FINAL ENVIRONMENTAL IMPACT REPORT
State Clearinghouse Number 2019029123

for

Menifee North Specific Plan 260, Amendment No. 3 (2010-090)

"Palomar Crossings"

Lead Agency:

City of Menifee
29844 Haun Road
Menifee, CA 92586
951.672.6777
Point of Contact: Manny Baeza, Senior Planner
mbaeza@cityofmenifee.us

Project Proponent:

Romola General / Malaga 74, LLC
31361 Electric Avenue
Nuevo, CA 92567
Point of Contact: Mickey Ashley
mickeyashley@ashleydevco.com

Prepared by:

Matthew Fagan Consulting Services, Inc.
42011 Avenida Vista Ladera
Temecula, CA 92591
951.265.5428
Point of Contact: Matthew Fagan, Owner
matthewfagan@roadrunner.com

April 2020

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Appendices - (Provided on a CD attached at the back of this Final EIR)

Appendix A - Draft EIR (with Technical Appendices)

Appendix B - Revised Specific Plan Document – updated after Draft EIR circulation

Appendix C - Comment Letter Number 8 from Mitchell M. Tsai, including all Exhibits

1.0 INTRODUCTION

The Final Environmental Impact Report (Final EIR) for the proposed Palomar Crossings Project has been prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines and the City of Menifee policies for implementing CEQA.

The following is an excerpt from the CEQA Guidelines Section 15132 that states: "The Final EIR shall consist of:

(a) Environmental Impact Reports shall contain the information outlined in this article, but the format of the document may be varied. Each element must be covered, and when these elements are not separated into distinct sections, the document shall state where in the document each element is discussed.
(b) The EIR may be prepared as a separate document, as part of a general plan, or as part of a project report. If prepared as a part of the project report, it must still contain one separate and distinguishable section providing either analysis of all the subjects required in an EIR or, as a minimum, a table showing where each of the subjects is discussed. When the Lead Agency is a state agency, the EIR shall be included as part of the regular project report if such a report is used in the agency's existing review and budgetary process.
(c) Draft EIRs shall contain the information required by Sections 15122 through 15131. Final EIRs shall contain the same information and the subjects described in Section 15132.
(d) No document prepared pursuant to this article that is available for public examination shall include a "trade secret" as defined in Section 6254.7 of the Government Code, information about the location of archaeological sites and sacred lands, or any other information that is subject to the disclosure restrictions of Section 6254 of the Government Code.

The Final EIR includes all of these required components.

In accordance with § 15088 of the State CEQA Guidelines, the City of Menifee, as the lead agency for the proposed Project, evaluated comments received on the Draft EIR (State Clearinghouse No. 2019029123) and has prepared responses to the comments received. The preceding Table of Contents provides of a list of all persons, organizations, and public agencies commenting on the Draft EIR. Section 2.0 includes the Responses to Comments received by the City of Menifee on the Draft EIR. It should be noted that responses to comments also resulted in various editorial clarifications and corrections to the original Draft EIR text. Added or modified text is shown in Section 3.0, Errata, by underlining (<u>example</u>) while deleted text is shown by striking (~~example~~). The additional information, corrections, and clarifications are not considered to substantively affect the conclusions within the EIR. This Response to Comments document is part of the Final EIR, which includes the EIR pursuant to § 15132 of the State CEQA Guidelines.

After review and discussion by City staff and the City Planning Commission, responses to comments will be sent to commenting agencies and individuals. This satisfies the requirement of Section 21092.5 of CEQA to send responses to the public agency comments received on the Draft EIR at least 10 days prior to Project approval. This document includes responses to all written and verbal comments received on the Draft EIR.

BACKGROUND

On February 26, 2019, the City of Menifee publicly noticed its decision to prepare an environmental impact report (EIR) for the Project by noticing the State Clearinghouse, related agencies, other government agencies and surrounding property owners within a 600-foot radius from the Project site boundaries.

On March 11, 2019, the City of Menifee held a duly noticed public scoping meeting regarding the preparation of the EIR to discuss and hear from the public on the potential environmental impacts, which meeting was publicly noticed by an agenda posting and a notice to surrounding property owners within a 600-foot radius from the Project site boundaries, at least ten (10) days prior to the public meeting.

Between December 3, 2019 and January 21, 2020, the State-mandated forty- five (45)-day public review period for the Draft Project EIR (Draft EIR) took effect, which was publicly noticed by a publication in a newspaper of general circulation, notice to owners within 600 feet of the Project site boundaries, related agencies and government agencies, and other interested parties, copies of the Draft EIR were sent to the State Clearinghouse, a copy placed at the City Hall public counter and a copy placed at the Paloma Valley Library and the Sun City Library.

Comments and testimony are responded to through Response to Comments as part of the Final EIR and the Response to Comments were distributed to all public agencies and other interested parties that submitted comments on the Draft EIR at least 10 days prior to certification of the Final Project EIR (Final EIR) in accordance with CEQA.

No evidence of new significant impacts, as defined by CEQA Guidelines Section 15088.5, have been received by the City after circulation of the Draft EIR which would require re-circulation.

The Draft EIR for the Palomar Crossings Project, dated December 2019 and Final EIR for the Palomar Crossings Project, dated April 2020 provide an assessment of the environmental impacts associated with the Palomar Crossings Project and have been prepared in accordance with the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.*, and State regulations in Title 14 of the California Code of Regulations, Section 15000 *et seq.*.

As set forth in more detail in the Responses to Comments and Errata, none of the clarifications or amplifications set forth herein change the significance conclusions presented in the Draft EIR or substantially alters the analysis presented for public review. Furthermore, the Draft EIR circulated for public review was fully adequate under CEQA such that meaningful public review was not precluded. Thus, the clarifications provided in the Responses to Comments and Errata do not constitute significant new information that might trigger recirculation.

2.0 COMMENTS AND RESPONSES

Comment Letter No. 1

Paul Rull – Principal Planner
Riverside County Airport Land Use Commission (ALUC) (12-2-2019)

From: Rull, Paul <PRull@RIVCO.ORG>
Sent: Monday, December 2, 2019 2:36 PM
To: Manny Baeza <mbaeza@cityofmenifee.us>
Subject: SPA2010-090 transmittal ALUC comments

Hi Manny,

Thank you for transmitting the above reference project to ALUC for review. Please note that ALUC found this project consistent via ZAP1091MA13 subject to ALUC conditions that should be included in the City's conditions. Thanks. | 1.1

If you have any questions, please feel free to contact me. | 1.2

Paul Rull
ALUC Principal Planner

Riverside County Airport Land Use Commission
4080 Lemon Street, 14th Floor
Riverside, Ca 92501
(951) 955-6893
(951) 955-5177 (fax)
PRULL@RIVCO.ORG
www.rcaluc.org

Responses to Comment Letter No. 1

1.1 Comment noted; ALUC has found the Project is consistent and subject to conditions. The following ALUC conditions will be added to the City's Conditions of Approval for the Project:

1. Any outdoor lighting installed shall be hooded or shielded to prevent either the spillage of lumens or reflection into the sky. Outdoor lighting shall be downward facing.

2. The following uses shall be prohibited:

   (a) Any use which would direct a steady light or flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than an FAA-approved navigational signal light or visual approach slope indicator.

   (b) Any use which would cause sunlight to be reflected towards an aircraft engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.

   (c) Any use which would generate smoke or water vapor, or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area. (Such uses include landscaping utilizing water features, aquaculture, production of cereal grains, sunflower, and row crops, composting operations, trash transfer stations that are open on one or more sides, recycling centers containing putrescible wastes, construction and demolition debris facilities, fly ash disposal, and incinerators.)

   (d) Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.

3. Prior to issuance of any building permits, if required by the applicable Airport Land Use Compatibility Plan, the landowner shall convey and have recorded an avigation easement to the March Inland Port Airport Authority. Contact March Joint Powers Authority at (951) 656-7000 for additional information.

4. The attached notice shall be provided to all potential purchasers and/or tenants of the property.

5. Any new retention basins on the site shall be designed so as to provide for a maximum 48-hour detention period following the conclusion of the storm event for the design storm (may be less, but not more), and to remain totally dry between rainfalls. Vegetation in and around the retention basin(s) that would provide food or cover for bird species that would be incompatible with airport operations shall not be utilized in project landscaping.

1.2 These are closing statements that do not require a response.

Comment Letter No. 2

Komalpreet Toor, Legal Assistant
Lozeau Drury, LLP (12-5-2019)

From: Komalpreet Toor <komal@lozeaudrury.com>
Sent: Thursday, December 5, 2019 11:35 AM
To: Manny Baeza <mbaeza@cityofmenifee.us>
Cc: Stacey Oborne stacey@lozeaudrury.com>
Subject: Questions re Palomar Crossings

Good morning Mr. Baeza,

I was hoping you could provide some clarification regarding the project known as Palomar Crossings. In an email to my colleague, Stacey Oborne, in Sept. you said that there is not a specific project associated with the land use changes. However, from reviewing the NOA & DEIR for the project it seems like a mix of residential and commercial development is being proposed. Is this understanding correct? If so I have the following questions: 2.1

- How many residential buildings are being proposed?
- How many stories/levels will the residential buildings be?
- What kind of parking is proposed (ie surface lot, subterranean, parking structure...)?

Thank you in advance for your help, any information you can provide would be greatly appreciated. 2.2

Best regards,
Komal

--
Komalpreet Toor
Legal Assistant
Lozeau | Drury LLP
1939 Harrison Street, Suite 150
Oakland, CA 94612
(510) 836-4200
(510) 836-4205 (fax)
Komal@lozeaudrury.com

On Mon, Dec 9, 2019 at 1:33 PM Manny Baeza <mbaeza@cityofmenifee.us> wrote:
Good Afternoon,

There is no project being proposed at this time. The project consists of a land use change within an existing Specific Plan. The 246,312 square feet of commercial uses and 637 multi-family dwelling units was used for the purpose of analysis only allowing for environmental clearance of future projects falling within these limits. At this time we do not know the number of buildings, stories of building or what type of parking will be used. I hope this answers your questions. 2.3

Thanks, Manny

Manny Baeza, | Senior Planner
Community Development Department
City of Menifee | 29844 Haun Road | Menifee, CA 92586 (*Please note our new location!)
Direct: (951) 723-3742 | City Hall: (951) 672-6777 | Fax: (951) 679-3843
mbaeza@cityofmenifee.us | cityofmenifee.us

From: Komalpreet Toor <komal@lozeaudrury.com>
Sent: Tuesday, December 10, 2019 12:25 PM
To: Manny Baeza <mbaeza@cityofmenifee.us>
Cc: Stacey Oborne <stacey@lozeaudrury.com>
Subject: Re: Questions re Palomar Crossings

CAUTION: This email originated from outside of the organization. Do not click on any links or open attachments unless your recognize the sender and know the content is safe.

Thank you very much; this information is very helpful. In the future when your department receives a new application, will CEQA review be conducted again? 2.4

On Tue, Dec 10, 2019 at 2:30 PM Manny Baeza <mbaeza@cityofmenifee.us> wrote:

Good Afternoon,

The level of environmental review will be determined at the time the new application is filed with the City. Should the scope of the new project fall within the limits of the project used for the EIR analysis with regard to number of dwelling units or square footage a subsequent CEQA review may not be conducted. 2.5

Thank you,

Manny Baeza, | Senior Planner
Community Development Department
City of Menifee | 29844 Haun Road | Menifee, CA 92586 (*Please note our new location!)
Direct: (951) 723-3742 | City Hall: (951) 672-6777 | Fax: (951) 679-3843
mbaeza@cityofmenifee.us | cityofmenifee.us

From: Komalpreet Toor <komal@lozeaudrury.com>
Sent: Tuesday, December 10, 2019 3:03 PM
To: Manny Baeza <mbaeza@cityofmenifee.us>
Subject: Re: Questions re Palomar Crossings

Thank you very much for this information. 2.6

Best,
Komal

Responses Comment Letter No. 2

2.1 This information is contained within the DEIR, as well as the Menifee North Specific Plan Amendment (DEIR Appendix K and, as updated, Appendix B of this Final EIR) In addition, please see Response to Comment 2.3.

2.2 These are closing statements that do not require a response.

2.3 This is the e-mail response from the Project Planner providing the requested information and do not require a response, however, to clarify further, as stated on p. 3-3 of the DEIR, as well as throughout the DEIR: "Upon approval of SPA 260, A3, total dwelling unit count shall increase by 721 units, based on maximum potential dwelling units in Planning Areas 11 and 12. It should be noted that, as a worst-case scenario, 246,312 square feet of commercial uses and 637 multi-family dwelling units were utilized in the analysis of this DEIR." This defines the parameters of the Project and the number of units that were utilized for the technical studies for the Project. Additional clarifying text has also been added to this Final EIR, Section 3.0, Errata.

2.4 Per the Project Planner's responses, the level of environmental review will be determined at the time the new application is filed with the City. Should the scope of the new project fall within the limits of the project used for the EIR analysis with regard to number of dwelling units or square footage a subsequent CEQA review may not be conducted.

2.5 This is the e-mail response from the Project Planner providing the requested information, see Response to Comment 2.4.

2.6 These are closing statements that do not require a response.

Comment Letter No. 3

Lacy Padilla, Archaeologist
Agua Caliente Band of Cahuilla Indians (12-13-2019)

AGUA CALIENTE BAND OF CAHUILLA INDIANS

TRIBAL HISTORIC PRESERVATION

03-057-2015-006

December 13, 2019

[VIA EMAIL TO:mbaeza@cityofmenifee.us]
City of Menifee
Mr. Manny Baeza
29714 Haun Road
Menifee, CA 92586

Re: TR 2015-211

Dear Mr. Manny Baeza,

The Agua Caliente Band of Cahuilla Indians (ACBCI) appreciates your efforts to include the Tribal Historic Preservation Office (THPO) in the TR 2015-211 TTM 36911 project. We have reviewed the documents and have the following comments: 3.1

*We find the Conditions of Approval to be adequate for this project.

Again, the Agua Caliente appreciates your interest in our cultural heritage. If you have questions or require additional information, please call me at (760)699-6956. You may also email me at ACBCI-THPO@aguacaliente.net. 3.2

Cordially,

Lacy Padilla
Archaeologist
Tribal Historic Preservation Office
AGUA CALIENTE BAND
OF CAHUILLA INDIANS

5401 DINAH SHORE DRIVE, PALM SPRINGS, CA 92264
T 760/699/6800 F 760/699/6924 WWW.AGUACALIENTE-NSN.GOV

Responses Comment Letter No. 3

3.1 Comment noted; the Project has been reviewed and the conditions found to be adequate.

3.2 These are closing statements that do not require a response.

Comment Letter No. 4

Cheryl Madrigal, Tribal Historic Preservation Officer, Cultural Resources Manager
Rincon Band of Luiseño Indians (12-24-2019)

RINCON BAND OF LUISEÑO INDIANS
Cultural Resources Department
One Government Center Lane · Valley Center, California 92082 ·
(760) 297-2635 Fax:(760) 749-8901

December 24, 2019

Sent via email:
mbaeza@cityofmenifee.us

City of Menifee
Attn.: Manny Baeza
29844 Huan Road
Menifee, CA 92586

Re: Menifee North Specific Plan 260, Amendment No. 3, (SPA 2010-090); Palomar Crossings; State Clearinghouse Number #2019029123

Dear Mr. Baeza,

This letter is written on behalf of the Rincon Band of Luiseño Indians ("Rincon Band" or "Band"), a federally recognized Indian Tribe and sovereign government. If you have not done so already, please include the Band on all distribution lists for environmental document reviews and notices for public hearings and scheduled approvals. 4.1

The Rincon Band has received the Notice of Availability of Draft Environmental Impact Report (EIR) for the above referenced project. The Rincon Band wishes to inform the City of Menifee that the location identified within the EIR is situated within the Territory of the Luiseño people and within the Band's specific Area of Historic Interest (AHI). As such, Rincon is traditionally and culturally affiliated to the project area. 4.2

We have reviewed the provided EIR and have the following recommendation under Section 4.15.4 Potential Impacts which included Mitigation Measures SC-CUL-6 and SC-CUL 7 and require tribal monitoring for any ground-disturbing activities. However, the EIR states that *"In the event that archeological materials are uncovered during ground-disturbing activities, Standard Conditions SC-CUL-2 through SC-CUL-8 shall be implemented…"* Rincon recommends that Luiseño Tribal Monitoring also be included for ground disturbances that extends beyond previously disturbed depths, and not only upon cultural resource discoveries and determination of potential significance, as the EIR implies. Having a Luiseño Tribal Monitor would not only save time upon discovery of cultural resources, but the determination of potential significance would be made in consultation with the Luiseño tribal monitor who has knowledge pertaining to the cultural significance of Luiseño cultural material. 4.3

We do request that the Rincon Band be notified of any changes in project plans. In addition, we request a copy of the final monitoring report, when available. 4.4

The Rincon Band reserves its right to continue to fully participate in the environmental review process and to review and submit additional information during the public review process. If you have additional questions or concerns, please do not hesitate to contact our office at your convenience at (760) 297-2635 or via electronic mail at cmadrigal@rincon-nsn.gov. 4.5

Thank you for the opportunity to protect and preserve our cultural assets. 4.6

Bo Mazzetti, Tribal Chairman | Tishmall Turner, Vice Chairwoman | Steve Stallings, Council Member | Laurie E. Gonzalez, Council Member | Alfonso Kolb, Council Member

RINCON BAND OF LUISEÑO INDIANS
Cultural Resources Department
One Government Center Lane · Valley Center, California 92082 ·
(760) 297-2635 Fax:(760) 749-8901

Sincerely,

Cheryl Madrigal
Tribal Historic Preservation Officer
Cultural Resources Manager

From: Cheryl Madrigal <CMadrigal@rincon-nsn.gov>
Sent: Tuesday, December 24, 2019 10:39 AM
To: Manny Baeza <mbaeza@cityofmenifee.us>
Cc: Deneen Pelton <DPelton@rincon-nsn.gov>
Subject: FW: Menifee North Specific Plan 260

Dear Manny,

My apologies. I corrected the document but accidently sent you both letters with my last email. | 4.7

Rincon does not request to monitor the above mentioned project. I have attached the correct letter for your reference. | 4.8

Thank you so much and sorry for the inconvenience | 4.9

Cheryl

Cheryl Madrigal
Cultural Resources Manager
Tribal Historic Preservation Officer
Cultural Resources Department
Rincon Band of Luiseño Indians
1 West Tribal Road | Valley Center, CA 92082
Office:760-297-2635 ext. 323|Cell: 760-648-3000
Fax: 760-749-8901
Email: cmadrigal@rincon-nsn.gov

From: Cheryl Madrigal
Sent: Tuesday, December 24, 2019 10:36 AM
To: 'mbaeza@cityofmenifee.us' <mbaeza@cityofmenifee.us>
Cc: Deneen Pelton (DPelton@rincon-nsn.gov) <DPelton@rincon-nsn.gov>
Subject: Menifee North Specific Plan 260

Dear Manny,

Please see attached response letter to above mentioned project. If you have any questions or comments, please contact us. | 4.10

Thank you for the opportunity to protect our cultural assets. | 4.11

Cheryl

Cheryl Madrigal
Cultural Resources Manager
Tribal Historic Preservation Officer
Cultural Resources Department
Rincon Band of Luiseño Indians
1 West Tribal Road | Valley Center, CA 92082
Office:760-297-2635 ext. 323|Cell: 760-648-3000
Fax: 760-749-8901
Email: cmadrigal@rincon-nsn.gov

Responses to Comment Letter No. 4

4.1 Comment noted; Rincon is included on the distribution list for the Project.

4.2 Comment noted; the Project site is within the Territory of the Luiseño people.

4.3 As clarification, Standard Conditions SC-CUL-6 and SC-CUL-7 already require Tribal Monitors be on-site during all ground-disturbing activities. As stated within SC-CUL-6 (p. 4.6-30 of the DEIR):

"Native American Monitoring [Pechanga]). Tribal monitor(s) shall be required on-site during all ground-disturbing activities, including grading, stockpiling of materials, engineered fill, rock crushing, etc. The land divider/permit holder shall retain a qualified tribal monitor(s) from the Pechanga Band of Luiseño Mission Indians."

As stated within SC-CUL-7 (pp. 4.6-30 and 4.6-31 of the DEIR):

"(Native American Monitoring [Soboba]). Tribal monitor(s) shall be required on-site during all ground-disturbing activities, including grading, stockpiling of materials, engineered fill, rock crushing, etc. The land divider/permit holder shall retain a qualified tribal monitor(s) from the Soboba Band of Luiseño Indians."

This will provide monitoring by a Luiseño Tribal Monitor in the event that any inadvertent discoveries are made at any depth of disturbance.

4.4 It should be noted that SC-CUL-2 through -8 apply only when cultural materials are found during excavation, and both SC-CUL-6 and SC-CUL-7 require monitoring of all ground-disturbing activities which would include depths not previously disturbed. Rincon will continue to receive notices for the Project and the final monitoring report, once available, as required by Standard Condition SC-CUL-8. SC-CUL-8 has been revised to provide clarification on which Tribes shall specifically be provided with copies of reports. Please see Section 3.0, Errata, of this Final EIR.

4.5 Comment noted; these comments are informational and do not require a response.

4.6 These are closing statements that do not require a response.

4.7 Comment noted; these are informational statements that do not require a response.

4.8 Comment noted; these are informational statements that do not require a response.

4.9 These are closing statements that do not require a response.

4.10 Comment noted; these are informational statements that do not require a response.

4.11 These are closing statements that do not require a response.

Comment Letter No. 5

Adria Reinertson, Deputy Fire Marshal
Riverside County Fire Department (1-8-2020)

From: Reinertson, Adria@CALFIRE <Adria.Reinertson@fire.ca.gov>
Sent: Wednesday, January 8, 2020 9:30 AM
To: Manny Baeza <mbaeza@cityofmenifee.us>
Subject: Palomar Crossings DEIR A3

Good morning Manny. I have reviewed Amendment 3 of the Palomar Crossings DEIR and am satisfied with the response from my previous comments. I do not have any further comments at this time. Thank you. 5.1

Adria Reinertson
Deputy Fire Marshal/Office of the Fire Marshal
CAL FIRE/Riverside County Fire Department
Direct: 951-955-5272 | Main: 951-955-4777
2300 Market St., Ste 150, Riverside, CA 92501
adria.reinertson@fire.ca.gov | www.rvcfire.org

■ Leadership ■ Competence ■ Integrity ■ Safety ■ Customer Service ■

The Office of the County Fire Marshal is committed to facilitating fire and life safety solutions by empowering its employees to serve our community through innovation and partnership.

Responses to Comment Letter No. 5

5.1 The commenter has no comments on the DEIR; no response is required.

Comment Letter No. 6

Lijin Sun, J.D. – Program Supervisor, CEQA IGR
South Coast Air Quality Management District (1-21-2020)

South Coast
Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

SENT VIA E-MAIL AND USPS:
mbaeza@cityofmenifee.us
Manny Baeza, Senior Planner
City of Menifee, Community Development Department
29844 Haun Road
Menifee, CA 92586

January 21, 2020

Draft Environmental Impact Report (Draft EIR) for the Proposed Menifee North Specific Plan 260, Amendment No. 3 "Palomar Crossings" Project (SCH No.: 2019029123)

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the Lead Agency and should be incorporated into the Final EIR. 6.1

South Coast AQMD Staff's Summary of Project Description and Health Risk Assessment Analysis
The Lead Agency proposes to construct and operate 637 residential units and 246,312 square feet of commercial uses on 53.88 acres (Proposed Project). The Proposed Project is located on the northeast corner of Palomar Road and State Route (SR) 74 within the City of Menifee. Construction of the Proposed Project will occur over a four-year period from 2019 through 2022[1]. It is anticipated that the Proposed Project will become operational by 2023[2]. Upon reviews of Figure 2-3: *Aerial Photo*[3] in the Draft EIR and Appendix P: *Health Risk Assessment* of the Draft EIR, South Coast AQMD staff found that SR-74 is within 400 feet of the residential portion of the Proposed Project[4]. 6.2

The Lead Agency prepared a Health Risk Assessment analysis to disclose potential health risks for receptors living in close proximity to SR-74. The Lead Agency found that over a lifetime exposure period of 30 years, the maximum unmitigated cancer risk from the surrounding high-volume freeway would be 3.9 in one million[5], which would not exceed South Coast AQMD's CEQA significance threshold of 10 in one million for cancer risk[6]. 6.3

South Coast AQMD Staff's Comments

Siting Sensitive Receptors near Freeways and Other Sources of Air Pollution

Notwithstanding the court rulings, South Coast AQMD staff recognizes that Lead Agencies that approve CEQA documents retain the authority to include any additional information they deem relevant to assessing and mitigating the environmental impacts of a project. Because of South Coast AQMD's concern about the potential public health impacts of siting sensitive populations within close proximity to major sources of air pollution, such as high-volume freeways, South Coast AQMD staff recommends that 6.4

[1] Draft EIR. Chapter 3. Project Description. "3.4.4.1 Project Grading" Page 3-17.
[2] *Ibid.*
[3] Draft EIR. Chapter 2. Introduction. Figure 2-3: *Aerial Photo.* Page 2-5.
[4] Draft EIR. Appendix P: *Health Risk Assessment*. Page 2.
[5] *Ibid.* Page 19, 28.
[6] South Coast AQMD has developed the CEQA significance threshold of 10 in one million for cancer risk. When South Coast AQMD acts as the Lead Agency, South Coast AQMD staff conducts a HRA, compares the maximum cancer risk to the threshold of 10 in one million to determine the level of significance for health risk impacts, and identifies mitigation measures if the risk is found to be significant.

the Lead Agency review and consider the following comments when making local planning and land use decisions. 6.4 cont.

