings 1, 2, 8, 9, and 14. These parking stalls may be in use at any time and further restrict truck/trailer movement on the site and present a safety hazard with potential for conflicts between passenger cars and trucks/trailers. Additionally, this will increase truck idling time as trucks waiting for passenger cars require additional time to maneuver, which will also result in increased queuing duration and associated increased queuing area for trucks/trailers. These issues and overall truck/trailer access at the site have not been analyzed. The EIR states it provides a Project-level environmental analysis for the EBPSP, and excluding this information does not provide an adequate Project-level review. The EIR must be revised to include a finding of significance, as it has not provided any substantial evidence to support a less-than-significant finding.

O1-34
cont.

The EIR states that, “Efficient and safe access within, and access to, the EBPSP land uses would be provided by the design concept, site access improvements, and site adjacent roadway improvements included as components of the Specific Plan.” However, the EBPSP document is not included as an attachment for public review, and the alleged components of the EBPSP are not presented here for analysis. The EIR has not included substantial evidence to support this claim, and the EIR must be revised to include a finding of significance.

The EIR also states that, “Driveways, on-site traffic signing and striping would be implemented in conjunction with detailed construction plans for the site. Sight distance at each access point would be reviewed to ensure conformance with City sight distance standards at the time of preparation of final grading, landscape, and street improvement plans. The City of Ontario has adopted engineering standards to ensure consistency in the geometric design of its mobility facilities. All plans undergo an extensive review process at the City to ensure consistency with these adopted standards. Given that all future projects will be subject to these reviews, the EBPSP would be consistent with the City design standards.” This does not comply with CEQA’s requirements for adequate informational documents and meaningful disclosure (CEQA Guidelines Section 15121 and PRC Section 21003(b)). 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. The EIR states that it is a project EIR document for CEQA compliance yet it has not provided Project-specific information, which renders it inadequate as an informational document.

O1-35

A revised EIR must be prepared to include a finding of significance, as the EIR has not provided any substantial evidence to support a less-than-significant finding.

01-35
cont.

There are also no exhibits depicting emergency vehicle access and maneuvering. The EIR states that, “The EBSP does not propose elements or aspects that would obstruct or restrict emergency access to or through the area.” However, the EBSP document is not included as an attachment for public review, and the alleged components of the EBSP are not presented here for analysis. The EIR has not included substantial evidence to support this claim, and the EIR must be revised to include a finding of significance.

01-36

The EIR also states regarding emergency access that, “...representatives of the Ontario Fire Department and Ontario Police Department would review all development plans to ensure that emergency access is provided consistent with applicable requirements.” However, the EIR has not listed the fire code and/or Police/Fire Department requirements or provided their review of the Project. 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 Guidelines Section 15121 and PRC Section 21003(b)). A revised EIR must be prepared to include a finding of significance, as the EIR has not provided any substantial evidence to support a less-than-significant finding.

01-37

4.0 Alternatives

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/Current TOP 2050” alternative and only two others – Truck Route Scenario 3 Alternative and Reduced Intensity Alternative. The EIR does not evaluate a reasonable range of alternatives, as only two alternatives beyond the required No Project alternative are analyzed. The EIR must be revised to include analysis of a reasonable range of alternatives and foster informed decision making (CEQA Guidelines Section 15126.6). This could include alternatives such as development of the site with a Project that reduces all the proposed Project’s significant and unavoidable impacts to less than significant levels, or a mixed-use Project that provides affordable housing and local-serving commercial uses, which may reduce VMT, GHG emissions, and improve Air Quality.

01-38

5.3 Significant Irreversible Changes

The EIR does not discuss its own conclusion that implementation of the proposed Project will result in significant and unavoidable impacts to Air Quality (inconsistent with AQMP, local and regional construction emissions, localized construction emissions, and cumulative health risks), Cultural Resources (Historic Resources), Noise (Construction Noise, Traffic Noise, Construction Vibration, Heavy Truck Vibration, and Exterior Airport Noise Exposure), Greenhouse Gases (Project related emissions and inconsistency with the City's Community Climate Action Plan), Transportation (increase in VMT). The EIR does not adequately discuss or and analyze the commitment of resources is not consistent with regional and local growth forecasts and does not address the EIR's own conclusion that the Project will result in impacts (Air Quality, GHG) that exceed with the forecasts of the applicable plans (AQMP, 2030/2050 GHG reduction goals, City's Climate Action Plan). The EIR must be revised to include these findings for analysis in its discussion.

O1-39

5.4 Growth-Inducing Effects

A revised EIR must be prepared to include an accurate cumulative analysis discussion here to demonstrate the impact of the proposed Project in a cumulative setting. The EIR does not include any information regarding the buildout conditions of the existing TOP in order to provide an adequate and accurate cumulative analysis. The revised EIR must provide the horizon year of the existing TOP, the total developable building floor area analyzed within the Project site's land use designations, and cumulative development since adoption of the existing TOP. This is particularly vital as growth generated by the proposed Project is in conflict with the AQMP and state/regional/local GHG reduction plans and targets.

O1-40

The EIR has not provided an adequate or accurate cumulative analysis discussion here to demonstrate the impact of the proposed Project in a cumulative setting. For example, recent industrial projects combined with the EBSP aspect of the proposed Project will cumulatively generate 19,500,154 sf of industrial space. This is approximately 16,318 employees (utilizing SCAG employment generation factors for warehouses⁵²), which is 38.7% of the City's employment growth forecast over 16 years, accounted for only by a limited quantity of industrial projects. When combined with the PPA total increase in nonresidential building area of 4,334,416 s.f., the proposed Project will cumulatively generate 20,895,570 s.f. of industrial space. This is approximately 17,485 employees, which is 41.5% of the City's employment growth forecast over 16 years, accounted for only by a limited quantity of industrial projects.

⁵² <https://www.mwcog.org/file.aspx?A=QTTITR24POOUIw5mPNzK8F4d8djdJe4LF9Exj6lXOU%3D>

Thomas Grahm

April 16, 2026

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These totals increase exponentially when other industrial and commercial development activities are added to the calculation. A revised EIR must be prepared to include this information for analysis, and also provide a cumulative analysis discussion of projects approved since 2019 and projects “in the pipeline” to determine the City’s progress towards SCAG and TOP employment/population growth forecasts and buildout scenarios.

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cont.

Impact on Biological Resources

Please see the attached comments and analysis from Dr. Smallwood.

O1-41

Conclusion

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.

O1-42

Sincerely,



Vashon Simien

Blum, Collins & Ho, LLP

Attachments:

1. SWAPE Technical Analysis
2. Shawn Smallwood, PhD Analysis Report



Technical Consultation, Data Analysis and
Litigation Support for the Environment

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April 14, 2026

Gary Ho
Blum, Collins & Ho LLP
9255 W. Sunset Boulevard, Ste. 810
Los Angeles, CA 90069

Subject: Comments on the Ontario Policy Plan Amendment (SCH No. 2025110102)

Dear Mr. Ho,

We have reviewed the March 2026 Draft Supplemental Environmental Impact Report (“DSEIR”) for the Ontario Policy Plan Amendment (“Project”) located in the City of Ontario (“City”). The DSEIR assesses the environmental effects associated with the implementation of the proposed Policy Plan Amendment to The Ontario Plan (“TOP”) as well as the Eucalyptus Business Park Specific Plan (“EBPSP” or “Specific Plan”).

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

Air Quality

Failure to Evaluate Combined Construction and Operational Emissions

The DSEIR’s air quality analysis is inadequate because it fails to evaluate criteria air pollutant emissions associated with simultaneous construction and operational activities. The DSEIR proposes construction of the EBPSP in three overall phases, with each phase becoming operational upon completion (p. 2-75, Table 2-9). As a result, construction of Phases 2 and 3 would occur concurrently with the previously completed portions of the Specific Plan. Under these circumstances, the appropriate methodology is to evaluate combined construction and operational emissions during overlapping phases, consistent with the South Coast Air Quality Management District’s (“SCAQMD”) recommended approach for phased

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projects.¹ The DSEIR's failure to calculate construction and operational emissions together results in a vast underestimation of peak daily emissions and, consequently, the Project's air quality impacts.

In order to analyze the EBPSP's actual peak emissions scenario, we summed the DSEIR's construction and operational criteria air pollutant emissions estimates for the overlapping phases (p. 3.3-56, Table 3.3-12, Table 3.3-13; p. 3.3-64 – 3.3-65, Table 3.3-15, Table 3.3-16). Our analysis demonstrates that the combined reactive organic gas ("ROG") and nitrogen oxide ("NO_x") emissions, as calculated by the DSEIR's air modeling, exceed the applicable SCAQMD construction and operational daily thresholds (see table below).

DSEIR Criteria Air Pollutant Emissions Estimates		
Emission Source	ROG (lbs/day)	NO _x (lbs/day)
Phase 2 Construction Emissions ¹	51	48
Phase 1 Operational Emissions	55	84
Combined Emissions	106	132
SCAQMD Construction/Operational Threshold	55/75	55/100
Exceeds?	Yes	Yes
Phase 3 Construction Emissions ¹	61	47
Phase 1 and 2 Operational Emissions	89	169
Combined Emissions	150	216
SCAQMD Construction/Operational Threshold	55/75	55/100
Exceeds?	Yes	Yes

¹ Presented emissions represent the annual maximum.

As shown in our analysis, when construction and operational emissions are properly combined for concurrent phases, ROG and NO_x emissions exceed the applicable SCAQMD daily significance thresholds. This finding indicates a potentially significant air quality impact that the DSEIR did not identify or address. In our opinion, a revised EIR should be prepared to provide an accurate evaluation of the combined air quality impacts from overlapping EBPSP construction and operation incorporate mitigation measures accordingly.

¹ "Draft Supplemental Environmental Impact Report (Draft SEIR) for the Proposed Tesoro del Valle (Phases A, B, and C) (SCH No.: 2016101032)," SCAQMD, April 2018, available at: <https://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2018/dseirtesorodelvalle-040418.pdf#:~:text=Therefore%2C%20it%20is%20recommended%20that%20the%20Lead,for%20operation%2C%20mitigation%20measures%20will%20be%20required.>

Failure to Implement All Feasible Mitigation to Reduce Emissions

The DSEIR's standalone operational air quality analysis also presents inadequacies. The DSEIR estimates that the operational ROG, NO_x, CO, and PM₁₀ emissions associated with the EBPSP would exceed applicable SCAQMD thresholds (see screenshot below) (p. 3.3-64 – 3.3-65, Table 3.3-15, Table 3.3-16, Table 3.3-17).

Table 3.3-17 EBPSP Peak Operational Emissions Summary: Phases 1, 2, and 3

Source	Emissions (lbs/day)					
	ROG	NO _x	CO	SO ₂	PM ₁₀ T	PM _{2.5} T
Summer						
Mobile	34.57	186.25	448.56	2.50	168.99	45.93
Area	91.72	1.08	127.82	0.01	0.23	0.17
Stationary	1.80	5.05	4.60	0.01	0.27	0.27
Cargo Handling Equipment	1.27	4.09	178.00	0.00	0.32	0.30
Maximum Daily Emissions	129.36	196.45	758.99	2.52	169.81	46.66
South Coast AQMD Regional Thresholds	55	55	550	150	150	55
Threshold Exceeded?	YES	YES	YES	NO	YES	NO
Winter						
Mobile	32.95	195.55	380.69	2.43	168.99	45.93
Area	70.71	0.00	0.00	0.00	0.00	0.00
Stationary	1.80	5.05	4.60	0.01	0.27	0.27
Cargo Handling Equipment	1.27	4.09	178.00	0.00	0.32	0.30
Maximum Daily Emissions	106.74	204.68	563.29	2.44	169.58	46.49
South Coast AQMD Regional Thresholds	55	55	550	150	150	55
Threshold Exceeded?	YES	YES	YES	NO	YES	NO

Source: Appendix C3.

Note: Emissions may not total to 100 percent due to rounding.

The DSEIR concludes that the impacts associated with operation of the EBPSP would be significant-and-unavoidable, stating:

“Although Mitigation Measures AIR-1-SP through AIR-8-SP are designed to reduce operational-source criteria pollutant emissions of the EBPSP, there is no way to meaningfully quantify these reductions in CalEEMod, and therefore no numeric emissions credit has been taken in the Therefore, even with application of these measures, EBPSP operational-source emissions impacts are considered significant and unavoidable” (p. 3.3-74 – 3.3-75).

While we agree that the Specific Plan would result in significant air quality impacts, the DSEIR's assertion that this impact is significant-and-unavoidable is unreliable. According to CEQA Guidelines §15096(g)(2):

“When an updated EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible

O1-45

mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment.”²

As such, the DSEIR is required under CEQA to implement all feasible mitigation to reduce impacts to a less-than-significant level. To reduce the EBPSP’s air quality impacts to the maximum extent possible, additional feasible mitigation measures should be incorporated, such as those suggested in the section of this letter titled “Feasible Mitigation Measures Available to Reduce Emissions.” The Project should not be approved until a revised EIR is prepared, incorporating all feasible mitigation to reduce emissions to the maximum extent possible.

O1-45
cont.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

The DSEIR is required under CEQA to implement all feasible mitigation to reduce the Project’s potential impacts. As demonstrated in the sections above, the EBPSP would result in potentially significant air quality impacts—during both construction and operation—that should be mitigated further.

To reduce the ROG emissions associated with construction and operation, we recommend the DSEIR require the use of super compliant, low-VOC paints less than 10 g/L during the architectural coating construction phase and during Project maintenance, as recommended by the California Department of Justice (“CA DOJ”).³ Further mitigation used by other land use development projects to address ROG emissions includes:⁴

- Recycle leftover paint. Take any leftover paint to a hazardous waste center; do not mix leftover water-based and oil-based paints.
- Keep lids closed on all paint containers when not in use to prevent VOC emissions and excessive odors.
- For water-based paints, clean up with water only. Whenever possible, do not rinse the cleanup water down the drain or pour it directly into the ground or the storm drain
- Use compliant low-VOC cleaning solvents to clean paint application equipment.
- Keep all paint- and solvent-laden rags in sealed containers to prevent VOC emissions.
- Contractors shall construct/build with materials that do not require painting and use pre-painted construction materials to the extent practicable.

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² “Cal. Code Regs. tit. 14 § 15096.” California Legislature, available at: <https://casetext.com/regulation/california-code-of-regulations/title-14-natural-resources/division-6-resources-agency/chapter-3-guidelines-for-implementation-of-the-california-environmental-quality-act/article-7-eir-process/section-15096-process-for-a-responsible-agency>.

³ “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.

⁴ “Banning Commerce Center Project.” Kimley-Horn and Associates, Inc., June 2024, *available at*: <https://ceganet.opr.ca.gov/2022090102/2>; Draft Environmental Impact Report, p. 1-7.

- Use high-pressure/low-volume paint applicators with a minimum transfer efficiency of at least 50 percent or other application techniques with equivalent or higher transfer efficiency.

In order to reduce the NO_x and PM₁₀ emissions associated with EBPSP construction and operation, we recommend the DSEIR consider incorporating several mitigation measures as listed below. The California Air Resources Board (“CARB”) recommends:⁵

- Require all off-road diesel-powered equipment used during construction to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In place of Tier 4 engines, off-road equipment can incorporate retrofits, such that, emission reductions achieved are equal to or exceed that of a Tier 4 engine.
- Require 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 (NO_x) standard starting in the year 2022.
- 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.
- Require all heavy-duty trucks entering or on the project site to be zero-emission vehicles, and be fully zero-emission. A list of commercially available zero-emission trucks can be obtained from the Hybrid and Zero-emission Truck and Bus Voucher Incentive Project (HVIP).
- 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.

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cont.

The CA DOJ suggests:⁶

- Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.
- Providing information on transit and ridesharing programs and services to construction employees.
- Constructing zero-emission truck charging/fueling stations proportional to the number of dock doors at the project.
- Constructing and maintaining electric light-duty vehicle charging stations proportional to the number of employee parking spaces

⁵ “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.

⁶ “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.

Lastly, SCAQMD staff recommends a phase-in schedule to incentivize the use of cleaner operating trucks to reduce any significant adverse air quality impacts.⁷

We have provided several mitigation measures that would reduce Project-generated emissions. These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Specific Plan, which would subsequently reduce emissions released during construction and operation.

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

Disclaimer

SWAPE has received limited discovery 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.

⁷ "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. 2 - 3.

Attachment A: Matt Hagemann CV
Attachment B: Paul Rosenfeld CV



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Professional Certifications:

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

Education:

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

Professional Experience:

30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. Spent nine years with the U.S. EPA in the Resource Conservation Recovery Act (RCRA) and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where I identified emerging threats to groundwater. While with EPA, I served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. Led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, I developed extensive client relationships and has managed complex projects that include consultations as an expert witness and a regulatory specialist, and managing projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions held include:

Government:

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

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

Educational:

Geology Instructor, Golden West College, 2010 – 2014, 2017;
Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
Instructor, College of Marin, Department of Science (1990 – 1995).

Private Sector:

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

Senior Regulatory and Litigation Support Analyst:

With SWAPE, responsibilities have included:

- Lead analyst and testifying expert, for both plaintiffs and defendants, in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards.
- Recommending additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce exposure to hazards from toxins.
- Stormwater analysis, sampling and best management practice evaluation, for both government agencies and corporate clients, at more than 150 industrial facilities.
- Serving as expert witness for both plaintiffs and defendants in cases including contamination of groundwater, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns, for both government agencies and corporate clients.
- Lead analyst and testifying expert in the review of environmental issues in license 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.

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cont.

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

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking

water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.

- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict State of California regulatory requirements.
- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Hydrogeology:

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

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

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cont.

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

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

- Received an EPA Bronze Medal for contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. Prepared geologic reports, conducted hearings, and responded to public comments from residents who were very concerned about the impact of designation.
- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

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

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

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New 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 as senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9. Activities included the following:

- Advising the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaping 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.
- Improving the technical training of EPA's scientific and engineering staff.
- Earning an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific principles into the policy-making process.
- Establishing national protocol for the peer review of scientific documents.

Geology:

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

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

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cont.

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

Duties included the following:

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

Teaching:

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

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.
- Part time geology instructor at Golden West College in Huntington Beach, California from 2010 to 2014 and in 2017.

Summary of Testimony Experience Over Past Four Years

In Re New Jersey Department of Environmental Protection et al. vs. E.I. DuPont de Nemours and Company, in the United States District Court, District of New Jersey, Civil Action No. 1:19-cv-14766-RMB-JBC. Deposition in 2025.

Representing Plaintiffs in matters regarding contamination of groundwater, wastewater, soil, and air with per- and poly-fluoroalkyl substances.

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

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

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

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

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cont.

Division 1, California, Case No: D070553. Deposition in 2020. Representing Plaintiff in matters involving compliance with The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Los Angeles Waterkeeper vs. AAA Plating and Inspection, Inc. In the United States District Court for the Central District of California, Case No: No. CV 18-5916 PA (GJSx). Deposition in 2019. Expert witness representing Plaintiff in matters involving contaminated stormwater runoff at an industrial facility in Compton, California.

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

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

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

Invited Testimony, Reports, Papers and Presentations:

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

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

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Colorado.

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

Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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cont.

Unpublished report.

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

VanMouwerik, M. and **Hagemann, M.F.** 1999, Water Quality Concerns Related to Personal 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., Fukunaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

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

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

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

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

Other Experience:

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

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cont.



Technical Consultation, Data Analysis and
Litigation Support for the Environment

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Paul Rosenfeld, Ph.D.

Principal Environmental Chemist

Chemical Fate and Transport & Air Dispersion Modeling

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.

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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 H₂O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

Rosenfeld, P.E., Spaeth, K.R., McCarthy, S.J. *et al.* Camp Lejeune Marine Cancer Risk Assessment for Exposure to Contaminated Drinking Water From 1955 to 1987. *Water Air Soil Pollut* **235**, 124 (2024).
<https://doi.org/10.1007/s11270-023-06863-y>.

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

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

Rosenfeld P. E., Spaeth K., Hallman R., Bressler R., Smith, G., (2022) Cancer Risk and Diesel Exhaust Exposure Among Railroad Workers. *Water Air Soil Pollution*. **233**, 171.

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health*. 18:48

Simons, R.A., Seo, Y. **Rosenfeld, P.**, (2015) Modeling the Effect of Refinery Emission On Residential Property Value. *Journal of Real Estate Research*. 27(3):321-342

Chen, J. A, Zapata A. R., Sutherland A. J., Molmen, D.R., Chow, B. S., Wu, L. E., **Rosenfeld, P. E.**, Hesse, R. C., (2012) Sulfur Dioxide and Volatile Organic Compound Exposure To A Community In Texas City Texas Evaluated Using Aermid and Empirical Data. *American Journal of Environmental Science*, 8(6), 622-632.

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

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

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

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

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

Cheremisinoff, N.P., & **Rosenfeld, P.E.**, (2009). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Petroleum Industry*. Amsterdam: Elsevier Publishing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affects on biosolids odor emissions and microbial activity. *Water Environment Research*. 73(4), 363-367.

Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research*. 131(1-4), 247-262.

Chollack, T. and **P. Rosenfeld**. (1998). Compost Amendment Handbook for Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation on St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

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

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

Presentations:

Rosenfeld, P.E., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

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

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

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

Rosenfeld, P.E. (April 19-23, 2009). Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

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

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

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted at University of Massachusetts, Amherst MA.

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

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

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

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Florala, Alabama. *The AEHS Annual Meeting*. Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition*. Lecture conducted from Boston Massachusetts.

Paul Rosenfeld Ph.D. (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey’s C8/PFOA. *Science, Risk & Litigation Conference*. Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

Paul Rosenfeld Ph.D. (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

Paul Rosenfeld Ph.D. (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel in Irvine, California.

Paul Rosenfeld Ph.D. (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey’s Groundwater Conference*. Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

Paul Rosenfeld Ph.D. (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus on Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water and Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, Toxicology and Remediation. *2005 National Groundwater Association Ground Water and Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference*. Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

Paul Rosenfeld, Ph.D. (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust*. Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives*. Lecture conducted from Parker, AZ.

Paul Rosenfeld, Ph.D. (April 7, 2004). A National Damage Assessment Model for PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association*. Lecture conducted from Radison Hotel, Sacramento, California.

Rosenfeld, P. E., Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference Orlando, FL*.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants*. Lecture conducted from Hyatt Regency Phoenix Arizona.

Paul Rosenfeld, Ph.D. (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum*. Lecture conducted from Marriott Hotel, Anaheim California.

Paul Rosenfeld, Ph.D. (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable*. Lecture conducted from Sacramento California.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, Wastewater and Industrial Processes. *Sixth Annual Symposium on Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium on Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Grey, M. A. (September 22-24, 2002). Biocycle Composting for Coastal Sage Restoration. *Northwest Biosolids Management Association*. Lecture conducted from Vancouver Washington.

Rosenfeld, P.E. and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conference*. Lecture conducted from Indianapolis, Maryland.

Rosenfeld, P.E. (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation*. Lecture conducted from Anaheim California.

Rosenfeld, P.E. (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest*. Lecture conducted from Ocean Shores, California.

Rosenfeld, P.E. (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association*. Lecture conducted from Sacramento California.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation with High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America*. Lecture conducted from Salt Lake City Utah.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell*. Lecture conducted from Seattle Washington.

Rosenfeld, P.E., C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest*. Lecture conducted from Lake Chelan, Washington.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation with High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America*. Lecture conducted from Anaheim California.

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. The course focused on the health effects of environmental contaminants.

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

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

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

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

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

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

Academic Grants Awarded:

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

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cont.

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

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

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

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

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

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

Deposition and/or Trial Testimony:

In the District Court of Harris County Texas
Mt Davis Interest, Inc v Sesco Cement Corp
Cause No 2023-26512
Trial 6-6-25

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

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

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

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

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

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

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cont.

