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*Via E-Mail (Oct. 16) and Hand Delivery (Oct. 17)*

October 16, 2017

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**Re: Appeal of Adoption of Resolution No. P-17-026, Approving Case PLN17-00017 and Adoption of Mitigated Negative Declaration for Rubbermaid Warehouse Expansion (SCH2017061073)**

Dear Honorable Members of the City Council:

I am writing on behalf of the Laborers International Union of North America, Local Union 783 and its members living in the San Bernardino County and/or City of Victorville (“LIUNA” or “Appellants”) regarding the Planning Commission’s adoption of resolution No. P-17-026, approval of case PLN17-00017, and adoption of an Initial Study and Mitigated Negative Declaration (“IS/MND”) prepared for the project known as the Rubbermaid Warehouse Expansion, a site plan to allow for an approximately 500,000 sq ft addition to an existing distribution warehouse (SCH2017061073), including all actions referring or related to the

466,255 sf expansion to an existing 584,412 sf warehouse/distribution building on 52 acres located at 17182 Nevada Avenue on Parcel No: 0459-194-05 in the City of Victorville (the “Project”). This letter supplements our September 14, 2017 Appeal.

After reviewing the IS/MND together with our expert consultants, it is evident that the document contains numerous errors and omissions that preclude an accurate analysis of the Project. Appellants submit herewith the expert comments of hydrogeologist Matthew Hagemann P.G., C.Hg., which demonstrate that Project may have a significant and unmitigated impact from previous soil and groundwater contamination on the Project site as a result of the site’s previous use as an Air Force base, and its current listing as a Superfund site. In addition, Mr. Hagemann concludes that the Project will have a significant and unmitigated air quality impact and greenhouse gas impacts. Mr. Hagemann’s comments and curriculum vitae are attached hereto as Exhibit 1.

As a result of these significant, unmitigated impacts, and the other deficiencies detailed below, Appellants request the City of Victorville (“City”) overturn the Planning Commission’s approval of the Project and adoption of the IS/MND, and send the Project back to City staff to prepare an environmental impact report (“EIR”) for the Project.

### **PROJECT SITE BACKGROUND**

The Project at issue is a Site Plan on a 52-acre parcel to allow for a 466,255 square foot expansion to an existing 584,412 sq. ft. warehouse/distribution building. IS/MND, p. 1. With the expansion, the total building area will be 1,050,667 sq. ft. *Id.* The building will occupy nearly the entire parcel with a small remainder left over for a future truck yard expansion. *Id.* The IS/MND assumes the truck yard expansion in its analysis. *Id.* The Project site was formerly an Air Force base, and previously housed military buildings that have been demolished and removed. *Id.* The site is also a listed Superfund site. Hagemann, p. 2. The Project is bordered on the north by a school, and on the south by a prison.

### **LEGAL STANDARDS**

As the California Supreme Court held, “[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.” *Communities for a Better Env’t v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320 [“*CBE v. SCAQMD*”], citing, *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 88; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504–505. “Significant environmental effect” is defined very broadly as “a substantial or potentially substantial adverse change in the environment.” Pub. Res. Code [“PRC”] § 21068; *see also* 14 CCR § 15382. An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the impacts are “not trivial.” *No Oil, Inc., supra*, 13 Cal.3d at 83. “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” *Communities for a Better Env’t v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 109 [“*CBE v. CRA*”].

The EIR is the very heart of CEQA. *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214; *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927. The EIR is an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.” *Bakersfield Citizens*, 124 Cal.App.4th at 1220. The EIR also functions as a “document of accountability,” intended to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” *Laurel Heights Improvements Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392. The EIR process “protects not only the environment but also informed self-government.” *Pocket Protectors*, 124 Cal.App.4th at 927.