Sensitive receptors are people that have an increased sensitivity to air pollution or environmental contaminants. Sensitive receptors include schools, daycare centers, nursing homes, elderly care facilities, hospitals, and residential dwelling units. As stated above, the Proposed Project will include, among others, construction of 637 residential units within 400 feet of existing SR-74[7]. In 2016, SR-74 had 21,000 annual average daily trips, 23% of which was comprised of 4- and 5-axle trucks at Junction Route 215 (Post Mile 27.53)[8]. Sensitive receptors living at the Proposed Project could be exposed to diesel particulate matter (DPM) emissions from diesel fueled, heavy-duty trucks passing by on SR-74. The California Air Resources Board (CARB) has identified DPM as a toxic air contaminant based on its carcinogenic effects[9]. Since future residents at the Proposed Project could be exposed to DPM emissions from the mobile sources traveling on SR-74 (e.g., diesel fueled, heavy-duty trucks), South Coast AQMD staff recommends that the Lead Agency consider to incorporate the following health risk reduction strategies at the new residential development, at a minimum, when making local planning and land use decisions. 6.5

Health Risk Reduction Strategies

Many strategies are available to reduce exposure, including, but not limited to, building filtration systems with Minimum Efficiency Reporting Value (MERV) 13 or better, or in some cases, MERV 15 or better is recommended; building design, orientation, location; vegetation barriers or landscaping screening, etc. Enhanced filtration units are capable of reducing exposures. Installation of enhanced filtration units can be verified during occupancy inspection prior to the issuance of an occupancy permit. 6.6

Enhanced filtration systems have limitations. In a study that South Coast AQMD conducted to investigate filters[10], a cost burden is expected to be within the range of $120 to $240 per year to replace each filter. The initial start-up cost could substantially increase if an HVAC system needs to be installed. In addition, because the filters would not have any effectiveness unless the HVAC system is running, there may be increased energy costs to the building tenants. It is typically assumed that the filters operate 100 percent of the time while sensitive receptors are indoors, and the environmental analysis does not generally account for the times when sensitive receptors have windows or doors open or are in common space areas of a project. Moreover, these filters have no ability to filter out any toxic gases from vehicle exhaust. Therefore, the presumed effectiveness and feasibility of any filtration units should be carefully evaluated in more detail and disclosed to prospective residences prior to assuming that they will sufficiently alleviate exposures to DPM emissions. 6.7

Because of limitations, to ensure that enhanced filters are enforceable throughout the lifetime of the Proposed Project and effective in reducing exposures to DPM emissions, South Coast AQMD staff recommends that the Lead Agency provide additional details regarding the ongoing, regular maintenance, and monitoring of filters in the Final EIR. To facilitate a good-faith effort at full disclosure and provide useful information to residents who will live at the Proposed Project, which is in close proximity to SR-74, at a minimum, the Final EIR should include the following information: 6.8

[7] Draft EIR. Appendix P: *Health Risk Assessment*. Page 2.
[8] California Department of Transportation. 2016. *Truck Traffic: Annual Average Daily Truck Traffic*. Accessed at: https://dot.ca.gov/-/media/dot-media/programs/traffic-operations/documents/f0017681-2016-aadt-truck-a11y.pdf
[9] California Air Resources Board. August 27, 1998. Resolution 98-35. Accessed at: http://www.arb.ca.gov/regact/diesltac/diesltac.htm.
[10] This study evaluated filters rated MERV 13 or better. Accessed at: http://www.aqmd.gov/docs/default-source/ceqa/handbook/aqmdpilotstudyfinalreport.pdf. Also see 2012 Peer Review Journal article by South Coast AQMD: http://d7.iqair.com/sites/default/files/pdf/Polidori-et-al-2012.pdf.

- Disclose the potential health impacts to residents who live in a close proximity to sources of air pollution (e.g., high-volume freeway, etc.) and the reduced effectiveness of the air filtration system when windows are open and/or when students, staff, and/or residents are outdoors (e.g., in the common usable open space areas); 6.8i
- Identify the responsible implementing and enforcement agency such as the Lead Agency, Homeowners Association (HOA), property manager(s), and/or building operator(s)/tenant(s) to ensure that enhanced filtration units are installed on-site at the Proposed Project before a permit of occupancy is issued; 6.8ii
- Identify the responsible implementing and enforcement agency, such as the Lead Agency, HOA, property manager(s), and/or building operator(s)/tenant(s) to ensure that enhanced filtration units are inspected and maintained regularly; 6.8iii
- Disclose the potential increase in energy costs for running the HVAC system to the HOA representatives, prospective residents, property manager(s), and/or building operator(s)/tenant(s); 6.8iv
- Provide information to the HOA representatives, prospective residents, property manager(s), and/or building operator(s)/tenant(s) on where the MERV filers can be purchased; 6.8v
- Provide recommended schedules (e.g., every year or every six months) for replacing the enhanced filtration units; 6.8vi
- Identify the responsible entity, such as the Lead Agency, the HOA, residents themselves, or property management, for ensuring enhanced filtration units are replaced on time, if appropriate and feasible (if the building operators/tenants and/ or residents should be responsible for the periodic and regular purchase and replacement of the enhanced filtration units, the Lead Agency should include this information in the disclosure form); 6.8vii
- Identify, provide, and disclose ongoing cost sharing strategies, if any, for replacing the enhanced filtration units; 6.8iii
- Set City-wide, or Proposed Project-specific criteria for assessing progress in installing and replacing the enhanced filtration units; and 6.8ix
- Develop a City-wide, or Proposed Project-specific process for evaluating the effectiveness of the enhanced filtration units. 6.8x

Conclusion

Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), South Coast AQMD staff requests that the Lead Agency provide South Coast AQMD staff with written responses to all comments contained herein prior to the certification of the Final EIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and to the public who are interested in the Proposed Project. 6.9

Manny Baeza January 21, 2020

South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Alina Mullins, Assistant Air Quality Specialist, at amullins@aqmd.gov or (909) 396-2402, should you have any questions. 6.10

Sincerely,

Lijin Sun

Lijin Sun, J.D.
Program Supervisor, CEQA IGR
Planning, Rule Development & Area Sources

LS:AM
RVC191203-02
Control Number

4

Responses to Comment Letter No. 6

6.1 These are introductory statements that do not require a response.

6.2 This is a summary of the Project Description and the location of the sensitive receptors. No response is required. However, to clarify, there is no development project that will be constructed or operated at this time. The 637 du and 246,312 sf commercial is for analysis of the Specific Plan Amendment, which is the current "Project".

6.3 Comment noted; this comment reiterates Health Risk Assessment (HRA) information. No response is required.

6.4 Comment noted; these are informational statements that do not require a response.

6.5 Comment noted; these are informational statements that do not require a response.

6.6 Comment noted; these are informational statements that do not require a response.

6.7 Comment noted; these are informational statements that do not require a response.

6.8 and 6.8.i through 6.8.x

The HRA study found the cancer risk to all age groups analyzed (adult, 3rd trimester, child and infant) to be less than the 10 in a million threshold (estimated to be 3.9 in a million), thus concluding that that the Project site will not be impacted by toxic air contaminant (TAC) emissions from SR-74. Diesel particulate impacts are considered to be less than significant.

Additionally, the non-carcinogenic hazards to all age groups, would be less than the established Hazard Index increase of 1.0 or greater (estimated to be 0.0233). Therefore, the proposed Project would have a less than significant impact due to the non-cancer risk from diesel emissions from the adjacent SR-74 roadway.

As a result, no additional mitigation measures or advanced filtration systems would be required.

6.9 Comment noted; written responses are being provided for review prior to adoption of the Final EIR.

6.10 These are informational/closing statements that do not require a response.

Comment Letter No. 7

Loretta Domenigoni, Park Planner
Valley-Wide Recreation and Park District (1-21-2020)

VALLEY-WIDE
RECREATION AND PARK DISTRICT
GoRecreation.org
AWARD WINNING CALIFORNIA PARKS

BOARD OF DIRECTORS
Nick Schouten
President
John Bragg
Vice President
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Noah Rau
Member
Dean Wetter
General Manager

January 21, 2020

Manny Baeza, Senior Planner
City of Menifee Community Development Department
29714 Haun Road
Menifee, CA 92586

RE: DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) – STATE CLEARINGHOUSE NO. 2019029123 – MENIFEE NORTH SPECIFIC PLAN 260 AMENDMENT NO. 3 – PALOMAR CROSSINGS – AGENCY RESPONSE

Dear Mr. Baeza:

Valley-Wide Recreation and Park District ("Valley-Wide") has reviewed the DEIR for the above-referenced project. Our agency strongly believes that it is in the best interest of the community and residents in this area that the City of Menifee impose the conditions mentioned in our March 27, 2019 letter (attached) in response to this Project's Notice of Preparation to address significant adverse impacts of the project on parks, recreation, and open-space and to ensure that the City complies with the requirements of the California Environmental Quality Act (CEQA). 7.1

The response issued on page "Recreation 4.12-2" of the DEIR states, "In order to mitigate any Project impacts that would increase the use of *existing neighborhood and regional parks or other recreational facilities* such that physical deterioration of the facility would occur or be accelerated, the Project would be required to pay in-lieu fees in to the City of Menifee…". But this proposed mitigation will not adequately mitigate the project's significant adverse impacts on existing parks and recreational activities — because *Valley-Wide,* not the City of Menifee, maintains and operates most of the existing nearby parks and recreational facilities that will serve the project. This includes the Marion V. Ashley Community Center and Park, 1.5 miles east of the project; the Eller Park, 0.75 miles west, of the Project; and 22 other parks and recreation facilities in the Menifee area, east of the 215 Freeway, all within eight miles of the project. By contrast, the nearest City of Menifee park is the Rancho Ramona Park which lies approximately four miles away. 7.2

These in-lieu, park-related fees should be paid to whomever operates the financing district and provides parks and recreational services in the vicinity that would be 7.3

District Office • 901 West Esplanade Avenue • San Jacinto, CA 92582 • (951) 654-1505 • Fax (951) 654-5279
Menifee Wheatfield Park Office • 30627 Menifee Road • Menifee, CA 92584 • (951) 672-6744 • Fax (951) 672-6740
Rancho Bella Vista Community Center • 31757 Browning Street • Murrieta, CA 92563 • (951) 894-1468 • Fax (951) 894-1470

impacted most by the increase in population of this Project. In other words, they must be paid to Valley-Wide. 7.3 cont.

To best address the issues raised above, we encourage the City of Menifee to work with Valley-Wide. Please contact our office at (951) 654-1505 to discuss our concerns further. 7.4

Sincerely,

Loretta Domenigoni, Park Planner
Valley-Wide Recreation and Park District

Attachment: March 27, 2019 Response Letter to the NOP

VALLEY-WIDE
RECREATION AND PARK DISTRICT

GoRecreation.org
AWARD WINNING CALIFORNIA PARKS

BOARD OF DIRECTORS
Nick Schouten
President
John Bragg
Vice President
Jan Bissell
Secretary
Steve Simpson
Member
Noah Rau
Member
Dean Wetter
General Manager

March 27, 2019

Manny Baeza
City of Menifee Community Development Department
29714 Haun Road
Menifee, CA 92586

RE: NOTICE OF PREPARATION (NOP) FOR NO. PLANNING APPLICATION 2010-090 – MENIFEE NORTH SPECIFIC PLAN 260, AMENDMENT NO (SPA) 3 – PALOMAR CROSSING - AGENCY RESPONSE

Dear Mr. Baeza:

Valley-Wide Recreation and Park District ("Valley-Wide") has reviewed the NOP for the above referenced project. We are pleased that the City is preparing an EIR. 7.5

Because this project is located within Valley-Wide's sphere of influence as determined by the Riverside Local Agency Formation Commission, it is within Valley-Wide's probable physical boundaries and probable service area. Accordingly, Valley-Wide respectfully requests that the City impose the following conditions during the entitlement process of the project to address project impacts on parks, recreation, and open-space:

1. The project shall annex into Valley-Wide's Menifee North Park Community Facilities District for landscape maintenance of all parkways, parks, detention basins, and other open-space lots located within Valley-Wide's boundaries.

2. All landscaped areas, including parks, shall be constructed per Valley-Wide standards, and all areas of proposed landscape maintenance shall be identified as a numbered or lettered lot. Each of these lots shall be either dedicated in fee to Valley-Wide or made subject to an easement to Valley-Wide for open-space landscape maintenance. 7.6

3. Prior to any Tentative Tract Map approval, a Preliminary Maintenance Exhibit (PME) shall be reviewed and approved by Valley-Wide.

4. Prior to any Tentative Tract Map approval, a Preliminary Park Concept (PPC) shall be reviewed and approved by Valley-Wide.

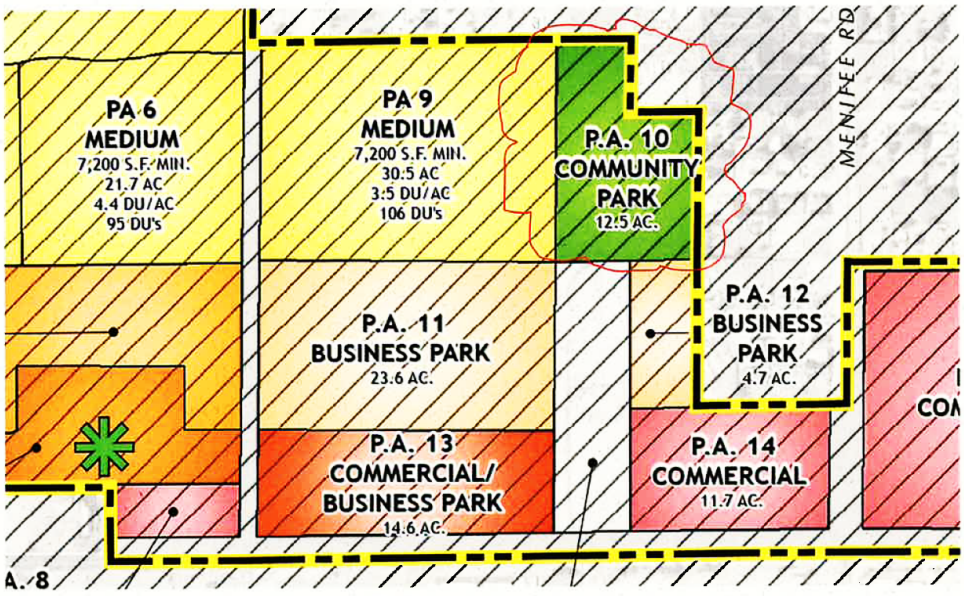
5. Prior to map recordation, a park agreement for construction of parks between the developer and Valley-Wide shall be executed.

District Office • 901 West Esplanade Avenue • San Jacinto, CA 92582 • (951) 654-1505 • Fax (951) 654-5279
Menifee Wheatfield Park Office • 30627 Menifee Road • Menifee, CA 92584 • (951) 672-6744 • Fax (951) 672-6740
Rancho Bella Vista Community Center • 31757 Browning Street • Murrieta, CA 92563 • (951) 894-1468 • Fax (951) 894-1470

Palomar Crossings
March 27, 2019
Page 2

In addition, according to the February 2019 Initial Study, this project will have up to 637 multi-family dwelling units with a population of 1,924 persons (the Initial Study assumes 3.02 persons per household). The developer will therefore be required to provide 9.6 acres of active, useable park built to Valley-Wide's standards. Project approvals should expressly require this.

Moreover, the Initial Study assumes that any proposed specific plan amendments would not impact the 12.5 Acre Community Park (PA 10) shown on the previously approved Specific Plan No. 260 Amendment No. 2, Substantial Conformance No. 1. (see below). Please ensure that this is so.



To best address the issues raised above, Valley-Wide encourages the developer to contact us directly regarding the development of this project, to ensure that Valley-Wide standards are met.

7.6 cont.

Please note that our 2012 Standards and Specifications are available for free online at www.GoRecreation.org. Should you have any questions, please feel free to contact me at (951) 654-1505.

7.7

Sincerely,

Loretta Domenigoni, Park Planner
Valley-Wide Recreation and Park District

Responses to Comment Letter No. 7

7.1 Comment noted; the conditions suggested by Valley-Wide Recreation and Park District (Valley-Wide) are normally required at the mapping stage, if the City deems the conditions applicable. See Response to Comment 7.6.

7.2 Comment noted. In-lieu park fees shall be paid to the entity that maintains and operates most of the existing nearby parks at the time fees are due for this Project.

7.3 Comment noted. In-lieu, park-related fees shall be paid according to the appropriate entity at the time fees are due for this Project.

7.4 Comment noted; the City of Menifee will continue to work with Valley-Wide.

7.5 These are introductory statements that do not require a response.

7.6 This Letter was re-sent to the City of Menifee on 1-21-2020 and is a duplicate of the Letter the City received in March of 2019 when the Initial Study for the Project was circulated for public review (February 26, 2019 to March 27, 2019). The comments within this Letter were addressed in the Recreation Subchapter of the EIR (page 4.12-2) that was circulated for public review (December 3, 2019 to January 21, 2020), and are provided below, for ease of reference:

> ***Comment Letter # 7*: Valley-Wide Recreation and Park District (Valley-Wide) (dated 03/27/19) states:**
>
> - This project is located within Valley-Wide's sphere of influence. Valley-Wide respectfully requests that the City impose the following conditions during the entitlement process of the project to address project impacts on parks, recreation, and open-space:
> - The project shall annex into Valley-Wide's Menifee North Park Community Facilities District for landscape maintenance of all parkways, parks, detention basins, and other open-space lots located within Valley-Wide's boundaries.
> - All landscaped areas, including parks, shall be constructed per Valley-Wide standards, and all areas of proposed landscape maintenance shall be identified as a numbered or lettered lot. Each of these lots shall be either dedicated in fee to Valley-Wide or made subject to an easement to Valley-Wide for open-space landscape maintenance.
> - Prior to any Tentative Tract Map approval, a Preliminary Maintenance Exhibit (PME) shall be reviewed and approved by Valley-Wide.
> - Prior to any Tentative Tract Map approval, a Preliminary Park Concept (PPC) shall be reviewed and approved by Valley-Wide.
> - Prior to map recordation, a park agreement for construction of parks between the developer and Valley-Wide shall be executed.
> - The developer will be required to provide 9.6 acres of active, useable park built to Valley- Wide's standards. Project approvals should expressly require this.
> - The Initial Study assumes that any proposed specific plan amendments would not impact the 12.5 Acre Community Park (PA 10) shown on the

previously approved Specific Plan No. 260 Amendment No. 2, Substantial Conformance No. 1.; please ensure that this is so.

- To best address the issues raised above, Valley-Wide encourages the developer to contact them directly regarding the development of this Project, to ensure that Valley-Wide standards are met.

Response: These comments pertain to the implementing projects within the Specific Plan. They are noted and are typical conditions of approval for Tentative Tract Maps. The Project will provide private recreation facilities. The following is the formula use to determine the recreational facilities generated by a Project residential population of 1,760 residents, at 5 acres per 1,000 residents:

637 units x 2.763 persons/house = 1,760 residents
(1,760/1000) x 5 = 8.80 acres

*In order to mitigate any Project impacts that would increase the use of existing neighborhood and regional parks or other recreational facilities such that physical deterioration of the facility would occur or be accelerated, the Project would be required to pay in-lieu fees in to the City of Menifee order to comply with the Quimby Act (as implemented under Municipal Code Section 9.55) (**Standard Condition SC-REC-1** (**Standard Condition SC-PS-5**), as outlined in Subsection 4.12.5). Per Section 9.55, these fees are to be used only for the purposes of developing new or rehabilitating existing neighborhood or community park or recreational facilities. The Project will not impact the 12.5 acre Community Park (PA 10). It should be noted that although the Project is currently located within Valley-Wide's sphere of influence, the City has submitted a detachment application to the Riverside Local Agency Formation Commission and the matter is under litigation.*

Standard Condition SC-PS-5 is provided below.

SC-PS-5 Prior to final inspection/occupancy, the Project applicant shall offer dedication of land and/or make in-lieu payment of Quimby Fees for park or recreational purposes shall be at the rate of five acres per 1,000 residents.

Note: Standard Condition SC-REC-1 is a typographical error in the DEIR text provided above and is being deleted in the Errata Section of this Final EIR as the impact will be addressed by **SC-PS-5**.

7.7 These are closing statements that do not require a response.

Comment Letter No. 8

Mitchell M. Tsai, Attorney
Southwest Regional Council of Carpenters (1-21-2020)
(Note: In an effort to conserve resources, the Exhibits attached to Comment Letter No. 8 are not included below; the entire Letter can be viewed in Appendix C attached to this Final EIR)

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Mitchell M. Tsai
Attorney At Law

155 South El Molino Avenue
Suite 104
Pasadena, California 91101

VIA U.S. MAIL & E-MAIL

January 21, 2020

City of Menifee
Menifee City Hall, Community Development Department
Attention: Manny Baeza, Senior Planner
29844 Haun Road
Menifee, CA 92586
Em: mbaeza@cityofmenifee.us

RE: Menifee North Specific Plan 260, Amendment No. 3 (2010-090), SCH No. 2019029123 ("Palomar Crossings")

Dear Mr. Baeza,

On behalf of the Southwest Regional Council of Carpenters (Collectively "**Commenter**" or "**Carpenters**"), my Office is submitting these comments on the County of San Diego's ("**County**" or "**Lead Agency**") Draft Environmental Impact Report ("**DEIR**" or "draft EIR") (SCH No. 2019029123) for Menifee North Specific Plan 260, Amendment No. 3 (2010-090) or "Palomar Crossings" Project ("**Project**"). 8.1

The Project involves a Specific Plan Amendment to the Menifee North Specific Plan No. 260 ("SP 260, A3"). DEIR, 1-1. SP260, A3 proposes modifications to the Specific Plan Land Use Plan Planning Areas (PA) to increase the total dwelling unit count *by 721 units*, by re-designating PA11 to Very High Density Residential and PA12 to Commercial / Very High-Density Residential. *Id.* 8.2

The Carpenters is a labor union representing 50,000 union carpenters in six states, including in southern California, and has a strong interest in well-ordered land use planning and addressing the environmental impacts of development projects. 8.3

Commenter expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121. 8.4

Commenter expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121. 8.5

Commenter incorporates by reference all comments raising issues regarding the EIR submitted prior to certification of the EIR for the Project. *Citizens for Clean Energy v City of Woodland* (2014) 225 CA4th 173, 191 (finding that any party who has objected to the Project's environmental documentation may assert any issue timely raised by other parties). 8.6

Moreover, Commenter requests that the Lead Agency provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act ("**CEQA**"), Cal Public Resources Code ("**PRC**") § 21000 *et seq*, and the California Planning and Zoning Law ("**Planning and Zoning Law**"), Cal. Gov't Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body. 8.7

I. EXPERTS

This comment letter includes comments from air quality and greenhouse gas experts Matt Hagemann, P.G., C.Hg. and Paul Rosenfeld, Ph.D. concerning the DEIR. Their comments, attachments, and Curriculum Vitae ("CV") are attached hereto and are incorporated herein by reference. 8.8

Matt Hagemann, P.G., C.Hg. ("Mr. Hagemann") has over 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Mr. Hagemann also served as Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closer. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. 8.9

For the past 15 years, Mr. Hagemann has worked as a founding partner with SWAPE (Soil/Water/Air Protection Enterprise). At SWAPE, Mr. Hagemann has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality, and greenhouse gas emissions. 8.10

Mr. Hagemann has a Bachelor of Arts degree in geology from Humboldt State University in California and a Masters in Science degree from California State University Los Angeles in California. 8.11

Paul Rosenfeld, Ph.D. ("Dr. Rosenfeld") is a principal environmental chemist at SWAPE. Dr. Rosenfeld has over 25 years' experience conducting environmental investigations and risk assessments for evaluating impacts on human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risks, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from unconventional oil drilling operations, oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, and many other industrial and agricultural sources. His project experience ranges from monitoring and modeling of pollution sources to evaluating the impacts of pollution on workers at industrial facilities and residents in surrounding communities. 8.12

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particular matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants, Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at dozens of sites and has testified as an expert witness on more than ten cases involving exposure to air contaminants from industrial sources. 8.13

Dr. Rosenfeld has a Ph.D. in soil chemistry from the University of Washington, M.S. in environmental science from U.C. Berkeley, and a B.A. in environmental studies from U.C. Santa Barbara. 8.14

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

A. Background Concerning the California Environmental Quality Act

CEQA has two basic purposes. First, CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project. 14 California Code of Regulations ("**CCR**" or "**CEQA Guidelines**") § 15002(a)(1). "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR 'protects not only the environment but also informed self-government.' [Citation.]" *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564. The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal. App. 4th 1344, 1354 (*"Berkeley Jets"*); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810. 8.15

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. CEQA Guidelines § 15002(a)(2) and (3). *See also, Berkeley Jets,* 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1988) 47 Cal.3d 376, 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to "identify ways that environmental damage can be avoided or significantly reduced." CEQA Guidelines § 15002(a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns" specified in CEQA section 21081. CEQA Guidelines § 15092(b)(2)(A–B). 8.16

While the courts review an EIR using an "abuse of discretion" standard, "the reviewing court is not to 'uncritically rely on every study or analysis presented by a 8.17

project proponent in support of its position.' A 'clearly inadequate or unsupported study is entitled to no judicial deference.'" *Berkeley Jets*, 91 Cal.App.4th 1344, 1355 (emphasis added) (quoting *Laurel Heights,* 47 Cal.3d at 391, 409 fn. 12). Drawing this line and determining whether the EIR complies with CEQA's information disclosure requirements presents a question of law subject to independent review by the courts. (*Sierra Club v. Cnty. of Fresno* (2018) 6 Cal. 5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131.) As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355: 8.17 cont.

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

The preparation and circulation of an EIR are more than a set of technical hurdles for agencies and developers to overcome. The EIR's function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Communities for a Better Environment v. Richmond* (2010) 184 Cal. App. 4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449–450). 8.18

B. <u>The DEIR Fails to Adequately Describe the Project</u>

Throughout the DEIR, it describes the Project as involving a Specific Plan Amendment (SPA 260, A3) which would increase the total dwelling unit count by 721 units, based on maximum potential dwelling units in Planning Areas 11 and 12. DEIR, p. 1-1. But curiously and contradictorily, the DEIR proceeds to state that "[i]t should be noted that, as a worst-case scenario, 246,312 square feet of commercial uses and 637 multi-family dwelling units were utilized in the analysis of this DEIR." *Id.* 8.19

It is well-established that "[a]n accurate, stable and finite project description is 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. "A curtailed, enigmatic or unstable project description draws a red herring across the path of public input." *Id.* at p. 198. 8.20

However, the DEIR does not clearly disclose the total dwelling units allowed under the Project, upon approval of the proposed Amendment and the proposed increase of 721 dwelling units. Based on Table 3-1, SPA260, A3 Land Use Summary, the total allowed dwelling units allowed under the Specific Plan will be 1506. DEIR, p. 3-4. If that is the case, it's not clear why the DEIR is using the worst-case scenario of 637 multi-family dwelling units in all of the analysis in the DEIR, which is even lower than the proposed increase of 721 units. 8.21

Thus, the DEIR fails to accurately describe the Project and as a result, fails to adequately analyze and mitigate its impacts. 8.22

Simply put, the entire DEIR fails to analyze the Project as proposed. The entire DEIR is deficient and fails to comply with CEQA. 8.23

C. The DEIR Provides Vague and Unenforceable Mitigation Measures and Improperly Defers Formulation and Imposition of Performance-Based Mitigation Measures

CEQA mitigation measures proposed and adopted into an environmental impact report are required to describe what actions will be taken to reduce or avoid an environmental impact. (CEQA Guidelines § 15126.4(a)(1)(B) [providing "[f]ormulation of mitigation measures should not be deferred until some future time."].) While the same Guidelines section 15126.5(a)(1)(B) acknowledges an exception to the rule against deferrals, but such exception is narrowly proscribed to situations where "measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way." (*Id.*) Courts have also recognized a similar exception to the general rule against deferral of mitigation measures where the performance criteria for each mitigation measure is identified and described in the EIR. (*Sacramento Old City Ass'n v. City Council* (1991) 229 Cal.App.3d 1011.) 8.24

Impermissible deferral can occur when an EIR calls for mitigation measures to be created based on future studies or describes mitigation measures in general terms but the agency fails to commit itself to specific performance standards. (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 281 [city improperly deferred mitigation to butterfly habitat by failing to provide standards or guidelines for its management]; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 671 [EIR failed to provide and commit to specific criteria or 8.25

standard of performance for mitigating impacts to biological habitats]; *see also Cleveland Nat'l Forest Found. v San Diego Ass'n of Gov'ts* (2017) 17 Cal.App.5th 413, 442 [generalized air quality measures in the EIR failed to set performance standards]; *California Clean Energy Comm. v City of Woodland* (2014) 225 Cal.App.4th 173, 195 [agency could not rely on a future report on urban decay with no standards for determining whether mitigation required]; *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 740 [agency could not rely on future rulemaking to establish specifications to ensure emissions of nitrogen oxide would not increase because it did not establish objective performance criteria for measuring whether that goal would be achieved]; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1119 [rejecting mitigation measure requiring replacement water to be provided to neighboring landowners because it identified a general goal for mitigation rather than specific performance standard]; *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794 [requiring report without established standards is impermissible delay].)

