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Letter Dated April 7, 2016

Comment LD2-1

*I am writing on behalf of Laborers International Union of North America, Local Union No. 783 and its members living in San Bernardino County (collectively “LIUNA Local Union No. 783” or “LIUNA” or “Commenters”) regarding the Draft Environmental Impact Report (“DEIR”) prepared for the Kimball Business Park Project, State Clearinghouse No. 2000121036 (“Project”).*

*We have reviewed the DEIR with the assistance of:*

- 1. Hydrogeologist, Matthew Hagemann, C.Hg., MS. and Jessie Jaeger of Soil/Water/Air Protection Enterprise (SWAPE)*
- 2. Ecologist, Shawn Smallwood, Ph.D.*
- 3. Traffic Engineer, Daniel T. Smith Jr., P.E.*

Response LD2-1

Authorship, representation, and intent stated are acknowledged. Additionally, the individuals who assisted Lozeau Drury with the preparation of the comments are acknowledged.

Comment LD2-2

*These experts have prepared written comments that are attached hereto, and which are incorporated in their entirety. The City of Chino (“City”) should respond to the expert comments separately. These experts and our own independent review demonstrate that the DEIR is inadequate and that a new supplemental EIR is required to be prepared and recirculated for public comment. In particular, the EIR suffers from the following significant errors and omissions, among others:*

- *AIR QUALITY: The DEIR fails to adequately analyze and mitigate significant construction and operational air quality impacts. The DEIR also fails to adequately analyze the feasibility of proposed mitigation measures.*
- *BIOLOGICAL RESOURCES: The DEIR fails to adequately analyze and mitigate the Project's impacts on biological resources.*
- *GREENHOUSE GAS EMISSIONS: The DEIR fails to adequately analyze and mitigate the Project's construction and operational GHG emissions. The DEIR fails to comply with California reduction targets.*
- *HAZARDOUS MATERIALS: The DEIR fails to establish an adequate environmental baseline for the Project site because the City failed to sample pesticides in Project site soils from past uses.*
- *TRAFFIC: The DEIR provides an inaccurate project baseline and fails to adequately analyze and mitigate the Project's traffic impacts.*

*Commenters urge the City to revise the EIR to adequately describe, analyze, and mitigate the Project and its impacts.<sup>6</sup> The revised EIR should be recirculated to allow public review and comment.*

#### Response LD2-2

The Commentor is providing summary conclusions regarding the analysis contained within the Draft EIR. This conclusion is based on detailed comments, which will be responded to on a point-by-point basis within responses provided later in this FEIR. The Commentor summarily opines about the inadequacies of the EIR. Specifically, the comment suggests that Air Quality, Biological Resources, Greenhouse Gases, Hazardous Materials and Traffic were incorrectly prepared.

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<sup>6</sup> We reserve the right to supplement these comments at later hearings and proceedings for this Project. (See, *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109.)

As discussed in the DEIR and restated subsequently within these Responses, the DEIR analysis and conclusions addressing the Project's potential impacts are consistent with applicable CEQA requirements, protocols and methodologies, and are correct and accurate as presented. The City's experts disagree with all of the comments and attacks made on the EIR by LIUNA.

The Commentor concludes that based on the perceived inadequacies, the City should revise the EIR and recirculate the document to allow the public to once again review and provide comments. As substantiated in the DEIR and reinforced the detailed responses presented later in this FEIR, the DEIR accurately and appropriately identifies Project impacts and presented meaningful and feasible mitigation. Results and conclusions of the DEIR are not affected.

#### Comment LD2-3

##### **I. PROJECT DESCRIPTION**

*The Project proposes construction and operation of approximately 1,203,050 square feet of warehouse/light industrial/business park uses on approximately 70 acres located in the southeasterly portion of the City of Chino. The Project Site Plan Concept proposes 25 buildings ranging from approximately 5,825 square feet to approximately 352,000 square feet. The uses of the building areas will primarily serve as warehouses or light industrial activities including printing, material testing, and assembly of data process equipment (352,000 sq/ft of High-cube Warehouse/Distribution use; 564,000 sq/ft of Warehouse uses; and, 140,500 square feet of General Light Industrial use). In addition, 146,550 square feet may include offices, retail and wholesale stores, restaurants, recreational areas, or scientific research functions. The Project Opening Year is defined as 2018.*

#### Response LD2-3

The summary Project description provided is materially correct. Please refer also to DEIR Section 3.0, *Project Description*.

#### Comment LD2-4

##### **II. STANDING**

*Members of Local Union No. 783 live, work, and recreate in the immediate vicinity of the Project site*

*and/or areas that will be affected by traffic, air pollution, and chemical hazards created by the Project. These members will suffer the impacts of a poorly executed or inadequately mitigated Project, just as would the members of any nearby homeowners association, community group, or environmental group.*

*In addition, construction workers will suffer many of the most significant impacts from the Project as currently proposed, such as from air pollution emissions from poorly maintained or controlled construction equipment, possible risks related to hazardous materials on the Project site, and other impacts. Therefore, LIUNA Local Union No. 783 and its members have a direct interest in ensuring that the Project is adequately analyzed and that its environmental and public health impacts are mitigated to the fullest extent feasible.*

#### Response LD2-4

Authorship, representation, and intent stated are acknowledged.

#### Comment LD2-5

### **III. LEGAL STANDARDS**

#### **A. EIR**

*CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report ("EIR") (except in certain limited circumstances). See, e.g., Pub. Res. Code § 21100. The EIR is the very heart of CEQA. Dunn-Edwards v. BAAQMD (1992) 9 Cal.App.4th 644, 652. "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." (Comms. for a Better Env't v. Calif. Resources Agency (2002) 103 Cal. App. 4th 98, 109.)*

*CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (14 Cal. Code Regs. ("CEQA Guidelines") § 15002(a)(1).) "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decision before they are made. Thus, the EIR 'protects not only the environment but also informed self-government.'" (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.)

*Second, CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring "environmentally superior" alternatives and all feasible mitigation measures. (CEQA Guidelines § 15002(a)(2) and (3); see also Berkeley Jets, 91 Cal. App. 4th at 1354; Citizens of Goleta Valley, 52 Cal.3d at 564.) The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to "identify ways that environmental damage can be avoided or significantly reduced." (CEQA Guidelines §15002(a)(2).) If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns." (Pub.Res.Code ("PRC") § 21081; CEQA Guidelines § 15092(b)(2)(A) & (B).)*

*The EIR is the very heart of CEQA. (Dunn-Edwards v. BAAQMD (1992) 9 Cal.App.4th 644, 652.) CEQA requires that a lead agency analyze all potentially significant environmental impacts of its proposed actions in an EIR. (PRC § 21100(b)(1); CEQA Guidelines § 15126(a); Berkeley Jets, 91 Cal.App.4th 1344, 1354.) The EIR must not only identify the impacts, but must also provide "information about how adverse the impacts will be." (Santiago County Water Dist. v. County of Orange (1981) 118 Cal.App.3d 818, 831.) The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. (Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692.) "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." (Comms. for a Better Env't, (2002) 103 Cal.App.4th at 109.)*

*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 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 at 1355 (emphasis added), quoting, Laurel Heights Improvement Assn. v.*

*Regents of Univ. of Cal. (1988) 47 Cal.3d 376, 391 409, fn. 12.) A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process.” (San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27 Cal. App. 4th 713, 722]; Galante Vineyards v. Monterey Peninsula Water Management Dist. (1997) 60 Cal. App. 4th 1109, 1117; County of Amador v. El Dorado County Water Agency (1999) 76 Cal. App. 4th 931, 946.)*

#### Response LD2-5

The Commentor provides select legal standards regarding the purpose and implementation of CEQA. The case law that has been presented speaks for itself.

#### Comment LD2-6

##### **B. SUPPLEMENTAL EIR**

*Recirculation of an EIR prior to certification is required “when the new information added to an EIR discloses: (1) a new substantial environmental impact resulting from the project or from a new mitigation measure proposed to be implemented (cf. CEQA Guidelines, § 15162, subd. (a)(1), (3)(B)(1)); (2) a substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance (cf. CEQA Guidelines, § 15162, subd. (a)(3)(B)(2)); (3) a feasible project alternative or mitigation measure that clearly would lessen the environmental impacts of the project, but which the project’s proponents decline to adopt (cf. CEQA Guidelines, § 15162, subd. (a)(3)(B)(3), (4)); or (4) that the draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment on the draft was in effect meaningless.” (Laurel Heights Improvement Assn. v. Regents of University of California (1993) 6 Cal. 4th 1112, 1130, citing Mountain Lion Coalition v. Fish & Game Comm’n (1989) 214 Cal.App.3d 1043.)*

*Significant new information requiring recirculation can include:*

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.*
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.*
- (3) A feasible project alternative or mitigation measure considerably different from others*

*previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.*

*(4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.*

*(CEQA Guidelines, § 15088.5(a).)*

*The DEIR fails to analyze significant environmental impacts pertaining to the Project and to fully consider available mitigation measures to address those impacts. A revised EIR is required to be prepared and recirculated to address these deficiencies.*

#### Response LD2-6

The Commentor provides a summary of the CEQA requirements that trigger the need to recirculate an EIR (CEQA Guidelines Section 15088(a)). These standards are acknowledged. The Commentor provides a summary opinion regarding the need for a revised EIR. As discussed in the DEIR and restated subsequently within these Responses, the DEIR analysis and conclusions addressing the Project's potential impacts are consistent with applicable CEQA requirements, protocols and methodologies, and are correct and accurate as presented. There is no need to prepare a revised EIR.

#### Comment LD2-7

### **IV. THE DEIR FAILS TO ACCURATELY ESTABLISH THE PROJECT'S ENVIRONMENTAL SETTING OR "BASELINE."**

#### **A. CEQA BASELINE STANDARD**

*To facilitate its informational goals, an EIR must contain an accurate description of the project's environmental setting, or "baseline." The CEQA "baseline" is the set of environmental conditions against which to compare a project's anticipated impacts. (Comms. for a Better Env't, 48 Cal. 4th at 321.) CEQA Guidelines section 15125(a) states, in pertinent part, that a lead agency's environmental review under CEQA:*

*...must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time [environmental analysis] is commenced, from both a local and regional perspective. This environmental setting will normally*

*constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant.*

*(See, Save Our Peninsula Committee v. County of Monterey (2001) 87 Cal.App.4th 99, 124-125 (“Save Our Peninsula”).) As the court of appeal has explained, “the impacts of the project must be measured against the ‘real conditions on the ground,’” and not against hypothetical permitted levels. (Id. at 121-123.) The court has explained, using such a skewed baseline “mislead(s) the public” and “draws a red herring across the path of public input.” (San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 656; Woodward Park Homeowners v. City of Fresno (2007) 150 Cal.App.4th 683, 708-711.)*

#### Response LD2-7

The Commentor is misrepresenting the relevance of the case cited (Save our Peninsula Committee v. County of Monterey, 2001). Specifically, the California Environmental Quality Act, or CEQA, requires agencies to compare the potentially significant impacts of proposed projects to an “environmental baseline” – which CEQA provides shall “normally” consist of environmental conditions as they exist when environmental review is commenced. The California Court of Appeal, Sixth District, has ruled that an Environmental Impact Report (“EIR”) may not compare impacts to a baseline consisting of projected future conditions when the project is expected to be complete. The DEIR correctly assesses the baseline as the conditions as they exist today and therefore the analyses and conclusions are correct as presented.

#### Comment LD2-8

##### ***B. THE DEIR FAILS TO ADEQUATELY ANALYZE HAZARDS AND HAZARDOUS MATERIALS AND ESTABLISHES AN ERRONEOUS BASELINE.***

*The DEIR fails to analyze the health risks that residual pesticides in the soil may pose to workers and nearby residents. A January 21, 2016 Phase I Environmental Site Assessment (ESA) prepared for the Project site found the property to be occupied by orchards from 1938 to 1953. Based on this prior use of the Project site, there is a potential that residual organochlorine pesticides remain in the soil, which may pose health risks to workers and nearby residents. However, the DEIR and supporting documents fail to provide any information reflecting the “real conditions on the ground” on the*



*types of pesticides that have been used on the Project site in association with these agricultural operations. (Save Our Peninsula, supra, 87 Cal.App.4th at 121-123.) Therefore, the DEIR fails to adequately describe the environmental setting for the Project and fails to serve its informational purpose.*

*SWAPE reviewed the data from a sampling conducted at a nearby cite less than one mile from the Project where residual levels of Dieldrin, an organochlorine pesticide, was detected. They found that one sample from the project exceeded commercial/industrial preliminary remediation goal established by the US EPA. (SWAPE Comment, p.3.) Based on this finding, SWAPE concluded:*

*The exceedance of the commercial/industrial PRG at Falloncrest, a location within a mile of the Project where past land uses are almost identical, indicates the likelihood of finding similar concentrations of residual pesticides. The Project DEIR should be revised to include site-wide sampling for pesticides, consistent with provisions made under CEQA for other projects where the City of Chino is the lead agency, as cited in the example above. The sampling should adhere to guidance published by the California Department of Toxic Substances Control (DTSC), entitled "Interim Guidance for Sampling Agricultural Properties." In accordance with this guidance, sampling for pesticides at the 70-acre site would require drilling 60 borings for the collection of 15 composite soil samples.*

*(Id.) Given the high risk of the site being contaminated with residual pesticides posing risks to neighbors and workers, the City should prepare a revised DEIR to properly evaluate this potential impact and establish an accurate baseline for the Project.*

#### Response LD2-8

Contrary to the commentor's assertion, collecting/analyzing soil samples for pesticides is not normally undertaken at properties that are proposed to be redeveloped for industrial uses, unless there is an indication that pesticide storage and/or mixing has occurred onsite. As noted in the technical report, no evidence of these activities has been identified.

The commentor confuses pesticide hazard analysis and related mitigation protocols by citing the nearby Falloncrest Project, located approximately one mile away. The Falloncrest project site, like the instant Project site, is occupied by existing dairy/cattle operations. Unlike the instant Project, which proposes industrial uses, the Falloncrest project proposes development of over 1,400 residential units and parkland. Because it is a residential proposal, collecting/analyzing soil samples was an appropriate course of action for the Falloncrest project. In this case, the Kimball Business Park Project proposes no residential development, and collection and evaluation of soils per the Falloncrest protocols is not warranted because re-purposing the site for industrial use does not expose sensitive receptors to soil (e.g., children playing in the back yards of residential development).

Furthermore, there are no regulatory guidelines for sampling proposed industrial properties for pesticides. In addition, due to the low likelihood of human exposure during construction activities (either worker exposure or windborne), federal and state governments do not regulate sampling prior to construction. Under developed conditions, industrial properties have few open spaces, and are commonly capped with buildings or hardscape materials. This lack of open space reduces the potential for human exposure to any pesticides that may exist in a buried context, further obviating requirements for detailed analysis of underlying soils conditions.

Lastly, it is noted that the sampling protocols recommended by the commentor were established for proposed school sites and are not applicable to an industrial project such as the proposed Kimball Business Park Project.

Notwithstanding the preceding considerations, and in an effort to be responsive to the commentor's stated concerns and generally further disclosure and hopefully avoid litigation and the waste of judicial resources, a pesticide/soil sampling was undertaken on April 27<sup>th</sup> and 28<sup>th</sup>, 2016 by Ardent Environmental Group. The complete report (*Results of Pesticides Sampling, Kimball Property, Chino, California, Ardent Environmental Group May 7, 2016*) is presented at Appendix A of this FEIR, and findings and conclusions of the report are summarized below.

Laboratory results were compared to both the State of California DTSC Screening Levels for industrial/commercial land use (DTSC-SLi) and the Federal EPA Regional Screening Levels for industrial/commercial land use (RSLi). Both of these regulatory guidelines are based on a human health risk criteria. Laboratory results indicated detectable concentrations of 4,4-DDT, its breakdown product 4,4-DDE, and dieldrin. No other Organochlorine Pesticides were present above the laboratory detection limits.

The DTSC-SLi do not contain screening levels for the particular pesticides that were detected, therefore the samples were compared to the EPA RSLi. Based on the laboratory analytical results, low concentrations of 4,4-DDE, 4,4-DDT, and dieldrin were detected in select samples, well below the EPA RSLi values. The results are presented below.

#### Summary of Soil Sample Laboratory Results

Composite Sample ID	Samples Composited	Date Sampled	Organochlorine Pesticides (mg/kg)			
			4,4-DDE	4,4-DDT	Dieldrin	All Others
EPA RSLi (threshold)			9.3	8.5	0.14	Various
1	B1-1	4/27/16	ND<0.01	ND<0.01	ND<0.01	ND<0.01-0.2
	B2-5	4/27/16				
	B3-2	4/27/16				
	B4-2.5	4/27/16				
2	B5-2	4/27/16	0.002	ND<0.001	ND<0.001	ND<0.001-0.2
	B6-1	4/27/16				
	B7-1.5	4/27/16				
	B8-2	4/27/16				
3	B9-1.5	4/27/16	0.002	ND<0.001	ND<0.001	ND<0.001-0.2
	B10-3	4/27/16				
	B11-4	4/27/16				
	B12-1	4/27/16				
4	B13-1	4/27/16	0.011	ND<0.002	ND<0.002	ND<0.002-0.04
	B14-1.5	4/27/16				
	B15-2	4/27/16				
	B16-1.5	4/27/16				
5	B17-1.5	4/27/16	0.011	ND<0.01	ND<0.01	ND<0.01-0.2
	B18-1.5	4/27/16				

## Summary of Soil Sample Laboratory Results

Composite Sample ID	Samples Composited	Date Sampled	Organochlorine Pesticides (mg/kg)			
			4,4-DDE	4,4-DDT	Dieldrin	All Others
	B19-3.5	4/27/16				
	B20-3.5	4/27/16				
6	B21-2	4/27/16	0.027	ND<0.01	ND<0.01	ND<0.01-0.2
	B22-1.5	4/27/16				
	B23-4	4/27/16				
	B24-1.5	4/27/16				
7	B25-3	4/27/16	0.009	ND<0.002	ND<0.002	ND<0.002-0.04
	B51-3.5	4/28/16				
	B26-1	4/28/16				
	B29-1	4/28/16				
8	B40-1.5	4/28/16	0.005	ND<0.001	ND<0.001	ND<0.001-0.2
	B41-2	4/28/16				
	B42-2	4/28/16				
	B43-1.5	4/28/16				
9	B44-1	4/28/16	ND<0.01	ND<0.01	ND<0.01	ND<0.01-0.2
	B45-3	4/28/16				
	B46-2	4/28/16				
	B47-1.5	4/28/16				
10	B48-3	4/28/16	0.075	ND<0.02	ND<0.02	ND<0.02-0.4
	B49-2.5	4/28/16				
	B50-4	4/28/16				
	B52-2	4/28/16				
11	B53-1.5	4/28/16	0.004	ND<0.001	ND<0.001	ND<0.001-0.2
	B27-1	4/28/16				
	B28-1	4/28/16				
	B30-1.5	4/28/16				
12	B39-1.5	4/28/16	0.085	ND<0.02	ND<0.02	ND<0.02-0.4
	B60-1.5	4/28/16				
	B31-1.5	4/28/16				
	B54-1.5	4/28/16				
13	B32-1.5	4/28/16	0.030	ND<0.01	ND<0.01	ND<0.01-0.2
	B55-1.5	4/28/16				

## Summary of Soil Sample Laboratory Results

Composite Sample ID	Samples Composited	Date Sampled	Organochlorine Pesticides (mg/kg)			
			4,4-DDE	4,4-DDT	Dieldrin	All Others
14	B38-1.5	4/28/16	0.072	ND<0.02	0.064	ND<0.02-0.4
	B59-1.5	4/28/16				
	B33-1.5	4/28/16				
	B34-1.5	4/28/16				
15	B35-1.5	4/28/16	0.052	0.014	0.027	ND<0.01-0.2
	B56-1.5	4/28/16				
	B36-1.5	4/28/16				
	B37-1.5	4/28/16				
	B57-1.5	4/28/16				
	B58-1.5	4/28/16				

Source: Ardent Environmental Group, Inc.

**Notes:**

Sample ID - sample identification

Organochlorine pesticides analyzed in general accordance with EPA Method No. 8081A

4,4-DDE - 4,4-dichlorodiphenyldichloroethylene

4,4-DDT - 4,4-dichlorodiphenyltrichloroethane

mg/kg - milligrams per kilogram

ND - no detectable concentration above the actual reporting limit (including dilution factor)

EPA RSLi - EPA, Region 9, Regional Screening Levels for industrial/commercial land use, dated November 2015.

As can be seen from the above Soil Sample Table, laboratory results indicated non-detectable to low concentrations of Organochlorine Pesticides. Based on these results, Ardent Environmental Group concluded that *“there is a low likelihood that residual pesticides would pose a significant human health risk to future workers or occupants of the site.”* Based on these results, the potential for the Project to result in or cause a significant hazard associated with contaminated soils is determined to be less-than-significant.

Contrary to the commentor’s assertion otherwise, the detailed soils sampling presented in this Final EIR demonstrates and substantiates that nominal levels of residual pesticides that exist within the Project site pose no potentially significant risk to neighbors and/or workers. There is no basis for, or requirement for, a revised DEIR to evaluate potential impacts from residual pesticides, or to restate the baseline conditions for the Project. The analysis and conclusions in the Ardent Group report do not contain significant new information within the meaning of *CEQA Guidelines* Section 15162 and recirculation is not required.

Results and conclusions of the EIR are not affected.

Comment LD2-9

**C. THE INADEQUATE BIOLOGICAL SURVEYS FAIL TO ESTABLISH AN ACCURATE BASELINE FOR SENSITIVE BIOLOGICAL RESOURCES.**

**1. The Biological Surveys are Inadequate and Failed to Adhere to Survey Protocols.**

*The DEIR relies on biological surveys which are incomplete and failed to adhere to the MSHCP's survey protocols. In reviewing the biological impacts assessment in the DEIR, Mr. Smallwood concluded that the DEIR misrepresented the amount of surveying conducted when it referred to the "25 wildlife species . . . detected during the site visits." (Id. at 2) Mr. Smallwood found evidence of only one site visit conducted over some portion of a single day by a single biologist for all biological analysis. (Id.) Mr. Smallwood writes, "There was no serious effort to survey for plant and wildlife species on the project site. No biologist can satisfactorily assess the occurrence likelihoods and potential project impacts on all potentially occurring species on a 70 acre site in a single day." (Id.)*

Response LD2-9

The commentor erroneously refers to required compliance with MSHCP survey protocols. Note first, that the MSHCP (the full title being Western Riverside County Multiple Species Habitat Conservation Plan) is germane to Riverside County, whereas the Project is located in San Bernardino County. This probably results from the fact that LIUNA is located in Los Angeles County and the law firm that authored this comment letter is based in Oakland, California and neither of the entities are familiar with the Project site or the location of the project. Notwithstanding the commentor's misunderstanding of the Project's geographical context, the commentor then asserts without substantiation that "[t]he DEIR relies on biological surveys which are incomplete and failed to adhere to the MSHCP's survey protocols." The commentor's statements in these regards do not constitute substantial evidence warranting evaluation in the EIR. Further, the project is located in San Bernardino County, not Riverside County in which the MSHCP is applicable.

Contrary to the commentor's unsupported assertions, the EIR biological surveys were conducted consistent with accepted protocols, and reflect the current heavily disturbed state of the site and its urban context. Historically, the Project site has been used for various

agricultural purposes dating back to the 1950's. The Project site is currently employed as an active dairy; and evidences various dairy/agricultural facilities, ancillary residential uses, and accommodates several hundred cows. To the west of the Project site is the Chino Airport; southerly adjacent to the site are urban residential uses; easterly of the site are agricultural uses, to be developed in the near-term with industrial uses similar to those proposed by the Project; and northerly of the Project are active agricultural uses. In short, the Project site and vicinity properties are urbanized, or are transitioning to urban uses; and do not evidence valuable habitat or habitat that would potentially support species other than those identified in the EIR Biological Resources Report. Existing site conditions are blatantly overlooked by the commentor (or are unknown to the commentor) in that the comments provided suggest that the site is pristine and of substantive biological resources value warranting extensive and detailed analyses of potential impacts that are, at best, unlikely even if commentor was correct in its assertions regarding the property. Current photographs of the property and its active dairy use are presented at Figures 3-1 through 3-5.

The commentor's statements and assertions are incorrect, and do not consider the Project site's urban context; presence of existing dairy/agricultural and residential uses; degree of historic and on-going site disturbances; and lack of substantive habitat. In combination, these factors translate to an extremely remote (at best) likelihood of encountering biologically valuable resources.

Results and conclusions of the EIR are not affected.

## FIGURE 3-1 SITE PHOTOS



## FIGURE 3-2 SITE PHOTOS

### FIGURE 3-3 SITE PHOTOS

## FIGURE 3-4 SITE PHOTOS

## FIGURE 3-5 SITE PHOTOS

Comment LD2-10

*The biological surveys relied upon in the DEIR failed to analyze the site across seasons, at night, or using special methods to detect special-status species, such as life trapping, acoustic or thermal surveys, or raking the soil. (Id.) Without employing these special methods, Mr. Smallwood concluded that it was unsurprising that the surveys failed to detect a number of species likely to be found on the site, including special status species such as the southern grasshopper mouse, Los Angeles pocket mouse, American badger, silvery legless lizard, or coast horned lizard. (Id. at 3.) Consequently, the surveys failed to account for the breadth of species likely to be found on the Project site. (Id.)*

Response LD2-10

The EIR Biological Resources Report does not rely solely on field observations as is suggested by the commentor. Breadth and depth of analysis presented in the EIR Biological Resources Report is evidenced in the following excerpt:

In addition to the site visit, field surveys, vegetation mapping, wildlife inventories, and habitat assessments information on the biological resources of the project site was obtained by reviewing existing available data. Databases such as the California Natural Diversity Database (CNDDDB 2015) and California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California (Tibor 2001) were reviewed regarding the potential occurrence of any special status species or sensitive habitat within or in close proximity of the project site.

The resources used in this thorough archival review included the following:

- California Natural Diversity Data Base (CNDDDB) for the USGS 7.5' quadrangle which comprised the study area: Corona North and neighboring quads for pertinent data,
- California Native Plant Society Inventory of rare and endangered vascular plants of California (Tibor 2001; CNPS On-line Inventory),

- Special Animals (including California Species of Special Concern), CDFW, Natural Heritage Division, July 2015,
- Special Vascular Plants, Bryophytes, and Lichens List, CDFW, Natural Heritage Division, July 2015,
- State and Federally Listed Endangered, Threatened and Rare Plants of California, CDFW, Natural Heritage Division, July 2015,
- State and Federally Listed Endangered and Threatened Animals of California, CDFW, Natural Heritage Division, July 2015,
- Review of previous biological assessment reports and species lists for the region and neighboring areas,
- Published literature (Sibley 2000, Small 1994, Moyle *et al.* 1995, Jennings and Hayes 1994, Stebbins 1985, Webster *et al.* 1980, Burt and Grossenheider 1976) (Biological Resources Report, p. 5).

The Project site's urban context; presence of existing dairy/agricultural and residential uses; degree of historic and on-going site disturbances; and lack of substantive habitat translate to an extremely remote (at best) likelihood of encountering biologically valuable resources.

This finding is further supported by the expertise and experience of the EIR biological resources consultant, field surveys, review and evaluation of biological resources data bases, and review and evaluation with relevant literature. The commentor's suggested analyses "of the site across seasons, at night, or using special methods to detect special-status species, such as life [sic] trapping, acoustic or thermal surveys, or raking the soil" are not warranted, and in fact would detract from the analysis of impacts that are likely to occur (please refer to Response LD2-9).

Moreover, the analyses and "special methods" suggested by the commentor are not required, and the extent and scope of the suggested analyses are inconsistent with the magnitude of the Project at issue, the severity of its likely environmental impacts, and the geographic scope [and context] of the Project. CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. (Nor would such analyses as suggested by the commentor

contribute meaningfully to the identification and disclosure of potentially significant biological resources impacts; or yield substantively different results than those presented in the EIR Biological Resources Report.

The commentor speculates on potential presence of certain species within the Project site, but provides no supporting evidence indicating these species may be present. In contrast, the EIR Biological Resources Report conducted field surveys, researched appropriate databases, and consulted relevant literature to identify and evaluate the likelihood of special status species occurrences. Based on the EIR Biological Resources Report field surveys, database research, and review of relevant literature, none of the species cited by the commentor are likely to occur within the Project site, or in the Project vicinity. Please refer also to Response LD2-9.

Resurvey of the Project site by the EIR Biologist, conducted on June 7, 2017, confirmed all previous conclusions regarding lack of habitat and absence of protected species and/or any sign of protected species. Please refer to *Kimball Business Park Site Assessment* letter report (Harmsworth and Associates) June 7, 2016, presented at FEIR Appendix C.

Results and conclusions of the EIR are not affected.

#### Comment LD2-11

*Mr. Smallwood's review also called into question the literature search conducted for potentially occurring species. (Id.) Mr. Smallwood's assessment found 23 additional potentially occurring species than the DEIR. (Id. 4-5.) The table included in Mr. Smallwood's comment letter demonstrates that the DEIR likely substantially underestimates the species found on the site. (Id.) In fact, Mr. Smallwood determined that the detection of 25 wildlife species in the cursory survey conducted actually indicates the high species richness of the Project site. (Id.)*

*If surveys in support of the environmental review are deficient due to budgetary or time constraints, then the analyst should err on the side of caution when predicting potential project impacts on rare and precious resources at issue (Exhibit 1, Smallwood Comment, p. 2.). Instead of making conservative estimates in light of insufficient surveys, the DEIR concludes that there are no special*

*status species on the Project site. Thus, the DEIR's biological resources baseline is inaccurate. To comply with CEQA, biological surveys should be conducted in compliance with survey protocols prepared by the California Department of Fish and Wildlife in order to provide an accurate baseline for analysis of Project impacts.*

#### Response LD2-11

The commentor takes issue with the EIR biologist's literature research and then proceeds with a species assessment based on some imagined site condition. First, as noted previously in these Response, the EIR biologist is eminently qualified, has years of practical experience in evaluating biological resources in the context of CEQA requirements, and has conducted all surveys and research consistent with accepted protocols. The fact that the commentor may disagree with the EIR biologist does not invalidate the EIR biologic resources analysis, methodology or resultant conclusions.

Regarding accuracy of the Project site's biologic baseline condition, it is the commentor's imagined baseline, not the EIR baseline that is inaccurate. That is, commentor statements regarding species considered likely to occur within the Project site are not supported by substantial evidence and do not take into account the Project site's urban context and baseline disturbed and developed condition. In asserting the potential for additional species to occur, the commentor assumes that there exists habitat to support such species. In theory, the Project site could support a multitude of species, except for the fact that suitable habitat does not exist; and the EIR Biological Resources Report clearly states that no such habitat exists because the site is extensively disturbed and is devoid of native vegetation communities. For the benefit of the commentor, pictures of the current property conditions are again presented herein (please refer to previous Figures 3-1 through 3-5.)

In summary, the species assessments conducted by the commentor have no basis in fact and reflect an imagined pristine biologic baseline condition. Commentor statements regarding species considered likely to occur within the Project site do not take into account the Project site's current uses, urban context and heavily disturbed and developed condition. In asserting the potential for additional species to occur, the commentor assumes that there



exists habitat to support such species. Suitable habitat does not exist within the Project site, and the EIR Biological Resources Report clearly states that no such habitat exists.

Results and conclusions of the EIR are not affected.

#### Comment LD2-12

##### ***2. The Burrowing Owl Surveys are Inadequate and Failed to Adhere to Survey Protocols.***

*The failure of the DEIR to adequately assess biological impacts on special-status species is demonstrated by its treatment of the burrowing owl. The DEIR's conclusion that burrowing owls are absent from the proposed project site is unfounded. According to Mr. Smallwood:*

*The DEIR assumed that burrowing owls are absent from the proposed project site. This assumption was based on a single site visit toward the end of the nesting season. No attempt was made to follow the recommendations of the survey protocol prepared by the California Department of Fish and Wildlife (CDFG 2012). To be consistent with the survey protocol, a qualified biologist would have needed to visit the site several times through the nesting season, each visit separated by at least two weeks from the other visits. Burrowing owl surveys should also be focused on detecting burrowing owls and not also on plant species mapping and wetland delineation. Assuming burrowing owls are absent without having followed the CDFG (2012) survey protocol was inappropriate and scientifically indefensible.*

*(Smallwood Comment, p.5). Mr. Smallwood determined that the veracity of the DEIR's finding is particularly unlikely given that burrowing owls reside at the airport next door to the Project site. (Id.) Mr. Smallwood also found that the DEIR Appendix J mischaracterizes the seasonable and inter-annual nature of burrowing owl distribution and abundance. (Id.) To rectify the errors of the DEIR, a revised DEIR should be drafted based on surveys comporting with the protocol prepared by the California Department of Fish and Wildlife performed at the project site. (Id.)*

#### Response LD2-12

The commentor erroneously assumes presence of the burrowing owl; and again fails to consider, or purposely ignores, the absence of suitable owl habitat at the Project site and the

Project site's disturbed and developed baseline condition. The commentor erroneously states that the EIR assumes absence of the burrowing owl. In point of fact, the EIR recognizes generalized (though unlikely) potential for the owl to occur in the Project vicinity, and specifically notes the presence of the owl at the adjacent Chino Airport, where more suitable habitat occurs.

Of particular concern in the Project vicinity is the Burrowing owl (*Athene cunicularia*). Burrowing owls occur in shortgrass prairies, grasslands, lowland scrub, agricultural lands (particularly rangelands), prairies, coastal dunes, desert floors, and some artificial, open areas as a yearlong resident. They require large open expanses of sparsely vegetated areas on gently rolling or level terrain with an abundance of active small mammal burrows. As a critical habitat feature, they require the use of rodent or other burrows for roosting and nesting cover. They can also use pipes, culverts, and nest boxes (USFWS 2003, Haug et al. 1993, Zeiner et al. 1990).

Due to the absence of native vegetation communities and the disturbance at the Project site, special status wildlife species are unlikely to occur onsite. No burrowing owls were detected during the site visit and there was no evidence that burrowing owls were present. Burrowing owls do occur nearby, at the Chino Airport, where more suitable habitat occurs (CNDDB 2015). Burrowing owls are assumed absent from the Project site (DEIR, p. 4.10-5).

Notwithstanding the preceding, and realizing that the burrowing owl may subsequently occupy the Project site, the DEIR Mitigation Measures 4.10.1 through 4.10.3 (excerpted below) ensure that protection of burrowing owls would comport with incumbent CDFW burrowing owl impact mitigation protocols.

#### **Mitigation Measures:**

*4.10.1 Burrowing Owl Avoidance: Breeding season avoidance measures for the burrowing owl including, but not limited to, those that follow shall be implemented. A pre-construction survey for resident burrowing owls shall be conducted by a*

qualified Project Biologist within 14 days prior to construction activities. If ground-disturbing activities are delayed or suspended for more than 14 days after the pre-construction survey, the site will be resurveyed for owls. Pre-construction survey methodology shall be based on Appendix D (Breeding and Non-breeding Season Surveys and Reports) of the CDFW Staff Report on Burrowing Owl Mitigation (CDFW) March 7, 2012 (CDFW Burrowing Owl Mitigation Staff Report). Results of the pre-construction survey shall be provided to CDFW and the City. Should any burrowing owl be found on site, CDFW shall be notified of such within 24 hours. If the pre-construction survey does not identify burrowing owls on the Project site, then no further mitigation shall be required. If burrowing owls are found to be utilizing the Project site during the pre-construction survey, measures shall be developed by the Project Biologist in coordination with CDFW to avoid impacting occupied burrows during the nesting period. These measures shall be based on incumbent CDFW protocols and would minimally include establishment of buffer setbacks from occupied burrows and owl monitoring during Project construction activities.

4.10.2 Burrowing Owl Passive Exclusion: During the non-breeding season (September 1 through January 31), if burrows occupied by migratory or non-migratory resident burrowing owls are detected during a pre-construction survey, then burrow exclusion and/or closure may be used to passively exclude owls from those burrows. Burrow exclusion and/or closure shall only be conducted by the Project Biologist in consultation and coordination with CDFW employing incumbent CDFW guidelines.

4.10.3 Mitigation for Displaced Owls: In consultation with the City, Project Applicant, Project Biologist, and CDFW, and consistent with mitigation strategies outlined in the CDFW Burrowing Owl Mitigation Staff Report, a mitigation plan shall be developed for the “take” of any owls displaced through Project construction activities. Strategies may include, but are not limited to, participation in the permanent conservation of off-site habitat replacement area(s), and/or purchase of available burrowing owl conservation bank credits.