Deposition: 8-27-24

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

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

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

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

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

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

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

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

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

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

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

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cont.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In the Superior Court of the State of California, County of San Bernardino
Billy Wildrick, Plaintiff vs. BNSF Railway Company
Case No. CIVDS1711810
Rosenfeld Deposition 10-17-2022

In the State Court of Bibb County, State of Georgia
Richard Hutcherson, Plaintiff vs Norfolk Southern Railway Company
Case No. 10-SCCV-092007
Rosenfeld Deposition 10-6-2022

In the Civil District Court of the Parish of Orleans, State of Louisiana
Millard Clark, Plaintiff vs. Dixie Carriers, Inc. et al.
Case No. 2020-03891
Rosenfeld Deposition 9-15-2022

In The Circuit Court of Livingston County, State of Missouri, Circuit Civil Division

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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

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In Circuit Court of the Sixth Judicial Circuit, Macon Illinois
Rocky Bennyhoff Plaintiff vs. Norfolk Southern
Case No. 20-L-56
Rosenfeld Deposition 8-3-2022, Trial 1-10-2023

In Court of Common Pleas, Hamilton County Ohio
Joe Briggins Plaintiff vs. CSX
Case No. A2004464
Rosenfeld Deposition 6-17-2022

In the Superior Court of the State of California, County of Kern
George LaFazia vs. BNSF Railway Company.
Case No. BCV-19-103087
Rosenfeld Deposition 5-17-2022

In the Circuit Court of Cook County Illinois
Bobby Earles vs. Penn Central et. al.
Case No. 2020-L-000550
Rosenfeld Deposition 4-16-2022

In United States District Court Easter District of Florida
Albert Hartman Plaintiff vs. Illinois Central
Case No. 2:20-cv-1633
Rosenfeld Deposition 4-4-2022

In the Circuit Court of the 4th Judicial Circuit, in and For Duval County, Florida
Barbara Steele vs. CSX Transportation

Case No.16-219-Ca-008796
Rosenfeld Deposition 3-15-2022

In United States District Court Easter District of New York
Romano et al. vs. Northrup Grumman Corporation
Case No. 16-cv-5760
Rosenfeld Deposition 3-10-2022

In the Circuit Court of Cook County Illinois
Linda Benjamin vs. Illinois Central
Case No. No. 2019 L 007599
Rosenfeld Deposition 1-26-2022

In the Circuit Court of Cook County Illinois
Donald Smith vs. Illinois Central
Case No. No. 2019 L 003426
Rosenfeld Deposition 1-24-2022

In the Circuit Court of Cook County Illinois
Jan Holeman vs. BNSF
Case No. 2019 L 000675
Rosenfeld Deposition 1-18-2022

In the State Court of Bibb County State of Georgia
Dwayne B. Garrett vs. Norfolk Southern
Case No. 20-SCCV-091232
Rosenfeld Deposition 11-10-2021

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In the Circuit Court of Cook County Illinois
Joseph Ruepke vs. BNSF
Case No. 2019 L 007730
Rosenfeld Deposition 11-5-2021

In the United States District Court For the District of Nebraska
Steven Gillett vs. BNSF
Case No. 4:20-cv-03120
Rosenfeld Deposition 10-28-2021

In the Montana Thirteenth District Court of Yellowstone County
James Eadus vs. Soo Line Railroad and BNSF
Case No. DV 19-1056
Rosenfeld Deposition 10-21-2021

In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al. vs Cerro Flow Products, Inc.
Case No. 0i9-L-2295
Rosenfeld Deposition 5-14-2021
Trial October 8-4-2021

In the Circuit Court of Cook County Illinois
Joseph Rafferty vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a
AMTRAK,
Case No. 18-L-6845
Rosenfeld Deposition 6-28-2021

In the United States District Court For the Northern District of Illinois

Theresa Romcoe vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail
Case No. 17-cv-8517
Rosenfeld Deposition 5-25-2021

In the Superior Court of the State of Arizona In and For the County of Maricopa
Mary Tryon et al. vs. The City of Phoenix 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

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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 Agrosiences, LLC, et al., Defendants

Cause No. 1923
Rosenfeld Deposition 11-17-2017

In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No. C12-01481
Rosenfeld Deposition 11-20-2017

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

In 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

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

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

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

In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. vs. Antero, et al.
Civil Action No. 14-C-30000
Rosenfeld Deposition June 2015

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

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.

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cont.

Case No. CACE07030358 (26)
Rosenfeld Deposition December 2014

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

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

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

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

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

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cont.

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

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

In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., Plaintiffs, vs. Republic Services, Inc., et al., Defendants
Case No. 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition October 2012

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

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

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

Gary Ho
Blum Collins Ho LLP
707 Wilshire Blvd
Los Angeles, CA 90017
(213) 572-0400

13 April 2026

RE: Eucalyptus Business Park Specific Plan

Dear Mr. Ho,

I write to comment on potential impacts to biological resources that would result from development of the proposed 189-acre Eucalyptus Business Park Specific Plan (EBPSP or “project”), which is addressed in the City’s Ontario Policy Plan Amendment Draft Supplemental Environmental Impact Report (SEIR). The EBPSP would add 2,939,000 sf of industrial and commercial buildings on 137.9 acres, roadway improvements on 14.97 acres, and parkland on 36.15 acres at the northwest corner of Eucalyptus Ave and Walker Ave. My comments that follow address my concerns that the SEIR and its supporting biological resources technical report (ELMT 2025), mischaracterize the wildlife community as part of the existing environmental setting, and that its impacts analysis is flawed and its mitigation measures are inadequate.

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My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I also worked as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, wildlife interactions with the anthrosphere, and conservation of rare and endangered species. I authored many papers on these and other topics. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society, and I’ve lectured part-time at California State University, Sacramento. I was Associate Editor of wildlife biology’s premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for forty-one years. My CV is attached.

THE WILDLIFE COMMUNITY AS A BIOLOGICAL RESOURCE

Most environmental reviews pursuant to the California Environmental Quality Act (CEQA) focus on special-status species because CEQA’s Checklist Evaluation of Environmental Impacts Question IV(a) asks specifically whether the project would adversely affect special-status species. However, this narrowly focused question is part of a larger policy goal of CEQA, which is “to prevent the elimination of fish or wildlife species due to man’s activities, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all

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plant and animal communities and examples of the major periods of California history.” Pub. Res. Code § 21001(c). This policy is not restricted to special-status species; it also applies to wildlife populations and plant and animal communities, as it must, because special-status species are inter-dependent members of ecological communities. The CEQA Guidelines Section 21155.1 defines wildlife habitat as “the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.” This definition is consistent with the scientific definition of habitat, which is that portion of the environment that is used by members of a species for survival and reproduction (Hall et al. 1997). An essential portion of the environment used by any special-status species is composed of the collection of other species of plants and wildlife, because these species provide for special-status species their forage, refugia and nest substrates, and some serve as ecological mutualists. The CEQA Checklist Evaluation assigns priority to special-status species to balance information and cost, but it does not exclude the need to evaluate environmental impacts to other species, which, after all, are members of the very communities within which special-status species inter-depend for survival and reproduction.

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cont.

The species I consider to be special-status species are those listed in California’s Special Animals List inclusive of threatened and endangered species under the California and federal Endangered Species Acts, candidates for listing under CESA and FESA, California’s Fully Protected Species, California species of special concern, and California’s Taxa to Watch List (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406>), continental and region-specific US Fish and Wildlife Service Birds of Conservation Concern (<https://www.fws.gov/sites/default/files/documents/birds-of-conservation-concern-2021.pdf>), and naturally rare species such as raptors protected by California’s Birds of Prey laws, Fish and Game Code Sections 3503, 3503.5, 3505 and 3513 (see <https://wildlife.ca.gov/Conservation/Birds/Raptors>).

What follows is a summary of a site visit to detect as many of the species of wildlife as possible within the short time available. The visit was also intended to detect as many of the special-status species as possible, but with the understanding that most special-status species are less readily detectable due to rarity and crypticity. Nonetheless, the species detected can indicate the ecological integrity of the site and thus the likelihood of occurrence of special-status species not yet detected.

SITE VISIT

On my behalf, Noriko Smallwood, a wildlife biologist with a Master of Science Degree from California State University Los Angeles, visited the site of the proposed project for 1.13 hours of diurnal survey starting at 18:08, and for 2.67 hours of nocturnal survey starting at 19:16 on 6 April 2026, and for 3 hours of diurnal survey starting at 06:26 on 9 April 2026. During daylight, Noriko walked the site’s perimeter where accessible, stopping to scan for wildlife with use of binoculars. At night, Noriko affixed a Pettersson M500 acoustic bat detector to a 25-foot pole, and cabled the detector to her computer, which ran SonoBat Live. SonoBat Live identifies bat species based on the bats’ sonograms that are detected by the M500. She also scanned for nocturnal wildlife using a Pulsar Telos LRF XG50 5.5-14x 50 mm thermal-imaging monocular. Noriko recorded

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all species of vertebrate wildlife she detected, including those whose members flew over the site or were seen on the site's fringe. Conditions were sunny with 9 MPH west wind and temperatures of 74-64° F on 6 April 2026, and partly cloudy with 3 MPH west wind and temperatures of 56-68° F on 9 April 2026. The site contains dairy farms, open fields of annual grassland, eucalyptus groves, row crops, and houses (Photo 1).



Photo 1. View of the project site, 9 April 2026. Photo by Noriko Smallwood.

Noriko saw American barn owl (Photo 2), red-tailed hawk and turkey vulture (Photos 3 and 4), merlin and American kestrel (Photos 5 and 6), ring-billed gull and Hudsonian whimbrel (Photos 7 and 8), mallard and black-necked stilt (Photos 9-11), double-crested cormorant, Canada goose, and white-faced ibis (Photos 12-14), great blue heron and common raven (Photos 15 and 16), mourning dove and northern mockingbird (Photos 17 and 18), killdeer and California horned lark (Photos 19 and 20), house finch and Cassin's kingbird (Photos 21 and 22), song sparrow and white-crowned sparrow (Photos 23 and 24), red-winged blackbird and barn swallow (Photos 25 and 26), brown-headed cowbird (Photos 27 and 28), great-tailed grackle and Bullock's oriole (Photos 29 and 30), Mexican free-tailed bat (Photo 31), desert cottontail and California ground squirrel (Photos 32-34). Noriko detected 43 species of vertebrate wildlife at or adjacent to the project site, including nine species with special status (Table 1).



Photo 2. American barn owl on the project site detected using a thermal imaging camera, 6 April 2026. Photo by Noriko Smallwood.

O1-52
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Photos 3 and 4. Red-tailed hawks (left), and turkey vulture (right) on the project site, 6 April 2026. Photos by Noriko Smallwood.



Photos 5 and 6. Merlin (left), and American kestrel (right) on the project site, 6 and 9 April 2026. Photos by Noriko Smallwood.



Photos 7 and 8. Ring-billed gull (top), and whimbrel (bottom) on the project site, 9 April 2026. Photos by Noriko Smallwood.

O1-52
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Photos 9, 10, and 11. Black-necked stilt harassing a mallard (top), mallard (bottom left), and black-necked stilt (bottom right) on the project site, 6 and 9 April 2026. Photos by Noriko Smallwood.



Photos 12, 13, and 14. Double-crested cormorant (top), and Canada goose (middle), and white-faced ibis (bottom) on the project site, 9 April 2026. Photos by Noriko Smallwood.

O1-52
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Photos 15 and 16. Great blue heron (left), and common raven with nest material (right) on the project site, 9 April 2026. Photos by Noriko Smallwood.

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Photos 17 and 18. Mourning dove (left), and northern mockingbird (right) on the project site, 6 and 9 April 2026. Photos by Noriko Smallwood.



Photos 19 and 20. Killdeer (left), and California horned lark (right) on the project site, 9 and 6 April 2026. Photos by Noriko Smallwood.



Photos 21 and 22. House finch (left), and Cassin's kingbird and brown-headed cowbird (right) on the project site, 9 April 2026. Photos by Noriko Smallwood.

O1-52
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Photos 23 and 24. Song sparrow (left), and white-crowned sparrow (right) on the project site, 6 and 9 April 2026. Photos by Noriko Smallwood.

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Photos 25 and 26. Red-winged blackbird (left), and barn swallow (right) on the project site, 9 April 2026. Photos by Noriko Smallwood.



O1-52
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Photos 27 and 28. Brown-headed cowbirds on the project site, 9 April 2026. Photos by Noriko Smallwood.



Photos 29 and 30. Great-tailed grackle (left), and Bullock's oriole (right) on the project site, 9 April 2026. Photos by Noriko Smallwood.

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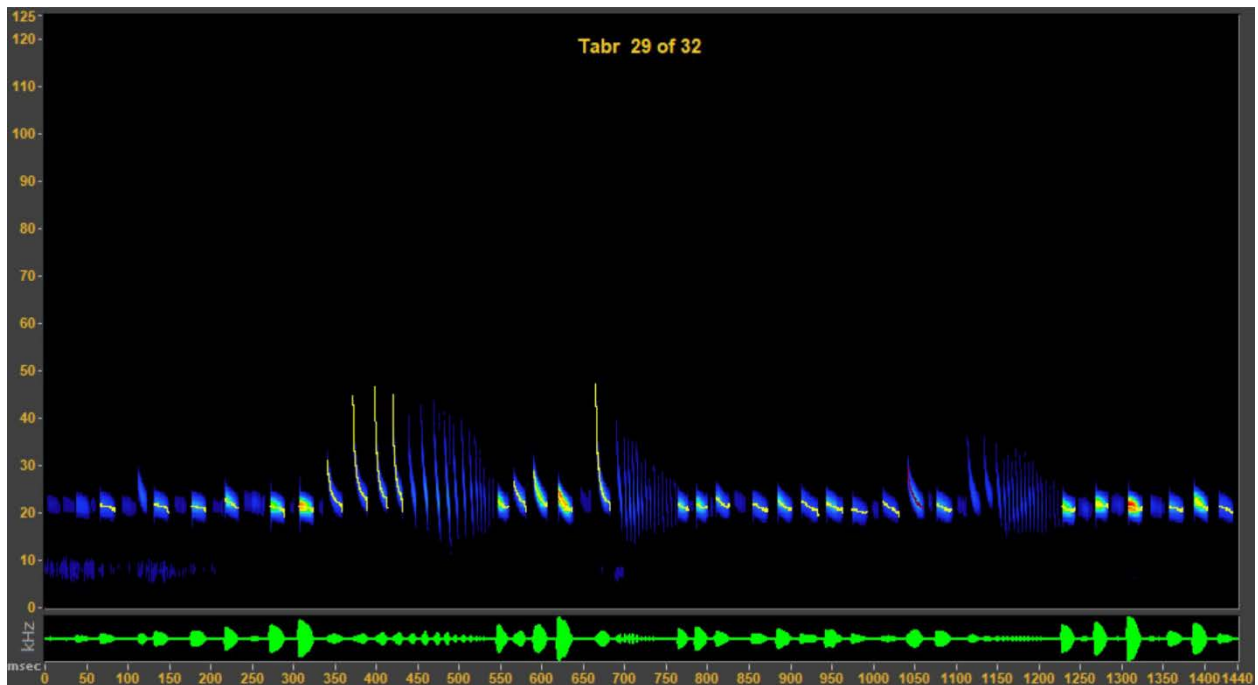


Photo 31. Sonogram of Mexican free-tailed bat on the project site detected using SonoBat Live and a Pettersson M500, 6 April 2026. Photo by Noriko Smallwood.



Photos 32, 33, and 34. Desert cottontail (top left and bottom), and California ground squirrel (top right) on the project site, 6 and 9 April 2026. Photos by Noriko Smallwood.

O1-52
cont.

Noriko Smallwood certifies that the foregoing and following survey results are true and accurately reported.

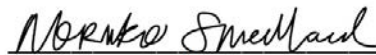

Noriko Smallwood

Table 1. Species of wildlife Noriko observed during 1.13 hours of diurnal survey and 2.67 hours of nocturnal survey on 6 April 2026, and during 3 hours of diurnal survey on 9 April 2026.

Common name	Species name	Status ¹	Notes
Canada goose	<i>Branta canadensis</i>		Flock flew over
Mallard	<i>Anas platyrhynchos</i>		On pond; flocks flew over
Rock pigeon	<i>Columba livia</i>	Non-native	Many
Eurasian collared-dove	<i>Streptopelia decaocto</i>	Non-native	Just off site
Mourning dove	<i>Zenaida macroura</i>		
Anna's hummingbird	<i>Calypte anna</i>		
Black-necked stilt	<i>Himantopus mexicanus</i>		On pond; flew over
Killdeer	<i>Charadrius vociferus</i>		On pond; flew over
Hudsonian whimbrel	<i>Numenius hudsonicus</i>		Flocks flew over
Western sandpiper	<i>Calidris mauri</i>		On pond; flew over
Ring-billed gull	<i>Larus delawarensis</i>		Flocks flew over
Double-crested cormorant	<i>Nannopterum auritum</i>	WL	Flock flew over
Great blue heron	<i>Ardea herodias</i>		Flew over
White-faced ibis	<i>Plegadis chihi</i>	WL	Flocks flew over, landed on site
Turkey vulture	<i>Cathartes aura</i>	BOP	Many roosted in eucalyptus
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP	Pair
American barn owl	<i>Tyto furcata</i>	BOP	Multiple foraged in evening
American kestrel	<i>Falco sparverius</i>	BOP	
Merlin	<i>Falco columbarius</i>	WL, BOP	
Cassin's kingbird	<i>Tyrannus vociferans</i>		
Black phoebe	<i>Sayornis nigricans</i>		
American crow	<i>Corvus brachyrhynchos</i>		
Common raven	<i>Corvus corax</i>		Gathered nest material
California horned lark	<i>Eremophila alpestris actia</i>	WL	
Northern rough-winged swallow	<i>Stelgidopteryx serripennis</i>		
Barn swallow	<i>Hirundo rustica</i>		Gathered nest material, foraged
Northern mockingbird	<i>Mimus polyglottos</i>		
European starling	<i>Sturnus vulgaris</i>	Non-native	Many, murmurations
House sparrow	<i>Passer domesticus</i>	Non-native	
American pipit	<i>Anthus rubescens</i>		
House finch	<i>Haemorphous mexicanus</i>		Foraged
White-crowned sparrow	<i>Zonotrichia leucophrys</i>		Foraged

Song sparrow	<i>Melospiza melodia</i>		
Western meadowlark	<i>Sturnella neglecta</i>		Just off site
Bullock's oriole	<i>Icterus bullockii</i>	BCC	Multiple in eucalyptus
Red-winged blackbird	<i>Agelaius phoeniceus</i>		Many foraged, flew over
Brown-headed cowbird	<i>Molothrus ater</i>		Many, murmurations
Great-tailed grackle	<i>Quiscalus mexicanus</i>		
Mexican free-tailed bat	<i>Tadarida brasiliensis</i>	WBWG: L	
Desert cottontail	<i>Sylvilagus audubonii</i>		Foraged
California ground squirrel	<i>Otospermophilus beecheyi</i>		
Coyote	<i>Canis latrans</i>		Scat
Botta's pocket gopher	<i>Thomomys bottae</i>		Burrows

¹ Listed on CDFW's Special Animals List (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406>) as WL = CDFW's Taxa to Watch List; WBWG = Western Bat Working Group with priority rankings, of low (L), moderate (M), and high (H); BCC = U.S. Fish and Wildlife Service's Bird of Conservation Concern (<https://www.fws.gov/sites/default/files/documents/birds-of-conservation-concern-2021.pdf>); and BOP = protected by Birds of Prey (California Fish and Game Code 3503.5, see <https://wildlife.ca.gov/Conservation/Birds/Raptors>).

ANALYSIS OF RECONNAISSANCE SURVEY DATA

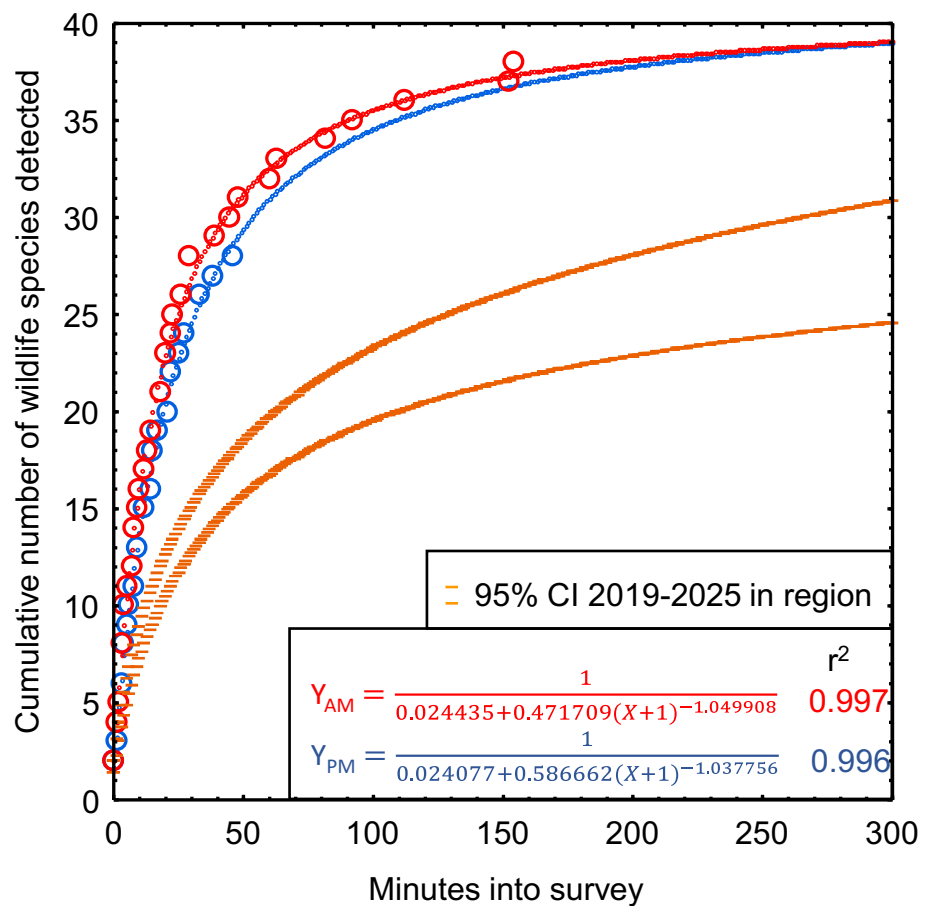
Noriko detected 43 species of vertebrate wildlife, which was a relatively large number for the brevity of her survey effort. All the species in Table 1 would lose due to the project and its replacement of natural ground covers with impervious surfaces. Assuming the habitat that would remain within the region is at carrying capacity for each species at issue, habitat loss translates directly to a numerical decline in the species. Smallwood and Smallwood (2023) confirmed this habitat loss by measuring the impacts of similar development projects on species richness and the abundances of wildlife. Smallwood and Smallwood (2023) directly compared the species and the numbers of animals observed prior to development to the those observed after development, while they did the same at control sites. The measured losses of these species resulting from development is indicative of habitat loss, because habitat is defined as that portion of the environment that is used for survival and reproduction by members of a species (Hall et al. 1997).

However, the species of wildlife Noriko detected at the project site were not the only species that were present during her survey, as there are always species that are not detected. To demonstrate this, I fit nonlinear regression models to Noriko's accumulation of first detections of vertebrate wildlife species with time into her daytime surveys to predict the number of species that she would have detected with longer surveys or perhaps with additional biologists available to assist her. The type of model is a logistic growth model, which reaches an asymptote that corresponds with the theoretical maximum number of vertebrate wildlife species that could have been detected during the survey. The model that I fit to Noriko's survey data from the morning of 9 April predicts 41 species of vertebrate wildlife were available to be detected, or 3 more species than she detected that morning (Figure 1). Noriko's rate of species detections on the evening of 6 April nearly matched her rate of detections on the morning of 9 April (Figure 1). Noriko's rate of species detections exceeded the upper

O1-53

bound of the 95% confidence interval estimated from many other morning surveys we have completed in the Inland Empire region, thus indicating the project site is relatively species-rich for the region.