8.25 cont.

Here, the DEIR is plagued by vague, deferred mitigation, and measures that lack appropriate performance standards:

- MM-AQ-2: During Project construction, the Project applicant shall install high-efficiency lighting (such as LEDs) that is at least 34% more efficient than standard lighting.
    - No enforceable performance standard or any specific criteria for implementation of what "standard" lighting is and vague.
- MM-GHG-1 Prior to occupancy, the Project applicant shall require that high-efficiency lighting (such as LEDs) be installed that is at least 34% more efficient than standard lighting.
    - No enforceable performance standard or any specific criteria for implementation of what "standard" lighting is and vague.
- MM-ENR-5 Prior to occupancy the Project applicant shall provide secure on-site bicycle storage or cages for the residential uses
    - No enforceable performance standard on what "secure" is.
    - Vague as to how many bicycles the storage or cages should accommodate to mitigate the Project's impacts.
- MM-TR-4 Provide secure on-site bicycle storage or
- cages for the residential uses.

8.26

- No enforceable performance standard on what "secure" is.
- Vague as to how many bicycles the storage or cages should accommodate to mitigate the Project's impacts.

- MM-TR-5 Provide convenient/highly visible on-site bicycle parking racks for the commercial uses.
  - No enforceable performance standard on what "convenient" and "highly visible" on-site bicycle parking racks entail.
  - Vague as to where the bicycle parking racks should be located in relation to the entrances for commercial uses.
  - No enforceable way to ensure that the Project's significant traffic impacts could be mitigated to the extent feasible.
- MM-ENR-6 Prior to occupancy the Project applicant shall provide convenient/highly visible on-site bicycle parking racks for the commercial uses.
  - No enforceable performance standard on what "convenient" and "highly visible" on-site bicycle parking racks entail.
  - Vague as to where the bicycle parking racks should be located in relation to the entrances for commercial uses.
  - No enforceable way to ensure that the Project's significant energy impacts could be mitigated to the extent feasible.
- MM-NOI-1 During construction, the contractor shall ensure all construction equipment is equipped with appropriate noise attenuating devices and equipment shall be maintained so that vehicles and their loads are secured from rattling and banging. Idling equipment shall be turned off when not in use.
  - No enforceable performance standard on what "appropriate" noise attenuating devices and equipment entail.
  - No way to ensure no noise exceedances, e.g. requiring a contractor to measure noise levels throughout the day.
- MM-NOI-2 Construction staging areas should be located as far from noise-sensitive land uses as reasonably feasible.
  - No enforceable performance standard on what "as far from" and "reasonably feasible" can be interpreted as.
- MM-HAZ-1 Pesticide Presence. Prior to any ground disturbance activities, the Project applicant shall submit a work plan to DTSC for review and approval.

8.26 cont.

- Improper deferral of preparation of a work plan until after Project Approval.
- Improper deferral of characterization of the extent of the pesticide presence on the Project Site, including a Phase II investigation.

8.26 cont.

As a result of these improper and inadequate mitigation measures, the DEIR violates CEQA. 8.27

D. The DEIR Fails to Adequately Disclose, Analyze and Mitigate the Project's Significant Air Quality Impacts

As detailed in the comment letter by Mr. Matt Hagemann and Dr. Paul Rosenfeld of SWAPE, which is attached hereto as Exhibit 3, the DEIR violates CEQA in the following ways:

- Use of unsubstantiated input parameters for CalEEMod.206.3.2. were used that underestimated Project emissions
- Use of incorrect trip purpose percentages was used in CalEEMod which may have underestimated emissions 8.28
- Use of unsubstantiated application of mobile-related mitigation measures in the CalEEMod without verifiable justification
- Failure to implement all feasible mitigation to reduce Project's significant NOx emissions

As a result, the DEIR fails to adequately analyze and mitigate the Project's air quality impacts and violates CEQA. 8.29

E. The DEIR Fails to Adequately Disclose, Analyze and Mitigate the Project's Significant Health Risk Emissions Impacts

According to experts Mr. Matt Hagemann and Dr. Rosenfeld (see Exhibit 3), the DEIR violates CEQA in the following ways:

- The DEIR's use of a Localized Significance Threshold (LST) analysis rather than conducting a quantified Health Risk Assessment (HRA) resulted in an inadequate evaluation of Diesel Particulate Matter health risk emissions 8.30
- The omission of a quantified HRA is inconsistent with the Risk Assessment Guidelines by the Office of Environmental Health Hazard Assessment (OEHHA)

- The DEIR's limited HRA related to operational mobile emissions (1) fails to include the Project's entire operational emissions as recommended by CalEEMod's User's Guide and (2) fails to evaluate the cumulative lifetime cancer risk to nearby, existing receptors as a result of Project construction and operation together, including all aspects of the Project.
- A simple screening-level HRA indicates the Project will have a significant health risk impact not previously identified and analyzed by the DEIR

8.30 cont.

As a result, the DEIR fails to adequately analyze and mitigate the Project's health risk impacts and violates CEQA. 8.31

F. The DEIR Fails to Adequately Disclose, Analyze and Mitigate the Project's Significant Greenhouse Gas Impacts

According to experts Mr. Matt Hagemann and Dr. Rosenfeld (see Exhibit 3), the DEIR violates CEQA in several ways. 8.32

The DEIR fails to adequately evaluate greenhouse gas impacts because (1) California Air Resources Board (CARB)'s 2017 Scoping Plan is not a Climate Action Plan that qualifies under the CEQA Guidelines, (2) Uses incorrect and unsubstantiated analysis (from the incorrect air model and makes up its own adjusted threshold) that indicate a potentially significant GHG impact, (3) Updated CalEEMod output files, modeled by Mr. Hagemann and Dr. Rosenfeld, disclose that the Project's mitigated GHG emissions (both construction and operational) would approximately total 7.66 MT CO2e/SP/year, which exceeds the SCAQMD 2035 efficiency threshold of 3.0 MT CO_2e/SP/year, as well as the unsubstantiated interpolated 2023 threshold of 4.43 MT CO_2e/SP/year and SCAQMD 2020 efficiency threshold of 4.8 MT CO_2e/SP/year. Exhibit 3, p. 14-16. 8.33

The DEIR fails to mitigate the Project's GHG emissions to the extent feasible because Mr. Hagemann and Dr. Rosenfeld's analysis demonstrates that construction emissions may result in potentially significant impacts. Some of the feasible mitigation measures to mitigate the Project's construction GHG emissions that the DEIR must be revised to include are: (1) implementation of diesel control measures, (2) repower or replace older construction equipment engines, (3) install retrofit devices on existing construction equipment, (4) use electric and hybrid construction equipment, (5) implement a construction vehicle inventory tracking system, (5) "Enhanced Exhaust Control Practices" recommended by the Sacramento Metropolitan Air Quality 8.34

Management District (SMAQMD), and (6) use of spray equipment with greater transfer efficiencies. Exhibit 3, p. 15-21. 8.34 cont.

As for operational GHG emissions, Mr. Hagemann and Dr. Rosenfeld recommend the DEIR to include various energy-related, transportation-related, water-related feasible mitigation measures and project design features as listed on Pages 20-21 of Exhibit 3. 8.35

G. The DEIR Fails to Adequately Analyze the Project's Cumulative Impacts

The CEQA Guidelines define cumulative impacts as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." (CEQA Guidelines §15355.) The individual effects may be changes resulting from a single project or more than one project. (CEQA Guidelines §15355(a).) Cumulative impacts may result from individually minor but collectively significant projects taking place over a period of time. (CEQA Guidelines §15355(b).) Even if the Project's impacts may not be significant, its incremental effects, when added to other past, present, and probable future projects, can be cumulatively significant. (CEQA Guidelines §§15065(a)(3), 15130(b)(1)(A), 15355(b).) Thus, in analyzing a Project's cumulative impacts, it's important to analyze not just impacts of the Project itself, but also consider impacts from all other related projects as well. 8.36

The DEIR fails to adequately analyze the Project's cumulative impacts across many disciplines. For example, for Population and Housing, the DEIR concludes, based on the fact that the Project would not have substantial numbers of existing people from housing, that there are no significant cumulative impacts. However, even a small incremental impact could be cumulatively considerable. Therefore, without analyzing whether other related Projects in combination with the Project could cause significant cumulative impacts, the DEIR's cumulative impacts analysis is deficient. 8.37

Similarly, the DEIR, without analysis of whether the Project, combined with related projects in the vicinity, would have cumulative impacts, concludes that "the aesthetic impacts associated with the change of land use will not represent any cumulative impact to aesthetics." DEIR, 4.2-20. The DEIR's hazards cumulative impacts analysis does not even take into consideration the impacts of pesticide residue combined with hazards impacts form related projects in the vicinity at all, only Project's impacts. *Id.*, 4.6-20. Then the DEIR concludes, without analysis, that "no cumulative impacts will occur." *Id.*, 4.6-21. 8.38

The DEIR's cumulative impact analyses focus solely on the Project level impacts that the DEIR simply repeats and renders the cumulative impacts analysis requirement redundant. As a result, the DEIR violates CEQA. 8.39

H. The Project's DEIR Fails to Disclose and Analyze the Project's Significant and Unavoidable Impacts on Land Use

The DEIR concludes, without analysis, that the Project will have no significant land-use impacts. DEIR, 4.8-8~9. In fact, while listing a host of General Plan Goals and Policies that are relevant to the Project, the DEIR did not discuss whether the Project is consistent or not consistent with each of those Goals and Policies. 8.40

The DEIR provides a brief description of the proposed amendments with SP260, A3 and cites to Table 3.1, SPA260, A3 Land Use Summary as providing "detailed descriptions of each change that is proposed by SP 260…." DEIR, 4.8-8~9. However, the description of the proposed Project is NOT an analysis of the Project's consistency with the City's General Plan. 8.41

CEQA requires that an environmental document analyze whether a Project would "[c]onflict with any applicable land use plan . . . adopted for the purpose of avoiding or mitigating an environmental effect." CEQA Guidelines Appdx. G. 8.42

By failing to provide any consistency analysis, the DEIR fails to disclose significant and unavoidable environmental impacts from the Project's inconsistency with the City's General Plan. Most glaringly, the Project's violates the following Goals and Policies of the City of Menifee's General Plan:

- Policy LU-1.4 requires that the City "[p]reserve, protect, and enhance established rural, estate, and residential neighborhoods by providing sensitive and well-designed transitions (building design, landscape, etc.) between these neighborhoods and adjoining areas." However, increasing the Project density by 721 dwelling units is antithetical to preserving, protecting and enhancing established rural areas near the Project Site.
- Goal CD-4 requires that the City "[r]ecognize, preserve, and enhance the aesthetic value of the city's enhanced landscape corridors and scenic corridors." Again, the City has failed to explain how increasing the Project density by 721 dwelling units does not controvert the City's obligation to preserve and enhance the landscape and scenic corridors in and near the Project Site. 8.43

The City violated CEQA by failing to analyze whether the Project is consistent with its General Plan's Goals and Policies. 8.44

In addition, the DEIR's analysis of the Project's consistency with RTP/SCS Goals (Regional Transportation Plan/Sustainable Communities Strategy) is inaccurate and misleading. For example, Goal 6 of RTP/SCS, the City is required to "[p]rotect the environment and health of our residents by improving air quality and encouraging active transportation (non-motorized transportation, such as bicycling and walking)." DEIR, 4.8-10~11. The DEIR states rather simply that the Project offers opportunities for vehicular and non-vehicular modes of transportation and thus protects the environment and health of residents in concluding that the Project is consistent with the goal of improving air quality. *Id.* However, the DEIR also admits that air quality will worsen by amending the Specific Plan to make the Project denser by 721 dwelling units. Thus, the DEIR's consistency analysis regarding RTP/SCS Goals is inaccurate and incomplete. 8.45

The DEIR fails to adequately disclose and analyze the Project's potentially significant impacts on land use. 8.46

I. <u>CEQA Requires Revision and Recirculation of an Environmental Impact Report When Substantial Changes or New Information Comes to Light</u>

Section 21092.1 of the California Public Resources Code requires that "[w]hen significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 … but prior to certification, the public agency shall give notice again pursuant to Section 21092, and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report" in order to give the public a chance to review and comment upon the information. CEQA Guidelines § 15088.5. 8.47

Significant new information includes "changes in the project or environmental setting as well as additional data or other information" that "deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative)." CEQA Guidelines § 15088.5(a). Examples of significant new information requiring recirculation include "new significant environmental impacts from the project or from a new mitigation measure," "substantial increase in the severity of an environmental impact," "feasible project alternative or mitigation 8.48

measure considerably different from others previously analyzed" as well as when "the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." *Id.* 8.48 cont.

An agency has an obligation to recirculate an environmental impact report for public notice and comment due to "significant new information" regardless of whether the agency opts to include it in a project's environmental impact report. *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 95 [finding that in light of a new expert report disclosing potentially significant impacts to groundwater supply "the EIR should have been revised and recirculated for purposes of informing the public and governmental agencies of the volume of groundwater at risk and to allow the public and governmental agencies to respond to such information."]. If significant new information was brought to the attention of an agency prior to certification, an agency is required to revise and recirculate that information as part of the environmental impact report. 8.49

After the City revises and adds information offered by these comments, the City must recirculate the EIR before approval. 8.50

III. THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE STATE PLANNING AND ZONING LAW

A. Background Concerning the State Planning & Zoning Law

California's Planning & Zoning Law, Cal. Government Code § 65000 *et seq* ("**Planning & Zoning Law**") requires California cities and counties to adopt a comprehensive, long-term general plan governing development. *Napa Citizens for Honest Gov. v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 352, citing Gov. Code §§ 65030, 65300. The general plan sits at the top of the land use planning hierarchy (*see DeVita v. County of Napa* (1995) 9 Cal.4th 763, 773), and serves as a "constitution" or "charter" for all future development. *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 540. 8.51

General plan consistency is "the linchpin of California's land use and development laws; it is the principle which infused the concept of planned growth with the force of law." *See Debottari v. Norco City Council* (1985) 171 Cal.App.3d 1204, 1213. 8.52

State law mandates two levels of consistency. First, a general plan must be internally or "horizontally" consistent: its elements must "comprise an integrated, internally consistent and compatible statement of policies for the adopting agency." See Gov. 8.53

Code § 65300.5; *Sierra Club v. Bd. of Supervisors* (1981) 126 Cal.App.3d 698, 704. A general plan amendment thus may not be internally inconsistent, nor may it cause the general plan as a whole to become internally inconsistent. *See DeVita*, 9 Cal.4th at 796 fn. 12. 8.53 cont.

In addition, the Planning & Zoning Law requires "vertical" consistency, meaning that zoning ordinances and other land-use decisions also must be consistent with the general plan. See Gov. Code § 65860(a)(2) [land uses authorized by zoning ordinance must be "compatible with the objectives, policies, general land uses, and programs specified in the [general] plan."]; *see also Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1184. A zoning ordinance that conflicts with the general plan or impedes the achievement of its policies is invalid and cannot be given effect. *See Lesher*, 52 Cal.3d at 544. 8.54

Finally, the Planning & Zoning Law requires that all subordinate land-use decisions, including conditional use permits, be consistent with the general plan. See Gov. Code § 65860(a)(2); *Neighborhood Action Group*, 156 Cal.App.3d at 1184. 8.55

A project cannot be found consistent with a general plan if it conflicts with a general plan policy that is "fundamental, mandatory, and clear," regardless of whether it is consistent with other general plan policies. *See Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777, 782-83; *Families Unafraid to Uphold Rural El Dorado County v. Bd. of Supervisors* (1998) 62 Cal.App.4th 1332, 1341-42 ("*FUTURE*"). Moreover, even in the absence of such direct conflict, an ordinance or development project may not be approved if it interferes with or frustrates the general plan's policies and objectives. *See Napa Citizens*, 91 Cal.App.4th at 378-79; *see also Lesher*, 52 Cal.3d at 544 (zoning ordinance restricting development conflicted with growth-oriented policies of the general plan). 8.56

B. The Project is inconsistent with the City of Menifee General Plan

The DEIR lists numerous Goals and Policies of the City of Menifee General Plan that it purports are relevant to the Project. However, as discussed above, the DEIR fails to analyze whether the Project is consistent with each Goal and Policy of the General Plan. 8.57

The Project is inconsistent is at least two Goals and Policies of the General Plan. Land Use Policy LU-1.4 requires that the City "[p]reserve, protect, and enhance established rural, estate, and residential neighborhoods by providing sensitive and well-designed 8.58

transitions (building design, landscape, etc.) between these neighborhoods and adjoining areas." However, increasing the Project density by 721 dwelling units is antithetical to preserving, protecting and enhancing established rural areas near the Project Site. 8.58 cont.

The Project is inconsistent with Community Development Goal CD-4 requires that the City "[r]ecognize, preserve, and enhance the aesthetic value of the city's enhanced landscape corridors and scenic corridors." Again, increasing the Project density by 721 dwelling units directly contradicts the City's obligation to preserve and enhance the landscape and scenic corridors in and near the Project Site. 8.59

C. The Project Is Inconsistent with the Regional Transportation Plan/Sustainable Communities Strategy Goals

The Project is also inconsistent with Goal 6 of RTP/SCS (Regional Transportation Plan/Sustainable Communities Strategy) is inaccurate and misleading. Goal 6 requires the City to "[p]rotect the environment and health of our residents by improving air quality and encouraging active transportation (non-motorized transportation, such as bicycling and walking)." DEIR, 4.8-10~11. The DEIR states rather simply that the Project offers opportunities for vehicular and non-vehicular modes of transportation and thus protects the environment and health of residents in concluding that the Project is consistent with the goal of improving air quality. *Id.* However, the DEIR's air quality analysis also admits that air quality will worsen by amending the Specific Plan to make the Project denser by 721 dwelling units. Therefore, based on the information provided in the DEIR, the Project is inconsistent with the RTP/SCS. 8.60

IV. CONCLUSION

Commenter requests that the City revise and recirculate the Project's environmental impact report to address the aforementioned concerns. If the City has any questions or concerns, feel free to contact my office. 8.61

Sincerely,

Mitchell M. Tsai
Attorneys for Southwest Regional
Council of Carpenters

Attached:

Air Quality and GHG Expert, Matt Hagemann, P.G., C.Hg. – C.V. (**Exhibit 1**);

Air Quality and GHG Expert, Paul Rosenfeld, Ph.D. – C.V. (**Exhibit 2**);

Letter from Hagemann and Rosenfeld to Mitchell M. Tsai re Comments on the Draft Environmental Impact Report for the Palomar Crossings Project with Exhibits (January 21, 2020) (**Exhibit 3**)

EXHIBIT 1

8.62

EXHIBIT 2

8.63

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January 21, 2020

Mitchell M. Tsai
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Subject: Comments on the Palomar Crossings Project (SCH No. 2019029123)

Dear Mr. Tsai,

We have reviewed the December 2019 Draft Environmental Impact Report ("DEIR") for the Palomar Crossings ("Project") located in the City of Menifee ("City"). The Project proposes to construct an apartment building with either 721 or 637 dwelling units, a 246,312-square-foot retail and commercial shopping center, and 574,727-square-feet of parking areas on the 43-acre site. 8.64

Our review concludes that the DEIR fails to adequately evaluate the Project's Air Quality, Health Risk, and Greenhouse Gas impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project are underestimated and inadequately addressed. An updated EIR should be prepared to adequately assess and mitigate the potential air quality and health risk impacts that the project may have on the surrounding environment. 8.65

Air Quality

Failure to Conservatively Analyze the Project

The DEIR indicates that the Project would result in an increase of 721 dwelling units, but analyzes a "worst-case scenario" of 637 multi family dwelling units, stating:

> "Upon approval of SPA 260, A3, total dwelling unit count ***shall increase by 721 units***, based on maximum potential dwelling units in Planning Areas 11 and 12. It should be noted that, as a ***worst-case scenario***, 246,312 square feet of commercial uses and ***637 multi-family dwelling units*** were utilized in the analysis of this DEIR" (emphasis added) (p. 1-1). 8.66

As you can see in the above excerpt, the DEIR is unclear about whether the Project would involve the construction of 721 or 637 dwelling units. Consistent with the DEIR's air quality and greenhouse gas analysis, our letter analyzes 637 units. However, an updated EIR should be prepared specifying the specific number of dwelling units that are included in the Project. Furthermore, if the correct number of dwelling units is 721, the EIR should include an updated analysis of the Project's impacts that includes 721 dwelling units, as opposed to 637 dwelling units. CEQA Guidelines § 15003(f) articulates that CEQA requires "the fullest possible protection to the environment," and, as such, an updated EIR should consider the correct number of dwelling units to be created with the proposed Project. 8.66 cont.

Unsubstantiated Input Parameters Used to Estimate Project Emissions

The DEIR's air quality analysis relies on emissions calculated with CalEEMod.2016.3.2.[1] CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but the California Environmental Quality Act (CEQA) requires that such changes be justified by substantial evidence.[2] Once all of the values are inputted into the model, the Project's construction and operational emissions are calculated, and "output files" are generated. These output files disclose to the reader what parameters were utilized in calculating the Project's air pollutant emissions and make known which default values were changed as well as provide justification for the values selected.[3] 8.67

Review of the Project's air modeling demonstrates that the DEIR underestimates emissions associated with Project activities. As previously stated, the DEIR's air quality analysis relies on air pollutant emissions calculated using CalEEMod. When reviewing the Project's CalEEMod output files, provided as Appendix B to the DEIR, we found that several of the values inputted into the model were not consistent with information disclosed in the DEIR. As a result, the Project's construction and operational emissions are underestimated. An updated EIR should be prepared to include an updated air quality analysis that adequately evaluates the impacts that construction and operation of the Project will have on local and regional air quality. 8.68

Use of Incorrect Trip Purpose Percentages

Review of the Project's CalEEMod output files demonstrates that the percentage of pass-by trips was reduced to zero and reallocated to both the diverted and primary trip percentages. As a result, the model may underestimate the Project's mobile-source operational emissions. 8.69

[1] CAPCOA (November 2017) CalEEMod User's Guide, http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4.
[2] CAPCOA (November 2017) CalEEMod User's Guide, http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 1, 9.
[3] CAPCOA (November 2017) CalEEMod User's Guide, http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, fn 1, p. 11, 12 – 13. A key feature of the CalEEMod program is the "remarks" feature, where the user explains why a default setting was replaced by a "user defined" value. These remarks are included in the report.

CalEEMod separates the operational trip purposes into three categories: primary, diverted, and pass-by trips. According to Appendix A of the CalEEMod User's Guide, the primary trips utilize the complete trip lengths associated with each trip type category. Diverted trips are assumed to take a slightly different path than a primary trip and are assumed to be 25% of the primary trip lengths. Pass-by trips are assumed to be 0.1 miles in length and are a result of no diversion from the primary route.[4] Review of the Project's CalEEMod output files demonstrates that pass-by trips were reduced to zero and reallocated to both diverted and primary trips (see excerpt below) (Appendix B, pp. 79, 111, 144).

8.70

Table Name	Column Name	Default Value	New Value
tblVehicleTrips	DV_TP	11.00	13.00
tblVehicleTrips	DV_TP	35.00	40.50
tblVehicleTrips	PB_TP	3.00	0.00
tblVehicleTrips	PB_TP	11.00	0.00
tblVehicleTrips	PR_TP	86.00	87.00
tblVehicleTrips	PR_TP	54.00	59.50

As you can see in the excerpt above, pass-by trips were reduced to zero and reallocated to primary and diverted trips in the model. According to the "User Entered Comments & Non-Default Data" table, the justification provided for these changes is: "Pass-by trips changed to 0 and pass-by trips split btwn primary and divert" (Appendix B, pp. 78, 110, 143). We can reasonably assume that the pass-by trips were reduced to zero because the 11,352 daily trips calculated by the model already include pass-by trips (Appendix I, pp. 43, Table 4-3). However, just because the percentage of pass-by trips is reduced to zero does not guarantee that the number of diverted trips would increase. Thus, the model should have reallocated all pass-by trips to primary, unless an updated EIR can prove that the percentage of diverted trips will increase. As a result, the model may underestimate emissions and should not be relied upon to determine Project significance.

8.71

Unsubstantiated Application of Mobile-Related Mitigation Measure

Review of the Project's CalEEMod output files demonstrates that the model includes the following mobile mitigation measures: "Increase Density," "Increase Diversity," "Improve Destination Accessibility," "Increase Transit Accessibility," and "Improve Pedestrian Network" (see excerpt below) (Appendix B, pp. 101, 133, 167).

8.72

[4] "CalEEMod User's Guide, Appendix A: Calculation Details for CalEEMod." ***SCAQMD, available at:*** http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixa.pdf?sfvrsn=2, p. 20

4.1 Mitigation Measures Mobile

Increase Density
Increase Diversity
Improve Destination Accessibility
Increase Transit Accessibility
Improve Pedestrian Network

8.72 cont.

As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified.[5] Review of the "User Entered Comments & Non-Default Data" table demonstrates that the justification provided for these mitigation measures is:

> "~3.77 miles NE downtown Menifee & ~0.07 miles E RTA Rte 27 stop Hwy 74 at Palomar. Sidewalks on/off-site. 637DU/24.16ac=26.37DU/ac. 1emp/500sf com retail = 246,312sf/500sf = ~493emp/18.85ac= 26.2emp/ac. LUT-3 mixed residential/commercial" (Appendix B, pp. 78, 110, 143).

8.73

However, neither this justification nor the DEIR provide sufficient substantiation for the inclusion of these mitigation measures. Therefore, we cannot verify the use of these measures in the model and it should not be relied upon to determine Project significance.

Unsubstantiated Application of Waste-Related Mitigation Measure

Review of the Project's CalEEMod output files demonstrates that the model includes the "Institute Recycling & Composting Services" waste-related operational mitigation measure (see excerpt below) (Appendix B, pp. 108, 140, 177).

8.74

8.1 Mitigation Measures Waste

Institute Recycling and Composting Services

As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified.[6] Regarding a waste reduction strategy, the "User Entered Comments & Non-Default Data" table states that "AB 341 requires at least 75% of waste be diverted from landfills by 2020" (Appendix B, pp. 78, 110, 143). Furthermore, the Standard Conditions and Mitigation Measures portion of the DEIR states,

8.75

> "**SC-USS-4 Solid Waste. The Project applicant shall comply with the requirements of AB 939 ("California Integrated Waste Management Act of 1989") and AB 341 (which amends and clarifies portions of 939), which requires waste diversion mandates. During construction and**

[5] CalEEMod User Guide, ***available at:*** http://www.caleemod.com/, p. 2, 9
[6] CalEEMod User Guide, ***available at:*** http://www.caleemod.com/, p. 2, 9

> **operation, the applicant shall achieve diversion of 50 percent of all solid waste through source reduction, recycling, and composting activities**" (p. 4.16-50).