An EIR is required if “there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment.” PRC § 21080(d); see also *Pocket Protectors*, 124 Cal.App.4th at 927. In very limited circumstances, an agency may avoid preparing an EIR by issuing a negative declaration, a written statement briefly indicating that a project will have no significant impact thus requiring no EIR (14 Cal. Code Regs. § 15371), only if there is not even a “fair argument” that the project will have a significant environmental effect. PRC, §§ 21100, 21064.) Since “[t]he adoption of a negative declaration . . . has a terminal effect on the environmental review process,” by allowing the agency “to dispense with the duty [to prepare an EIR],” negative declarations are allowed only in cases where “the proposed project will not affect the environment at all.” *Citizens of Lake Murray v. San Diego* (1989) 129 Cal.App.3d 436, 440.

Where an initial study shows that the project may have a significant effect on the environment, a mitigated negative declaration may be appropriate. However, a mitigated negative declaration is proper *only* if the project revisions would avoid or mitigate the potentially significant effects identified in the initial study “to a point where clearly no significant effect on the environment would occur, and . . . there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.” PRC §§ 21064.5 and 21080(c)(2); *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 331. In that context, “may” means a *reasonable possibility* of a significant effect on the environment. PRC §§ 21082.2(a), 21100, 21151(a); *Pocket Protectors, supra*, 124 Cal.App.4th at 927; *League for Protection of Oakland's etc. Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 904–905.

Under the “fair argument” standard, an EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency’s decision. 14 CCR § 15064(f)(1); *Pocket Protectors*, 124 Cal.App.4th at 931; *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-15; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602. The “fair argument” standard creates a “low threshold” favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. *Pocket Protectors*, 124 Cal.App.4th at 928.

The “fair argument” standard is virtually the opposite of the typical deferential standard accorded to agencies. As a leading CEQA treatise explains:

This ‘fair argument’ standard is very different from the standard normally followed by public agencies in making administrative determinations. Ordinarily, public agencies weigh the evidence in the record before them and reach a decision based on a preponderance of the evidence. [Citations]. The fair argument standard, by contrast, prevents the lead agency from weighing competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact. The lead agency’s decision is thus largely legal rather than factual; it does not resolve conflicts in the evidence but determines only whether substantial evidence exists in the record to support the prescribed fair argument.

Kostka & Zishcke, *Practice Under CEQA*, §6.29, pp. 273-274. The Courts have explained that “it is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency’s determination. Review is de novo, with a **preference for resolving doubts in favor of environmental review.**” *Pocket Protectors*, 124 Cal.App.4th at 928 [emphasis in original].

**I. THE INITIAL STUDY LACKS SUBSTANTIAL EVIDENCE TO SUPPORT CONCLUSIONS REGARDING A BASELINE OF HAZARDOUS SUBSTANCES AT THE PROJECT SITE.**

Establishing an accurate baseline is the *sine qua non* to adequately analyzing and mitigating the significant environmental impacts of a project. See 14 CCE § 15125(a); *Save Our Peninsula*, 87 Cal.App.4th at 121-123. Unfortunately, the IS/MND’s failure to investigate and identify the presence or absence of hazardous soil and water contamination at the Project site resulted in an inaccurate baseline, unsupported by any substantial evidence. Such a skewed baseline ultimately “mislead(s) the public” by engendering skewed and inaccurate analyses of environmental impacts, mitigation measures and cumulative impacts. See *San Joaquin Raptor Rescue Center*, 149 Cal.App.4th at p. 656; *Woodward Park Homeowners*, 150 Cal.App.4th at 708-711.

The Project is located on the decommissioned George Air Force Base, which is also a U.S. EPA Superfund site. IS/MND, p. 13. As a result, the IS/MND admits that “unknown hazards may exist within the soil.” IS/MND, p. 13; Hagemann, p. 2. But no steps were taken to establish the baseline environmental conditions by determining what hazards actually exist at the Project site. A Phase II Environmental Site Assessment (“ESA”) was not prepared, and no soil or groundwater sampling was conducted to determine the type, location, and extent of potential soil and groundwater contamination. Without such information, an accurate environmental setting for hazards at the Project site cannot be established. Moreover, without any testing, the IS/MND fails to inform the public and decision makers of the Project’s potential to expose workers, school children, and other members of the public to hazardous contaminants from Project construction.