Figure 1. Actual and predicted relationships between the numbers of vertebrate wildlife species detected and the elapsed survey time based on Noriko's visual-scan surveys at the project site on 6 and 9 April 2026. Note the confidence interval (orange) applies only to the morning survey (red line).



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Unknown are the identities of the species Noriko missed, but the species that Noriko did and did not detect on composed only a fraction of the species that would occur at the project site over the period of a year or longer. This is because many species are seasonal in their occurrence, some require more survey effort because they are highly cryptic, and the members of other species would visit the site only periodically while patrolling large home ranges. Surveys on only two days cannot possibly detect all of the species of the local wildlife community.

At least a year's worth of surveys would be needed to more accurately report the number of vertebrate species that occur at the project site, but I only have Noriko's one survey. However, by use of an analytical bridge, a modeling effort applied to a large, robust data set from a research site can predict the number of vertebrate wildlife species that likely make use of the site over the longer term. This analytical bridge draws inference from the pattern of species detections more than it does from the research site, and I note that the pattern, i.e., rate, of species detections is consistent from site to site.

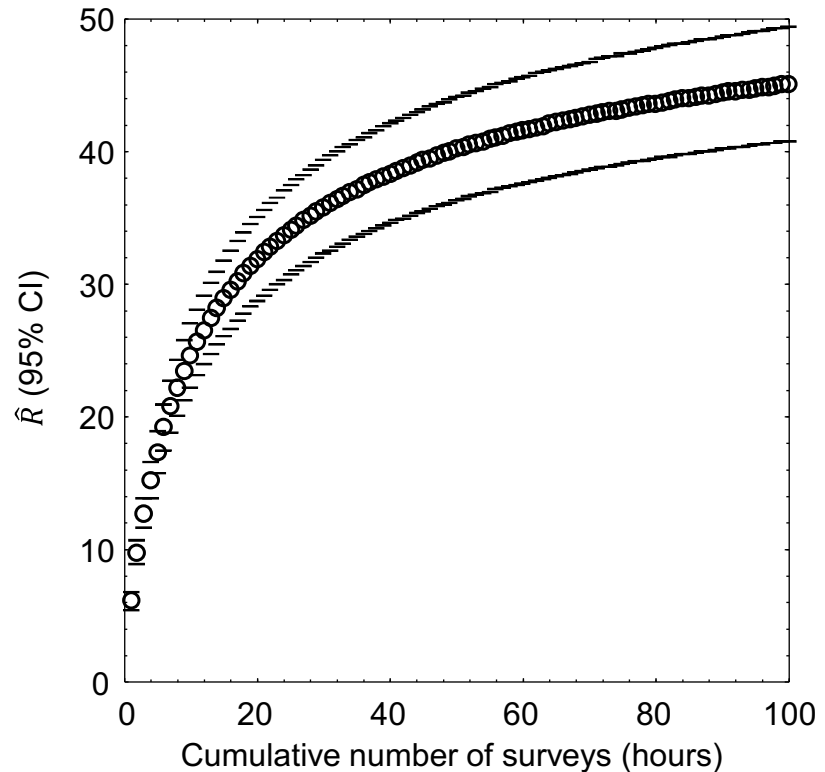
As part of my research, I completed a much larger survey effort across 167 km² of annual grasslands of the Altamont Pass Wind Resource Area, where from 2015 through 2019 I performed 721 1-hour visual-scan surveys, or 721 hours of surveys, at 46 stations. I used binoculars and otherwise the methods were the same as the methods I and other consulting biologists use for surveys at proposed project sites. At each of the 46 survey stations, I tallied new species detected with each sequential survey at that station, and then related the cumulative species detected to the hours (number of surveys, as each survey lasted 1 hour) used to accumulate my counts of species detected. I used combined quadratic and simplex methods of estimation in Statistica to estimate least-squares, best-fit nonlinear models of the number of cumulative species detected regressed on hours of survey (number of surveys) at the station: $\hat{R} = \frac{1}{1/a + b \times (Hours)^c}$, where $\hat{R}$ represented cumulative species richness detected. The coefficients of determination, r^2 , of the models ranged 0.88 to 1.00, with a mean of 0.97 (95% CI: 0.96, 0.98); or in other words, the models were excellent fits to the data.

I projected the predictions of each model to thousands of hours to find predicted asymptotes of wildlife species richness. The mean model-predicted asymptote of species richness was 57 after 11,857 hours of visual-scan surveys among the 46 stations of my research site. I also averaged model predictions of species richness at each incremental increase of number of surveys, i.e., number of hours (Figure 2). On average I would have detected 15.5 species over my first 4.13 hours of diurnal surveys at my research site in the Altamont Pass (4.13 hours to match the 4.13 hours Noriko surveyed during daylight hours at the project site), which composed 27.2% of the predicted total number of species I would detect with a much larger survey effort at the research site. Given the example illustrated in Figure 2, the 41 vertebrate wildlife species that Noriko detected in her 4.13 hours of daylight survey at the project site likely represented 27.2% of the species to be detected after many more visual-scan surveys over another year or longer. With many more repeat surveys through the year, Noriko would likely detect $41 / 0.272 = 151$ species of vertebrate wildlife in daylight surveys at the site. Assuming Noriko's ratio of special-status to non-special-status species was to hold through the detections of all 151 predicted species, then continued daylight surveys would eventually detect 29 special-status species of vertebrate wildlife.

Because my prediction of 151 species of vertebrate wildlife, including 29 special-status species, is derived from daytime visual-scan surveys, and would detect few nocturnal mammals such as bats, the true number of species composing the wildlife community of the site must be larger. Proof of this in Noriko's brief nocturnal survey in which she added two more species of vertebrate wildlife to her tally. Noriko's reconnaissance survey should serve only as a starting point toward characterization of the site's wildlife community, but it certainly cannot alone inform of the inventory of species that use the site. More surveys are needed than could be accomplished in her one site visit to produce a species inventory the project site's wildlife community. Nevertheless, the large number of species I predict at the project site is indicative of a relatively species-rich wildlife community that warrants a serious survey effort.

O1-53
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Figure 2. Mean (95% CI) predicted wildlife species richness, $\hat{R}$, as a nonlinear function of hour-long survey increments across 46 visual-scan survey stations across the Altamont Pass Wind Resource Area, Alameda and Contra Costa Counties, 2015–2019. Note that the location of the study is largely irrelevant to the utility of the graph to the interpretation of survey outcomes at the project site. It is the pattern in the data that is relevant, because the pattern is typical of the pattern seen elsewhere.



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MISCHARACTERIZATION OF THE EXISTING ENVIRONMENTAL SETTING

CEQA's primary objectives should guide the design and conduct of CEQA review. Four of CEQA's primary objectives are to (1) accurately characterize the existing environmental setting, (2) disclose potential project impacts to the public and decision-makers, (3) foster public participation with decision-making over proposed projects, and (4) identify issues and feasible alternative mitigation measures to minimize environmental impacts. The first objective is essential to the other three, because an accurate understanding of the existing environmental setting is needed to predict impacts, provide the public with the means to meaningfully participate with issues of importance, and effectively strategize mitigation and project alternatives (Figure 3). For biological resources, essential information includes the species composition of the plant and wildlife communities, key ecological interactions, identification of ecological keystone species, determining the presence of special-status species or their habitats, and identifying risk factors that could result in significant direct, indirect and cumulative impacts should the project go forward.

O1-54

The public and decision-makers need to know which species are susceptible to harm potentially caused by the project and its associated activities, and which are known to be vulnerable to harm once exposed to the environmental changes brought by the project. For these reasons, field studies are needed to identify as many of the species that occur on the project site as reasonably feasible, and to otherwise examine the environmental conditions for their likelihood to support species that are not detected, otherwise known as "habitat assessment." A review of species occurrence records – also known as

“desktop review” – is needed to identify the other species that potentially occur on the site – a process that is also referred to as “habitat assessment.” Because habitat assessments that are based on either or both field study and desktop review are prone to uncertainty, emphasis needs to be directed to adequate field study to reduce the pool of species subjected to habitat assessment, thereby weighing the review more towards certainty. Appropriately weighted reviews are less susceptible to speculation over species occurrence likelihoods. For this reason, protocol-level detection surveys have been formulated for numerous special-status species of plants and wildlife, and otherwise best scientific practices are needed to provide a reasonable likelihood of detection of species that truly occur on the project site. The negative findings of a properly conducted detection survey are the only findings that can support a determination of species absence.

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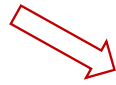
Assess species occurrence likelihoods

- 1. Desktop review**
 - a. Species geographic range overlap or database occurrence records**
 - b. Crosswalk habitat associations with mapped ground cover**
- 2. Reconnaissance survey/Habitat assessment**
- 3. Detection surveys for special-status species**



Characterize wildlife community

- 4. Lists of species detected and of those expected but not yet detected, and any known trends**



Outcomes

- 5. Predict impacts**
- 6. Formulate mitigation strategy**
- 7. Determine significance of impacts**

Note: Impact predictions and significance determinations have been of unknown accuracy in the absence of experimental measurement

O1-55

Figure 3. General flow of information from its gathering through characterizing the existing environment to predicting impacts and their significance.

Even among reviews founded on the best of field studies, there is always uncertainty over some of the determinations of species occurrences. The uncertainties of habitat assessments need to be managed to achieve CEQA's primary objectives. This means that the methodological details of both the field studies and desktop review need to be carefully and thoroughly reported, and it means that results need to be reported in context of their uncertainties. For example, the reporting of having detected 10 species in a reconnaissance survey is nearly meaningless without also reporting the numbers of species found in surveys of similar methods and effort levels, and the reporting of the failure to detect a given species is nearly entirely meaningless without also reporting the likelihood that species would be detected given the survey methods and effort level. The same is true of desktop review; that is, there should be some means of validating habitat assessments based on the thousands of habitat assessments that have already been

conducted in support of CEQA reviews. If industry standards in environmental review are to be credible, then they must include the use of the comparative method.

In the case of the proposed project, the SEIR fails to explain how or why the steps taken to characterize the ecological community relate to CEQA's primary objectives. Additionally, the ecological community is inaccurately characterized as composed of only those species detected in a reconnaissance survey or deemed likely to occur based on desktop review of occurrence records. Furthermore, the SEIR reports nothing about the uncertainties of ELMT's (2025) findings, which vastly diminishes the accuracy of the characterization of the existing environmental setting.

O1-55
cont.

Environmental Setting informed by Field Surveys

ELMT (2025) deployed two biologists on 18 April 2025 to document existing conditions, verify plant communities identified in aerial imagery, and assess the potential for special-status biological resources to occur, and in the same survey to evaluate the site for its potential to support wetland features. ELMT does not explain how its survey contributes to CEQA's objectives, but it is my opinion that each documentation of a species detected in a survey lessens the uncertainty of the species composition of the local ecological community, and it hence improves the accuracy of the characterization of the environmental setting. ELMT (2025) does not state the detection of wildlife species as one of its objectives, but it does report the species it detected. However, more information needs to be reported so that survey findings can be considered in an appropriate comparative context to reveal the degree of uncertainty that remains in how many species, and which species, truly comprise the wildlife community. ELMT (2025) fails to report its survey start time, its survey duration, and how its findings compare to other similar surveys in the region.

O1-56

ELMT (2025) reports 20 species of vertebrate wildlife were found on the project site. Four of these species are special-status species, despite the SEIR's (p. 3.4-55) claim that "No special-status wildlife species were observed within the Specific Plan area during the habitat assessment.." In comparison, Noriko detected 43 species of vertebrate wildlife. ELMT detected 3 species that Noriko did not, but Noriko detected 26 species that ELMT did not, and ultimately Noriko's survey effort brings the total number of vertebrate wildlife species detected on the site to 46, which is more than double the number ELMT (2025) reports. A comparison between ELMT's and Noriko's surveys reveals that the wildlife community depicted by ELMT (2025) is nowhere close to accurate, and the comparison indicates that additional surveys would further increase the number of species known to the site.

ELMT (2025) documented three fewer than the average number of vertebrate wildlife species detected among surveys by consulting biologists at California project sites, and Noriko detected 1.42 times the number we average in our surveys of the same sites (Figure 4). ELMT (2024) documented the same number of special-status species of vertebrate wildlife as the average among surveys reported by consulting biologists at California project sites, and Noriko detected 1.5 times the number we average in our surveys of the same sites (Figure 5). Relative to the corresponding averages, ELMT

found fewer species of wildlife while Noriko found 50% more – a difference that needs an explanation.

Two comparative contexts are needed to fully disclose the meanings of survey findings in the SEIR. The first is to contextualize the survey findings relative to the survey effort, because otherwise it is misleading to insinuate that the species detected were definitive of the wildlife community. As Figures 1 and 2 demonstrate, additional surveys contribute to an increasingly more accurate characterization of the wildlife community, but eventually to a point at which the species inventory would be obtained. Quicker progress toward an accurate characterization of the wildlife community can be achieved by adding nocturnal surveys as well as specialized surveys for detecting bats, small mammals, reptiles and amphibians. However the surveys are done, it is imperative to compare survey findings to the findings from other surveys and their associated survey attributes to provide interpretive context such as to quantify the uncertainty of the findings, or alternatively to understand whether the findings fall within the expected range of findings given the survey methods and level of effort. If no such comparison is possible, then the lack of comparability should be discussed as a survey limitation.

Another example of how once can contextualize survey findings can be found in Figure 6, which compares Noriko's findings to hundreds of other survey results at other proposed project sites, developed sites, and at relatively intact "reference sites," but it does so relative to the survey effort. This approach is more informative than the other comparative contexts because it factors in survey effort. Figure 6 reveals that considering her survey effort, the number of wildlife species that Noriko detected was more indicative of nearly pristine reference sites than it was of the project sites we have surveyed throughout California, again showing the site to be relatively rich in species. It is possible that as one of the very last remaining fragments of habitat in the region, the project site attracts members of more species. Because ELMT (2025) fails to report key survey attributes, I cannot compare its reconnaissance survey findings to past consultant findings relative to survey effort.

The second comparative context is to assess the probabilities of detection considering the survey effort of each special-status species, whether detected or not. The SEIR inaccurately claims that ELMT (2025) failed to detect any special-status species. However, even if ELMT had failed to detect special-status species, such a failure can mean that the survey was inadequate. Each species presents survey personnel with a unique range of detection probabilities based on the species' natural history, its behavior patterns, survey effort, the study area's distance from known activity areas of the species, and the levels of skill of survey personnel. Many animals maintain home ranges that are larger than most project sites, and they periodically shift their foraging activities to various parts of their home range, hence occurring on a particular site only periodically. To detect these species, survey personnel must be at the site on the same date and time as the one or more members of the species. The probability of detection of any given species during any given survey is less than 100%, and for many species that truly occur on a given site, it is closer to 0%.

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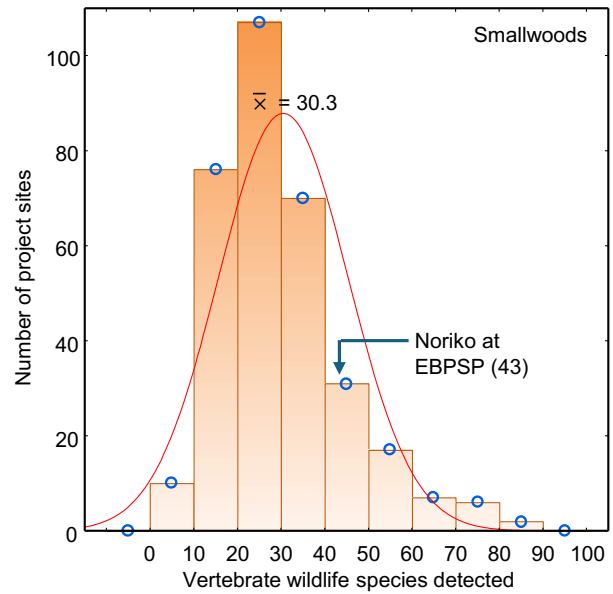
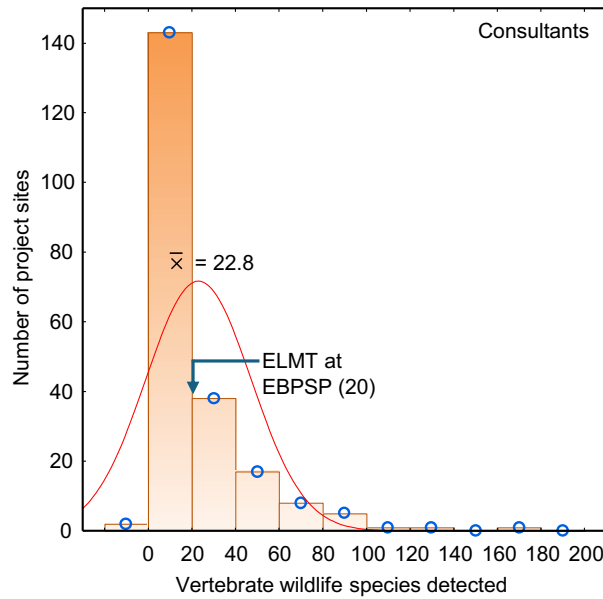


Figure 4. Frequency distribution of the number of vertebrate wildlife species detected by consulting biologists (left graph) and by me and Noriko (right graph) among project sites surveyed in support of environmental reviews in California.

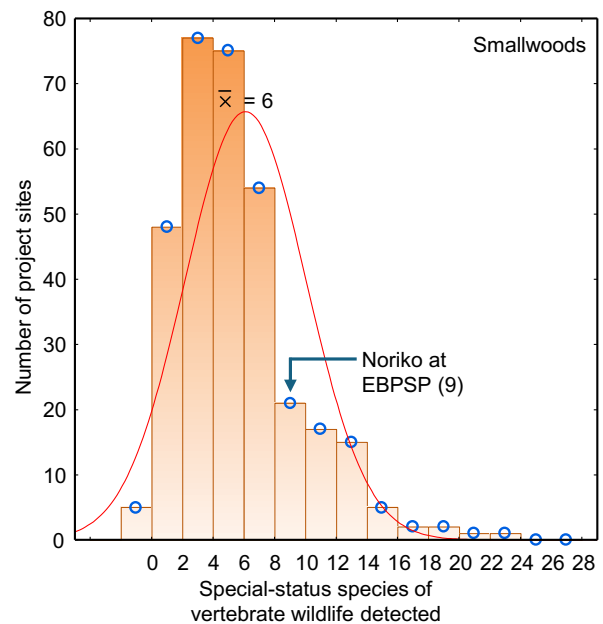
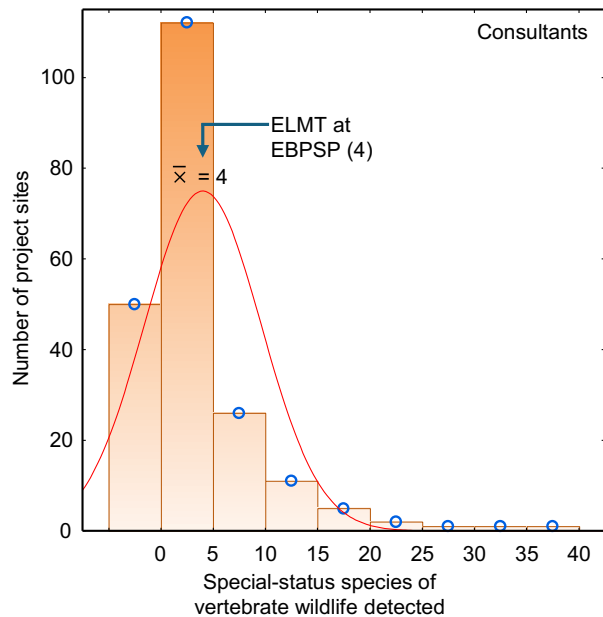


Figure 5. Frequency distribution of the number of special-status species of wildlife detected by consulting biologists (left graph) and by me and Noriko (right graph) among project sites surveyed in support of environmental reviews.