However, review of the CalEEMod output files demonstrates that the model includes a 75% reduction in waste-related emissions (Appendix B, pp. 147-148). This is unsubstantiated, as the DEIR only commits to the diversion of 50% of the Project's solid waste. The DEIR points out that AB 341 has a target of a 75% reduction statewide by 2020 (p. 4.5-16, Table 4.5-6). However, it fails to indicate that this applies at the project-level or that this goal is actually being achieved and will result in reductions beyond 2020, as the Project will not become operational until 2022. Thus, as the DEIR fails to justify the inclusion of a reduction of waste-related emissions beyond 50%, the model may underestimate emissions and should not be relied upon to determine Project significance.

8.75 cont.

Failure to Implement All Feasible Mitigation to Reduce Emissions

The DEIR determines that the Project's NO_x emissions will result in a "significant and unavoidable" air quality impact (p. 4.3-23). However, while we agree that the Project would result in a significant NO_x impact, the DEIR's conclusion that these impacts are "significant and unavoidable" is incorrect. According to the California Environmental Quality Act (CEQA),

> "CEQA requires Lead Agencies to mitigate or avoid significant environmental impacts associated with discretionary projects. Environmental documents for projects that have any significant environmental impacts must identify all feasible mitigation measures or alternatives to reduce the impacts below a level of significance. If after the identification of all feasible mitigation measures, a project is still deemed to have significant environmental impacts, the Lead Agency can approve a project, but must adopt a Statement of Overriding Consideration to explain why further mitigation measures are not feasible and why approval of a project with significant unavoidable impacts is warranted." [7]

8.76

As you can see, an impact can only be labeled as significant and unavoidable after all available, feasible mitigation is considered. Review of the Project's proposed mitigation measures, however, demonstrates that not all feasible mitigation measures are being implemented. Therefore, the DEIR's conclusion that impacts are significant and unavoidable is unsubstantiated. As a result, additional mitigation measures should be identified and incorporated in an updated EIR in order to reduce the Project's air quality impacts to the maximum extent possible. Until all feasible mitigation is reviewed and incorporated into the Project's design, impacts from NO_x emissions cannot be considered significant and unavoidable.[8]

Diesel Particulate Matter Health Risk Emissions Inadequately Evaluated

The DEIR concludes that the proposed Project would have a less than significant impact on the health of sensitive receptors near the Project site without conducting a quantitative health risk assessment (HRA) for Project's entire construction and operation (p. 4.3-32).

8.77

[7] http://www.valleyair.org/transportation/GAMAQI-2015/FINAL-DRAFT-GAMAQI.PDF, p. 115 of 125
[8] See section titled "Feasible Mitigation Measures Available to Reduce Operational Emissions" on p. 19 of this comment letter. These measures would effectively reduce operational NOx emissions.

The DEIR fails to conduct a quantified HRA for construction and instead relies upon a Localized Significance Threshold (LST) analysis, which found that Project construction emissions would not exceed the SCAQMD LSTs. Regarding construction-related health risks, the DEIR states,

> "**Table 4.3-15, *Localized Construction Emissions*** illustrates the construction related localized emissions and compares the results to SCAQMD LST thresholds. As shown in **Table 4.3-15**, the emissions will be below the SCAQMD thresholds of significance for localized construction emissions…The Project's short-term construction impact to localized air resources is less than significance" (p. 4.3-32 – 4.3-33).

8.78

Regarding operational health risk impacts, the DEIR attempts to justify its significance determination by stating,

> "According to SCAQMD LST methodology, LSTs would apply to the operational phase of a project, if the project includes stationary sources, or attracts mobile sources (such as heavy-duty trucks) that may spend long periods queuing and idling at the site; such as industrial warehouse/transfer facilities. The proposed Project is a mixed-use project consisting of residential and commercial uses and does not include such uses. Therefore, due the lack of stationary source emissions, no long-term localized threshold analysis is warranted. The Project will result in less than significant localized operational emissions impacts" (p. 4.3-34).

The DEIR goes on to state,

> "Based on the above, ultra-conservative assumptions, Table 9 shows that the 30.25-year, cumulative carcinogenic health risk (3rd trimester [-0.25 to 0 years] + infant [0-2 years] + child [2-16 years] + adult [16-30 years]) to an individual born during the opening year of the project, and located in the project vicinity for the entire 30-year duration, is a maximum of 3.9 in a million" (p. Health Risk Assessment, p. 19).

8.79

The excerpts above demonstrate the DEIR's attempts to evaluate the Project's health risk impact without conducting a quantified construction HRA. The failure to quantify the health risk posed to nearby sensitive receptors from exposure to toxic air contaminant (TAC) emissions released during Project activities is incorrect for several reasons.

8.80

First, the use of the LST method to determine the Projects health risk impacts on nearby, existing sensitive receptors is incorrect. While the LST method assesses the impact of pollutants at a local level, it only evaluates impacts from criteria air pollutants. According to the Final Localized Significance Threshold Methodology document prepared by the SCAQMD, the LST analysis is only applicable to NO_x, CO, PM_{10}, and $PM_{2.5}$ emissions, which are collectively referred to as criteria air pollutants.[9] Because the LST method can only be applied to criteria air pollutants, this method cannot be used to determine whether emissions from DPM, a known human carcinogen, will result in a significant health risk impact

8.81

[9] "Final Localized Significance Threshold Methodology." SCAQMD, Revised July 2008, ***available at:*** http://www.aqmd.gov/docs/default-source/ceqa/handbook/localized-significance-thresholds/final-lst-methodology-document.pdf.

to nearby sensitive receptors. As a result, health impacts from exposure to toxic air contaminants (TACs), such as diesel particulate matter (DPM), were not analyzed, thus leaving a gap within the DEIR's analysis.

8.81 cont.

Second, the omission of a quantified HRA is inconsistent with the most recent guidance published by the Office of Environmental Health Hazard Assessment (OEHHA), the organization responsible for providing guidance on conducting HRAs in California. In February of 2015, OEHHA released its most recent ***Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments***, as cited in the DEIR (Health Risk Assessment, p. 11).[10] This guidance document describes the types of projects that warrant the preparation of an HRA. Construction of the Project will produce emissions of DPM, a human carcinogen, through the exhaust stacks of construction equipment over a construction period of approximately three-years and seven months (Appendix B, pp. 83). The OEHHA document recommends that all short-term projects lasting at least two months be evaluated for cancer risks to nearby sensitive receptors.[11] Therefore, per OEHHA guidelines, health risk impacts from Project construction should have been evaluated by the DEIR. Furthermore, once construction of the Project is complete, the Project will operate for a long period of time. As previously stated, Project operation will generate approximately 11,352 daily vehicle trips, which will generate additional exhaust emissions and continue to expose nearby sensitive receptors to DPM emissions (p. 5-20, Table 5-2). The OEHHA document recommends that exposure from projects lasting more than 6 months be evaluated for the duration of the project, and recommends that an exposure duration of 30 years be used to estimate individual cancer risk for the maximally exposed individual resident (MEIR).[12] Even though we were not provided with the expected lifetime of the Project, we can reasonably assume that the Project will operate for at least 30 years, if not more. Therefore, health risks from Project operation should have also been evaluated by the DEIR, as a 30-year exposure duration vastly exceeds the 2-month and 6-month requirements set forth by OEHHA. These recommendations reflect the most recent health risk policy, and as such, an updated assessment of health risks to nearby sensitive receptors from Project construction and operation should be included in a revised CEQA evaluation for the Project.

8.82

Third, by claiming a less than significant impact without conducting a quantified HRA to nearby, existing sensitive receptors as a result of Project construction, the DEIR fails to compare the excess health risk to the SCAQMD's specific numeric threshold of 10 in one million.[13] Thus, the DEIR cannot conclude less than significant health risk impacts resulting from Project construction without quantifying emissions to compare to the proper threshold.

8.83

[10] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** http://oehha.ca.gov/air/hot_spots/hotspots2015.html
[11] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** http://oehha.ca.gov/air/hot_spots/2015/2015GuidanceManual.pdf, p. 8-18
[12] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** http://oehha.ca.gov/air/hot_spots/2015/2015GuidanceManual.pdf, p. 8-6, 8-15
[13] "South Coast AQMD Air Quality Significance Thresholds." SCAQMD, April 2019, ***available at:*** http://www.aqmd.gov/docs/default-source/ceqa/handbook/scaqmd-air-quality-significance-thresholds.pdf?sfvrsn=2

Regarding Project operations, the DEIR conducted an HRA for the increased cancer risk due to operational mobile emissions. However, the HRA failed to include the Project's ***entire*** operational emissions. According to the CalEEMod User's Guide, a Project's operational emissions include the following sources: on-road mobile vehicle traffic, fugitive dust associated with roads, architectural coating activities, off-road equipment used during operation, landscaping equipment, emergency generators, fire pumps, process boilers, consumer products, parking lot degreasers, fertilizers/pesticides, cleaning supplies, wood stoves and hearth usage, electricity usage in buildings, electricity usage from lighting in parking lots and lighting, ventilation and elevators for parking, water usage, and solid waste disposal.[14] By only conducting an HRA for the Project's operational ***mobile emissions***, the model underestimates the Project's operational emissions and excess cancer risk to nearby sensitive receptors. Thus, the DEIR cannot conclude less than significant health risk impacts resulting from Project operation without quantifying emissions and the excess cancer risk to nearby sensitive receptors resulting from the Project's entire operational emissions. 8.84

Finally, while the DEIR calculated the health risk to nearby, existing third trimester, infant, child, and adult receptors for diesel truck traffic emissions, the HRA fails to evaluate the cumulative lifetime cancer risk to nearby, existing receptors as a result of Project construction ***and*** operation together, including all aspects of the proposed Project. This is incorrect and, as a result, the DEIR's evaluation and significance conclusion cannot be relied upon. OEHHA guidance requires that the excess cancer risk be calculated separately for all sensitive receptor age bins, then summed to evaluate the total cancer risk posed by all Project activities. Therefore, the DEIR should have quantified the Project's ***entire*** construction and operational health risk impacts, as well as compared the combined construction and operational health risk impacts to the SCAQMD threshold of ten in one million. To determine the correct excess cancer risk associated with the Project's ***entire*** construction and operational DPM, we will prepare a screening-level health risk assessment and suggest mitigation if necessary. 8.85

Screening-Level Assessment Indicates Significant Impact

In an effort to demonstrate the potential risk posed by Project construction and all Project operation to nearby sensitive receptors, we prepared a simple screening-level HRA. The results of our assessment, as described below, provide substantial evidence that the Project's construction and operational DPM emissions may result in a potentially significant health risk impact not previously identified by the DEIR. 8.86

In order to conduct our screening level risk assessment, we relied upon AERSCREEN, which is a screening level air quality dispersion model.[15] The model replaced SCREEN3, and AERSCREEN is included in the OEHHA[16] and the California Air Pollution Control Officers Associated (CAPCOA)[17] guidance as the appropriate air dispersion model for Level 2 health risk screening assessments ("HRSAs"). A Level 2 HRSA 8.87

[14] "CalEEMod User's Guide." CAPCOA, November 2017, ***available at:*** http://www.caleemod.com/, p. 2.
[15] "AERSCREEN Released as the EPA Recommended Screening Model," USEPA, April 11, 2011, ***available at:*** http://www.epa.gov/ttn/scram/guidance/clarification/20110411_AERSCREEN_Release_Memo.pdf
[16] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf
[17] "Health Risk Assessments for Proposed Land Use Projects," CAPCOA, July 2009, ***available at:*** http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA_HRA_LU_Guidelines_8-6-09.pdf

utilizes a limited amount of site-specific information to generate maximum reasonable downwind concentrations of air contaminants to which nearby sensitive receptors may be exposed. If an unacceptable air quality hazard is determined to be possible using AERSCREEN, a more refined modeling approach is required prior to approval of the Project.

8.87 cont.

We prepared a preliminary HRA of the Project's construction and operational health-related impact to residential sensitive receptors using the annual PM_{10} exhaust estimates from the SWAPE annual CalEEMod output files. According to the DEIR, there is a sensitive receptor located approximately 300 feet, or roughly 91 meters, north of the Project site (p. 4.3-34). Consistent with recommendations set forth by OEHHA, we assumed residential exposure begins during the third trimester stage of life. The Project's construction CalEEMod output files indicate that construction activities will generate approximately 395 pounds of diesel particulate matter (DPM). The AERSCREEN model relies on a continuous average emission rate to simulate maximum downward concentrations from point, area, and volume emission sources. To account for the variability in equipment usage and truck trips over Project construction, we calculated an average DPM emission rate by the following equation:

$$Emission\ Rate\ \left(\frac{grams}{second}\right) = \frac{394.8\ lbs}{604\ days} \times \frac{453.6\ grams}{lbs} \times \frac{1\ day}{24\ hours} \times \frac{1\ hour}{3{,}600\ seconds} = \mathbf{0.003432\ g/s}$$

Using this equation, we estimated a construction emission rate of 0.003432 grams per second (g/s). Subtracting the 604-day construction duration from the total residential duration of 30 years, we assumed that after Project construction the MEIR would be exposed to the Project's operational DPM for an additional 28.35 years, approximately. The Project's operational CalEEMod emissions indicate that operational activities will generate approximately 353 pounds of DPM per year throughout operation. Applying the same equation used to estimate the construction DPM rate, we estimated the following emission rate for Project operation:

8.88

$$Emission\ Rate\ \left(\frac{grams}{second}\right) = \frac{353\ lbs}{365\ days} \times \frac{453.6\ grams}{lbs} \times \frac{1\ day}{24\ hours} \times \frac{1\ hour}{3{,}600\ seconds} = \mathbf{0.00508\ g/s}$$

Using this equation, we estimated an operational emission rate of 0.00508 g/s. Construction and operational activity was simulated as a 43-acre rectangular area source in AERSCREEN with dimensions of 498 meters by 350 meters. A release height of three meters was selected to represent the height of exhaust stacks on operational equipment and other heavy-duty vehicles, and an initial vertical dimension of one and a half meters was used to simulate instantaneous plume dispersion upon release. An urban meteorological setting was selected with model-default inputs for wind speed and direction distribution.

The AERSCREEN model generates maximum reasonable estimates of single-hour DPM concentrations from the Project site. EPA guidance suggests that in screening procedures, the annualized average concentration of an air pollutant be estimated by multiplying the single-hour concentration by 10%.[18] AS

8.89

[18] "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources Revised." EPA, 1992, ***available at***: http://www.epa.gov/ttn/scram/guidance/guide/EPA-454R-92-019_OCR.pdf; ***see also*** "Risk Assessment

previously stated, there are residential sensitive receptors located approximately 100 meters from the Project site. The single-hour concentration estimated by AERSCREEN for Project construction is approximately 0.9049 µg/m³ DPM at approximately 100 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.09049 µg/m³ for Project construction at the maximally exposed sensitive receptor listed in the DEIR. For Project operation, the single-hour concentration is estimated by AERSCREEN is approximately 1.339 µg/m³ at approximately 100 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.1339 µg/m³ for Project operation at the maximally exposed sensitive receptor listed in the DEIR. 8.89 cont.

We calculated the excess cancer risk to the residential receptors both maximally exposed and located closest to the Project site using applicable HRA methodologies prescribed by OEHHA and the SCAQMD, as referenced by the DEIR (Health Risk Assessment, p. 11). Consistent with the construction schedule proposed by the DEIR, the annualized average concentration for construction was used for the entire third trimester of pregnancy (0.25 years) and for 1.45 years of the infantile stage of life (0 – 2 years). The annualized average concentration for operation was used for the remainder of the 30-year exposure period, including the remaining infantile stage of life, child stage of life (2 – 16 years), and adult stage of life (16 – 30 years). 8.90

Consistent with OEHHA guidance, as cited by the DEIR, and SCAQMD guidance, we used Age Sensitivity Factors (ASFs) to account for the heightened susceptibility of young children to the carcinogenic toxicity of air pollution (Health Risk Assessment, p. 11).[19, 20] According to the most updated guidance, quantified cancer risk should be multiplied by a factor of ten during the third trimester of pregnancy and during the first two years of life (infant) and should be multiplied by a factor of three during the child stage of life (2 to 16 years). Furthermore, in accordance with the OEHHA guidance, we used the 95th percentile breathing rates for infants.[21] We used a cancer potency factor of 1.1 (mg/kg-day)$^{-1}$ and an averaging time of 25,550 days. OEHHA recommends that a 30-year exposure duration be used as the basis for estimating cancer risk at the maximally exposed receptor included in the DEIR.[22] Also consistent with OEHHA guidance, exposure to the receptor was assumed to begin in the third trimester to provide the most conservative estimate of air quality hazards. Finally, according to SCAQMD guidance, we used a 8.91

Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 4-36

[19] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf.

[20] "Draft Environmental Impact Report (DEIR) for the Proposed The Exchange (SCH No. 2018071058)." SCAQMD, March 2019, ***available at:*** http://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2019/march/RVC190115-03.pdf?sfvrsn=8, p. 4.

[21] "Supplemental Guidelines for Preparing Risk Assessments for the Air Toxics 'Hot Spots' Information and Assessment Act," June 5, 2015, ***available at:*** http://www.aqmd.gov/docs/default-source/planning/risk-assessment/ab2588-risk-assessment-guidelines.pdf?sfvrsn=6, p. 19.
"Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf

[22] "Risk Assessment Guidelines Guidance Manual for preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 8-6.

Fraction of Time At Home (FAH) Value of 1 for the 3rd trimester and infant receptors and 0.73 for adult receptors.[23] The results of our calculations are shown below.

The Maximally Exposed Individual at an Existing Residential Receptor

Activity	Duration (years)	Concentration (ug/m3)	Breathing Rate (L/kg-day)	ASF	Cancer Risk with ASFs*
Construction	0.25	0.09049	361	10	1.2E-06
3rd Trimester Duration	***0.25***			***3rd Trimester Exposure***	***1.2E-06***
Construction	1.40	0.09049	1090	10	2.1E-05
Operation	0.60	0.1339	1090	10	1.3E-05
Infant Exposure Duration	***2.00***			***Infant Exposure***	***3.4E-05***
Operation	14.00	0.1339	572	3	4.8E-05
Child Exposure Duration	***14.00***			***Child Exposure***	***4.8E-05***
Operation	14.00	0.1339	261	1	5.4E-06
Adult Exposure Duration	***14.00***			***Adult Exposure***	***5.4E-06***
Lifetime Exposure Duration	**30.00**			**Lifetime Exposure**	**8.9E-05**

8.91 cont.

As indicated in the table above, the excess cancer risk posed to adults, children, infants, and during the third trimester of pregnancy at the maximally exposed sensitive receptor indicated in the DEIR, located approximately 100 meters away, over the course of Project construction and operation are approximately 5.4, 48, 34, and 1.2 in one million, respectively. The excess cancer risk over the course of a residential lifetime (30 years) at the maximally exposed sensitive receptor indicated in the DEIR is approximately 89 in one million. The child, infant, and lifetime cancer risks exceed the SCAQMD threshold of 10 in one million, thus resulting in a potentially significant health risk impact not previously identified or addressed by the DEIR.

8.92

An agency must include an analysis of health risks that connects the Project's air emissions with the health risk posed by those emissions. Our analysis represents a screening-level HRA, which is known to be conservative and tends to err on the side of health protection. The purpose of the screening-level construction HRA shown above is to demonstrate the link between the proposed Project's emissions and the potential health risk. Our screening-level HRA demonstrates that construction of the Project could result in a potentially significant health risk impact, when correct exposure assumptions and up-

8.93

[23] "Risk Assessment Procedures for Rules 1401, 1401.1, and 212." SCAQMD, August 2017, ***available at:*** http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1401/riskassessmentprocedures_2017_080717.pdf, p. 7.

to-date, applicable guidance are used. Therefore, since our screening-level construction HRA indicates a potentially significant impact, an updated CEQA analysis should include a reasonable effort to connect the Project's air quality emissions and the potential health risks posed to nearby receptors. Thus, an updated CEQA analysis should include a quantified air pollution model as well as an updated, quantified refined health risk assessment which adequately and accurately evaluates health risk impacts associated with both Project construction and operation.

8.93 cont.

Greenhouse Gas

Failure to Adequately Evaluate Greenhouse Gas Impacts

The DEIR concludes that the Project would have a less than significant GHG impact based on an interpolated service population threshold. Specifically, the DEIR states:

> "The Project has been compared to the SCAQMD tier 4 interpolated 2023 target service population threshold of 4.44 MTCO2e per specific plan per year (The Tier 4 2023 threshold was interpolated from the SCAQMD Tier 4 2020 Target Service Population Threshold of 4.8 $MTCO_2e$/year/SP and the 2035 Target Service Population Threshold of 3.0 $MTCO_2e$/year/SP), based on Compliance Option 3... With implementation of Mitigation Measure MM-GHG-1 through Mitigation Measure MMGHG-7, impacts would be reduced to a less than significant level" (p. 4.5-13, 4.5-14).

8.94

Furthermore, the DEIR evaluates the Project's consistency with the CARB Scoping Plan and reduction measures in the City of Menifee's General Plan EIR in order to determine the significance of the Project's GHG impact (p. 4.5-14 - 4.5-21).

However, the DEIR's analysis is incorrect for three reasons:

(1) CARB's 2017 Scoping Plan is not a CAP;
(2) Incorrect and unsubstantiated analysis indicates potentially significant impacts; and,
(3) Updated analysis demonstrates significant impacts not previously identified in the DEIR.

8.95

(1) The 2017 CARB Scoping Plan and Menifee's General Plan EIR are not CAPs

The DEIR relies upon CARB's 2017 Scoping Plan and Menifee's General Plan EIR to determine Project significance. However, the 2017 CARB Scoping Plan and City of Menifee's General Plan EIR do not qualify as Climate Action Plan (CAPs). CEQA Guidelines § 15064.4(b)(3) allows a lead agency to consider "[t]he extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions (***see, e.g., section 15183.5(b)***)." (Emph. added). When adopting this language, the California Natural Resources Agency ("Resources Agency") explained in its 2018 Final Statement of Reasons for Regulatory Action ("2018 Statement of Reason")[24] that it explicitly added referenced to section 15183.5(b) because it was "needed to clarify that lead agencies may rely on plans ***prepared pursuant to section 15183.5*** in evaluating a project's [GHG] emissions ... [and] consistent with the Agency's Final Statement of Reasons

8.96

[24] Resources Agency (Nov. 2018) Final Statement of Reasons For Regulatory Action: Amendments To The State CEQA Guidelines, http://resources.ca.gov/ceqa/docs/2018_CEQA_Final_Statement_of%20Reasons_111218.pdf.

for the addition of section 15064.4, which states that 'proposed section 15064.4 is intended to be ***read in conjunction with . . . proposed section 15183.5***. Those sections each indicate that local and regional plans may be developed to reduce GHG emissions.'" 2018 Final Statement of Reason, p. 19 (emph. added); *see also* 2009 Final Statement of Reasons for Regulatory Action, p. 27.[25] When read in conjunction, CEQA Guidelines §§ 15064.4(b)(3) and 15183.5(b)(1) make clear qualified GHG reduction plans (also commonly referred to as a Climate Action Plan ["CAP"]) should include the following features:

(1) **Inventory**: Quantify GHG emissions, both existing and projected over a specified time period, resulting from activities (e.g., projects) within a defined geographic area (e.g., lead agency jurisdiction);
(2) **Establish GHG Reduction Goal**: Establish a level, based on substantial evidence, below which the contribution to GHG emissions from activities covered by the plan would not be cumulatively considerable;
(3) **Analyze Project Types**: Identify and analyze the GHG emissions resulting from specific actions or categories of actions anticipated within the geographic area;
(4) **Craft Performance Based Mitigation Measures**: Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level;
(5) **Monitoring**: Establish a mechanism to monitor the CAP progress toward achieving said level and to require amendment if the plan is not achieving specified levels;

8.96 cont.

The above-listed CAP features provide the necessary ***substantial evidence demonstrating a project's incremental contribution is not cumulative considerable***, as required under CEQA Guidelines § 15064.4(b)(3).[26] Here, however, the DEIR fails to demonstrate that the 2017 CARB Scoping Plan and City of Menifee's General Plan EIR include the above-listed requirements to be considered a qualified CAP for the City. As such, the DEIR leaves an analytical gap showing that compliance with said plans can be used for a project-level significance determination. Thus, the DEIR's GHG analysis regarding the 2017 CARB Scoping Plan and City of Menifee's General Plan EIR should not be relied upon to determine Project significance.

8.97

(2) The DEIR's Incorrect and Unsubstantiated Analysis Indicates a Potentially Significant GHG Impact

[25] Resources Agency (Dec. 2009) Final Statement of Reasons for Regulatory Action, p. 27 ("Those sections each indicate that local and regional plans may be developed to reduce GHG emissions. If such plans reduce community-wide emissions to a level that is less than significant, a later project that complies with the requirements in such a plan may be found to have a less than significant impact."), http://resources.ca.gov/ceqa/docs/Final_Statement_of_Reasons.pdf.

[26] *See Mission Bay Alliance v. Office of Community Investment & Infrastructure* (2016) 6 Cal.App.5th 160, 200-201 (Upheld qualitative GHG analysis when based on city's adopted its greenhouse gas strategy that contained "multiple elements" of CEQA Guidelines § 15183.5(b), "quantification of [city's] baseline levels of [GHG] emissions and planned reductions[,]" approved by the regional air district, and "[a]t the heart" of the city's greenhouse gas strategy was "specific regulations" and measures to be implemented on a "project-by-project basis … designed to achieve the specified citywide emission level.").