*4.10.4 If possible, all vegetation removal activities shall be scheduled from August 1 to February 1, which is outside the general avian nesting season. This would ensure that no active nests would be disturbed and that removal could proceed rapidly. If vegetation is to be cleared during the nesting season, all suitable habitat will be thoroughly surveyed within 72 hours prior to clearing for the presence of nesting birds by a qualified biologist (Project Biologist). The Project Biologist shall be approved by the City and retained by the Applicant. The survey results shall be submitted by the Project Applicant to the City Planning Department. If any active nests are detected, the area shall be flagged and mapped on the construction plans along with a minimum 300-foot buffer, with the final buffer distance to be determined by the Project Biologist. The buffer area shall be avoided until, as determined by the Project Biologist, the nesting cycle is complete or it is concluded that the nest has failed. In addition, the Project Biologist shall be present on the site to monitor the vegetation removal to ensure that any nests, which were not detected during the initial survey, are not disturbed (DEIR, pp. 4.10-12, 4.10-13).*

All burrowing owl surveys were conducted pursuant to governing protocols and methodologies. These surveys indicate that the owl is not present within the Project site. Mitigation pursuant to CDFW requirements is incorporated in the EIR to ensure the owl's protection should it occupy the Project site prior to the commencement of construction activities. Additional analysis suggested by the commentor is not warranted or required. Other opinions expressed by the commentor are noted.

Results and conclusions of the EIR are not affected.

#### Comment LD2-13

#### **3. The DEIR's Baseline Fails to Account for the Project Impacts on Wildlife Movement and Migratory Birds.**

*The DEIR states that, "Due to the disturbed nature of the Project site and surrounding roadways and development, the potential for native wildlife species to use the Project site as a migratory corridor or nursery site is unlikely." (DEIR p.1-19.) In Appendix J, it concludes that because no wildlife corridors or linkages are known at the Kimball Business Park project site, "[i]t is unlikely*

*that the site is of any significance to wildlife movement.” (DEIR Appendix J, p.16). However, according to Mr. Smallwood, a site does not have to include a “migratory corridor” or “wildlife corridor” to provide for wildlife movement in the area. As such, he concluded that the DEIR’s focus on migratory corridors was misleading. (Smallwood Comment p.6.) The corridor concept is a human construct intended for countering effects of habitat fragmentation. Instead of improperly focusing on wildlife corridors, in order to comply with CEQA, the EIR must consider wildlife movement in the region as a whole and whether the Project would have significant impacts on this movement. (Id).*

#### Response LD2-13

The commentor incorrectly states, “[t]he DEIR’s Baseline Fails to Account for the Project Impacts on Wildlife Movement and Migratory Birds.” To clarify for the commentor, the CEQA topic considered in the EIR is whether the Project would interfere *substantially* [emphasis added] 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 wildlife nursery sites. That is, there is no substantial movement of wildlife through the Project site, nor in the Project vicinity. Nor would the Project substantially interfere with or otherwise adversely affect migratory wildlife corridors, or wildlife nursery sites. The DEIR does not, as is suggested by the commentor, reach this conclusion because no migratory corridors exist within the Project site. Rather, this conclusion appropriately and accurately reflects the baseline condition under which the Project site functions as an active dairy; historic and on-going disturbance of the Project site; and the Project site’s urban context. The Project’s location, context, and level of human activity and disturbance negate its potential function as a substantive wildlife movement corridor and/or wildlife nursery. Additional “wildlife corridor” analysis suggested by the commentor is not warranted or required. Other opinions expressed by the commentor are noted.

Results and conclusions of the EIR are not affected.

#### Comment LD2-14

*In order to assess impacts of the Project on wildlife movement, Mr. Smallwood used Google Earth imagery to examine the open space in the region and around the site to estimate the Project’s impacts on wildlife movement. He found that development in the region has left little connection of open*

*space between several of southern California's mountain ranges, and converting open space on the Project site to an industrial use would "choke off a movement pathway between the Jurupa Mountains and the Chino Hills and Santa Ana Mountains." (Id.) This would result in adverse impacts to both common and special-status species and result in rural inhabitants seeing many fewer burrowing owls, coyotes, foxes, etc. (Id.) Mr. Smallwood concluded that the Project's impacts to wildlife movement would result in "significant and irreversible" adverse impacts. (Id.) The DEIR completely failed to consider these potentially significant impacts in assessing the environmental impact of the Project.*

#### Response LD2-14

The commentor's "wildlife movement impact" analysis is superficial and wrong and of no bearing on the Project's potential biological resources impacts. First, "Google" imagery provided by the commentor does not present a true and meaningful characterization of the site and surrounding area, and provides no real indication of wildlife corridors, wildlife movement, or lack thereof. The commentor then superimposes directional arrows on Google imagery, indicating "wildlife movement corridors" within the region. The commentor's superimposition of random arrows and unsubstantiated statement, "converting open space on the Project site to an industrial use would 'choke off a movement pathway between the Jurupa Mountains and the Chino Hills and Santa Ana Mountains,'" does not make it so.

Further, the commentor again mischaracterizes the Project site as "open space" that somehow provides a valuable biological resources link within the region. This despite the presence of an active dairy, several hundred cows, cattle sheds, storage facilities, residential properties, and assorted ancillary uses within the Project site. The Project site is clearly not "open space" in its present condition and does not provide a viable and/or desirable path for wildlife movement. Arguably, the site as developed under the Project would function equally as well as a wildlife corridor. Contrary to the commentor's opinions, the Project would not result in or cause significant and irreversible adverse impacts to wildlife movement or wildlife corridors.

Results and conclusions of the EIR are not affected.

Comment LD2-15

*In addition, the DEIR's baseline failed to account for the project's impacts on migratory birds. According to Mr. Smallwood,*

*The DEIR did not seriously assess the project's potential impacts on migratory birds. Most migratory species must make stops to rest during migration. Where these birds stop is referred to as "stop-over habitat." As stop-over habitat is converted to anthropogenic uses, migratory birds face higher energy costs trying to find alternative stop-over habitat or they might not even be able to complete their migrations.*

*(Id.) Loss of stop-over habitat contributes to regional extirpations and eventually to extinctions. (Id.) Moreover, the DEIR's assumption that nesting raptors and other birds protected by the Migratory Bird Treaty Act require mature trees for nesting. (Id. at 8.) The DEIR must be revised to address impact to wildlife movement and migratory birds.*

Response LD2-15

Contrary to the commentor's statements, potential impacts to migratory birds are specifically acknowledged and addressed in the DEIR, as excerpted below:

The Biological Report identified potential impacts to nesting migratory birds, which are protected pursuant to requirements of the Federal Migratory Bird Treaty Act (MBTA) and the California Fish and Game Code. Mitigation Measure 4.10.4 [following] has been incorporated to ensure the protection of these birds and their nests, in accordance with MBTA and California Fish and Game Code requirements. With the implementation of Mitigation Measure 4.10.4, the Project's potential impacts to nesting migratory bird species are considered less-than-significant (DEIR, p. 4.10-11).

[Mitigation Measure] 4.10.4 *If possible, all vegetation removal activities shall be scheduled from August 1 to February 1, which is outside the general avian nesting season. This would ensure that no active nests would be disturbed and that removal*

*could proceed rapidly. If vegetation is to be cleared during the nesting season, all suitable habitat will be thoroughly surveyed within 72 hours prior to clearing for the presence of nesting birds by a qualified biologist (Project Biologist). The Project Biologist shall be approved by the City and retained by the Applicant. The survey results shall be submitted by the Project Applicant to the City Planning Department. If any active nests are detected, the area shall be flagged and mapped on the construction plans along with a minimum 300-foot buffer, with the final buffer distance to be determined by the Project Biologist. The buffer area shall be avoided until, as determined by the Project Biologist, the nesting cycle is complete or it is concluded that the nest has failed. In addition, the Project Biologist shall be present on the site to monitor the vegetation removal to ensure that any nests, which were not detected during the initial survey, are not disturbed (DEIR p. 4.10-13).*

The commentor erroneously suggests that the Project site in its current developed and disturbed condition functions somehow as a valuable “stop-over” site for migratory birds. This despite the presence of an active dairy, several hundred cows, cattle sheds, storage facilities, residential properties, and assorted ancillary uses within the Project site. The Project site is clearly not a unique or valuable migratory bird stopover location in its present condition. Arguably, the site as developed under the Project would function equally as well as migratory bird stopover location. Additional analysis of impacts to wildlife movement, wildlife corridors, and/or migratory birds is not warranted nor required.

Results and conclusions of the EIR are not affected.

#### Comment LD2-16

#### **D. THE DEIR FAILS TO PROVIDE ADEQUATE INFORMATION IN THE PROJECT DESCRIPTION AND FAILS TO ESTABLISH AN ACCURATE BASELINE FOR TRAFFIC IMPACTS**

*The DEIR impermissibly assumes the completion of Flight (Walker) Avenue and Hellman Avenue by 2018 and “depends on the existence of these roads in improved state by 2018” even though their completion relies on voluntary actions of other governmental entities (Id. at 1-2.) This assumption*



*violates CEQA because it (1) fails to give full information to the public and (2) establishes an inaccurate baseline to evaluate the project impacts.*

*First, the DEIR failed to provide the public with information as to how the key roadway segments will be completed prior to project operation. For example, the Cumulative + Project (2018) scenario indicates that 30 percent of the Project's truck and 19 percent of its personal vehicle trips will access and egress the Project site via Flight and Hellman to Merrill. (Id. at 2; See TIA Exhibits 4-3 and 4-4). However, the DEIR states that the Project will only be responsible for improving Hellman and Flight from the Project's North boundary to Kimball and only half of each road's planned width. (Exhibit 3, Smith Comment, p. 2.) The DEIR is lacking critical information explaining how the City was able to rely on completion of either road. Only through investigation outside of the DEIR did Mr. Smith discover that Watson is obligated to construct the remainder of Hellman and Chino East is obligated to construct the remainder of Flight. (Id.) Without this information, the DEIR does not provide "detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." Ass'n of Irrigated Residents v. Cty. of Madera (2003) 107 Cal. App. 4th at 1390.*

*Furthermore, this issue raises questions about whether the DEIR relied on a proper baseline for traffic impacts analysis. If the Chino East Industrial project was not approved when the notice of preparation (NOP) was issued on July 10, 2015, it may not be considered part of the existing roadway system on which the impacts of the Project are assessed. (Smith Comment, p. 3.) In addition, Mr. Smith questions whether the TIA adequately took into account the cumulative traffic impacts of other projects proposed within the study area. (Id.) According to Mr. Smith, "These scenarios reflect massive changes to the existing transportation environment - TIA Table 4-4 includes 106 projects (not counting sub-projects) within the study area - yet each one seems to be considered only in an incremental, piecemeal approach in the context of all the others with no consideration of the change from the existing baseline environment to the whole of the 2018 cumulative forecasts." (Id.) The cumulative impacts of other projects must be properly analyzed to establish an accurate baseline as required under CEQA.*

Response LD2-16

The commentor states: the DEIR impermissibly assumes the completion of Flight (Walker) Avenue and Hellman Avenue by 2018. This is incorrect, as are the commentor's subsequent statements based on this incorrect assertion. In fact, Flight Avenue extension from Kimball Avenue to Merrill Avenue is already complete and therefore the connection is correctly reflected under the TIA Existing + Project (E+P) traffic conditions analysis. The connection of Hellman Avenue north of the Project to Merrill Avenue is not assumed under E+P traffic conditions. The connection is assumed for Opening Year Cumulative (2018) traffic conditions, as the road would be constructed by cumulative developments whose traffic has been accounted for in the traffic study.

With respect to how Study Area traffic facilities are completed, development proposals are required by the City to improve project frontages as standard conditions of approval. TIA Section 6.1, *Roadway Improvements* clearly states "Driveways and those facilities assumed to be constructed by cumulative developments to provide site access are also assumed to be in place for Opening Year Cumulative conditions only (e.g., intersection and roadway improvements along the cumulative development's frontages and driveways)."

The City prioritizes and ultimately determines timing for roadway improvements within its jurisdiction through the City Capital Improvements Program. Detailed timing for roadway improvements within the Study Area is a function and responsibility of the Lead Agency, beyond the control of the Project Applicant. Project mitigation responsibilities for cumulative impacts at Study Area traffic facilities are satisfied through the payment of requisite fees, to be used by the City for the purposes of constructing necessary Study Area improvements. The significance of Project traffic contributions to cumulative Study Area impacts is not contingent on implementation of the City CIP. The DEIR purposely recognizes that implementation of Study Area improvements necessary to address cumulative impacts may not timely occur, despite Project fee payments (DEIR Section 1.10, *Summary of Significant Project Impacts*, p. 1).

The DEIR body text intentionally does not include detailed technical discussions as suggested by the commentor, and appropriately reserves these for presentation in the

supporting appended technical studies. The DEIR body text appropriately focuses on identification, disclosure, and mitigation of the Project's potentially significant impacts. *Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR (CEQA Guidelines, Section 15147. TECHNICAL DETAIL).*

Regarding the Chino East Industrial project and its associated traffic improvements, as noted previously, the Flight Avenue extension from Kimball Avenue to Merrill Avenue is already complete and therefore the connection is correctly reflected under the TIA Existing + Project traffic conditions analysis.

Regarding cumulative impacts, the TIA 2018 Cumulative and 2018 Cumulative + Project Analyses conditions reflect Study Area traffic generated by existing uses, anticipated ambient growth in traffic from unspecified sources, and traffic that would be generated by approved, known, or probable projects that could cumulatively traffic interact with Project traffic. The list of projects cited by the commentor was developed in conjunction with the Lead Agency, and the analysis of cumulative traffic impacts in total comports with San Bernardino County Congestion Management Plan (CMP) traffic study guidelines,<sup>7</sup> and applicable *CEQA Guidelines* provisions (*CEQA Guidelines* §15130. DISCUSSION OF CUMULATIVE IMPACTS). Each project listed contributes to the totality of the cumulative condition presented and analyzed in the EIR. If projects are not developed then such projects are not creating ambient traffic growth on the system.

The commentor's statement: "yet each one seems to be considered only in an incremental, piecemeal approach in the context of all the others with no consideration of the change from the existing baseline environment to the whole of the 2018 cumulative forecasts" is at best unclear and inaccurate, and does not raise environmental issues.

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<sup>7</sup>[http://www.sanbag.ca.gov/planning2/cmp/cmp\\_app-c\\_02-09.pdf](http://www.sanbag.ca.gov/planning2/cmp/cmp_app-c_02-09.pdf)

Contrary to the commentor's assertions otherwise, the above Response and the EIR in total substantiate and demonstrate compliance with CEQA adequacy and informational requirements. Results and conclusions of the EIR are not affected.

Comment LD2-17

**V. THE DEIR FAILS TO ANALYZE AND MITIGATE ALL POTENTIALLY SIGNIFICANT IMPACTS.**

*An EIR must disclose all potentially significant adverse environmental impacts of a project. (Pub. Resources Code, § 21100(b)(1); CEQA Guidelines, § 15126(a); Berkeley Jets, 91 Cal. App. 4th 1344, 1354.) CEQA requires that an EIR must not only identify the impacts, but must also provide "information about how adverse the impacts will be." (Santiago County Water Dist., 118 Cal.App.3d at 831). The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. (Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692.)*

*CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring mitigation measures. (CEQA Guidelines, § 15002(a)(2) and (3); See also, Berkeley Jets, 91 Cal. App. 4th at 1354; Citizens of Goleta Valley, 52 Cal.3d at 564.) The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to "identify ways that environmental damage can be avoided or significantly reduced." (CEQA Guidelines, §15002(a)(2).) If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns." (Pub. Resources Code, § 21081; CEQA Guidelines, § 15092(b)(2)(A) & (B).)*

*In general, mitigation measures must be designed to minimize, reduce, or avoid an identified environmental impact or to rectify or compensate for that impact. (CEQA Guidelines, § 15370.) Where several mitigation measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. (Id., at § 15126.4(a)(1)(B).) A lead agency may not make the required CEQA findings unless the administrative record clearly shows that all uncertainties regarding the mitigation of significant environmental impacts have been resolved.*

*CEQA requires the lead agency to adopt feasible mitigation measures that will substantially lessen or avoid the Project's potentially significant environmental impacts (Pub. Resources Code, §§ 21002, 21081(a)), and describe those mitigation measures in the CEQA document. (Pub. Resources Code, § 21100(b)(3); CEQA Guidelines, §15126.4.) A public agency may not rely on mitigation measures of uncertain efficacy or feasibility. (Kings County, 221 Cal.App.3d at 727 (finding groundwater purchase agreement inadequate mitigation measure because no record evidence existed that replacement water was available).) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors. (CEQA Guidelines, § 15364.) To demonstrate economic infeasibility, "evidence must show that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project." (Citizens of Goleta Valley, 197 Cal.App.3d at 1181.) The EIR must provide evidence and analysis to show that the project is not economically viable. (Kings County, 221 Cal.App.3d at 734-737.) This requires not just cost data, but also data showing insufficient income and profitability. (See Burger v. County of Mendocino (1975) 45 Cal.App.3d 322, 327 (infeasibility claim unfounded absent data on income and expenditures showing project unprofitable); San Franciscans Upholding the Downtown Plan v. City and County of San Francisco (2002) 102 Cal.App.4th 656, 694 (upholding infeasibility finding based on analysis of costs, projected revenues, and investment requirements).) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. (CEQA Guidelines, § 15126.4, subd. (a)(2).)*

*A lead agency may not conclude that an impact is significant and unavoidable without requiring the implementation of all feasible mitigation measures to reduce the impacts of a project to less than significant levels. (CEQA Guidelines, §§ 15126.4, 15091.)*

### Response LD2-17

Commentor statements and citations related to CEQA and CEQA Guidelines precepts addressing disclosure, avoidance, minimization, and mitigation of potentially significant environmental impacts are acknowledged. As summarized below, the EIR and supporting technical analyses comply with all CEQA and CEQA Guidelines requirements for avoidance, minimization, and mitigation of potentially significant environmental impacts, including the extent and intensity of potential impacts.

Firstly, the basis for determining impact significance complies with applicable *CEQA Guidelines* provisions as implemented by the City of Chino, the Lead Agency. More specifically, the basis and substantiation for determining certain impacts to be less-than-significant is clearly stated and supported in the EIR (EIR Section 1.7, *Impacts Not Found to be Potentially Significant*, pp. 16 through 1-26, EIR Appendix A, Initial Study, et al.). Impacts preliminarily determined to be potentially significant are addressed in detail within the body text of the EIR (EIR Section 4.0, *Environmental Impact Analysis*; EIR Section 5.0, *Other CEQA Considerations*).

Within the EIR discussions, accurate and appropriate baseline “setting” conditions are established (*CEQA Guidelines* Section 15125), impact significance criteria are identified (*CEQA Guidelines* Section 15064.7, the nature and extent of potentially significant impacts are identified (*CEQA Guidelines* Section 15126.2), means to mitigate or avoid potentially significant impacts are incorporated (*CEQA Guidelines* Section 15126.4), and levels of significance with application of mitigation are clearly stated. Significant and unavoidable impacts are identified as such, and are disclosed within each of the EIR analytic Sections. The Project’s significant and unavoidable environmental impacts are summarized at DEIR Section 1.10, *Summary of Significant Project Impacts*.

There is no uncertainty regarding the EIR mitigation measures, their feasibility, or their efficacy. To these ends, mitigation timing, mitigation implementation responsibilities, and mitigation monitoring/reporting responsibilities are detailed in this Final EIR at Section 4.0, *Mitigation Monitoring Plan*. Should the Project be approved, the City is required to, and would, adopt a Statement of Overriding Considerations acknowledging the Project’s significant and unavoidable impacts. The DEIR in no instance determines mitigation to be infeasible because of economic considerations. Commentor citations and/or statements in these latter regards are not germane.

As supported by the above Response, and the EIR in total, the EIR complies with all *CEQA* and *CEQA Guidelines* precepts addressing disclosure, avoidance, minimization, and mitigation of potentially significant environmental impacts.

Results and conclusions of the EIR are not affected.

Comment LD2-18

**A. AIR QUALITY IMPACTS HAVE NOT BEEN ADEQUATELY ANALYZED OR MITIGATED.**

**1. The Air Quality Impact Analysis Relied on Unsubstantiated Input Parameters to Estimate Project Emissions.**

*The DEIR failed to account for the full air quality impacts of the Project by relying on unsubstantiated data in modeling Project emissions. The DEIR relies on emissions calculated from the California Emissions Estimator Model Version CalEEMod.2013.2.2 ("CalEEMod"). The CalEEMod provides recommended default values that may be changes where more specific information is available. SWAPE and Jessie Jaeger of SWAPE reviewed the parameters that were used in calculating the Project's air pollutant emissions and discovered that several of the values inputted into the model were inconsistent with information disclosed in the DEIR. They concluded that these inconsistencies resulted in substantial underestimation of the Project's air quality impacts and require further analysis and recirculation of the DEIR.*

Response LD2-18

The commentor incorrectly and erroneously states or asserts following:

- "Project air quality impacts have not been adequately analyzed or mitigated"; and
- "[The EIR] air quality impact analysis relied on unsubstantiated input parameters to estimate project emissions."

Regarding the above statements, and despite the commentor's assertions otherwise, EIR Section 4.3, *Air Quality*, and the detailed technical analyses presented at EIR Appendix D accurately and appropriately analyze and present the Project's potential air quality impacts. At DEIR Section 4.3.7, *Potential Impacts and Mitigation Measures*, feasible and enforceable mitigation is proposed for impacts determined to be potentially significant. Mitigation timing, mitigation implementation responsibilities, and mitigation monitoring/reporting responsibilities are presented in this Final EIR at Section 4.0, *Mitigation Monitoring Plan*.

Impacts determined to be significant and unavoidable are identified and disclosed (DEIR Section 4.3.7, *Potential Impacts and Mitigation Measures*; DEIR Section 1.10, *Summary of Significant Project Impacts*; et al.)

The air quality impact analysis does not, as suggested by the commentor, rely “on unsubstantiated input parameters to estimate project emissions.” More specifically, all CalEEMod air quality analytic parameters and modeling protocols employed in the DEIR air quality analyses comport with all applicable South Coast Air Quality Management District (SCAQMD)<sup>8</sup> guidelines and requirements (DEIR, p. 4.3-32, et al.)

The commentor then refers to alternative modeling of the Project air pollutant emissions performed by “SWAPE.” SWAPE modeling of the Project’s air pollutant emissions while perhaps of general academic interest, does not accurately represent or evaluate the instant Project’s potential air quality impacts. That is, SWAPE establishes unsubstantiated assumptions based not on the instant Project but rather some other development proposal of SWAPE’s imagining; and then applies air quality modeling parameters and methodologies that are entirely opaque and unsubstantiated—yielding incorrect and/or unsubstantiated results and conclusions. In these regards, the commentor provides only conclusory statements and tabular summations of (assumed CalEEMod) information with no indication of how this information was generated or how CalEEMod was actually applied. SWAPE’s air quality modeling efforts are at best suspect, and in no manner accurately represent likely air quality impacts of the instant Project.

In contrast, and as summarized above, the EIR CalEEMod air quality modeling accurately reflects the instant Project and its operations; and provides a substantiated basis for the EIR analysis of, and conclusions regarding, the Project’s potential air quality impacts. All supporting modeling data and reasoned basis for application of CalEEMod are provided in detail in the Project AQIA (please refer to EIR Appendix D). The commentor’s conclusions and statements regarding the Project’s air quality impacts are misleading, inaccurate, and

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<sup>8</sup> The South Coast Air Quality Management District (SCAQMD) is the CEQA Responsible Agency for the Project when considering the adequacy of air quality analyses; potential significance of air quality impacts; and feasibility and efficacy of measures to mitigate potentially significant air quality impacts.



unsubstantiated; and do not warrant further consideration, much less provide the basis for concluding that recirculation of the EIR is required.

Results and conclusions of the EIR are not affected.

Comment LD2-19

***i. Underestimation of Architectural Coating Emissions Limits***

*First, the DEIR is inconsistent in establishing mitigation measures to limit Volatile Organic Compound (VOC) emission from architectural coating emissions limits. (See Exhibit 2, SWAPE Comment, p. 4.) Mitigation measure 4.3.4 of the DEIR states that only “Zero-Volatile Organic Compounds” paints with no more than 150 grams/liter (g/L) of VOC will be utilized during construction (Table 1.12-1, p. 1-58), while the Air Quality Impact Analysis (AQIA) (Appendix D of the DEIR) sets a limit for paints of 50g/L. The CalEEMod model follows the AQIA limit of 50g/L. Given this discrepancy, it is unclear whether the VOC emissions factor 150 g/L should have been inputted into the model, which would have lead to higher VOC emissions estimations. (SWAPE Comment, p. 4.) The DEIR must be revised such that it is internally consistent to allow the public to understand and assess the full impact of the Project. (Ass’n of Irrigated Residents v. Cty. of Madera (2003) 107 Cal. App. 4th 1383, 1391.)*

Response LD2-19

The commentor states that the DEIR analysis reflects an “underestimation of architectural coating emissions limits.” This is incorrect. To clarify for the commentor, there is no underestimation of Volatile Organic Compound (VOC) emissions in the EIR. Rather, there is a typographical error in the DEIR text that is corrected here to be consistent with the information presented in the Project Air Quality Impact Analysis (AQIA, EIR Appendix D). Specifically, the DEIR text at Mitigation Measure 4.3.4 contains a typographical error (150g/l [error] rather than 50g/l [correct]) that is corrected below. SCAQMD-suggested revisions have also been incorporated in the following amended Mitigation Measure 4.3.4.

***4.3.4 Only “Zero-Volatile Organic Compounds” paints (no more than ~~150~~ grams/liter of VOC) and/or ~~High Pressure Low Volume (HPLV)~~ High Volume Low Pressure (HVLP) applications consistent with South Coast Air Quality Management District Rule 1113 shall***

*be used. To the extent practicable, construction materials that are pre-painted, or that do not require painting should be employed.*

The typographical error appearing at Mitigation Measure 4.3.4 is of no consequence in the estimation of Project VOC emissions because quantification and analysis of Project operational-source (VOC) emissions presented in the EIR accurately reflect the Air Quality Impact Analysis (AQIA) VOC content modeling limit of 50g/L. Further, the EIR significance conclusions are based on quantification and analysis of Project operational-source VOC emissions reflecting a VOC content limit of 50g/L (see AQIA at p. 9, et al.).

In summary, the DEIR text at Mitigation Measure 4.3.4 contains a typographical error regarding VOC content limits. This typographical error (150 g/l corrected herein to 50g/l) is not the basis for the modeling of VOC emissions as presented in the Project AQIA and reflected in the EIR conclusions regarding the significance of VOC impacts. Rather, the modeling of VOC emissions as presented in the Project AQIA and reflected in the EIR conclusions is based on the 50g/l VOC limit specified at AQIA p. 9, et al. The noted DEIR typographical error is of no consequence. Results and conclusions of the EIR are not affected.

#### Comment LD2-20

##### ***ii. Failure to Account for Emissions from Heavy Truck Trips***

*Second, as discussed above with respect to traffic impacts, the DEIR, AQIA, and Traffic Impact Analysis (TIA) (Appendix C of the DEIR) fail to account for heavy-duty truck trips that will be generated from the Business Park uses and thus, the CalEEMod model for the Project does not include any truck trips. (SWAPE Comment, p. 4-5.) The TIA relies on the ITE Trip Generation Manual to support its determination that the project will not generate any heavy truck traffic. SWAPE found that this statement misrepresents the ITE Trip Generation Manual, which states that 70-80 percent of a business park is usually devoted to industrial and warehousing purposes. (SWAPE Comment, p.5.) The DEIR supports this estimate with respect to the proposed Project insofar as it states that “Business Park uses may include offices, retail and wholesale stores, restaurants, recreational areas and warehousing, manufacturing, light industrial, or scientific research functions” (p. 3-6(emphasis added).) Given that the DEIR contemplates that the Business*

*Park uses will include industrial and warehousing purposes, to estimate no heavy truck traffic would result from the project is unreasonable and an egregious error on the part of the City. A revised DEIR must be prepared to properly assess the potential emissions from construction and operation of the Project and analyze local and regional air quality impacts.*

#### Response LD2-20

The commentor incorrectly asserts, “the DEIR, AQIA, and Traffic Impact Analysis fail to account for heavy-duty truck trips that will be generated from the Business Park uses, and thus, the CalEEMod model for the Project does not include any truck trips.”

As an initial response to the above, the commentor conflates and confuses trip generation estimates made for traffic impacts analytic purposes with trip generation estimates made for air quality analytic purposes. This no doubt contributes to the commentor’s misunderstanding of potential traffic impacts and traffic-source air quality impacts resulting from the Project. Trip generation for traffic impact analytic purposes vs. trip generation estimates employed for air quality impact analytic purposes are clarified here.

For the purposes of the Project Traffic Impact Analysis (TIA), aggregate Project trips, (expressed in passenger car equivalents, PCEs) were estimated in order to determine likely peak-hour traffic level of service (LOS) impacts within the Study Area. The TIA in this regard converts all vehicle classes (trucks, light duty trucks, heavy-duty trucks, etc.) to their equivalent PCEs, thereby recognizing and acknowledging physical size differences in vehicles and related effects on roadways and at intersections.

In contrast, and because different classes of vehicles exhibit differing emissions characteristics, the Project AQIA quantifies and purposely segregates vehicle trips by vehicle class (passenger cars, light duty (LD) trucks, heavy duty (HD) trucks, heavy-heavy-duty (HHD) trucks, etc.). This establishes likely emissions levels that would be generated by each class of vehicles accessing the Project site. Emissions generated by each class of vehicle were then summed in order to estimate the Project’s total daily vehicular-source emissions.

The Project traffic and air quality analyses, thus while related because both rely at least in part on Project trip generation estimates, are developed through differing methodologies and for differing purposes. Trip estimates in either of the analyses therefore necessarily do not translate directly to the other, as erroneously inferred by the commentor.

The commentor's stated concerns and incorrect statements regarding trip generation factors employed for the Project Business Park uses are addressed next. As background, it is important for the commentor to understand the proposed Business Park uses as an integral part of the Project design. Specifically, the Business Park component of the Project establishes a series of comparatively small buildings ranging in size from approximately 5,825 square feet to 11,500 approximately square feet (including office space). As a site planning function, the Business Park portion of the Project serves as a buffer between the larger warehouse uses proposed in the northerly portions of the Project site and existing residential uses located southerly of the Project site, across Kimball Avenue. These smaller Business Park use buildings do not include parking suitable for truck or tractor-trailers, and include no more than one or two roll up doors per building. Moreover, warehouse-type dock height doors intended for use by heavy duty trucks are not provided for the proposed Business Park uses. In combination, these design aspects of the Project effectively preclude substantive heavy truck traffic from accessing the proposed Business Park uses.

Note further that the ITE general description of Business Park uses cited by the commentor indicating inclusion of warehousing is necessarily generic, broad, and inclusive of a wide variety of potential Business Park land uses. The ITE generic description of Business Park uses is by no means definitive for every possible Business Park-type development proposal, and does not mean that all Business Park uses by definition include a substantive warehouse component. This is true in the case of the instant Project.

More specifically, the Project Applicant and Lead Agency intend that the Business Park component of the Project would be marketed to, and occupied by, small businesses and/or light retail users (e.g., dry cleaner, sandwich shop, etc.). The multiple small buildings reflected in the Project Site Plan Concept discussed above, reflects these types of uses, not warehouses.

Further, heavy truck traffic (if any) generated by the Project Business Park uses would not occur during peak commute hours (i.e., 7am – 9am and 4pm – 6pm). The limited number of delivery or box-type traffic that may access the proposed Business Park uses would likely occur in off-peak times, and would therefore have no demonstrable effect on the Study Area facilities peak-hour Level of Service (LOS) operations. The amount of off-peak truck traffic that may be generated would consequently not affect the significance of scope of the Project's traffic impacts, nor alter the degree and/or type of required traffic improvements and/or traffic mitigation.

Furthermore, even presupposing that the Project Business Park uses would comprise predominantly light industrial occupancies (as suggested by the commentor) would not substantively affect the EIR traffic impact analyses or the EIR traffic impact significance conclusions. In this regard, comparison of PCE trip generation factors indicate that a Business Park use would actually generate more trips than would a General Light Industrial use of the same scale.<sup>9</sup> For example, the 146,550 square feet of Business Park uses proposed by the Project would generate an estimated 1,823 daily trips (PCE), with 205 PCE trips during the AM peak hour and 184 PCE trips during PM peak hour (Project TIA, p. 136, et al.). In comparison, an assumed 146,550 square feet of General Light Industrial use would generate 1,296 daily PCE trips, with 171 PCE trips during AM peak hour and 180 PCE trips during PM peak hour. In summary, Business Park uses such those proposed by the Project are estimated to generate 527 more daily PCE trips, with 34 more PCE trips during AM peak hour and 4 more PCE trips during the PM peak hour than would General Light Industrial uses of the same square footage.

The commentor's erroneous statements regarding vehicular-source air quality impacts resulting from the Project's various uses is next addressed. In the case of the Project, the Project air quality analyses employ adopted emissions factors, and vetted vehicle trip generation factors and vehicle trip lengths for the various classes and quantities of vehicles anticipated to access the Project site. In combination, the AQIA trip generation, vehicle mix, and vehicle trip length assumptions yield a conservative overestimation of the Project's vehicular-source emissions impacts (AQIA, pp. 40-41).

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<sup>9</sup> PCE trip generation for Business Park use per Project TIA. PCE trip generation for General Light Industrial uses based on *City of Fontana Truck Trip Generation Study*.

For the Project Business Park uses cited by the commentor, CalEEMod default vehicle mixes and related emissions factors uses have been employed. Please refer to AQIA Appendix 3.1, CalEEMod Data Files, *Kimball Business Park-Operation Business Park*, pp.6-7 of 10; 4.2, *Trip Summary Information*; 4.3, *Trip Type Information*. Relevant CalEEMod modeling data is reproduced and presented at Appendix B of this FEIR. As explanatory notes to the appended data, under the heading 4.3, *Trip Type Information*, the various classes of vehicles reflected in the AQIA modeling of Business Park vehicular-source emissions are highlighted (p. 7 of Appendix B). The highlighted column headings identify the various vehicle classes reflected in the AQIA modeling, and the numeric column entries identify the percentage of trips assigned to each vehicle class. For example, the far left column quantifies the percentage (47.049 %) of the Business Park total daily trips assigned to the Passenger Car (LDA) class. Similarly, the MHD (Medium Heavy Duty) column entry indicates that 1.663 percent of the total daily Business Park trips would accrue to Medium Heavy Duty trucks, etc. The CalEEMod default vehicle mix as employed in the Project AQIA accurately reflect the full range of vehicle types (passenger cars, medium duty trucks, heavy-duty trucks, heavy-heavy-duty trucks, buses, motorcycles, etc.) that would access the Project Business Park uses. The vehicle classes reflected in the AQIA modeling include, but are not limited to, the heavy truck class cited by the commentor. The AQIA Business Park analysis does, contrary to commentor's assertion, include a heavy truck component.

As substantiated in the preceding Response and by the EIR air quality and traffic impact analyses in total, and contrary to the commentor's assertions otherwise, the EIR accurately reports all vehicle-source emissions generated by the Project, including but not limited to vehicular-source emissions that would be generated by heavy truck traffic accessing the Project Business Park uses.

As a matter of clarification and correction, the text at Project Air Quality Impact Analysis p.39, (and elsewhere in the Project air quality analyses), is amended as follows:

- ~~ITE land use code 770 (Business Park) has been used to derive the site specific trip generation estimates for Buildings 9 through 25. Per the ITE Trip~~

~~Generation manual and as shown on the preliminary site plan, the business park uses are not anticipated to generate any heavy truck traffic. As such, no vehicle mix has been applied to the business park uses proposed as part of the Project.~~ **Vehicle mix and vehicle emissions factors for Buildings 9 through 25 have been modeled consistent with CalEEMod default parameters.**

There is no “egregious error” [commentor’s language] in the DEIR air quality analyses. The Project air quality analyses reflect air quality impacts of the Project as currently defined, and establish the likely maximum vehicular-source emission impact scenario and likely overstate project impacts.

Results and conclusions of the DEIR are not affected.

**Comment LD2-21**

***iii. Failure to Consider Cold-Storage Requirements***

*Third, SWAPE found that the Project’s operational emissions are greatly underestimated because the DEIR fails to consider cold-storage requirements for heavy-warehouse buildings. The DEIR acknowledges that the specific tenants remain unknown. Despite not knowing whether or not future tenants will require refrigerated storage, the DEIR only accounts for cold-storage needs in one of the proposed buildings (the high-cube warehouse). Cold-storage needs are not considered in any of the other proposed buildings, in particular the proposed heavy warehouse buildings. (SWAPE Comment, p. 5.) Refrigerated warehouses release more air pollutants and greenhouse gas (GHG) emissions when compared to unrefrigerated warehouses. (SWAPE Comment, p. 6.) By relying exclusively on unrefrigerated land use emissions, the air quality analysis greatly underestimates the Project’s potential air quality and climate change impacts. (Id.) This violates CEQA.*

*Heavy warehouse and high-cube warehouses are both used primarily for storage of materials. (Id.) It is reasonably foreseeable that one or more of the heavy warehouse tenants will require refrigeration. The DEIR assumes 15% of high-cube warehouse in the project could require refrigeration. There is no reason to assume that heavy warehouse tenants would be any less likely to require refrigeration. (Id.) Moreover, if tenants to require refrigeration, it will change the scope of the Project’s*

*environmental effects. (Id.) Therefore, the revised DEIR must include an analysis of the environmental effects of the Project having tenants that require refrigeration both in high-cube warehouse buildings and heavy warehouse buildings within the project. (Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal. (1988) 47 Cal.3d 376, 396.)*

*Failing to account for the Project's potential partial use as refrigerated warehouse is a significant omission. Refrigerated trucks tend to idle much longer than typical hauling trucks, even up to an hour. (SWAPE Comment, p. 6.) Energy usage from warehouses equipped with industrial size refrigerators and freezers is also much greater when compared to unrefrigerated warehouses. (Id.) In addition, according to the July 2014 SCAQMD Warehouse Truck Trip Study Data Results and Usage presentation, trucks that require refrigeration resulted in greater truck trip rates when compared to non-refrigerated trucks.<sup>2</sup> (Id.)*

*By not including any refrigerated warehouse land uses in the Air Quality Analysis, the emissions from this potential land use are grossly underestimated. An updated DEIR must be prepared to account for the possibility of refrigerated warehouse needs by tenants. (SWAPE Comment, p. 6.)*

#### Response LD2-21

The commentor speculates, without substantiation, that the Project would include some unknown refrigerated warehouse component beyond that described and evaluated in the EIR. The commentor then proceeds with erroneous analyses based on this inaccurate assumption.