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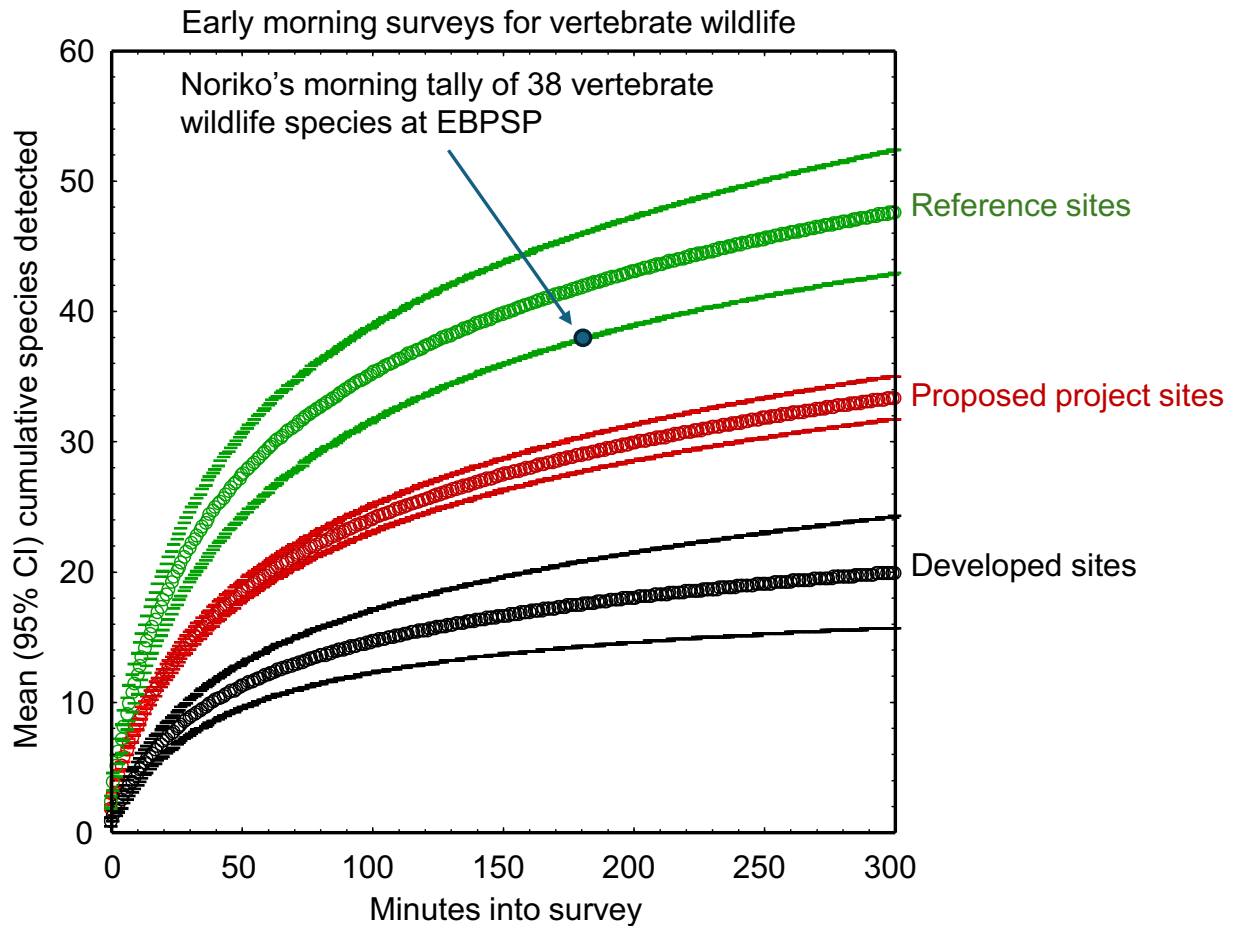
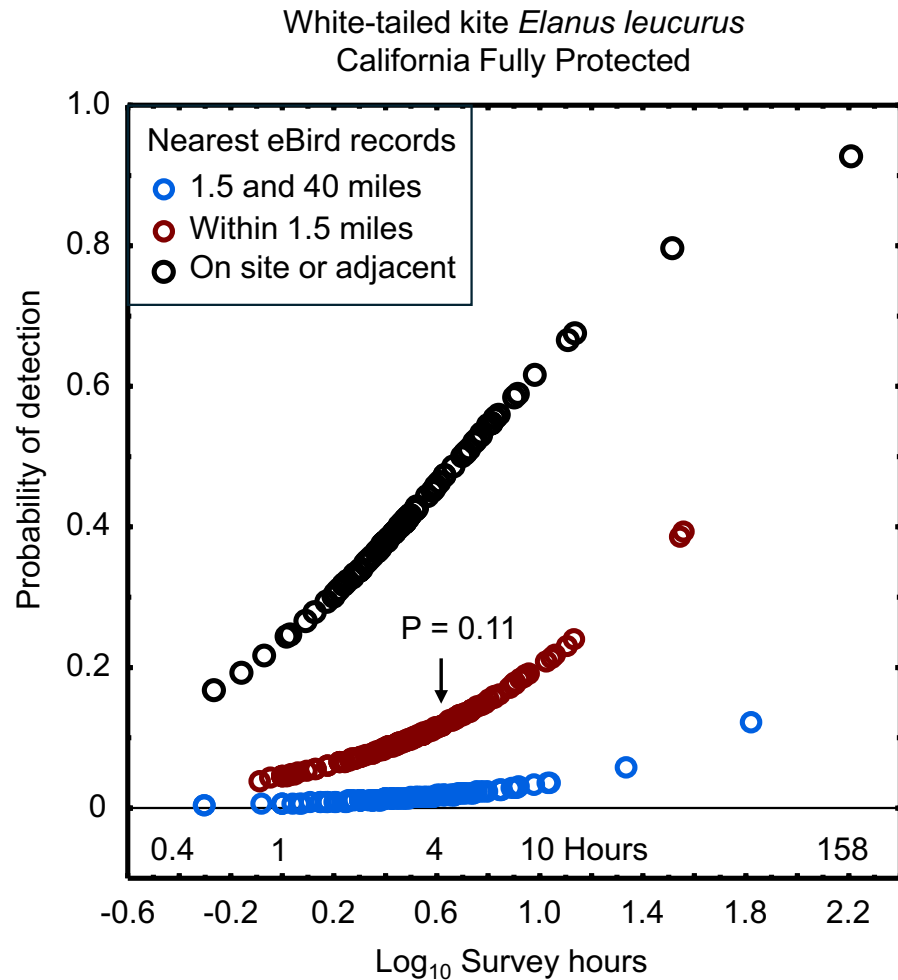


Figure 6. Noriko Smallwood's survey findings at the Project site relative to our survey findings at other project sites (red), at developed sites (black), and at more pristine sites that we survey as reference sites (green). Noriko's findings exceed the upper bound of the 95% confidence interval based on the results of hundreds of surveys at project sites, and they approach the lower bound of the 95% CI from many surveys at reference sites.

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For example, white-tailed kite was detected by neither ELMT nor Noriko, but among our hundreds of surveys at project sites, Noriko and I have found white-tailed kites in environments similar to the project site. Based on hundreds of surveys within the geographic range of white-tailed kite, Noriko's 4.13 hours of daylight survey combined with the knowledge that white-tailed kite has been documented within 1.5 miles of the project site afforded Noriko an 11% likelihood of detection of white-tailed kite (Figure 7). Noriko would need to conduct many more surveys to accumulate a reasonable likelihood of detecting white-tailed kite, but the patterns of our findings in our many other surveys depicted in Figure 7 reveal that it is highly unlikely that the white-tailed kite is absent from the project site. This use of the comparative method leads to a fundamentally different way of interpreting survey results than is expressed in ELMT (2025) and the SEIR, and it provides for more accurate disclosure of potential project impacts.

Figure 7. Probability of detection of white-tailed kite as a function of survey effort and proximity of occurrence records to a project site, based on hundreds of reconnaissance surveys we completed 2019–2024.



O1-56
cont.

This second comparative context is very important because it is the basis for the formulation of detection survey protocols. Experienced biologists are aware of survey limitations due to ranges of variation in the activity periods, levels of crypticity, and periodic movement patterns of wildlife species, and due to variation in the skill and commitment of survey personnel. This second comparative context acknowledges that the occurrence likelihood of a species on a particular site is rarely if ever zero, so long as the site is within the species' geographic range and it provides habitat. This second comparative context reveals that a determination of zero likelihood of occurrence is typically indicative of insufficient survey effort. A common goal of detection survey protocols is to support absence determinations with a survey effort that should have resulted in a detection if the species had been present at the time of the surveys, but it does not prove that the species is always absent from the site. This second comparative context and its implications should not be neglected in CEQA review, but it is neglected in the case of the SEIR prepared for this project.

ELMT (2025) conducted no protocol-level detection surveys for rare plants (see CDFW 2018), Crotch's bumble bee (see CDFW 2023), burrowing owl (see CDFW 2012) nor for any other special-status species. The appropriate surveys were not implemented for various other types of wildlife, hence leaving conclusions in ELMT (2025) and the SEIR

unfounded. For example, ELMT (2025) reports that no amphibians were detected, but it does not describe its likelihood of detecting amphibians had amphibians been present. ELMT (2025) reports the same for reptiles, but it again fails to report the likelihood of detecting any reptiles had they in truth been present. If ELMT surveyed in the middle of the day, then its likelihood of detecting amphibians would have been near 0%, and if ELMT surveyed for only an hour, then its likelihood of detecting reptiles would have been near 0%. Survey findings need to be contextualized by reporting of survey method and survey effort. Similarly, no acoustic surveys were conducted for bats, and no live-trapping was conducted for small mammals. Noriko detected bats because she implemented the appropriate survey method for doing so. ELMT (2025) reports its survey results as if they are definitive, but they are not.

O1-56
cont.

Environmental Setting informed by Desktop Review

ELMT (2025) relies on occurrence records in the California Natural Diversity Data Base (CNDDB) to establish its pool of special-status species for assessing occurrence likelihoods, otherwise referred to as habitat assessments. ELMT (2025) queried the CNDDB for occurrence records of special-status species within four USGS 7.5' Quadrangles inclusive of the project site. Special-status species represented by occurrence records in these Quads were moved forward in the habitat assessment, but species lacking records were screened out of further analysis. However, the CNDDB is a volunteer, positive-sightings database, and as such it is useful for confirming presence but not for confirming absence of species because such databases are not designed for this purpose. As noted by the CNDDB, *"The CNDDB is a positive sighting database. It does not predict where something may be found. We map occurrences only where we have documentation that the species was found at the site. There are many areas of the state where no surveys have been conducted and therefore there is nothing on the map. That does not mean that there are no special status species present."* ELMT (2025) and hence the SEIR misuse the CNDDB.

O1-57

The CNDDB relies entirely on volunteer reporting from biologists who were allowed access to whatever properties they report from. Many properties have never been surveyed by biologists. Many properties have been surveyed, but the survey outcomes never reported to the CNDDB. Many properties have been surveyed multiple times, but not all survey outcomes reported to the CNDDB. Furthermore, the CNDDB is interested only in the findings of special-status species, which means that species more recently assigned special status will have been reported many fewer times to the CNDDB than were species assigned special status since the inception of the CNDDB. Therefore, occurrence records in the CNDDB are most abundant for species assigned special status decades ago, but fewest for species only recently assigned special status. And because negative findings are not reported to the CNDDB, the CNDDB is also inappropriate as a basis for weighting occurrence likelihoods such as absent, not expected, unlikely, low, moderate or high. Whereas the CNDDB can be confirmatory of species presence, it cannot support absence determinations or assignments of low likelihood of occurrence. And again, the screening out of a species due to lack of occurrence records in the CNDDB is the same as an absence determination, but without the support of the detection surveys that have been formulated for this purpose.

As suggested above, ELMT (2025) also weighs the likelihoods of occurrence of those species that passed the initial screening for inclusion. South assigns occurrence likelihood categories of Absent (reported as Presumed absent, which effectively means absent), Low, Moderate, and High. As noted above, however, the absence of occurrence records is not evidence of absence, nor is it evidence of any likelihood of occurrence. At best, CNDDDB records can serve as evidence of the likelihood of detection of a species, but again, this likelihood does not parallel the likelihood of occurrence because species often occur where never detected by biologists.

In my assessment based on a database review and site visits, 137 special-status species of wildlife are known to occur near enough to the site to warrant analysis of occurrence potential (Table 2). Not all these species should be expected to occur at the project site, but each of them should be given a closer look to determine occurrence likelihoods and whether additional surveys are needed, or implementation of detection surveys, or whether it would be reasonable to assume presence. Of these 137 species, 20 were recorded on or just off (on the fringe) the project site, and another 18 (13%) have been documented within 1.5 miles of the site (Very close), another 40 (29%) between 1.5 and 4 miles (Nearby), and another 48 (35%) between 4 and 30 miles (In region). Over half (57%) of the special-status species in Table 2 have been reportedly seen within 4 miles of the project site. The site therefore supports at least 20 special-status species of wildlife, and it carries the potential for supporting many more special-status species of wildlife based on the proximities of recorded occurrences. Evidence certainly suggests that habitat assessments are needed for these species.

ELMT (2025) considers the occurrence likelihoods of only 64 (47%) of the special-status species listed in Table 2, which means that 73 (53%) of the special-status species in Table 2 were screened out of the analysis in the first step of the desktop review. Of the 64 special-status species considered by ELMT, 50 of them are determined to be absent from the project site. However, of these 50 “absent” species, five of them – Swainson’s hawk, peregrine falcon, vermilion flycatcher, yellow-headed blackbird, and double-crested cormorant, were detected on the project site, nine of them have been documented within 1.5 miles of the project site, and another 15 of them have been documented within 4 miles of the project site. Of the 6 special-status species ELMT determines to have a low likelihood of occurrence, 2 – merlin and loggerhead shrike – have been documented on the project site, and 2 have been documented within 1.5 miles of the site. ELMT’s process for determining occurrence likelihoods is flawed and inaccurate.

Although ELMT (2025) presumes yellow-headed blackbird to be absent from the project site, ELMT (2025:D-7) also reports having detected this species on the site. Perhaps whomever prepared Table D-1 was unaware of which species ELMT’s biologists detected on the project site. Whatever the reason for it, this glaring inconsistency involves a special-status species that warrants greater care.

Of the special-status species in Table 2 but not included in ELMT’s analyses of occurrence likelihoods, 7 have been documented on the project site, 6 have been

O1-57
cont.

documented within 1.5 miles of the site, and 25 have been documented between 1.5 and 4 miles from the project site. None of these 38 special-status species should have been omitted from the analyses in EMLT (2025) and the SEIR.

Despite the SEIR's assertion that the certified 2022 SEIR provides the logical baseline from which to predict project impacts on biological resources, ELMT (2025) analyzes the occurrence likelihoods of special-status species. Had the 2022 SEIR been the logical baseline, then ELMT would have had no need to conduct a field survey or desktop review. Regardless, the 2022 SEIR was not an appropriate baseline because its assignments of special status to the species it assesses for occurrence likelihoods date to circa 2001.

The same reliance on outdated species statuses is true of ELMT (2025) and the SEIR prepared for this project. For example, numerous species are assigned California Species of Special Concern, but which are now on CDFW's Taxa to Watch List. More important, however, are the many species that have been assigned special status or have had their status upgraded since 2009 EIR from which the 2022 SEIR tiered. Circumstances have changed for 31 special-status species that were either designated with special status or were upgraded in status since the 2009 EIR (Table 2). Of these 31 special-status species, four have been documented on the project site, three have been documented within 1.5 miles, and 13 have been documented between 4 and 30 miles from the project site. These changes in circumstance directly bear on the accuracy and the potential consequences of the characterization of the existing environmental setting.

O1-57
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Mischaracterization of the Wildlife Community

ELMT (2025) reports on a field survey and a desktop review having been completed. However, its field survey was much too cursory, and its results are poorly interpreted, even misinterpreted. Its desktop review is incomplete and inaccurate. Greater care is warranted, but even if ELMT was not authorized or supported to complete a more suitable field survey effort and desktop review, its conclusions needed to be appropriately cautious. This more cautious approach would be consistent with the Precautionary Principle in risk analysis – or CEQA review – involving precious or rare resources such as special-status species (National Research Council 1986). The true wildlife community remains to be described with sufficient accuracy. Without a more accurate characterization of the wildlife community, the basis remains inadequate for predicting impacts and formulating appropriate mitigation strategies.

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Table 2. Occurrence likelihoods of special-status species of wildlife at or near the proposed project site, according to eBird/iNaturalist records (<https://eBird.org>, <https://www.inaturalist.org>) and on-site survey findings, where 'Very close' indicates within 1.5 miles of the site, "nearby" indicates within 1.5 and 4 miles, and "in region" indicates within 4 and 30 miles, and 'in range' means the species' geographic range overlaps the site. Species highlighted in orange indicate changes in special status since 2009. Entries in bold font identify species detected by Noriko Smallwood during her site visit.

Common name	Species name	Status ¹	ELMT (2025)	Records, Surveys
Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	FT		In region
San Diego fairy shrimp	<i>Branchinecta sandiegonensis</i>	FE		In region
Riverside fairy shrimp	<i>Streptocephalus woottoni</i>	FE		In region
Monarch	<i>Danaus plexippus</i>	FC (2019)		Very close
Crotch's bumble bee	<i>Bombus crotchii</i>	CCE (2019)	Absent	In region
Western spadefoot	<i>Spea hammondi</i>	FC (2023), SSC	Absent	In region
Southwestern pond turtle	<i>Actinemys pallida</i>	FC (2023), SSC	Absent	In region
Coast horned lizard	<i>Phrynosoma blainvillii</i>	SSC	Absent	In region
Orange-throated whiptail	<i>Aspidoscelis hyperythra</i>	WL	Absent	In region
Coastal whiptail	<i>Aspidoscelis tigris stejnegeri</i>	SSC	Absent	In region
San Diegan legless lizard	<i>Anniella stebbinsi</i>	SSC (2016)	Absent	In region
California glossy snake	<i>Arizona elegans occidentalis</i>	SSC (2016)		In region
Coast patch-nosed snake	<i>Salvadora hexalepis virgulata</i>	SSC	Absent	In region
Two-striped gartersnake	<i>Thamnophis hammondi</i>	SSC		In region
South coast gartersnake	<i>Thamnophis sirtalis pop. 1</i>	SSC	Absent	In region
Red-diamond rattlesnake	<i>Crotalus ruber</i>	SSC	Absent	Nearby
Brant	<i>Branta bernicla</i>	SSC2	Absent	Nearby
Cackling goose (Aleutian)	<i>Branta hutchinsii leucopareia</i>	WL		Nearby
Redhead	<i>Aythya americana</i>	SSC2		Nearby
Western grebe	<i>Aechmophorus occidentalis</i>	BCC (2021)		Nearby
Clark's grebe	<i>Aechmophorus clarkii</i>	BCC (2021)		Nearby
Western yellow-billed cuckoo	<i>Coccyzus americanus occidentalis</i>	FT (2014), CE	Absent	In region
Black swift	<i>Cypseloides niger</i>	SSC3, BCC		In region
Vaux's swift	<i>Chaetura vauxi</i>	SSC2	Absent	Very close
Costa's hummingbird	<i>Calypte costae</i>	BCC	Moderate	Nearby
Calliope hummingbird	<i>Selasphorus calliope</i>	BCC (2021)		In region

Common name	Species name	Status ¹	ELMT (2025)	Records, Surveys
Rufous hummingbird	<i>Selasphorus rufus</i>	BCC (2021)	Absent	Nearby
Allen's hummingbird	<i>Selasphorus sasin</i>	BCC		Nearby
Mountain plover	<i>Charadrius montanus</i>	SSC2, BCC	Absent	In region
Snowy plover	<i>Charadrius nivosus</i>	BCC		In region
Western snowy plover	<i>Charadrius nivosus nivosus</i>	FT, SSC		In region
Long-billed curlew	<i>Numenius americanus</i>	WL		Very close
Marbled godwit	<i>Limosa fedoa</i>	BCC		Nearby
Red knot	<i>Calidris canutus</i>	BCC		In region
Pectoral sandpiper	<i>Calidris melanotos</i>	BCC (2021)		On site
Short-billed dowitcher	<i>Limnodromus griseus</i>	BCC		Nearby
Lesser yellowlegs	<i>Tringa flavipes</i>	BCC		Very close
Willet	<i>Tringa semipalmata</i>	BCC (2021)		Nearby
Laughing gull	<i>Leucophaeus atricilla</i>	WL		Nearby
Franklin's gull	<i>Leucophaeus pipixcan</i>	BCC		In region
Heermann's gull	<i>Larus heermanni</i>	BCC (2021)		Nearby
Western gull	<i>Larus occidentalis</i>	BCC (2021)		Nearby
California gull	<i>Larus californicus</i>	BCC (2021), WL	Moderate	On site
California least tern	<i>Sternula antillarum browni</i>	FE, CE, CFP		Nearby
Black tern	<i>Chlidonias niger</i>	SSC2, BCC (2021)		Nearby
Elegant tern	<i>Thalasseus elegans</i>	BCC, WL		In region
Black skimmer	<i>Rynchops niger</i>	BCC, SSC3		Nearby
Common loon	<i>Gavia immer</i>	SSC		Nearby
Double-crested cormorant	<i>Phalacrocorax auritus</i>	WL	Absent	On site/On site
American white pelican	<i>Pelicanus erythrorhynchos</i>	SSC1	Absent	Very close
Least bittern	<i>Ixobrychus exilis</i>	SSC2	Absent	Nearby
White-faced ibis	<i>Plegadis chihi</i>	WL	Moderate	On site/On site
Turkey vulture	<i>Cathartes aura</i>	BOP		On site/On site
Osprey	<i>Pandion haliaetus</i>	WL, BOP	Absent	Very close
White-tailed kite	<i>Elanus luecurus</i>	CFP, BOP	Low	Very close
Golden eagle	<i>Aquila chrysaetos</i>	BGEPA, CFP, BOP, WL	Absent	Nearby
Northern harrier	<i>Circus cyaneus</i>	BCC (2021), SSC3, BOP	High	On site

Common name	Species name	Status ¹	ELMT (2025)	Records, Surveys
Sharp-shinned hawk	<i>Accipiter striatus</i>	WL, BOP	Moderate	On site
Cooper's hawk	<i>Accipiter cooperii</i>	WL, BOP	Moderate	On site
Bald eagle	<i>Haliaeetus leucocephalus</i>	CE, BGEPA, BOP	Absent	Very close
Red-shouldered hawk	<i>Buteo lineatus</i>	BOP		Very close
Swainson's hawk	<i>Buteo swainsoni</i>	CT, BOP	Absent	On site
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP		On site/On site
Ferruginous hawk	<i>Buteo regalis</i>	WL, BOP	Absent	Very close
Zone-tailed hawk	<i>Buteo albonotatus</i>	BOP		Nearby
Harris' hawk	<i>Parabuteo unicinctus</i>	WL, BOP		In region
Rough-legged hawk	<i>Buteo lagopus</i>	BOP		In region
American barn owl	<i>Tyto furcata</i>	BOP		Very close/On site
Western screech-owl	<i>Megascops kennicotti</i>	BOP		Nearby
Great horned owl	<i>Bubo virginianus</i>	BOP		Nearby
Burrowing owl	<i>Athene cunicularia</i>	BCC, CCE, SSC2, BOP	Moderate	Very close
Long-eared owl	<i>Asio otus</i>	BCC (2021), SSC3, BOP	Absent	In region
Short-eared owl	<i>Asia flammeus</i>	BCC (2021), SSC3, BOP	Absent	Nearby
Lewis's woodpecker	<i>Melanerpes lewis</i>	BCC		Nearby
Nuttall's woodpecker	<i>Picoides nuttallii</i>	BCC		Nearby
American kestrel	<i>Falco sparverius</i>	BOP		On site/On site
Merlin	<i>Falco columbarius</i>	WL, BOP	Low	On site/On site
Peregrine falcon	<i>Falco peregrinus</i>	BOP	Absent	On site
Prairie falcon	<i>Falco mexicanus</i>	WL, BOP	Low	Very close
Olive-sided flycatcher	<i>Contopus cooperi</i>	BCC, SSC2 (2011)	Absent	Nearby
Willow flycatcher	<i>Empidonax traillii</i>	CE	Absent	Very close
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	FE, CE	Absent	Nearby
Vermilion flycatcher	<i>Pyrocephalus rubinus</i>	SSC2	Absent	On site
Least Bell's vireo	<i>Vireo bellii pusillus</i>	FE, CE	Absent	Nearby
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC2	Low	On site
Oak titmouse	<i>Baeolophus inornatus</i>	BCC		Very close
California horned lark	<i>Eremophila alpestris actia</i>	WL	Moderate	On site/On site
Bank swallow	<i>Riparia riparia</i>	CT		Very close

Common name	Species name	Status ¹	ELMT (2025)	Records, Surveys
Purple martin	<i>Progne subis</i>	SSC2		Nearby
Wrentit	<i>Chamaea fasciata</i>	BCC (2021)		Nearby
California gnatcatcher	<i>Polioptila c. californica</i>	FT, SSC2 (2016)	Absent	Nearby
California thrasher	<i>Toxostoma redivivum</i>	BCC (2021)		Nearby
Cassin's finch	<i>Haemorhous cassinii</i>	BCC (2021)		In region
Lawrence's goldfinch	<i>Spinus lawrencei</i>	BCC	Absent	Very close
Grasshopper sparrow	<i>Ammodramus savannarum</i>	SSC2	Absent	Nearby
Black-chinned sparrow	<i>Spizella atrogularis</i>	BCC		In region
Gray-headed junco	<i>Junco hyemalis caniceps</i>	WL		In region
Bell's sparrow	<i>Amphispiza b. belli</i>	WL	Absent	Nearby
Oregon vesper sparrow	<i>Pooecetes gramineus affinis</i>	SSC2 (2017)		In range
Southern California rufous-crowned sparrow	<i>Aimophila ruficeps canescens</i>	WL	Absent	Nearby
Yellow-breasted chat	<i>Icteria virens</i>	SSC3	Absent	Nearby
Yellow-headed blackbird	<i>Xanthocephalus xanthocephalus</i>	SSC3	Absent	On site
Bullock's oriole	<i>Icterus bullockii</i>	BCC (2021)		Very close/On site
Tricolored blackbird	<i>Agelaius tricolor</i>	CT (2018), BCC, SSC1	Absent	Very close
Prothonotary warbler	<i>Protonotaria citrea</i>	BCC		In region
Lucy's warbler	<i>Leiothlypis luciae</i>	SSC3		In region
Virginia's warbler	<i>Leiothlypis virginiae</i>	WL, BCC (2021)		Nearby
Northern yellow warbler	<i>Setophaga aestiva</i>	SSC2	Absent	Very close
Prairie warbler	<i>Setophaga discolor</i>	BCC		In region
Summer tanager	<i>Piranga rubra</i>	SSC1	Absent	Nearby
Little brown bat	<i>Myotis lucifugus</i>	WBWG: M		In region
Yuma myotis	<i>Myotis yumanensis</i>	WBWG: LM	Absent	In region
Long-eared myotis	<i>Myotis evotis</i>	WBWG: M		In region
Fringed myotis	<i>Myotis thysanodes</i>	WBWG: H		In range
Long-legged myotis	<i>Myotis volans</i>	WBWG: H		In range
California myotis	<i>Myotis californicus</i>	WBWG: L		In region
Small-footed myotis	<i>Myotis ciliolabrum</i>	WBWG: M		In range
Canyon bat	<i>Parastrellus hesperus</i>	WBWG: M		In region

Common name	Species name	Status ¹	ELMT (2025)	Records, Surveys
Big brown bat	<i>Episticus fuscus</i>	WBWG: L		In region
Silver-haired bat	<i>Lasionycteris noctivagans</i>	WBWG: M		In range
Hoary bat	<i>Lasiurus cinereus</i>	WBWG: M	Low	In region
Western red bat	<i>Lasiurus blossevillii</i>	SSC, WBWG: H	Absent	In region
Western yellow bat	<i>Lasiurus xanthinus</i>	SSC, WBWG: H	Low	In region
Spotted bat	<i>Euderma maculatum</i>	SSC, WBWG: H		In range
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC, WBWG: H		In range
Pallid bat	<i>Antrozous pallidus</i>	SSC, WBWG: H		In region
Mexican free-tailed bat	<i>Tadarida brasiliensis</i>	WBWG: L		Nearby/On site
Pocketed free-tailed bat	<i>Nyctinomops femorosaccus</i>	SSC, WBWG: M	Absent	In range
Western mastiff bat	<i>Eumops perotis</i>	SSC, WBWG: H	Absent	In range
San Diego black-tailed jackrabbit	<i>Lepus californicus bennettii</i>	SSC	Absent	In region
Northwestern San Diego pocket mouse	<i>Chaetodipus fallax fallax</i>	SSC	Absent	In region
Pallid San Diego pocket mouse	<i>Chaetodipus fallax pallidus</i>	SSC		In range
Stephens' kangaroo rat	<i>Dipodomys stephensi</i>	FT (2022), CT	Absent	In region
Los Angeles pocket mouse	<i>Perognathus longimembris brevinasus</i>	SSC		In region
San Diego Bryant's woodrat	<i>Neotoma bryanti intermedia</i>	SSC	Absent	In region
Southern grasshopper mouse	<i>Onychomys torridus ramona</i>	SSC		In range
American badger	<i>Taxidea taxus</i>	SSC	Absent	In region

¹ Listed on CDFW's Special Animals List (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406>) as FT or FE = federal threatened or endangered; FC = federal candidate for listing; CT or CE = California threatened or endangered; CCT or CCE = Candidate California threatened or endangered; CFP = California Fully Protected (California Fish and Game Code 3511); SSC_i = California Species of Special Concern with i = priorities 1, 2 and 3; WL = CDFW's Taxa to Watch List; BGEPA = Bald and Golden Eagle Protection Act; WBWG = Western Bat Working Group with priority rankings, of low (L), moderate (M), and high (H); BCC = U.S. Fish and Wildlife Service's Bird of Conservation Concern (<https://www.fws.gov/sites/default/files/documents/birds-of-conservation-concern-2021.pdf>); and BOP = protected by Birds of Prey (California Fish and Game Code 3503.5, see <https://wildlife.ca.gov/Conservation/Birds/Raptors>).