As discussed above, the DEIR concluded that the Project's emissions per service population, including Mitigation Measure MM GHG-1 through Mitigation Measure MM GHG-7, would be 4.3 $MTCO_2e$/service population/year ($MTCO_2e$/SP/yr) (p. 4.5-13). The DEIR concludes that, based on an interpolated tier 4 2023 target service population threshold of 4.44 $MTCO_2e$/SP/yr, the Project would have a less than significant GHG impact (p. 4.5-14). However, this conclusion is incorrect for two reasons. 8.98

First, the DEIR's GHG analysis relies on an incorrect and unsubstantiated air model, as previously discussed. This is incorrect, as the model underestimates the Project's GHG emissions. 8.99

Second, while we agree that the SCAQMD's 2020 bright-line threshold is not appropriate for evaluating the significance of the Project, which will be operational after 2020, the DEIR cannot simply make up its own adjusted threshold with which to compare emissions (Appendix B, pp. 83, 115, 149). The DEIR's adjusted threshold has not been reviewed or approved by the appropriate processes and the SCAQMD and thus, cannot be relied upon to determine Project significance. Rather, the SCAQMD does provide an updated Tier 4 service population efficiency target goal of 3.0 $MTCO_2e$/SP/year for target year 2035, as referenced by the DEIR.[27] Thus, the DEIR should have compared the Project's emissions to the SCAQMD 2035 target service population threshold of 3.0 MT CO_2e/SP/yr. When we compare the Project's purported per service population emissions of 4.3 MT CO_2e/SP/yr to the correct SCAQMD 2035 target service population threshold, we find a potentially significant GHG impact. 8.100

(3) Updated Analysis Indicates a Potentially Significant Impact

Applicable thresholds and site-specific modeling demonstrate that the Project may result in a potentially significant GHG impact. The updated CalEEMod output files, modeled by SWAPE with Project-specific information, disclose the Project's mitigated emissions, which include approximately 6,501.70 MT CO_2e of total construction emissions (sum of 2019, 2020, 2021, and 2022) and approximately 18,205.81 MT CO_2e/year of operational emissions (sum of area, energy, mobile, waste, and water-related emissions). When dividing the Project's GHG emissions (amortized construction + operational) by a service population value of 2,423, we find that the Project would emit approximately 7.60 MT CO_2e/SP/year (Appendix B, p. 7-2). This exceeds the SCAQMD 2035 efficiency threshold of 3.0 MT CO_2e/SP/year, as well as the unsubstantiated interpolated 2023 threshold of 4.43 MT CO_2e/SP/year and SCAQMD 2020 efficiency threshold of 4.8 MT CO_2e/SP/year (see table below). 8.101

[27] See SCAQMD (Dec. 5, 2008) Interim CEQA GHG Significance Threshold for Stationary Sources, Rules and Plans, http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgboardsynopsis.pdf?sfvrsn=2; ***see also*** SCAQMD (Oct. 2008) Draft Guidance Document – Interim CEQA Greenhouse Gas (GHG) Significance Threshold, http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/ghgattachmente.pdf; SCAQMD (Sep. 28, 2010) Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group # 15, http://www.aqmd.gov/docs/default-source/ceqa/handbook/greenhouse-gases-(ghg)-ceqa-significance-thresholds/year-2008-2009/ghg-meeting-15/ghg-meeting-15-minutes.pdf.

DEIR Annual Greenhouse Gas Emissions	
Project Phase	**Proposed Project (MT CO_2e/year)**
Construction (amortized over 30 years)	216.72
Area	149.50
Energy	2588.74
Mobile	14940.20
Waste	138.71
Water	388.66
Total	**18,422.53**
Service Population	2,423
Service Population Efficiency	**7.60**
Threshold	3.00
Exceed?	***Yes***

8.101 cont.

As the above table demonstrates, when correct input parameters are used to model Project emissions, the Project's GHG emissions exceed the SCAQMD's 2035 service population efficiency threshold of 3.0 MT CO_2e/SP/year, thus resulting in a significant impact not previously assessed or identified in the DEIR. As a result, an updated GHG analysis should be prepared in a Project-specific EIR and additional mitigation should be incorporated into the Project accordingly (see mitigation below).

8.102

Feasible Mitigation Measures Available to Reduce Construction Emissions

Our analysis demonstrates that, when Project activities are modeled correctly, construction emissions may result in potentially significant impacts. Therefore, additional mitigation measures must be identified and incorporated in an updated EIR to reduce these emissions to a less than significant level.

8.103

Additional mitigation measures can be found in CAPCOA's ***Quantifying Greenhouse Gas Mitigation Measures,*** which attempt to reduce GHG levels, as well as reduce criteria air pollutants such as particulate matter and NO_x.[28] DPM and NO_x are a byproduct of diesel fuel combustion and are emitted by on-road vehicles and by off-road construction equipment. Mitigation for criteria pollutant emissions should include consideration of the following measures in an effort to reduce construction emissions.[29]

8.104

Require Implementation of Diesel Control Measures

The Northeast Diesel Collaborative (NEDC) is a regionally coordinated initiative to reduce diesel emissions, improve public health, and promote clean diesel technology. The NEDC recommends that contracts for all construction projects require the following diesel control measures: [30]

8.105

[28] http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf

[29] For measures to reduce operational DPM emissions, see section titled "Additional Feasible Mitigation Measures Available to Reduce Operational Emissions" on p. 25 of this letter. These measures would effectively reduce operational VOC and NOx emissions, DPM emissions, as well as GHG emissions.

[30] Diesel Emission Controls in Construction Projects, ***available at:*** http://www2.epa.gov/sites/production/files/2015-09/documents/nedc-model-contract-sepcification.pdf

- All diesel generators on site for more than 10 total days must be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85 percent.
- All diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend[31] approved by the original engine manufacturer with sulfur content of 15 parts per million (ppm) or less.

8.105 cont.

Repower or Replace Older Construction Equipment Engines

The NEDC recognizes that availability of equipment that meets the EPA's newer standards is limited.[32] Due to this limitation, the NEDC proposes actions that can be taken to reduce emissions from existing equipment in the ***Best Practices for Clean Diesel Construction*** report.[33] These actions include but are not limited to:

- Repowering equipment (i.e. replacing older engines with newer, cleaner engines and leaving the body of the equipment intact).

Engine repower may be a cost-effective emissions reduction strategy when a vehicle or machine has a long useful life and the cost of the engine does not approach the cost of the entire vehicle or machine. Examples of good potential replacement candidates include marine vessels, locomotives, and large construction machines.[34] Older diesel vehicles or machines can be repowered with newer diesel engines or in some cases with engines that operate on alternative fuels. The original engine is taken out of service and a new engine with reduced emission characteristics is installed. Significant emission reductions can be achieved, depending on the newer engine and the vehicle or machine's ability to accept a more modern engine and emission control system. It should be noted, however, that newer engines or higher tier engines are not necessarily cleaner engines, so it is important that the Project Applicant check the actual emission standard level of the current (existing) and new engines to ensure the repower product is reducing emissions for DPM.[35]

8.106

- Replacement of older equipment with equipment meeting the latest emission standards.

Engine replacement can include substituting a cleaner highway engine for a nonroad engine. Diesel equipment may also be replaced with other technologies or fuels. Examples include hybrid switcher locomotives, electric cranes, LNG, CNG, LPG or propane yard tractors, forklifts or loaders. Replacements using natural gas may require changes to fueling infrastructure.[36] Replacements often

8.107

[31] Biodiesel lends are only to be used in conjunction with the technologies which have been verified for use with biodiesel blends and are subject to the following requirements: http://www.arb.ca.gov/diesel/verdev/reg/biodieselcompliance.pdf

[32] http://northeastdiesel.org/pdf/BestPractices4CleanDieselConstructionAug2012.pdf

[33] http://northeastdiesel.org/pdf/BestPractices4CleanDieselConstructionAug2012.pdf

[34] Repair, Rebuild, and Repower, EPA, ***available at:*** https://www.epa.gov/verified-diesel-tech/learn-about-verified-technologies-clean-diesel#repair

[35] Diesel Emissions Reduction Program (DERA): Technologies, Fleets and Projects Information, ***available at:*** http://www2.epa.gov/sites/production/files/2015-09/documents/420p11001.pdf

[36] Alternative Fuel Conversion, EPA, ***available at:*** https://www3.epa.gov/otaq/consumer/fuels/altfuels/altfuels.htm#fact

require some re-engineering work due to differences in size and configuration. Typically, there are benefits in fuel efficiency, reliability, warranty, and maintenance costs.[37]

8.107 cont.

Install Retrofit Devices on Existing Construction Equipment

PM emissions from alternatively-fueled construction equipment can be further reduced by installing retrofit devices on existing and/or new equipment. The most common retrofit technologies are retrofit devices for engine exhaust after-treatment. These devices are installed in the exhaust system to reduce emissions and should not impact engine or vehicle operation. [38] It should be noted that actual emissions reductions and costs will depend on specific manufacturers, technologies and applications.

8.108

Use Electric and Hybrid Construction Equipment

CAPCOA's ***Quantifying Greenhouse Gas Mitigation Measures***[39] report also proposes the use of electric and/or hybrid construction equipment as a way to mitigate DPM emissions. When construction equipment is powered by grid electricity rather than fossil fuel, direct emissions from fuel combustion are replaced with indirect emissions associated with the electricity used to power the equipment. Furthermore, when construction equipment is powered by hybrid-electric drives, emissions from fuel combustion are also greatly reduced. Electric construction equipment is available commercially from companies such as Peterson Pacific Corporation,[40] which specialize in the mechanical processing equipment like grinders and shredders. Construction equipment powered by hybrid-electric drives is also commercially available from companies such as Caterpillar.[41] For example, Caterpillar reports that during an 8-hour shift, its D7E hybrid dozer burns 19.5 percent fewer gallons of fuel than a conventional dozer while achieving a 10.3 percent increase in productivity. The D7E model burns 6.2 gallons per hour compared to a conventional dozer which burns 7.7 gallons per hour.[42] Fuel usage and savings are dependent on the make and model of the construction equipment used. The Project Applicant should calculate project-specific savings and provide manufacturer specifications indicating fuel burned per hour.

8.109

Implement a Construction Vehicle Inventory Tracking System

CAPCOA's ***Quantifying Greenhouse Gas Mitigation Measures***[43] report recommends that the Project Applicant provide a detailed plan that discusses a construction vehicle inventory tracking system to ensure compliances with construction mitigation measures. The system should include strategies such as requiring engine run time meters on equipment, documenting the serial number, horsepower, manufacture age, fuel, etc. of all onsite equipment and daily logging of the operating hours of the

8.110

[37] Cleaner Fuels, EPA, ***available at:***https://www.epa.gov/verified-diesel-tech/learn-about-verified-technologies-clean-diesel#cleaner
[38] Retrofit Technologies, EPA, ***available at:***https://www.epa.gov/verified-diesel-tech/learn-about-verified-technologies-clean-diesel#retrofit
[39]http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf
[40] Peterson Electric Grinders Brochure, ***available at:***http://www.petersoncorp.com/wp-content/uploads/peterson_electric_grinders1.pdf
[41] Electric Power Products, ***available at:***http://www.cat.com/en_US/products/new/power-systems/electric-power-generation.html
[42]http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf
[43]http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf

17

equipment. Specifically, for each onroad construction vehicle, nonroad construction equipment, or generator, the contractor should submit to the developer's representative a report prior to bringing said equipment on site that includes:[44]

- Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, and engine serial number.
- The type of emission control technology installed, serial number, make, model, manufacturer, and EPA/CARB verification number/level.
- The Certification Statement[45] signed and printed on the contractor's letterhead.

8.110 cont.

Furthermore, the contractor should submit to the developer's representative a monthly report that, for each on-road construction vehicle, nonroad construction equipment, or generator onsite, includes: [46]

- Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
- Any problems with the equipment or emission controls.
- Certified copies of fuel deliveries for the time period that identify:
    - Source of supply
    - Quantity of fuel
    - Quality of fuel, including sulfur content (percent by weight)

8.111

In addition to these measures, we also recommend that the Project implement the following mitigation measures, called "Enhanced Exhaust Control Practices,"[47] that are recommended by the Sacramento Metropolitan Air Quality Management District (SMAQMD):

1. The project representative shall submit to the lead agency a comprehensive inventory of all off-road construction equipment, equal to or greater than 50 horsepower, that will be used an aggregate of 40 or more hours during any portion of the construction project.
    - The inventory shall include the horsepower rating, engine model year, and projected hours of use for each piece of equipment.
    - The project representative shall provide the anticipated construction timeline including start date, and name and phone number of the project manager and on-site foreman.
    - This information shall be submitted at least 4 business days prior to the use of subject heavy-duty off-road equipment.
    - The inventory shall be updated and submitted monthly throughout the duration of the project, except that an inventory shall not be required for any 30-day period in which no construction activity occurs.

8.112

[44] Diesel Emission Controls in Construction Projects, ***available at:***http://www2.epa.gov/sites/production/files/2015-09/documents/nedc-model-contract-sepcification.pdf
[45] Diesel Emission Controls in Construction Projects, ***available at:***http://www2.epa.gov/sites/production/files/2015-09/documents/nedc-model-contract-sepcification.pdf The NEDC Model Certification Statement can be found in Appendix A.
[46] Diesel Emission Controls in Construction Projects, ***available at:***http://www2.epa.gov/sites/production/files/2015-09/documents/nedc-model-contract-sepcification.pdf
[47]http://www.airquality.org/ceqa/Ch3EnhancedExhaustControl_10-2013.pdf

2. The project representative shall provide a plan for approval by the lead agency demonstrating that the heavy-duty off-road vehicles (50 horsepower or more) to be used in the construction project, including owned, leased, and subcontractor vehicles, will achieve a project wide fleet-average 20% NOX reduction and 45% particulate reduction compared to the most recent California Air Resources Board (ARB) fleet average.
    - This plan shall be submitted in conjunction with the equipment inventory.
    - Acceptable options for reducing emissions may include use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, and/or other options as they become available.
    - The District's Construction Mitigation Calculator can be used to identify an equipment fleet that achieves this reduction.
3. The project representative shall ensure that emissions from all off-road diesel-powered equipment used on the project site do not exceed 40% opacity for more than three minutes in any one hour.
    - Any equipment found to exceed 40 percent opacity (or Ringelmann 2.0) shall be repaired immediately. Non-compliant equipment will be documented and a summary provided to the lead agency monthly.
    - A visual survey of all in-operation equipment shall be made at least weekly.
    - A monthly summary of the visual survey results shall be submitted throughout the duration of the project, except that the monthly summary shall not be required for any 30-day period in which no construction activity occurs. The monthly summary shall include the quantity and type of vehicles surveyed as well as the dates of each survey.
4. The District and/or other officials may conduct periodic site inspections to determine compliance. Nothing in this mitigation shall supersede other District, state or federal rules or regulations.

8.112 cont.

Use of Spray Equipment with Greater Transfer Efficiencies

Various coatings and adhesives are required to be applied by specified methods such as electrostatic spray, high-volume, low-pressure (HVLP) spray, roll coater, flow coater, dip coater, etc. in order to maximize the transfer efficiency. Transfer efficiency is typically defined as the ratio of the weight of coating solids adhering to an object to the total weight of coating solids used in the application process, expressed as a percentage. When it comes to spray applications, the rules typically require the use of either electrostatic spray equipment or HVLP spray equipment. The SCAQMD is now able to certify HVLP spray applicators and other application technologies at efficiency rates of 65 percent or greater.[48]

8.113

These measures offer a cost-effective, feasible way to incorporate lower-emitting equipment into the Project's construction fleet, which subsequently reduces construction emissions. A revised EIR must be prepared to include additional mitigation measures, as well as include an updated air quality assessment to ensure that the necessary mitigation measures are implemented to reduce construction emissions. Furthermore, the updated EIR needs to demonstrate commitment to the implementation of these

8.114

[48] http://www.aqmd.gov/home/permits/spray-equipment-transfer-efficiency

measures prior to Project approval to ensure that the Project's construction-related emissions are reduced to the maximum extent possible. 8.114 cont.

Feasible Mitigation Measures Available to Reduce Operational Emissions

As discussed above, the Project's operational NO_x and GHG emissions may result in a potentially significant impact. In an effort to reduce the Project's emissions, we identified several mitigation measures that are applicable to the Project. Feasible mitigation measures can be found in CAPCOA's ***Quantifying Greenhouse Gas Mitigation Measures,*** which attempt to reduce GHG levels, as well as reduce criteria air pollutants.[49] Therefore, to reduce the Project's emissions, consideration of the following measures should be made.

- Energy-related mitigation:
  - Install programmable thermostat timers
  - Establish onsite renewable energy systems, including wind power
  - Limit outdoor lighting requirements
  - Reduce unnecessary outdoor lighting by utilizing design features such as limiting the hours of operation of outdoor lighting.
  - Provide education on energy efficiency to residents, customers, and/or tenants. Provide information on energy management services for large energy users.
  - Meet "reach" goals for building energy efficiency and renewable energy use.
  - Limit the use of outdoor lighting to only that needed for safety and security purposes.
  - Require use of electric or alternatively fueled sweepers with HEPA filters.
  - Include energy storage where appropriate to optimize renewable energy generation systems and avoid peak energy use.
  - Prohibit gas powered landscape equipment and implement electric yard equipment compatibility
- Transportation-related mitigation:
  - Provide EV parking
  - Require residential area parking permits
  - Implement ride-sharing, vanpool, shuttle, bike-sharing programs
  - Provide local shuttles
  - Implement area or cordon pricing
  - Install a park-and-ride lot
- Water-related mitigation:
  - Install an infiltration basin to provide an opportunity for 100% of the storm water to infiltrate on-site.
  - Install a system to reutilize gray water
  - Use locally-sourced water supply
  - Plant native and drought-resistant trees and vegetation

8.115

[49] "Quantifying Greenhouse Gas Mitigation Measures." CAPCOA, Aug. 2010, http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf, p. 433.

- Develop and follow a "green streets guide" that requires:
  - Use of minimal amounts of concrete and asphalt;
  - Use of groundcovers rather than pavement to reduce heat reflection.[50]
- Implement Project design features such as:
  - Shade HVAC equipment from direct sunlight;
  - Install high-albedo white thermoplastic polyolefin roof membrane;
  - Install formaldehyde-free insulation; and
  - Use recycled-content gypsum board.
  - Require all buildings to become "LEED" and "WELL" certified.
- Plant low-VOC emitting shade trees, e.g., in parking lots to reduce evaporative emissions from parked vehicles.

8.115 cont.

When combined, these measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduces emissions released during Project operation. An updated EIR should be prepared to include additional mitigation measures, as well as include an updated air quality analysis to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds. The EIR also needs to demonstrate commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

8.116

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.

8.117

Sincerely,



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

[50] HARC (July 2004) Cool Houston Plan, http://www.harcresearch.org/sites/default/files/documents/projects/CoolHoustonPlan_0.pdf

Paul E. Rosenfeld, Ph.D.

Responses to Comment Letter No. 8

8.1 Comment noted. These are informational statements about the organization the commenter represents that do not require a response.

8.2 Comment noted. This is a summary of the Project Description that does not require a response.

8.3 Comment noted. This is a description of the Southwest Carpenters Union that does not require a response.

8.4 Comment noted. The commenter notes their ability to comment further under CEQA, but no response is required.

8.5 Comment noted. The commenter notes their ability to comment further under CEQA in the future, but no response is required.

8.6 Comment noted. The commenter notes their ability to comment further under CEQA in the future based on comments by others, but no response is required.

8.7 Comment noted. The City will provide all notices related to this proposed Project to the Commenter. No further response is required.

8.8 Comment noted. The commenter explains they have retained others to assist them in their comments on the EIR. No further response is required.

8.9 Comment noted. This is information regarding Matt Hagemann, P.G., C.Hg. that does not require a response.

8.10 Comment noted. This is information regarding Matt Hagemann, P.G., C.Hg. that does not require a response.

8.11 Comment noted. This is information regarding Matt Hagemann, P.G., C.Hg. that does not require a response.

8.12 Comment noted. This is information regarding Paul Rosenfeld, Ph.D. that does not require a response.

8.13 Comment noted. This is information regarding Paul Rosenfeld, Ph.D. that does not require a response.

8.14 Comment noted. This is information regarding Paul Rosenfeld, Ph.D. that does not require a response.

8.15 Most of this comment simply cites information from CEQA that does not require a response, however, it is under a new heading that states the Project, if approved, would be in violation of CEQA. This is inaccurate as the EIR does comply with the intent and requirements of CEQA. Specific responses to specific comments made by the commenter are provided below.

8.16 The commenter cites general information from CEQA regarding mitigation for significant impacts and alternatives to the proposed Project. The commenter does not acknowledge

the EIR contains numerous mitigation measures and does provide an analysis of alternatives to the Project as required under CEQA.

8.17 The commenter cites information from CEQA regarding abuse of discretion but does not make a comment about the EIR, so no response is required.

8.18 The commenter cites information from CEQA regarding allowing time for public comment but does not make a comment about the EIR, so no response is required.

8.19 The commenter provides information from the EIR Project Description under a heading that the "DEIR fails to adequately describe the Project ". As stated on p. 3-3 of the DEIR, as well as throughout the DEIR: "Upon approval of SPA 260, A3, total dwelling unit count shall increase by 721 units, based on maximum potential dwelling units in Planning Areas 11 and 12. It should be noted that, as a worst-case scenario, 246,312 square feet of commercial uses and 637 multi-family dwelling units were utilized in the analysis of this DEIR." The EIR language clearly states the 721 units is a **potential maximum** figure but that the EIR analysis is based on a mixture of uses for these areas that reduces the actual number of units to 637 plus the commercial uses. One of the main reasons for processing this SPA was to allow flexibility in the future regarding the mix of residential versus commercial uses in these Planning Areas. If a future builder wished to construct more than 637 residential units or more than 246,312 square feet of commercial uses in these areas, the builder would have to limit one or both uses so as to not exceed the maximum (worst case) numbers indicated in the EIR. This clearly defines the parameters of the Project and the number of units that were utilized for the technical studies for the Project. All technical studies, plus the DEIR are internally consistent with this number of units and commercial square footage. Should a future project be submitted that has units or commercial area that exceed the limits identified in the DEIR, then subsequent analysis would be required.

8.20 The commenter cites information from CEQA regarding the need for a stable and finite project description but does not make any specific comment about this Project or EIR, therefore, no response is required.

8.21 See Response to Comment 8.19 above in reference to the Project Description.

8.22 Please refer to Responses to Comments 8.19 and 8.21. The commenter is incorrect, the EIR Project Description does accurately describe the Project and does accurately estimate potential environmental impacts from the Project.

8.23 The commenter is incorrect, the EIR Project Description does accurately describe the Project and does accurately estimate potential environmental impacts from the Project. Please refer to Responses to Comments 8.19 and 8.21.

8.24 The commenter cites information from CEQA and related court cases regarding deferral of mitigation but does not make a comment about the Project or EIR, so no response is required. However, this comment is under a new heading stating the EIR's mitigation is vague and unenforceable which is incorrect, as will be demonstrated in the following responses to specific comments.

8.25 The commenter cites information from CEQA and related court cases regarding deferral of mitigation and establishing performance standards for mitigation but does not make a comment about the Project or EIR, so no response is required.

8.26 The commenter's comments on mitigation are typical of those at a site plan or tract map level. However, the commenter fails to acknowledge this is a programmatic EIR which evaluated general changes in land uses in the various planning areas, so the mitigation measures need to also be appropriately programmatic. These general measures would be implemented using California Building Code and other standards at the actual time of site plan or tract map submittal. For example, it is impossible to state specifically the number or location of bicycle racks until an actual site plan or tract map was prepared which is not currently available. CEQA encouraging preparation of analysis documents as early in the planning process as possible to predict potential environmental impacts as soon as practical, knowing that the actual implementation of mitigation may depend on more detailed information at a later time but still prior to actual construction. While it is early in the planning process for this Project, terms like "standard lighting" refer to the standards in the 2016 California Green Building Code as the 2019 Code did not take effect until January 2020 which was after the technical studies were prepared.

MM-AQ-2 and MM-GHG-1: These measures will be modified as shown below which will be reflected in FEIR Section 3.0, Errata. The Project will be required to comply with the latest California Building Standards Code (CBSC or CALGreen; Year 2019 or later), which require greater energy and lighting efficiency than what was used in this analysis and previously required by the 2016 Building Standards. MM-AQ-2 and MM-GHG-1 will be modified as shown below to clarify the Project must comply with the most current Cal Green Building permit application is submitted. The 34% reduction was based on the 2016 Cal Building Code which was the most current version when the EIR was drafted. When building permit applications are submitted, a developer must demonstrate, at a minimum, compliance with the most recently adopted CBSC. As of 2019, this includes mandatory solar requirements for all residential buildings. Therefore, compliance with the current building code standards is considered adequate mitigation to meet the energy efficiency reduction targets. See also information above regarding the level of detail required for programmatic mitigation.

MM-AQ-2: During Project construction, the Project applicant shall install high-efficiency lighting (such as LEDs) that is ~~at least~~ ~~34%~~ more efficient than standard lighting <u>based on the most recently adopted CALGreen Building Code in place at the time of building permit application.</u>

MM-GHG-1: Prior to occupancy, the Project applicant shall require that high-efficiency lighting (such as LEDs) be installed that is ~~at least 34%~~ more efficient than standard lighting <u>based on the most recently adopted CALGreen Building Code in place at the time of building permit application</u>.

The modification of these mitigation measures does not change the EIR's conclusions regarding significant impacts or mitigation, so it is not considered significant new information, and this information does not trigger the need to recirculate the DEIR.

MM-ENR-5, MM-ENR-6, MM-TR-4, and MM-TR-5: The California Building Standards Code (CALGreen) has mandatory bicycle parking for non-residential structures that will be used as the basis for satisfying this mitigation requirement. The term secure bicycle storage is an industry standard term that refers to an enclosed bicycle parking facility which offers residents shelter and security for their bikes. The location of bike parking will be identified during the site plan or tentative tract map review process. See also information above regarding the level of detail required for programmatic mitigation.

MM-NOI-1 and MM-NOI-2: The City of Menifee will require a grading permit and building

permit prior to beginning of construction activities. It will be the responsibility of the City's Public Works and Engineering Inspectors and Building and Safety inspectors to enforce applicable noise standards established either through the City's Noise Ordinance, Mitigation Measures, or Conditions of Approval based on the applicable permit and, when necessary, equipment shall be required to be maintained consistent with the manufacturer's specifications for specific pieces of equipment. See also information above regarding the level of detail required for programmatic mitigation.

MM-HAZ-1: See Response to Comment 8.39 regarding hazardous materials. See also information above regarding the level of detail required for programmatic mitigation.

8.27 The commenter is incorrect, the mitigation measures in the EIR are appropriate at the programmatic level (i.e., for a Specific Plan) and would be implemented in more detail when more detail about the actual development was proposed (i.e., at the site plan and tract map level).

8.28 The DEIR has adequately disclosed and analyzed the Project's air quality impacts per City of Menifee, South Coast Air Quality Management District and State of California standards. All input parameters are fully disclosed and substantiated in Section 4.0 and Appendices A and B of the Air/GHG Study. The trip purpose percentages used in CalEEMod have been correctly applied and are consistent with the Traffic Impact Study and traffic engineering standards, which take into account over 2,000 daily pass-by trips. All mobile-related mitigation measures have been fully disclosed in the CalEEMod output sheets and are consistent with the CAPCOA Quantifying Greenhouse Gas Mitigation Measures, August 2010 report. All feasible mitigation measures to reduce NOx emissions have been imposed to attempt to reduce motor vehicle travel and the project cannot reasonably impose additional mitigation on residential and commercial uses to effectively reduce off-site mobile source emissions. The NOx impact is caused from off-site motor vehicle travel. Further discussion regarding this topic is provided in response to the SWAPE letter, see Responses to Comments 8.64 through 8.118 below.

8.29 The commenter is incorrect; the DEIR and the supporting air quality assessment do accurately and correctly analyze potential air quality impacts of the Project and the EIR does not violate CEQA. As evidence, please refer to Responses to Comments 8.64 to 8.118 for specific responses to specific comments about the air quality and related analyses.