As an initial response, as provided for under California Public Resources Code (PRC) Section 21080, subd. (e) (2) (below) the commentor's statements alone are not considered substantial evidence that the Project refrigerated land use component would exceed the refrigerated land use component evaluated in the DEIR.

(2) Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, [or] evidence that is clearly inaccurate or erroneous . . .

Any conclusions based on the commentor's speculative statements have no basis in fact.



The commentor's statement: "it is reasonably foreseeable that one or more of the heavy warehouse tenants will require refrigeration" resides within the realm of argument, speculation, unsubstantiated opinion or narrative, [or] evidence that is clearly inaccurate or erroneous. That is, refrigeration demands of warehouse uses including those of the Project are development-specific, and the fact that the commentor states that "it is reasonably foreseeable that one or more of the heavy warehouse tenants will require refrigeration," does not make it so. The refrigerated land use artifice assumed by the commentor is not the Project under consideration by the Lead Agency and is not the Project evaluated in the EIR.

In this regard, CEQA does not define "project" to include potential future activities that are not being proposed and that the agency is not considering for approval. *CEQA Guidelines* 15378(a) (3). CEQA is intended to apply only to project components that an agency is proposing to implement. It does not extend to speculative development or activities (such as offered by the commentor) that the agency is not proposing to approve or undertake.

As noted, for the instant Project, the refrigerated component is established at 15% of the Project's High-Cube Warehouse (Building 3). The Lead Agency, through Conditions of Approval will ensure compliance with this provision. As a matter of record and clarification, the EIR Project Description is amended accordingly, as presented below.

- 352,000 square feet of High-cube Warehouse/Distribution use within a single building (Building 3). **Approximately 15% or 52,800 square feet of Building 3 may be allocated for cold storage (refrigerated) uses; this is the maximum cold storage that shall be permitted on the entire project site.** High-cube Warehouses/Distribution centers are used for the storage of materials, goods and merchandise prior to their distribution to retail outlets, distribution centers or other warehouses (EIR, p. 3-6).

The noted 15% of Building 3 equates to 52,800 square feet (approximately 1.2 acres) of floor area that would be allocated for cold storage uses. This is more than sufficient area to accommodate effective storage and transfer of a wide variety of refrigerated products. Commentor assumptions that additional or other refrigerated warehouse uses would be

included in the Project, and that a revised EIR must be prepared to analyze this assumed condition is without merit. That is, there is no requirement or reasoned argument for preparation of a revised EIR to address speculative environmental effects that are prohibited by the project's design features and the 15% maximum cold storage imposed through conditions of approval. It is at this point presumptive to assume (as does the commentor) that the Project as developed would differ substantively from that evaluated in the EIR.

The Project's maximum 15% refrigerated warehouse component is reflected consistently throughout the DEIR evaluation and conclusions regarding the Project's potential air quality, GHG and HRA impacts. The commentor's statement that the DEIR analyses rely "exclusively on unrefrigerated land use emissions" is clearly erroneous and misleading.

Commentor statements such as "*Refrigerated warehouses release more air pollutants and greenhouse gas (GHG) emissions when compared to unrefrigerated warehouses,*" may be true to projects that include larger refrigerated components than this one, but those assertions are not relevant here where a 15% maximum has been imposed. These statements are noted without further response.

The commentor's statement that the DEIR "fails to account for the Project's potential partial use as refrigerated warehouse" is clearly in error. As noted herein, the EIR analyses reflect that up to 15% of the Project's High-Cube Warehouse (Building 3) total building square footage could be used for cold storage. The EIR Air Quality Impact Analysis (AQIA), Health Risk Assessment (HRA), and Greenhouse Gas (GHG) Analysis each reflect the Project refrigerated warehouse use and substantiate associated air quality, health risk, greenhouse gas emissions impacts. The basis for, and results of these studies are summarized in the EIR body text, (EIR Section 4.3, *Air Quality* and EIR Section 4.4, *Global Climate Change and Greenhouse Gas Emissions*). Potentially significant impacts are identified, mitigation of potentially significant impacts is proposed, and impacts determined to be significant and unavoidable are disclosed.

The commentor then implies that SCAQMD truck trip generation rates for refrigerated warehouse land uses would exceed trip generation estimates presented in the DEIR. This intimation is wrong. Specifically, the commentor cites a SCAQMD power point presentation<sup>10</sup> regarding comparative trip generation rates for refrigerated and non-refrigerated warehouse uses. The cited SCAQMD power point presentation indicates that the average truck trip generation rate for surveyed sites with "only cold storage" is approximately 1.10 truck trips/thousand square feet (tsf) and the average truck trip generation rate for "non-cold storage" is approximately 0.40 truck trips/tsf. The SCAQMD surveys included a total of 33 sites with 28 non-cold storage sites and 5 only cold storage sites. The SCAQMD average truck trip generation rate for all sites is 0.50 truck trips/tsf. The average SCAQMD trip generation rate is actually less than the trip generation rate of approximately 0.64 truck trips/tsf employed for the Project High-Cube Distribution Center land use, the component of the Project that would accommodate cold storage. Employing the SCAQMD trip generation as suggested by the commentor would therefore erroneously and inaccurately underestimate the Project's potential truck traffic and related impacts. The commentor's suggestion in these regards controverts the intent of CEQA to accurately identify and disclose environmental impacts.

Employing the SCAQMD trip generation as suggested by the commentor would therefore erroneously and inaccurately underestimate the Project's potential truck traffic and related impacts. The commentor's suggestion in these regards controverts the intent of CEQA to accurately identify and disclose environmental impacts.

In contrast to the commentor's speculative statements, the Project air quality analyses provide a substantiated and accurate assessment of potential air quality impacts for the Project as defined in the DEIR, and comport with CEQA intent to accurately identify and disclose environmental impacts. As a Condition of Approval, and consistent with the Project evaluated in the DEIR, the Lead Agency has stipulated that the refrigerated land use component of the Project shall not exceed 15% of the Project's High-Cube Warehouse

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<sup>10</sup> [http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/final-ielc\\_6-19-2014.pdf?sfvrsn=2](http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/final-ielc_6-19-2014.pdf?sfvrsn=2)

(Building 3) total building square footage. The Project Conditions of Approval state further that none of the other Project uses will incorporate a refrigerated component. The EIR Project Description is amended and clarified to note that up to 15% of the Project's High-Cube Warehouse (Building 3) total building square footage may be allocated for cold storage (refrigerated) uses.

Based on the above Response and the EIR in total, there is no requirement or basis for preparation of an updated DEIR to account for the commentor's speculative requirement for refrigerated warehouse uses beyond those considered and evaluated in the EIR. Results and conclusions of the EIR are not affected.

#### Comment LD2-22

##### ***iv. Updated Analysis Indicates Increased Pollutant Emissions***

*In light of the inaccurate inputs used in the CalEEMod modeling for the project, SWAPE remodeled the CalEEMod model with more corrected inputs. (Id.) Architectural coating emission factor was set to 150g/L consistent with Mitigation Measure 4.3.4 of the DEIR. (Id.) In addition, SWAPE remodeled emissions from the Business Park to include heavy duty vehicles. Finally, construction emissions were calculated to assume 15% of the heavy warehouse space would require cold storage. (Id.)*

*When correct input parameters are used to model emissions, SWAPE found that the Project's construction and operational criteria air pollutant emissions increase significantly compared to the DEIR's model. (Id. at p.7.) Specifically, SWAPE found that the Project's construction related VOC emissions exceed the regional significance threshold of 75 pounds per day, even after implementation of mitigation proposed by the DEIR and AQIA (Id.) Furthermore, SWAPE found that the Project's operational criteria air pollutant emissions increase significantly compared to the DEIR's model, with VOC and NOx emissions exceeding thresholds (Id. at 9) Operational NOx and VOC emissions increased by approximately 28 percent and 5 percent, respectively, and operational PM10 and PM2.5 emissions increased by approximately 22 percent and 23 percent, respectively. (Id.) Given the significant impact of these corrections on the pollution emissions from the Project, a revised DEIR should be prepared that includes an updated CalEEMod model to adequately estimate the Project's emissions during construction and operation.*

### Response LD2-22

Commentor's statements such as "when correct input parameters to model emissions" are, erroneous and misleading. In fact, the commentor (SWAPE) applies incorrect parameters and unsubstantiated air quality modeling inputs, with resulting incorrect and unsubstantiated results and conclusions.

Moreover, the commentor's modeling efforts are entirely opaque. The commentor provides only conclusory statements and summation of (assumed CalEEMod) tabular information with no indication of how this information was generated or how CalEEMod was applied. In contrast, the EIR CalEEMod air quality modeling and all supporting modeling data and reasoned basis for application of CalEEMod are provided in detail in the Project AQIA (EIR Appendix D). In total, the EIR analysis provides a substantiated (rather than the commentor's speculative) evaluation of the Project's potential air quality impacts.

With specific regard to VOC emissions as remodeled by the commentor (SWAPE), as noted previously in these Responses, the DEIR mitigation measure cited by the commentor contains a typographical error that has been herein corrected. This error is of no consequence in the estimation of Project VOC emissions because quantification and analysis of Project operational-source Volatile Organic Compound (VOC) emissions presented in the EIR reflect the Air Quality Impact Analysis (AQIA) VOC content modeling limit of 50g/L. The commentor remodeling of VOC emissions at 150g/l content level may be of academic interest, but is not germane to quantification of the Project's potential VOC emissions impacts. Please refer also to Response LD2-19.

Commentor remodeling of the Project Business Park air quality impacts with arbitrary and inaccurate inputs and parameters for truck traffic, and truck traffic air pollutant emissions similarly comprise an inaccurate academic exercise, not germane to the instant Project or its potential impacts. There is no substantiated basis for the commentor's assumed truck traffic values or related vehicular-source emissions assigned to the Project Business Park uses. As discussed previously, the Project AQIA employs adopted and vetted default vehicle mixes and related emissions factors uses for the Project Business Park uses. In this manner, the Project AQIA accurately presents and discloses potential vehicular-source air quality impacts resulting from the Project Business Park uses.

Commentor (SWAPE) remodeling of other Project operational-source criteria pollutant emissions (VOC, NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> emissions) similarly employ arbitrary and inaccurate assumptions and opaque modeling parameters, yielding (not surprisingly) different results than presented in the EIR. There is however no substantiated basis for the commentor's assumptions and modeling inputs and any results or conclusions based on these assumptions and modeling inputs are similarly arbitrary and unsubstantiated, and of no relevance to the instant Project or its environmental impacts.

As supported by the preceding Response and the EIR in total, there is no basis or requirement for preparation of a revised EIR, or for an update to the EIR CalEEMod inputs or assumptions.

Results and conclusions of the EIR are not affected.

#### Comment LD2-23

##### ***2. The DEIR Fails to Adequately Evaluate or Implement all Feasible Mitigation and Adopts an Infeasible Mitigation Measure.***

*The AQIA and DEIR conclude that even after mitigation, the Project's operational NO<sub>x</sub> and VOC emissions exceed the established SCAQMD thresholds of 55 pounds per day (AQIA, p. 44). However, the only mitigation measure directed at operational air pollution emissions proposed in the AQIA is Mitigation Measure AQ-4, which would require non-diesel powered on-site cargo handling equipment, signs stating that idling of trucks should not exceed three minutes, and preferential parking locations for EVs, CNG vehicles, and carpool/vanpool vehicles (p. 10). The adoption of this sole mitigation measure fails to comply with CEQA because (1) it may not be feasible; and (2) does not amount to all feasible mitigation measures.*

#### Response LD2-23

The commentor incorrectly asserts "[t]he DEIR Fails to Adequately Evaluate or Implement all Feasible Mitigation and Adopts an Infeasible Mitigation Measure." The commentor continues incorrectly and misleadingly, stating that "the only mitigation measure directed at operational air pollution emissions proposed in the AQIA is Mitigation Measure AQ-4;" and that "[t]he adoption of this sole mitigation measure fails to comply with CEQA because

(1) it may not be feasible; and (2) does not amount to all feasible mitigation measures.”

Despite the commentor’s assertions otherwise, the measures cited by the commentor are not the only aspects of the Project that would act to reduce operational source air pollutant emissions. Nor are the measures incorporated in the EIR somehow infeasible.

More specifically, the following design features and operational programs (neglected for consideration by the commentor) are incorporated in the Project; and would act to reduce operational-source air pollutant emissions.

#### **[DEIR Section] 3.4.8          Energy Efficiency/Sustainability**

Energy-saving and sustainable design features and operational programs would be incorporated into all facilities developed pursuant to the Project. Notably, the Project in total would provide sustainable design features necessary to achieve a “Certified” rating under the United States Green Building Council’s Leadership in Energy & Environmental Design (LEED) programs. The Project also incorporates and expresses the following design features and attributes promoting energy efficiency and sustainability.

- The developer would install, on the roofs of the warehouse/light industrial buildings (Buildings 1–8), a photo-voltaic electrical generation system (PV system) capable of generating 565,000 kilowatt hours per year.<sup>11</sup> The developer may install the required PV system in phases on a pro rata square foot basis as each building is completed; or if the PV system is to be installed on a single building, all of the PV system necessary to supply the PV estimated electrical generation shall be installed within two years (24 months) of the first building that does not include a PV system receives a certificate of occupancy.
- All on-site cargo handling equipment (CHE) would be powered by non-diesel fueled engines.

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<sup>11</sup> This estimate reflects the amount of electricity that would be consumed by the Project’s approximately 1.06 million square feet of warehouse/light-industrial uses at buildout and full occupancy.

- Regional vehicle miles traveled (VMT) and associated vehicular-source emissions are reduced by the following Project design features/attributes:
  - Pedestrian connections shall be provided to surrounding areas consistent with the City's General Plan and The Preserve Specific Plan. Providing a pedestrian access network to link areas of the Project site encourages people to walk instead of drive. The Project would provide a pedestrian access network that internally links all uses and connects to all existing or planned external streets and pedestrian facilities contiguous with the Project site. The Project would not impose barriers to pedestrian access and interconnectivity.
  - The Project's proposed collocation of varied warehouse and light industrial/business park uses, together with supporting amenities would tend to decrease the propensity for, and length of commuter vehicle travel for local employees. Warehouse uses proposed by the Project also generally act to reduce truck travel distances and truck trips within the region by consolidating and reducing requirements for single-delivery vendor truck trips.
- To reduce water demands and associated energy use, development proposals within the Project site would be required to implement a Water Conservation Strategy and demonstrate a minimum 20% reduction in indoor water usage when compared to baseline water demand (total expected water demand without implementation of the Water Conservation Strategy).<sup>12</sup> Development proposals within the Project site would also be required to implement the following:
  - Landscaping palette emphasizing drought tolerant plants consistent with provisions of The Preserve Specific Plan and/or City of Chino requirements;

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<sup>12</sup>Reduction of 20% indoor water usage is consistent with the current CalGreen Code performance standards for residential and non-residential land uses. Per CalGreen, the reduction shall be based on the maximum allowable water use per plumbing fixture and fittings as required by the California Building Standards Code.



- Use of water-efficient irrigation techniques consistent with provisions of The Preserve Specific Plan and/or City of Chino requirements;
- U.S. Environmental Protection Agency (EPA) Certified WaterSense labeled or equivalent faucets, high-efficiency toilets (HETs), and other plumbing fixtures.

In addition, the Project Applicant consulted with several community groups and to obtain their input on the solar design features of the Project (please refer to supportive comments received from Briggs Law Corporation). Further, the Project in total would surpass by a minimum of 5%, incumbent performance standards established under the Building Energy Efficiency Standards contained in the California Code of Regulations (CCR), Title 24, Part 6 (Title 24, Title 24 Energy Efficiency Standards). [DEIR, Section 3.0, *Project Description*, pp. 3-17 through 3-19.]

To ensure their timely implementation and monitored compliance, the Project design features and operational programs reflected in the EIR air quality modeling are restated as Mitigation Measures within the EIR (see below).

*4.3.5 Water Conservation Required: Subsequent development proposals within the Project site shall incorporate a Water Conservation Strategy and demonstrate a minimum 30 percent reduction in outdoor water use when compared to baseline water demand (total expected water demand without implementation of the Water Conservation Strategy). Development proposals within the Project site shall also implement the following:*

- *Landscaping palette emphasizing drought-tolerant plants;*
- *Use of water-efficient irrigation techniques;*
- *U.S. Environmental Protection Agency (EPA) Certified WaterSense labeled or equivalent faucets, high-efficiency toilets (HETs), and water-conserving shower heads.*

*4.3.6 Compliance with Municipal Code Chapter 15.45: The Project shall comply with applicable provisions of Chino Municipal Code Chapter 15.45 – Climate Action Plan Implementation.*

*Development proposals within the Project site shall conform to Climate Action Plan Implementation Section 15.45.070 Option 1—"Exceed by 3% the mandatory California Energy Code Title 24, Part 6 standards, in effect at the time of development application submittal for discretionary review."*

*Verification of increased energy efficiencies shall be shall be documented in Title 24 Compliance Reports provided by the Applicant, and reviewed and approved by the City prior to the issuance of building permits. Examples of measures that reduce energy consumption include, but are not limited to, the following (it being understood that the items listed below are not all required and merely present examples; the list is not all-inclusive and other features that achieve the required energy efficiency performance standard also are acceptable):*

- a) Increase in insulation such that heat transfer and thermal bridging is minimized;*
- b) Limit air leakage through the structure and/or within the heating and cooling distribution system;*
- c) Use of energy-efficient space heating and cooling equipment;*
- d) Installation of electrical hook-ups at loading dock areas;*
- e) Installation of dual-paned or other energy efficient windows;*
- f) Use of interior and exterior energy efficient lighting that exceeds the California Title 24 Energy Efficiency performance standards;*
- g) Installation of automatic devices to turn off lights where they are not needed;*
- h) Application of a paint and surface color palette that emphasizes light and off-white colors that reflect heat away from buildings;*
- i) Design of buildings with "cool roofs" using products certified by the Cool Roof Rating Council, and/or exposed roof surfaces using light and off-white colors;*
- j) Design of buildings to accommodate photo-voltaic solar electricity systems or the installation of photo-voltaic solar electricity systems;*
- k) Installation of ENERGY STAR-qualified energy-efficient appliances, heating and cooling systems, office equipment, and/or lighting products.*

*4.3.7 The Project developer(s) shall install, on the roofs of the warehouse/light industrial buildings (Buildings 1–8), a photo-voltaic electrical generation system (PV system) capable of generating 565,000 kilowatt hours per year. The developer(s) may install the required PV system in phases on a pro rata square foot basis as each building is completed; or if the PV system is to be installed on a*

*single building, all of the PV system necessary to supply the PV estimated electrical generation shall be installed within two years (24 months) of the first building that does not include a PV system receives a certificate of occupancy.*

These measures above, and all other EIR mitigation measures, are feasible and enforceable through the Final EIR Mitigation Monitoring Plan (Section 4.0 of this Final EIR).

Additionally, as noted at Response LD2-21, as a Condition of Approval, and consistent with the Project evaluated in the EIR, the Lead Agency has stipulated that the refrigerated land use component of the Project not exceed 15% of the Project's High-Cube Warehouse (Building 3) total building square footage. Project Conditions of Approval stipulate further that none of the other Project uses shall incorporate a refrigerated component. These Conditions of Approval act to ensure that the refrigerated component of the Project as developed would not result in different or greater air quality impacts than the Project evaluated in the EIR.

With general regard to feasibility of mitigating operational-source emissions, Project-related operational-source air quality impacts derive predominantly from mobile sources. In this regard, approximately 92 percent (by weight) of all Project operational-source emissions would be generated by mobile sources (vehicles). Mobile-source vehicle tail pipe emissions cannot be materially or feasibly controlled or mitigated by the Lead Agency or the Project Applicant. Rather, these emissions sources are regulated by CARB and USEPA. As summarized at EIR Section 4.3.5, *Regional Air Quality Trends*, as the result of CARB and USEPA actions, Basin-wide vehicular-source emissions have been reduced dramatically over the past years and are expected to further decline as clean vehicle and fuel technologies improve. Future CARB and USEPA actions could be expected to have a positive effect on Project-related vehicular-source emissions, resulting in incremental reductions in vehicular-source emissions when compared to either the Project AQIA emissions estimates.

Regarding AQIA mitigation measure AQ-4 cited by the commentor, the AQIA notes this measure (use of non-diesel powered on-site cargo handling equipment, signs stating that

idling of trucks should not exceed three minutes, and preferential parking locations for EVs, CNG vehicles, and carpool/vanpool vehicles) would generally reduce operational-source air pollutant emissions. Notwithstanding, the AQIA conservatively does not take credit for any resulting operational-source criteria pollutant emissions reductions (AQIA, p. 10). Nonetheless, idling limitations and inclusion of preferential parking locations for EVs, CNG vehicles, and carpool/vanpool vehicles are reflected at new EIR Mitigation Measure 4.3.8, presented below. Note that use of non-diesel on-site cargo handling equipment is a component of the Project (DEIR *Project Description*, p. 3-17) and is therefore not considered mitigation.

*4.3.8 The following measures shall be implemented in order to reduce Project operational-source NOx air pollutant emissions. Other Project air pollutant emissions may also be generally reduced through the implementation of these measures:*

- *The final Project site plan(s) shall be designed such that any truck check-in points are located sufficiently interior to the Project site to preclude queuing of trucks onto public streets and minimize truck idling times.*
- *Electrical service for the Project warehouse facilities shall be appropriately sized to allow for future electric charging for trucks and to provide power for future onboard auxiliary equipment.*
- *The Lead Agency shall consider incentives and phase-in schedules for alternatively fueled trucks. Further, truck operators with year 2006 or older trucks shall apply in good faith for Carl Moyer, VIP, Prop 1B or similar funding to replace/retrofit their trucks with cleaner-than-required engines, equipment, and emission reduction technologies. Should funds be awarded, the recipient shall accept and use them for their intended purpose(s).*
- *On-site idling of diesel trucks shall be limited to three minutes.*
- *Final Project site plans shall incorporate preferential parking locations for EVs, CNG vehicles, and carpool/vanpool vehicles.*

These measures and all other EIR Mitigation Measures are feasible and enforceable through the EIR Mitigation Monitoring Plan, Final EIR Section 4.0.

As supported by the preceding, the measures cited by the commentor are not the sole aspects or attributes of the Project that would act to reduce operational-source emissions. The Project design complemented by mitigation measures incorporated in the EIR act to reduce the Project's air quality impacts to the extent feasible. Mitigation Measures identified in the EIR are feasible and enforceable through the EIR Mitigation Monitoring Plan, Final EIR Section 4.0. The commentor's statements and assertions regarding the EIR mitigation measures are inaccurate, incorrect, and misleading.

Results and conclusions of the EIR are not affected.

#### Comment LD2-24

*SWAPE found that the measure to limit truck idling time to three minutes may not be feasible. (SWAPE Comment, p.10.) As discussed above, given that specific tenants of the Project are unknown, the AQIA accounts for cold storage needs by assuming that 15% of the Project's high-cube warehouse will be used for cold storage. (AQIA, pp.3-4.) If cold storage will be required onsite, it follows that it will require TRU truck trips (refrigerated trucks). (SWAPE Comment, p.10.) SWAPE explains, "TRU's are known to idle for much, even up to an hour, when compared to unrefrigerated hauling trucks.<sup>3</sup> As such, a three minute idling limit for these trucks is not feasible and different mitigation measures should be implemented by the Project applicant." (Id.) Thus, to the extent that this mitigation measure is intended to apply to all trucks, it is infeasible. A public agency may not rely on mitigation measures of uncertain efficacy or feasibility. (Kings County, supra, 221 Cal.App.3d at p. 727.) The City must assess the feasibility of this mitigation measure before it adopts it.*

#### Response LD2-24

The commentor and SWAPE incorrectly speculate that the EIR mitigation measure to limiting truck idling time to three minutes may not be feasible. This and all other EIR mitigation measures are feasible and enforceable through the EIR Mitigation Monitoring Plan, Final EIR Section 4.0. Further, as noted previously, the DEIR and AQIA

conservatively do not take credit for idling limitations. In these regards, and irrespective of any restrictive idling limitations imposed through the EIR Mitigation Measures (or by the State of California as noted below), the Project air quality analyses conservatively assume that vehicles will idle on-site for 15 minutes. It is this assumption (not limited on-site idling) that is the basis for the estimation and evaluation of Project operational-source idling emissions and the EIR air quality impact significance conclusions. Otherwise stated, the EIR does not rely on restricted idling in its estimation of the Project's operational-source idling emissions.<sup>13</sup>

The commentor then states that "TRU's are known to idle for much, even up to an hour, when compared to unrefrigerated hauling trucks." Then, the commentor states: "As such, a three minute idling limit for these trucks is not feasible and different mitigation measures should be implemented by the Project applicant." There is no demonstrated nexus between the commentor's statement regarding extended truck idling and the instant Project or idling limitations imposed through the EIR mitigation measures. Moreover, the commentor's statements regarding protracted vehicle idling are at best broadly speculative; and in fact, contradict California's Commercial Vehicle Idling Regulations (i.e., State Law), that mandates that heavy-duty diesel trucks idle for no more than five minutes.

Based on the preceding Response and the EIR in total, the Project's air quality emissions impacts related to onsite idling of vehicles, including but not limited to idling of TRU's are accurately identified and disclosed in the EIR. EIR Mitigation Measures addressing vehicle idling restrictions are feasible and enforceable through the EIR Mitigation Monitoring Plan, Final EIR Section 4.0.

Results and conclusions of the DEIR are not affected.

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<sup>13</sup> On-site truck idling was estimated to occur as trucks enter and travel through the facility. Although the Project is required to comply with CARB's idling limit of 5 minutes, staff at SCAQMD recommends that the on-site idling emissions should be estimated for 15 minutes of truck idling, which would take into account on-site idling which occurs while the trucks are waiting to pull up to the truck bays, idling at the bays, idling at check-in and check-out, etc. As such, this analysis estimated truck idling at 15 minutes, consistent with SCAQMD's recommendation (Project HRA, p. 16).

Comment LD2-25

*Moreover, the DEIR fails to incorporate additional feasible mitigation measures. SWAPE pointed out that SCAQMD has previously recommended additional mitigation measures for operational NOx that result primarily from truck activity emissions for similar projects. For example, measures recommended for the Waterman Logistic Center included a number of applicable measures:*

- Provide electric vehicle charging stations that are accessible for trucks.*
- Provide minimum buffer zone of 300 meters (approximately 1,000 feet) between truck traffic and sensitive receptors.*
- Limit the daily number of trucks allowed at the facility to levels analyzed in the DEIR. If higher daily truck volumes are anticipated to visit the site, the Lead Agency should commit to re-evaluating the project through CEQA prior to allowing this higher activity level.*
- Design the site such that any check-in point for trucks is well inside the facility to ensure that there are no trucks queuing outside of the facility. On-site equipment should be alternative fueled.*
- Provide food options, fueling, truck repair and or convenience stores on-site to minimize the need for trucks to travel through residential neighborhoods. Improve traffic flow by signal synchronization.*
- Have truck routes clearly marked with trailblazer signs, so that trucks will not enter residential areas.*
- Should the proposed Project generate significant regional emissions, the Lead Agency should require mitigation that requires accelerated phase-in for non-diesel powered trucks. For example, natural gas trucks, including Class 8 HHD trucks, are commercially available today. Natural gas trucks can provide a substantial reduction in health risks, and may be more financially feasible today due to reduced fuel costs compared to diesel. In the Final CEQA document, the Lead Agency should require a phase-in schedule for these cleaner operating trucks to reduce project impacts. SCAQMD staff is available to discuss the availability of current and upcoming truck technologies and incentive programs with the Lead Agency and project applicant (SWAPE Comment, p. 10-11.)*

Response LD2-25\*

The commentor lists various NOx emissions “mitigation measures” for inclusion in the EIR. Those measures suggested by the commentor and accepted in part or in total by the Lead Agency are listed below, and are incorporated at new EIR Mitigation Measure 4.3.8 (below).

*4.3.8 The following measures shall be implemented in order to reduce Project operational-source NOx air pollutant emissions. Other Project air pollutant emissions may also be generally reduced through the implementation of these measures:*

- The final Project site plan(s) shall be designed such that any truck check-in points are located sufficiently interior to the Project site to preclude queuing of trucks onto public streets and minimize truck idling times.*
- Electrical service for the Project warehouse facilities shall be appropriately sized to allow for future electric charging for trucks and to provide power for future onboard auxiliary equipment.*
- The Lead Agency shall consider incentives and phase-in schedules for alternatively fueled trucks. Further, truck operators with year 2006 or older trucks shall apply in good faith for Carl Moyer, VIP, Prop 1B or similar funding to replace/retrofit their trucks with cleaner-than-required engines, equipment, and emission reduction technologies. Should funds be awarded, the recipient shall accept and use them for their intended purpose(s).*
- On-site idling of diesel trucks shall be limited to three minutes.*
- Final Project site plans shall incorporate preferential parking locations for EVs, CNG vehicles, and carpool/vanpool vehicles.*



\* Of the commentor recommendations listed previously, the following are implemented by the City through other means; are considered beyond the scope of the Project; are considered unnecessary; or are considered infeasible or unenforceable. These measures are therefore not included in the EIR as mitigation.

Recommended Measure	Remarks
Provide minimum buffer zone of 300 meters (approximately 1,000 feet) between truck traffic and sensitive receptors.	<p>The buffer zone cited by the commentor is intended as a screening level measure acting to ensure against potentially significant air quality (TAC, DPM) health impacts. For the Project, requirements for the cited buffer zone measure are obviated through substantiated detailed analysis of the Project's potential health risk in the EIR Health Risk Assessment (HRA, EIR Appendix D). The EIR at Section 4.3, <i>Air Quality</i> (DEIR pp. 4.3-56 through 4.3-59, et al.), and within the Project HRA (HRA pp. 1-3, et al.), substantiate that the Project would not result in or cause potentially significant health risk impacts.</p> <p>Moreover, the Project Site Plan Concept (EIR Figure 3.4-1) effects the recommended buffer zone by locating truck loading docks at truck idling areas in the northerly portion of the Project site, at distances greater than 1,000 feet from the nearest residential properties, located southerly of the Project site, across Kimball Avenue.</p> <p>The Project Site Plan Concept further buffers potential off-site effects of the Project by implementing a graduated scale of development within the site, progressing from smaller pedestrian-scale business park uses along the site's southerly Kimball Avenue frontage, to larger industrial-scale warehouses in the northerly portion of the Project site. This configuration emphasizes design elements of human proportions in areas of the site with greatest public visibility, and acts to screen and diffuse potential environmental effects of larger scale uses within the Project site.</p> <p>The commentor's recommended measure is therefore already incorporated in the Project</p>

Recommended Measure	Remarks
	design, and is therefore not “mitigation,” and is not included as such.
<p>Limit the daily number of trucks allowed at the facility to levels analyzed in the DEIR. If higher daily truck volumes are anticipated to visit the site, the Lead Agency should commit to re-evaluating the project through CEQA prior to allowing this higher activity level.</p>	<p>The commentor implies and speculates that the Project as developed would somehow generate substantive truck traffic beyond that evaluated and addressed in the EIR; and that mitigation is required to, in effect, ensure that the EIR Project (not some other undefined commentor-imagined project) is ultimately implemented. This speculative train of logic is without merit.</p> <p>Note first that the EIR truck traffic generation estimates reflect the Project as defined by the Project. Further, the EIR truck traffic generation estimates comply with accepted and vetted trip generation modeling methodologies and protocols (TIA p. 130, et al.). The Lead Agency, through implementation of the EIR Mitigation Monitoring Plan and established design review and development permit processes, would ensure that development of the subject site would comply with the Project described and evaluated in the EIR. To assume that truck traffic generated by the implemented Project would differ substantively from the Project evaluated in the EIR is speculative.</p> <p>Secondly, the TIA trip generation estimates are in total conservative, and likely overstate rather than understate the Project’s potential truck traffic impacts (TIA pp. 151 - 152, 160 – 162, 223, et al.). Air quality impacts based on these trip generation estimates are similarly conservative, and likely overstate rather than understate the Project’s truck-source air quality impacts (AQIA pp. 40 – 41). In this manner, the EIR analyses and significance determinations already account likely maximum possible impacts. To assume that traffic and air quality impacts generated by truck traffic under the implemented Project would differ substantively from impacts of the Project evaluated in the EIR is speculative.</p> <p>The speculative increased truck traffic condition suggested by the commentor is not the Project being proposed, and is patently not the Project</p>

Recommended Measure	Remarks
	<p>the Lead Agency (City of Chino) is considering for approval. To presuppose mitigation requiring environmental re-evaluation based on the commentor's speculative condition is unwarranted.</p> <p>Moreover, in practical terms the commentor's suggested measure already exists as a matter of law as any substantive revisions or changes to any aspect of the Project evaluated in the EIR (including, but not limited to, increased or otherwise altered truck trip generation) would be subject to additional environmental analysis. Please refer to DEIR Section 2.0, <i>Introduction</i>, p. 2-7. This alone obviates the need for the measure offered by the commentor.</p> <p>To summarize, the EIR accurately presents and evaluates the Project's likely maximum truck traffic impact scenario. There is no reasoned basis to assume that the implemented Project would result in or cause truck traffic impacts substantively greater than, or different than, those evaluated in the EIR. Imposing mitigation for a speculative undefined increased truck traffic condition that is not the Project is contrary to CEQA, and such mitigation would be ambiguous and unenforceable. The EIR already acknowledges that the Lead Agency may require additional environmental evaluation for developments differing substantively from the Project evaluated in the EIR. For these reasons, the recommended measure is not included as mitigation.</p>
<p>Similar to the City of Los Angeles requirements for all new projects, the SCAQMD staff recommends that the Lead Agency require at least 5% of all vehicle parking spaces (including for trucks) include EV charging stations.</p>	<p>The Lead Agency will consider potential inclusion of, or means to facilitate access to, electric charging stations. Note that the mere presence of such facilities locally does not translate to, or is considered causal to, reductions in regional air pollutant emissions otherwise generated by the Project. Moreover, early commitment to such facilities would act to preclude or diminish the potential for incorporation of future more effective and efficient alternatives or technologies.</p>

Recommended Measure	Remarks
	Notwithstanding, the recommended measure is reflected at new EIR Mitigation Measure 4.3.8, and would facilitate provision of electrical charging stations in the future.
On-site equipment should be alternative fueled.	<p>Equipment germane to Project operations and that could contribute to potentially significant air quality impacts would be alternatively fueled. Please refer to DEIR Section 3.0, <i>Project Description</i>, p. 3-17.</p> <p>The recommended measure is an operational component of the Project as described in the EIR (EIR Section 3.0, <i>Project Description</i>, p. 3-17), and is therefore not included as mitigation.</p>
Improve traffic flow by signal synchronization.	<p>The Lead Agency, through its periodic review of area traffic conditions and through implementation of capital improvements programs already ensures that traffic signal synchronization responds to City traffic flow dynamics. Signal synchronization would that may be required of the Project would be implemented through the Project Conditions of Approval.</p> <p>The Lead Agency as a matter of course monitors and reviews area traffic flows and modifies areawide traffic signal synchronization accordingly. City Conditions of Approval for new developments respond to any signal synchronization requirements not otherwise addressed. The recommended measure is already implemented by the lead Agency through other means and is therefore not included as mitigation.</p>
Provide food options, fueling, truck repair and or convenience stores on-site to minimize the need for trucks to travel through residential neighborhoods.	Off-site truck traffic would be restricted to designated truck routes within the City, thereby minimizing the potential for truck travel through residential neighborhoods. Moreover, there is no nexus between the recommended measure and the Project's potential operational-source air quality impacts. That is, the Project would not result in any significant localized impacts due to truck traffic.