The omission of testing for potential hazardous chemicals in soil and groundwater at the Project site leaves the IS/MND incomplete in regards to the evaluation of present hazardous conditions subject to worker and public exposure. The IS/MND needs to include this information to fully evaluate the environmental risks from this project to the community and workers. The soil and groundwater beneath the Project site must be investigated in order to have a complete environmental baseline against which to determine the Project's potential environmental impacts.

Because no baseline was established, the conclusion that the Project will have a less-than-significant impact from hazardous materials cannot be supported by any substantial evidence. Samples must be collected as part of a Phase II ESA in order to establish the baseline hazardous conditions at the Project site.

## **II. THE MITIGATION MEASURE PROPOSED IN THE IS/MND IS INSUFFICIENT TO REDUCE HAZARDOUS IMPACTS TO A LESS THAN SIGNIFICANT LEVEL**

According to the U.S. EPA describes the environment at the Superfund site on which the Project is to be located as follows:

Groundwater is contaminated with jet fuel, trichloroethylene (TCE), pesticides, and nitrates. Soil is contaminated with total petroleum hydrocarbons, dioxins, construction debris, medical wastes, pesticides, semi volatile organic compounds, and various inorganic compounds. Accidental ingestion of, or direct contact with the contaminants may pose a health risk.<sup>1</sup>

Rather than investigate the Project site's contamination now, as CEQA requires, the IS/MND proposes mitigation measure HAZ-1, which states:

During grading, if any contaminated soils or materials are uncovered, the grading contractor shall halt work in that area and the applicant shall retain a qualified environmental professional to assess the extent and type of contamination and recommend appropriate remediation of any hazardous materials. Any buried hazardous materials that must be removed from the site shall be done by a licensed contractor and hauled to a landfill approved for such materials. This measure shall be implemented to the satisfaction of the City Planner in consultation with the California Department of Toxic Substances Control if necessary.

IS/MND, p. 13.

For a number of reasons, "HAZ-1 is insufficient to ensure protection of construction workers and nearby residents when earthmoving activities commence." Hagemann, p. 2. First, without knowing the extent and type of contamination at the Project site, there is no way to know if this measure is sufficient to reduce the impact to a less than significant level. Second, this

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<sup>1</sup><https://yosemite.epa.gov/r9/sfund/r9sfdocw.nsf/vwsoalphabetic/George+Air+Force+Base?OpenDocument>

measure does not even require air monitoring to detect potential contaminants, leaving workers to detect potentially dangerous contamination either visually or through smell. But according to Mr. Hagemann, many contaminants may not be visible or may not be detectable through olfactory screening methods. Hagemann, p. 2. As a result, workers and the public may be left unprotected if contaminated soil or groundwater exists but goes undetected. Construction workers, such as members of LIUNA, will be at the highest risk from such chemicals, as are the school children that are located less than 400 feet away from the Project site. Finally, these measures use “a wait-and-see approach; an exposure will have had to happen before preventative measures are required.” Without knowing about contamination prior to earthmoving activities, and leaving detection of hazardous materials to the site and smell of construction workers, “[n]earby residents may unknowingly breathe contaminated dust generated during grading.” Hagemann, p. 2.

Because the Project may expose workers and the public to contaminated soil and groundwater, and since there is no evidence that the proposed mitigation measures would reduce the Project’s impacts to a less-than-significant level, an EIR is needed to fully analyze and mitigate the potential impact.

### **III. THE IS/MND FAILS TO ADEQUATELY DISCLOSE, ANALYZE, AND MITIGATE ALL POTENTIALLY SIGNIFICANT AIR QUALITY IMPACTS.**

#### **A. The IS/MND’s conclusion that the Project will not have significant air quality impacts is not supported by substantial evidence.**

The IS/MND concludes that the Project “is not projected to violate any air quality standard or contribute substantially to any existing or projected air quality violation.” IS/MND, p. 6-7. But this conclusion is not supported by substantial evidence. The Project’s operational and construction-related emissions were never quantified. “Without modeling emissions, the amount of criteria pollutant emissions produced by the Project is unknown.” Hagemann, p. 2. A quantitative analysis of the Project’s air quality impacts is needed to fully analyze and mitigate the Project’s potential environmental impacts.