The impacts analysis in CEQA review involves prediction. Impact predictions are necessary in environmental review because measuring a project's impacts directly could not happen until after the impacts occur, and the timing of this type of measurement would come too late for formulating a mitigation strategy or deciding on a project alternative. As noted earlier, the accuracy of the predictions of impacts and their significance ultimately relies on the degree of accuracy in the characterization of the existing environmental setting (Figure 3). Prediction accuracy also relies on experience, of which development projects subjected to CEQA review have been made amply available (Figure 8). CEQA prohibits the use of speculation to predict that potential project impacts would be less than significant (see CEQA Guidelines section 15145. SPECULATION), so it is experience that must be used. The type of experience proven most effective, and therefore most amenable to achieving CEQA's primary objectives, is scientific inference, as generally depicted in Figure 8. Scientific inference can be drawn from scientific studies or from the many other projects that have undergone CEQA review. The comparative method enables the use of scientific inference to predict impacts and to predict the efficacies of mitigation strategies, the latter of which should be also amply available in the record.

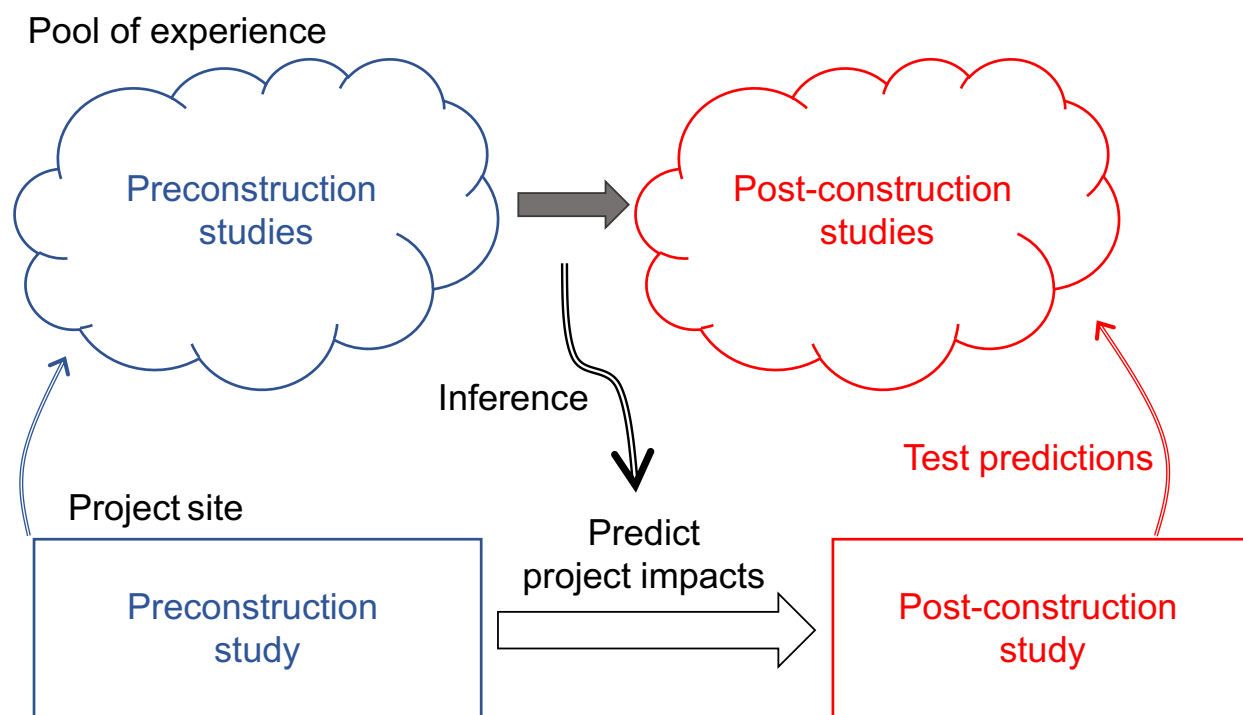


Figure 8. A framework for arriving at predicted project impacts based on experience with other project sites. Ideally, there is a pool of similar projects in similar circumstances where predicted impacts were compared to realized impacts, and into which the proposed project can also contribute to experience.

In the following, I analyze several types of impacts likely to result from the project, none of which are analyzed adequately by ELMT (2025) or the SEIR, and some of which are not analyzed at all.

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cont.

REDUCED PRODUCTIVE CAPACITY FROM HABITAT LOSS

Habitat loss results in a reduced productive capacity of affected wildlife species. The site is proven to serve as habitat to at least 46 species of vertebrate wildlife which ELMT and Noriko observed on the site, but the number of avian nest sites remains unknown. The surveys that have been conducted on the project site were unsuitable for detecting all bird nests or for estimating total nest density. The alternative method for estimating avian productive capacity is to infer it from estimates of total nest density elsewhere. Noriko and I have completed studies to estimate total avian nest density in various environments, but not in an environment that would match the project site.

O1-60

The projection of inferences of total nest density from study sites to the project site would benefit from knowledge of the acreages of vegetation or ground cover classifications on the project site. ELMT (2025) includes the stated objective to produce a vegetation map, but it reports only a map that crudely classifies covers as Disturbed, Developed, Active Dairy, and Stock Pond. No acreages are reported of these classes, and these classes are only crudely described to vegetative structure. Notably, the reporting is silent on the numbers and arrangements of trees and shrubs on and around the project site, lumping them all as “ornamentals.” Nor is there any discussion of the management of grassland, wetland and ruderal vegetation that could affect ground-nesting birds. Therefore, my projection of inferences of total nest density from study sites to the project site is necessarily crude, and they must rely on assumptions that likely vary in accuracy. Nonetheless, my approach at least serves as an example of how a needed analysis can be conducted with a better foundation.

Noriko estimated an average 3.22 nests/acre among three of her grassland study sites in southern California, two of which were in nearby Murrieta. I estimated a weighted mean of 15.59 nests/acre on 11.42 acres of abandoned walnut trees bounded by hedge shrubs and trees in Rancho Cordova, California in 2023. Assuming Noriko's estimates represent the total nest density of the portion of the project site lacking trees and artificial structures, and my total nest density represents the rest of the site, and assuming the acreage of these two types of environment are about equally divided, then I estimate 1,778 nest sites. Assuming 1.39 broods per nest site based on a review of 322 North American bird species, which averaged 1.39 broods per year, then I estimate 2,471 nest attempts per year. Assuming Young's (1948) study site typifies bird productivity of 2.9 fledged birds per nest attempt, then I predict 7,166 fledglings/year at the project site.

The loss of 1,778 nest sites and 2,471 nest attempts per year would easily qualify as significant impacts that have not been analyzed in the SEIR. But the impacts would not end with the immediate loss of nest sites. The reproductive capacity of the site would be lost. The project would prevent the production of 7,166 fledglings per year. Assuming an average bird generation time of 4 years, the lost capacity of both breeders and annual

fledgling production can be estimated from an equation in Smallwood (2022):
$$\{(\text{nests/year} \times \text{chicks/nest} \times \text{number of years}) + (2 \text{ adults/nest} \times \text{nests/year}) \times (\text{number of years} \div \text{years/generation})\} \div (\text{number of years}) = 8,055 \text{ birds per year lost to California.}$$

O1-60
cont.

The loss of 8,055 birds per year would be a loss of significant habitat value that is currently provided by the project site. Most of these birds are protected by the federal Migratory Bird Treaty Act and by California's Migratory Bird Protection Act, both of which are intended to most strongly protect breeding migratory birds. The loss of 8,055 birds per year would easily qualify as an unmitigated significant impact.

INTERFERENCE WITH WILDLIFE MOVEMENT

One of CEQA's principal concerns regarding potential project impacts is whether a proposed project would interfere with wildlife movement in the region. Unfortunately, this concern has not motivated any serious analysis of whether or how the project would interfere with wildlife movement in the region. As part of its field survey, ELMT (2025:D-3) reportedly searched for "any natural corridors and linkages that could support the movement of wildlife through the area..." but no specific methodology was described for doing so, and no results of the search for corridors and linkages is reported. Lacking field data, ELMT and the SEIR only speculate that the project site does not function as a corridor or linkage in wildlife movement.

O1-61

ELMT (2025) and the SEIR rely on the red-herring argument that the project site must act as a wildlife movement corridor or linkage before changes to it could result in significant interference with wildlife movement in the region. The premise of the argument is not true. The CEQA standard expressed in Question (d) of the CEQA's App. G Checklist applies to all types of movement and not just the movement channeled by corridors. As habitat fragmentation proceeds, the remaining patches of open space increase in their importance as stopover opportunities for wildlife on long-distance dispersal or migration. In the case of this project, the project site is one of the last remaining fragments of habitat in the region, and is therefore of critical importance to many wild animals on the move.

TRAFFIC IMPACTS ON WILDLIFE

The SEIR neglects to address one of the project's most obvious, substantial impacts on wildlife, and that is wildlife mortality and injuries caused by project-generated traffic. Project-generated traffic would endanger wildlife that must, for various reasons, cross roads used by the project's traffic (Photos 32–35), including along roads far from the project footprint but which would nevertheless be traversed by automobiles head to or from the project's building. Vehicle collisions have accounted for the deaths of many thousands of amphibian, reptile, mammal, bird, and arthropod fauna, and the impacts have often been found to be significant at the population level (Forman et al. 2003). Across North America traffic impacts have taken devastating tolls on wildlife (Forman et al. 2003). In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is 2,200 to

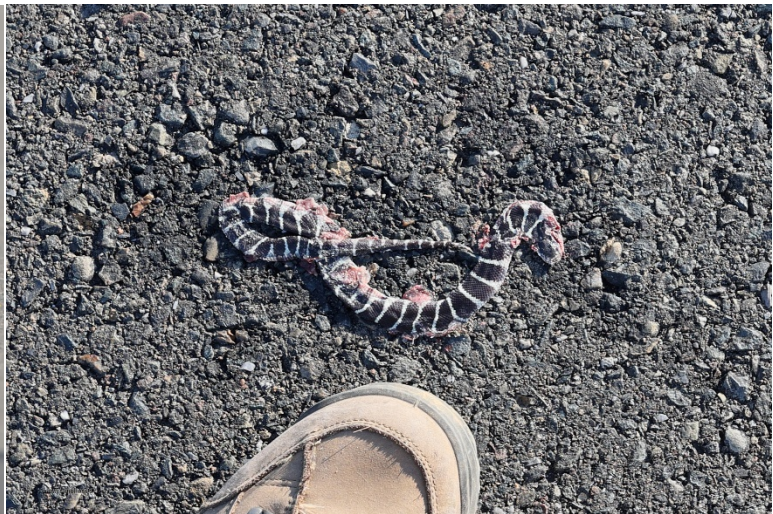
O1-62

8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally.

Photos 32 and 33. A desert cottontail runs across the road in Murietta, California (top), and a great-tailed grackle crosses a road in the Imperial Valley (bottom).



Photos 34 and 35. Raccoon killed on Road 31 just east of Highway 505 in Solano County (left; photo taken on 10 November 2018), and California kingsnake killed by a vehicle on a rural road in El Dorado County in 2024.



The nearest study of traffic-caused wildlife mortality was performed along a 2.5-mile stretch of Vasco Road in Contra Costa County, California. Fatality searches in this study found 1,275 carcasses of 49 species of mammals, birds, amphibians and reptiles over 15 months of searches (Mendelsohn et al. 2009). This fatality number needs to be adjusted for the proportion of fatalities that were not found due to scavenger removal and searcher error. This adjustment is typically made by placing carcasses for searchers to find (or not find) during their routine periodic fatality searches. This step was not taken at Vasco Road (Mendelsohn et al. 2009), but it was taken as part of another study next to Vasco Road (Brown et al. 2016). Brown et al.'s (2016) adjustment factors for carcass persistence resembled those of Santos et al. (2011). Also applying searcher detection rates from Brown et al. (2016), the adjusted total number of fatalities was estimated at 9,462 animals killed by traffic on the road. This fatality number projected over 1.25 years and 2.5 miles of road translates to 3,028 wild animals per mile per year. In terms comparable to the national estimates, the estimates from the Mendelsohn et al. (2009) study would translate to 188,191 animals killed per 100 km of road per year, or 22 times that of Loss et al.'s (2014) upper bound estimate and 53 times the Canadian estimate. An analysis is needed of whether increased traffic generated by the project site would similarly result in local impacts on wildlife.

O1-62
cont.

For wildlife vulnerable to front-end collisions and crushing under tires, road mortality can be predicted from the study of Mendelsohn et al. (2009) as a basis, although it would be helpful to have the availability of more studies like that of Mendelsohn et al. (2009) at additional locations. My analysis of the Mendelsohn et al. (2009) data resulted in an estimated 3,028 animals killed per mile along a county road in Contra Costa County. The estimated numbers of fatalities were 1.75% birds, 26.4% mammals (many mice and pocket mice, but also ground squirrels, desert cottontails, striped skunks, American badgers, raccoons, and others), 67.4% amphibians (large numbers of California tiger salamanders and California red-legged frogs, but also Sierran treefrogs, western toads, arboreal salamanders, slender salamanders and others), and 4.4% reptiles (many western fence lizards, but also skinks, alligator lizards, and snakes of various species). VMT is useful for predicting wildlife mortality because I was able to quantify miles traveled along the studied reach of Vasco Road during the period of the Mendelsohn et al. (2009), hence enabling a rate of fatalities per VMT that can be projected to other sites, assuming similar collision fatality rates.

Predicting project-generated traffic impacts on wildlife

The SEIR predicts 130,631,620 annual VMT will be generated by the project. During the Mendelsohn et al. (2009) study, 19,500 cars traveled Vasco Road in Contra Costa County daily, so the vehicle miles that contributed to my estimate of non-volant fatalities was 19,500 cars and trucks $\times$ 2.5 miles $\times$ 365 days/year $\times$ 1.25 years = 22,242,187.5 vehicle miles per 9,462 wildlife fatalities, or 2,351 vehicle miles per fatality. This rate divided into the predicted annual operational VMT predicts 55,564 vertebrate wildlife fatalities per year due to project-generated traffic.

O1-63

However, some might argue that this prediction relies too much on a study along a road through less-disturbed rangeland that likely supports more non-volant wildlife that is

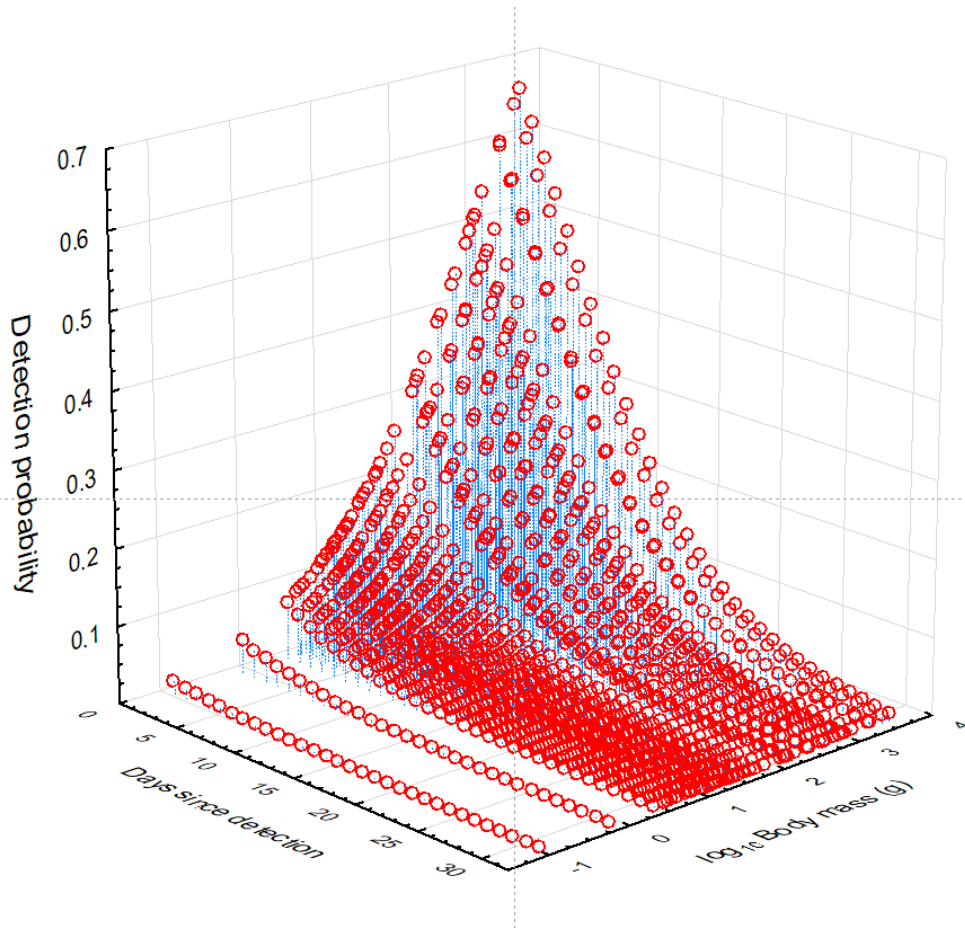
more vulnerable to collision mortality. I would argue that the project-generated traffic would pass through similar rural environments with ample wildlife available to be crushed under automobile tires. Nevertheless, to better represent those reaches of road that are more urban than rural, or that would become more urban with the development of the project, I recently completed my own study of wildlife mortality caused by automobiles along roads that were urban and interfaced between urban and agricultural land uses.

I completed one year of daily pedestrian surveys along 2.7 km (1.713 miles) of local, collector and minor arterial roads in north Davis, California, where I tallied 314 fatalities of 40 species of vertebrate wildlife. Most of the fatalities were small-bodied animals such as Sierran treefrogs, western toads, western fence lizards, 10"- to 16"-long juvenile Pacific gophersnakes, valley gartersnakes and California kingsnakes, as well as bushtits, yellow-rumped warblers, deer mice and California ground squirrels. Most of the animals I found would never have been detected from a moving vehicle, which is why people often underestimate how many wild animals are killed by vehicle traffic.

The animals I found in my study did not include all the animals killed by vehicles on the roads I searched. Many had been removed by scavengers before I could find and count them. (American crows patrol the roads every morning, and so does a large flock of wild turkeys.) Some of the animals are knocked off the road in places where I could never find them, and some were undoubtedly caught and carried away in the grills of vehicles or in tire treads. Most of the Sierran treefrogs disappeared from where I found them within several hours, so daily searches missed many of the fatalities. To adjust for these undetected fatalities, I fit a logit regression model to my fatality finds, all of which transitioned to carcass detection trials after I initially found them. Starting with the first day after each detection, I monitored the carcass trials for 30 days, and I assigned each a body mass estimate based on typical body mass reported in the literature. Predictor variables were days since detection and $\log_{10}$ body mass. The relationship between carcass detection probability and the predictor variables is depicted in Figure 9. My fatality finds adjusted by the model results in an estimate of 2,126 vertebrate wildlife fatalities over 1.713 miles of roads in one year, or 1,241 vertebrate wildlife fatalities/mile/year. This rate is 40.9% of the rate measured at Vasco Road, or an estimated 5,748 vehicle miles per fatality. Applying this urban fatality rate to the predicted construction MT predicts 830 vertebrate wildlife fatalities, and applying it to annual operational VMT predicts 22,726 vertebrate wildlife fatalities per year in the area around the project that is traveled by project-generated traffic.

O1-63
cont.

Figure 9.
Wildlife
carcass
detection
probability
is a
function of
the number
of days
since
discovery
and $\log_{10}$
body mass.



O1-63
cont.

A reasonable range of predicted mortality is therefore 22,726 to 55,564 vertebrate wildlife fatalities per year due to project-generated traffic.

Based on my analysis, the project-generated traffic would cause significant impacts on wildlife. The SEIR does not address this potential impact, let alone propose to mitigate it. Mitigation measures to improve wildlife safety along roads are available and are feasible, and they need exploration for their suitability with the proposed project. Given the predicted level of project-generated traffic-caused mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts, and that these impacts would be unmitigated.