Recommended Measure	Remarks
	The recommended measure is not required and would not demonstrably reduce any of the Project's potentially significant impacts. This measure is therefore not included as mitigation.
Have truck routes clearly marked with trailblazer signs, so that trucks will not enter residential areas.	<p>Off-site truck traffic would be restricted to designated truck routes within the City, thereby minimizing the potential for truck travel through residential neighborhoods. Moreover, there is no nexus between the recommended measure and the Project's potential operational-source air quality impacts. That is, the Project would not result in any significant localized impacts due to truck traffic.</p> <p>The recommended measure is not required and would not demonstrably reduce any of the Project's potentially significant impacts. This measure is therefore not included as mitigation.</p>
Provide electric vehicle charging stations that are accessible for trucks.	<p>The Lead Agency will consider potential inclusion of, or means to facilitate access to, electric charging stations. Note that the mere presence of such facilities locally does not translate to, or is considered causal to, reductions in regional air pollutant emissions otherwise generated by the Project. Moreover, early commitment to such facilities would act to preclude or diminish the potential for incorporation of future more effective and efficient alternatives or technologies. The recommended measure is therefore not included as mitigation.</p> <p>Notwithstanding, a measure is incorporated at new Mitigation Measure 4.3.8 would facilitate provision of electrical charging stations in the future.</p>
Should the proposed Project generate significant regional emissions, the Lead Agency should require mitigation that requires accelerated phase-in for non-diesel powered trucks. For example, natural gas trucks, including Class 8 HHD trucks, are commercially available today. Natural gas trucks can provide a substantial reduction in health risks, and may be more financially feasible today due to reduced fuel costs compared to diesel. In the Final CEQA document, the Lead Agency should require a phase-in	The Lead Agency generally supports the use of alternative-source fuels. The Project would not however result in potentially significant health risks impacts related to diesel emissions or diesel-powered trucks. There is no nexus between the Project diesel emissions and suggested mitigation requiring "accelerated phase-in for non-diesel powered trucks." The recommended measure is therefore not included as mitigation.

Recommended Measure	Remarks
schedule for these cleaner operating trucks to reduce project impacts. SCAQMD staff is available to discuss the availability of current and upcoming truck technologies and incentive programs with the Lead Agency and project applicant (SWAPE Comment, p. 10-11.)	Notwithstanding, the recommended measure is reflected at new Mitigation Measure 4.3.8. Mitigation Measure 4.3.8 would in part, facilitate replacement/retrofitting of trucks with cleaner-than-required engines, equipment, and emission reduction technologies, acting to reduce regional air pollutant emissions levels.

### Comment LD2-26

*With respect to mitigation of VOC emissions, other CEQA evaluations have adopted SCAQMD's [sic] proposed measure to use coatings and solvents with a content of 50g/L.4 (Id.)*

### Response LD2-26

The Project AQIA and EIR Air Quality discussions reflect the noted SCAQMD 50g/l VOC content limit. The DEIR text at Mitigation Measure 4.3.4 contains a typographical error (150g/l [error] rather than 50g/l [correct]) and is corrected herein; SCAQMD-suggested revisions suggested by have also been incorporated into the following amended Mitigation Measure 4.3.4.

*4.3.4 Only "Zero-Volatile Organic Compounds" paints (no more than 150 grams/liter of VOC) and/or ~~High Pressure Low Volume (HPLV)~~ **High Volume Low Pressure (HVLP)** applications consistent with South Coast Air Quality Management District Rule 1113 shall be used. **To the extent practicable, construction materials that are pre-painted, or that do not require painting should be employed.***

The typographical error appearing in the DEIR text at Mitigation Measure 4.3.4 is of no consequence in the estimation of Project VOC emissions because quantification and analysis of Project construction-source (VOC) emissions presented in the EIR accurately reflect the Air Quality Impact Analysis (AQIA) VOC content modeling limit of 50g/L.

SCAQMD amended rule 1113 on February 5, 2016 (<http://www.aqmd.gov/docs/default-source/rule-book/reg-xi/r1113.pdf>). Under the amended Rule 1113, for Building Envelope Coatings, the amended Rule 1113 limit currently in effect is 100 grams per liter.

Furthermore, effective 01/01/2019, the Building Envelope Coatings limit will be 50 grams per liter consistent with the recommendation of SWAPE. The Project's anticipated opening year (built and occupied) is 2018. As such, any re-application of architectural coatings as on-going maintenance during building operations would reasonably occur after the 01/01/2019 effective date of the 50 grams per liter requirement. The Project would comply with all SCAQMD Rules, including limits for VOC content of products used during Project operations. Operational-source VOC reduction measures offered by the commentor would be effected through SCAQMD regulations, and is therefore not included as mitigation.

Results and conclusions of the EIR are not affected.

Comment LD2-27

*Because the project impacts in terms of NOx and VOC emissions are significant, the City must adopt all feasible mitigation measures. (Pub. Resources Code, § 21081; CEQA Guidelines, § 15092(b)(2)(A) & (B).) The City should consider the above recommendations and assess their feasibility. If the DEIR ultimately does not adopt them, it must provide evidence and analysis to show that they are not economically viable. (Kings County, supra, 221 Cal.App.3d at pp. 734-737.)*

Response LD2-27

The City has considered the additional mitigation measures recommended by the commentor, and certain of the additional measures offered have been incorporated (please refer to Response LD2-25). The Project design complemented by mitigation measures incorporated in the EIR, (including certain of the commentor's suggestions), reduce the Project's air quality impacts to the extent feasible. The EIR Mitigation Measures in total are feasible and enforceable through the EIR Mitigation Monitoring Plan presented at Section 4.0 of this Final EIR.

As point of clarification, the commentor incorrectly states that "[i]f the DEIR ultimately does not adopt them [the commentor's recommended actions], it [the City] must provide evidence and analysis to show that they [the commentor's recommended actions] are not *economically* [emphasis added] viable." Contrary to the commentor's statements, feasibility (or infeasibility) of mitigation measures does not rely solely on their economic viability, or lack thereof. As defined under CEQA:

“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors. Results and conclusions of the EIR are not affected” (CEQA Guidelines Section 15364. FEASIBLE).

Substantiation for exclusion of certain measures offered by the commentor has been provided as required under CEQA (please refer to Response LD2-25). In summary, the excluded measures are not incorporated because:

- The measure is already an integral aspects of the Project as described at EIR Section 3.0, *Project Description*, and thus is not mitigation;
- The measure is redundant of actions already performed as a matter of course by the Lead Agency, and thus is not mitigation;
- There is no nexus between the recommended measure and the Project’s potentially significant impacts and therefore there is no basis for the recommended measure; and/or;
- The recommended measure is undefined and/or unenforceable, and therefore is not mitigation as defined under CEQA.

Results and conclusions of the DEIR are not affected.

Comment LD2-28

***B. THE DEIR FAILS TO ADEQUATELY ANALYZE CLIMATE CHANGE IMPACTS IN LIGHT OF STATE POLICY AND MITIGATE IMPACTS FROM GHG EMISSIONS.***

***1. The DEIR Fails to Utilize GHG Reduction Targets Specified in Executive Order B-30-15.***

*In assessing the significance of greenhouse gas emissions, the DEIR fails to consider “the 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.” Ctr. for*



*Biological Diversity v. Dep't of Fish & Wildlife* (2015) 62 Cal. 4th 204, 217. Under Executive Order B-30-15, California commits to the ambitious reduction target of reducing emissions 40 percent below their 1990 levels by 2030. Statewide GHG emissions from 1990 were estimated to be approximately 431 million MTCO<sub>2e</sub> (MMTCO<sub>2e</sub>). This Executive Order requires California to reduce statewide emissions by 172 MMTCO<sub>2e</sub> by 2030, which results in a statewide limit on GHG emissions of 259 MMTCO<sub>2e</sub>. (SWAPE Comment, p. 12.) According to SWAPE:

2020 “business-as-usual” levels are estimated to be approximately 509 MMTCO<sub>2e</sub>. Therefore, in order to successfully reach the 2030 statewide goal of 259 MMTCO<sub>2e</sub>, California would have to reduce its emissions by 49 percent below the “business-as-usual” levels. This 49 percent reduction target should be considered as a threshold of significance against which to measure Project impacts. This 49 percent reduction target should be considered as a threshold of significance against which to measure Project impacts. Because the proposed Project is unlikely to be redeveloped again prior to 2030, the 2030 goals are applicable to any evaluation of the Project’s impacts. A DEIR should be prepared to demonstrate the Project’s compliance with these more aggressive measures specified in Executive Order B-30-15. Specifically, the Project should demonstrate, at a minimum, a reduction of 49 percent below “business-as-usual” levels.

(Id. at p.11-12) Because this reduction percentage is applicable to statewide emissions, SWAPE notes that additional analysis will be necessary to translate this standard into a project-specific threshold. (Id. at p.12) Once this threshold is quantified, a DEIR should be prepared to quantify any reductions expected to be achieved by mitigation measures in accordance with this new 2030 significance threshold. (Id.)

### Response LD2-28

The commentor asserts: “the DEIR fails to consider the 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.” This is incorrect. This topic is encompassed within the totality of the discussion presented at EIR Section 4.4, *Global Climate Change and Greenhouse Gas Emissions*. In these regards, the EIR substantiates

compliance with applicable CEQA GHG emissions analysis and disclosure requirements (EIR, pp. 4.4-37 - 4.4-41), complies with GHG emissions reductions targets established under AB 32 (EIR, pp. 4.4-33 - 4.4-36), and demonstrates compliance with the City of Chino Climate Action Plan (EIR, pp. 4.4-36 - 4.4-37).

The commentor interprets Executive Order B-30-15 as a regulation or requirement adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. This is incorrect. Despite the ambitious language of Executive Order B-30-15 addressing post-2020 GHG emissions levels, no new standard or target for the State mandated by law has been adopted for a post-2020 scenario. GHG emissions reductions under a post-2020 condition are currently only goals set forth in Executive Order B-30-15, and by Governor Schwarzenegger's previous Executive Order S-05-03 which direct actions by State agencies only, and not by local jurisdictions, i.e. the City of Chino. Without a legislated target and a new Scoping Plan containing the State's strategy and regulatory plan for achieving the next target, the Project's role in achieving the target or its impact on the State's ability to meet that target would be at best speculative.

Moreover, there is substantial evidence for the infeasibility for a local jurisdiction to meet the 80 percent below 1990 levels by 2050 in the near-to-medium term absent an adopted and implemented post-2020 State plan of action. Thus, requiring compliance with the 2030 goal in EO-B-30-15 as de facto significance threshold in CEQA documents is impractical because, for the most part, the technology needed to achieve those goals has yet to be developed or is still in the developmental stage. Instead, the limit of GHG analysis for CEQA documents should be consistent with incumbent CEQA Guidelines, and the current State GHG planning horizon. At present, the only true State reduction plan is the AB 32 Scoping Plan, which only has a verified and quantified reduction plan to 2020. Once the State has a defined a plan for 2030, then CEQA analysis and thresholds should shift from the current 2020 horizon to the 2030 horizon. When a post-2030 plan is in effect, the horizon should shift again, and so on.

Although the proposed Project's emissions levels in 2030 and 2050 cannot be reliably quantified, statewide efforts are underway to facilitate the State's achievement of that goal,

and it is reasonable to expect the Project's emissions levels to decline as the regulatory initiatives identified by ARB in the First Scoping Plan Update are implemented, and other technological innovations occur. Stated differently, the Project's emissions total at build-out presented in the DEIR, represents the maximum emissions inventory for the Project as California's emissions sources are being regulated (and foreseeably expected to continue to be regulated in the future) in furtherance of the State's environmental policy objectives. As such, given the reasonably anticipated decline in Project GHG emissions once fully constructed and operational, the Project is consistent with the Executive Orders' goals.

Continuing, the ARB Scoping Plan currently in effect establishes an emissions reduction trajectory that will allow California to achieve the 2030 target articulated under Executive Order B-30-15, and the longer-term 2050 GHG emissions reductions targets established for the State. In addition, the Scoping Plan "lays the foundation for establishing a broad framework for continued emission reductions beyond 2020, on the path to 80 percent below 1990 levels by 2050" (Scoping Plan Update, p. 4). Many of the emission reduction strategies recommended by ARB and identified in the Scoping Plan would serve to reduce the Project's post-2020 emissions level to the extent applicable by law:

1. Energy Sector: Continued improvements in California's appliance and building energy efficiency programs and initiatives, such as the State's zero net energy building goals, would serve to reduce the proposed Project's emissions level. Additionally, further additions to California's renewable resource portfolio would favorably influence the proposed Project's emissions level.
2. Transportation Sector: Anticipated deployment of improved vehicle efficiency, zero emission technologies, lower carbon fuels, and improvement of existing transportation systems all will serve to reduce Project vehicular-source GHG emissions.
3. Water Sector: Project GHG emissions from area/stationary sources will be reduced through current and anticipated enhancements to water conservation technologies.
4. Waste Management Sector: Improve recycling, reuse and reduction of solid waste will beneficially reduce the Project's GHG emissions levels attributable to generation, transportation, and disposal of solid waste.

As substantiated above, there is no new “2030 [GHG Emissions] significance threshold” [commentor’s language] applicable to the Project. Nor is there basis for, or requirement for, an analysis specifically demonstrating the Project’s compliance with the emissions reductions goals articulated under with Executive Order B-30-15. In fact, measures currently enacted by the State effect Executive Order B-30-15. As substantiated in the EIR, the Project would comply with these measures.

Results and conclusions of the EIR are not affected.

Comment LD2-29

**2. The Revised DEIR Should Consider Additional Feasible Mitigation Measures.**

*Once GHG emissions from the Project are calculated in light of Executive Order B-30-15, the City may need to consider additional mitigation measures to reduce GHG emissions below significant levels. SWAPE recommended a number of mitigation measures for the City to consider:*

- *Use passive solar design, such as:*
  - *Orient buildings and incorporate landscaping to maximize passive solar; heating during cool seasons, and minimize solar heat gain during hot seasons; and*
  - *Enhance natural ventilation by taking advantage of prevailing winds.*
- *Reduce unnecessary outdoor lighting by utilizing design features such as limiting the hours of operation of outdoor lighting.*
- *Develop and follow a “green streets guide” that requires:*
  - *Use of minimal amounts of concrete and asphalt;*
  - *Installation of permeable pavement to allow for storm water infiltration; and*
  - *Use of groundcovers rather than pavement to reduce heat reflection.*
- *Implement Project design features such as:*
  - *Shade HVAC equipment from direct sunlight;*
  - *Install high-albedo white thermoplastic polyolefin roof membrane;*
  - *Install high-efficiency HVAC with hot-gas reheat;*
  - *Install formaldehyde-free insulation; and*
  - *Use recycled-content gypsum board.*
- *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.*
- *Install solar, wind, and geothermal power systems and solar hot water heaters.*
- *Install solar panels on unused roof and ground space, and over carports and parking areas. Locations where solar systems cannot feasibly be incorporated into the Project at the outset, build “solar ready” structures.*
- *Include energy storage where appropriate to optimize renewable energy generation systems and avoid peak energy use.*
- *Plant low-VOC emitting shade trees, e.g., in parking lots to reduce evaporative emissions from parked vehicles.*
- *Use CARB-certified or electric landscaping equipment in project and tenant operations; and introduce electric lawn, and garden equipment exchange program.*
- *Install an infiltration ditch to provide an opportunity for 100% of the storm water to infiltrate on-site.*

*(Id. at p.12-13.) The feasibility of these mitigation measures should be analyzed with respect to the specific circumstances of the project and any determinations as to feasibility should be supported with substantial evidence.*

#### Response LD2-29

The commentor errs by presupposing a requirement for a revised DEIR to “consider additional feasible [GHG] mitigation measures” [commentor’s language], inferring a requirement to recalculate and re-evaluate Project GHG emissions “in light of Executive Order B-30-15” [commentor’s language]. There are no such requirements.

First, as discussed above at Response LD2-28, Executive Order B-30-15 does not comprise a regulation or requirement adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. There is no basis for, or requirement for, an analysis specifically demonstrating the Project’s compliance with the emissions reductions goals articulated under with Executive Order B-30-15. In fact, measures currently enacted by the State effect Executive Order B-30-15. As substantiated in the EIR, the Project would comply with these measures.

The commentor then lists various “mitigation measures” as means of reducing the Project’s GHG emissions impacts. Project GHG emissions impacts are in fact substantiated to be less-than-significant (EIR Section 4.4, *Global Climate Change and Greenhouse Gas Emissions*; EIR Appendix E, *Kimball Business Park Greenhouse Gas Analysis*). CEQA does not require mitigation of “less-than-significant” impacts. The GHG emissions reductions measures listed by the commentor are not required.

The commentor states “[t]he feasibility of these mitigation measures should be analyzed with respect to the specific circumstances of the project and any determinations as to feasibility should be supported with substantial evidence.” With respect to the instant Project and Project EIR, the measures offered by the commentor are not required, and determination of their feasibility is inapposite.

Moreover, it is again noted that the EIR analyses generally, and the GHG impact analysis specifically, employ a purposely conservative approach, tending to likely overstate, rather than understate the Project’s potential environmental impacts. With regard to potential GHG emissions impacts, as presented in the EIR, the Project would generate approximately 25,629.19 MTCO<sub>2</sub>e/year. At present, the Project uses (dairy farming) generate an estimated 1,835.7 MTCO<sub>2</sub>e MTCO<sub>2</sub>e/year (EIR p. 4.4-11, Table 4.4-4 Table 4.4-4, *Existing Land Use Annual GHG Emissions Summary*). This estimate reflects GHG emissions that would be generated by an assumed 300 cows present onsite. The on-site cattle population however typically varies, and can approach or exceed 350 head. Nonetheless, the EIR analyses conservatively assume the low-end range of cattle present on-site for the purposes of estimating existing site-source GHG emissions. The existing conditions estimate is also conservative because it does not take in to account GHG emissions generated by other existing sources, e.g., vehicles accessing the site, or GHG emissions generated by on-site equipment or other on-site operations.

Subtracting existing site GHG emissions (1,835.7 MTCO<sub>2</sub>e/year - based on 300 head of cattle) the net post development Project-source GHG emissions would total 23,793.29 MTCO<sub>2</sub>e/year, or approximately 93 percent of the total gross Project GHG emissions currently reflected in the EIR.

If assuming 350 cattle on-site, existing site GHG emissions would total approximately  $350/300 \times 1,835.7$  MTCO<sub>2</sub>e/year, or 2,141.7 MTCO<sub>2</sub>e/year; and net Project GHG emissions would total approximately 23,450 MT CO<sub>2</sub>e/year, or approximately 92 percent of the total gross Project GHG emissions (25,629.19 MTCO<sub>2</sub>e/year) currently reflected in the EIR.

In summary, if taking even the minimum credit for existing site GHG emissions, the total Project GHG contributions as currently presented in the EIR would be reduced approximately by 7 – 8 percent, further diminishing the Project GHG emissions impacts already substantiated to be less-than-significant; not requiring mitigation.

Results and conclusions of the EIR are not affected.

Comment LD2-30

**C. THE DEIR FAILS TO ADEQUATELY ANALYZE AND MITIGATE IMPACTS TO BIOLOGICAL RESOURCES.**

***1. The DEIR's Cumulative Impacts Analysis is Inadequate and Lacks Foundation Given the Failure to Conduct Proper Biological Surveys.***

*The DEIR's cumulative impacts analysis is fundamentally flawed. First, the analysis relies on the premise that no special-status species are resident to the Project site. As discussed above, these conclusions were based on biological surveys that failed to comply with agency survey protocols. (Smallwood Comments, p. 7.) Where the surveys were flawed, they may not be used to support a finding of insignificant impacts.*

*Furthermore, Mr. Smallwood explains that the cumulative impact analysis is flawed because it implies that mitigated project-specific impacts prevent cumulative impacts. In finding cumulative impacts to be less than significant, the DEIR states finds, "mitigation of Project-specific biological resources impacts would also reduce the Project's potential incremental contributions to cumulative biological resources impacts within the region." (DEIR, p. 5-62.) However, considering the Project on a regional level, Mr. Smallwood finds the extremely high degree of habitat fragmentation undermines this assertion. Given the characteristics of development in the region, "cumulative project impacts on wildlife are highly likely to be significant and very substantial." (Smallwood*

*Comment, p.7). This analysis must be redone giving thorough consideration both to the specific Project site and the larger regional context.*

Response LD2-30

The commentor opines that the EIR cumulative impacts analysis is “fundamentally flawed” [commentor’s language]. The commentor’s opinion is just that; and is apparently based on the false premise that the site comprises a potentially valuable biological resource. As substantiated in these Responses, and the EIR in total, the Project site is extensively disturbed, lacks suitable much less valuable habitat, and evidences no protected species or species of concern. As also substantiated previously within these Responses, the EIR biological resources report complies with all applicable protocols and methodologies. Commentor statements otherwise are erroneous and misleading.

The Project site is demonstrably not a valuable biological resource. Further, mitigation has been provided for potential impacts to biological resources (migratory birds, burrowing owls) that may, under future conditions, be present within the Project site.

The commentor offers Mr. Smallwood’s flawed and speculative analysis as substantiation that the Project would somehow contribute considerably to cumulative biological resources impacts through interference with wildlife movement. This is incorrect. As discussed previously in these Responses, Mr. Smallwood’s “wildlife movement impact” analysis and related graphic representations are at best superficial and of no bearing on the Project’s potential biological resources impacts. First, “Google” imagery provided by the commentor does not present a true and meaningful baseline condition, and provides no real indication of wildlife corridors, wildlife movement, or lack thereof. The commentor then superimposes directional arrows on Google imagery [commentor Figures 1, 2], indicating “wildlife movement corridors” within the region. The commentor’s superimposition of random arrows and unsubstantiated statement, “converting open space on the Project site to an industrial use would ‘choke off a movement pathway between the Jurupa Mountains and the Chino Hills and Santa Ana Mountains,’” does not make it so.



The EIR statement that mitigation of Project-specific biological resources impacts would reduce the Project's potential incremental contributions to cumulative biological resources impacts within the region is accurate. Exclusive of this statement, the EIR significance conclusions regarding potential cumulative impacts to biological resources are consistent with that provided in the City of Chino General Plan EIR. Specifically, the Project is consistent with land uses and development anticipated by the City of Chino General Plan, and evaluated in the City of Chino General Plan EIR. The General Plan EIR by its nature addresses cumulative impacts associated with buildout of the City, including potential cumulative utilities and infrastructure impacts. In this regard, the General Plan EIR at Section 4.4, Biological Resources concludes that future development of the City consistent with the General Plan would result in less-than-significant impacts to biological resources. On this basis, the General Plan EIR substantiates that development of the Project would not result in cumulatively significant biological resources impacts.

As supported by the preceding Response and the EIR in total, the EIR analysis of cumulative impacts to biological resources is accurate and adequate. Additional analyses suggested by the commentor are not required or warranted.

Results and conclusions of the EIR are not affected.

Comment LD2-31

***Without Proper Analysis of Biological Impacts, the DEIR Fails to Give Due Consideration to Feasible Mitigation Measures.***

*The DEIR only proposed mitigation measures for impacts to biological resources consisted of pre-construction surveys for nesting songbirds and burrowing owls, and how the nesting birds would be managed should they be found during the preconstruction surveys. According to Mr. Smallwood, "Avoidance and minimization strategies are generally preferred over compensatory mitigation or no mitigation, but these preferred strategies rely on knowing the distribution and abundance of each species on site and nearby the site. Survey protocols are developed by experts with each species, and are intended to introduce consistent, effective methods, i.e., standards, so that the survey results at a proposed project site can be comparable and trustworthy." Because the assessment of biological impacts from the Project was not based on protocol-level surveys, the full impacts of the project to special-status species are unknown. Once impacts to the burrowing owl and other species have been*

*fully analyzed, mitigation measures must be considered based on those protocol level surveys. (Smallwood comment, p. 4, 9.)*

*Furthermore, Mr. Smallwood maintains that mitigation measures are also needed to offset or avoid impacts of the project on wildlife movement in the region and loss of stop-over habitat. (Id.) It is the policy of the State of California to “[p]revent the elimination of fish and wildlife species due to man’s activities, insure that fish and wildlife populations do not drop below certain self-perpetuating levels, and preserve for future generations representations of all plant and animal communities.” (Pub. Resources Code, § 21001, subd. (c).) When uncertainty of impacts on protected species is high, then the level of compensatory mitigation should err on the side of caution. (Id.) The DEIR contravenes the state preservation policy and fails to adequately assess the Project’s impacts to wildlife, especially sensitive species and native plants. As a result, the DEIR did not adequately mitigate the potential impacts to the extent feasible. The DEIR must be revised to analyze and evaluate all potential impacts to biological resources and, where appropriate, propose adequate mitigation measures with definite terms and verifiable performance standards.*

#### Response LD2-31

The commentor again mistakenly presupposes that the Project site comprises a valuable biological resource. Contrary to the commentor’s assertions otherwise, the EIR biological resources report complies with all applicable protocols and methodologies. The commentor’s subsequent statements based on these false and misleading premises are accordingly false and misleading.

Regarding the burrowing owl specifically, the EIR recognizes generalized (though unlikely) potential for the owl to occur in the Project vicinity. Unlikely presence of the owl is based on site observations, literature research, and lack of suitable habitat. Relevant EIR discussion is excerpted below:

Of particular concern in the Project vicinity is the Burrowing owl (*Athene cunicularia*). Burrowing owls occur in shortgrass prairies, grasslands, lowland scrub, agricultural lands (particularly rangelands), prairies, coastal dunes, desert floors, and some artificial, open areas as a yearlong resident. They

require large open expanses of sparsely vegetated areas on gently rolling or level terrain with an abundance of active small mammal burrows. As a critical habitat feature, they require the use of rodent or other burrows for roosting and nesting cover. They can also use pipes, culverts, and nest boxes (USFWS 2003, Haug et al. 1993, Zeiner et al. 1990).

Due to the absence of native vegetation communities and the disturbance at the Project site, special status wildlife species are unlikely to occur onsite. No burrowing owls were detected during the site visit and there was no evidence that burrowing owls were present. Burrowing owls do occur nearby, at the Chino Airport, where more suitable habitat occurs (CNDDDB 2015). Burrowing owls are assumed absent from the Project site (DEIR, p. 4.10-5).

The commentor states further that the EIR burrowing owl surveys did not follow accepted methodologies and protocols. This is incorrect. In making these and similar statements suggesting extensive survey requirements, the commentor again fails to consider the Project site's urban context; historic and ongoing site disturbance; the site's currently developed state and use as an active dairy, and lack of suitable habitat. Survey protocols cited by the commentor presuppose presence of suitable habitat within the Project site. This is not the case. In this regard, the CDFW burrowing owl protocols provide the following guidance:

A habitat assessment is the first step in the evaluation process and will assist investigators in determining whether or not occupancy surveys are needed (03/7/12 DFG BUOW Staff Report, p.5).

As noted in the EIR Biological Resources Report: "[d]ue to the absence of native vegetation communities and the disturbance at the project site special status wildlife species are unlikely to occur onsite" (Biological Resources Report, p.12). Due to the lack of suitable habitat, extensive multi-seasonal surveys such as those suggested by the commentor are not

warranted or required. Surveys that were conducted as part of the EIR Biological Resources Report indicate that the owl is not present within the Project site.

Notwithstanding the preceding, and realizing that the burrowing owl may subsequently occupy the Project site prior to the commencement of construction, the EIR incorporates mitigation (excerpted below) to ensure that protection of burrowing owls would comport with incumbent CDFW burrowing owl impact mitigation protocols.

### **Mitigation Measures:**

*4.10.1 Burrowing Owl Avoidance: Breeding season avoidance measures for the burrowing owl including, but not limited to, those that follow shall be implemented. A pre-construction survey for resident burrowing owls shall be conducted by a qualified Project Biologist within 14 days prior to construction activities. If ground-disturbing activities are delayed or suspended for more than 14 days after the pre-construction survey, the site will be resurveyed for owls. Pre-construction survey methodology shall be based on Appendix D (Breeding and Non-breeding Season Surveys and Reports) of the CDFW Staff Report on Burrowing Owl Mitigation (CDFW) March 7, 2012 (CDFW Burrowing Owl Mitigation Staff Report). Results of the pre-construction survey shall be provided to CDFW and the City. Should any burrowing owl be found on site, CDFW shall be notified of such within 24 hours. If the pre-construction survey does not identify burrowing owls on the Project site, then no further mitigation shall be required. If burrowing owls are found to be utilizing the Project site during the pre-construction survey, measures shall be developed by the Project Biologist in coordination with CDFW to avoid impacting occupied burrows during the nesting period. These measures shall be based on incumbent CDFW protocols and would minimally include establishment of buffer setbacks from occupied burrows and owl monitoring during Project construction activities.*

*4.10.2 Burrowing Owl Passive Exclusion: During the non-breeding season (September 1 through January 31), if burrows occupied by migratory or non-*

*migratory resident burrowing owls are detected during a pre-construction survey, then burrow exclusion and/or closure may be used to passively exclude owls from those burrows. Burrow exclusion and/or closure shall only be conducted by the Project Biologist in consultation and coordination with CDFW employing incumbent CDFW guidelines.*

*4.10.3 Mitigation for Displaced Owls: In consultation with the City, Project Applicant, Project Biologist, and CDFW, and consistent with mitigation strategies outlined in the CDFW Burrowing Owl Mitigation Staff Report, a mitigation plan shall be developed for the “take” of any owls displaced through Project construction activities. Strategies may include, but are not limited to, participation in the permanent conservation of off-site habitat replacement area(s), and/or purchase of available burrowing owl conservation bank credits.*

*4.10.4 If possible, all vegetation removal activities shall be scheduled from August 1 to February 1, which is outside the general avian nesting season. This would ensure that no active nests would be disturbed and that removal could proceed rapidly. If vegetation is to be cleared during the nesting season, all suitable habitat will be thoroughly surveyed within 72 hours prior to clearing for the presence of nesting birds by a qualified biologist (Project Biologist). The Project Biologist shall be approved by the City and retained by the Applicant. The survey results shall be submitted by the Project Applicant to the City Planning Department. If any active nests are detected, the area shall be flagged and mapped on the construction plans along with a minimum 300-foot buffer, with the final buffer distance to be determined by the Project Biologist. The buffer area shall be avoided until, as determined by the Project Biologist, the nesting cycle is complete or it is concluded that the nest has failed. In addition, the Project Biologist shall be present on the site to monitor the vegetation removal to ensure that any nests, which were not detected during the initial survey, are not disturbed (DEIR, pp. 4.10-12, 4.10-13).*

In summary and contrary to the commentor’s statements otherwise, all burrowing owl surveys were conducted pursuant to governing protocols and methodologies. These

surveys indicate that the owl is not present within the Project site. Mitigation pursuant to CDFW requirements is incorporated in the EIR to ensure the owl's protection should it occupy the Project site prior to the commencement of construction activities. Additional analysis suggested by the commentor is not warranted or required.

With respect to the presence of "other species" alluded to by the commentor, there is no evidence that other protected species or species of concern exist within the Project site. That is, commentor statements regarding species considered likely to occur within the Project site are not supported by substantial evidence and do not take into account the Project site's urban context and baseline disturbed and developed condition. In asserting the potential for additional species to occur, the commentor assumes that there exists habitat to support such species. Following this line of logic, the Project site could theoretically support a multitude of species; except for the fact that suitable habitat does not exist, and the EIR Biological Resources Report clearly states that no such habitat exists. "Due to the absence of native vegetation communities and the disturbance at the project site special status wildlife species are unlikely to occur onsite" (Biological Resources Report, p. 11).

In summary, the species assessments conducted by the commentor have no basis in fact and reflect an imagined pristine biologic condition. Suitable habitat does not exist within the Project site, and the EIR Biological Resources Report clearly states that no such habitat exists.

Results and conclusions of the EIR are not affected.

Comment LD2-32

***D. TRAFFIC IMPACTS HAVE NOT BEEN ADEQUATELY ANALYZED OR MITIGATED.***

***1. The DEIR's Traffic Analysis is Inadequate Because It Fails to Consider All Traffic Impacts and Inaccurately Assumes Drivers Will Choose Perfect Turning Alignments.***

*The traffic impacts analysis (TIA) relied upon in the DEIR is incomplete. The TIA analyzed queue impacts only for Caltrans-controlled intersections and at the primary Project access/egress intersections. (Smith Comment, p. 3.) These intersections do not account for all intersections with*

*potential traffic impacts from the Project. According to traffic engineer Daniel Smith, traffic impacts “could occur anywhere that queues in turn lanes exceed the storage length of the turn lanes or where queues in through lanes are long enough to block access to turning lanes.” (Id.) Mr. Smith explained that assessing these traffic impacts would be relatively easy. Because Traffix was used to perform the level of service analysis for most study intersections, the analysts would simply have to screen that information for whether there might be queuing problems at any of the intersections where Traffix analysis was employed. (Id.) Given the DEIR’s failure to analyze all Project’s traffic impacts, the DEIR does not include the “rigorous analysis and concrete substantial evidence” necessary to justify a finding under CEQA. (Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692 (“Kings County”).)*

#### Response LD2-32

The commentor incorrectly asserts that the traffic impacts analysis (TIA) relied upon in the DEIR is incomplete, citing supposed queuing analysis inadequacies. Specifically, the commentor asserts that queuing information reported by Traffix output is adequate for purposes of identifying queuing issues within the TIA Study Area. This is incorrect. Moreover, use of Traffix for queueing analyses as suggested by the commentor is an atypical methodology, not employed by the Lead Agency, and may yield unreliable and/or misleading results, as discussed below.

The TIA and EIR follow requirements per City of Chino and San Bernardino County CMP TIA guidelines. Under those guidelines, queuing analysis is not performed unless a specific queuing issue is observed during field observations. Furthermore, the actual queuing at the turn pockets depends not only on overall intersection level of service (LOS), but also is influenced by other factors such as cycle length and splits for each movement. The analysis performed for CEQA purposes is based on optimized cycle length per San Bernardino County CMP guidelines and as such only delay and LOS values are reported.

The method used to calculate back of queue reported in Traffix output is presented at Appendix G of Chapter 16 of the 2000 HCM. As noted on Page 16-24 of HCM, the back of queue is the number of vehicles per lane that are queued depending on arrival patterns of vehicles and vehicles that do not clear the intersection during a given green phase, based on

existing signal cycle lengths and splits. In contrast, San Bernardino County TIA guidelines require intersection LOS results based on optimized signal cycle lengths (not existing signal cycle lengths and splits). The queue values produced by the Traffix estimation procedure (based on optimized signal cycle lengths and splits), in many cases yields results contrary to field observations; and in many cases, would result in higher reported queue values than would result from other modeling procedures. These discrepancies would be accentuated at high degrees of traffic saturation and/or high queue percentiles.

At specific locations where queuing analyses were requested by the City of Chino and/or Caltrans, Synchro/SimTraffic software was employed. Use of Synchro/SimTraffic software avoids the above-noted anomalies and potentially misleading conclusions that could otherwise result from queue estimations yielded by Traffix software.

In summary, the TIA queuing analysis comports with Lead Agency (City of Chino) and Responsible Agency (Caltrans) guidelines and protocols, and provides a substantiated estimation of the Project's likely queuing impacts within the Study Area. Contrary to the commentor's assertion otherwise, the above Response and the EIR in total demonstrate compliance with all CEQA and *CEQA Guidelines* precepts addressing good faith disclosure of potentially significant environmental impacts. Additional analyses suggested by the commentor are not required or warranted.

CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. Further analyses of Study Area queues such as offered by the commentor is not required or warranted.

Further, commentor disagreement with the Project TIA methodologies and findings is acknowledged; but does not affect the EIR findings and conclusions. Despite commentor statements otherwise, the Lead Agency has determined that the TIA and related discussions presented in the EIR comport with CEQA intent and directives addressing adequacy, completeness, and disclosure. No further queuing analysis is required.

Results and conclusions of the EIR are not affected.



Comment LD2-33

*The TIA also underestimated traffic impacts in its assessment of streets' capacity to accommodate the turning of heavy trucks that will be drawn to the Project. The TIA concludes that the proposed street plans can safely accommodate the turning of heavy trucks that will be drawn to the Project. However, according to Mr. Smith the truck turning templates relied upon do not support such a conclusion. (Id.) Under the street plans, heavy trucks would only be able to successfully make all turns if the driver selects a perfect line for the turning movement. (Id.) However, drivers are human and cannot be expected to take turns with the precision of the analysis software program employed by analysts. (Id.) Mr. Smith explains, "Expecting drivers to select perfect turning lines like a computer program will lead to frequent jumping of curbs which has potential safety consequences." (Id.) These impacts should be addressed by designing slightly longer curb radiuses at street corners pulling back the noses of medians. (Id. At 3-4.)*

Response LD2-33

Truck turning templates employed in the TIA reflect industry standards and substantiate that the curb radiuses and truck maneuvering areas as designed would provide adequate space for truck accessing and truck turning movements. Moreover, the TIA truck turning templates and their application within the Project site have been reviewed and approved by the City of Chino staff. The Project design features including, but not limited to, truck access points and truck maneuvering areas comply with City requirements and accepted traffic engineering practices. The Project does not propose or require designs that would cause or result in safety concerns. Human error, inattentiveness and/or negligence such as cited by the commentor cannot be "engineered out" and may nonetheless subsequently occur within the Project site. This however, is not a significant environmental impact or significant safety hazard attributable to the Project or its design.

Results and conclusions of the EIR are not affected.