#### **B. The Project’s Construction-Related VOC Emissions Are Significant and Must be Mitigated.**

Mr. Hagemann modeled the Project’s construction-related emissions using CalEEMod. Hagemann, p. 3. He relied on site-specific information wherever possible. However, given the sparse amount of information provided about the Project in the IS/MND, where site specific information was not used, Mr. Hagemann relied on CalEEMod default parameters. *Id.* The results of Mr. Hagemann’s model for maximum daily construction emissions are summarized in the table below.

Maximum Daily Construction Emissions (lbs/day)						
	VOC	NO <sub>x</sub>	CO	SO <sub>x</sub>	PM10	PM2.5
2018	5	60	36	0	21	12
2019	460	30	27	0	3	2
<b>MDAQMD Thresholds (lbs/day)</b>	<b>137</b>	<b>137</b>	<b>548</b>	<b>137</b>	<b>82</b>	<b>82</b>
<b>Threshold Exceed?</b>	<b>Yes</b>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>

Hagemann, p. 6.

As the table shows, the Project would emit 460 lbs/day of VOCs during construction, which is more than **three** times the Mojave Desert Air Quality Management District’s (“MDAQMD”) significance threshold of 137 lbs/day. Hagemann, p. 6. This constitutes a significant air quality impact under CEQA, and an EIR is required to fully analyze and mitigate that impact.

Mr. Hagemann’s comment letter includes a number of mitigation measure that should be considered to reduce the Project’s significant construction-related VOC emissions. Hagemann, p. 7. Some of those include:

- Use of zero VOC emissions paint
- Use of material that does not require paint
- Use of spray equipment with greater transfer efficiencies.

These and other mitigation measures must be considered and adopted to fully mitigate the Project’s significant VOC emissions.

**C. The Project’s Operational NO<sub>x</sub> Emissions Are Significant and Must be Mitigated.**

Similarly, Mr. Hagemann’s model demonstrates that the Project’s operational emissions will also exceed the MDAQMD’s threshold of significance. As demonstrated in the below table, the Project would emit 192 lbs/day of NO<sub>x</sub> during operation, which far exceeds the Mojave Desert Air Quality Management District’s significance threshold of 137 lbs/day. Hagemann, p. 6. Since the Project will have a significant air quality impact, an EIR is required to fully analyze and mitigate that impact.



<b>Maximum Daily Operational Emissions (lbs/day)</b>						
	<b>VOC</b>	<b>NO<sub>x</sub></b>	<b>CO</b>	<b>SO<sub>x</sub></b>	<b>PM10</b>	<b>PM2.5</b>
Area Source	25	0	0	0	0	0
Energy Source	0	3	2	0	0	0
Mobile	8	189	122	1	57	17
<b>Total Daily Emissions</b>	<b>33</b>	<b>192</b>	<b>124</b>	<b>1</b>	<b>57</b>	<b>17</b>
<b>MDAQMD Thresholds (lbs/day)</b>	<b>137</b>	<b>137</b>	<b>548</b>	<b>137</b>	<b>82</b>	<b>82</b>
<b>Threshold Exceed?</b>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>No</i>

Mr. Hagemann’s comment letter includes a number of mitigation measures that should be considered to reduce the Project’s significant operational NOx emissions. Hagemann, pp. 7-9. Some of those include:

- Alternatively-fueled on-site equipment
- Installation of solar panels
- Accelerated phase-in of non-diesel powered trucks
- Electric vehicle charging stations
- Use energy efficient space heating and cooling equipment

These and other mitigation measures must be considered and adopted to fully mitigate the Project’s significant operational NOx emissions.

**IV. THE PROJECT WILL HAVE A SIGNIFICANT HEALTH RISK IMPACT THAT HAS NOT BEEN ADEQUATELY ANALYZED OR MITIGATED.**

The IS/MND concludes that the Project will not expose nearby sensitive receptors to significant construction or operational emissions or diesel particulates greater than what MDAQMD allows. IS/MND, p. 7. But it makes this finding without actually conducting a health risk assessment (“HRA”). An HRA is required to determine whether or not the Project will expose sensitive receptors to substantial air pollutants. Hagemann, p. 10.