CUMULATIVE IMPACTS

One of CEQA's principal concerns regarding potential project impacts is whether a proposed project would contribute significantly to cumulative impacts of past, present and future projects, or to multiple types of impacts that are cumulatively considerable. Unfortunately, the SEIR fails to seriously analyze the project's contribution to cumulative impacts on biological resources. According to the SEIR (p. 3.4-76), "The proposed project, including the EBPSP, would comply with the City's Habitat Mitigation Fee per Ontario Ranch Settlement Agreement, which would reduce impacts with respect

O1-64

to the cumulative loss of habitat for sensitive species. Additionally, mitigation measures would reduce impacts to sensitive species that may be present on future development sites, as well as the EBSP and off-site improvements, to less than significant. Projects in the CDFW inland deserts region, including future development in accordance with the Policy Plan Amendment, would be required to comply with existing state regulations protecting biological resources, which could include the preparation of biological reports and surveys. Impacts of the proposed project would be less than cumulatively considerable with implementation of mitigation. Therefore, this impact is less than significant.” However, the CEQA Guidelines (§15064(h)(3)) states, “When relying on a plan, regulation or program, the lead agency should explain how implementing the particular requirements in the plan, regulation or program ensure that the project’s incremental contribution to the cumulative effect is not cumulatively considerable.” The SEIR fails to explain how payment of a mitigation fee per the settlement agreement would minimize, avoid or offset the project’s contributions to cumulative impacts. Nor does the SEIR summarize the performance of the settlement agreement to date.

Following a settlement agreement between the City and Endangered Habitats League and Sierra Club, who challenged the City’s 1998 General Plan Amendment EIR, the City “established a habitat mitigation fee to cover potential environmental impacts to the burrowing owl, DSFLF [Delhi Sands flower-loving fly], raptor foraging, loss of open space, and agricultural lands” (SEIR p. 3.4-11). Following disfunction over the implementation of the City’s settlement agreement, the City entered into a memorandum of agreement (MOA) on 21 November 2023 with the Inland Empire Resource Conservation District to administer the mitigation fund. The SEIR (p. 3.4-12) reports, “With respect to burrowing owl and DSFLF, this MOA ensures:

- A mitigation fee will be applied to development projects within Ontario Ranch that will impact burrowing owls or their habitat;
- The City of Ontario will identify lands occupied by burrowing owl or DSFLF and suitable long-term habitat for these species to be avoided and maintained;
- In the case of burrowing owls being present on proposed development sites that are not viable long-term habitat, developers can pay the Habitat Mitigation Fee and relocate the owls in consultation with the California Department of Fish and Wildlife; and
- Up to 25 percent of the Habitat Mitigation Fee collected for burrowing owls can be used for the recovery of the DSFLF.”

An explanation is needed, however, how the relocation of burrowing owls would be allowed without an CDFW-issued incidental take permit for a species that is now a candidate for listing under the California Endangered Species Act. And considering the SEIR’s assertion (p. 3.4-12) that “Native habitats and vegetation communities are mostly gone throughout Ontario,” explanations are needed as to where burrowing owls could be relocated and where burrowing owl habitat that can be protected. As written, the MOA’s requirements are not credible Also important to the MOA’s credibility, a

summary is needed of the number of burrowing owls that have benefitted from this MOA to date.

A burrowing owl expert cited by Miller (2024) as a personal communication cautioned that “Most remaining owl colonies in western San Bernardino County were small, highly fragmented, unprotected, and on the brink of extirpation” (Pete Bloom, 2002). Another expert, “Kidd et al. (2007) reported that burrowing owls continued to decline in southwestern San Bernardino County, where they nested in native habitat and on dairy lands; of 78 known pairs in the southwest corner of the county, 26 were eliminated due to habitat loss; and of 54 known breeding pairs in the high desert portion of their study area, 21 pairs were eliminated, also from habitat loss. Most remaining breeding pairs and colonies were small, highly fragmented, unprotected, and declining rapidly in the absence of adequate mitigation for habitat loss.” The local threats to burrowing owls mirror the regional threats from habitat loss, habitat degradation, and habitat fragmentation. It is therefore essential that the City summarize the performance of its MOA with the Inland Empire Resource Conservation District.

O1-64
cont.

As for the notion that implementation of the project-specific mitigation measures would avoid significant cumulative impacts, this notion is inconsistent with CEQA’s definition of a cumulative impact. CEQA defines a cumulative impact as an impact “created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts” (CEQA Guidelines §15065 (a)(3)). Even though a project’s direct or indirect effects might be mitigated to a less than significant impact at the project level, it can still incrementally contribute to the effects of other projects for a significant cumulative impact.

O1-65

The SEIR’s conclusion that an existing settlement agreement and project-specific mitigation would avoid significant cumulative impacts lacks evidentiary support, and it is readily refutable. Noriko Smallwood and I performed an experiment to measure the efficacy of applicable laws and regulations, permitting requirements, and required mitigation measures at avoiding or minimizing project impacts including cumulative impacts. We revisited the project sites we had surveyed as experts to repeat the survey methods at the same time of year, the same start time in the day, and the same methods and survey duration to control these sources of variation to cleanly measure the effects of mitigated development on wildlife. We structured the experiment in a before-after, control-impact experimental design, as some of the sites had been developed since our initial survey and some had remained undeveloped. All the developed sites had included mitigation measures to avoid, minimize or compensate for impacts to wildlife. Nevertheless, we found that mitigated development resulted in a 66% loss of species on site, and 48% loss of species in the project area. Counts of vertebrate animals declined 90%. We found that “Development impacts measured by the mean number of species detected per survey were greatest for amphibians (-100%), followed by mammals (-86%), grassland birds (-75%), raptors (-53%), special-status species (-49%), all birds as a group (-48%), non-native birds (-44%), and synanthropic birds (-28%). Our results indicated that urban development substantially reduced vertebrate species richness and numerical abundance, even after richness and abundance had likely already been depleted by the cumulative effects of loss, fragmentation, and degradation of habitat in

the urbanizing environment,” and despite all the mitigation measures and existing policies and regulations. Experimental evidence demonstrates the need to analyze a project’s potentially significant contributions to cumulative impacts on wildlife despite existing laws, policies, previous settlement agreements and project-by-project requirements of mitigation. The environmental review for this project needs to include an appropriate cumulative impacts analysis as required by CEQA.

O1-65
cont.

FLAWED MITIGATION STRATEGY

The mitigation strategy needs to be based on a sound understanding of the existing wildlife community. It needs to be known which species occur or are likely to occur on the project site as well as the nature of their occurrences. It needs to be known which species are resident and which are migratory. For special-status species, detection surveys should have been completed to either detect the species or to obtain evidence of its absence. Surveys should have been completed to understand how wildlife use the site in their movement patterns. And what was found of wildlife species needs to be carefully interpreted by comparing the findings to the findings from other survey efforts at other sites. Failures to detect species should be interpreted relative to the probabilities of their detections given the survey effort. The mitigation strategy needs to follow the steps under Assess species occurrence likelihoods and Characterize wildlife community, followed by Step 7: Predict impacts (Figure 3). However, the IS/MND’s mitigation strategy does not follow from these steps. This pointed out, my comments follow in regular font the summary of each required mitigation measure in italics.

O1-66

Policy Plan Amendment (These are new measures that did not appear in 2022 EIR)

Mitigation Measure BIO-1-PPA: Biological Resources Assessment.
Applicants for future development projects on non-infill sites with suitable natural habitat shall conduct a biological resources assessment of the proposed project ... by a qualified biologist and summarized in a biological resources letter report or biological resources technical report that will be submitted to the Ontario Planning Department for review and approval prior to being issued a grading permit. ...

Mitigation Measure BIO-2-PPA: Biological Reconnaissance-Level Survey.
The biological reconnaissance-level survey shall include, but not be limited to:

An analysis of available literature and biological databases including ... California Department of Fish and Wildlife (CDFW); California Natural Diversity Database (CNDDB); California Native Plant Society (CNPS) ... The literature review shall be performed prior to the field survey to identify sensitive biological resources that were reported previously from the proposed development project vicinity and to help determine the type of sensitive biological resources that may be in the survey area. ...

A field assessment survey that includes mapping vegetation communities in the proposed development project ... An evaluation of each mapped vegetation community’s State and Global rarity ranks shall be determined using CDFW’s

Vegetation Classification and Mapping Program (VegCAMP) ... the proposed development project's potential to support special status plant and wildlife species ... nesting habitat for migratory and special status bird species ... potential impacts to bats and roosts ... potential jurisdictional areas, including wetlands and riparian habitats ... potential local and regional wildlife movement corridors.

Mitigation Measure BIO-3-PPA: Focused Species Surveys. If one or more special status plant or animal species has the potential to occur within the proposed development project area ... a qualified biologist shall conduct additional focused surveys for said species using the most recently updated protocols recommended by natural resource agencies or, if not available, standards accepted in the professional biological community to survey that taxonomic group, community, or species. ...

Mitigation Measure BIO-4-PPA: Biological Resources Report. The results of the biological survey for proposed development projects with no significant impacts may be presented in a biological survey letter report. For proposed development projects with significant impacts that require mitigation to reduce the impacts to below a level of significance, and/or agency consultation and permitting, the results of the biological survey shall be presented in a biological technical report. The impact analysis shall consider impacts from areas subject to fuel modification and grading to accommodate the development.

Mitigation Measure BIO-5-PPA: Special-Status Species, Sensitive Habitats, Wetlands, Other Non-wetland Waters, Native Wildlife Nursery Sites, and Wildlife Corridors. If a sensitive biological resource is identified during field surveys (see Mitigation Measures BIO-2-PPA and BIO-3-PPA), the City shall require implementation of mitigation measures at the project level that fully account for the adversely affected resource. Mitigation measures shall adhere to the following order of priority to reduce adverse impacts of a proposed project to the resource: avoid impacts, minimize impacts, and compensate for impacts. Mitigation measures shall be used on a project-level basis and be tailored to on-site conditions and sensitive biological resources present.

Priority 1, Avoidance of Impacts. ... Priority 2, Minimize Impacts. ... Priority 3, Offset Impacts. ... The applicant shall obtain incidental take authorization from USFWS (16 US Code Section 1531 et seq.) or CDFW (California Fish and Game Code Sections 2050–2115.5) prior to commencing development of the project site [for Endangered, Rare, Threatened, or Candidate Species...]

Mitigation Measure BIO-6-PPA: Demarcate Work Area Boundary. ...

Mitigation Measure BIO-7-PPA: Preconstruction Special Status Species Surveys. ...

Mitigation Measure BIO-8-PPA: Pre-disturbance Nesting Bird Surveys. The City of Ontario shall require applicants for future development projects with suitable natural habitat, to contract with a qualified biologist with experience in conducting

breeding bird surveys to conduct a preconstruction general nesting bird survey no more than 5 days prior to initiation of construction...

Mitigation Measure BIO-9-PPA: Active Nest Avoidance and No-Work Buffers. If active nests of avian species protected by the Migratory Bird Treaty Act and Fish and Game Code are detected within the proposed development project area or within a 300-foot buffer (500-foot buffer for raptors and listed species) of the proposed development project area, a no-work buffer will be established around the nest (typically 300 feet for passerines and 500 feet for raptors and listed species) and construction shall be restricted in the area until the young have fledged; there is no evidence of a second attempt at nesting if the nest attempt has failed, as determined by the qualified biologist ...

Mitigation Measure BIO-10-PPA: Nest Monitoring. ...

Mitigation Measures BIO-1-PPA through BIO-10-PPA generally represent the City's view of industry standards, but without any statement of nexus between CEQA's primary objectives and these measures. These perceived industry standards introduce many shortfalls that leave the reports that follow from them vulnerable to challenge, as exemplified by my comments on ELMT (2025).

O1-66 cont.

For example, BIO-1-PPA insufficiently defines the scope of the letter report where it refers to a "biological resources assessment," and what it means by "suitable natural habitat," and "qualified biologist." More detail is needed, such as whether the biological resources assessment is intended to achieve CEQAs primary objectives, and how it would do so. There is no such thing in wildlife ecology as "suitable habitat," just as there is no such thing as "unsuitable habitat" (see Krausman 2016). It needs to also be explained whether protocol-level detection surveys are to be conducted.

BIO-2-PPA would continue to misuse the CNDDDB to obtain incomplete lists of special-status species for analysis of occurrence likelihoods, and it would continue to present findings from the desktop review and field surveys as definitive rather than in contexts facilitated by comparative analysis.

BIO-3-PPA requires protocol-level detection surveys for special-status species determined by a qualified biologist to potentially occur on the project site. Problems with this requirement start with the lack of any definition of what qualifies as a qualified biologist. In the case of this project, the consulting biologist fails to recognize that species it detected in its reconnaissance survey, such as yellow-headed blackbird, are special-status species. As for the burrowing owl, no protocol-level detection survey was completed despite the consulting biologist determining that burrowing owls have a high likelihood of occurrence. The language of BIO-3-PPA is too subjective for it to be enforceable. Moreover, in situations where a candidate or listed species potentially occurs, such as the burrowing owl, the applicant needs to consult with the appropriate regulatory authority prior to conducting the surveys.

BIO-4-PPA requires a letter report for biological studies leading to determinations of less-than-significant impacts with mitigation, but otherwise a technical report. However, whether the report is letter form or report form is irrelevant to the need to achieve CEQA's primary objectives.

BIO-5-PPA requires a prioritized series of mitigation actions in response to survey results that reveal sensitive biological resources on the project site. It requires the attainment of an ITP for resources that cannot be mitigated through avoidance or minimization measures, but if such a resource is found on site or determined to potentially occur, then the priority is to put consultation with the regulatory agencies ahead of any decision over whether avoidance, minimization or compensatory mitigation is appropriate. The agencies must be consulted first.

BIO-6-PPA and BIO-7-PPA should be implemented if the project goes forward, but it needs to be understood that the conservation benefits of these measures are *de minimis* relative to the potential project impacts on the resources at issue.

BIO-8-PPA should be implemented if the project goes forward, but it needs to be understood that the conservation benefits of these measures are *de minimis* relative to the potential project impacts on the resources at issue. Moreover, this measure suffers the same shortfalls as BIO-1-PPA, where it lacks suitable definitions for "suitable natural habitat" and "qualified biologist."

BIO-8-PPA would not detect and salvage more than a small fraction of the bird nests on the project site in the time allotted. Preconstruction, take-avoidance surveys should consist of two steps, both of which are very difficult. First, the biologist(s) performing the survey must identify birds that are breeding. Second, the biologist(s) must locate the breeding birds' nests. The first step is typically completed by observing bird behaviors such as food deliveries and nest territory defense. To be successful, these types of observations typically require many surveys on many dates spread throughout the breeding season even for a single species. To identify and locate the birds of all species nesting on a site would require a much greater survey effort than can be accomplished in BIO-2's allotted timespan. Many bird nests would be missed.

I estimate the project site supports 1,778 nest sites in the average year, and this number does not include those that would need to be located within the defined buffer area beyond the project site's boundary. Even assuming all these nests could be found (not likely), the mitigation measure would apply only to the breeding season of the survey. After the breeding season of the preconstruction survey, there would be no further production of birds from the project site. The long-established principle of carrying capacity would ensure that the numbers of birds residing in California would be recued by the numbers lost from the breeding populations on the project site. The project's impact on birds would be permanent and of large magnitude. The conservation benefits of this measure would be *de minimis* compared to the project's potential impacts on breeding birds.

O1-66
cont.

BIO-9-PPA and BIO-10-PPA allow a single individual to make subjective decisions, outside the public's view, to determine the buffer area and buffer timing for any given species. These measures lack objective criteria, and they are therefore unenforceable.

Lastly, Mitigation Measures BIO-1-PPA through BIO-10-PPA lack any summary of their efficacy, neither for any single Measure nor for the collection of Measures. After thousands of projects have required similar mitigation measures throughout California, there surely must be a record of their performance. Some record of performance is especially warranted in this SEIR, because the City of Ontario is nearly built out while the burrowing owl and many other special-status species have declined within the City. As Pete Bloom informed Miller (2024), the burrowing owl is approach extirpation throughout southwest San Bernardino County. And as a test of the general collection of Mitigation Measures BIO-1-PPA through Bio-10-PPA, Smallwood and Smallwood (2023) measured substantial declines in various types of vertebrate wildlife species despite the requirements of these measures. The evidence is overwhelming that Mitigation Measures BIO-1-PPA through BIO-10-PPA are ineffective.

O1-66
cont.

Specific Plan

Mitigation Measure BIO-1-SP: Pre-disturbance Nesting Bird Surveys, Avoidance, and Monitoring. If construction occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds shall be conducted within 3 days of the start of any vegetation removal or ground-disturbing activities to ensure that no nesting birds will be disturbed during construction. The biologist conducting the clearance survey shall document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur. If an active avian nest is discovered during the preconstruction clearance survey, construction activities shall stay outside of a no-disturbance buffer, which is typically 50 to 100 feet for songbird nests and 100 to 300 feet for raptors; however, the ultimate size of the no-disturbance buffer will be determined by the wildlife biologist and will depend on the level of construction noise and/or surrounding anthropogenic disturbances, line of sight between the nest and the construction activity, type and duration of construction activity, species habituation, and topographical barriers. These factors will be evaluated on a case-by-case basis when developing buffer distances. Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed about the sensitivity of nest areas. A biological monitor shall be present to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.

O1-67

If the project goes forward, preconstruction surveys for nesting birds should be implemented, but this measure would not avoid the permanent loss of habitat, nor the collision mortality with automobiles. Preconstruction, take-avoidance surveys should consist of two steps, both of which are very difficult. First, the biologist(s) performing the survey must identify birds that are breeding. Second, the biologist(s) must locate the

breeding birds' nests. The first step is typically completed by observing bird behaviors such as food deliveries and nest territory defense. To be successful, these types of observations typically require many surveys on many dates spread throughout the breeding season even for a single species. To identify and locate the birds of all species nesting on a site would require a much greater survey effort than can be accomplished in BIO-1-SP's allotted timespan. Many bird nests would be missed.

O1-67
cont.

I estimate the project site supports 1,778 nest sites in the average year, and this number does not include those that would need to be located within the defined buffer area beyond the project site's boundary. Even assuming all these nests could be found (not likely), the mitigation measure would apply only to the breeding season of the survey. After the breeding season of the preconstruction survey, there would be no further production of birds from the project site. The project's impact on birds would be permanent and of large magnitude. The conservation benefits of this measure would be *de minimis* compared to the project's potential impacts on breeding birds.

Furthermore, the mitigation language allows a single individual to make a subjective decision, outside the public's view, to determine the buffer area and buffer timing for any given species. This measure lacks objective criteria, and it is therefore unenforceable.

Lastly, the mitigation language includes the requirement that the preconstruction nest survey shall be conducted by a qualified biologist, and this requirement carries over to determinations of the buffer areas and buffer timing to avoid take caused by construction activities. Undefined, however, is what qualifies as a "qualified biologist" in these contexts. As mentioned earlier in this letter, Noriko Smallwood and I have been conducting surveys over the past several years to estimate total nest density, which is relevant to a preconstruction, take-avoidance survey because our surveys were likewise directed to all bird species that could be concurrently nesting on a site. Searching for the nests of one species is difficult, but searching for nests of all bird species at once is vastly more difficult. For this reason, there are very few published estimates of total nest density, and there are very few wildlife biologists who have experience with surveys for the nest attempts of all bird species on a given site. A technical way to qualify a wildlife biologist for the tasks outlined in this measure would be to obtain an agency Memorandum of Understanding in which the biologist is named and said to be qualified for conducting the preconstruction survey and for determining the take-avoidance buffer area and timing. However, a more compelling means of qualifying the biologist would be to require that the biologist has achieved demonstrable experience with nest surveys and avian nesting behavior. Without a better definition of what is a qualified biologist in the contexts of these tasks, BIO-1-SP lacks objective criteria, and it is therefore unenforceable.

Mitigation Measure BIO-2-SP: Preconstruction Burrowing Owl Surveys. To ensure burrowing owl are still absent from the Specific Plan area, a pre-construction burrowing owl clearance survey shall be conducted in accordance with CDFW's 2012 Staff Report on Burrowing Owl Mitigation. Two surveys shall be conducted, the first 14 to 30 days prior to ground-disturbing activities, and the second

O1-68

within 24 hours before ground-disturbing activities. ... If burrowing owls are found within the Specific Plan area during the pre-construction clearance surveys, coordination with the CDFW will be required to determine if avoidance and minimization measures can be implemented to avoid any direct or indirect impacts to burrowing owl, or if an Incidental Take Permit under Section 2081 of the CESA will need to be prepared and approved by CDFW.

O1-68
cont.

Due to a rapid decline throughout California (Miller 2024), the California Fish and Game Commission voted unanimously in 2024 to designate the burrowing owl as a candidate for listing under the California Endangered Species Act. It is therefore imperative to first consult with the CDFW about whether and how to obtain an incidental take permit (ITP), and otherwise to adhere to the CDFW (2012) survey and mitigation guidelines. The SEIR does not indicate that there has been any consultation with CDFW, and it misrepresents CDFW's (2012) survey and mitigation guidelines by skipping breeding-season detection surveys before performing preconstruction take-avoidance surveys.

For the burrowing owl, there are three types of surveys recommended and described in the CDFW's (2012) survey and mitigation guidelines: (1) Habitat assessment, (2) Detection surveys, and (3) Preconstruction survey. The habitat assessment is intended to evaluate the likelihood that the site supports burrowing owls, and to decide whether detection surveys should be performed. The detection survey, otherwise described as either or both breeding-season or non-breeding-season survey, is intended to detect whether the site truly supports burrowing owls, and if so, where and how many. The preconstruction survey, otherwise known as a take-avoidance survey, is intended to determine whether burrowing owls immigrated to the site since completion of the detection survey, or whether they returned to the site since passive or active relocations were performed as mitigation. The three types of survey carry distinct but inter-related purposes, and CDFW (2012) intends them to be completed in chronological order as numbered above.

The first two types of survey support impacts analysis, whereas the third type of survey is a mitigation measure. Burrowing owls can be determined absent at the time of the survey based on evidence derived from the habitat assessment or detection survey, but only if the surveys achieved the minimum standards of CDFW (2012). Whereas an absence determination naturally follows from the negative findings of properly performed detection surveys, the following three questions must be answered negatively to determine absence based on the habitat assessment:

- A) Are there occurrence records nearby the project site?
- B) Is the site's vegetation cover and height typical of where burrowing owls are found?
- C) Are there fossorial mammals present which typically construct burrows useable by burrowing owls, or are there surrogate cavities that can serve as nest sites?

If the answers to these questions are compellingly negative, then detection surveys are not necessary, but they could be implemented to make certain that burrowing owls are absent on the project site. If the answers to these questions are affirmative or not

compellingly negative, then it should be assumed that burrowing owl habitat exists on the site until detection surveys prove otherwise.

To question A, the nearest burrowing owl occurrence records are within 1.5 miles of the project site. Moreover, ELMT (2024) determines a moderate likelihood of occurrence. The evidence easily justifies an affirmative answer to question A, and so this part of the habitat assessment warrants a detection survey effort.

To question B, the vegetation cover is typical of conditions where burrowing owls often occur. The answer to question B is affirmative, and so this part of the habitat assessment warrants a detection survey effort.

To question C, ground squirrels are known to occur on the project site. Ground squirrels construct burrows used by burrowing owls, and these two species mutually alarm-call for predators and survive better together (K. S. Smallwood, unpublished data). The answer to question C is affirmative, and so this part of the habitat assessment warrants a detection survey effort.

The answers to all three questions are affirmative. Therefore, breeding-season detection surveys are needed, and these surveys are not to be confused with preconstruction take-avoidance surveys. Breeding-season detection surveys are needed to accurately characterize the existing environmental setting and to publicly disclose potential impacts on the burrowing owl.

Lastly, regardless of the survey outcome, the project would permanently eliminate potential burrowing owl habitat from the project site, and in doing so it would reduce the region's carrying capacity for supporting burrowing owls.