8.30 The DEIR has adequately disclosed and analyzed the Project's health risk emissions impacts per City of Menifee, South Coast Air Quality Management District and State of California standards. Localized significance thresholds are used to identify localized emissions of PM2.5 at the Project site, which includes Diesel Particulate Matter. The study does not solely rely on the LST thresholds to conclude that health impacts would be less than significant, but rather cites that fact that PM 2.5, which includes DPM are below SCAQMD's standards. The Project is not identified as a significant stationary source polluter that would necessitate additional operation health risk analysis, per the California Air Resources Board's Recommendations on Siting New Sensitive Land Uses. Furthermore, regarding construction, OEHHA recommends that a 30-year exposure duration be used as the basis for estimating cancer risk at the maximum exposed individual resident (MEIR) in the Hot Spots Program. This exposure duration represents the time of residency for 90 to 95% of Californians at a single location and should provide adequate public health protection against individual risk. OEHHA admits that there is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime. Furthermore, the project will be built out

in phases, and construction activities will take place spread out throughout the site. As a result, sensitive receptors are not expected to be exposed to substantial pollutant concentrations over a 30-year exposure duration and a quantified health risk assessment is not required to reach a conclusion of less than significant. Further discussion regarding this topic is provided in response to the SWAPE letter, see Responses to Comments 8.64 through 8.118 below.

8.31 Please refer to Response to Comment 8.30 regarding health risks, as well as the following Responses to Comments regarding specific topics raised by the commenter:

RTCs 8.65 to 8.73	SWAPE comments on Project air quality parameter
RTCs 8.75 to 8.76	Suggested mitigation
RTCs 8.78 to 8.87	Health Risk Assessment parameters
RTCs 8.94 to 8.102	Greenhouse gas emissions
RTCs 8.103 to 8.122	Construction emissions modeling

8.32 The DEIR has adequately disclosed and analyzed the Project's greenhouse gas emissions impacts per City of Menifee, South Coast Air Quality Management District and State of California standards. The commenter is incorrect in that the DEIR and the supporting air quality assessment do accurately and correctly analyze potential air quality impacts of the Project and the EIR does not violate CEQA. Further discussion regarding the specific comments made by the commenter on the air quality study are provided in Responses to Comments 8.64 through 8.118 below.

8.33 The greenhouse gas analysis does not suggest that CARB's Scoping Plan is a Climate Action Plan that qualifies under CEQA. The analysis instead highlights the Scoping Plan measures that are required by the St ate of California to reduce GHG emissions and provides discussion on the project's compatibility with the plan. All input assumptions used in CalEEMod are fully disclosed and substantiated based on the CAPCOA Quantifying Greenhouse Gas Mitigation Measures, August 2010 report. Furthermore, CalEEMod is the preferred air model for land use emissions analysis by SCAQMD and CAPCOA. Lastly, the emissions analysis prepared by SWIPE fails to account for the appropriate project design features and mitigation requirements that will be implemented by this Project. It further utilizes incorrect vehicle trip assumptions resulting in over-estimating vehicle miles traveled (VMT) and emissions from the Project. Please refer to Response to Comment 8.32, as well as Responses to Comments 8.64 to 8.118 for related discussions.

8.34 The EIR concluded construction-related GHG emissions were less than significant as shown in Table 4.5-4 (EIR p. 4.5-12) so no mitigation was required. However, the following two Project Design Features were referenced in terms of helping reduce construction-related GHG emissions:

DF-GHG-1: Carpooling shall be encouraged for construction workers.
DF-GHG-2: The project shall comply with current California Title 24 standards.

A potentially significant impact to GHG was identified for Project operations in the GHG analysis and mitigation will be required that will sufficiently reduce the significant operational GHG impact. Mitigation measures MM-GHG-1 through MM-GHG-7 will be required and would reduce the impact to less than significant levels, as indicated in Table 4.5-5 of the DEIR. The mitigation measures being applied to the project are consistent with the CAPCOA Quantifying Greenhouse Gas Mitigation Measures, August 2010 report. Furthermore, all construction equipment will be required to utilize "Clean diesel" equipment,

per DF-5 of the Air Quality study, including modified engines (catalyst equipped, or newer Moyer Program retrofit). Also see Response to Comment 8.32, as well as Responses to Comments 8.64 through 8.118 below for related discussions.

8.35 The Project will be required to implement MM-GHG-1 through MM-GHG-7 which have been shown to reduce GHG impacts to less than significant levels, as indicated in Table 4.5-5 of the DEIR. The mitigation measures being applied to the project are consistent with the CAPCOA Quantifying Greenhouse Gas Mitigation Measures, August 2010 report. The additional mitigation measures being suggested by the commenter have not been shown to provide additional feasible GHG. The commenter has simply listed generic GHG reduction measures, without consideration for how they would apply to this Project. For example, how would residential parking permits quantifiably reduce GHG emissions or how would a local shuttle program be feasible for this type of project? Many of the recommendations listed in the SWAPE letter are already required through the CA building code standards, including providing EV parking, building energy efficiency standards, water reduction and draught tolerant landscaping. Furthermore, all new residential construction is now required to have net zero energy usage per the latest California Building Standards code. Therefore, the project will actually generate substantially less emissions than what was previously reported. Therefore, the GHG emissions analysis and mitigation requirements are adequate to reduce the Projects potentially significant impact. Please also see Response to Comment 8.115 below for related discussion.

8.36 The commenter cites information from CEQA regarding cumulative impacts but does not make a comment about the Project or EIR, so no response is required.

8.37 This comment is general in nature in terms of cumulative impact assessment in the EIR, however, each environmental analysis subchapters (Subchapters 4.2 through 4.17) had a separate subsection on cumulative impact. In terms of the specific reference to Population and Housing, Subchapter 4.10 (Population and Housing) of the DEIR states: ".89% increase in population over projected 2040 population in the City of Menifee and represents a 0.094% increase in population over estimated 2019 population and a 0.073% increase in population over projected 2040 population in Riverside County." Also, Subsection 4.10.6 on Cumulative Impacts related to Population and Housing states:

> "The Project represents a 1.83% increase in households over 2019 estimated households, and a 1.32% increase in households over projected 2040 households in the City of Menifee and represents a 0.07% increase in households over estimated 2019 households, and a 0.060% increase in households over projected 2040 households in Riverside County. According to Table 2: E-5 City/County Population and Housing Estimates, 1/1/2019 (Dept. of Finance), the City has a vacancy rate of 10.2%, which is below the County total of 14.5%. While below the County rate, there is still a need within the City for housing.
>
> These increases are incremental increases to population and households; however, due to their small percentage in relation to the City and County, they are not considered substantial increases to population and households.
>
> Therefore, the direct residential population and housing growth and indirect growth from the commercial uses from the Project are not considered cumulatively considerable and significant." (DEIR pp. 4.10-11 and 4.10-12)

This analysis provides adequate analysis to support the conclusion reached in terms of

cumulative impacts. No additional analysis is required. Refer to the DEIR, Population and Housing (DEIR pp. 4.10-11 and 4.10-12) for discussion of cumulative impacts.

8.38 According to pp. 4.2-19 of the DEIR (Aesthetics): "Development of the proposed Project will contribute to the change of the general area with an intensification of development substantially greater than that which presently occurs on the site or in the surrounding vicinity. The existing General Plan land use designation is Specific Plan. SP260, A3 includes generally the same land uses with the exception of the High Density Residential, which will replace the Business Park classification in Planning Area 11. There will be an associated change in views, both to and from the Project site." No additional response is needed to address the comments about Project cumulative aesthetic impacts.

Regarding pesticide application on the Project site, the Phase I ESA states:

> "…historical review indicates the subject property was utilized for agricultural purposes from at least 1938 until at least 1967. Agricultural chemicals in use today are applied in dilute concentrations and, when used properly, degrade relatively quickly. However, environmentally persistent pesticides commonly applied prior to their being banned 1970 can linger in the soil for many years. It is not known if environmentally persistent pesticides were applied to the subject site in the past. Based upon the apparent length of time that has elapsed since agricultural usage has occurred; the fact that significant surface grading likely occurred upon future site development (diluting/aerating/mixing potential surficial pesticide residues); and the current undeveloped (rather than residential) use of the property; it is unlikely the potential former usage of pesticides has significantly environmentally impaired the subject property or would require remedial actions. Should the need arise (e.g., significant soil disturbance), confirmatory pesticide testing could be performed in areas of the subject property that are designated for future residential or sensitive uses (schools, parks) , but does not appear warranted at this time based upon the above factors. With the exception of the above issues, no further investigation is recommended." (pp. 6-7, Phase I ESA, South Shore Testing and Environmental, DEIR Appendix F1)

It should be noted that this entire area was historically used for dry farming and grazing which did not require extensive application of pesticides, herbicides, etc. Phase II testing on other properties in the Menifee Valley area have not found significant levels of persistent agricultural chemicals (i.e., in excess of state established residential soil standards) in the past (K. Norton, Registered Environmental Property Assessor, personal communication, March 2020).

According to pp. 4.6-21 of the DEIR (Hazards and Hazardous Materials): "The hazardous materials study area considered for cumulative impacts consists of (1) the area that could be affected by proposed activities, such as the release of hazardous materials, and (2) the areas affected by other projects whose activities could directly or indirectly affect the presence or fate of hazardous materials on site. In general, only the Project site and areas adjacent to the Project site are considered for cumulative impacts due to the limited potential impact area associated with release of hazardous materials into the environment." No additional response is needed to address the comments about Project cumulative aesthetic impacts.

8.39 Please reference Responses to Comments 8.37 and 8.38. No additional response is required.

8.40 According to p. 4.8-13 of the DEIR (Land Use and Planning): "Implementation of the proposed Project, when considered in conjunction with other existing and planned developments in the Project area, would result in developing a vacant site into 246,312 square feet of commercial uses and 637 multi-family dwelling units. The cumulative study area analyzed for potential land use impacts was the City of Menifee." The following provides an analysis of the Project in terms of consistency with each applicable goal and policy of the General Plan:

GENERAL PLAN GOAL OR POLICY	CONSISTENCY ANALYSIS
GOAL LU-1: Land uses and building types that result in a community where residents at all stages of life, employers, workers, and visitors have a diversity of options of where they can live, work, shop, and recreate within Menifee.	**Consistent.** The Menifee North Specific Plan, of which the Project is a part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. The Project also allows higher density housing and flexibility in the future with regard to the balance between residential and commercial uses to better respond to market needs and conditions in the future. The Project will provide higher density more affordable housing due to state and local market forces and the lack of such housing in the region.
Policy LU-1.1: Concentrate growth in strategic locations to help preserve rural areas, create place and identity, provide infrastructure efficiently, and foster the use of transit options.	**Consistent.** The Project site and surrounding areas have long been planned for a variety of suburban uses. The Menifee North Specific Plan, of which the Project is a part, will create a number of mixed-use neighborhoods along a major transportation and infrastructure corridor (Highway 74) to allow more transit options in the future for residents.
Policy LU-1.2: Provide a spectrum of housing types and price ranges that match the jobs in the city and make it possible for people to live and work in Menifee and maintain a high quality of life.	**Consistent.** The Menifee North Specific Plan, of which the Project is a part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. The Project also allows higher density housing and flexibility in the future with regard to the balance between residential and commercial uses to better respond to market needs and conditions in the future.
Policy LU-1.4: Preserve, protect, and enhance established rural, estate, and residential neighborhoods by providing sensitive and well-designed transitions (building design, landscape, etc.) between these neighborhoods and adjoining areas.	**Consistent.** The design guidelines of the Specific Plan, as amended, will help provide buffers between existing uses and future Project uses when specific development is proposed (i.e., review of plot plans, tract maps) consistent with the most currently adopted Specific Plan.
Policy LU-1.5: Support development and land use patterns, where appropriate, that reduce reliance on the automobile and capitalize on multimodal transportation opportunities.	**Consistent.** The Menifee North Specific Plan, of which the Project is a part, will create a number of mixed-use neighborhoods along a major transportation and infrastructure corridor (Highway 74) to allow more transit options in the future for residents.
Policy LU-1.6: Coordinate land use, infrastructure, and transportation planning and analysis with regional, county, and other local agencies to further regional and sub-regional goals for jobs-housing balance.	Consistent. The Menifee North Specific Plan was approved through the County when the Project area was unincorporated. The Specific Plan allows the City to best plan for future uses and the supporting infrastructure as development occurs based on the master utility plans of the Specific Plan.
Policy LU-1.7: Ensure neighborhood amenities and public facilities (natural open space areas, parks, libraries, schools, trails, etc.) are distributed equitably throughout the city.	**Consistent.** The Menifee North Specific Plan, of which the Project is a part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. The Project site itself does not contain any of these public facilities but they are found in other planning areas of the Specific Plan. The Project may provide some neighborhood commercial uses in the future based on market conditions at that time.
Policy LU-1.8: Ensure new development is carefully designed to avoid or incorporate natural features, including washes, creeks, and hillsides.	**Consistent.** The Menifee North Specific Plan, of which the Project is a part, is designed to be sensitive to existing natural features and topography. The Project site itself does not contain any sensitive or important resources referenced in the policy.

Policy LU-1.9: Allow for flexible development standards provided that the potential benefits and merit of projects can be balanced with potential impacts.	**Consistent.** The Project allows higher density housing and flexibility in the future with regard to the balance between residential and commercial uses to better respond to market needs and conditions in the future.
Policy LU-1.10: Buffer sensitive land uses, such as residences, schools, care facilities, and recreation areas from major air pollutant emission sources, including freeways, manufacturing, hazardous materials storage, wastewater treatment, and similar uses.	**Consistent.** The Menifee North Specific Plan, of which the Project is a part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. The residential portions of the Project site are located away from Highway 74 and do not contain any of these public facilities, but they are found in other planning areas of the Specific Plan. None of the restricting uses or activities outlined in this policy are found on or planned for the Project site or are in immediate surrounding area.
GOAL CD-1: A unified and attractive community identity that complements the character of the City's distinctive communities.	**Consistent.** The Menifee North Specific Plan, of which the Project is an integral part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. In addition, the architectural guidelines of the Specific Plan will provide for the development of an attractive and unified appearance of future uses.
Policy CD-1.1: Enhance the city's identity through the use of distinct city graphics, such as the city seal, in the design of gateways, street signs, city signage, public facilities and public gathering spaces, and other areas where appropriate.	**Consistent.** The Menifee North Specific Plan, of which the Project is an integral part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. Future development within the Specific Plan will be implemented based on the design guidelines of the Specific Plan including the use of neighborhood identifications outlined in the policy.
Policy CD-1.2: Support the development and preservation of unique communities and rural and suburban neighborhoods in which each community exhibits a special sense of place and quality of design.	**Consistent.** The Menifee North Specific Plan, of which the Project is an integral part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. The planned residential neighborhoods will each have their own unique density, design, and character based on the land use plan and design guidelines of the Specific Plan.
Policy CD-1.3: Strengthen the identity of individual neighborhoods/ communities with entry monuments, flags, street signs, and/or special tree streets, landscaping, and lighting.	**Consistent.** The Menifee North Specific Plan, of which the Project is an integral part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. Future development within the Specific Plan will be implemented based on the design guidelines of the Specific Plan including the use of neighborhood identifications outlined in the policy.
GOAL CD-3: Projects, developments, and public spaces that visually enhance the character of the community and are appropriately buffered from dissimilar land uses so that differences in type and intensity do not conflict.	**Consistent.** The Menifee North Specific Plan, of which the Project is an integral part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. Future development within the Specific Plan will be implemented based on the design guidelines of the Specific Plan including the use of visual enhancements and buffers between uses as outlined in the policy.
Policy CD-3.8: Design retention/detention basins to be visually attractive and well integrated with any associated project and with adjacent land uses.	Consistent. The Project will have detention basins to handle anticipated runoff from the various planning areas, which will be designed once specific site plans and/or tract maps are submitted to implement the programmatic land use plan of the Specific Plan. The aesthetics of each basin will be evaluated at the time a project is proposed for consistency with this policy.
Policy CD-3.13: Utilize architectural design features (e.g., windows, columns, offset roof planes, etc.) to vertically and horizontally articulate elevations in the front and rear of residential buildings.	**Consistent.** The Menifee North Specific Plan, of which the Project is an integral part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. Future development within the Specific Plan will be implemented based on the design guidelines of the Specific Plan including the use of architectural design features outlined in the policy.
Policy CD-3.14: Provide variations in color, texture, materials, articulation, and architectural treatments. Avoid long expanses of blank, monotonous walls or fences.	**Consistent.** The Menifee North Specific Plan, of which the Project is an integral part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. Future development within the Specific Plan

	will be implemented based on the design guidelines of the Specific Plan including the use of architectural treatments outlined in the policy (i.e., through review of plot plans and tract maps).
Policy CD-3.17: Encourage the use of creative landscape design to create visual interest and reduce conflicts between different land uses.	**Consistent.** The Menifee North Specific Plan, of which the Project is an integral part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. Future development within the Specific Plan will be implemented based on the design guidelines of the Specific Plan including the use of landscaping and landscaped buffers between uses as outlined in the policy.
Policy CD-3.18: Require setbacks and other design elements to buffer residential units to the extent possible from the impacts of abutting roadway, commercial, agricultural, and industrial uses.	**Consistent.** The Menifee North Specific Plan, of which the Project is an integral part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. Future development within the Specific Plan will be implemented based on the design guidelines of the Specific Plan including the use of setbacks and landscaped buffers between uses as outlined in the policy.
Policy CD-3.19: Design walls and fences that are well integrated in style with adjacent structures and terrain and utilize landscaping and vegetation materials to soften their appearance.	**Consistent.** The Menifee North Specific Plan, of which the Project is an integral part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. Future development within the Specific Plan will be implemented based on the design guidelines of the Specific Plan including the use of walls, fencing, and landscaping as outlined in the policy.
Policy CD-3.21: Use open space, greenways, recreational lands, and water courses as community separators.	**Consistent.** Future development within the Project will be implemented based on the design guidelines of the Specific Plan including the use of natural separations and buffers between uses as outlined in the policy and the Specific Plan.
GOAL CD-4: Recognize, preserve, and enhance the aesthetic value of the city's enhanced landscape corridors and scenic corridors.	**Consistent.** Highway 74 is identified as an Enhanced Landscape Corridor in Exhibit CD-2 of the General Plan Community Design Element. Proposed development along Highway 74 will be required to provide enhanced landscaping for consistency with the GP. In this way, the Project will not adversely impact any enhanced landscape or scenic corridors in the City. The Project will also not block views to the north and west from existing public uses and public roadways in the surrounding area.
Policy CD-4.1: Create unifying streetscape elements for enhanced landscape streets, including coordinated streetlights, landscaping, public signage, street furniture, and hardscaping.	**Consistent.** Future development within the Project will be implemented based on the design guidelines of the Specific Plan including the use of unifying streetscape elements which will be implemented through plot plans and tract map requirements. Highway 74 is identified as an Enhanced Landscape Corridor in Exhibit CD-2 of the General Plan Community Design Element. Proposed development along Highway 74 will be required to provide enhanced landscaping for consistency with the GP.
Policy CD-4.2: Design new and, when necessary, retrofit existing streets to improve walkability, bicycling, and transit integration; strengthen connectivity; and enhance community identity through improvements to the public right-of-way such as sidewalks, street trees, parkways, curbs, street lighting, and street furniture.	**Consistent.** The Project site and surrounding areas have long been planned for a variety of suburban uses. The Menifee North Specific Plan, of which the Project is a part, will create a number of mixed-use neighborhoods along a major transportation and infrastructure corridor (Highway 74) to allow more transit options in the future for residents. Future development within the Project will be implemented based on the design guidelines of the Specific Plan to improve walkability and non-vehicular transit options through future plot plan and tract map requirements.
Policy CD-4.3: Apply special paving at major intersections and crosswalks along enhanced corridors to create a visual focal point and slow traffic speeds.	**Consistent.** Future development within the Project will be implemented based on the design guidelines of the Specific Plan including the use of special paving when needed as part of the review of plot plans and tract maps.
GOAL ED-1: A diverse and robust local economy capable of providing employment for all residents desiring to work in the City.	**Consistent.** The Menifee North Specific Plan, of which the Project is an integral part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents.

Policy ED-1.2: Diversify the local economy and create a balance of employment opportunities across skill and education levels, wages and salaries, and industries and occupations.	**Consistent.** The Menifee North Specific Plan, of which the Project is an integral part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. Non-residential uses within the Specific Plan include business park, commercial, and light industrial, although only commercial would be located within the proposed Project site.
GOAL ED-2: A variety of retail shopping areas distributed strategically throughout the City and regional retail, dining, and entertainment destinations in key locations with freeway access.	Commercial development would be located within the proposed Project site along the Highway 74 corridor. Moreover, the Menifee North Specific Plan will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents.
Policy ED-2.1: Promote retail development by locating needed goods and services in proximity to where residents live to improve quality of life, retain taxable spending by Menifee residents, and attract residents from outside the City to shop in Menifee. - Locate businesses providing convenience goods and services in retail centers that are on arterials adjacent to neighborhoods and communities throughout the City but not in rural residential areas. - Encourage comparison goods businesses to locate in larger retail centers located on major arterials near freeway interchanges, because businesses that provide comparison goods tend to draw customers from larger areas.	**Consistent.** The Project is a part of the Menifee North Specific Plan which will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. Non-residential uses within the Specific Plan include business park, commercial, and light industrial, although only neighborhood commercial would be located within the proposed Project site. The Project allows for commercial development along the Highway 74 a major city commercial corridor which will allow for the providing of convenience goods and services to adjacent future neighborhoods. The Project has the potential to attract residents from outside of the City to shop in Menifee because of its location along Highway 74.
Policy ED-2.2: Require regional retail districts to provide entertainment and dining in addition to retail sales and services to create destinations prepared to withstand ecommerce's increasing capture of retail spending. These districts should create a pedestrian-friendly human-scale atmosphere with street furniture, shading, and gathering spaces that enhance the experience of shopping and socializing. Local retail centers (primarily intended to serve Menifee residents) need not necessarily provide dining and entertainment but shall provide street furniture, shading, pedestrian circulation, and gathering spaces that enhance the experience of shopping.	Commercial areas would be located within the proposed Project site under the Specific Plan, commercial uses of various types are proposed in several different planning areas including along the busy Highway 74 corridor. Future development within the Project will be implemented based on the design guidelines of the Specific Plan, which include provisions for a pedestrian-friendly, human-scale atmosphere.
GOAL ED-3: A mix of land uses that generates a fiscal balance to support and enhance the community's quality of life.	**Consistent.** The Menifee North Specific Plan, of which the Project is an integral part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. This mix of land uses will generate a fiscal balance to support and enhance the immediate and surrounding communities' quality of life.
Policy ED-3.1: Incorporate short-term and long-term economic and fiscal implications of proposed actions into decision making.	**Consistent.** The Menifee North Specific Plan, of which the Project is a part, will provide a complete balance of homes, employment, shopping, and recreation for City and Project residents. The Project allows higher density housing and flexibility in the future with regard to the balance between residential and commercial uses to better respond to market needs and conditions over both the short- and long-term. For example, MM-PS-1 states that… Should development of the commercial portion of the Project not be developed prior to the residential component, and if the DIF fees are not sufficient to

	cover costs of residential demand for public services, the Project developer shall negotiate a method of covering the costs of services to be extended to the site, such as a Public Services fee or payment of an in lieu fee.

As the preceding table demonstrates, the Project is in fact consistent with the applicable General Plan goals and policies. This information does not change the EIR's conclusions regarding significant impacts or mitigation, so it is not considered significant new information, and this information does not trigger the need to recirculate the DEIR. In addition, this information supports the conclusion on p. 4.8-9 of the DEIR that… "The Project is consistent with General Goals and Policies listed in Section 4.8.2.2, Regional and Local, City of Menifee General Plan (Environmental Setting) of this DEIR. The Goals and Polices listed in this Section are those that are applicable from the General Plan as they relate to Land Use and Planning."

The current General Plan Land Use designation and Zoning classifications on the Project site are Specific Plan (SP). No changes are proposed to the current General Plan Land Use designation and Zoning classifications. The proposed residential Specific Plan Land Use designations were not anticipated or analyzed in the GPEIR. Due to the small incremental increase in residential development (a 2.45% increase in population over estimated 2019 population and a 1.89% increase in population over projected 2040 population in the City of Menifee and represents a 0.094% increase in population over estimated 2019 population and a 0.073% increase in population over projected 2040 population in Riverside County) any impacts to the General Plan will be less than significant.

In addition, at 3.6 persons per household, per US Census ACS 5-year Estimates, it is anticipated that the Project would result in a direct population increase of approximately 2,293 persons at Project buildout. The 2,293 potential new residents that would be created by the proposed residential development were not anticipated to be within the growth assumptions estimated in the SCAG RTP/SCS. Project consistency with the RTP/SCS (DEIR **Table 4.8-2, *RTP/SCS Goals***) demonstrates that Project impacts will be considered less than significant impact." This data, as well as the information contained in this Subchapter is used to support the conclusion reached in DEIR Section 4.8.7 (Unavoidable Significant Adverse Impacts) on p. 4.8-13.

8.41 This comment represents the opinion of the commenter about what content of analysis is required for this portion of the DEIR. Table 3-1 (DEIR Chapter 3 and cited on DEIR pp. 4.8-8 and 4.8-9) is what it is: a land use summary of the SP and SPA. The consistency analysis (table) of General Plan goals and policies provided in Response to Comment 8.40 merely clarifies or expands on the conclusion of the DEIR in this regard and does not constitute significant new information and does not trigger the need to recirculate the DEIR.

8.42 Comment noted. See Responses to Comments 8.40 and 8.41 regarding the Project's consistency with the City's General Plan goals and policies. Response to Comment 8.40 above provides a tabular comparison of the General Plan goals and policies to the proposed Project. That additional analysis supports the conclusion in the DEIR (p. 4.8-12) that there are no significant land use impacts from the proposed Project relative to local land use plan consistency.

8.43 The Project is an amendment to a Specific Plan which has already been approved at densities and intensities which will change the character of the Project site and immediate area. The Project site is in an area which has been developing at suburban and urban densities. This comment is not taking that information into account. North of the Project

site, Panning Area 9 allows medium density residential uses while west of the site Planning Area, 7A allows medium high density residential and Planning Area 7B allows high density (garden court) units which provide a buffer from the Project uses to lower density existing units to the north and west. In addition, west of the Project site is an approved higher density subdivision which would provide a transition between lower density projects to the north and west and commercial development in Planning Area 13.

At the time specific development the Project area is proposed, each site plan and/or tract map will undergo design review for project architecture and landscaping which will be required to enhance the appearances of street frontages and buffers and setbacks, landscaping, architectural treatments, etc. to assure the development will be of high quality and consistent existing and planned development.

The consistency analysis (table) of General Plan goals and policies provided in Response to Comment 8.40 merely clarifies or expands on the conclusion of the DEIR in this regard and does not constitute significant new information and does not trigger the need to recirculate the DEIR. That additional analysis includes an evaluation of the specific policy and goal mentioned by the commenter. Therefore, the EIR does not violate CEQA in this regard.

8.44 Please reference Responses to Comments 8.40 and 8.41. The EIR, which includes the Draft EIR and Final EIR (with all the response to comments) does demonstrate the Project's consistency with applicable General Plan goals and policies and that it does not violate CEQA.

8.45 This comment represents the opinion of the commenter which is not supported by any factual evidence. As previously discussed in Response to Comment 8.26, the DEIR is a programmatic document for review of a programmatic development proposal (i.e., SPA) while the commenter's comments are requesting information that will be readily available when a specific plot plan or tract map to implement the SPA is proposed. Yes, it is true an increase in the number of residential units in a particular area would incrementally increase localized air pollutant emissions, but this must be balanced by the flexibility for future development to include neighborhood commercial uses in addition to residential uses within walking distance of both the commercial uses and a major transportation corridor (Highway 74). Response to Comment 8.26 also explains that 721 additional units would not be built but the number would balance the need for new residences and new commercial uses in the future. When these factors are all taken together, there would be no quantifiable increase in emissions related to the Menifee North Specific Plan, especially in light of increasingly stringent air quality regulations and controls at the state and regional levels in recent years. In addition, the reader should refer to Responses to Comments 8.40, 8.41, and 8.43 regarding consistency with City GP goals and policies.