To justify its omission of an HRA, the IS/MND states:

The project does not include any of the project types listed in the MDAQMD CEQA Guidelines (11) that would affect these [sensitive] receptors. Additionally, the proposal will not introduce any sensitive receptors to previously existing project types that create substantial pollutant concentrations.”

IS/MND, p. 7.

These justifications fail for a number of reasons. First, the IS/MND claim that the “project does not include any of the project types listed in the MDAQMD CEQA Guidelines,” is



incorrect. The MDAQMD Guidelines provide that “any industrial project within 1,000 feet” or “a distribution center (40 or more trucks per day) within 1,000 feet” of a sensitive receptor must conduct a health risk assessment. Hagemann, p. 10. The IS/MND admits that it is located within 400 feet of sensitive receptors, including a school, and the Project is an industrial warehouse that Mr. Hagemann estimates will generate over 700 truck trips per day. Therefore, the Project plainly meets the requirements set forth in the MSAQMD CEQA Guidance requiring preparation of an HRA. Hagemann, p. 10. By failing to prepare an HRA, the IS/MND fails to comply with the MSAQMD CEQA Guidelines.

Second, the omission of an HRA is also inconsistent with the most recent guidance published by the Office of Environmental Health Hazard Assessment (OEHHA), the organization responsible for providing recommendations and guidance on how to conduct health risk assessments in California. Hagemann, p. 11. OEHHA recommends that all short-term projects lasting at least two months be evaluated for cancer risks to nearby sensitive receptors.<sup>2</sup> Since Project operation will generate truck trips, which will generate exhaust emissions continually exposing nearby sensitive receptors to DPM emissions for the life of the Project, an HRA should have been prepared. *Id.*

The IS/MND must include a quantitative analysis of the Project’s construction and operational emissions to the MDAQMD threshold of 10 in one million for determining a project’s health risk impact. Hagemann, p. 14. Without an HRA, the IS/MND’s conclusion that the Project will not result in a significant health-related impact is not supported by substantial evidence.

Mr. Hagemann conducted a screening-level HRA to demonstrate the potential risk to nearby sensitive receptors from Project construction and operation. Hagemann, pp. 11-14. Mr. Hagemann’s analysis concludes that the Project may result in a significant health risk impact from the Project’s construction and operational DPM emissions.

Specifically, Mr. Hagemann calculated the excess cancer risk of the maximally exposed individual school child who attends A.M.E. Academy, Excelsior Public Charter School, located approximately 122 meters from the Project site. Hagemann, p. 12. The excess cancer risk for a school child from ages five to fourteen years old is approximately 34 in one million, more than three times the threshold of significance of 10 in one million. *Id.* at p. 14. As a result, “the Project’s operational emissions do in fact present a potentially significant impact to nearby sensitive receptors, especially at the A.M.E. Academy, Excelsior Public Charter School.” *Id.*

Mr. Hagemann’s analysis constitutes substantial evidence of a potentially significant health risk impact from Project operation and construction. As a result, an EIR must be prepared to fully analyze and mitigate these impacts.

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<sup>2</sup> “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](http://oehha.ca.gov/air/hot_spots/2015/2015GuidanceManual.pdf), p. 8-18

## **V. THE IS/MND FAILS TO MITIGATE THE PROJECT'S SIGNIFICANT HEALTH RISK IMPACT.**

As discussed above, according to Mr. Hagemann's health risk analysis, the Project's operational and construction-related diesel particulate matter emissions would result in a significant health risk impact. Therefore, the City must incorporate all feasible mitigation measure to reduce the Project's impact to a less-than-significant level.