Mitigation Measure BIO-3-SP: Pre-disturbance Roosting Site Survey and Bat Management Plan. If on-site clearing or grading will take place between late spring and late summer and/or in the fall (generally mid-March through late October), a qualified biologist shall be retained to determine whether potential roosting sites for bats may be affected. For large ornamental trees and palms suitable for bat roosting/nursery, exit counts and acoustic surveys shall be performed prior to initial ground disturbance or vegetation or structure removal to determine whether the Specific Plan area (and a 300-foot buffer) supports a nursery or roost. ... If the results of the bat survey find a single roosting individual of a special-status bat species or 25 or more individuals of a non-special status bat species with potential to be present in the Specific Plan area (i.e., hoary bat, western yellow bat), a Bat Management Plan shall be developed to ensure mortality to bats does not occur. For each location confirmed to be occupied by bats, the plan shall provide details both in text and graphically where exclusion devices and/or staged tree removal will need to occur, the timing for exclusion work, and the timeline and methodology needed to exclude the bats. The plan shall be reviewed and approved by CDFW prior to disturbance of the roosts.

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O1-69

If the project goes forward, I concur that preconstruction surveys for roosting bats should be completed, but I would extend the surveys to all bats whether roosting or not. Further, these surveys should be the second set of surveys, the first having been detection surveys to inform the characterization of the existing environmental setting, to disclose potential project impacts on bats, and to formulate an effective mitigation strategy. The detection surveys should have already been completed. The SEIR should be withdrawn from public circulation until an adequate detection survey is completed and its results disclosed in a more complete draft of the CEQA review.

O1-69
cont.

Finally, regardless of survey outcome and unless a substantial mitigation strategy is required, the survey alone cannot avoid or minimize the loss of the region's carrying capacity due to habitat destruction caused by the project. The carrying capacity of bats cannot be relocated unless an already degraded portion of the environment is restored to increase the carrying capacity of bats at another site.

Wildlife Movement

To mitigate impacts on project interference with wildlife movement in the region, the SEIR refers to requirements under the Policy Plan Amendment and Specific Plan to complete preconstruction surveys for nesting birds and roosting bats. However, the SEIR fails to explain how these surveys would avoid or minimize project interference with wildlife movement in the region. These surveys would accomplish nothing in the ways of avoiding or minimizing the losses of stopover and roosting opportunities for migrating birds or bats. In no way does the SEIR mitigate for these potential impacts.

O1-70

NEEDED MITIGATION MEASURES

Road Mortality: Compensatory mitigation is needed for the increased wildlife mortality that would be caused by collisions with automobiles due to project-generated road traffic in the region. I suggest that this mitigation can be directed toward funding research to identify fatality patterns and effective impact reduction measures such as reduced speed limits and wildlife under-crossings or overcrossings of particularly dangerous road segments. Compensatory mitigation can also be provided in the form of donations to wildlife rehabilitation facilities (see below).

O1-71

Wildlife overcrossings and under-crossings have been built and tested for wildlife use. Strategic fencing and speed controls have also been implemented, as speed is an important factor to wildlife mortality (Illner 1992), and whereas a required mitigation includes an onsite speed limit, this measure would not apply to commuter traffic off the project site.

Fund Wildlife Rehabilitation Facilities: Compensatory mitigation is needed, and it ought to also include funding contributions to wildlife rehabilitation facilities to cover the costs of injured animals that will be delivered to these facilities for care. Many animals would likely be injured during construction and by collisions with automobiles traveling to and from the project site during project operations.

O1-72

Thank you for your consideration,



Shawn Smallwood, Ph.D.

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cont.



April 20, 2026

Sent via email

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Re: Comments on the Draft Supplemental Environmental Impact Report for the Ontario Plan 2050 Policy Plan Amendment Project, SCH# 2025110102

Dear Mr. Grahn:

These comments are submitted on behalf of the Center for Biological Diversity (the “Center”) regarding the Ontario Plan 2050 (“TOP 2050”) Policy Plan Amendment (“PPA”) and Eucalyptus Business Park Specific Plan (“EBPSP”) Project (“Project”). The Center has reviewed the Draft Supplemental Environmental Impact Report (“DSEIR”) for the Project closely and is concerned that the City of Ontario (“City”) has failed to adequately analyze and mitigate the potential environmental impacts of the Project. Critical deficiencies in the DSEIR include, but are not limited to, the DSEIR’s Project Description, and analysis of and mitigation for the Project’s emissions of air pollutants and greenhouse gases. The Center urges the City to recirculate a revised DSEIR that, *inter alia*, sufficiently analyzes and mitigates Project impacts related to air quality and greenhouse gas emissions, and includes a legally sufficient Project description.

O2-Intro

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 1.8 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 in the Inland Empire, including the City of Ontario.

I. THE DSEIR FAILS TO ADEQUATELY DESCRIBE THE LAND USE CHANGES PROPOSED UNDER THE PROJECT

An accurate, stable, and finite project description remains the *sine qua non* of an informative and legally sufficient EIR. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) For planning projects, like the proposed amendments to TOP 2050, this requires the inclusion of relevant details available to the lead agency and prohibits conflicting or inconsistent descriptions of the nature of the project or its main elements. (*Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036 at 1052-1055.) Here, the DSEIR fails to adequately describe the Project because it fails to include relevant details regarding the land use changes that would result from its adoption, and because the description of the industrial land use expansion under the project is inconsistent.

O2-1

A. The DSEIR's Project Description Lacks Sufficient Detail and Contains Out-of-Date Information

Nowhere in the DSEIR is a clear and comprehensive accounting of the land use changes that would occur under the PPA. In many places, the Project is only generally summarized, for example as “modifying the currently permitted and planned TOP land use pattern across more than 1,300 acres in southern Ontario” or as affecting “approximately 1,300” acres. (DSEIR at ES-10, 2-17, 2-34.) These modifications are summarized vaguely as including, in part, “a handful” of changes in northern Ontario. (DSEIR at ES-10, 2-20.) The DSEIR does include a list of parcels affected by the PPA, but does not describe the location or acreage of the parcels, nor does it indicate how the land use designation of the parcels would change under the Project. (DSEIR at 2-18–2-20.) The DSEIR does include maps that purport to show the land use designations under the adopted TOP 2050 and those proposed under the Project (*See* DSEIR 2-13, 2-21.) However, *Figure 2-4: Current TOP Land Use Plan* includes text stating that “this figure is out of date” at the top of the map. (DSEIR at 2-13.) The DSEIR fails to explain in what way this map of current land uses is out of date. Given the lack of accurate information displaying the geographic extent and distribution of current land uses, it is impossible to accurately identify the changes proposed under the Project. The DSEIR should be revised to clearly and accurately describe the changes proposed under the PPA in order to render the DSEIR adequate as an informational document under CEQA.

02-2

B. The DSEIR Provides Conflicting Data Regarding Industrial Land Use Changes Proposed Under the Project

In addition to failing to clearly and accurately describe the overall land use designation changes proposed by the Project, the DSEIR also fails specifically to provide an accurate, stable, and definite description of the industrial land use component of the Project. In the Executive Summary, a quantification of the total industrial square-footage increase under the Project is provided, but the figure is not included in the summary of the proposed Project, instead being included in the description of the reduced intensity project alternative. (DSEIR at ES-26 [describing a net increase of 6,370,304 square feet of industrial land use designated area under the proposed Project.]) However, this figure is inconsistent with other data regarding the prospective change in land use area provided in the DSEIR. For example, elsewhere the Executive Summary includes quantifications of the total square footage impacted by the PPA as compared to the TOP 2050, categorized only as “residential” and “non-residential.” (DSEIR at ES-20.) Here, the net increase in non-residential land uses is stated to be 4,344,416 square feet. (*Id.*) Because the total non-residential square footage stated in the Executive Summary (which can reasonably be assumed to include industrial uses and is not explained to do otherwise) is considerably smaller than the industrial square footage stated earlier in the same section of the DSEIR, the accuracy of both figures cannot be determined. Also, in Tables 2-1 and 2-3 of the Project Description, the DSEIR identifies the total industrial land use area under the approved TOP 2050 as 7,591.3 acres, and the total industrial land use area under the Project as 7,606.2 acres. (DSEIR at 2-10, 2-33.) The difference between these areas, 14.9 acres, corresponds to approximately 649,044 square feet, not the 6,370,304 square feet described in the Executive Summary. Because the DSEIR includes inconsistent and apparently conflicting descriptions of the changes in the total industrial buildout

02-3

allowed under the Project as compared to the adopted TOP 2050, it fails to provide a clear, accurate, and stable description of the Project.

O2-3 cont.

II. THE DSEIR FAILS TO ADEQUATELY DISCLOSE, ANALYZE, OR MITIGATE GREENHOUSE GAS EMISSIONS IMPACTS

The climate crisis is an immediate and significant threat to Californian communities. Climate change is already transforming California, increasing ambient temperatures and the frequency and severity of wildfires, reducing the quantity and longevity of snowpack, and changing water availability patterns. (Turco et al., 2023.) Climate change is causing sea level rise, extreme weather events, and “irreversible losses” at the species and ecosystem levels. (IPCC, 2023; US Global Change Research Program, 2023.) And it 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.) In fact, climate-change-related local extinctions are already widespread and have occurred for hundreds of species. (Wiens, 2016.) And catastrophic levels of species extinctions are projected in the coming decades if climate change continues unabated. (Maclean & Wilson, 2011; Thomas et al., 2004; Urban, 2015.)

Despite the fact that the United States has contributed more to the climate crisis than any other country, neither domestic nor international climate policy is on pace to avert catastrophic levels of warming. (Climate Action Tracker, 2023; Friedlingstein et al., 2023; Friedrich et al., 2023.) As a result, California has taken steps through legislation and regulation to fight climate change and reduce statewide greenhouse gas (“GHG”) emissions in lieu of competent federal or international action. The California Climate Crisis Act (AB 1279) requires the State to achieve net zero GHG emissions by no later than 2040, to achieve and maintain net negative GHG emissions thereafter, and to ensure that by 2045, statewide GHG emissions are reduced to 85 percent the level in 1990. (AB 1279 (2022).) And Governor Newsom has issued several executive orders to help the State meet this mandate. (*See, e.g.*, Executive Order N-19-19 (2019); Executive Order N-79-20 (2020).)

O2-4

However, the State’s climate goals require the active involvement of local governments like the City when considering industrial projects with potentially far-reaching climate impacts. Indeed, “the extent to which current and future generations will experience a hotter and different world depends on [the] choices [made at the local level] now and in the near term.” (IPCC, 2023.) Given this background, and the increasingly urgent need for drastic action to reduce GHG emissions, the DSEIR’s failure to adequately analyze and mitigate Project-related GHG emissions is alarming. The City must amend the DSEIR in the following ways to more thoroughly analyze and more comprehensively minimize Project-related GHG emissions.

A. The DSEIR’s Analysis of Project GHG Impacts Improperly Excludes GHG Impacts Resulting from Vegetation Changes

The DSEIR’s GHG analysis omits one of the key sources of Project construction and operational GHG emissions: the conversion of working lands and grasslands into developed areas.

O2-5

Currently, much of the Project area is comprised of dairy operations and associated agricultural land uses. (DSEIR at 3.2-6.) The Project would impact hundreds of acres of these areas. (DSEIR at ES-17.) Despite this, the DSEIR does not reflect any accounting of the GHG impacts associated with the loss of above and below ground carbon storage, or any consideration of how altering the land cover of this acreage will change the carbon sequestration potential of the area. (See DSEIR at 3.8-21 – 3.8-24.)

As detailed in a 2023 Center report, “Hidden in Plain Sight: California’s Native Habitats are Valuable Carbon Sinks” (Yap et al., 2023), California habitats, including grasslands, are important carbon sinks that should be included in carbon calculations. Although the carbon storage and sequestration potential of such habitats are often overlooked, carbon in these systems is stored in the form of soil organic carbon (e.g., extensive root networks, soil microbial communities, and mycorrhizae), soil inorganic carbon (e.g., calcite/caliche), and above-ground vegetation. (Janzen, 2004; Meyer, 2012; Mi et al., 2008; Thomey et al., 2014; Wang et al., 2010; Zamanian et al., 2016.) Non-native grasslands have been found to store, on average, 38.4 to 60.3 metric tons of carbon per acres in their soils, and to sequester an estimated 1.3 to 1.8 metric tons of carbon per acre, per year (Koteen et al., 2011). Cultivation grasses for dairy production can also result in carbon net carbon storage from the atmosphere. (Cavallo et al., 2011.)

Estimating the quantity of existing carbon stock can be done using RePlan, a core component of the California Strategic Growth Council’s (“SGC”) Integrated Regional Conservation and Development (“IRCAD”) initiative. (California Strategic Growth Council, 2026b). This sophisticated online tool provides a myriad of functionality, including the ability to estimate carbon stocks throughout California. The tool takes as input a shapefile or drawn polygonal map area and outputs an estimate of the total carbon over the defined acreage. The data backing this tool comes from the California Natural and Working Lands Inventory conducted by CARB. (California Strategic Growth Council, 2026a). The City thus has no excuse for overlooking emissions associated with the loss of vegetation, topsoil, and grasslands, all of which sequester carbon.

Because the DSEIR does not account for either carbon emissions resulting from land use conversion or the loss of carbon sequestration capacity that would result from such land use conversion, the estimate of total emissions is inaccurate, and the true amount of GHG emissions resulting from the proposed Project is likely to be higher than stated in the DSEIR. The omission of any sequestration analysis is particularly concerning, as the loss of the sequestration ability of existing landscapes will lead to a continued increase in net emissions into the future. The DSEIR fails to account for these decades of lost sequestration opportunity, in violation of CEQA, and the City must consequently amend its analysis and recirculate an updated DSEIR to account for this deficiency. (CEQA Guidelines §§ 15126, 15378.)

B. The DSEIR Fails to Adequately Mitigate Greenhouse Gas Emissions from Warehouses

The Center recognizes that the City has already identified several mitigation measures that relate to GHG emission reductions. (See DSEIR at ES-81, 3.8-36 [mitigation measure GHG-1-

O2-5 cont.

O2-6

PPA: “measures may include...encouraging the construction of solar arrays above parking lots and the integration of solar and other renewable energy generation technologies”; GHG-1-SP Reduction Measure 2: “Installation of rooftop solar energy system which generates enough electricity to meet 45 percent of annual warehouse electricity demand.”]) However, despite these measures, the DSEIR concludes that the Project would result in significant and unavoidable GHG emissions without mandating feasible, commonsense mitigation to the maximum extent possible, as required. (DSEIR at 3.8-35 – 3.8-39; Pub. Res. Code §§ 21002.1(b); 21081(a)(1); CEQA Guidelines § 15021(a).) The City should require, at a minimum, current common GHG emission mitigation measures that have been used throughout the state for future warehouse developments within the planning area. Examples of such measures include those listed in the Fontana Ordinance No. 1891, which were specifically formulated to mitigate impacts from warehouse development and protect residents and the air basin from cumulative environmental impacts. (Fontana Warehouse Ordinance, 2022.) The California Office of the Attorney General memorandum detailing warehouse best practices should also assist the City in complying with its mitigation requirements. (See California Attorney General, 2022.) Nearly all the example mitigation measures in this document have been adopted at other warehouse projects in California, demonstrating their feasibility.

O2-6 cont.

i. The City Must Require Rooftop Solar Sufficient for 100 Percent of Warehouse Energy Demands

Installing solar on the roofs of large warehouses in California is a crucial opportunity to use miles of flat, sunny space that would otherwise be underutilized. The technology exists now to feasibly require all future building sites to install enough rooftop solar photovoltaic panels to meet 100 percent of projected energy needs or be built with the capacity for these panels to be added later. In order to meet its decarbonization targets, California needs to double its clean energy generation in the next decade, which will require a “record-breaking” expansion of clean energy infrastructure. (Gill et al., 2021.) The Joint Agency SB 100 Report calls for building 2.8 GW/year of solar every year for 25 years, which is higher than the previous maximum annual build. (*Id.*) The biggest obstacle to increasing solar energy capacity as fast as needed is the large amount of flat, sunny land that solar farms require. (Groom, 2022.) Building solar infrastructure across undeveloped land is an imperfect solution that hurts important ecosystems, eliminates opportunities for natural carbon sinks, and is often opposed by local residents. (Courage, 2021; Groom, 2022.)

O2-7

Each warehouse built with the capacity to provide 100 percent of its own clean energy via rooftop solar brings California closer to the clean energy targets we must meet to avoid the climate crisis’s most devastating effects. The California Attorney General recommends that new warehouses are built with this capacity, and companies and municipalities are realizing it makes sense. (California Attorney General, 2022.) The City of Fontana already requires that every warehouse over 400,000 square feet generate all required power from rooftop solar. (Fontana Warehouse Ordinance, 2022) However, despite this potential, the DSEIR does not require solar panels; rather, just updates to the Community Climate Action Plan, based on which future projects “*may include*” solar or other renewable energy sources. (DSEIR at 3.8-33 [emphasis added].) First,

this improperly deferred and overly vague mitigation violates CEQA. (*See San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 670 [EIR inadequate where the success or failure of mitigation efforts “may largely depend upon management plans that have not yet been formulated and have not been subject to analysis and review within the EIR”].) In the limited circumstances in which deferred mitigation is appropriate, the agency must meet all of the following elements: (1) practical considerations prevented the formulation of mitigation measures during the planning process; (2) the agency committed itself to developing mitigation measures in the future; (3) the agency adopted specific performance criteria prior to project approval; and (4) the EIR lists the mitigation measures to be considered, analyzed, and possibly incorporated into the mitigation plan. (*See POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 736 – 737 [review denied].) Here, the DSEIR fails to meet these criteria. It does not attempt to explain why it is not possible to formulate and disclose a mitigation plan now, and it does not list the mitigation measures to be considered.

O2-7 cont.

Also, because this is a feasible mitigation measure, the DSEIR must go beyond the vague and future planning actions identified in GHG-1-PPA and the inadequate 45 percent requirement in GHG-1-SP and require rooftop solar to meet 100 percent of each building’s energy needs. In particular, the City should amend the mitigation measures related to renewable energy use to require sufficient photovoltaic generation capacity to meet 100 percent of the warehouse energy demand, *including* the total demand of expanded electric vehicle charging onsite as well. To achieve this, warehouses should be required to build out the maximum available photovoltaic coverage consistent with the California Attorney General’s recommendation that new warehouses be built “to accommodate the maximum future coverage of solar panels and installing the maximum solar power generation capacity feasible.” (California Attorney General, 2022.) The City must therefore strengthen mitigation measures GHG-1-PPA and GHG-1-SP to require future developers to install the maximum feasible solar generation capacity, sufficient to meet any demand attendant to medium- and heavy-duty electric truck charging onsite. (*Uphold Our Heritage*, 147 Cal.App.4th at 600; *Citizens of Goleta Valley*, 197 Cal.App.3d at 1180.) If the City declines to adopt such a measure, it must explain the basis for its decision. (*Los Angeles Unified Sch. Dist.*, 58 Cal.App.4th at 1029.) Failure to do so would violate CEQA.

ii. The City Must Require Warehouse Developments to Maximize Electric Truck Infrastructure

The DSEIR must require concrete, enforceable measures that prepare future developments to operate with an all-electric fleet, as it will soon be required to do. CARB has developed strategies to completely electrify heavy-duty trucks in the state by 2045, and specifically to achieve 100 percent zero-emissions drayage trucks by 2035. (CARB, 2022.) Substantial evidence shows that requiring the usage of zero-emission heavy-duty trucks in lieu of diesel trucks is an effective means of reducing the GHG implications of heavy-duty truck traffic. (Union of Concerned Scientists, 2025.) Battery-electric trucks have lower lifecycle GHG emissions than diesel trucks no matter the operating characteristics of the vehicle or the electric grid. (*Id.*) Battery-electric heavy-duty trucks operating in the United States result in only 18 percent of the lifecycle GHG emissions associated with analogous diesel trucks. (*Id.*) This is notable because although battery-electric vehicles do not

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have tailpipe GHG emissions like diesel vehicles, there are still GHG emissions associated with the generation of the electricity used to charge and thereby power the vehicles. California has a larger proportion of renewable electricity generation sources than the national average, so electric heavy-duty trucks operating and charging in California would reduce the GHG emissions associated with Project-related truck traffic even more. (Nuclear Energy Institute, 2022) And as discussed *infra*, it would be feasible for future developments to comply with a mitigation measure requiring the use of medium- and heavy-duty electric trucks as often and as quickly as possible. (*Uphold Our Heritage*, 147 Cal.App.4th at 600; *Citizens of Goleta Valley*, 197 Cal.App.3d at 1180.) The DSEIR must require more electric truck charging infrastructure to meet the demands of the fleet mix of 2045. Otherwise, the City will lag sorely behind the much-needed transition and will cement diesel emissions for decades.

Heavy-duty electric trucks are already available for purchase, and many freight facilities and other distribution centers have committed to utilizing such vehicles. (Fadhil & Xie, 2025.) Based on company announcements, there are at least ten Class 7 or 8 models with ranges up to 550 miles that have already been commercially deployed or are slated for commercial deployment in the coming years. (Fadhil & Xie, 2025; Good Car, Bad Car, 2024) Tesla is projecting to complete construction of its “Tesla Semi” production line so that it can begin volume production in 2026, and the company expects to produce 50,000 semi-trucks per year upon reaching full capacity. (Fred Lambert, 2025.) And several international companies, including the Chinese manufacturer BYD and the German manufacturer Daimler, produce heavy-duty electric trucks and have already sold hundreds of zero-emission electric heavy-duty trucks in the United States. (Fred Lambert, 2020.) As a result, sales of new medium- and heavy-duty electric trucks in California jumped from just a few hundred in 2021 to one in 12 medium- and heavy-duty trucks sold in 2022, one in six in 2023, and one in four in 2024. (California Air Resources Board, 2023, 2024, 2025.) Many companies involved in the warehousing industry, including UPS, Fedex, Anheuser-Busch, Frito-Lay, PepsiCo, and IKEA, have already purchased thousands of heavy-duty electric trucks and are on pace to purchase even more such vehicles. (*See, e.g.*, Fedex, 2025; Frito-Lay, 2019; IKEA, 2025; Mark Matousek, 2018; Nora Manthey, 2022; WattEV, 2025.)

O2-8 cont.

Moreover, many warehouse and distribution facilities throughout California have committed to requirements mandating that medium- and heavy-duty truck electrification be attained and maintained early in the occupancy process, including the Beaumont Pointe Project in Beaumont, California, the Compass Danbe Centerpointe Project in Moreno Valley, California, the Citrus and Oleander Project in Fontana, California, among others. (City of Beaumont, 2023 [referring mitigation measures B-41 and B-42 therein and stating that they require that “all heavy-duty vehicles engaged in drayage to or from the project site to be zero-emission beginning in 2030” and that “tenants to use zero-emission light- and medium-duty vehicles as part of business operations”]; City of Fontana, 2023; *Compass Danbe Settlement*, 2021 [requiring that all heavy-duty trucks serving the warehouse be electric within three years of occupancy or whenever “widely commercially available” and establishing an enforceable, aggressive schedule by which specified portions of all other warehouse-related commercial vehicles must be electric by dates certain].) In 2022, Walmart opened a fulfillment center in Canada which will feature a fully electric fleet. (Walmart, 2022.) And the South Coast Air Quality Management District has committed to

deploying 23 Class 8 Volvo battery-electric trucks to move freight across the Inland Empire and another 100 Battery-electric trucks broadly throughout California via a partnership with NFI Industries and Schneider. (NFI, 2021.)