8.46 Refer to Response to Comment 8.45.

8.47 The commenter cites information from CEQA regarding revising or recirculating an EIR when significant new information is available but does not make a comment about the Project or EIR. The following responses address the issue of new information and DEIR recirculation according to specific topics raised by the commenter:

RTCs 8.48 to 8.55	CEQA law and court cases regarding new information
RTCs 8.65 to 8.73	SWAPE comments on Project air quality parameter
RTCs 8.75 to 8.76	Suggested mitigation

RTCs 8.78 to 8.87	Health Risk Assessment parameters
RTCs 8.94 to 8.102	Greenhouse gas emissions
RTCs 8.103 to 8.122	Construction emissions modeling

8.48 The commenter cites information from CEQA regarding revising or recirculating an EIR when significant new information is available but does not make a comment about the Project or EIR, so no response is required.

8.49 The commenter cites information from CEQA and a related court case regarding revising or recirculating an EIR when significant new information is available but does not make a comment about the Project or EIR, so no response is required.

8.50 Based on the information contained in the responses above, the City, in exercising its discretion as lead agency, has determined that the DEIR does not meet the criteria listed in State CEQA Guidelines Section 15088.5 (Recirculation of an EIR Prior to Certification) that would necessitate a revised and recirculated EIR.

8.51 The commenter cites state planning law and related court cases but does not make a specific comment on the Project on the EIR, so no response is required. However, some general information on the state planning processes may be instructive. The commenter fails to acknowledge that local planning, based on state law, is not static but is flexible and can adapt to changing environmental and economic conditions. The process of preparing a General Plan, as well as subsequent changes to the General Plan, zoning, etc., are under the control and oversight of the local elected officials the City (i.e., the City Council). They are the ultimate arbiters of whether proposed development is consistent with the intent of the City relative to new development, as outlined in the General Plan. A Specific Plan is a state-authorized zoning tool that can replace parcel specific zoning for large assemblages of land to better plan portions of the City in a more comprehensive way than traditional zoning. State law also establishes procedures and processes to amend GPs and SPs, all under the oversight of the local elected legislative body of the lead agency.

8.52 Comment noted. This is information regarding general plan case law that does not require a response.

8.53 Comment noted. This is more information regarding general plan case law that does not require a response.

8.54 Comment noted. This is more information regarding general plan case law that does not require a response.

8.55 Comment noted. This is still more information regarding general plan case law that does not require a response.

8.56 Comment noted. This is more information regarding general plan case law that does not require a response. However, it should be noted that Response to Comment 8.40 clearly demonstrates the Project is consistent with the City's General Plan so no General Plan Amendment is required.

8.57 Response to Comment 8.40 demonstrates the DEIR is not inconsistent with the City's General Plan.

8.58 Response to Comment 8.40 demonstrates the Project is consistent with the City's General

Plan including Land Use Policy LU-1.4 and Community Development Goal CD-4. In addition, Response to Comment 8.51 provides information on general plan and zoning requirements.

8.59 Please reference Response to Comment 8.43. No additional response is required.

8.60 Please reference Response to Comment 8.45. No additional response is required.

8.61 Based on the information contained in the responses above, the City, in exercising its discretion as lead agency has determined that the DEIR does not meet the criteria listed in State CEQA Guidelines Section 15088.5 (Recirculation of an EIR Prior to Certification) that would necessitate a revised and recirculated EIR.

8.62 Comment noted. This is information regarding Matt Hagemann, P.G., C.Hg. that does not require a response. Pages 1-9 of Mr. Hagemann's resume can be viewed in Appendix C attached to this Final EIR.

8.63 Comment noted. This is information regarding Paul Rosenfeld, Ph.D. that does not require a response. Pages 1-16 of Mr. Rosenfeld's resume can be viewed in Appendix C attached to this Final EIR.

8.64 This comment provides a summary of the Project and is an introduction to the comments that follow. No further response is required.

8.65 This comment summarizes the findings of the subsequent issues raised by SWAPE. However, as described below (Responses to Comments 8.118 through 8.120), the DEIR has adequately disclosed and analyzed the Project's greenhouse gas emissions impacts per City of Menifee, South Coast Air Quality Management District and State of California standards.

8.66 The maximum potential development for this Project without requiring additional analysis is 637 residential dwelling units. Please reference Response to Comment 8.19. No further response is required.

8.67 This comment provides general discussion of CalEEMod and CEQA procedures. No further response is required.

8.68 This comment provides a general statement that the values inputted into the model were not consistent with information disclosed in the DEIR, and as a result, the Project's construction and operational emissions are underestimated.

However, there are no specific references made to any particular issues and, therefore, the City is unable to identify an omission in the analysis. The Project's air quality study has been reviewed by the City of Menifee's environmental peer review consultant and SCAQMD, and the report was found to adequately disclose and analyzed the Project's construction and operational emissions. No further response is required.

8.69 The operational vehicle trip assumptions have been based on the Palomar Crossing Traffic Impact Study, prepared by RK Engineering Group, Inc. (March 2018), as identified on Page 4.3-26 of the DEIR and provided in DEIR Appendix I, and the trip generation rate that was input into CalEEMod reflects the pass-by credit, therefore, the pass-by percentage input in CalEEMod was reduced to zero because it has already

been accounted for in the trip generation rate.

8.70 This comment provides a general statement of the protocol used in CalEEMod for identifying operational trip types. It also provides a general observation regarding the input parameters used in the Project's CalEEMod output files. As previously stated in Response to Comment 8.69, the operational vehicle trip assumptions have been based on the Palomar Crossing Traffic Impact Study, prepared by RK Engineering Group, Inc. (March 2018), as identified on Page 4.3-26 of the DEIR and provided in Appendix I, and the trip generation rate that was input into CalEEMod reflects the pass-by credit, therefore, the pass-by percentage input in CalEEMod was reduced to zero because it has already been accounted for in the trip generation rate.

8.71 As previously stated, the operational vehicle trip assumptions have been based on the Palomar Crossing Traffic Impact Study, prepared by RK Engineering Group, Inc. (March 2018), as identified on Page 4.3-26 of the DEIR and provided in DEIR Appendix I. The reallocation of trips between primary and diverted trips has been done proportionally in relation to the default assignment in CalEEMod. The result is a reasonable assessment of vehicle miles traveled that is consistent with the direction provided through the State of California Office of Planning and Research that indicates neighborhood serving retail uses help reduce vehicle miles traveled. Hence, diverted trips are appropriate for this Project.

8.72 This comment provides a general statement of the mobile mitigation measures used in the Project's CalEEMod analysis. No further response is required.

8.73 The mobile mitigation measures describe measurable changes that will occur as a result the Project. The application of each mitigation measure is consistent with the CAPCOA Quantifying Greenhouse Gas Mitigation Measures, August 2010 report. For example, this Project will increase the density and diversity of the site by allowing high density residential uses and more commercial uses, as compared to the previously approved specific plan allowances. The Project also provides residents with access to existing transit lines and provides sidewalk connections to the adjoining circulation system. The commenter should also be aware that while CalEEMod considered these inputs as "mitigation measures" they are actually a project design feature. No further substantiation is required to support the use of these trip reduction features in CalEEMod.

8.74 This comment provides a general statement of the waste related mitigation measures used in the Project's CalEEMod analysis and the preparer of the Project air quality/GHG study agrees with the comment. No further response is required.

8.75 Waste reduction and landfill diversion is achieved through compliance with AB 1826 California's Mandatory Organic Waste Recycling Law, which requires businesses and multi-family properties to recycle their organic waste. AB 341 California's Mandatory Commercial Recycling law requires businesses and multi- family complexes to recycle. To achieve compliance, the City's waste management provider provides residents with 3 96-gallon carts; 1 for regular trash, 1 for green waste, and 1 for commingled recyclables. Therefore, by participating in the City's waste management program, the Project will be in alignment with the reduction goals required by the State.

8.76 NOx emissions are primarily associated with motor vehicle traffic and while trip reduction strategies have been imposed on employees, the Project cannot reasonably

impose mitigation on private customers and their vehicles to the extent that would fully mitigate the impact. In addition to the required mitigation measures, the Project will also be required to implement a number of building code requirements that will further help encourage electric vehicle usage, such as requiring EV charging stations for the commercial land uses and the necessary infrastructure for electric vehicle charging in residential garages. The commenter has not demonstrated how additional mitigation, such as residential parking permits, would quantifiably reduce mobile source missions or how a local shuttle program would be feasible for this type of Project. Therefore, even with the implementation of all reasonable measures, the NOx emissions still exceed thresholds and the impact is considered significant and unavoidable. This conclusion has been reviewed and supported by the City, the City's peer review consultant and the SCAQMD and has been found to be the appropriate methodology for analysis.

8.77 The Project would consist of residential and commercial uses which are not considered to be significant sources of toxic air contaminants (TAC). Thus, a quantified diesel health risk assessment of Project emissions has not been required by the SCAQMD. Typical uses that would require a Health Risk Assessment (HRA) include large transportation Projects, truck terminals, ports, industrial Projects and power plants. The Project did however perform a quantified HRA study of potential risk from the adjacent SR-74 roadway and existing industrial uses, and the results showed that future residential uses on the Project site will not be exposed to significant levels of TACs from the nearby roadway or industrial facilities.

8.78 The methodology used to analyze the Project's emissions and localized significance has been reviewed by the City, the City's peer review consultant and the SCAQMD and has been found to be the appropriate methodology for analysis. See related discussion on the use of LST and HRA analyses in Responses to Comments 8.77 above and 8.79 below.

8.79 The DEIR adequately discloses and analyzed the Project's health risk emissions impacts per City of Menifee, South Coast Air Quality Management District and State of California standards. Localized significance thresholds are used to identify localized emissions of PM2.5 at the project site, which includes Diesel Particulate Matter. The study does not solely rely on the LST thresholds to conclude that health impacts would be less than significant, but rather cites that fact that PM 2.5, which includes DPM, are below SCAQMD's standards. The project is not identified as a significant stationary source polluter that would require additional operation health risk analysis, per the California Air Resources Board's Recommendations on Siting New Sensitive Land Uses. Furthermore, regarding construction, OEHHA recommends that a 30-year exposure duration be used as the basis for estimating cancer risk at the maximum exposed individual resident (MEIR) in the Hot Spots Program. This exposure duration represents the time of residency for 90 to 95% of Californians at a single location and should provide adequate public health protection against individual risk. OEHHA admits that there is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime. Furthermore, the project will be built out in phases, and construction activities will take place spread out throughout the site. As a result, sensitive receptors are not expected to be exposed to substantial pollutant concentrations over a 30-year exposure duration and a quantified health risk assessment is not required to reach a conclusion of less than significant

8.80 As described in Responses to Comments 8.77 through 8.79, the methodology used to

evaluate and disclose the Project's potential air quality health risk impacts has been reviewed by the City, the City's peer review consultant and the SCAQMD and has been found to be the appropriate methodology for analysis under CEQA.

8.81 Localized significance thresholds are used to identify localized emissions of PM2.5 at the project site, which includes Diesel Particulate Matter. The study does not solely rely on the LST thresholds to conclude that health impacts would be less than significant, but rather cites that fact that PM 2.5, which includes DPM, are below SCAQMD's standards. The project is not identified as a significant stationary source polluter that would require additional operation health risk analysis, per the California Air Resources Board's Recommendations on Siting New Sensitive Land Uses. The methodology used to evaluate and disclose the Project's potential air quality health risk impacts has been reviewed by the City's peer review consultant and the SCAQMD and found to be adequate.

8.82 The State Office of Environmental Health Hazard Assessment (OEHHA) recommends that a 30-year exposure duration be used as the basis for estimating cancer risk at the maximum exposed individual resident (MEIR) in the Hot Spots Program. This exposure duration represents the time of residency for 90 to 95% of Californians at a single location and should provide adequate public health protection against individual risk. OEHHA admits that there is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime. Furthermore, the project will be built out in phases, and construction activities will take place spread out throughout the site. As a result, sensitive receptors are not expected to be exposed to substantial pollutant concentrations over a 30-year exposure duration and a quantified health risk assessment is not required to reach a conclusion of less than significant. The methodology used to evaluate and disclose the Project's potential air quality health risk impacts has been reviewed by the City's peer review consultant and the SCAQMD and found to be adequate under CEQA.

8.83 As described in Responses to Comments 8.77 and 8.79, the methodology used to evaluate and disclose the Project's potential air quality health risk impacts has been reviewed by the City, the City's peer review consultant and the SCAQMD and has been found to be the appropriate methodology for analysis.

8.84 The Project is not a significant stationary source polluter that would require additional operation health risk analysis, per the California Air Resources Board's Recommendations on Siting New Sensitive Land Uses. The methodology used to evaluate and disclose the project's potential air quality health risk impacts has been reviewed by the City's peer review consultant and the SCAQMD and found to be adequate. See also related discussion in Responses to Comments 8.77 through 8.79.

8.85 The DEIR adequately discloses and analyzed the Project's health risk emissions impacts per City of Menifee, South Coast Air Quality Management District and State of California standards. The Project is not identified as a significant stationary source polluter that would require additional operation health risk analysis, per the California Air Resources Board's Recommendations on Siting New Sensitive Land Uses. Furthermore, regarding construction, OEHHA recommends that a 30-year exposure duration be used as the basis for estimating cancer risk at the maximum exposed individual resident (MEIR) in the Hot Spots Program. This exposure duration represents the time of residency for 90 to 95% of Californians at a single location and should provide adequate public health protection against individual risk. OEHHA admits that there is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime. Furthermore, the Project will be built out in phases, and construction activities will take place

spread out throughout the site. As a result, sensitive receptors are not expected to be exposed to substantial pollutant concentrations over a 30-year exposure duration and a quantified health risk assessment is not required to reach a conclusion of less than significant. As described in Responses to Comments 8.77 through 8.79, the methodology used to evaluate and disclose the Project's potential air quality health risk impacts has been reviewed by the City, the City's peer review consultant and the SCAQMD and has been found to be the appropriate methodology for analysis.

8.86 As described in Responses to Comments 8.77 and 8.79 above, the methodology used to evaluate and disclose the Project's potential air quality health risk impacts has been reviewed by the City, the City's peer review consultant and the SCAQMD and has been found to be the appropriate methodology for analysis under CEQA. No additional analysis is required.

8.87 The commenter should already be aware that the AERSCREEN is the weather input model for the air emission software program called AERMOD. However, AERMOD is a steady-state plume model designed apply to point source releases and meteorological conditions that can be assumed to be steady over individual modeling periods (typically one hour or less). These are totally inappropriate models to use on long-term non-point sources like mixed land use projects. Therefore, the commenter's comments about using modeling other than CalEEMod, or any results that could come from such modeling (e.g. cancer risks), are inaccurate and do not apply to the proposed Project. In addition to AERMOD being an inappropriate model for this Project, the commenter has skewed the analysis to portray unrealistic conditions and over exaggerated health risks. As discussed in CARB's "Air Quality and Land Use Handbook, a Community Health Perspective" (April 2005), the Project would not pose a significant risk to the surrounding sensitive land uses because it does not include the following types of uses: high traffic freeways and roads, distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners, and/or large gas dispensing facilities. Furthermore, the mandatory SCAQMD Air Permit Program would ensure that any future use that may come into the project site, such as a dry cleaner, which would have to obtain the necessary permits and implement control measures to reduce risk to surrounding sensitive receptors. Therefore, the operation of this Project is not considered a significant source of toxic air contaminants. This statement is supported by the fact that the SCAQMD did not mention it in its comment letter on the DEIR.

For construction, OEHHA acknowledges that there is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime. In addition, this Project will be built out in phases so the entire site would not be under construction at the same time. This means the actual amount of heavy diesel construction equipment operating simultaneously would likely be much less than what was estimated in the Project air study and DEIR. Please also see Responses to Comments 8.77 and 8.79.

8.88 Please see Response to Comment 8.87. No additional analysis is required.

8.89 Please see Response to Comment 8.87. No additional analysis is required.

8.90 Please see Response to Comment 8.87. No additional analysis is required.

8.91 Please see Response to Comment 8.87. No additional analysis is required.

8.92 Please see Response to Comment 8.87. No additional analysis is required.

8.93 Please see Response to Comment 8.87. No additional analysis is required.

8.94 This comment provides a general statement of the GHG analysis methodology and mitigation measures for the Project. The preparer of the Project air quality/GHG study agrees with this comment. No further response is required.

8.95 The greenhouse gas analysis does not suggest that CARB's scoping plan is a Climate Action Plan that qualifies under CEQA. The analysis instead highlights the Scoping Plan measures that are required by the State of California to reduce GHG emissions and provides discussion on the Project's compatibility with the plan. All input assumptions used in CalEEMod are fully disclosed and substantiated based on the CAPCOA Quantifying Greenhouse Gas Mitigation Measures, August 2010 report. Furthermore, CalEEMod is the preferred air model for land use emissions analysis by SCAQMD and CAPCOA. Lastly, the emissions analysis prepared by SWIPE fails to account for the appropriate project design features and mitigation requirements that will be implemented by this Project. It further utilizes incorrect vehicle trip assumptions resulting in an over-estimating VMT and emissions from the Project. The methodology used to evaluate and disclose the Project's potential Greenhouse Gas impacts has been reviewed by the City, the City's peer review consultant and the SCAQMD and has been found to be the appropriate methodology for analysis. No additional analysis is required.

8.96 The City of Menifee General Plan EIR and CARB's 2017 scoping plan are reviewed for consistency purposes and a quantified threshold of significance is not derived from these documents. Rather they are used as policy measures, consistent with CEQA requirements, to determine whether the Project is consistent with the applicable plans, policies, or regulations adopted for the purpose of reducing emissions of greenhouse gases. The methodology used to evaluate and disclose the Project's potential Greenhouse Gas impacts has been reviewed by the City, the City's peer review consultant and the SCAQMD and has been found to be adequate with respect to CEQA.

8.97 As stated in Response 8.96, the Menifee General Plan EIR and CARB's 2017 scoping plan are not referenced to establish a quantifiable threshold of significance or measure the Projects incremental contribution to global climate change. They are instead used for policy compliance to ensure the Project is meeting the broader goals and objectives out for the City of Menifee and State of California for reducing GHG emissions.

8.98 This comment provides a general statement of the GHG analysis findings and provides an un-substantiated claim that the conclusion of the DEIR is incorrect. As there is not a specific reference made to any particular issue, RK is unable to identify an omission in the analysis. The Project's GHG analysis has been reviewed by the City, the City's peer review consultant and the SCAQMD and the report was found to adequately disclose and analyzed the Project's construction and operational emissions. No further response required.

8.99 All input assumptions used in CalEEMod are fully disclosed in the GHG analysis, Section 4.0 are substantiated based on the CAPCOA Quantifying Greenhouse Gas Mitigation Measures, August 2010 report. Furthermore, CalEEMod is the preferred air model for land use emissions analysis by SCAQMD and CAPCOA. Lastly, the emissions analysis prepared by SWAPE fails to account for the appropriate project design features and mitigation requirements that will be implemented by this Project. It further utilizes incorrect vehicle trip assumptions resulting in over-estimating VMT and emissions from the Project. The methodology used to evaluate and disclose the Project's potential Greenhouse Gas

impacts has been reviewed by the City, the City's peer review consultant and the SCAQMD and has been found to be the appropriate methodology for analysis under CEQA. No additional analysis is required.

8.100 The use of an interpolated Tier 4 efficiency threshold for opening year 2023 is consistent with the EMFAC emissions model assumptions which are based on opening year 2023 rates. The applying standards for 2035 with emissions factors for year 2023 would be inconsistent with the intent of SCAQMD's guidelines, which assume that as time goes by stricter emissions factors will contribute to reduced GHG emissions. The methodology used to evaluate and disclose the project's potential Greenhouse Gas impacts has been reviewed by the City's peer review consultant and the SCAQMD and found to be adequate under CEQA.

8.101 The City disagrees with the annual greenhouse gas emissions reported by on page 15 of the comment letter. The commenter has significantly over estimated Project emissions and inaccurately inflated the potential impact from this Project, including over-estimates of vehicle trips and energy usage and misinterpretation of mitigation measures. As previously stated, the methodology used to evaluate and disclose the Project's potential greenhouse gas impacts has been reviewed by the City, the City's peer review consultant and the SCAQMD and has been found to be the appropriate methodology for analysis. No additional analysis is required.

8.102 The City disagrees with the annual greenhouse gas emissions reported by on page 15 of the comment letter. The commenter has significantly over estimated Project emissions and inaccurately inflated the potential impact from this Project, including over-estimates of vehicle trips and energy usage and misinterpretation of mitigation measures. As previously stated, the methodology used to evaluate and disclose the Project's potential greenhouse gas impacts has been reviewed by the City, the City's peer review consultant and the SCAQMD and has been found to be the appropriate methodology for analysis. No additional analysis is required.

8.103 The input parameters and assumptions used by SWAPE to substantiate the claim that construction emissions may result in potentially significant impacts have not been provided. Therefore, the City is unable to comment on the validity of these findings. However, as previously noted, the methodology used to evaluate and disclose the Project's potential air quality and greenhouse Gas impacts has been reviewed by the City, the City's peer review consultant and the SCAQMD and has been found to be be adequate under CEQA.

8.104 The primary source of GHG emissions generated by the Project are from motor vehicle traffic, and while trip reduction strategies have be imposed on employees, the Project cannot reasonably impose mitigation on private customers and their vehicles to the extent that would provide significant further reduction in GHG emissions. Therefore, all reasonably feasible mitigation measures have been implemented to reduce potential Project GHG emissions.

8.105 The Project will provide several mitigation measures and Project design features to reduce air quality and GHG emissions from the construction of the Project, including Mitigation Measures MM-GHG-1 through MM-GHG-7 and Design Features DF-GHG-1 through DF-GHG-2. These measures include such things as the use of low VOC paints, use of gasoline or electricity-powered equipment instead of diesel equipment whenever possible, suspending use of heavy construction equipment shall be during first stage

smog alerts, requiring all construction vehicles to be prohibited from excessive idling, utilizing “Clean diesel” equipment and modified engines with Moyer Program retrofits.

8.106 This comment provides discussion regarding engine upgrades. The City agrees the Project should ensure that any repowered equipment being used on-site during construction is actually providing reduced emissions for diesel particulate matter (DPM) to comply with State of California and SCAQMD rules.

8.107 This comment provides general discussion regarding equipment engine replacements. This statement is noted, and no further response is required.

8.108 This comment provides general discussion regarding the installation of retrofit devices on construction equipment. This statement is noted and no further response is required.

8.109 The quantifiable emissions reductions from the use of electric equipment is speculative at this time, as Project specific construction plans are not yet available for this programmatic-level analysis. However, Project design feature DF-2 described in the Air Quality and Greenhouse Gas Impact Analysis, April 2019, prepared by RK, specifies that the Project will use electricity powered construction equipment whenever possible.

8.110 Per the findings of the Air Quality and Greenhouse Gas Impact Analysis, April 2019, prepared by RK, additional construction monitoring and reporting is not required. The mitigation measures described in the DEIR have been reviewed by the City, the City’s peer review consultant and the SCAQMD were found to adequately reduce construction emissions. No further mitigation would be required.

8.111 Per the findings of the Air Quality and Greenhouse Gas Impact Analysis, April 2019, prepared by RK, additional construction monitoring and reporting is not required. The mitigation measures described in the DEIR have been reviewed by the City, the City’s peer review consultant and the SCAQMD and were found to adequately reduce construction emissions. No further mitigation would be required.

8.112 Per the findings of the Air Quality and Greenhouse Gas Impact Analysis, April 2019, prepared by RK, additional construction monitoring and reporting is not required. The mitigation measures described in the DEIR have been reviewed by the City, the City’s peer review consultant and the SCAQMD and were found to adequately reduce construction emissions. No further mitigation would be required.

8.113 SCAQMD Rule 481 requires all spray coatings be applied using a high-volume low-pressure, electrostatic and/or airless spray equipment. Therefore, no additional mitigation measures are required.

8.114 As described in Response to Comment 8.113, the Project is already required to comply with SCAQMD Rule 481 which requires all spray coatings be applied using a high-volume low-pressure, electrostatic and/or airless spray equipment. Therefore, no additional mitigation measures are required.

8.115 The mitigation measures described in this comment are generally considered standard building code requirements that will be implemented as part of the Project design. No additional mitigation measures are required.

8.116 The mitigation measures described in the DEIR have been reviewed by the City, the City’s peer review consultant and the SCAQMD and were found to adequately reduce

construction emissions. No further mitigation is required.

8.117 This is a general comment regarding the preparer's limitations of limitability. No further response required.

8.118 The CalEEMod output files alone do not provide substantial evidence that additional impacts may result from the Project, beyond that which has been disclosed in the DEIR. Given the nature of the comments provided by SWAPE, including over-estimates of vehicle trips and energy usage and misinterpretation of mitigation measures, the City finds that the CalEEMod analysis prepared by SWAPE does not accurately depict Project impacts. The conclusions that have been reported in the SWAPE letter are inaccurate and would result in overestimated Project impacts. No further analysis or revisions to the findings related to air quality or GHG emissions is recommended. The Annual CalEEMod results provided in the Comment Letter as part of Exhibit 3 can be viewed in Appendix C attached to this Final EIR.

8.119 Please see Response to Comment 8.118. The Summer CalEEMod results provided in the Comment Letter as part of Exhibit 3 can be viewed in Appendix C attached to this Final EIR.

8.120 Please see Response to Comment 8.118. The Winter CalEEMod results provided in the Comment Letter as part of Exhibit 3 can be viewed in Appendix C attached to this Final EIR.

8.121 This is an AERSCREEN Analysis provided by the commenter. The DEIR has adequately disclosed and analyzed the Project's air quality impacts per City of Menifee, South Coast Air Quality Management District and State of California standards, utilizing the appropriate methodology for analysis. No additional response is required. The construction AERSCREEN results provided in the Comment Letter as part of Exhibit 3 can be viewed in Appendix C attached to this Final EIR.

8.122 Please see Response to Comment 8.121. The operation AERSCREEN results provided in the Comment Letter as part of Exhibit 3 can be viewed in Appendix C attached to this Final EIR.