Comment LD2-34

*Finally, as discussed above with respect to air quality impacts, the DEIR fails to fully account for truck traffic that will be drawn to the Project by assuming that the Business Park uses will not*

*generate heavy-duty truck trips. (Id. at 6.) The DEIR must be revised to analyze the full traffic impacts of the project, including have truck trips associated with the Business Park uses.*

#### Response LD2-34

The EIR accurately reflects truck traffic and related vehicular-source emissions that would be generated by the Project Business Park uses. Please refer also to Response LD2-20.

There is no basis or requirement for revision to the EIR or the TIA. Results and conclusions of the EIR are not affected.

#### Comment LD2-35

*The Traffic Analysis Does not Provide Adequate Detail to be a Sufficient “Information Document.” The TIA is inadequate under CEQA because it fails to disclose important facts to allow the public to understand the conclusions reached and assess the full traffic impact of the project. “A court’s proper role in reviewing a challenged EIR is not to determine whether the EIR’s ultimate conclusions are correct but only whether they are supported by substantial evidence in the record and whether the EIR is sufficient as an information document.” (Ass’n of Irrigated Residents v. Cty. of Madera (2003) 107 Cal. App. 4<sup>th</sup> 1383, 1391.)*

*When assessing the legal sufficiency of an EIR, the reviewing court focuses on adequacy, completeness and a good faith effort at full disclosure. The EIR must contain facts and analysis, not just the bare conclusions of the agency. An EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project. (Id. at 1390 (internal quotations and citations omitted.))*

*The DEIR provided an extremely small scale representation of the site plan, at a scale of about 1 inch to 300 feet. According to Mr. Smith, the “tiny depiction thwarts the public’s effort to understand how well or badly the site plan will function.” (Smith Comment, p. 4.) For example, the DEIR’s TIA fails to disclose details about the staging of tractor-trailer rigs or analyze related impacts. According to Mr. Smith, it has become the practice at modern high-cube warehouses to dimension the loading bay aprons so tightly that tractor-trailer units of big-rigs cannot remain attached to the trailers in the loading bays except while actively bringing them or removing them. Often there are no provisions for staging the tractor units elsewhere on site and they must stage off-site. As a*

*consequence, delivery and removal of a trailer to and from the site involves 4 trips instead of 2. This causes unnecessary truck traffic in the vicinity of the site and unnecessary pollutant emissions from trucks classified as 3-axle trucks that are actually the tractor units of 5+axle big rigs.*

*(Id.) The DEIR does not provide information to evaluate this issue. The DEIR should be revised and recirculated to include information about the staging of tractor-trailer rigs on- or off-site. While LIUNA urges the City to adopt a plan where tractors may be staged on-site, if this is not the case, the revised DEIR must address related traffic impacts (in addition to air pollution and GHG emissions. (Id.)*

#### Response LD2-35

The commentor asserts that the EIR is somehow an inadequate informational document. This is incorrect. All EIR analyses and conclusions are substantiated as required under CEQA. The EIR and supporting technical information in total comport with CEQA intent and directives addressing good faith effort, disclosure and feasible mitigation. Commentor statements to the contrary are unfounded.

The commentor asserts that document scale limitations substantively hinder understanding of the Project and its environmental impacts. This is not the case. Note first that the EIR and all supporting technical documents are available in electronic format through the City's web site: [www.cityofchino.org/government-services/community-development/environmental-documents](http://www.cityofchino.org/government-services/community-development/environmental-documents).

The Lead Agency's presentation of the EIR in electronic format allows for scaling of text and graphics to the readers preference. The commentor has forgone this option. Additionally, a CD with electronic copies of the EIR and technical study files is attached to the back cover of each hard copy of the EIR, also allowing for preferential scaling of information.

Note further that the graphic information presented in the EIR is schematic and conceptual in nature and is not intended, nor is required, to provide engineering or construction level detail or accuracy such as that suggested by the commentor. Contrary to the commentor's

assertions otherwise, the information provided comports with CEQA informational precepts; adequately describes the Project and its context; and identifies, discloses and provides mitigation for the Project's potentially significant environmental impacts.

Regarding "staging" for trucks within the Project site, adequate parking for all uses would be provided as part of the Project and consistent with City requirements. Specifically, the Project Site Plan Concept identifies a total of 1,563 parking stalls, including 230 trailer stalls for the Project's proposed warehouse uses, and a total of 409 parking stalls for other light industrial/business park uses within the Project site. The Project would adhere to the requirements set forth by the City of Chino Parking Ordinance 20.18<sup>14</sup> and the final parking plan for the Project, as approved by the City. Parking assignments and design of parking areas within the Project site are subject to City review and approval (EIR Section 3.0, *Project Description*, p. 3-13).

Note further, that within the expansive parking pools provided, there would be more than ample space to accommodate any temporary "staging" of trucks that may be required. As an example, included in the parking areas assigned to Project Building No. 3 (proposed distribution warehouse) are 69 (12' x 53') trailer parking stalls (TIA Exhibit 1-1, Preliminary Site Plan), or approximately one-acre of parking surface that would be available at least in part to accommodate any temporary parking that may be required for transient staged trucks.

The Project warehouse/distribution center use would generate a total of 11 AM peak-hour truck trips and 14 PM peak-hour truck trips (includes all 2-axle, 3-axle, and 4-axle trucks - TIA Table 4-3, Project Trip Generation Summary, p. 133). Even assuming all of these trucks required staging and each occupied one full trailer stall, a total of 11 – 14 stalls would be temporarily occupied. The remaining stalls would be permanently available for trailer parking, and additional trailer parking stalls would become available as any temporarily-

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<sup>14</sup> Parking Ordinance Section 20.18.080 – A (3). *Trailer parking/waiting space required*, states: *Industrial developments having two or more dock-high loading spaces shall provide one trailer parking/waiting space, minimum twelve feet wide by forty-five feet long, for each two loading spaces.* This Code requirement responds directly to provision of "staging areas" suggested by the commentor.

staged trucks exit the Project site. On a daily basis, Building No. 3 would generate a total of 225 truck trips (includes all 2-axle, 3-axle, and 4-axle trucks - TIA Table 4-3, Project Trip Generation Summary, p. 133). If averaged over 24 hours, this equates to approximately 9 – 10 truck trips per hour. Again, adequate temporary staging areas for these trucks would be available within the expanse of parking surface provided at Building No. 3.

Notwithstanding the commentor's statements to the contrary, it has not been the experience of the Project Applicant, Lead Agency, or the TIA preparers that dedicated "truck staging areas" are required or warranted for uses such as those proposed by the Project. Further, additional paved areas required to accommodate such dedicated truck staging facilities conflict with City and Regional Water Quality Control Board policies and strategies to limit impervious surfaces generally, and thereby reduce potential stormwater runoff impacts from development proposals.

Additionally, current industry practices (e.g., cross-docking) and information technologies provide for scheduling and delivery efficiencies that act to limit the down time and temporary staging of trucks. That is, trucks making deliveries at one dock are immediately assigned to the next delivery exiting the site and are therefore not "staged."

Lastly, the commentor's remarks in total are considered speculative, and based on erroneous assumptions. As provided for under California Public Resources Code (PRC) Section 21080, subd. (e) (2) (excerpted below), the commentor's statements alone are not considered substantial evidence that the Project design cannot adequately and reasonably accommodate trucks after delivery and/or trucks awaiting connection to loaded trailers.

(2) Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, [or] evidence that is clearly inaccurate or erroneous . . .

Adequate area and facilities are reflected in the Project Site Plan concept allowing for "staging" of trucks and trailers such as may be required. There is no requirement or basis for EIR revision (much less recirculation) to address staging of tractor-trailer rigs.

Results and conclusions of the DEIR are not affected.

Comment LD2-36

*The DEIR Fails to Account for Significant and Unavoidable Traffic Impacts.*

*The DEIR also violates CEQA because it relies on uncertain mitigation measures (Id. at 4.) Many of the Project's impacts will occur in locations outside the jurisdiction of the City, including the Cities of Ontario, Chino Hills, Eastvale, and Jarupa Valley. (Id.) Ensuring that mitigation measures pertaining to impacts occurring in these jurisdictions are implemented will require the negotiation of inter-jurisdictional agreements between the City of Chino and each other jurisdiction. (Id.) Without such agreements in place, the chances of successful implementation remain uncertain. In fact, the DEIR states that the Project sponsor will be refunded should the mitigation measures not be implemented within five years. (Id. at 4-5.)*

*Despite the fact that no agreements securing these mitigation measures are in place, the DEIR lists these impacts and "no significances" (Id. at 5.) This is not permitted. A public agency may not rely on mitigation measures of uncertain efficacy or feasibility. (Kings County Farm Bureau, 221 Cal.App.3d at 727 (finding groundwater purchase agreement inadequate mitigation measure because no record evidence existed that replacement water was available).) Mitigation measures must be fully enforceable through permit conditions, agreements or other legally binding instruments. (14 CCR § 15126.4(a)(2).) Without enforceable agreements in place, the City must list these impacts as "significant and unavoidable."*

Response LD2-36

The commentor's statements regarding identification and disclosure of the Project's significant and unavoidable traffic impacts are incorrect. Please refer to the DEIR Section 1.10, *Summary of Significant Project Impacts*.

The listed significant impacts include the extra-jurisdictional and shared jurisdictional facilities noted by the commentor. Because the Lead Agency does not have plenary control over inter-jurisdictional or shared-jurisdictional traffic facilities, fee payment and fee-sharing mechanisms [DEIR Mitigation Measures 4.2.4 through 4.2.14] noted by the commentor are incorporated to ensure to the extent feasible that the Project's contributions

to impacts at inter-jurisdiction or shared-jurisdictional traffic facilities are mitigated. Nonetheless, the DEIR clearly states: “[d]espite the incorporation of Mitigation Measures 4.2.4 through 4.2.14, the Project’s contribution to cumulative traffic impacts would be considered cumulatively significant and unavoidable, as noted previously in these discussions” (DEIR, p. 4.2-105). Consistent with the EIR body text, the summary of cumulative traffic impacts presented at EIR Section 1.10, *Summary of Significant Project Impacts*, is clarified as follows:

**Opening Year (2018) Conditions:**

***Cumulatively Significant and Unavoidable Impacts.***

Pending completion of required improvements, the Project’s incremental contributions to Opening Year cumulative traffic impacts as identified at DEIR Section 1.10, *Summary of Significant Project Impacts*, are cumulatively significant and unavoidable.

**Long Term Post-2035 Conditions:**

***Cumulatively Significant and Unavoidable Impacts.***

Pending completion of required improvements, the Project’s incremental contributions to Post-2035 cumulative traffic impacts as identified at DEIR Section 1.10, *Summary of Significant Project Impacts*, are cumulatively significant and unavoidable.

Results and conclusion of the EIR are not affected.

**Comment LD2-37**

*Furthermore, the TIA is impermissibly dismissive of the Project’s cumulative impacts on the “State Highway System.” TIA page 196 it states: At this time, Caltrans has no fee programs or other improvement programs in place to address the deficiencies caused by development projects in the City of Chino (or other neighboring jurisdictions) on SHS roadway segments. As such, no improvements have been recommended to address the Opening Year Cumulative (2018) deficiencies on the SHS, because there is no feasible mitigation available.*

*The fact that Caltrans has no plans to address mitigation needs does not relieve the City of its obligation under CEQA to consider all feasible mitigation measures. (Smith Comment, p. 5.) Mr. Smith explains, “Caltrans does have procedures to enter into binding agreements accepting fair share funding to implement improvements on the SHS.” (Id.) Therefore, the DEIR is inadequate and misleading in this respect. The City should reconsider the feasibility of imposing mitigation measures to address cumulative traffic impacts from the Project and support its findings with substantial evidence.*

#### Response LD2-37

The commentor incorrectly asserts: “[t]he TIA is impermissibly dismissive of the Project’s cumulative impacts on the ‘State Highway System.’” The TIA appropriately and accurately recognizes that there are no planned physical improvements to State Highway System (SHS) freeway segments that would timely achieve near-term (2018) resolution of cumulative freeway segment impacts. This is not a dismissive statement, it is a fact.

The DEIR notes further:

Mitigation of freeway facilities impacts is addressed through regional improvements plans and programs. All freeway facilities within the Study Area are under Caltrans jurisdiction; Caltrans has no planned or programmed improvements that would address near-term freeway segment deficiencies. Moreover, there is no mechanism by which the Lead Agency (City of Chino) or the Project Applicant can autonomously construct, or guarantee the construction of, any improvements at potentially affected Study Area freeways segments.

Traditional funding mechanisms providing for freeway mainline improvements include San Bernardino County’s Measure “I” retail sales tax revenue for transportation; state and federal gas tax; and formula distributions from vehicle registration fees. Future employees/patrons of the Project would contribute indirectly to freeway improvements through these sources.



State Highway improvements are programmed pursuant to the State Transportation Improvement Program (STIP) as summarized below:

The STIP is a multi-year capital improvement program of transportation projects on and off the State Highway System, funded with revenues from the Transportation Investment Fund and other funding sources. STIP programming generally occurs every two years. The programming cycle begins with the release of a proposed fund estimate in July of odd-numbered years, followed by California Transportation Commission (CTC) adoption of the fund estimate in August (odd years). The fund estimate serves to identify the amount of new funds available for the programming of transportation projects. Once the fund estimate is adopted, Caltrans and the regional planning agencies prepare transportation improvement plans for submittal by December 15<sup>th</sup> (odd years). Caltrans prepare the Interregional Transportation Improvement Plan (ITIP) and regional agencies prepare Regional Transportation Improvement Plans (RTIPs). Public hearings are held in January (even years) in both northern and southern California. The STIP is adopted by the CTC by April (even years). This process, as well as the fund distribution process, is outlined in charts available on the Transportation Programming website <http://www.dot.ca.gov/hq/transprog><sup>15</sup> (DEIR p. 4.2-56).

The TIA identifies necessary improvements to SHS freeway intersections/ramps that would achieve acceptable LOS and thereby reduce the Project's contributions to potentially significant cumulative impacts to levels that would be less-than-significant. The Project would pay its fair share towards improvements at SHS intersections based on fair share percentage identified in Table 1-4 of the TIA. Project fair share fee requirements for Study

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15 Caltrans Division of Local Assistance. *State Transportation Improvement Program (STIP)*. Caltrans. Web. September 22, 2015. <<http://www.dot.ca.gov/hq/LocalPrograms/STIP.htm>>

Area improvements (including improvements to SHS freeway intersections/ramps) are incorporated as mitigation in the EIR (Mitigation Measure 4.2.3, below).

*4.2.3 Prior to the issuance of building permits, the Project Applicant shall pay requisite fees toward the construction of Post-2035 improvements for the locations indicated at Table 4.2-17 (with Limonite Avenue extension), and summarized at Table 4.2-18 and illustrated at Figure 4.2-6. Project traffic impact fee payments in all instances shall be based on the Project's greatest proportional (fair share) traffic contributions as identified. Estimated maximum costs of improvements under all development scenarios are summarized at EIR Tables 4.2-19 and 4.2-20.*

The commentor provides observations regarding Caltrans procedures and binding agreements to accept fair share funding to implement improvements on the SHS. The EIR recognizes these procedures and includes mechanisms that would allow for assignment of Project fair share fees to Caltrans (Mitigation Measures 4.2-13, 4.2-14, below).

*4.2.13 Certain of the intersections listed at Mitigation Measures 4.2.1 through 4.2.3 either share a mutual border with Caltrans areas or are wholly located within Caltrans jurisdictional areas. Because the City of Chino does not have plenary control over intersections that share a border with Caltrans jurisdictional areas, the City cannot guarantee that such improvements will be constructed. Thus, the following additional mitigation measure is required: The City of Chino shall participate in a multi-jurisdictional effort with Caltrans to develop a study to identify fair share contribution funding sources attributable to and paid from private and public development to supplement other regional and State funding sources necessary to implement the improvements identified at Mitigation Measures 4.2.1 through 4.2.3 that are located within Caltrans jurisdictional areas. The study shall include fair-share contributions related to private and or public development based on nexus requirements contained in the Mitigation Fee Act (Govt. Code § 66000 et seq.) and 14 Cal. Code of Regs. §15126.4(a)(4) and, to this end, the study shall recognize that impacts attributable to Caltrans facilities that are not attributable to development located within the City of Chino are not paying in excess of such*

*developments' fair share obligations. The fee study shall also be compliant with Government Code § 66001(g) and any other applicable provisions of law. The study shall set forth a timeline and other agreed-upon relevant criteria for implementation of the recommendations contained within the study to the extent the other agencies agree to participate in the fee study program. Because the City of Chino and Caltrans are responsible to implement this mitigation measure, the Project Applicant shall have no compliance obligations with respect to this Mitigation Measure.*

*4.2.14 Fair-share amount(s) agreed to by the City and Project Applicant for non-DIF improvements at intersections that share a mutual border with Caltrans jurisdictional areas, or are wholly located within Caltrans jurisdictional areas shall be paid by the Applicant to the City of Chino prior to the issuance of the Project's final certificate of occupancy. The City of Chino shall hold the Project Applicant's Fair Share Contribution in trust and shall apply the Project Applicant's Fair Share Contribution to any fee program adopted or agreed upon by the City of Chino and Caltrans as a result of implementation of Mitigation Measure 4.2.13. If, within five (5) years of the date of collection of the Project Applicant's Fair Share Contribution the City of Chino and Caltrans do not comply with Mitigation Measure 4.2.13, then the Project Applicant's Fair Share Contribution shall be returned to the Project Applicant.*

As supported by the above Response and the detailed information presented in the EIR and TIA, the DEIR appropriately discloses cumulatively significant traffic impacts affecting the SHS, and identifies feasible mitigation that would act to mitigate the Project's incremental contributions to those impacts. Contrary to the commentor's assertions otherwise, the EIR and supporting technical information in total comport with CEQA intent and directives addressing good faith effort, disclosure, and feasible mitigation.

Results and conclusions of the EIR are not affected.

Comment LD2-38

***Conclusion***

*For the foregoing reasons, LIUNA Local Union No. 783 and its members living in the City of Chino and the surrounding areas, urge the City to complete a revised DEIR addressing the Project's significant impacts and mitigation measures and recirculate.*

*Thank you for your attention to these comments. Please include this letter and all attachments hereto in the record of proceedings for this project.*

Response LD2-38

The Responses provided herein comport with *CEQA Guidelines* §15088, *Evaluation of and Response to Comments*. Within these Responses, adequacy of the EIR is reaffirmed, and environmental issues raised by commentors have been fully and accurately addressed. No substantive issues or new or substantively different or new environmental impacts need be addressed as the result of comments received. Inconsequential errors in the EIR text has been corrected, and clarification of information has been provided where necessary. There is no need for, or requirement for, preparation of a revised DEIR.

Results and conclusion of the EIR are not affected.

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Shawn Smallwood, Ph.D.  
3108 Finch Street  
Davis, California 95616

Letter Dated April 1, 2016

(Attachment “Exhibit 1” to Lozeau Drury correspondence dated April 7, 2016)

### Comment SS-1

*I have reviewed the Draft Environmental Impact Report (DEIR) prepared for the Kimball Business Park on 70 acres near the City of Chino (Applied Planning, Inc. 2016), and I also reviewed the DEIR’s Appendix J (Harmsworth Associates. 2015). I would like to comment on the biological impacts assessment in the DEIR.*

*My qualifications for preparing expert comments are the following. I earned a Ph.D. degree in Ecology from the University of California at Davis in 1990, where I subsequently worked for four years as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, habitat restoration, interactions between wildlife and human activities, conservation of rare and endangered species, and on the ecology of invading species. I have authored numerous papers on special-status species issues, including “Using the best scientific data for endangered species conservation,” published in Environmental Management (Smallwood et al. 1999), and “Suggested standards for science applied to conservation issues” published in the Transactions of the Western Section of The Wildlife Society (Smallwood et al. 2001). I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society and the Raptor Research Foundation, and I’ve been a part-time lecturer at California State University, Sacramento. I was also Associate Editor of wildlife biology’s premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management.*

*I have performed wildlife surveys in California for twenty-six years. I have studied the impacts of human activities and human infrastructure on wildlife, including on golden eagle, Swainson’s hawk, burrowing owl, and other species. I studied fossorial animals (i.e., animals that burrow into*

*soil, where they live much of their lives), including pocket gophers, ground squirrels, kangaroo rats, pocket mice, voles, harvester ants, and many other functionally similar groups. I performed focused studies of how wildlife interact with agricultural fields and associated cultural practices, especially with alfalfa production. I have also performed wildlife surveys at many proposed project sites. My CV is attached.*

#### Response SS-1

The commentor provides introductory statements and summarizes his educational and professional background. The commentor's statements are acknowledged. No further response is required.

Results and conclusions of the EIR are not affected.

#### Comment SS-2

##### **BIOLOGICAL IMPACTS ASSESSMENT**

*Under CEQA, 1 "[A] paramount consideration is the right of the public to be informed in such a way that it can intelligently weigh the environmental consequences of any contemplated action and have an appropriate voice in the formulation of any decision." The public needs information that is thorough, relevant, unbiased, and honest; the public needs full disclosure of the environmental setting and possible cumulative impacts. If surveys in support of the environmental review are deficient due to budgetary or time constraints, then the analyst should err on the side of caution when predicting potential project impacts on rare and precious resources at issue (National Research Council 1986, O'Brien 2000, Shrader-Frechette and McCoy 1992). Doing so would be scientifically defensible, and it would be consistent with the goals and objectives of CEQA.*

*Given the CEQA's goal of protecting the environment and given current standards in scientific risk analysis, it was inappropriate to repeatedly conclude that special-status species are absent and project impacts will be less than significant when these conclusions were based on a highly cursory survey effort for wildlife species at the project site. According to the DEIR (page 4.10-4), "A total of 25 wildlife species were detected during the site visits..." This statement suggests that multiple site visits were made for biological surveys, but I could not find evidence that more than a single visit was made by a single biologist. According to Appendix J of the DEIR (Harmsworth Associates*



2015:5-6), a biologist visited the 70-acre site for some portion of a single day to map the vegetation, assess habitat, survey for plant and wildlife species, and delineate wetlands:

- “Vegetation mapping, habitat assessments and general botanical surveys were conducted on 5 August 2015 by Paul Galvin.”
- “Field surveys for wildlife and habitat assessment for special status wildlife species were conducted on 5 August 2015 by Paul Galvin.”
- “Field visits [for a wetlands delineation] were conducted on 5 August 2015.”

*There was no serious effort to survey for plant and wildlife species on the project site. No biologist can satisfactorily assess the occurrence likelihoods and potential project impacts on all potentially occurring species on a 70 acre site in a single day. It is even more difficult to detect special-status species because these species are typically more difficult to detect due to rarity and cryptic behaviors. Mr. Galvin could not have satisfactorily surveyed the site for special-status species in a day, nor could I or anyone I know. Surveys need to be repeated within and across seasons, and they have to extend into the night and using special methods to detect special-status species.*

## Response SS-2

The commentor summarizes CEQA informational and disclosure precepts. The EIR biological resources study and the EIR in total comport with these precepts.

The commentor erroneously and misleadingly states that the EIR biological resources analysis provides only a cursory evaluation of biological resources impacts attributable to the Project; and takes issue with the adequacy of the EIR biological report and the methodologies employed. This is based on the commentor’s misinformed opinion that the subject site warrants extensive research and analysis, as if it were some type of pristine native habitat capable of supporting a myriad of protected species.

Existing site conditions are seemingly overlooked by the commentor (or are unknown to the commentor) in that the comments provided suggest that only extensive and detailed site investigations could accurately record and report biological resources occurring within the Project site. This is not the case.

Contrary to the commentor's opinions and unsupported assertions, the EIR biological surveys were conducted consistent with accepted protocols, and reflect the current heavily disturbed state of the site and its urban context. In this latter regard, the Project site has historically been used for various agricultural purposes dating back to the 1950's. The Project site is currently employed as an active dairy; and evidences various dairy/agricultural facilities, ancillary residential uses, and accommodates several hundred cows. To the west of the Project site is the Chino Airport; southerly adjacent to the site are urban residential uses; easterly of the site are agricultural uses, to be developed in the near-term with industrial uses similar to those proposed by the Project; and northerly of the Project are active agricultural uses. In short, the Project site and vicinity properties are urbanized, or are transitioning to urban uses; and do not evidence valuable habitat or habitat that would potentially support species other than those identified in the EIR Biological Resources Report.

Contrary to commentor's opinions otherwise, the EIR Biological Resources Report and related discussions presented in the EIR comport with CEQA intent and directives addressing adequacy, completeness, and disclosure.

Results of the EIR are not affected.

### Comment SS-3

*No live-trapping was performed for small mammals. Therefore it was highly unlikely that Mr. Galvin could have detected southern grasshopper mouse or Los Angeles pocket mouse, both of which are special-status species (Table 1). That these species were not detected does not mean they are absent from the site. One cannot find the needle in a haystack unless and until the hay is parted and carefully searched. Unless and until appropriate surveys are performed for grasshopper mouse and Los Angeles pocket mouse, these species should be assumed present and mitigation formulated accordingly.*

*No acoustic or thermal surveys were performed for bats or owls. If one does not look for nocturnally active species, then one will not see them. It was unlikely that Mr. Galvin would have seen bats or nocturnally active owls without visiting the site at night and applying the tools of the trade. The*

*same was true for American badger, which is a California Fully Protected species that is active almost exclusively at night. That these species were not detected on sites does not mean they are absent; until appropriate surveys are performed, they should be assumed present and mitigation measures formulated accordingly.*

*Special-status species of reptile, such as silvery legless lizard and coast horned lizard, are often hidden and cannot be detected without turning over debris or raking the soil. A walkover daytime survey was unlikely to detect either of these species. That these species were not detected on sites does not mean they are absent; until appropriate surveys are performed, they should be assumed present and mitigation measures formulated accordingly.*

*Nevertheless, despite the extremely cursory nature of the wildlife surveys at this site, Mr. Galvin detected the presence of 25 wildlife species. This number of wildlife species at a single site seen on a single day indicates a high species richness in the region. Had Mr. Galvin continued surveying the site through four seasons of the year, he would have detected many more species, some of which could potentially be of special status. A survey on a single day was grossly insufficient for characterizing the animal species using the site. Some special-status species are highly seasonal in their use of the region. Without visiting the site during winter months it was unlikely that Mr. Galvin would have detected ferruginous hawk or merlin, both of which are special-status species.*

### Response SS-3

The commentor continues, inferring that additional extensive analyses should be conducted in order to ascertain the speculative and remote potential species to occur within the Project site. This unfocused analytic approach is contrary to the intent and purpose of Environmental Impact Reports. That is, CEQA requires that EIR analyses focus on potentially significant environmental issues (*CEQA Guidelines*, Section 15143. EMPHASIS). Broad ranging analyses such as those suggested by the commentor may be academically satisfying, but do not contribute materially to identification and disclosure of the Project's potentially significant biological resources impacts. Rather, the volume of information presented by such myriad analyses tends to obfuscate, diffuse, and detract from consideration of impacts that would actually likely occur.

Analyses suggested by the commentor clearly do not reflect the magnitude of the Project at issue, the severity of its likely environmental impacts, and the geographic scope [and context] of the Project. Contrary to the commentor's assertions, the EIR biologist is eminently qualified, has years of practical experience in evaluating biological resources in the context of CEQA requirements, and has conducted all surveys and research consistent with accepted protocols.

Analyses suggested by the commentor clearly do not reflect the magnitude of the Project at issue, the severity of its likely environmental impacts, and the geographic scope [and context] of the Project. Contrary to the commentor's assertions, the EIR biologist is eminently qualified, has years of practical experience in evaluating biological resources in the context of CEQA requirements, and has conducted all surveys and research consistent with accepted protocols.

Note further that resurvey of the Project site by the EIR Biologist, conducted on June 7, 2016 confirmed all previous conclusions regarding lack of habitat and absence of protected species and/or any sign of protected species. Please refer to *Kimball Business Park Site Assessment* letter report (Harmsworth and Associates) June 7, 2016, presented at FEIR Appendix C.

Commentor disagreement with the EIR biological resources methodologies and findings is acknowledged, but does not affect the EIR findings and conclusions. The EIR Biological Resources Report and related discussions presented in the EIR comport with CEQA intent and directives addressing adequacy, completeness, and disclosure.

Results and conclusions of the EIR are not affected.

#### Comment SS-4

*Not only were the surveys inadequate for detecting special-status species, but so too was the literature search for potentially occurring species. My assessment of potentially occurring species turned up 23 species of wildlife not mentioned in the DEIR [see Smallwood Table 1], more than doubling the number of species considered in the DEIR.*

#### Response SS-4

The commentor takes issue with the EIR biologic literature research and then proceeds with a species assessment based on some imagined site condition. First, as noted previously in these Responses, the EIR biologist is eminently qualified, has years of practical experience in evaluating biological resources in the context of CEQA requirements, and has conducted all surveys and research consistent with accepted protocols. The fact that the commentor may disagree with the EIR biologist does not invalidate the EIR biologic resources analysis, methodology or resultant conclusions.

That is, commentor statements regarding species considered likely to occur within the Project site are not supported by substantial evidence and do not take into account the Project site's urban context and baseline disturbed and developed condition. In asserting the potential for additional species to occur, the commentor assumes that there exists habitat to support such species. Following this line of logic, the Project site could theoretically support a multitude of species; except for the fact that suitable habitat does not exist, and the EIR Biological Resources Report clearly states that no such habitat exists. "Due to the absence of native vegetation communities and the disturbance at the project site special status wildlife species are unlikely to occur onsite" (Biological Resources Report, p. 11).

In summary, the species assessments conducted by the commentor have no basis in fact and reflect an imagined pristine biologic condition. Commentor statements regarding species considered likely to occur within the Project site do not take into account the Project site's urban context and baseline disturbed and developed condition. In asserting the potential for additional species to occur, the commentor assumes that there exists habitat to support such species. Suitable habitat does not exist within the Project site, and the EIR Biological Resources Report clearly states that no such habitat exists.

Results and conclusions of the EIR are not affected.

Comment SS-5

***Burrowing Owl***

*The DEIR assumed that burrowing owls are absent from the proposed project site. This assumption was based on a single site visit toward the end of the nesting season. No attempt was made to follow the recommendations of the survey protocol prepared by the California Department of Fish and Wildlife (CDFG 2012). To be consistent with the survey protocol, a qualified biologist would have needed to visit the site several times through the nesting season, each visit separated by at least two weeks from the other visits. Burrowing owl surveys should also be focused on detecting burrowing owls and not also on plant species mapping and wetland delineation. Assuming burrowing owls are absent without having followed the CDFG (2012) survey protocol was inappropriate and scientifically indefensible.*

*Appendix J and the DEIR attempted to portray the burrowing owl as a yearlong resident within suitable habitat. Whereas this portrayal might be useful for assuming the species is absent – i.e. ‘a biologist looked but didn’t detect the species’ – it mischaracterizes the seasonal and inter-annual nature of burrowing owl distribution and abundance. Burrowing owls shift centers of activity seasonally (Smallwood et al. 2013), likely to escape predator and parasite loads.*

*Burrowing owl surveys should be performed at the project site, and they should be consistent with the CDFG (2012) survey protocol. Effective mitigation cannot be formulated until appropriate surveys have been performed and the use of the site by burrowing owls is understood. With burrowing owls residing at the airport next door, there is sure to be some use of the project site by burrowing owls. Burrowing owls should be assumed present on the project site. Even with this assumed presence, the type of presence needs to be understood so that appropriate mitigation can be formulated.*

Response SS-5

The commentor erroneously and misleadingly states that the EIR assumes absence of the burrowing owl, and that the EIR conclusions in this regard rely solely on field observations. This is not the case. In fact, the EIR recognizes generalized (though unlikely) potential for the owl to occur in the Project vicinity. Unlikely presence of the owl is based on site

observations, literature research, and lack of suitable habitat. Relevant EIR discussion is excerpted below:

Of particular concern in the Project vicinity is the Burrowing owl (*Athene cunicularia*). Burrowing owls occur in shortgrass prairies, grasslands, lowland scrub, agricultural lands (particularly rangelands), prairies, coastal dunes, desert floors, and some artificial, open areas as a yearlong resident. They require large open expanses of sparsely vegetated areas on gently rolling or level terrain with an abundance of active small mammal burrows. As a critical habitat feature, they require the use of rodent or other burrows for roosting and nesting cover. They can also use pipes, culverts, and nest boxes (USFWS 2003, Haug et al. 1993, Zeiner et al. 1990).

Due to the absence of native vegetation communities and the disturbance at the Project site, special status wildlife species are unlikely to occur onsite. No burrowing owls were detected during the site visit and there was no evidence that burrowing owls were present. Burrowing owls do occur nearby, at the Chino Airport, where more suitable habitat occurs (CNDDDB 2015). Burrowing owls are assumed absent from the Project site (DEIR, p. 4.10-5).

The commentor states further that the EIR burrowing owl surveys did not follow accepted methodologies and protocols. This is incorrect. In making these and similar statements suggesting extensive survey requirements, the commentor again fails to consider the Project site's urban context; historic and ongoing site disturbance; the site's currently developed state and use as an active dairy, and lack of suitable habitat. Survey protocols cited by the commentor presuppose presence of suitable habitat within the Project site. This is not the case. In this regard, the CDFW burrowing owl protocols provide the following guidance:

A habitat assessment is the first step in the evaluation process and will assist investigators in determining whether or not occupancy surveys are needed (03/7/12 DFG BUOW Staff Report, p.5).

As noted in the EIR Biological Resources Report: “[d]ue to the absence of native vegetation communities and the disturbance at the project site special status wildlife species are unlikely to occur onsite” (Biological Resources Report, p.12). Due to the lack of suitable habitat, extensive multi-seasonal surveys such as those suggested by the commentor are not warranted or required. Surveys that were conducted as part of the EIR Biological Resources Report indicate that the owl is not present within the Project site.

Notwithstanding the preceding, and realizing that the burrowing owl may subsequently occupy the Project site prior to the commencement of construction, the EIR incorporates mitigation (excerpted below) to ensure that protection of burrowing owls would comport with incumbent CDFW burrowing owl impact mitigation protocols.

**Mitigation Measures:**

*4.10.1 Burrowing Owl Avoidance: Breeding season avoidance measures for the burrowing owl including, but not limited to, those that follow shall be implemented. A pre-construction survey for resident burrowing owls shall be conducted by a qualified Project Biologist within 14 days prior to construction activities. If ground-disturbing activities are delayed or suspended for more than 14 days after the pre-construction survey, the site will be resurveyed for owls. Pre-construction survey methodology shall be based on Appendix D (Breeding and Non-breeding Season Surveys and Reports) of the CDFW Staff Report on Burrowing Owl Mitigation (CDFW) March 7, 2012 (CDFW Burrowing Owl Mitigation Staff Report). Results of the pre-construction survey shall be provided to CDFW and the City. Should any burrowing owl be found on site, CDFW shall be notified of such within 24 hours. If the pre-construction survey does not identify burrowing owls on the Project site, then no further mitigation shall be required. If burrowing owls are found to be utilizing the Project site during the pre-construction survey, measures shall be developed by the Project Biologist in coordination with CDFW to avoid impacting*



*occupied burrows during the nesting period. These measures shall be based on incumbent CDFW protocols and would minimally include establishment of buffer setbacks from occupied burrows and owl monitoring during Project construction activities.*

*4.10.2 Burrowing Owl Passive Exclusion: During the non-breeding season (September 1 through January 31), if burrows occupied by migratory or non-migratory resident burrowing owls are detected during a pre-construction survey, then burrow exclusion and/or closure may be used to passively exclude owls from those burrows. Burrow exclusion and/or closure shall only be conducted by the Project Biologist in consultation and coordination with CDFW employing incumbent CDFW guidelines.*

*4.10.3 Mitigation for Displaced Owls: In consultation with the City, Project Applicant, Project Biologist, and CDFW, and consistent with mitigation strategies outlined in the CDFW Burrowing Owl Mitigation Staff Report, a mitigation plan shall be developed for the “take” of any owls displaced through Project construction activities. Strategies may include, but are not limited to, participation in the permanent conservation of off-site habitat replacement area(s), and/or purchase of available burrowing owl conservation bank credits.*

*4.10.4 If possible, all vegetation removal activities shall be scheduled from August 1 to February 1, which is outside the general avian nesting season. This would ensure that no active nests would be disturbed and that removal could proceed rapidly. If vegetation is to be cleared during the nesting season, all suitable habitat will be thoroughly surveyed within 72 hours prior to clearing for the presence of nesting birds by a qualified biologist (Project Biologist). The Project Biologist shall be approved by the City and retained by the Applicant. The survey results shall be submitted by the Project Applicant to the City Planning Department. If any active nests are detected, the area shall be flagged and mapped on the construction plans along with a minimum 300-foot buffer, with the final buffer distance to be determined by the Project Biologist. The buffer area shall be avoided until, as*

*determined by the Project Biologist, the nesting cycle is complete or it is concluded that the nest has failed. In addition, the Project Biologist shall be present on the site to monitor the vegetation removal to ensure that any nests, which were not detected during the initial survey, are not disturbed (DEIR, pp. 4.10-12, 4.10-13).*

In summary and contrary to the commentor's statements otherwise, all burrowing owl surveys were conducted pursuant to governing protocols and methodologies. These surveys indicate that the owl is not present within the Project site. Mitigation pursuant to CDFW requirements is incorporated in the EIR to ensure the owl's protection should it occupy the Project site prior to the commencement of construction activities. Additional analysis suggested by the commentor is not warranted or required.