Mr. Hagemann suggests the following mitigation measures to reduce construction-related DPM (Hagemann, pp. 15-20):

- Require implementation of diesel control measures including use of ultra-low sulfur diesel, requiring use of on road vehicles that met EPA 2007 on road emissions standards, use of emission control technologies, etc.
- Repower or replace older construction equipment engines
- Install retrofit devices on existing construction equipment
- Use electric and hybrid construction equipment
- Institute a heavy-duty off-road vehicle plan
- Implement a construction vehicle inventory tracking system to ensure compliance with construction mitigation measures
- Use Enhanced Exhaust Control Practices recommended by the Sacramento Metropolitan Air quality Management District

In addition, the following mitigation measures should be considered to reduce the significant health risk impact caused by Project operations (Hagemann, pp. 20-24):

- Provide electric vehicle parking
- Limit parking supply
- Implement commute trip reduction programs
- Implement a subsidized or discounted transit program
- Provide employer-sponsored vanpool or shuttle
- Expand transit network
- Provide local shuttles

All feasible mitigation, including the above measures, should be considered in a Draft EIR in an effort to reduce the Project's significant health risk impacts.

## **VI. THE IS/MND'S GREENHOUSE GAS ANALYSIS IS INCOMPLETE BECAUSE IT FAILS TO DEMONSTRATE CONSISTENCY WITH EXECUTIVE ORDER B-30-5.**

The IS/MND acknowledges that Assembly Bill 32, passed in 2006, limits greenhouse gas ("GHG") emissions in California to 1990 levels by 2020. However, the IS/MND omits reference to Executive Order B-30-15, which was signed by Governor Brown in April 2015 and

establishes a GHG reduction target of 40 percent below 1990 levels by 2030. Hagemann Comment, p. 24.

The IS/MND relies on the City of Victorville's Climate Action Plan ("CAP") to demonstrate compliance with AB 32 by submitting a GHG screening table, which indicated a reduction goal of 71-points would be achieved by the Project, indicating compliance with AB 32. IS/MND, p. 11. But those reductions do not account for the additional reductions necessary to comply with B-30-15. Hagemann, p. 24. "By failing to demonstrate consistency with the reduction targets set forth by Executive Order B-30-15 for 2030, the Project may conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions," thereby creating a significant impact under CEQA. Hagemann, p. 24.

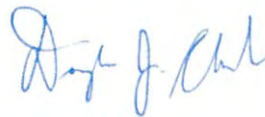
In 1990, California's statewide greenhouse gas emission were estimated at 431 million MTCO<sub>2</sub>e (MMTCO<sub>2</sub>e). *Id.* Based on Executive Order B-30-15, by 2030, California will be required to reduce statewide GHG emission by 172 MMTCO<sub>2</sub>e, creating a statewide limit of 259 MMTCO<sub>2</sub>e. *Id.* The current "business-as-usual" estimate for California's 2020 GHG emissions is 509 MMTCO<sub>2</sub>e. *Id.* Accordingly, in order to reach the reductions required by Executive Order B-30-15 of 259 MMTCO<sub>2</sub>e, California would need to reduce its emissions by 49 percent below the "business-as-usual" level. *Id.*

An EIR should be prepared that demonstrates the Project's compliance with the more aggressive GHG reduction targets specified in Executive Order B-30-15. This 49 percent reduction target should be used as a threshold of significance against which to measure Project impacts. Specifically, the EIR should demonstrate a reduction of 49 percent below "business-as-usual" levels. Hagemann Comment, p. 24. Because the Project is not anticipated to undergo additional development prior to 2030, these 2030 goals are applicable to any evaluation of the Project's impacts. *Id.* Additionally, since this reduction percentage is applicable to statewide emissions, an analysis should be conducted to translate this statewide target into a project-specific threshold against which the Project's GHG emissions can be compared. *Id.* at p. 25. An EIR should quantify any reductions expected to be achieved through mitigation measures, and demonstrate how the measures would reduce emissions below the new 2030 significance threshold.

## VII. CONCLUSION

For the foregoing reasons, the IS/MND for the Project should be withdrawn, and EIR should be prepared and the draft EIR should be circulated for public review and comment in accordance with CEQA. Thank you for considering our comments.

Sincerely,



Douglas J. Chermak  
Lozeau | Drury LLP