Comment Letter No. 9

Scott Wilson, Environmental Program Manager
Department of Fish and Wildlife (CDFW) (1-22-2020)

State of California - Natural Resources Agency
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Inland Deserts Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

January 22, 2020
Sent via email

Mr. Manny Baeza
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mbaeza@cityofmenifee.us

Subject: Draft Environmental Impact Report
Menifee North Specific Plan 260, Amendment No. 3 (2010-090),
Palomar Crossings Project
State Clearinghouse No. 2019029123

Dear Mr. Baeza:

The California Department of Fish and Wildlife (CDFW) received the Draft Environmental Impact Report (DEIR) on December 2, 2019 from the City of Menifee (City) for the Menifee North Specific Plan 260, Amendment Number 3 (2010-090), Palomar Crossings Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1] 9.1

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code. 9.2

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to 9.3

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

Conserving California's Wildlife Since 1870

Draft Environmental Impact Report
Palomar Crossings Project
SCH No. 2019029123
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provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources. 9.3 cont.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code. 9.4

PROJECT DESCRIPTION SUMMARY

The Project proposes modifications to existing Specific Plan 260 Land Use Plan Planning Areas 11, 12, 13, and 14. These modifications include:

1. Planning Area 11: realignment along its southern boundary and land use re-designation from Business Park to Very High Density Residential. This Planning Area will also be split into two subareas: 11A and 11B.
2. Planning Area 12: realignment to a newly created area between Planning Areas 11 and 13, and land use re-designation from Business Park and Commercial Business Park to Commercial/Very High Density Residential. The Planning Area will also be split into two sub-areas: 12A and 12B. 9.5
3. Planning Area 13: realignment along its northern border and land use re-designation from Commercial Business Park to Commercial. Planning Area 13 will also be split into two sub-areas: 13A and 13B.
4. Planning Area 14: reduction in acreage from 11.7 to 9.27 acres by redistributing area into Planning Areas 12B and 13B.

COMMENTS AND RECOMMENDATIONS

CDFW is concerned that not all the mitigation and monitoring measures for biological resources were clearly identified in the DEIR. For example, the Initial Study included a Standard Condition that the Project demonstrate compliance with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) and three mitigation measures and to reduce impacts to Biological Resources to Less Than Significant with Mitigation Incorporated; these measures were not included in the DEIR. The DEIR includes Table 1-2 which "...summarizes all of the environmental impacts and proposed mitigation and 9.6

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monitoring measures identified the DEIR and will be provided to decision makers prior to finalizing the EIR." CDFW is concerned that because the mitigation measures identified for Biological Resources are discussed in the Initial Study but not in the DEIR, this may cause confusion and potentially lead to the mitigation measures not being implemented. To ensure that the Standard Condition and Mitigation Measures for Biological Resources are implemented, CDFW recommends that they are incorporated into Table 1-2 prior to circulating the Final EIR (FEIR). 9.6 cont.

To improve the adequacy and enforceability of the mitigation measures proposed by the City, and to ensure consistency with the MSHCP, CDFW also offers the following comments and recommendations specific to the City's proposed mitigation measures: 9.7

Mitigation Measure (MM) BIO-1 provides mitigation measures for impacts to Waters of the United States, Waters of the State, and for project activities subject to Fish and Game Code section 1602. To ensure that the project complies with section 1602 of the Fish and Game Code, CDFW recommends that the City revise MM BIO-1 and condition the measure to include the following (edits are in **bold** and ~~strikethrough~~):

MM BIO-1: Prior to **issuance of any grading/construction permits by the City** ~~any disturbance of Features A, A1, A2, or B~~, the applicant shall **consult with the California Department of Fish and Wildlife regarding a Fish and Game Code section 1602 Streambed Alteration Agreement, the United States Army Corps of Engineers regarding a Clean Water Act Section 404 Permit, and the Regional Water Quality Control Board regarding a Clean Water Act Section 401 Certification. The Project applicant shall be required to obtain** ~~acquire~~ the necessary permits, **or provide written documentation that such permits are not needed. The Project shall mitigate impacts to waters of the United States and waters of the State, wetlands, and riparian habitats, by preserving on-site habitat, restoring similar habitat, or purchasing off-site credits from an approved mitigation bank. Mitigation shall be subject to pre-approval by the** ~~which will include the appropriate mitigation, from the appropriate regulatory agencies, which may include the~~ Regional Water Quality Control Board (RQWCB), U.S Army Corps of Engineers (ACOE) and the California Department of Fish and Wildlife (CDFW). 9.8

Mitigation Measure BIO-2 provides mitigation measures for impacts to nesting birds. To ensure compliance with Fish and Game Code sections 3503 and 3503.5, CDFW recommends that the City revise MM BIO-2 and condition the 9.9

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measure to require pre-construction surveys prior to any site disturbing activities (including staging and site preparation). CDFW also recommends that pre-construction surveys be required no more than three (3) days prior to ground disturbing activities, as instances of nesting would be missed if surveys are conducted sooner. CDFW recommends that the City revise MM BIO-2 and condition the measure to include the following (edits are in **bold** and ~~strikethrough~~):

MM-BIO-2: **Ground-disturbing activities (including staging and site preparation) shall occur outside of the generally recognized bird breeding season (February 15 – August 15), unless a qualified biologist demonstrates to the satisfaction of the City that Project activities will comply with Fish and Game Code sections 3503 and 3503.5.** If **ground-disturbing activities are proposed** ~~grading is~~ to occur during the nesting season (February 15 – August 31), a nesting bird **pre-construction** survey shall be conducted within ~~ten (10)~~ **three (3)** days prior to **site disturbing activities** ~~grading permit issuance~~. This survey shall be conducted by a qualified biologist holding a Memorandum of Understanding (MOU) with Riverside County. The findings shall be submitted to the City of Menifee Community Development Department for review and approval.

9.9 cont.

The Project identifies impacts to Riparian/Riverine resources subject to Section 6.1.2 of the MSHCP. CDFW is unaware that a Determination of Biologically Equivalent or Superior Preservation (DBESP) has been prepared for this Project. Please note that the MSHCP consistency review process will not be complete until CDFW and the United States Fish and Wildlife Service approve a DBESP for impacts to MSHCP Section 6.1.2 resources. Because this process is not complete, CDFW recommends that City include a new mitigation measure in the FEIR conditioning the Project applicant to demonstrate compliance with Section 6.1.2 of the MSHCP. CDFW recommends the inclusion of the following new measure in the FEIR:

9.10

MM BIO-4: Prior to issuance of any grading permit the Project Applicant shall provide to the City written correspondence from the United States Fish and Wildlife Service and California Department of Fish and Wildlife confirming that the Determination of Biologically Equivalent or Superior Preservation has been approved.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to

9.11

make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). Information can be submitted online or via completion of the CNDDB field survey form at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: https://wildlife.ca.gov/Data/CNDDB/Plants-and-Animals. 9.11 cont.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.). 9.12

CDFW CONCLUSIONS AND FURTHER COORDINATION

CDFW appreciates the opportunity to comment on the DEIR for the City of Menifee's Palomar Crossing's Project (SCH No. 2019029123) and recommends that the City address CDFW's comments and concerns prior to circulation of the FEIR. 9.13

If you should have any questions pertaining to the comments provided in this letter, and to schedule a meeting, please contact Joanna Gibson at (909) 987-7449 or at Joanna.Gibson@wildlife.ca.gov. 9.14

Sincerely,

Scott Wilson
Environmental Program Manager

ec: State Clearinghouse

Karin Cleary-Rose
US Fish and Wildlife Service

Responses to Comment Letter No. 9

9.1 Comment noted; these are informational statements that do not require a response.

9.2 Comment noted; these are informational statements that do not require a response.

9.3 Comment noted; these are informational statements that do not require a response.

9.4 Comment noted; these are informational statements that do not require a response.

9.5 Comment noted; this is a reiteration of the Project description and does not require a response.

9.6 Agreed. The Mitigation Measures should have been carried over from the Initial Study into Table 1-2 of the DEIR; they will be added to table 1-2 in Section 3.0 Errata, of this Final EIR.

9.7 Comment noted; these are informational statements that do not require a response.

9.8 Mitigation Measure MM-BIO-1 shall be modified as recommended; revised MM-BIO-1 is available for review in Section 3.0 Errata, of this Final EIR.

9.9 Mitigation Measure MM-BIO-2 shall be modified as recommended; revised MM-BIO-2 is available for review in Section 3.0 Errata, of this Final EIR.

9.10 Mitigation Measure MM-BIO-4 shall be added; MM-BIO-4 is available for review in Section 3.0 Errata, of this Final EIR. This mitigation measure is a clarification and provides language that is already contained within the MSHCP. The new language is for clarification only and, consistent with Section 15088.5 (b) of the State CEQA Guidelines (Recirculation of an EIR Prior to Certification), does not necessitate a revised and recirculated EIR.

9.11 Comment noted. This is a standard requirement/informational statement that does not require a response

9.12 Comment noted; these are informational statements that do not require a response.

9.13 These responses were provided to CDFW prior to circulation of the Final EIR. CDFW had no further comments after their review, per an e-mail from Joanna Gibson, dated 3-30-2020, provided below, for reference.

9.14 These are closing statements that do not require a response.

From: Gibson, Joanna@Wildlife <Joanna.Gibson@wildlife.ca.gov>
Sent: Monday, March 30, 2020 9:21 AM
To: Manny Baeza <mbaeza@cityofmenifee.us>
Cc: Pert, Heather@Wildlife <Heather.Pert@wildlife.ca.gov>
Subject: RE: Palomar Crossings (Menifee North) EIR

Manny,

Thank you for the opportunity to review the response to comments and the revised Biological Resources mitigation measures to be included in the FEIR for the Palomar Crossings (Menifee North) project, State Clearinghouse No. 2019029123. The revised Biological Resources measures MM-BIO-1 and MM-BIO-2, and the inclusion of the new Biological Resources measure: MM-BIO-4, as identified in "Palomar Crossings – DEIR Responses for CDFW Review 3-27-2020.docx" (attached), which you transmitted via email March 27, 2020 at 3:45 PM, address the California Department of Fish and Wildlife's (CDFW) comments submitted on the DEIR, as identified in CDFW's comment letter for the Project, dated January 22, 2020.

We very much appreciate your, and the City of Menifee's due diligence, and the opportunity to review the revisions to MM-BIO-1 and MM-BIO-2, and the addition of the new mitigation measure MM-BIO-4. CDFW has no further comments on this CEQA document.

Sincerely,
Joanna Gibson
Senior Environmental Scientist (Specialist)
CA Department of Fish and Wildlife
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
(909) 987-7449 (phone)
Joanna.Gibson@wildlife.ca.gov

3.0 ERRATA

Changes to the Draft EIR are noted below. Underlining indicates additions to the text; striking indicates deletions to the text. The changes to the Draft EIR do not affect the overall conclusions of the environmental document. These errata represent changes to the Draft EIR to provide clarification, corrections, revisions as needed as a result of public comments on the Draft EIR, or due to additional information received during the public review period, and minor typographical revisions. These clarifications and corrections are not considered to result in any new or more severe impacts than identified in the Draft EIR and are not otherwise deemed to warrant Draft EIR recirculation pursuant to CEQA Guidelines §15088.5. Added or modified text is shown by underlining (<u>example</u>) while deleted text is shown by striking (~~example~~).

The Menifee North Specific Plan Amendment 3 Document (Draft EIR Appendix K) received minor updates for clarification after the Draft EIR was circulated. The revised Menifee North Specific Plan Amendment 3 Document is available as Appendix B of this Final EIR.

Draft EIR Page 1-16 in Chapter 1 under Air Quality, text is corrected to include Mitigation Measure MM-AQ-1. The modification is as follows:

> The Project-specific evaluation of emissions presented in the preceding analysis demonstrates that even after implementation of **Standard Conditions SC-AQ-1**, **SC-AQ-2**, and incorporation of Mitigation Measures **MM-AQ-~~2~~1** through **MM-AQ-8**, the Project will result in a cumulatively considerable net increase of NO_x for which the Project region is non-attainment under an applicable federal or state ambient air quality standard. All other criteria pollutants are below thresholds.

Draft EIR Page 1-21 in Table 1-2, *Summary of Impacts and Mitigation Measures Discussed in this Draft EIR*, per Comment 9.6 of the Department of Fish and Wildlife Comment Letter on the Draft EIR, Biological Resources was added to Table 1-2 to carry over the Biology Mitigation Measures MM-BIO-1 through MM-BIO-3, outlined in the Initial Study. Additionally, Comments 9.6 through 9.10 of the Department of Fish and Wildlife Comment Letter on the Draft EIR requested modifications to the existing mitigation measures and adding new mitigation (MM-BIO-4). Only the final revised mitigation measures per the Department of Fish and Wildlife are provided in the updated Table and not the original mitigation as presented in the Initial Study. Note: for clarification, added or modified text to Table 1-2 will not be underlined. The entire Biological Resources portion of the Table is newly added in this Errata. **Bold** text is provided for the additional/modified language provided by the Department of Fish and Wildlife and ~~stricken~~ text is for deletions. The modifications are as follows:

Impact Category	Impact	Mitigation Measures	Implementation Timing	Responsible Party	Impact After Mitigation
Aesthetics	*Not applicable*	*Mitigation not required*	*Not applicable*	*Not applicable*	*Mitigation not required*
Agriculture and Forest Resources	*Not applicable*	*Mitigation not required*	*Not applicable*	*Not applicable*	*Mitigation not required*
Air Quality	b. Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under in applicable federal or state ambient air quality standard?	MM-AQ-1 During Project construction the Project applicant shall ensure that architectural coatings that are applied to Project buildings are to be limited to 10 grams per liter VOC and traffic paints shall be limited to 100g/L VOC content.	*During Project construction*	*Project applicant*	*Significant and unavoidable impact*
		MM-AQ-2 During Project construction, the Project applicant shall install high-efficiency lighting (such as LEDs) that is at least 34% more efficient than standard lighting.	*During Project construction*	*Project applicant*	*Significant and unavoidable impact*
		MM-AQ-3 During Project construction, the Project applicant shall provide sidewalks within the Project boundary and connecting off-site.	*During Project construction*	*Project applicant*	*Significant and unavoidable impact*
		MM-AQ-4 During Project construction, the Project applicant shall require that all faucets, toilets and showers that are installed in the proposed structures utilize low-flow fixtures that would reduce indoor water demand by 20% per CalGreen Standards.	*During Project construction*	*Project applicant*	*Significant and unavoidable impact*
		MM-AQ-5 During Project construction, the Project applicant shall require that a water-efficient irrigation system be installed that conforms to the requirements of City codes.	*During Project construction*	*Project applicant*	*Significant and unavoidable impact*
		MM-AQ-6 During Project operation, the Project applicant shall require recycling programs that reduces waste to landfills by a minimum 75 percent per AB 341.	*During Project operation*	*Project applicant*	*Significant and unavoidable impact*
		MM-AQ-7 During Project construction, the Project applicant shall require that ENERGY STAR-compliant appliances are installed wherever appliances are needed on-site.	*During Project construction*	*Project applicant*	*Significant and unavoidable impact*
		MM-AQ-8 During Project construction, the Project applicant shall plant at least 130 new trees on-site.	*During Project construction*	*Project applicant*	*Significant and unavoidable impact*
Biological Resources	a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a	MM-BIO-1 Prior to **issuance of any grading/construction permits by the City** ~~any disturbance of Features ,A,, A1, A2, or B~~, the applicant shall **consult with the California Department of Fish and Wildlife regarding a Fish and Game Code section 1602 Streambed**	*Prior to issuance of any grading/construction permits*	*Project applicant*	*Less than significant*

	candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	**Alteration Agreement, the United States Army Corps of Engineers regarding a Clean Water Act Section 404 Permit, and the Regional Water Quality Control Board regarding a Clean Water Act Section 401 Certification. The Project applicant shall be required to obtain** ~~acquire~~ the necessary permits **or provide written documentation that such permits are not needed. The Project shall mitigate impacts to waters of the United States and waters of the State, wetlands, and riparian habitats, by preserving on-site habitat, restoring similar habitat, or purchasing off-site credits from an approved mitigation bank. Mitigation shall be subject to pre-approval by the** ~~which will include the appropriate mitigation, from the appropriate regulatory agencies, which may include the~~ Regional Water Quality Control Board (RQWCB), U.S Army Corps of Engineers (ACOE) and the California Department of Fish and Wildlife (CDFW).			
	d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	MM-BIO-2 **Ground-disturbing activities (including staging and site preparation) shall occur outside of the generally recognized bird breeding season (February 15 - August 15), unless a qualified biologist demonstrates to the satisfaction of the City that Project activities will comply with Fish and Game Code sections 3503 and 3503.5.** If **ground-disturbing activities are proposed** ~~grading is~~ to occur during the nesting season (February 15 -August 31), a nesting bird **pre-construction** survey shall be conducted within ~~ten (10)~~ **three (3)** days prior to **site disturbing activities** ~~grading permit issuance~~. This survey shall be conducted by a qualified biologist holding a Memorandum of Understanding (MOU) with Riverside County. The findings shall be submitted to the City of Menifee Community Development Department for review and approval.	*Within three (3) days prior to site disturbing activities*	*City of Menifee/ Applicant / Biologist*	*Less than significant*
	f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state	*See Mitigation Measures MM-BIO-1 and MM-BIO-2* MM-BIO-3 Preconstruction survey for burrowing owl. A 30-day preconstruction survey for burrowing owl is required by the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) to confirm the	*No more than 30 days prior to ground disturbance*	*City of Menifee/ Applicant / Biologist*	*Less than significant*

	habitat conservation plan?	continued presence of burrowing owl within the survey area. The survey shall be conducted by a qualified biologist no more than 30 days prior to ground disturbance in accordance with MSHCP survey requirements to avoid direct take of burrowing owl. If burrowing owl are determined to occupy the Project site or immediate vicinity, the City of Menifee Community Development Department will be notified, and avoidance measures will be implemented, as appropriate, pursuant to the MSHCP, the California Fish and Game Code, the MBTA, and the mitigation guidelines prepared by the CDFW (2012). The following measures are recommended in the CDFW guidelines to avoid impacts on an active burrow: • No disturbance should occur within 50 meters (approximately 160 feet) of occupied burrows during the non-breeding season. • No disturbance should occur within 75 meters (approximately 250 feet) of occupied burrows during the breeding season. For unavoidable impacts, passive or active relocation of burrowing owls would need to be implemented by a qualified biologist outside the breeding season, in accordance with procedures set by the MSHCP and in coordination with the CDFW.			
		MM-BIO-4 Prior to issuance of any grading permit the Project Applicant shall provide to the City written correspondence from the United States Fish and Wildlife Service and California Department of Fish and Wildlife confirming that the Determination of Biologically Equivalent or Superior Preservation has been approved.	***Prior to issuance of any grading permit***	***Project applicant***	***Less than significant***

Draft EIR Page 3-3 in Project Description, text is added to provide clarification and to address a portion of Comment 2.3 in the Lozeau Drury Comment Letter on the Draft EIR. The modification is as follows:

> Upon approval of SPA 260, A3, total dwelling unit count shall increase by 721 units, based on maximum potential dwelling units in Planning Areas 11 and 12. It should be noted that, as a worst-case scenario, 246,312 square feet of commercial uses and 637 multi-family dwelling units were utilized in the analysis of this DEIR. See Table 3-1, SPA260, A3 Land Use Summary, for more details.
>
> SPA 260, A3 also includes allowable uses for each Planning Area, Development Standards, and Design Guidelines. Reference SPA 260, A3 Section 3, Specific Plan, and Section 4, Design Guidelines.

Draft EIR Page 4.3-62 in Air Quality, headings 4.3.6 and 4.3.7, text is corrected to include Mitigation Measure MM-AQ-1. The modification is as follows:

> The Project-specific evaluation of emissions presented in the preceding analysis demonstrates that even after implementation of **Standard Conditions SC-AQ-1**, **SC-AQ-2**, and incorporation of **Mitigation Measures MM-AQ-~~2~~1** through **MM-AQ-8**, the Project will result in a cumulatively considerable net increase of NO_x for which the Project region is non-attainment under an applicable federal or state ambient air quality standard. All other criteria pollutants are below thresholds.

Draft EIR Page 4.3-61 in Air Quality, Mitigation Measure MM-AQ-2 has been modified to provide clarity, as part of Response to Comment 8.26 of Comment Letter No. 8. The modification is as follows:

> **MM-AQ-2: During Project construction, the Project applicant shall install high-efficiency lighting (such as LEDs) that is ~~at least~~ ~~34%~~ more efficient than standard lighting based on the most recently adopted CALGreen Building Code in place at the time of building permit application.**

Draft EIR Page 4.5-22 in Greenhouse Gas Emissions, Mitigation Measure MM-GHG-1 has been modified to provide clarity, as part of Response to Comment 8.26 of Comment Letter No. 8. The modification is as follows:

> **MM-GHG-1: Prior to occupancy, the Project applicant shall require that high-efficiency lighting (such as LEDs) be installed that is ~~at least 34%~~ more efficient than standard lighting based on the most recently adopted CALGreen Building Code in place at the time of building permit application.**

Draft EIR Page 4.10-11 in Population and Housing, text is corrected to reflect the correct Subchapter headings. The modification is as follows:

> As shown in Subsection 4.10.2.3, above, the Project is located in an area which has existing roadways. The Project will be required to improve adjacent frontage roadways (SR-74, Palomar Road and Menifee Road) to Menifee General Plan Circulation Element standards, or local roadway standards. Please refer to Chapter ~~4.16~~13, Transportation~~/Traffic~~ of this DEIR for greater detail on Project roadway improvements. Since these roadways either exist or are planned to be

additionally improved, the Project will not induce substantial population growth in the area indirectly through extension of roads. Any impacts are considered less than significant.

As shown in Subsection 4.10.2.3, the Project is located in an area which has existing sewer and water adjacent to the Project site. The Project will tie into the existing, adjacent sewer and water lines. As discussed in Chapter 4.~~18~~16, Utilities and Service Systems of this DEIR, adequate sewer capacity and water supplies, as well as Project specific pipelines, are sized to serve the Project. Please refer to Chapter 4.~~18~~16, for greater analysis on Project sewer and water.

Draft EIR Page 4.11-7 in Public Services, Threshold a., text is corrected to reflect the correct impact. The modification is as follows:

THRESHOLD a: Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection and emergency response services?

Less Than Significant Impact with Mitigation Incorporated

Draft EIR Pages 4.11-8, 4.11-12, and 4.11-13 in Public Services, DEIR text and Mitigation Measure MM-PS-1 text is revised to remove the reference to industrial and business park uses. The modification is as follows:

The *FIA* demonstrates the annual recurring revenues to the City's General Fund at Project build-out will equal $1,211,128 compared to recurring fiscal costs of $825,575, a net benefit to the City of approximately $385,553. The largest sources of revenue will result from sales tax (39.9%), Measure DD Funds (23.9%), and property tax (18.0%). This finding demonstrates that the Project's future demands on the provision of fire protection and emergency response services will be more than fulfilled in the future after it is developed. The timing for the development of the commercial~~/industrial/business park~~ portion of the Project may be such that it will not be developed prior to the residential component. Should this occur, and if the DIF fees are not sufficient to cover costs of residential demand for public services, the Project developer shall negotiate a method of covering the costs of services to be extended to the site, such as a Public Services fee or payment of an in lieu fee. The objective is to mitigate the costs of services that exceed actual costs of delivering these services to address non-safety impacts. This is reflected in **Mitigation Measure MM-PS-1**.

MM-PS-1 Should development of the commercial~~/industrial/business park~~ portion of the Project not be developed prior to the residential component, and if the DIF fees are not sufficient to cover costs of residential demand for public services, the Project developer shall negotiate a method of covering the

costs of services to be extended to the site, such as a Public Services fee or payment of an in lieu fee.

Draft EIR Page 4.11-11 in Public Services, Threshold b., text is corrected to reflect the correct impact. The modification is as follows:

THRESHOLD b: **Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police protection services?**

Less Than Significant Impact with Mitigation Incorporated

Draft EIR Page 4.12-2 in Recreation, text is corrected to delete an erroneous reference to Standard Condition SC-REC-1 and to address a portion of Comment 7.6 from the Valley-Wide Comment Letter on the Draft EIR. The modification is as follows:

*In order to mitigate any Project impacts that would increase the use of existing neighborhood and regional parks or other recreational facilities such that physical deterioration of the facility would occur or be accelerated, the Project would be required to pay in-lieu fees in to the City of Menifee order to comply with the Quimby Act (as implemented under Municipal Code Section 9.55) (**~~Standard Condition SC-REC-1~~** (**Standard Condition SC-PS-5**), as outlined in Subsection 4.12.5). Per Section 9.55, these fees are to be used only for the purposes of developing new or rehabilitating existing neighborhood or community park or recreational facilities. The Project will not impact the 12.5 acre Community Park (PA 10). It should be noted that although the Project is currently located within Valley-Wide's sphere of influence, the City has submitted a detachment application to the Riverside Local Agency Formation Commission and the matter is under litigation.*

Draft EIR Page 4.14-15 in Tribal Cultural Resources, Standard Condition SC-CUL-8 is being revised to provide clarification on which Tribes shall specifically be provided with copies of reports. The modification is as follows:

SC-CUL-8 **(Archeology Report - Phase III and IV) Prior to final inspection, the developer/permit holder shall prompt the Project Archeologist to submit two (2) copies of the Phase III Data Recovery report (if required for the Project) and the Phase IV Cultural Resources Monitoring Report that complies with the Community Development Department's requirements for such reports. The Phase IV report shall include evidence of the required cultural/historical sensitivity training for the construction staff held during the pre-grade meeting. The Community Development Department shall review the reports to determine adequate mitigation compliance. Provided the reports are adequate,**

> **the Community Development Department shall clear this condition. Once the report(s) are determined to be adequate, two (2) copies shall be submitted to the Eastern Information Center (EIC) at the University of California Riverside (UCR) and one (1) copy shall be submitted to the ~~Consulting~~ Pechanga, Rincon, and Soboba Tribes' ~~Tribe(s)~~ Cultural Resources Department~~(s)~~.**

Draft EIR Pages 5-4, 5-12, and 5-24 in Chapter 5 under Air Quality, text is corrected to include Mitigation Measure MM-AQ-1. The modification is as follows:

> According to the evaluation in Subchapter 4.3, the Project-specific evaluation of emissions demonstrates that even after implementation of **Standard Conditions SC-AQ-1**, **SC-AQ-2**, and incorporation of **Mitigation Measures MM-AQ-~~2~~1** through **MM-AQ-8**, the Project will result in a cumulatively considerable net increase of NOx for which the Project region is non-attainment under an applicable federal or state ambient air quality standard. All other criteria pollutants are below thresholds.

Draft EIR Page 6-4 in Chapter 6 under Air Quality, text is corrected to include Mitigation Measure MM-AQ-1. The modification is as follows:

> The Project-specific evaluation of emissions presented in the preceding analysis demonstrates that even after implementation of **Standard Conditions SC-AQ-1**, **SC-AQ-2**, and incorporation of **Mitigation Measures MM-AQ-~~2~~1** through **MM-AQ-8**, the Project will result in a cumulatively considerable net increase of NOx for which the Project region is non-attainment under an applicable federal or state ambient air quality standard. All other criteria pollutants are below thresholds.

Draft EIR Page 6-18 in Chapter 6 under Air Quality, text is corrected to include Mitigation Measure MM-AQ-1. The modification is as follows:

> The Project-specific evaluation of emissions presented in Subchapter 4.3 demonstrates that even after implementation of **Standard Conditions SC-AQ-1, SC-AQ-2**, and incorporation of **Mitigation Measures MM-AQ-~~2~~1** through **MM-AQ-8**, the Project will result in a cumulatively considerable net increase of NOx for which the Project region is non-attainment under an applicable federal or state ambient air quality standard. All other criteria pollutants are below thresholds.