Results and conclusions of the EIR are not affected.

#### Comment SS-6

##### ***Wildlife Movement***

*On page 1-19, the DEIR states "Due to the disturbed nature of the Project site and surrounding roadways and development, the potential for native wildlife species to use the Project site as a migratory corridor or nursery site is unlikely." And according to Appendix J (page 16), "No wildlife corridors or linkages are known at the Kimball Business Park project site. It is unlikely that the site is of any significance to wildlife movement." However, a site does not have to include a "migratory corridor" or a "wildlife corridor" to provide for wildlife movement in the area. The DEIR's focus on migratory corridors was misleading as a CEQA standard because CEQA's standard is whether a project will interfere with wildlife movement in the region; corridors are not required for an impact to be significant.*

*The corridor concept is mostly a human construct intended for countering the effects of habitat fragmentation (see Smallwood 2015). It is debatable whether natural corridors exist, as implied in the DEIR and Appendix J. Corridors are usually proposed as connectors between habitat patches in habitat restoration or protection efforts.*

*Wildlife movement in the region, and whether a proposed project would significantly affect this movement, should be studied using appropriate field methods such as surveys performed over all four seasons of the year within sampling plots randomly or systematically distributed across the appropriately-defined region. Nothing like this happened in support of the impacts assessment of this project. Short of field surveys, an analysis should include a visual examination of the potential movement patterns of wildlife across open spaces linking rivers and streams, marshes and woodlands, and mountainous areas. Nothing like this happened in support of the impacts assessment of this project, even though such an analysis is really easy.*

*I used Google Earth imagery to examine the available open space in the region and more locally around the project site (Figures 1 and 2). Land conversions to residential, commercial and industrial uses have left little connection of open space between several of southern California's mountain ranges (Figure 1). Converting the open space of the project site to an industrial use would choke off a movement pathway between the Jurupa Mountains and the Chino Hills and Santa Ana Mountains (Figures 1 and 2). The impact on wildlife movement in the region would be significant and irreversible. Not only would special-status species be adversely affected by the loss of this movement potential, but so too would common species be adversely affected. Rural inhabitants of the valley north and east of the proposed project site would see many fewer burrowing owls, coyotes, foxes and skunks, as examples.*

#### Response SS-6

The commentor incorrectly and misleadingly states that the EIR conclusions regarding impacts to wildlife movement are based solely on the fact that designated migratory corridors do not exist within or transect the Project site. Though true, this is not the sole factor considered in the EIR. Firstly, to clarify for the commentor, the CEQA topic considered in the EIR is whether the Project would interfere *substantially* [emphasis added] 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 wildlife nursery sites.

In these regards, there is no substantial movement of wildlife through the Project site, nor in the Project vicinity. Nor would the Project substantially interfere with or otherwise

adversely affect migratory wildlife corridors, or wildlife nursery sites. The DEIR does not, as is suggested by the commentor, reach this conclusion because no migratory corridors exist within the Project site. Rather, this conclusion is appropriately and accurately reflects the baseline condition under which the Project site functions as an active dairy; historic and on-going disturbance of the Project site; and the Project site's urban context. The Project's location, context, and level of human activity and disturbance negate its potential function as a substantive wildlife movement corridor and/or wildlife nursery. Additional "wildlife corridor" analysis suggested by the commentor is not warranted or required.

The commentor's "wildlife movement impact" analysis and related graphic representations are at best superficial and of no bearing on the Project's potential biological resources impacts. First, "Google" imagery provided by the commentor does not present a true and meaningful baseline condition, and provides no real indication of wildlife corridors, wildlife movement, or lack thereof. The commentor then superimposes directional arrows on Google imagery [commentor Figures 1, 2], indicating "wildlife movement corridors" within the region. The commentor's superimposition of random arrows and unsubstantiated statement, "converting open space on the Project site to an industrial use would 'choke off a movement pathway between the Jurupa Mountains and the Chino Hills and Santa Ana Mountains,'" does not make it so.

Further, the commentor again mischaracterizes the Project site as "open space" that somehow provides a valuable biological resources link within the region. This despite the presence of an active dairy, several hundred cows, cattle sheds, storage facilities, residential properties, and assorted ancillary uses within the Project site. The Project site is clearly not "open space" in its present condition and does not provide a viable and/or desirable path for wildlife movement. Arguably, the site as developed under the Project would function equally as well as a wildlife corridor. Contrary to the commentor's opinions, the Project would not result in or cause significant and irreversible adverse impacts to wildlife movement or wildlife corridors.

Results and conclusions of the EIR are not affected.

Comment SS-7

***Stop-over Habitat***

*The DEIR did not seriously assess the project's potential impacts on migratory birds. Most migratory species must make stops to rest during migration. Where these birds stop is referred to as "stop-over habitat." As stop-over habitat is converted to anthropogenic uses, migratory birds face higher energy costs trying to find alternative stop-over habitat or they might not even be able to complete their migrations. The DEIR should be revised to address this impact.*

Response SS-7

Contrary to the commentor's statements, potential impacts to migratory birds are specifically acknowledged and addressed in the DEIR, as excerpted below:

The Biological Report identified potential impacts to nesting migratory birds, which are protected pursuant to requirements of the Federal Migratory Bird Treaty Act (MBTA) and the California Fish and Game Code. Mitigation Measure 4.10.4 [following] has been incorporated to ensure the protection of these birds and their nests, in accordance with MBTA and California Fish and Game Code requirements. With the implementation of Mitigation Measure 4.10.4, the Project's potential impacts to nesting migratory bird species are considered less-than-significant (DEIR, p. 4.10-11).

[Mitigation Measure] 4.10.4 *If possible, all vegetation removal activities shall be scheduled from August 1 to February 1, which is outside the general avian nesting season. This would ensure that no active nests would be disturbed and that removal could proceed rapidly. If vegetation is to be cleared during the nesting season, all suitable habitat will be thoroughly surveyed within 72 hours prior to clearing for the presence of nesting birds by a qualified biologist (Project Biologist). The Project Biologist shall be approved by the City and retained by the Applicant. The survey results shall be submitted by the Project Applicant to the City Planning Department. If any active nests are detected, the area shall be flagged and mapped on the construction plans along with a minimum 300-foot buffer, with the final buffer distance to be determined by the Project Biologist. The buffer area shall be avoided*

*until, as determined by the Project Biologist, the nesting cycle is complete or it is concluded that the nest has failed. In addition, the Project Biologist shall be present on the site to monitor the vegetation removal to ensure that any nests, which were not detected during the initial survey, are not disturbed (DEIR p. 4.10-13).*

The commentor erroneously suggests that the Project site in its current developed and disturbed condition functions somehow as a valuable “stopover” site for migratory birds. This despite the presence of an active dairy, several hundred cows, cattle sheds, storage facilities, residential properties, and assorted ancillary uses within the Project site. The Project site is clearly not a unique or valuable migratory bird stopover location in its present condition. Arguably, the site as developed under the Project would function equally as well as migratory bird stop-over location. Additional analysis of impacts to wildlife movement, wildlife corridors, and/or migratory birds and/or related revisions to the EIR are not warranted or required.

Results and conclusions of the EIR are not affected.

#### Comment SS-8

*The cumulative impacts analysis directed to wildlife was inadequate, and it was based on a premise that lacked foundation. Its premise was that no special-status species are resident on the project site, but this conclusion was inconsistent with agency survey protocols that are available for special-status species. For example, the burrowing owl survey protocol was not followed, so concluding the species is absent was inappropriate. According to the DEIR (page 5-61), “Although the Project site does not contain mature trees that would typically provide the potential for nesting onsite by raptors and other non-ground nesting bird species, nesting birds are universally protected under provisions of the Migratory Bird Treaty Act.” However, there is no scientific evidence that nesting raptors or other birds protected by the Migratory Bird Treaty Act require mature trees for nesting. In fact, in all my years of performing nest surveys I have never heard of such a requirement. I believe it is false.*

*The DEIR later misrepresents CEQA by implying that mitigated project-specific impacts prevent cumulative impacts. According to the DEIR (page 5-62), “Mitigation proposed in the EIR reduces potential impacts to biological resources to levels that are less-than significant. In this regard,*

*mitigation of Project-specific biological resources impacts would also reduce the Project's potential incremental contributions to cumulative biological resources impacts within the region. Moreover, the General Plan EIR substantiates that development of the Project would not result in cumulatively significant biological resources impacts. Based on the preceding discussion, the Project's potential contribution to cumulative impacts in regard to biological resources is not considerable, and the cumulative effects of the Project are determined to be less-than- significant." However, a glance at either Figure 1 or Figure 2 ought to be enough to conclude that cumulative project impacts on wildlife are highly likely to be significant and very substantial. Habitat has been lost to residential, commercial and industrial development to a degree that leaves many wildlife species on the cusp of local extirpation and some species on the cusp of extinction. The degree of habitat fragmentation is extremely high, leaving few remaining contiguous tracts of open space connecting mountainous areas, wetlands and riparian forests. The EIR should include a serious cumulative impacts analysis (see MacDonald 2000).*

#### Response SS-8

The commentor offers an opinion that the EIR discussion of cumulative biological resources impacts is inadequate. The commentor's opinion is just that; and is apparently based on the false premise that the site comprises a potentially valuable biological resource. As substantiated in this Response, and the EIR in total, the Project site is extensively disturbed, lacks suitable much less valuable habitat, and evidences no protected species or species of concern. The Project site is demonstrably not a valuable biological resource. Further, mitigation has been provided for potential impacts to biological resources (migratory birds, burrowing owls) that may, under future conditions be present within the Project site.

The commentor then misreads and misinterprets the EIR statements regarding protection of migratory birds. To clarify for the commentor, migratory birds are protected pursuant to the Migratory Bird Treaty Act, whether ground-nesting or tree-nesting. The EIR discussion merely recognizes that the Project site does not contain mature trees that would typically provide the potential for nesting onsite by raptors and other non-ground nesting bird species.

The commentor offers a “glance at [the commentor’s] Figure 1 or Figure 2” as substantiation that the Project would somehow contribute considerably to cumulative biological resources impacts through interference with wildlife movement. This is incorrect. As discussed previously in these Responses, the commentor’s “wildlife movement impact” analysis and related graphic representations are at best superficial and of no bearing on the Project’s potential biological resources impacts. First, “Google” imagery provided by the commentor does not present a true and meaningful baseline condition, and provides no real indication of wildlife corridors, wildlife movement, or lack thereof. The commentor then superimposes directional arrows on Google imagery [commentor Figures 1, 2], indicating “wildlife movement corridors” within the region. The commentor’s superimposition of random arrows and unsubstantiated statement, “converting open space on the Project site to an industrial use would ‘choke off a movement pathway between the Jurupa Mountains and the Chino Hills and Santa Ana Mountains,’” does not make it so.

Lastly, the EIR significance conclusions regarding potential cumulative impacts to biological resources is consistent with that provided in the City of Chino General Plan EIR. Specifically, the Project is consistent with land uses and development anticipated by the City of Chino General Plan, and evaluated in the City of Chino General Plan EIR. The General Plan EIR by its nature addresses cumulative impacts associated with buildout of the City, including potential cumulative utilities and infrastructure impacts. In this regard, the General Plan EIR at Section 4.4, Biological Resources concludes that future development of the City consistent with the General Plan would result in less-than-significant impacts to biological resources. On this basis, the General Plan EIR substantiates that development of the Project would not result in cumulatively significant biological resources impacts.

As supported by the preceding Response and the EIR in total, the EIR analysis of cumulative impacts to biological resources is accurate and adequate. Additional analyses suggested by the commentor are not required or warranted.

Results and conclusions of the EIR are not affected.



Comment SS-9

***Mitigation***

*The only proposed mitigation measures for impacts to biological resources consisted of pre-construction surveys for nesting songbirds and burrowing owls, and how the nesting birds would be managed should they be found during the preconstruction surveys.*

*Mitigation measures need to be formulated for impacts predicted based on protocol level surveys, and not just preconstruction surveys. Survey protocols have been developed for special-status species in California in support of achieving CEQA goals and objectives. Avoidance and minimization strategies are generally preferred over compensatory mitigation or no mitigation, but these preferred strategies rely on knowing the distribution and abundance of each species on site and nearby the site.*

*Survey protocols are developed by experts with each species, and are intended to introduce consistent, effective methods, i.e., standards, so that the survey results at a proposed project site can be comparable and trustworthy.*

*Mitigation measures are also needed to offset or avoid impacts of the project on wildlife movement in the region, on the loss of stop-over habitat, and for cumulative impacts. When uncertainty is high with regard to a particular impact, then the level of compensatory mitigation should err on the side of caution.*

Response SS-9

The commentor asserts that the EIR mitigation of biological resources is somehow deficient and cites the need for additional surveys. Both statements are incorrect and misleading, predicated on the commentor's erroneous assumption that Project site comprises a potentially valuable biological resource.

As discussed previously in these Responses, the EIR analysis of biological resources comports with all applicable survey and reporting requirements. The EIR biological resources report substantiates that no protected species, or protected habitat exist or are likely present within the Project site. Nor does the Project site function as a valuable resource accommodating wildlife movement. Potentially significant impacts in these

regards alluded to by the commentor do not occur, nor are they likely to occur. Accordingly, additional mitigation to address the commentor's presumed impacts is not warranted or required. Please refer also to previous Responses Smallwood 1 – 8.

Results and conclusions of the EIR are not affected.

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SWAPE

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Letter Dated April 4, 2016

(Attachment "Exhibit 2" to Lozeau Drury correspondence dated April 7, 2016)

Comment MH-1

*We have reviewed the November 19, 2014 Draft Environmental Impact Report (DEIR) for the El Monte Wal-Mart Project ("Project"). The Project, to be located on a 15.41 acre parcel in El Monte, California, consists of the development of an 182,429 square-foot retail/commercial center. The center would include merchandise and groceries, off-site alcohol sales, a food tenant and non-food tenants (e.g. bank, medical clinic, portrait studio or salon) and an outdoor garden center. Parking for 755 vehicles would be accessed by two driveways along Arden Drive, while heavy truck access would be provided via Valley Circle.*

Response MH-1

Commentor review of the DEIR is acknowledged. The summary Project description provided is materially correct. Please refer also to DEIR Section 3.0, *Project Description*. No further response is required. Results and conclusions of the EIR are not affected.

Comment MH-2

*Our review concludes that the DEIR fails to adequately evaluate the Project's Hazard and Hazardous Waste, Air Quality, and Greenhouse Gas impacts. Specifically, we find the following issues with the analyses conducted in the DEIR:*

- *Hazards and Hazardous Waste*
  - *Impacts from previous agricultural use have not been adequately evaluated in the DEIR.*
- *Air Quality and Greenhouse Gas*

- *The DEIR models the Project's construction and operational criteria air pollutant and greenhouse gas (GHG) emissions using incorrect input parameters, and as a result, the Project's pollutant emissions are greatly underestimated.*
- *The DEIR concludes that the Project's operational emissions will be significant and unavoidable, yet fails to adequately evaluate and/or implement all feasible mitigation. An impact can only be deemed significant and unavoidable when an extensive (although not exhaustive) effort has been made to considerably reduce the Project's environmental effects. As such, the DEIR cannot conclude that the Project's operational emissions are significant and unavoidable until a concerted effort has been made to significantly reduce the Project's emissions.*
- *One of the few operational measures proposed by the DEIR, which would limit the truck's idling time to three minutes, may not actually be feasible, due to the presence of Transportation Refrigeration Units (TRUs), which are known to idle up to an hour at a time. As such, other mitigation measures should be evaluated, and if feasible, should be readily implemented.*
- *The DEIR fails to comply with the 2030 GHG reduction targets set forth by Executive Order B-30-15.*

*An updated DEIR should be prepared to address these issues, and should identify and incorporate additional mitigation measures where necessary.*

#### Response MH-2

The commentor incorrectly asserts that the EIR did not adequately evaluate and mitigate potential Hazards/Hazardous Waste impacts; Air Quality impacts; and Greenhouse Gas emissions impacts. As substantiated in the following Responses and the EIR in total, the EIR comports with all CEQA Guidelines and requirements addressing evaluation, identification, disclosure, and mitigation of potential Hazards/Hazardous Waste impacts; Air Quality impacts; and Greenhouse Gas emissions impacts. There is no reasoned basis or requirement for preparation of a revised DEIR as opined by the commentor.

Results and conclusions of the EIR are not affected.

Comment MH-3

**Hazards and Hazardous Waste**

*Impacts from Agricultural Use Have Not Been Adequately Evaluated*

*A January 21, 2016 Phase I Environmental Site Assessment (ESA) prepared for the Project site<sup>1</sup> found the property to be occupied by orchards from 1938 to 1953. Despite this finding, no sampling was conducted to evaluate the potential that pesticides exist at the Project site at concentrations that may pose a risk to construction workers involved in handling soils during earthmoving activities and to future workers. This type of sampling is routine at project sites where agriculture was practiced during periods when organochlorine pesticides, like DDT, were used. A revised DEIR needs to be prepared to include a Phase II ESA that evaluates this potential through soil sampling and comparison to regulatory screening levels established for the protection of human health. Given when agriculture was practiced at the Project site, residual pesticides, including DDT, may be present in Project site soils from the application of pesticides. Organochlorine pesticides, such as DDT, DDE, and Dieldrin, were used from the 1940s until they were banned in the 1970s. Despite being banned for about 40 years, these compounds can persist in soil for hundreds of years. The California Department of Toxic Substances Control (DTSC) states:*

*DDT is ubiquitous to California soil due to heavy agricultural usage prior to cancellation in 1972. Therefore, agricultural land which is currently being developed or considered for new uses [...] frequently contains DDT.*

*Exposure to DDT can result in headaches, nausea, and convulsions.<sup>5</sup> The U.S. EPA identifies DDT and DDE as probable human carcinogens.<sup>6</sup> Dieldrin has also been classified as a probable human carcinogen by the U.S. EPA.*

*Pesticide residuals in soils that may pose a health risk are a well-known issue for developers and local agencies in the Chino area where assessments to evaluate this potential are routinely conducted as part of the CEQA process. For example, at the Falloncrest site located one mile to the southwest of the Project, sampling was conducted for organochlorine pesticides in soil in 2011 because of past use for agriculture and dairy operations. The sampling detected residual levels of Dieldrin in soil at 73 and 150 ug/kg to exceed the residential US EPA preliminary remediation goal (PRG) value of 34 ug/kg<sup>9</sup> for two samples.*

*We understand that the Project is not a residential development like Falloncrest project. Therefore, we evaluated the levels of Dieldrin contamination found at the Falloncrest site in light of the commercial/industrial PRG, consistent with the Project's land use. Our analysis of the data showed that one sample from the Falloncrest project exceeded the commercial/industrial PRG of 140 ug/kg.<sup>10</sup>*

*The exceedance of the commercial/industrial PRG at Falloncrest, a location within a mile of the Project where past land uses are almost identical, indicates the likelihood of finding similar concentrations of residual pesticides. The Project DEIR should be revised to include site-wide sampling for pesticides, consistent with provisions made under CEQA for other projects where the City of Chino is the lead agency, as cited in the example above. The sampling should adhere to guidance published by the California Department of Toxic Substances Control (DTSC), entitled "Interim Guidance for Sampling Agricultural Properties." In accordance with this guidance, sampling for pesticides at the 70-acre site would require drilling 60 borings for the collection of 15 composite soil samples.*

*The results of the sampling should be assessed for health risks by appropriate regulatory agencies, including the City of Chino and the California Department of Toxics Substances Control (DTSC). The results of the sampling, along with a regulatory determination that the site is safe for development, should be included in a revised DEIR. Any mitigation that would be necessary to protect construction worker health and health of the future workers should be identified in the revised DEIR. Additional mitigation, for handling any soil that would contain concentrations of pesticides at hazardous waste levels, should also be identified in the revised DEIR.*

### Response MH-3

Contrary to the commentor's assertion, collecting/analyzing soil samples for pesticides is not normally undertaken at properties that are proposed to be redeveloped for industrial uses, unless there is an indication that pesticide storage and/or mixing has occurred onsite. As noted in the technical report, no evidence of these activities has been identified.

These procedures are industry standards. The commentor confuses pesticide hazard analysis and related mitigation protocols by citing the nearby Falloncrest Project, located



approximately one mile away. The Falloncrest project site, like the instant Project site, is occupied by existing dairy/cattle operations. Unlike the instant Project, which proposes industrial uses, the Falloncrest project proposes development of over 1,400 residential units and parkland. Because it is a residential proposal, collecting/analyzing soil samples was an appropriate course of action for the Falloncrest project. In this case, the Kimball Business Park Project proposes no residential development, and collection and evaluation of soils per the Falloncrest protocols would be atypical.

Furthermore, there are no regulatory guidelines for sampling proposed industrial properties for pesticides. In addition, due to the low likelihood of human exposure during construction activities (either worker exposure or windborne), federal and state governments do not regulate sampling prior to construction. Under developed conditions, industrial properties have few open spaces, and are commonly capped with buildings or hardscape materials. This lack of open space reduces the potential for human exposure to any pesticides that may exist in a buried context, further obviating requirements for detailed analysis of underlying soils conditions.

Lastly, it is noted that the sampling protocols recommended by the commentor were established for proposed school sites and are not applicable to an industrial project such as the proposed Kimball Business Park Project.

Notwithstanding the preceding considerations, and in an effort to be responsive to the commentor's stated concerns and generally further disclosure, a pesticide/soil sampling was undertaken on April 27<sup>th</sup> and 28<sup>th</sup>, 2016 by Ardent Environmental Group. The complete report (*Results of Pesticides Sampling, Kimball Property, Chino, California, Ardent Environmental Group May 7, 2016*) is presented at Appendix A of this FEIR, and findings and conclusions of the report are summarized below.

Laboratory results were compared to both the State of California DTSC Screening Levels for industrial/commercial land use (DTSC-SLi) and the Federal EPA Regional Screening Levels for industrial/commercial land use (RSLi). Both of these regulatory guidelines are based on a human health risk criteria. Laboratory results indicated detectable

concentrations of 4,4-DDT, its breakdown product 4,4-DDE, and dieldrin. No other Organochlorine Pesticides were present above the laboratory detection limits.

The DTSC-SLi do not contain screening levels for the particular pesticides that were detected, therefore the samples were compared to the EPA RSLi. Based on the laboratory analytical results, low concentrations of 4,4-DDE, 4,4-DDT, and dieldrin were detected in select samples, well below the EPA RSLi values. The results are presented below.

#### Summary of Soil Sample Laboratory Results

Composite Sample ID	Samples Composited	Date Sampled	Organochlorine Pesticides (mg/kg)			
			4,4-DDE	4,4-DDT	Dieldrin	All Others
EPA RSLi (threshold)			9.3	8.5	0.14	Various
1	B1-1	4/27/16	ND<0.01	ND<0.01	ND<0.01	ND<0.01-0.2
	B2-5	4/27/16				
	B3-2	4/27/16				
	B4-2.5	4/27/16				
2	B5-2	4/27/16	0.002	ND<0.001	ND<0.001	ND<0.001-0.2
	B6-1	4/27/16				
	B7-1.5	4/27/16				
	B8-2	4/27/16				
3	B9-1.5	4/27/16	0.002	ND<0.001	ND<0.001	ND<0.001-0.2
	B10-3	4/27/16				
	B11-4	4/27/16				
	B12-1	4/27/16				
4	B13-1	4/27/16	0.011	ND<0.002	ND<0.002	ND<0.002-0.04
	B14-1.5	4/27/16				
	B15-2	4/27/16				
	B16-1.5	4/27/16				
5	B17-1.5	4/27/16	0.011	ND<0.01	ND<0.01	ND<0.01-0.2
	B18-1.5	4/27/16				
	B19-3.5	4/27/16				
	B20-3.5	4/27/16				
6	B21-2	4/27/16	0.027	ND<0.01	ND<0.01	ND<0.01-0.2
	B22-1.5	4/27/16				

## Summary of Soil Sample Laboratory Results

Composite Sample ID	Samples Composited	Date Sampled	Organochlorine Pesticides (mg/kg)			
			4,4-DDE	4,4-DDT	Dieldrin	All Others
	B23-4	4/27/16				
	B24-1.5	4/27/16				
7	B25-3	4/27/16	0.009	ND<0.002	ND<0.002	ND<0.002-0.04
	B51-3.5	4/28/16				
	B26-1	4/28/16				
	B29-1	4/28/16				
8	B40-1.5	4/28/16	0.005	ND<0.001	ND<0.001	ND<0.001-0.2
	B41-2	4/28/16				
	B42-2	4/28/16				
	B43-1.5	4/28/16				
9	B44-1	4/28/16	ND<0.01	ND<0.01	ND<0.01	ND<0.01-0.2
	B45-3	4/28/16				
	B46-2	4/28/16				
	B47-1.5	4/28/16				
10	B48-3	4/28/16	0.075	ND<0.02	ND<0.02	ND<0.02-0.4
	B49-2.5	4/28/16				
	B50-4	4/28/16				
	B52-2	4/28/16				
11	B53-1.5	4/28/16	0.004	ND<0.001	ND<0.001	ND<0.001-0.2
	B27-1	4/28/16				
	B28-1	4/28/16				
	B30-1.5	4/28/16				
12	B39-1.5	4/28/16	0.085	ND<0.02	ND<0.02	ND<0.02-0.4
	B60-1.5	4/28/16				
	B31-1.5	4/28/16				
	B54-1.5	4/28/16				
13	B32-1.5	4/28/16	0.030	ND<0.01	ND<0.01	ND<0.01-0.2
	B55-1.5	4/28/16				
	B38-1.5	4/28/16				
	B59-1.5	4/28/16				
14	B33-1.5	4/28/16	0.072	ND<0.02	0.064	ND<0.02-0.4
	B34-1.5	4/28/16				

## Summary of Soil Sample Laboratory Results

Composite Sample ID	Samples Composited	Date Sampled	Organochlorine Pesticides (mg/kg)			
			4,4-DDE	4,4-DDT	Dieldrin	All Others
15	B35-1.5	4/28/16	0.052	0.014	0.027	ND<0.01-0.2
	B56-1.5	4/28/16				
	B36-1.5	4/28/16				
	B37-1.5	4/28/16				
	B57-1.5	4/28/16				
	B58-1.5	4/28/16				

Source: Ardent Environmental Group, Inc.

**Notes:**

Sample ID - sample identification

Organochlorine pesticides analyzed in general accordance with EPA Method No. 8081A

4,4-DDE - 4,4-dichlorodiphenyldichloroethylene

4,4-DDT - 4,4-dichlorodiphenyltrichloroethane

mg/kg - milligrams per kilogram

ND - no detectable concentration above the actual reporting limit (including dilution factor)

EPA RSLi - EPA, Region 9, Regional Screening Levels for industrial/commercial land use, dated November 2015.

As can be seen from the above Soil Sample Table, laboratory results indicated non-detectable to low concentrations of Organochlorine Pesticides. Based on these results, Ardent Environmental Group concluded that *“there is a low likelihood that residual pesticides would pose a significant human health risk to future workers or occupants of the site.”* Based on these results, the potential for the Project to result in or cause a significant hazard associated with contaminated soils is determined to be less-than-significant.

Contrary to the commentor’s assertion otherwise, the detailed soils sampling presented in this Final EIR demonstrates and substantiates that nominal levels of residual pesticides that exist within the Project site pose little to no risk to neighbors and/or workers. There is no basis for, or requirement for, a revised DEIR to evaluate potential impacts from residual pesticides, or to restate the baseline conditions for the Project.

Results and conclusions of the EIR are not affected.

Comment MH-4

***Air Quality***

*Unsubstantiated Input Parameters Used to Estimate Project Emissions*

*The DEIR relies on emissions calculated from the California Emissions Estimator Model Version CalEEMod.2013.2.2 (“CalEEMod”). 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 CEQA requires that such changes be justified by substantial evidence. Once all the values are inputted into the model, the Project’s construction and operational emissions are calculated, and “output files” are generated. These output files, which can be found in Appendix D of DEIR, 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.*

*When reviewing the Project’s CalEEMod output files, we found that several of the values inputted into the model are not consistent with information disclosed in the DEIR. As a result, the Project’s construction and operational emissions are greatly underestimated. A revised DEIR should be prepared to adequately assess the potential impacts that construction and operation of the Project may have on regional and local air quality using appropriate input parameters.*

Response MH-4

CalEEMod procedures and protocols as summarized by the commentor are noted. All EIR air quality modeling comports with all CalEEMod procedures and protocols. CalEEMod inputs employed are appropriate and accurate for the instant Project. Commentor statements asserting otherwise are incorrect. There is no basis or requirement for revisions to the EIR and the EIR evaluation of air quality impacts. Please refer to the following responses.

Results and conclusions of the EIR are not affected.

Comment MH-5***Architectural Coating Emissions Underestimated***

*There is a discrepancy between the mitigation measures discussed in the Air Quality Impact Analysis (AQIA) (Appendix D of the DEIR) and the measures discussed in the DEIR, and as a result, the Project's emissions are greatly underestimated. Mitigation measure 4.3.4 of the DEIR states that only "Zero- Volatile Organic Compounds" paints with no more than 150 grams/liter (g/L) of VOC will be utilized during construction (Table 1.12-1, p. 1-58). However, MM AQ-1 of the AQIA states that only "Zero- Volatile Organic Compounds" paints of no more than 50 g/L would be utilized during construction (p. 9).*

*As a result, the AQIA changes the VOC emission factor within the CalEEMod model from the default value of 250 g/L to 50 g/L to remain consistent with MM AQ-1 of the AQIA (AQIA, pp. 146 of 418) (see excerpt below).*

tblArchitecturalCoating	EF_Nonresidential_Exterior	250.00	50.00
tblArchitecturalCoating	EF_Nonresidential_Interior	250.00	50.00

*Due to the discrepancy in the VOC emission limits between the DEIR and the AQIA (150 g/L versus 50 g/L), it is unclear what the limit will actually be once the Project is approved. Assuming that the architectural coating limit of 150 g/L disclosed in the DEIR is the actual limit that will be required during construction and operation of the Project, a VOC emission factor of 150 g/L should have been inputted into the CalEEMod model, not 50 g/L, as is conducted in the DEIR's AQIA. As a result, by utilizing 50 g/L instead of 150 g/L in the CalEEMod model, the Project's VOC emissions from architectural coating are greatly underestimated.*

Response MH-5

The commentor states that the Project operational-source Volatile Organic Compound (VOC) emissions presented in the EIR are "greatly underestimated" [commentor's language]. This is incorrect. To clarify for the commentor, there is no underestimation of VOC emissions in the EIR. Rather, there is a typographical error in the EIR text that is corrected here to be consistent with the information presented in the Project Air Quality Impact Analysis (AQIA, EIR Appendix D). Specifically, the DEIR text at Mitigation

Measure 4.3.4 contains a typographical error (150g/l [error] rather than 50g/l [correct]) that is corrected below. SCAQMD-suggested revisions have also been incorporated in the following amended Mitigation Measure 4.3.4.

4.3.4 *Only “Zero-Volatile Organic Compounds” paints (no more than 150 grams/liter of VOC) and/or ~~High Pressure Low Volume (HPLV)~~ High Volume Low Pressure (HVLP) applications consistent with South Coast Air Quality Management District Rule 1113 shall be used. To the extent practicable, construction materials that are pre-painted, or that do not require painting should be employed.*

The typographical error appearing at Mitigation Measure 4.3.4 is of no consequence in the estimation of Project VOC emissions because quantification and analysis of Project operational-source (VOC) emissions presented in the EIR accurately reflect the Air Quality Impact Analysis (AQIA) VOC content modeling limit of 50g/L. Further, the EIR significance conclusions are based on quantification and analysis of Project operational-source VOC emissions reflecting a VOC content limit of 50g/L (see AQIA at p. 9, et al.).

In summary, the DEIR text at Mitigation Measure 4.3.4 contains a typographical error regarding VOC content limits. This typographical error (150 g/l corrected herein to 50g/l) is not the basis for the modeling of VOC emissions as presented in the Project AQIA and reflected in the EIR conclusions regarding the significance of VOC impacts. Rather, the modeling of VOC emissions as presented in the Project AQIA and reflected in the EIR conclusions is based on the 50g/l VOC limit specified at AQIA p. 9, et al. The noted DEIR typographical error is of no consequence. Results and conclusions of the EIR are not affected.

#### Comment MH-6

##### *Failure to Account for Heavy-Duty Truck Trips*

*The DEIR, AQIA, and Traffic Impact Analysis (TIA) (Appendix C of the DEIR) all assume that the proposed Business Park land uses will not generate heavy-duty truck trips, and as such, the AQIA does not account for heavy-duty truck trips in its CalEEMod model for the proposed Business Park. The TIA states that “per the ITE Trip Generation manual and as shown on the preliminary site plan, the business park uses are not anticipated to generate any heavy truck traffic. As such, no vehicle*

*mix has been applied to the business park uses proposed as part of the Project” (p. 137). This, however, is not only unsubstantiated, but it is also inconsistent with information provided in the DEIR and ITE Trip Generation Manual.*

*According to the DEIR, “Business Park uses may include offices, retail and wholesale stores, restaurants, recreational areas and warehousing, manufacturing, light industrial, or scientific research functions” (p. 3-6). As such, at least a portion of the proposed Business Park uses will be used for industrial and warehousing purposes. Furthermore, according to the ITE Trip Generation Manual, the average mix of land uses within a Business Park is usually “20 to 30 percent office/commercial and 70 to 80 percent industrial/warehousing.”*

*Given that the majority of a Business Park consists of industrial and warehousing uses, it is not accurate to assume that no heavy-duty trucks trips will be generated by the proposed Business Park. Furthermore, the DEIR explicitly states that the proposed Business Park will consist of a mix of commercial and industrial land uses. Therefore, the AQIA and TIA should have considered the truck trips that would be generated by the industrial and warehousing aspects of the Business Park land uses, as there is substantial evidence indicating that significant amounts of truck traffic will be generated by them. By failing to account for heavy-duty truck trips within the CalEEMod model for the Business Park land use, the Project’s operational emissions are greatly underestimated.*

#### Response MH-6

The commentor incorrectly asserts that the EIR, supporting Traffic Impact Analysis (TIA), and Air Quality Impact Analysis (AQIA) and related CalEEMod inputs for the Project Business Park uses do not include any heavy-duty truck trips.

As an initial response to the above, the commentor conflates and confuses trip generation estimates made for traffic impacts analytic purposes with trip generation estimates made for air quality analytic purposes. This no doubt contributes to the commentor’s misunderstanding of potential traffic impacts and traffic-source air quality impacts resulting from the Project. Trip generation for traffic impact analytic purposes vs. trip generation estimates employed for air quality impact analytic purposes are clarified here.



For the purposes of the Project Traffic Impact Analysis (TIA), aggregate Project trips, (expressed in passenger car equivalents, PCEs) were estimated in order to determine likely peak-hour traffic level of service (LOS) impacts within the Study Area. The TIA in this regard converts all vehicle classes (trucks, light duty trucks, heavy-duty trucks, etc.) to their equivalent PCEs, thereby recognizing and acknowledging physical size differences in vehicles and related effects on roadways and at intersections.

In contrast, and because different classes of vehicles exhibit differing emissions characteristics, the Project AQIA quantifies and purposely segregates vehicle trips by vehicle class (passenger cars, light duty (LD) trucks, heavy duty (HD) trucks, heavy-heavy-duty (HHD) trucks, etc.). This establishes likely emissions levels that would be generated by each class of vehicles accessing the Project site. Emissions generated by each class of vehicle were then summed in order to estimate the Project's total daily vehicular-source emissions.

The Project traffic and air quality analyses, thus while related because both rely at least in part on Project trip generation estimates, are developed through differing methodologies and for differing purposes. Trip estimates in either of the analyses therefore necessarily do not translate directly to the other, as erroneously inferred by the commentor.

The commentor's stated concerns and incorrect statements regarding trip generation factors employed for the Project Business Park uses are addressed next. As background, it is important for the commentor to understand the proposed Business Park uses as an integral part of the Project design. Specifically, the Business Park component of the Project establishes a series of comparatively small buildings ranging in size from approximately 5,825 square feet to 11,500 approximately square feet (including office space). As a site planning function, the Business Park portion of the Project serves as a buffer between the larger warehouse uses proposed in the northerly portions of the Project site and existing residential uses located southerly of the Project site, across Kimball Avenue. These smaller Business Park use buildings do not include parking suitable for truck or tractor-trailers, and include no more than one or two roll up doors per building. Moreover, warehouse-type dock height doors intended for use by heavy duty trucks are not provided for the proposed

Business Park uses. In combination, these design aspects of the Project effectively preclude substantive heavy truck traffic from accessing the proposed Business Park uses.

Note further that the ITE general description of Business Park uses cited by the commentor indicating inclusion of warehousing is necessarily generic, broad, and inclusive of a wide variety of potential Business Park land uses. The ITE generic description of Business Park uses is by no means definitive for every possible Business Park-type development proposal, and does mean that all Business Park uses by definition include a substantive warehouse component. This is true in the case of the instant Project.