Additionally, government regulators are increasingly investing in programs to facilitate medium- and heavy-duty truck electrification. California offers significant incentives to assist warehousing companies attain and utilize heavy-duty electric trucks, with the most prominent being the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project, which provides \$150,000 as a voucher to offset some of the purchase price for certain vehicles. (*See, e.g.,* California Air Resources Board, 2020, 2018, 2019, 2024; California Public Utilities Commission, 2018; San Diego Gas & Electric Co., 2024.) And California utilities have already committed to support the development of heavy-duty charging infrastructure and are likely to continue to do so in the future as well. (California Public Utilities Commission, 2018.) The South Coast Air Quality Management District, for instance, allows for the purchase and use of electric heavy-duty trucks as one way to comply with its indirect source rule for warehouses (referred to as the Warehouse Actions and Investments to Reduce Emissions or WAIRE program). (South Coast Air Quality Management District, 2020.) In fact, in enacting that rule, that Air District expressly found that battery-electric heavy-duty trucks are commercially available. And on June 12, 2025, Governor Newsom signed Executive Order N-27-25, reaffirming California's commitment to deploying zero-emission vehicle technologies to improve air quality.

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As a result of these programs, in part, the total cost of ownership for electric heavy-duty trucks is likely to be less than for analogous diesel trucks. (California Air Resources Board, 2021.) One study found that when incentives and utilities' investments were incorporated into a total-cost-of-ownership analysis, battery-electric heavy-duty trucks currently have a favorable total cost of ownership compared to diesel equivalents. (ICF, 2019.) That study further indicates that battery-electric trucks should be able to compete with equivalent diesel trucks on a total-cost-of-ownership basis without regulatory incentives by 2030. (*Id.* at 32.)

It is therefore feasible for the City to require future developers and subsequent tenants and/or lessees of warehouse developments to utilize medium- and heavy-duty electric trucks as often and as quickly as possible. (*Uphold Our Heritage*, 147 Cal.App.4th at 600; *Citizens of Goleta Valley*, 197 Cal.App.3d at 1180.) If the City declines to adopt a mitigation measure requiring future operators to utilize medium- and heavy-duty electric trucks as often and as quickly as possible, it must explain the basis for its decision as to each measure. (*Los Angeles Unified Sch. Dist.*, 58 Cal.App.4th at 1029.) Failure to do so would violate CEQA.

III. THE CITY MUST IMPOSE CONDITIONS ON ANY POTENTIAL FUTURE DATA CENTER DEVELOPMENT

The DSEIR concludes that the PPA would have the potential to result in significant impacts due to the generation of additional, long-term emissions of criteria air pollutants in exceedance of the relevant SCAQMD thresholds and would contribute to the air basin's nonattainment status.

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(See e.g. DSEIR at ES-33.) For this reason, the DSEIR incorporates into the PPA mitigation measure AIR-3-PPA. This measure establishes that “[p]rior to future discretionary approval by the City of Ontario for development projects subject to CEQA review” the City will review and approve applicant-prepared assessments of “project operation-phase-related air quality impacts,” based on which the City will require mitigation measures to reduce operational emissions be included as conditions of permit approval. Despite the implementation of this mitigation measure, the DSEIR concludes the Project would result in significant and unavoidable air quality impacts due to exceedances of criteria pollutant thresholds. (DSEIR at ES-33.) The DSEIR makes a similar conclusion for GHG emissions, with the Project projected to result in a 3 percent increase over that of the approved TOP 2050. (DSEIR at 3.8-28)

The Center is concerned that the potential for data center development within areas of the City with the Industrial or Business Park designation could ultimately result in air quality, GHG, and other impacts that exceed the assumptions of the DSEIR. Data centers are associated with significant environmental impacts. These include air quality, GHG, energy use, water use, and noise. (Xiao et al., 2025; Yañez-Barnuevo, 2026.) Currently, data centers are allowed by right in the City under the zoning that conforms to the general plan Business Park and Industrial land use designations. (Ontario Development Code at 5.02-19.) As a result, DSEIR mitigation such as AIR-3-PPA would not apply to these developments, which would not require discretionary approval. The zoning for the proposed EBPSF shows that data centers require a conditional use permit, allowing the City to evaluate the impacts of any proposed development and impose appropriate conditions on their approval. (Eucalyptus Business Park Specific Plan at 5-9.) The Center urges the City to make data center developments conditional when zoning all areas with the Business Park and Industrial land use designations proposed under the Project. Further, the Center recommends the adoption of the following as best practices to mitigate the potential environmental impacts of data centers within the City.

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A. If approved, data centers should be responsibly sited and use on-site renewable energy, storage, and micro-grids

As a threshold matter, data centers should be responsibly sited. State and local governments should require companies to determine the availability of renewable resources like solar and wind, along with water availability so that local water resources are not depleted. The companies should be required to assess the potential site’s effects on any nearby communities and wildlife, especially imperiled species.

If approved, data centers provide the opportunity to generate electricity where it is consumed on-site or “on campus.” Therefore, once sited, data centers should be constructed to maximize energy efficiency and be powered by on-site renewables like solar and wind, batteries and microgrids, eliminating the need for fossil and diesel generators for backup power.

O2-10

Solar and wind energy co-location with data centers is not a new concept, as multiple companies have begun exploring this arrangement both in the U.S. and globally. (See e.g. He et al., 2024; Mock & Bush, 2024.) For example, Google and partners Intersect Power and TPG Rise

Climate recently announced plans to co-locate data centers with high capacity, clean electricity such as solar alongside battery storage in the United States. (Howland, 2024.) Apple claims that 100% renewable energy powers its data center in Maiden, North Carolina, of which a large percentage comes from onsite solar. (Apple, 2018.) A data center co-located with Japan Renewable Energy Corporation's solar farm runs entirely on solar. (Butler, 2023.) Powering data centers with renewable energy and storage instead of fossil fuels curbs greenhouse gas emissions, yields more resilience in climate disasters, and avoids environmental justice, public-health, and wildlife harms.

O2-10 cont.

Moreover, powering data centers with on-site renewables bypasses the pitfalls of relying on the country's antiquated and fragile fossil-fueled grid. It avoids the risk of blackouts because of increased load demand, particularly from extreme heat, as well as longer development timelines due to cumbersome transmission buildout, interconnection and process delays, and greater infrastructure costs.

B. For any additional energy demand, data centers must pay for all new energy infrastructure, instead of passing costs onto ratepayers, and deploy distributed energy to open grid capacity

To the extent that on-site renewable energy and storage is insufficient to power AI data centers, companies may seek to use grid resources. In that case the costs of providing power to data centers should be borne entirely by the data center company or operators, not subsidized by captured residential and other commercial customers. State regulators should require that these corporations invest their own money in any new energy generation and related infrastructure as a portion of the company's overall investment. This rectifies the current practice, where ratepayers are subsidizing the data center industry by paying for new gas power plants and pipelines for data center infrastructure, some of which is eventually unused by technology companies. (*See, e.g.* Kunkel, 2025.)

O2-11

Any new energy infrastructure should start with the deployment of distributed energy resources for existing grid customers to free up grid capacity for data center needs. Specifically, data centers should pay for existing grid customers — prioritizing low-income and historically marginalized communities — to obtain rooftop solar, storage, microgrids and energy-conservation technologies like heat pumps and bi-directional electric vehicle charging. This will allow those customers to locally generate sufficient power to offset grid power consumed by the data center. Grid-enhancing technologies and virtual power plants can also ensure that data center needs on the grid can be adaptable to serve new loads. (*See, e.g.*, Environmental Law and Policy Center, 2025 [also discussing emerging mechanisms like clean transition tariffs, which help carry out continued clean energy sourcing.])

C. To curb water usage, data centers must adopt best practices such as advanced cooling technologies to optimize water efficiency

In addition to being sited responsibly, data centers should utilize technologies for minimizing water usage. Closed-loop designs can reduce water consumption by enabling the reuse of water to

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cool servers, while zero-water cooling systems, using PFAS-free cooling fluid, can be employed in especially water-stressed regions. To reduce water quality impacts, data centers should pre-treat any cooling system discharges before releasing them into wastewater or stormwater systems.

To supply closed-loop systems, data centers should use recycled or reclaimed water and avoid unsustainable withdrawals of surface and groundwater sources used for drinking water. Where possible, data centers should be co-located with existing water recycling facilities or wastewater treatment plants to supply recycled water for cooling purposes. Developers should factor water risks into early planning decisions, including site selection and infrastructure design, and local governments should require that data centers disclose sources of water, as well as anticipated and actual water usage. Data centers should adopt and make publicly available monitoring and mitigation plans for water usage at the time of project approval. Monitoring and mitigation plans should include on-going obligations that ensure the surrounding ecosystems and nearby communities' water supplies are not negatively impacted by the data center's water usage throughout the life of the project. As with data center infrastructure, water infrastructure costs should not be passed onto ratepayers. Data center developers should not only pay for water infrastructure, but also fees for every centum cubic feet or thousand gallons of potable water used.

O2-12 cont.

D. Noise impacts should be considered early in the planning stage, and state regulators should regulate noise impacts of data centers

State and local governments should utilize legislative solutions to reduce the noise impacts of data centers on surrounding communities. (Hammer et al., 2013.) Noise code limits should fall below 55 decibels near residential areas, schools, hospitals, and public lands, and buffers of at least 500 feet should be required. In addition, local noise ordinances should address noise factors beyond A-weighted decibels (dBA) over set periods, as data centers' tonality and frequency content can also impact surrounding communities. To address concerns regarding the character of noise, state and local governments should also engage stakeholders early in the planning process, such as local businesses and public health experts, to gain broader insights on data center noise impacts.

O2-13

Data center developers should take noise minimization into account at the planning stage. An early design-level acoustical analysis can help optimize site layouts and identify noise management strategies. Technologies such as rooftop screening, acoustical wraps, physical acoustical screening (such as a noise wall), noise attenuation wraps for air cooled chillers, and other soundproofing materials can reduce data center noise and minimize impacts on the local community. Data centers should continue to monitor noise levels to document and ensure compliance with local and/or state regulations for the duration of their operation.

IV. CONCLUSION

Thank you for the opportunity to submit comments on the DSEIR for the Project. As detailed above, the Center is concerned that the DSEIR lacks an adequate project description and analysis of, and mitigation for, Project impacts related to air quality and greenhouse gas emissions. The

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Center urges the City to revise the DSEIR to correct these deficiencies, consistent with the City's obligations as a lead agency under CEQA, and to recirculate the revised DSEIR for public review and comment.

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. (Pub. Res. Code § 21167.6(e); *Golden Door Properties, LLC v. Superior Court* (2020) 53 Cal.App.5th 733, 763) 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. 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.

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Please add the Center to your notice list for all future updates to the Project, using the contact information below, and do not hesitate to contact the Center with any questions.

Sincerely,



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O2-15 cont.

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O2-15 cont.



1131 W 6th St, Ontario, CA 91762 | Welcome@FairOntario.org | (909) 490-3237

VIA EMAIL
tgrahn@ontarioca.gov

April 20, 2026

Thomas Grahn
Principal Planner
Planning Department
City of Ontario
303 East B Street
Ontario, CA 91764

Subject: Public Comment – Draft Supplemental Environmental Impact Report (DSEIR)
Ontario Plan 2050 Amendment & Eucalyptus Business Park Specific Plan
(State Clearinghouse No. 2025110102)

Dear Mr. Grahn,

Fair Ontario submits these comments on the Draft Supplemental Environmental Impact Report (DSEIR) for the proposed Ontario Plan 2050 Amendment and Eucalyptus Business Park Specific Plan.

The proposed project would enable development of approximately 189 acres, including up to nearly 3 million square feet of industrial-scale uses under the label of a “business park.”

In substance, the project facilitates large-scale warehouse and logistics operations with significant environmental, land use, and public trust implications.

O3-Intro

LEGALLY INADEQUATE PROJECT DESCRIPTION

CEQA requires a “stable, finite and accurate” project description (CEQA Guidelines §15124; *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185).

Here, the DSEIR repeatedly characterizes the project as a “business park” while the Specific Plan expressly allows warehousing and distribution uses.

This inconsistency obscures:

- The scale of logistics operations
- Truck traffic generation
- Air quality impacts

An EIR that fails to disclose the project’s true operational characteristics is legally inadequate.

O3-1

BASELINE AND LAND USE ANALYSIS DEFICIENCIES

CEQA requires that impacts be analyzed against an accurate environmental baseline (CEQA Guidelines §15125; *Communities for a Better Environment v. South Coast AQMD* (2010) 48 Cal.4th 310).

The project converts land planned for residential and mixed-use development into industrial use.

03-2

The DSEIR fails to adequately analyze:

- Loss of planned housing capacity
- Policy implications of this land use conversion
- Differences in environmental impacts between residential and logistics uses

This constitutes a failure to evaluate impacts against a meaningful baseline.

SIGNIFICANT AND UNAVOIDABLE IMPACTS

The DSEIR acknowledges significant impacts related to:

- Traffic and truck congestion
- Air quality degradation
- Noise

03-3

Under CEQA, mitigation measures must be feasible and enforceable (CEQA Guidelines §15126.4).

Here, mitigation measures are vague, deferred, or dependent on future action, rendering them legally insufficient.

GREENHOUSE GAS ANALYSIS IS DEFICIENT

The DSEIR admits the project:

“would result in an increase in GHG emissions... and would not achieve the carbon neutrality threshold of AB 1279.”

03-4

CEQA requires mitigation measures to be enforceable and effective, not speculative (*Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70).

Deferring mitigation—such as electrification or solar deployment—to future implementation violates CEQA.

FAILURE TO PROVIDE ADEQUATE RESPONSES TO COMMENTS

CEQA requires good-faith, reasoned responses to public comments (CEQA Guidelines §15088).

As documented in submitted comments:

03-5

- Key issues are redirected without analysis
- Agency constraints are not addressed
- Substantive objections receive no meaningful response

This failure undermines the integrity of the environmental review process.

INADEQUATE CUMULATIVE IMPACT ANALYSIS

CEQA requires analysis of cumulative impacts (CEQA Guidelines §15130; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692).

The project is located within a region already saturated with warehouse and logistics development.

03-6

The DSEIR fails to adequately evaluate:

- Combined regional truck traffic
- Air quality impacts across multiple projects
- Public health consequences

This omission is legally significant.

PROPOSITION 70: FAILURE TO ADDRESS PUBLIC TRUST OBLIGATIONS

The DSEIR fails to analyze legal constraints associated with Proposition 70 lands.

As documented in the Planning and Conservation League's October 20, 2006 letter:

- San Bernardino County received state bond funds to acquire agricultural land
- The County explicitly committed to placing conservation easements on these lands
- These easements were required to function as perpetual deed restrictions
- These commitments constitute binding public trust obligations

03-7

Further, the County:

- Accepted approximately \$20 million in bond funds
- Generated additional trust funds from agricultural operations
- Was required to preserve the land consistent with the original conservation purpose

The DSEIR does not analyze:

- Whether these obligations have been satisfied
- Whether conversion to industrial use is legally permissible
- Whether required conservation easements have been implemented

This is not a question of land configuration or contiguity.

It is a question of compliance with the original purpose and intent of Proposition 70 Fulfillment of binding public trust obligations, and failure to analyze these issues renders the DSEIR incomplete and legally deficient.

FAILURE TO ANALYZE AGRICULTURAL PRESERVATION ALTERNATIVES

CEQA requires evaluation of feasible alternatives that reduce environmental impacts (*Laurel Heights Improvement Assn. v. Regents of UC* (1988) 47 Cal.3d 376).

The DSEIR does not adequately evaluate alternatives that:

03-8

April 20, 2026

Page 4

- Preserve agricultural use
- Maintain compliance with Proposition 70
- Reduce environmental impacts

O3-8 cont.

QUESTIONABLE ECONOMIC BENEFITS

The project's economic justification is unsupported.

Warehouse development:

- Produces fewer jobs per acre
- Is increasingly automated
- Provides lower-wage employment

O3-9

The DSEIR fails to substantiate claimed benefits or compare them to alternative land uses.

CONCLUSION

The DSEIR fails to comply with CEQA and does not adequately analyze critical environmental, legal, and policy issues.

Fair Ontario respectfully requests:

1. Recirculation of the DSEIR with an accurate project description
2. Full and enforceable mitigation measures
3. Comprehensive cumulative and GHG analysis
4. Explicit analysis of Proposition 70 public trust obligations
5. Evaluation of agricultural preservation alternatives
6. Meaningful responses to all public comments

O3-10

Until these deficiencies are corrected, the project should not proceed.

Respectfully submitted,



Chris Robles
President and Executive Director

cc: Board Members, Fair Ontario

From: Alejandra Barajas <allybarajas2@gmail.com>
Sent: Thursday, March 5, 2026 5:30 PM
To: Thomas Grahm <TGrahm@ontarioca.gov>
Subject: Comment Eucalyptus Park

Hello,

I recently received the proposed plan for Eucalyptus park and have to express my dissatisfaction with the proposal. My biggest concern being the Air Quality impacts with and without mitigation measures. Ontario does not need more air pollution!

When will public comment be taken live? I would love to express my thoughts in person as well.

Thank you!
Alejandra

R1-1

From: yesenia varela <yeseniavarela906@yahoo.com>

Sent: Friday, March 6, 2026 10:29 AM

To: Thomas Grahn <TGrahn@ontarioca.gov>

Subject: Truck Routes

Hello, I like would like to highly suggest different truck routes in my neighborhood. I live 3 houses from the corner of Phillips and Sultana. Every single day there is Semis passing this intersection. I understand there is warehouses on campus that they need to get to. But Euclid elementary and De Anza Middle school are near by. Children walk these routes as well. The streets here are narrow and besides the noise these semis cause the safety of the children should be a priority. I really hope the city can mandate a different route that suggest campus ave for these semi truck drivers as it is a bigger street.

R2-1

Sincerely resident , Yesenia Varela

-----Original Message-----

From: Annjanet Cruz <angietamagotchi@gmail.com>

Sent: Monday, March 9, 2026 8:14 AM

To: Thomas Grahn <TGrahn@ontarioca.gov>

Subject: Oppose Eucalyptus Park

I want to submit my public comment to oppose the further disgrace of adding even more warehouses in Ontario. It's already zoned for "affordable housing" whatever that means and should remain housing... the warehouses along Euclid are the ugliest and the city should really be ashamed for this poor planning. Build beautiful houses, with beautiful landscape and parks. These warehouse jobs can't even support the workers to live here. Do better by the people. No on Eucalyptus Park

R3-1

Sent from my iPhone

Numerous Public Comments cite the necessity for controlling the undeniable harms caused by ever increasing levels of GHG emissions. This is clearly not dealt with adequately as per the admission on page 93, Table ES-3

“Implementation of the proposed project would result in an increase in GHG emissions compared to the approved project (current plan) and would not achieve the carbon neutrality threshold of AB 1279”.

R4-1

The suggested remedy is to revise and front load the mitigation measures to a future date to bring them back into compliance with the CCAP guidelines. This is not acceptable. The mitigation “suggestions” found in several places in the document need to be changed to mandates for immediate inclusion. Rooftop solar to cover the complete building demand and built out charging stations need to be in 100% operation. Use of electric battery storage on site and preferential treatment for EV delivery vehicles are other means of meeting GHG targets.

The Public Comments (Page 122, Section 1.2.1., Table 1-1) are not specifically addressed. Rather they are referred to general, non-specific topics in the SEIR.

For example the comment by San Bernardino County Public Works states that they own a parcel included in the Specific Plan and “that development cannot proceed at this parcel”. No where is this addressed in Section 3.11 as promised.

R4-2

Again the Endangered Habitats League requests assurances that terms of a Settlement and General Use Agreement be observed. They are simply referred to the same Section 3.11. Another, Jason Alonzo generally objects to the proposed land use changes but his “strong dissatisfaction” gets no reply in Section 3.11.

CCAIEJ wondered about the cumulative impacts of all the existing warehouses with the addition of 6 more in this proposal. Specifically what do we learn from reading 3.8 and 3.11?

Why is the EBPSP being zoned Business Park? The document here and elsewhere (Zoning Code) specifies this zone encompasses:

“Employee-intensive office uses including corporate offices, technology centers, research and development, “clean” industry, light manufacturing and supporting retail within a business park setting”.

R4-3

There is no mention of warehousing large or small.

How are you making a legitimate response and consideration of these comments due on April 20 when the SEIR goes before the Planning Commission on April 28?

R4-4

Are we just steam rolling over the existing PACE agreements? Are we being told that the city is just going to arbitrarily cancel these so the EBPSP can just move ahead?

R4-5

Raymond Smith, sraymondf@gmail.com

From: randi campbell <randi_campbell91766@yahoo.com>
Sent: Friday, April 17, 2026 3:35 PM
To: Thomas Grahn <TGrahn@ontarioca.gov>
Subject: Citizen concerns about warehouses in the 2050 Ontario plan

Dear Mr. Grahn,

I'm a long time resident of Ontario and an active member of the community. I am a member of the board and donate my time and money to multiple organizations in the City. I attend City Council meetings, Planning Commission meetings and am very active in arts and culture events in Ontario.

I am writing today because I am very concerned about the expansion of mega warehouses in our city. Ontario already is cited as having the worst air quality in the entire United States and the truck traffic needed for warehouses is notorious for contributing to air pollution in addition to general traffic and noise.

We all understand the need for the City to generate revenue and provide economic opportunity. But mega warehouses are not the only option; my neighbors and I want to live in a city that is citizen friendly as well. Smaller, multi-use developments provide a much better alternative; safer streets, cleaner air, reduced noise, improved quality of life.

We deserve to live in a healthy environment. We must reconsider this choice for our city.

Thank you in advance and best regards,

Randi Campbell
(909) 268-9823

R5-1

From: TINA SILVA <tsilva6766@msn.com>
Sent: Monday, April 20, 2026 2:29 PM
To: Thomas Grahn <TGrahn@ontarioca.gov>
Subject: Amendments to Ontario Plan and SEIR

Dear Mr. Grahn,

I am writing to oppose the Ontario Plan amendments. The EIR clearly identifies unavoidable impacts to air quality, traffic, and noise, which will harm residents’ health and quality of life.

R6-1

I am especially concerned about the proposed use of Prop 70 land, which should be protected and preserved for open space and environmental benefits. This project would result in the permanent loss of land that supports groundwater recharge and helps mitigate flooding and climate impacts.

R6-2

The plan will also increase truck traffic through local streets, as many of these warehouse and business park sites are not located directly adjacent to freeways. This means diesel trucks will travel longer distances on city roads, worsening congestion, damaging infrastructure, and increasing air pollution in residential neighborhoods.

R6-3

Additionally, the project proposes roughly 2.9 million square feet of business park/warehouse uses yet is projected to generate only about 1,500 jobs. This is a low return for such a large amount of land, especially when weighed against the environmental and public health costs.

R6-4

Given these unavoidable harms and limited benefits, I urge the City to reject these amendments and prioritize a healthier, more sustainable future for our community.

I hope the community emails are taken into consideration before the upcoming Planning Committee meeting on April 28th.

R6-5

Would you kindly acknowledge my email as well?

Thank you,

Tina Silva

From: Marty McBride <martymcb2u@gmail.com>
Sent: Monday, April 20, 2026 4:17 PM
To: Thomas Grahn <TGrahn@ontarioca.gov>
Subject: Draft Supplemental EIR Ontario Plan 2050 - Public Comment

Good afternoon -

I am a resident of Ontario and I have some grave concerns regarding the environmental impact of the proposed development. There appears to be significant impact issues with respect to air quality, noise, pollution, and disturbance to native wildlife and plants that are an important part of our local ecosystem. These issues must be addressed by the City prior to greenlighting these projects - and the appropriate agencies and experts must be collaborators to mitigate as much as possible any harmful effects of development.

My greatest concern, however, is that the people of Ontario were not provided with public information sessions to review the reports and understand the significance of these developments in layman's terms. Without such sessions, residents have no opportunity to ask for clarification prior to the end of the comment period.

The city can and must do better to assist its residents to be well informed so they can make informed decisions and recommendations to the city. Resident engagement is a hallmark of good governance, and more residents would feel comfortable providing feedback if they were fully aware of the issues they are being asked to comment on.

Sincerely,

--

Marta McBride

E: martymcb2u@gmail.com

C: 626-343-0481

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R7-1