More specifically, the Project Applicant and Lead Agency intend that the Business Park component of the Project would be marketed to, and occupied by, small businesses and/or light retail users (e.g., dry cleaner, sandwich shop, etc.). The multiple small buildings reflected in the Project Site Plan Concept discussed above, reflects these types of uses, not warehouses.

Further, heavy truck traffic (if any) generated by the Project Business Park uses would not occur during peak commute hours (i.e., 7am – 9am and 4pm – 6pm). The limited number of delivery or box-type traffic that may access the proposed Business Park uses would likely occur in off-peak times, and would therefore have no demonstrable effect on the Study Area facilities peak-hour Level of Service (LOS) operations. The amount of off-peak truck traffic that may be generated would consequently not affect the significance of scope of the Project's traffic impacts, nor alter the degree and/or type of required traffic improvements and/or traffic mitigation.

Furthermore, even presupposing that the Project Business Park uses would comprise predominantly light industrial occupancies (as suggested by the commentor) would not substantively affect the EIR traffic impact analyses or the EIR traffic impact significance conclusions. In this regard, comparison of PCE trip generation factors indicate that a Business Park use would actually generate more trips than would a General Light

Industrial use of the same scale.<sup>16</sup> For example, the 146,550 square feet of Business Park uses proposed by the Project would generate an estimated 1,823 daily trips (PCE), with 205 PCE trips during the AM peak hour and 184 PCE trips during PM peak hour (Project TIA, p. 136, et al.). In comparison, an assumed 146,550 square feet of General Light Industrial use would generate 1,296 daily PCE trips, with 171 PCE trips during AM peak hour and 180 PCE trips during PM peak hour. In summary, Business Park uses such those proposed by the Project are estimated to generate 527 more daily PCE trips, with 34 more PCE trips during AM peak hour and 4 more PCE trips during the PM peak hour than would General Light Industrial uses of the same square footage.

The commentor's erroneous statements regarding vehicular-source air quality impacts resulting from the Project's various uses is next addressed. In the case of the Project, the Project air quality analyses employ adopted emissions factors, and vetted vehicle trip generation factors and vehicle trip lengths for the various classes and quantities of vehicles anticipated to access the Project site. In combination, the AQIA trip generation, vehicle mix, and vehicle trip length assumptions yield a conservative overestimation of the Project's vehicular-source emissions impacts (AQIA, pp. 40-41).

For the Project Business Park uses cited by the commentor, CalEEMod default vehicle mixes and related emissions factors uses have been employed. Please refer to AQIA Appendix 3.1, CalEEMod Data Files, *Kimball Business Park-Operation Business Park*, pp.6-7 of 10; 4.2, *Trip Summary Information*; 4.3, *Trip Type Information*. Relevant CalEEMod modeling data is reproduced and presented at Appendix B of this FEIR. As explanatory notes to the appended data, under the heading 4.3, *Trip Type Information*, the various classes of vehicles reflected in the AQIA modeling of Business Park vehicular-source emissions are highlighted (p. 7 of Appendix B). The highlighted column headings identify the various vehicle classes reflected in the AQIA modeling, and the numeric column entries identify the percentage of trips assigned to each vehicle class. For example, the far left column quantifies the percentage (47.049 %) of the Business Park total daily trips assigned to the Passenger Car (LDA) class. Similarly, the MHD (Medium Heavy Duty) column entry

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16 PCE trip generation for Business Park use per Project TIA. PCE trip generation for General Light Industrial uses based on *City of Fontana Truck Trip Generation Study*.

indicates that 1.663 percent of the total daily Business Park trips would accrue to Medium Heavy Duty trucks, etc. The CalEEMod default vehicle mix as employed in the Project AQIA accurately reflect the full range of vehicle types (passenger cars, medium duty trucks, heavy-duty trucks, heavy-heavy-duty trucks, buses, motorcycles, etc.) that would access the Project Business Park uses. The vehicle classes reflected in the AQIA modeling include, but are not limited to, the heavy truck class cited by the commentor. The AQIA Business Park analysis does, contrary to commentor's assertion, include a heavy truck component.

As substantiated in the preceding Response and by the EIR air quality and traffic impact analyses in total, and contrary to the commentor's assertions otherwise, the EIR accurately reports all vehicle-source emissions generated by the Project, including but not limited to vehicular-source emissions that would be generated by heavy truck traffic accessing the Project Business Park uses.

As a matter of clarification and correction, the text at Project Air Quality Impact Analysis p.39, (and elsewhere in the Project air quality analyses), is amended as follows:

- ~~ITE land use code 770 (Business Park) has been used to derive the site specific trip generation estimates for Buildings 9 through 25. Per the ITE Trip Generation manual and as shown on the preliminary site plan, the business park uses are not anticipated to generate any heavy truck traffic. As such, no vehicle mix has been applied to the business park uses proposed as part of the Project.~~ **Vehicle mix and vehicle emissions factors for Buildings 9 through 25 have been modeled consistent with CalEEMod default parameters.**

There is no error in the DEIR air quality analyses related to estimation of emissions generated by heavy trucks accessing the Project Business Park uses. The Project air quality analyses reflect air quality impacts of the Project as currently defined, and establish the likely maximum vehicular-source emission impact scenario.

Results and conclusions of the DEIR are not affected.

Comment MH-7

***Failure to Consider Cold-Storage Requirements for Heavy-Warehouse Buildings***

*According to the AQIA, "...it is assumed that up to 15% of the Project's High-Cube Warehouse (building 3) total building square footage could be used for cold storage (e.g., refrigerated uses)..." (p. 4). While this accounts for the potential refrigeration needs of the high-cube warehouse, the AQIA fails to consider cold-storage needs that may occur within the other proposed buildings, in particular the proposed heavy warehouse buildings. By failing to consider the potential cold storage needs that may be required within the heavy-warehouse buildings, the Project's operational emissions are greatly underestimated.*

*According to the DEIR, high-cube warehouses/distribution centers are used for the storage of materials, goods and merchandise prior to their distribution to retail outlets, distribution centers or other warehouses, and heavy warehouse uses are primarily devoted to the storage of materials, but they may also include office and maintenance areas (p. 3-6). Therefore, using this information, the heavy warehouse buildings are similar to high-cube warehouses in that they are primarily used for storage of materials. Because specific tenants are unknown, it cannot be assumed that the proposed warehouse buildings will be composed solely of unrefrigerated warehouses, as it is unsubstantiated (AQIA, p. 3)*

*As discussed by the South Coast Air Quality Management District (SCAQMD), "CEQA requires the use of 'conservative analysis' to afford 'fullest possible protection of the environment.'" As a result, the most conservative analysis should be conducted. Therefore, similar to how a portion of the high-cube warehouse was modeled as "Refrigerated Warehouse-No Rail," a portion of the heavy warehouse buildings should also be modeled assuming a "Refrigerated Warehouse-No Rail" land use type, so as to take into consideration the possibility that future tenants in the warehouse buildings may require both cold storage and non-cold storage. By failing to consider the potential cold storage needs that may be required in the heavy warehouse buildings, the Project's operational emissions are underestimated.*

*Refrigerated warehouses release more air pollutants and greenhouse gas (GHG) emissions when compared to unrefrigerated warehouses for several reasons. First, warehouses equipped with cold storage (refrigerators and freezers, for example) are known to consume more energy when compared to warehouses without cold storage. Second, warehouses equipped with cold storage typically require refrigerated trucks, which are known to idle for much longer, even up to an hour, when compared to unrefrigerated hauling trucks.*

*Lastly, according to a July 2014 Warehouse Truck Trip Study Data Results and Usage presentation prepared by the SCAQMD, it was found that hauling trucks that require refrigeration result in greater truck trip rates when compared to non-refrigerated hauling trucks.<sup>20</sup> By not including refrigerated warehouses as a potential land use in the air quality model, the Project's operational emissions may be grossly underestimated, as the future tenants are currently unknown and may require cold-storage. Unless the Project Applicant can demonstrate that the future tenants of these proposed buildings will be limited to unrefrigerated warehouse uses, exclusively, it should be assumed that a mix of cold and non-cold storage will be provided for Heavy-Warehouse buildings.*

#### Response MH-7

The commentor speculates without substantiation, that the Project would include some unknown refrigerated warehouse component beyond that described and evaluated in the EIR.

As an initial response, as provided for under California Public Resources Code (PRC) Section 21080, subd. (e) (2) (excerpted below), the commentor's statements alone are not considered substantial evidence that the Project refrigerated land use component would exceed the refrigerated land use component evaluated in the DEIR.

(2) Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, [or] evidence that is clearly inaccurate or erroneous . . .

Any conclusions based on the commentor's speculative statements have no basis in fact.

SCAQMD conservative analytic protocols cited by the commentor are acknowledged. The EIR and AQIA comport with all SCAQMD guidelines and protocols, and the AQIA in total presents a conservative overestimation of the Project's likely maximum potential air quality impacts (AQIA, pp. 40-41).

The commentors' statements: "a portion of the [Project] heavy warehouse buildings should also be modeled assuming a "Refrigerated Warehouse-No Rail" land use type, so as to take into consideration the possibility that future tenants in the warehouse buildings may require both cold storage and non-cold storage"; and "it should be assumed that a mix of cold and non-cold storage will be provided for the Heavy-Warehouse buildings" reside within the realm of argument, speculation, unsubstantiated opinion or narrative, [or] evidence that is clearly inaccurate or erroneous. The refrigerated land use artifice assumed by the commentor is not the Project under consideration by the Lead Agency and is not the Project evaluated in the EIR.

In this latter regard, CEQA does not define "project" to include potential future activities that are not being proposed and that the agency is not considering for approval. *CEQA Guidelines* 15378(a) (3). CEQA is intended to apply only to project components that an agency is proposing to implement. It does not extend to speculative development or activities (such as offered by the commentor) that the agency is not proposing to approve or undertake.

As noted, for the instant Project, the refrigerated component is established at 15% of the Project's High-Cube Warehouse (Building 3). The Lead Agency, through Conditions of Approval will stipulate compliance with this provision. As a matter of record and clarification, the EIR Project Description is amended accordingly, as presented below.

- 352,000 square feet of High-cube Warehouse/Distribution use within a single building (Building 3). **Approximately 15% or 52,800 square feet of Building 3 may be allocated for cold storage (refrigerated) uses.** High-cube Warehouses/Distribution centers are used for the storage of materials, goods and

merchandise prior to their distribution to retail outlets, distribution centers or other warehouses (EIR, p. 3-6).

The noted 15% of Building 3 equates to 52,800 square feet (approximately 1.2 acres) of floor area that would be allocated for cold storage uses. This is more than sufficient area to accommodate effective storage and transfer of a wide variety of refrigerated products. Commentor assumptions that additional or other refrigerated warehouse uses would be included in the Project, and that a revised EIR must be prepared to analyze this assumed condition is without merit. That is, there is no requirement or reasoned argument for preparation of a revised EIR to address speculative environmental effects resulting from speculative tenants requiring speculative refrigeration not evaluated in the EIR. It is at this point presumptive to assume (as does the commentor) that the Project as developed would differ substantively from that evaluated in the EIR.

In contrast, to the commentor's speculative assertions, the EIR and supporting air quality analyses provide reasoned assessments of anticipated warehouse refrigeration requirements for the instant Project based on development of the subject site intended by the Lead Agency and the Applicant.

Specifically, as noted in the Project Air Quality Impact Analysis (Project AQIA):

For analytical purposes, it is assumed that up to 15% of the Project's High-Cube Warehouse (Building 3) total building square footage could be used for cold storage (e.g., refrigerated uses) which is a conservative estimate based on Urban Crossroads' and the Applicant's experience in working and developing logistics warehouses throughout Southern California.

The Project's refrigerated warehouse component is reflected consistently throughout the DEIR evaluation and conclusions regarding the Project's potential air quality, GHG and HRA impacts.



Commentor statements such as *“Refrigerated warehouses release more air pollutants and greenhouse gas (GHG) emissions when compared to unrefrigerated warehouses,”* may be true in certain instances and contexts, but raise no environmental issues for the instant Project. These statements are noted without further response.

The commentor then implies that SCAQMD truck trip generation rates for refrigerated warehouse land uses would exceed trip generation estimates presented in the DEIR. This intimation is wrong. Specifically, the commentor cites a SCAQMD power point presentation<sup>17</sup> regarding comparative trip generation rates for refrigerated and non-refrigerated warehouse uses. The cited SCAQMD power point presentation indicates that the average truck trip generation rate for surveyed sites with “only cold storage” is approximately 1.10 truck trips/thousand square feet (tsf) and the average truck trip generation rate for “non-cold storage” is approximately 0.40 truck trips/tsf. The SCAQMD surveys included a total of 33 sites with 28 non-cold storage sites and 5 only cold storage sites. The SCAQMD average truck trip generation rate for all sites is 0.50 truck trips/tsf. The average SCAQMD trip generation rate is actually less than the trip generation rate of approximately 0.64 truck trips/tsf employed for the Project High-Cube Distribution Center land use, the component of the Project that would accommodate cold storage. Employing the SCAQMD trip generation as suggested by the commentor would therefore erroneously and inaccurately underestimate the Project’s potential truck traffic and related impacts. The commentor’s suggestion in these regards controverts the intent of CEQA to accurately identify and disclose environmental impacts.

Employing the SCAQMD trip generation as suggested by the commentor would therefore erroneously and inaccurately underestimate the Project’s potential truck traffic and related impacts. The commentor’s suggestion in these regards controverts the intent of CEQA to accurately identify and disclose environmental impacts.

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<sup>17</sup> [http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/final-ielc\\_6-19-2014.pdf?sfvrsn=2](http://www.aqmd.gov/docs/default-source/ceqa/handbook/high-cube-warehouse-trip-rate-study-for-air-quality-analysis/final-ielc_6-19-2014.pdf?sfvrsn=2)

In contrast to the commentor's speculative statements, the Project air quality analyses provide substantiated and accurate assessment of potential air quality impacts for the Project as defined in the DEIR, and comport with CEQA intent to accurately identify and disclose environmental impacts. As a Condition of Approval, and consistent with the Project evaluated in the DEIR, the Lead Agency has stipulated that the refrigerated land use component of the Project not exceed 15% of the Project's High-Cube Warehouse (Building 3) total building square footage. The Project Conditions of Approval state further that none of the other Project uses will incorporate a refrigerated component. The EIR Project Description is amended and clarified to note that up to 15% of the Project's High-Cube Warehouse (Building 3) total building square footage may be allocated for cold storage (refrigerated) uses.

Based on the above Response and the EIR in total, there is no requirement or basis for preparation of an updated DEIR to account for the commentor's speculative requirement for refrigerated warehouse uses beyond those considered and evaluated in the EIR.

Results and conclusions of the EIR are not affected.

#### Comment MH-8

##### ***Updated Analysis Indicates Increase in Pollutant Emissions***

*In an effort to accurately estimate the Project's emissions, we prepared an updated air model using CalEEMod. We remodeled construction emissions assuming that 84,600 square feet out of 564,000 total square feet (15 percent) of the heavy warehouse space would require cold storage. Furthermore, we reduced the construction architectural coating emission factor from the default value of 250 g/L to 150 g/L, which is consistent with Mitigation Measure 4.3.4 of the DEIR. Finally, we remodeled emissions from the Business Park so that heavy duty vehicles were taken into consideration. Separate passenger car and truck models were run for the Business Park land uses. A trip rate of 9.77 and 2.66 was used for the passenger car model and truck model, respectively. Furthermore, we applied the same weighted truck fleet mix (37.40% LHD1, 18.23% MHD, and 44.37% HHD) as the General Light Industrial to the Business Park truck trip rate.*

*When correct input parameters are used to model emissions, we find that the Project's construction and operational criteria air pollutant emissions increase significantly compared to the DEIR's model. Specifically, we find that the Project's construction related VOC emissions exceed the regional significance threshold of 75 pounds per day, even after implementation of mitigation proposed by the DEIR and AQIA [see SWAPE summary emissions Tables].*

*Furthermore, we find that the Project's operational criteria air pollutant emissions increase significantly compared to the DEIR's model, with VOC and NOx emissions exceeding thresholds [see SWAPE summary emissions Tables].*

*As demonstrated in [the SWAPE summary emissions Tables], when correct input parameters are used, operational NOx and VOC emissions increase by approximately 28 percent and 5 percent, respectively, and operational PM10 and PM2.5 emissions increase by approximately 22 percent and 23 percent, respectively. Furthermore, the Project's VOC emissions during construction and operation, as well as the Project's operational NOx emissions all exceed the SCAQMD's maximum daily thresholds. Due to these reasons, an updated DEIR should be prepared that includes an updated model to adequately estimate the Project's emissions during construction.*

#### Response MH-8

Commentor's statements such as "when correct input parameters to model emissions" are, erroneous and misleading. In fact, the commentor (SWAPE) applies incorrect parameters and unsubstantiated air quality modeling inputs, with resulting incorrect and unsubstantiated results and conclusions.

Moreover, the commentor's modeling efforts are entirely opaque. The commentor provides only conclusory statements and summation of (assumed CalEEMod) tabular information with no indication of how this information was generated or how CalEEMod was applied. In contrast, the EIR CalEEMod air quality modeling and all supporting modeling data and reasoned basis for application of CalEEMod are provided in detail in the Project AQIA (EIR Appendix D). In total, the EIR analysis provides a substantiated evaluation of the Project's potential air quality impacts.

Commentor remodeling of construction-source emissions assuming that 84,600 square feet out of 564,000 total square feet (15 percent) of the heavy warehouse space would require cold storage may be of interest to the commentor, but is not germane to the EIR analysis of the instant Project. As noted previously in these Responses, commentor speculation that the Project would accommodate cold storage other than that described and evaluated in the EIR, is just that—speculation. The commentor’s inapposite air quality modeling efforts do not further identification and evaluation of the instant Project’s potential construction-source air quality impacts.

With specific regard to VOC emissions as remodeled by the commentor (SWAPE), as noted previously in these Responses, the DEIR mitigation measure cited by the commentor contains a typographical error that has been herein corrected. This error is of no consequence in the estimation of Project VOC emissions because quantification and analysis of Project operational-source VOC emissions presented in the EIR reflect the Air Quality Impact Analysis VOC content modeling limit of 50g/L. The commentor remodeling of VOC emissions at 150g/l content level may be of academic interest, but is not germane to quantification and of the Project’s potential VOC emissions impacts.

Commentor remodeling of the Project Business Park air quality impacts with arbitrary and inaccurate inputs and parameters for truck traffic, and truck traffic air pollutant emissions similarly comprise an inaccurate academic exercise, not germane to the instant Project or its potential impacts. There is no substantiated basis for the commentor’s assumed truck traffic values or related vehicular-source emissions assigned to the Project Business Park uses. The Project AQIA employs adopted and vetted default vehicle mixes and related emissions factors uses for the Project Business Park uses. In this manner, the Project AQIA accurately presents and discloses potential vehicular-source air quality impacts resulting from the Project Business Park uses.

Commentor remodeling of other Project operational-source criteria pollutant emissions (VOC, NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> emissions) similarly employ arbitrary and inaccurate assumptions and opaque modeling parameters, yielding (not surprisingly) different results than presented in the EIR. There is however no substantiated basis for the commentor’s

assumptions and modeling inputs and any results or conclusions based on these assumptions and modeling inputs are similarly arbitrary and unsubstantiated, and of no relevance to the instant Project or its environmental impacts.

As supported by the preceding Response and the EIR in total, there is no basis or requirement for preparation of a revised EIR, or for an update to the EIR CalEEMod inputs or assumptions.

Results and conclusions of the EIR are not affected.

#### Comment MH-9

##### ***Proposed Operational Truck Idling Time Limit Infeasible***

*The DEIR concludes that the Project's operational emissions will be significant and unavoidable, yet fails to adequately evaluate and/or implement all feasible mitigation. An impact can only be deemed significant and unavoidable when an extensive (although not exhaustive) effort has been made to considerably reduce the Project's environmental effects. As such, the DEIR cannot conclude that the Project's operational emissions are significant and unavoidable until a concerted effort has been made to significantly reduce the Project's emissions.*

*The AQIA and DEIR conclude that even after mitigation, the Project's operational NOx and VOC emissions exceed the established SCAQMD thresholds of 55 pounds per day (AQIA, p. 44). However, the only operational source mitigation measure proposed in the AQIA is MM AQ-4, which would require non-diesel powered on-site cargo handling equipment, signs stating that idling of trucks should not exceed three minutes, and preferential parking locations for EVs, CNG vehicles, and carpool/vanpool vehicles (p. 10).*

*The measure to limit truck idling time to three minutes may not be feasible. According to the Air Quality Impact Analysis (AQIA), "At the time this AQIA was prepared specific tenants of the proposed Project were unknown..." (p. 3). As such, the AQIA accounts for the potential of cold storage needs, stating that "for analytical purposes, it is assumed that up to 15% of the Project's High-Cube Warehouse (building 3) total building square footage could be used for cold storage (e.g., refrigerated uses)..." (p. 4). Therefore, assuming that cold storage will be required on-site, this cold*

*storage would generate TRU truck trips (refrigerated trucks). TRU's are known to idle for much, even up to an hour, when compared to unrefrigerated hauling trucks. As such, a three minute idling limit for these trucks is not feasible and different mitigation measures should be implemented by the Project applicant.*

#### Response MH-9

The commentor incorrectly and misleadingly states that EIR fails to adequately evaluate and/or implement all feasible mitigation. And then incorrectly and misleadingly states that the only operational source mitigation measure proposed in the AQIA is mitigation measure AQ-4.

Despite the commentor's assertions otherwise, the measures cited by the commentor are not the only aspects of the Project that would act to reduce operational source air pollutant emissions. Nor are the measures incorporated in the EIR somehow infeasible.

More specifically, the following design features and operational programs (neglected for consideration by the commentor) are incorporated in the Project; and would act to reduce operational-source air pollutant emissions.

#### **[DEIR Section] 3.4.8          Energy Efficiency/Sustainability**

Energy-saving and sustainable design features and operational programs would be incorporated into all facilities developed pursuant to the Project. Notably, the Project in total would provide sustainable design features necessary to achieve a "Certified" rating under the United States Green Building Council's Leadership in Energy & Environmental Design (LEED) programs. The Project also incorporates and expresses the following design features and attributes promoting energy efficiency and sustainability.

- The developer would install, on the roofs of the warehouse/light industrial buildings (Buildings 1–8), a photo-voltaic electrical generation system (PV system) capable of generating 565,000 kilowatt hours per year.<sup>18</sup> The developer may install the required

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<sup>18</sup> This estimate reflects the amount of electricity that would be consumed by the Project's approximately 1.06 million square feet of warehouse/light-industrial uses at buildout and full occupancy.

PV system in phases on a pro rata square foot basis as each building is completed; or if the PV system is to be installed on a single building, all of the PV system necessary to supply the PV estimated electrical generation shall be installed within two years (24 months) of the first building that does not include a PV system receives a certificate of occupancy.

- All on-site cargo handling equipment (CHE) would be powered by non-diesel fueled engines.
- Regional vehicle miles traveled (VMT) and associated vehicular-source emissions are reduced by the following Project design features/attributes:
  - Pedestrian connections shall be provided to surrounding areas consistent with the City's General Plan and The Preserve Specific Plan. Providing a pedestrian access network to link areas of the Project site encourages people to walk instead of drive. The Project would provide a pedestrian access network that internally links all uses and connects to all existing or planned external streets and pedestrian facilities contiguous with the Project site. The Project would not impose barriers to pedestrian access and interconnectivity.
  - The Project's proposed collocation of varied warehouse and light industrial/business park uses, together with supporting amenities would tend to decrease the propensity for, and length of commuter vehicle travel for local employees. Warehouse uses proposed by the Project also generally act to reduce truck travel distances and truck trips within the region by consolidating and reducing requirements for single-delivery vendor truck trips.
- To reduce water demands and associated energy use, development proposals within the Project site would be required to implement a Water Conservation Strategy and demonstrate a minimum 20% reduction in indoor water usage when compared to baseline water demand (total expected water demand without implementation of

the Water Conservation Strategy).<sup>19</sup> Development proposals within the Project site would also be required to implement the following:

- Landscaping palette emphasizing drought tolerant plants consistent with provisions of The Preserve Specific Plan and/or City of Chino requirements;
- Use of water-efficient irrigation techniques consistent with provisions of The Preserve Specific Plan and/or City of Chino requirements;
- U.S. Environmental Protection Agency (EPA) Certified WaterSense labeled or equivalent faucets, high-efficiency toilets (HETs), and other plumbing fixtures.

In addition, the Project Applicant consulted with several community groups to obtain their input on the solar design features of the Project (please refer to supportive comments received from Briggs Law Corporation). Further, the Project in total would surpass by a minimum of 5%, incumbent performance standards established under the Building Energy Efficiency Standards contained in the California Code of Regulations (CCR), Title 24, Part 6 (Title 24, Title 24 Energy Efficiency Standards). [DEIR, Section 3.0, *Project Description*, pp. 3-17 through 3-19.]

To ensure their timely implementation and monitored compliance, the Project design features and operational programs reflected in the EIR air quality modeling are restated as Mitigation Measures within the EIR (see below).

*4.3.5 Water Conservation Required: Subsequent development proposals within the Project site shall incorporate a Water Conservation Strategy and demonstrate a minimum 30 percent reduction in outdoor water use when compared to baseline water demand (total expected*

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<sup>19</sup>Reduction of 20% indoor water usage is consistent with the current CalGreen Code performance standards for residential and non-residential land uses. Per CalGreen, the reduction shall be based on the maximum allowable water use per plumbing fixture and fittings as required by the California Building Standards Code.



*water demand without implementation of the Water Conservation Strategy). Development proposals within the Project site shall also implement the following:*

- Landscaping palette emphasizing drought-tolerant plants;*
- Use of water-efficient irrigation techniques;*
- U.S. Environmental Protection Agency (EPA) Certified WaterSense labeled or equivalent faucets, high-efficiency toilets (HETs), and water-conserving shower heads.*

*4.3.6 Compliance with Municipal Code Chapter 15.45: The Project shall comply with applicable provisions of Chino Municipal Code Chapter 15.45 – Climate Action Plan Implementation. Development proposals within the Project site shall conform to Climate Action Plan Implementation Section 15.45.070 Option 1–“Exceed by 3% the mandatory California Energy Code Title 24, Part 6 standards, in effect at the time of development application submittal for discretionary review.”*

*Verification of increased energy efficiencies shall be shall be documented in Title 24 Compliance Reports provided by the Applicant, and reviewed and approved by the City prior to the issuance of building permits. Examples of measures that reduce energy consumption include, but are not limited to, the following (it being understood that the items listed below are not all required and merely present examples; the list is not all-inclusive and other features that achieve the required energy efficiency performance standard also are acceptable):*

- a) Increase in insulation such that heat transfer and thermal bridging is minimized;*
- b) Limit air leakage through the structure and/or within the heating and cooling distribution system;*
- c) Use of energy-efficient space heating and cooling equipment;*
- d) Installation of electrical hook-ups at loading dock areas;*
- e) Installation of dual-paned or other energy efficient windows;*
- f) Use of interior and exterior energy efficient lighting that exceeds the California Title 24 Energy Efficiency performance standards;*
- g) Installation of automatic devices to turn off lights where they are not needed;*
- h) Application of a paint and surface color palette that emphasizes light and off-white colors that reflect heat away from buildings;*

- i) Design of buildings with “cool roofs” using products certified by the Cool Roof Rating Council, and/or exposed roof surfaces using light and off-white colors;*
  - j) Design of buildings to accommodate photo-voltaic solar electricity systems or the installation of photo-voltaic solar electricity systems;*
  - k) Installation of ENERGY STAR-qualified energy-efficient appliances, heating and cooling systems, office equipment, and/or lighting products.*
- 4.3.7 *The Project developer(s) shall install, on the roofs of the warehouse/light industrial buildings (Buildings 1–8), a photo-voltaic electrical generation system (PV system) capable of generating 565,000 kilowatt hours per year. The developer(s) may install the required PV system in phases on a pro rata square foot basis as each building is completed; or if the PV system is to be installed on a single building, all of the PV system necessary to supply the PV estimated electrical generation shall be installed within two years (24 months) of the first building that does not include a PV system receives a certificate of occupancy.*

The measures above, and all other EIR mitigation measures, are feasible and enforceable through the Final EIR Mitigation Monitoring Plan (Section 4.0 of this Final EIR).

Additionally, as a Condition of Approval, and consistent with the Project evaluated in the EIR, the Lead Agency has stipulated that the refrigerated land use component of the Project not exceed 15% of the Project’s High-Cube Warehouse (Building 3) total building square footage. Project Conditions of Approval stipulate further that none of the other Project uses shall incorporate a refrigerated component. These Conditions of Approval act to ensure that the refrigerated component of the Project as developed would not result in different or greater air quality impacts than the Project evaluated in the EIR.

With general regard to feasibility of mitigating operational-source emissions, Project-related operational-source air quality impacts derive predominantly from mobile sources. In this regard, approximately 92 percent (by weight) of all Project operational-source emissions would be generated by mobile sources (vehicles). Mobile-source vehicle tail pipe emissions cannot be materially or feasibly controlled or mitigated by the Lead Agency or the Project Applicant. Rather, these emissions sources are regulated by CARB and USEPA.

As summarized at EIR Section 4.3.5, *Regional Air Quality Trends*, as the result of CARB and USEPA actions, Basin-wide vehicular-source emissions have been reduced dramatically over the past years and are expected to further decline as clean vehicle and fuel technologies improve. Future CARB and USEPA actions could be expected to have a positive effect on Project-related vehicular-source emissions, resulting in incremental reductions in vehicular-source emissions when compared to either the Project AQIA emissions estimates.

Regarding AQIA mitigation measure AQ-4 cited by the commentor, the AQIA notes this measure (use of non-diesel powered on-site cargo handling equipment, signs stating that idling of trucks should not exceed three minutes, and preferential parking locations for EVs, CNG vehicles, and carpool/vanpool vehicles) would generally reduce operational-source air pollutant emissions. Notwithstanding, the AQIA conservatively does not take credit for any resulting operational-source criteria pollutant emissions reductions (AQIA, p. 10). Nonetheless, idling limitations and inclusion of preferential parking locations for EVs, CNG vehicles, and carpool/vanpool vehicles are reflected at new EIR Mitigation Measure 4.3.8, presented below. Note that use of non-diesel on-site cargo handling equipment is a component of the Project (DEIR *Project Description*, p. 3-17) and is therefore not considered mitigation.

*4.3.8 The following measures shall be implemented in order to reduce Project operational-source NOx air pollutant emissions. Other Project air pollutant emissions may also be generally reduced through the implementation of these measures:*

- *The final Project site plan(s) shall be designed such that any truck check-in points are located sufficiently interior to the Project site to preclude queuing of trucks onto public streets and minimize truck idling times.*
- *Electrical service for the Project warehouse facilities shall be appropriately sized to allow for future electric charging for trucks and to provide power for future onboard auxiliary equipment.*

- *The Lead Agency shall consider incentives and phase-in schedules for alternatively fueled trucks. Further, truck operators with year 2006 or older trucks shall apply in good faith for Carl Moyer, VIP, Prop 1B or similar funding to replace/retrofit their trucks with cleaner-than-required engines, equipment, and emission reduction technologies. Should funds be awarded, the recipient shall accept and use them for their intended purpose(s).*
- *On-site idling of diesel trucks shall be limited to three minutes.*
- *Final Project site plans shall incorporate preferential parking locations for EVs, CNG vehicles, and carpool/vanpool vehicles.*

These measures and all other EIR Mitigation Measures are feasible and enforceable through the EIR Mitigation Monitoring Plan, Final EIR Section 4.0.

The commentor then states that “TRU’s are known to idle for much, even up to an hour, when compared to unrefrigerated hauling trucks.” Then, the commentor states: “As such, a three minute idling limit for these trucks is not feasible and different mitigation measures should be implemented by the Project applicant.” There is no demonstrated nexus between the commentor’s statement regarding extended truck idling and the instant Project or idling limitations imposed through the EIR mitigation measures. Moreover, the commentor’s statements regarding protracted vehicle idling are at best broadly speculative; and in fact, contradict California’s Commercial Vehicle Idling Regulations, mandating that heavy-duty diesel trucks idle for no more than five minutes.

Based on the preceding Response and the EIR in total, the Project’s air quality emissions impacts related to onsite idling of vehicles, including but not limited to idling of TRU’s are accurately identified and disclosed in the EIR. EIR Mitigation Measures addressing vehicle idling restrictions are feasible and enforceable through the EIR Mitigation Monitoring Plan, Final EIR Section 4.0.

As supported by the preceding, the measures cited by the commentor are not the sole aspects or attributes of the Project that would act to reduce operational-source emissions.

The Project design complemented by mitigation measures incorporated in the EIR act to reduce the Project's air quality impacts to the extent feasible. Mitigation Measures identified in the EIR are feasible and enforceable through the EIR Mitigation Monitoring Plan, Final EIR Section 4.0. The commentor's statements and assertions regarding the EIR mitigation measures are inaccurate, incorrect, and misleading.

Results and conclusions of the EIR are not affected.

#### Comment MH-10

*The SCAQMD has previously recommended additional mitigation measures for operational NOx that result primarily from truck activity emissions for similar projects. Measures recommended for the Waterman Logistic Center that are also applicable for this Project include:*

- *Provide electric vehicle charging stations that are accessible for trucks.*
- *Provide minimum buffer zone of 300 meters (approximately 1,000 feet) between truck traffic and sensitive receptors.*
- *Limit the daily number of trucks allowed at the facility to levels analyzed in the DEIR. If higher daily truck volumes are anticipated to visit the site, the Lead Agency should commit to reevaluating the project through CEQA prior to allowing this higher activity level.*
- *Design the site such that any check-in point for trucks is well inside the facility to ensure that there are no trucks queuing outside of the facility.*
- *On-site equipment should be alternative fueled.*
- *Provide food options, fueling, truck repair and or convenience stores on-site to minimize the need for trucks to travel through residential neighborhoods.*
- *Improve traffic flow by signal synchronization.*
- *Have truck routes clearly marked with trailblazer signs, so that trucks will not enter residential areas.*
- *Should the proposed Project generate significant regional emissions, the Lead Agency should require mitigation that requires accelerated phase-in for non-diesel powered trucks. For example, natural gas trucks, including Class 8 HHD trucks, are commercially available today. Natural gas trucks can provide a substantial reduction in health risks, and may be more financially feasible today due to reduced fuel costs compared to diesel. In the Final*

*CEQA document, the Lead Agency should require a phase-in schedule for these cleaner operating trucks to reduce project impacts. SCAQMD staff is available to discuss the availability of current and upcoming truck technologies and incentive programs with the Lead Agency and project applicant.*

*Furthermore, other CEQA evaluations have proposed the following mitigation measures to reduce operational VOC emissions from architectural coating activities, as proposed by the SCAQMD:*

- During operation, the contractor shall use coatings and solvents (VOC architectural coatings) with a VOC content lower than required under SCAQMD rule 1113, which allows a VOC content of 250 grams of VOC per liter of coating. A VOC content of 50 grams per liter is recommended.*

*All feasible mitigation, including the above measures, should be considered in a revised DEIR in an effort to further reduce the Project's operational VOC and NOx emissions, potentially to a less than significant level.*

#### Response MH-10\*

The commentor lists various NOx emissions "mitigation measures" for inclusion in the EIR. Those measures suggested by the commentor and accepted in part or in total by the Lead Agency are listed below, and are incorporated at new EIR Mitigation Measure 4.3.8 (below).

*4.3.8 The following measures shall be implemented in order to reduce Project operational-source NOx air pollutant emissions. Other Project air pollutant emissions may also be generally reduced through the implementation of these measures:*

- The final Project site plan(s) shall be designed such that any truck check-in points are located sufficiently interior to the Project site to preclude queuing of trucks onto public streets and minimize truck idling times.*

- *Electrical service for the Project warehouse facilities shall be appropriately sized to allow for future electric charging for trucks and to provide power for future onboard auxiliary equipment.*
- *The Lead Agency shall consider incentives and phase-in schedules for alternatively fueled trucks. Further, truck operators with year 2006 or older trucks shall apply in good faith for Carl Moyer, VIP, Prop 1B or similar funding to replace/retrofit their trucks with cleaner-than-required engines, equipment, and emission reduction technologies. Should funds be awarded, the recipient shall accept and use them for their intended purpose(s).*
- *On-site idling of diesel trucks shall be limited to three minutes.*
- *Final Project site plans shall incorporate preferential parking locations for EVs, CNG vehicles, and carpool/vanpool vehicles.*

\* Of the commentor recommendations listed previously, the following are implemented by the City through other means; are considered beyond the scope of the Project; are considered unnecessary; or are considered infeasible or unenforceable. These measures are therefore not included in the EIR as mitigation.

Recommended Measure	Remarks
Provide minimum buffer zone of 300 meters (approximately 1,000 feet) between truck traffic and sensitive receptors.	<p>The buffer zone cited by the commentor is intended as a screening level measure acting to ensure against potentially significant air quality (TAC, DPM) health impacts. For the Project, requirements for the cited buffer zone measure are obviated through substantiated detailed analysis of the Project's potential health risk in the EIR Health Risk Assessment (HRA, EIR Appendix D). The EIR at Section 4.3, <i>Air Quality</i> (DEIR pp. 4.3-56 through 4.3-59, et al.), and within the Project HRA (HRA pp. 1-3, et al.), substantiate that the Project would not result in or cause potentially significant health risk impacts.</p> <p>Moreover, the Project Site Plan Concept (EIR Figure 3.4-1) effects the recommended buffer</p>

Recommended Measure	Remarks
	<p>zone by locating truck loading docks at truck idling areas in the northerly portion of the Project site, at distances greater than 1,000 feet from the nearest residential properties, located southerly of the Project site, across Kimball Avenue.</p> <p>The Project Site Plan Concept further buffers potential off-site effects of the Project by implementing a graduated scale of development within the site, progressing from smaller pedestrian-scale business park uses along the site's southerly Kimball Avenue frontage, to larger industrial-scale warehouses in the northerly portion of the Project site. This configuration emphasizes design elements of human proportions in areas of the site with greatest public visibility, and acts to screen and diffuse potential environmental effects of larger scale uses within the Project site.</p> <p>The commentor's recommended measure is therefore already incorporated in the Project design, and is therefore not "mitigation," and is not included as such.</p>
<p>Limit the daily number of trucks allowed at the facility to levels analyzed in the DEIR. If higher daily truck volumes are anticipated to visit the site, the Lead Agency should commit to re-evaluating the project through CEQA prior to allowing this higher activity level.</p>	<p>The commentor implies and speculates that the Project as developed would somehow generate substantive truck traffic beyond that evaluated and addressed in the EIR; and that mitigation is required to, in effect, ensure that the EIR Project (not some other undefined commentor-imagined project) is ultimately implemented. This speculative train of logic is without merit.</p> <p>Note first that the EIR truck traffic generation estimates reflect the Project as defined by the Project. Further, the EIR truck traffic generation estimates comply with accepted and vetted trip generation modeling methodologies and protocols (TIA p. 130, et al.). The Lead Agency, through implementation of the EIR Mitigation Monitoring Plan and established design review and development permit processes, would ensure that development of the subject site would comply with the Project described and evaluated in the EIR. To assume that truck traffic</p>



Recommended Measure	Remarks
	<p>generated by the implemented Project would differ substantively from the Project evaluated in the EIR is speculative.</p> <p>Secondly, the TIA trip generation estimates are in total conservative, and likely overstate rather than understate the Project's potential truck traffic impacts (TIA pp. 151 - 152, 160 – 162, 223, et al.). Air quality impacts based on these trip generation estimates are similarly conservative, and likely overstate rather than understate the Project's truck-source air quality impacts (AQIA pp. 40 – 41). In this manner, the EIR analyses and significance determinations already account likely maximum possible impacts. To assume that traffic and air quality impacts generated by truck traffic under the implemented Project would differ substantively from impacts of the Project evaluated in the EIR is speculative.</p> <p>The speculative increased truck traffic condition suggested by the commentor is not the Project being proposed, and is patently not the Project the Lead Agency (City of Chino) is considering for approval. To presuppose mitigation requiring environmental re-evaluation based on the commentor's speculative condition is unwarranted.</p> <p>Moreover, in practical terms the commentor's suggested measure already exists as a matter of law as any substantive revisions or changes to any aspect of the Project evaluated in the EIR (including, but not limited to, increased or otherwise altered truck trip generation) would be subject to additional environmental analysis. Please refer to DEIR Section 2.0, <i>Introduction</i>, p. 2-7. This alone obviates the need for the measure offered by the commentor.</p> <p>To summarize, the EIR accurately presents and evaluates the Project's likely maximum truck traffic impact scenario. There is no reasoned basis to assume that the implemented Project would result in or cause truck traffic impacts substantively greater than, or different than, those evaluated in the EIR. Imposing mitigation</p>

Recommended Measure	Remarks
	for a speculative undefined increased truck traffic condition that is not the Project is contrary to CEQA, and such mitigation would be ambiguous and unenforceable. The EIR already acknowledges that the Lead Agency may require additional environmental evaluation for developments differing substantively from the Project evaluated in the EIR. For these reasons, the recommended measure is not included as mitigation.
Similar to the City of Los Angeles requirements for all new projects, the SCAQMD staff recommends that the Lead Agency require at least 5% of all vehicle parking spaces (including for trucks) include EV charging stations.	<p>The Lead Agency will consider potential inclusion of, or means to facilitate access to, electric charging stations. Note that the mere presence of such facilities locally does not translate to, or is considered causal to, reductions in regional air pollutant emissions otherwise generated by the Project. Moreover, early commitment to such facilities would act to preclude or diminish the potential for incorporation of future more effective and efficient alternatives or technologies.</p> <p>Notwithstanding, the recommended measure is reflected at new EIR Mitigation Measure 4.3.8, and would facilitate provision of electrical charging stations in the future.</p>
On-site equipment should be alternative fueled.	<p>Equipment germane to Project operations and that could contribute to potentially significant air quality impacts would be alternatively fueled. Please refer to DEIR Section 3.0, <i>Project Description</i>, p. 3-17.</p> <p>The recommended measure is an operational component of the Project as described in the EIR (EIR Section 3.0, <i>Project Description</i>, p. 3-17), and is therefore not included as mitigation.</p>
Improve traffic flow by signal synchronization.	The Lead Agency, through its periodic review of area traffic conditions and through implementation of capital improvements programs already ensures that traffic signal synchronization responds to City traffic flow dynamics. Signal synchronization would that may be required of the Project would be implemented through the Project Conditions of Approval.

Recommended Measure	Remarks
	<p>The Lead Agency as a matter of course monitors and reviews area traffic flows and modifies areawide traffic signal synchronization accordingly. City Conditions of Approval for new developments respond to any signal synchronization requirements not otherwise addressed. The recommended measure is already implemented by the lead Agency through other means and is therefore not included as mitigation.</p>
<p>Provide food options, fueling, truck repair and or convenience stores on-site to minimize the need for trucks to travel through residential neighborhoods.</p>	<p>Off-site truck traffic would be restricted to designated truck routes within the City, thereby minimizing the potential for truck travel through residential neighborhoods. Moreover, there is no nexus between the recommended measure and the Project's potential operational-source air quality impacts. That is, the Project would not result in any significant localized impacts due to truck traffic.</p> <p>The recommended measure is not required and would not demonstrably reduce any of the Project's potentially significant impacts. This measure is therefore not included as mitigation.</p>
<p>Have truck routes clearly marked with trailblazer signs, so that trucks will not enter residential areas.</p>	<p>Off-site truck traffic would be restricted to designated truck routes within the City, thereby minimizing the potential for truck travel through residential neighborhoods. Moreover, there is no nexus between the recommended measure and the Project's potential operational-source air quality impacts. That is, the Project would not result in any significant localized impacts due to truck traffic.</p> <p>The recommended measure is not required and would not demonstrably reduce any of the Project's potentially significant impacts. This measure is therefore not included as mitigation.</p>
<p>Provide electric vehicle charging stations that are accessible for trucks.</p>	<p>The Lead Agency will consider potential inclusion of, or means to facilitate access to, electric charging stations. Note that the mere presence of such facilities locally does not translate to, or is considered causal to, reductions in regional air pollutant emissions otherwise generated by the Project. Moreover, early</p>

Recommended Measure	Remarks
	<p>commitment to such facilities would act to preclude or diminish the potential for incorporation of future more effective and efficient alternatives or technologies. The recommended measure is therefore not included as mitigation.</p> <p>Notwithstanding, the recommended measure is reflected at new Mitigation Measure 4.3.8, and would facilitate provision of electrical charging stations in the future.</p>
<p>Should the proposed Project generate significant regional emissions, the Lead Agency should require mitigation that requires accelerated phase-in for non-diesel powered trucks. For example, natural gas trucks, including Class 8 HHD trucks, are commercially available today. Natural gas trucks can provide a substantial reduction in health risks, and may be more financially feasible today due to reduced fuel costs compared to diesel. In the Final CEQA document, the Lead Agency should require a phase-in schedule for these cleaner operating trucks to reduce project impacts. SCAQMD staff is available to discuss the availability of current and upcoming truck technologies and incentive programs with the Lead Agency and project applicant (SWAPE Comment, p. 10-11.)</p>	<p>The Lead Agency generally supports the use of alternative-source fuels. The Project would not however result in potentially significant health risks impacts related to diesel emissions or diesel-powered trucks. There is no nexus between the Project diesel emissions and suggested mitigation requiring “accelerated phase-in for non-diesel powered trucks.” The recommended measure is therefore not included as mitigation.</p> <p>Notwithstanding, the recommended measure is reflected at new Mitigation Measure 4.3.8. Mitigation Measure 4.3.8 would in part, facilitate replacement/retrofitting of trucks with cleaner-than-required engines, equipment, and emission reduction technologies, acting to reduce regional air pollutant emissions levels.</p>

The commentor recommends additional mitigation establishing a 50 grams/liter VOC content limit during Project operations (maintenance), and cites inclusion of such a measure in “other CEQA evaluations,” and implies this measure is proposed by SCAQMD. The commentor’s cited CEQA document evidences no such measure. The commentor’s link to SCAQMD Rule 1113 indicates currently mandated VOC content limits for a wide variety of products and applications. Contrary to the commentor’s statements, SCAQMD does not establish a generic VOC content limit of 250 grams/liter for architectural coatings and solvents, to the as cited by the commentor.

SCAQMD amended rule 1113 on February 5, 2016 (<http://www.aqmd.gov/docs/default-source/rule-book/reg-xi/r1113.pdf>). Under the amended Rule 1113, for Building Envelope Coatings, the amended Rule 1113 limit currently in effect is 100 grams per liter. Furthermore, effective 01/01/2019, the Building Envelope Coatings limit will be 50 grams per liter consistent with the recommendation of SWAPE. The Project's anticipated opening year (built and occupied) is 2018. As such, any re-application of architectural coatings as on-going maintenance during building operations would reasonably occur after the 01/01/2019 effective date of the 50 grams per liter requirement. The Project would comply with all SCAQMD Rules, including limits for VOC content of products used during Project operations. Operational-source VOC reduction measures offered by the commentor would be effected through SCAQMD regulations, and is therefore not included as mitigation.

The Lead Agency has considered the additional mitigation measures recommended by the commentor, and certain of the additional measures offered have been incorporated Project design complemented by mitigation measures incorporated in the EIR, (including certain of the commentor's suggestions), reduce the Project's air quality impacts to the extent feasible. The EIR Mitigation Measures in total are feasible and enforceable through the EIR Mitigation Monitoring Plan presented at Section 4.0 of this Final EIR.

#### Comment MH-11

##### ***Greenhouse Gas***

##### ***Failure to Utilize GHG Reduction Targets Specified in Executive Order B-30-15***

*Governor Brown recently issued an executive order to establish an even more ambitious GHG reduction target. Executive Order B-30-15 requires emissions reductions above those mandated by AB 32 to reduce GHG emissions 40 percent below their 1990 levels by 2030. 1990 statewide GHG emissions are estimated to be approximately 431 million MTCO<sub>2e</sub> (MMTCO<sub>2e</sub>). Therefore, by 2030 California will be required to reduce statewide emissions by 172 MMTCO<sub>2e</sub> (431 x 40%), which results in a statewide limit on GHG emissions of 259 MMTCO<sub>2e</sub>. 2020 "business-as-usual" levels are estimated to be approximately 509 MMTCO<sub>2e</sub>. Therefore, in order to successfully reach the 2030 statewide goal of 259 MMTCO<sub>2e</sub>, California would have to reduce its emissions by 49 percent below the "business-as-usual" levels.*

*This 49 percent reduction target should be considered as a threshold of significance against which to measure Project impacts. Because the proposed Project is unlikely to be redeveloped again prior to 2030, the 2030 goals are applicable to any evaluation of the Project's impacts. A DEIR should be prepared to demonstrate the Project's compliance with these more aggressive measures specified in Executive Order B-30-15. Specifically, the Project should demonstrate, at a minimum, a reduction of 49 percent below "business-as-usual" levels. It should be noted, however, that this reduction percentage is applicable to statewide emissions. As a result, an additional analysis would need to be conducted to translate the new statewide targets into a project-specific threshold against which Project GHG emissions can be compared. A DEIR should be prepared to quantify any reductions expected to be achieved by mitigation measures, shown by substantial evidence that such measures will be effective and should demonstrate how these measures will reduce the emissions below the new 2030 significance threshold.*

#### Response MH-11

The commentor interprets Executive Order B-30-15 as a regulation or requirement adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. This is incorrect. Despite the ambitious language of Executive Order B-30-15 addressing post-2020 GHG emissions levels, no new standard or target for the State mandated by law has been adopted for a post-2020 scenario. GHG emissions reductions under a post-2020 condition are currently only goals set forth in Executive Order B-30-15, and by Governor Schwarzenegger's previous Executive Order S-05-03 which direct actions by State agencies only, and not by local jurisdictions, i.e. the City of Chino. Without a legislated target and a new Scoping Plan containing the State's strategy and regulatory plan for achieving the next target, the Project's role in achieving the target or its impact on the State's ability to meet that target would be at best speculative.

Moreover, there is substantial evidence for the infeasibility for a local jurisdiction to meet the 80 percent below 1990 levels by 2050 in the near-to-medium term absent an adopted and implemented post-2020 State plan of action. Thus, requiring compliance with the 2030 goal in EO-B-30-15 as de facto significance threshold in CEQA documents is impractical because, for the most part, the technology needed to achieve those goals has yet to be developed or is still in the developmental stage. Instead, the limit of GHG analysis for CEQA documents should be consistent with incumbent *CEQA Guidelines*, and the current

State GHG planning horizon. At present, the only true State reduction plan is the AB 32 Scoping Plan, which only has a verified and quantified reduction plan to 2020. Once the State has a defined a plan for 2030, then CEQA analysis and thresholds should shift from the current 2020 horizon to the 2030 horizon. When a post-2030 plan is in effect, the horizon should shift again, and so on.

Although the Project's emissions levels in 2030 and 2050 cannot be reliably quantified, statewide efforts are underway to facilitate the State's achievement of that goal, and it is reasonable to expect the Project's emissions levels to decline as the regulatory initiatives identified by ARB in the First Scoping Plan Update are implemented, and other technological innovations occur. Stated differently, the Project's emissions total at build-out presented in the DEIR, represents the maximum emissions inventory for the Project as California's emissions sources are being regulated (and foreseeably expected to continue to be regulated in the future) in furtherance of the State's environmental policy objectives. As such, given the reasonably anticipated decline in Project GHG emissions once fully constructed and operational, the Project is consistent with the Executive Orders' goals.

Continuing, the ARB Scoping Plan currently in effect establishes an emissions reduction trajectory that will allow California to achieve the 2030 target articulated under Executive Order B-30-15, and the longer-term 2050 GHG emissions reductions targets established for the State. In addition, the Scoping Plan "lays the foundation for establishing a broad framework for continued emission reductions beyond 2020, on the path to 80 percent below 1990 levels by 2050" (Scoping Plan Update, p. 4). Many of the emission reduction strategies recommended by ARB and identified in the Scoping Plan would serve to reduce the Project's post-2020 emissions level to the extent applicable by law:

1. Energy Sector: Continued improvements in California's appliance and building energy efficiency programs and initiatives, such as the State's zero net energy building goals, would serve to reduce the proposed Project's emissions level. Additionally, further additions to California's renewable resource portfolio would favorably influence the proposed Project's emissions level.

2. Transportation Sector: Anticipated deployment of improved vehicle efficiency, zero emission technologies, lower carbon fuels, and improvement of existing transportation systems all will serve to reduce Project vehicular-source GHG emissions.
3. Water Sector: Project GHG emissions from area/stationary sources will be reduced through current and anticipated enhancements to water conservation technologies.
4. Waste Management Sector: Improve recycling, reuse and reduction of solid waste will beneficially reduce the Project's GHG emissions levels attributable to generation, transportation, and disposal of solid waste.

As substantiated above there is no new "2030 [GHG Emissions] significance threshold" [commentor's language] applicable to the Project. Nor is there basis for, or requirement for, an analysis specifically demonstrating the Project's compliance with the emissions reductions goals articulated under Executive Order B-30-15. In fact, measures currently enacted by the State effect Executive Order B-30-15. As substantiated in the EIR, the Project would comply with these measures.

Results and conclusions of the EIR are not affected.

#### Comment MH-12

*Additional mitigation measures that could be implemented to reduce GHG emissions in an effort to comply with the reduction targets required by Executive Order B-30-15 include, but are not limited to, the following:*

- *Use passive solar design, such as:*
  - *Orient buildings and incorporate landscaping to maximize passive solar; heating during cool seasons, and minimize solar heat gain during hot seasons; and*
  - *Enhance natural ventilation by taking advantage of prevailing winds.*
- *Reduce unnecessary outdoor lighting by utilizing design features such as limiting the hours of operation of outdoor lighting.*
- *Develop and follow a "green streets guide" that requires:*
  - *Use of minimal amounts of concrete and asphalt;*



- *Installation of permeable pavement to allow for storm water infiltration; and*
- *Use of groundcovers rather than pavement to reduce heat reflection.*
- *Implement Project design features such as:*
  - *Shade HVAC equipment from direct sunlight;*
  - *Install high-albedo white thermoplastic polyolefin roof membrane;*
  - *Install high-efficiency HVAC with hot-gas reheat;*
  - *Install formaldehyde-free insulation; and*
  - *Use recycled-content gypsum board.*
- *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.*
- *Install solar, wind, and geothermal power systems and solar hot water heaters.*
- *Install solar panels on unused roof and ground space, and over carports and parking areas. Locations where solar systems cannot feasibly be incorporated into the Project at the outset, build “solar ready” structures.*
- *Include energy storage where appropriate to optimize renewable energy generation systems and avoid peak energy use.*
- *Plant low-VOC emitting shade trees, e.g., in parking lots to reduce evaporative emissions from parked vehicles.*
- *Use CARB-certified or electric landscaping equipment in project and tenant operations; and introduce electric lawn, and garden equipment exchange program.*
- *Install an infiltration ditch to provide an opportunity for 100% of the storm water to infiltrate on-site.*

#### Response MH-12

The commentor errs by presupposing a requirement to recalculate and re-evaluate Project GHG emissions in an “effort to comply with the reduction targets required by Executive Order B-30-15.” There are no such requirements.

First, as discussed above, Executive Order B-30-15 does not comprise a regulation or requirement adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. There is no basis for, or requirement for, an

analysis specifically demonstrating the Project's compliance with the emissions reductions goals articulated under with Executive Order B-30-15. In point of fact, measures currently enacted by the State effect Executive Order B-30-15. As substantiated in the EIR, the Project would comply with these State measures.

The commentor then lists various "mitigation measures" as means of reducing the Project's GHG emissions impacts. Project GHG emissions impacts are in fact substantiated to be less-than-significant (EIR Section 4.4, *Global Climate Change and Greenhouse Gas Emissions*; EIR Appendix E, *Kimball Business Park Greenhouse Gas Analysis*).

Within the EIR, Project GHG emissions impacts are substantiated to be less-than-significant through a multi-tiered analysis. That is, Project GHG emissions are substantiated to be less-than-significant in the context of the CARB Scoping Plan and AB 32 GHG emissions target reductions in Business As Usual (BAU) GHG emissions (EIR pp. 4.4-33 – 4.4-36); Project GHG emissions are substantiated to be less-than-significant in the context of the City of Chino Climate Action Plan (CAP) (EIR pp. 4.4-36, 4.4-37);<sup>20</sup> and Project GHG emissions are substantiated to be less-than-significant in the context of *CEQA Guidelines* GHG/GCC significance factors (EIR pp. 4.4-37 – 4.4-41). CEQA does not require mitigation of "less-than-significant" impacts. The GHG emissions reductions measures listed by the commentor are not required.

Moreover, it is again noted that the EIR analyses generally, and the GHG impact analysis specifically, employ a purposely conservative approach, tending to likely overstate, rather than understate the Project's potential environmental impacts. With regard to potential GHG emissions impacts, as presented in the EIR, the Project would generate approximately

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<sup>20</sup> The City of Chino Climate Action Plan (CAP) was adopted and implemented by Ordinance (first reading) December 3, 2013. Potential environmental impacts of the CAP are addressed in *City of Chino Climate Action Plan Environmental Impact Report*, SCH No. 2013071037 (CAP EIR). The CAP, CAP implementing Ordinance, and CAP EIR are presented at FEIR Appendix D.

Subsequent to City adoption and implementation of the CAP, a lawsuit was filed on December 13, 2013 challenging the City adoption of the CAP and actions related thereto. The Court's February 24, 2016 judgment in this matter found in favor of the City, and the petitioner's petition was denied in its entirety. The plaintiff and defendant briefs as well the Notice of Entry of Judgement are presented at FEIR Appendix E.

25,629.19 MTCO<sub>2</sub>e/year. At present, the Project uses (dairy farming) generate an estimated 1,835.7 MTCO<sub>2</sub>e MTCO<sub>2</sub>e/year (EIR p. 4.4-11, Table 4.4-4 Table 4.4-4, *Existing Land Use Annual GHG Emissions Summary*). This estimate reflects GHG emissions that would be generated by an assumed 300 cows present onsite. The on-site cattle population however typically varies, and can approach or exceed 350 head. Nonetheless, the EIR analyses conservatively assume the low-end range of cattle present on-site for the purposes of estimating existing site-source GHG emissions. The existing conditions estimate is also conservative because it does not take in to account GHG emissions generated by other existing sources, e.g., vehicles accessing the site, or GHG emissions generated by on-site equipment or other on-site operations.

Subtracting existing site GHG emissions (1,835.7 MTCO<sub>2</sub>e/year - based on 300 head of cattle) the net post development Project-source GHG emissions would total 23,793.29 MTCO<sub>2</sub>e/year, or approximately 93 percent of the total gross Project GHG emissions currently reflected in the EIR.

If assuming 350 cattle on-site, existing site GHG emissions would total approximately  $350/300 \times 1,835.7$  MTCO<sub>2</sub>e/year, or 2,141.7 MTCO<sub>2</sub>e/year; and net Project GHG emissions would total approximately 23,450 MT CO<sub>2</sub>e/year, or approximately 92 percent of the total gross Project GHG emissions (25,629.19 MTCO<sub>2</sub>e/year) currently reflected in the EIR.

In summary, if taking even the minimum credit for existing site GHG emissions, the total Project GHG contributions as currently presented in the EIR would be reduced approximately by 7 – 8 percent, further diminishing the Project GHG emissions impacts already substantiated to be less-than-significant; not requiring mitigation.

Results and conclusions of the EIR are not affected.

LD2 – exhibit 3 Smith – 1 of 11

LD2 – exhibit 3 Smith – 2 of 11

LD2 – exhibit 3 Smith – 3 of 11

LD2 – exhibit 3 Smith – 4 of 11

LD2 – exhibit 3 Smith – 5 of 11



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Letter Dated April 4, 2016

(Attachment "Exhibit 3" to Lozeau Drury correspondence dated April 7, 2016)

Comment DS-1

*The DEIR and Its Appendix C Are Inadequate as Information Documents Because They Are Unclear How Roadway Segments Key to the Project's Access Would Be Completed*

*The DEIR and its Appendix C Traffic Impact Analysis (the "TIA") assume that Flight (Walker) Avenue would be completed from the Project's northern boundary through to Merrill Avenue by 2018. Flight Avenue is planned as a 2-lane Commercial Collector (74 foot right-of-way) in The Preserve Specific Plan Circulation Plan. A similar situation prevails with regard to the extension of Hellman Avenue from the north boundary of the Project to Merrill Avenue. The Preserve Specific Plan Circulation Plan shows Hellman north of the Project boundary to Merrill as a Major Arterial with Paseo. The presumed existence by 2018 of both these roads as improved road north of the Project boundary through to Merrill Avenue is evidenced by TIA Exhibits 4-1 through 4-4, the Project's trip distributions for personal vehicles and trucks for the Existing + Project and Cumulative (2018 + Project) scenarios. The DEIR and TIA traffic analysis depends on the existence of these roads in improved state by 2018. The Existing + Project scenario suggests that Flight exists in improved state from Kimball to Merrill at the end of 2015. Trip distribution figures indicate that in the Existing + Project condition 11 percent of the Project's personal vehicle trips and 30 percent of its truck trips will access and egress the site via Flight to Merrill. (see TIA Exhibits 4-1 and 4-2). The Cumulative + Project (2018) scenario indicates that 30 percent of the Project's truck and 16 percent of its personal vehicle trips will access and egress the Project site via Flight and Hellman to Merrill (see TIA Exhibits 4-3 and 4-4).*

*The TIA plans for Flight Avenue (TIA Exhibit 1-4, Sheet 4 of 6) show the improvements to be constructed by the Project ending at the north property line with the improved section of Flight just matching to the existing roadway at that point and clearly state that the Project would only be*

*responsible for improving Flight from the north limit of the Project to Kimball and only to half Flight's planned width. The plans for improvement of Hellman Avenue to be constructed by the Project (TIA Exhibit 1-4, Sheets 5 and 6 of 6) clearly indicate the Project will only be responsible for improving Hellman from the Project's north boundary to Kimball and only to half its planned width. So naturally the public might ask how the rest of these roadways through from Kimball to Merrill are going to be constructed in time.*

*The DEIR and the TIA provide no direct indication who will be responsible for building and paying for these roadways and having them functional by 2018.*

*In order to determine this, the public must go through the process of consulting TIA Exhibit 4-10 (Cumulative Development Projects Location Map), notice that there are Projects C-14a and C14b to the north of the subject Project site, generally between Merrill and Remington Avenues, then go into the fine print of TIA Table 6.5 to learn that the names of the C-11 Projects are Chino East Industrial and Watson Industrial Park, go to the City's web site and search under these project names, obtain the EIRs for these projects, and find that Watson is obligated to construct Hellman from Merrill to Kimball at half its planned ultimate width and to construct Flight from Remington to Kimball at half its planned ultimate width obtain right-of-way and pay for construction of this roadway north of the Project's property line and have it done by 2018. Chino East is obligated and apparently currently constructing Flight from Merrill to Remington. While this may be clear to the City's Community Development Department and their consultants, it is an unreasonably obscure track for the public to follow to gain a reasonable understanding of the Project's planned initial access. This renders the DEIR inadequate as an information document under CEQA. The DEIR should have a clear narrative of how all the pieces of the roadways that will provide primary site access are going to come together in a timely way.*

### Response DS-1

Flight Avenue extension from Kimball Avenue to Merrill Avenue is already complete and therefore the connection is correctly reflected under the TIA Existing + Project (E+P) traffic conditions analysis. The connection of Hellman Avenue north of the Project to Merrill Avenue is not assumed under E+P traffic conditions. The connection is assumed for Opening Year Cumulative (2018) traffic conditions, as the road would be constructed by



cumulative developments whose traffic has been accounted for in the traffic study. Development proposals are required by the City to improve project frontages as standard conditions of approval. TIA Section 6.1, *Roadway Improvements* clearly states “Driveways and those facilities assumed to be constructed by cumulative developments to provide site access are also assumed to be in place for Opening Year Cumulative conditions only (e.g., intersection and roadway improvements along the cumulative development’s frontages and driveways).”

The City prioritizes and ultimately determines timing for roadway improvements within its jurisdiction through the City Capital Improvements Program. Detailed timing for roadway improvements within the Study Area is a function and responsibility of the Lead Agency; beyond the control of the Project Applicant. Project mitigation responsibilities for cumulative impacts at Study Area traffic facilities are satisfied through the payment of requisite fees, to be used by the City for the purposes of constructing necessary Study Area improvements. The significance of Project traffic contributions to cumulative Study Area impacts is not contingent on implementation of the City CIP. The DEIR purposely recognizes that implementation of Study Area improvements necessary to address cumulative impacts may not timely occur, despite Project fee payments (DEIR Section 1.10, *Summary of Significant Project Impacts*, p. 1).

The DEIR body text intentionally does not include detailed technical discussions as suggested by the commentor, and appropriately reserves these for presentation in the supporting appended technical studies. The DEIR body text appropriately focuses on identification, disclosure, and mitigation of the Project’s potentially significant impacts. *Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR (CEQA Guidelines, Section 15147. TECHNICAL DETAIL).*

Contrary to the commentor’s assertions otherwise, the above Response and the EIR in total substantiate and demonstrate compliance with CEQA adequacy and informational requirements. Results and conclusions of the EIR are not affected.

### Comment DS-2

*The matter also raises question about whether the DEIR is using a proper baseline for analysis. CEQA § 15125(a) states, in part, "An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced both from a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant." The notice of preparation (NOP) in the case of the subject Project was issued on July 10, 2015. Please clarify whether or not the Chino East Industrial project was fully approved by that time. If not, the extension of Flight cannot be considered part of the existing roadway system in the Existing + Project analysis and that analysis must be redone.*

### Response DS-2

The commentor's concerns are addressed at Response DS-1. Specifically, the Flight Avenue extension from Kimball Avenue to Merrill Avenue is already complete and therefore the connection is correctly reflected under the TIA Existing + Project traffic conditions analysis. There is no requirement for or basis for re-evaluation of the TIA Existing + Project scenario.

Results and conclusions of the EIR are not affected.

### Comment DS-3

*The matter also raises question about the 2018 Cumulative and 2018 Cumulative + Project Analysis. These scenarios reflect massive changes to the existing transportation environment - TIA Table 4-4 includes 106 projects (not counting sub-projects) within the study area - yet each one seems to be considered only in an incremental, piecemeal approach in the context of all the others with no consideration of the change from the existing baseline environment to the whole of the 2018 cumulative forecasts.*

### Response DS-3

The 2018 Cumulative and 2018 Cumulative + Project Analyses conditions reflect Study Area traffic generated by existing uses, anticipated ambient growth in traffic from unspecified sources; and traffic that would be generated by approved, known, or probable projects that

could cumulatively traffic interact with Project traffic. The list of projects cited by the commentor was developed in conjunction with the Lead Agency, and the analysis of cumulative traffic impacts in total comports with San Bernardino County Congestion Management Plan (CMP) traffic study guidelines,<sup>21</sup> and applicable *CEQA Guidelines* provisions (*CEQA Guidelines* §15130. DISCUSSION OF CUMULATIVE IMPACTS). Each project listed contributes to the totality of the cumulative condition presented and analyzed in the EIR. Projects not constructed would not contribute to cumulative traffic conditions.

The commentor's statement: "yet each one seems to be considered only in an incremental, piecemeal approach in the context of all the others with no consideration of the change from the existing baseline environment to the whole of the 2018 cumulative forecasts" is at best unclear and inaccurate, and does not raise environmental issues. Results and conclusions of the EIR are not affected.

#### Comment DS-4

*The DEIR and Its TIA Only Analyze Traffic Queue Impacts at Caltrans-Controlled Intersections and at the Project Entry Intersections*

*Based on Caltrans requirements, the DEIR analyzed queue impacts at Caltrans controlled intersections using the combined Synchro/SimTraffic software. In addition, based on City of Chino request, the DEIR also analyzed for potential queuing impacts at the primary Project access/egress intersections. However, the potential for queue impacts are not limited to those locations where the queuing analysis was performed. They could occur anywhere that queues in turn lanes exceed the storage length of the turn lanes or where queues in through lanes are long enough to block access to turning lanes.*

*It would not be necessary to use the combination of the Synchro and SimTraffic programs to produce a sophisticated queuing analysis at every study intersection. The DEIR used Traffix to perform the level of service analysis for most study intersections. Traffix produces adequate queue information to note potential queue impacts at these intersections which are generally not closely spaced. In fact, the DEIR analysts had it report average queues at each intersection where it was employed. They just didn't use that information to screen for whether there might be queuing problems at any of the*

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<sup>21</sup> [http://www.sanbag.ca.gov/planning2/cmp/cmp\\_app-c\\_02-09.pdf](http://www.sanbag.ca.gov/planning2/cmp/cmp_app-c_02-09.pdf)

*intersections where Traffix analysis was employed. This oversight is inconsistent with the good faith effort to disclose impact that CEQA demands.*

#### Response DS-4

The commentor asserts that use of Synchro/SimTraffic for determining vehicular queues is not required, and that queuing information reported by Traffix output is adequate for purposes of identifying queuing issues. This is incorrect. Moreover, use of Traffix for queueing analyses as suggested by the commentor is an atypical methodology, not employed by the Lead Agency, and may yield unreliable and/or misleading results, as discussed below.

The TIA and EIR follow requirements per City of Chino and San Bernardino County CMP TIA guidelines. Under those guidelines, queuing analysis is not performed unless a specific queuing issue is observed during field observations. Furthermore, the actual queuing at the turn pockets depends not only on overall intersection level of service (LOS), but also is influenced by other factors such as cycle length and splits for each movement. The analysis performed for CEQA purposes is based on optimized cycle length per San Bernardino County CMP guidelines and as such only delay and LOS values are reported.

The method used to calculate back of queue reported in Traffix output is presented at Appendix G of Chapter 16 of the 2000 HCM. As noted on Page 16-24 of HCM, the back of queue is the number of vehicles per lane that are queued depending on arrival patterns of vehicles and vehicles that do not clear the intersection during a given green phase, based on existing signal cycle lengths and splits. In contrast, San Bernardino County TIA guidelines require intersection LOS results based on optimized signal cycle lengths (not existing signal cycle lengths and splits). The queue values produced by the Traffix estimation procedure (based on optimized signal cycle lengths and splits), in many cases yields results contrary to field observations; and in many cases would result in higher reported queue values than would result from other modeling procedures. These discrepancies would be accentuated at high degrees of traffic saturation and/or high queue percentiles.

Accordingly, and as recognized by the commentor, at specific locations where queuing analyses were requested by the City of Chino and/or Caltrans, Synchro/SimTraffic software was employed. Use of Synchro/SimTraffic software avoids the above-noted anomalies and potentially misleading conclusions that could otherwise result from queue estimations yielded by Traffix software.

In summary, the TIA queuing analysis comports with Lead Agency (City of Chino) and Responsible Agency (Caltrans) guidelines and protocols, and provides a substantiated estimation of the Project's likely queuing impacts within the Study Area. Contrary to the commentor's assertion otherwise, the above Response and the EIR in total demonstrate compliance with all CEQA and *CEQA Guidelines* precepts addressing good faith disclosure of potentially significant environmental impacts. Additional analyses suggested by the commentor are not required or warranted.

Further analyses of Study Area queues such as offered by the commentor is not required or warranted.

Further, commentor disagreement with the Project TIA methodologies and findings is acknowledged; but does not affect the EIR findings and conclusions. Despite commentor statements otherwise, the Lead Agency has determined that the TIA and related discussions presented in the EIR comport with CEQA intent and directives addressing adequacy, completeness, and disclosure. No further queuing analysis is required.

Results and conclusions of the EIR are not affected.

#### Comment DS-5

*The Truck Turning Provisions on the Site Plan Require Drivers of Big Rigs to Choose Perfect Turning Alignments or They Will Jump Curbs*

*TIA Exhibit 1-6, Sheets 1 through 5 of 5 show truck turning templates at the future configuration of the intersections of Kimball with Flight and with Hellman and of all three of those streets with the Project's driveways and internal roadway. The TIA concludes that the turning template overlays on the proposed street plans demonstrate that the proposed plans can safely accommodate the turning of*

*heavy trucks that will be drawn to the Project. An observer such as this writer who is extensively experienced in what actually happens in areas where heavy trucks maneuver would draw a very different conclusion from those template overlays. What they really show is that heavy trucks can successfully make all the turns, but only if the driver selects a perfect line for the turning movement. And of course, drivers do not always select the perfect line like the AutoTurn swept path analysis software program does. Expecting drivers to select perfect turning lines like a computer program will lead to frequent jumping of curbs which has potential safety consequences. The Project would benefit if slightly longer curb radiuses were employed at the corners and if the noses of medians were pulled back somewhat.*

#### Response DS-5

Truck turning templates employed in the TIA reflect industry standards and substantiate that the curb radiuses and truck maneuvering areas as designed would provide adequate space for truck accessing and truck turning movements. Moreover, the TIA truck turning radii and the ultimate designs and configurations of all Project driveways and internal access points would be subject to review and approval by City of Chino staff. The Project would comply with all City requirements in these regards. The Project design concept including, but not limited to, truck access points and truck maneuvering areas comply with City requirements and accepted traffic engineering practices. The Project does not propose or require designs that would cause or result in safety concerns. Human error, inattentiveness and/or negligence such as cited by the commentor cannot be “engineered out” and may nonetheless subsequently occur within the Project site. This, however, is not a significant environmental impact or significant safety hazard attributable to the Project or its design. Results and conclusions of the EIR are not affected.

#### Comment DS-6

*Extremely Small Scale Representation of the Site Plan Renders the DEIR Inadequate as an Information Document*

*The DEIR and the TIA represent the Site Plan at a scale of about 1 inch equals 300 feet in the circulated document. This tiny depiction thwarts the public’s effort to understand how well or badly the site plan will function. The DEIR should have presented the some internal representations of portions of the Site Plan a at scales similar to TIA figures 1-4,1-5 and 1-6, scales at which*

*functionality can be more readily understood. This relates most directly to the immediately subsequent point.*

#### Response DS-6

The commentor asserts that document scale limitations substantively hinder understanding of the Project and its environmental impacts. This is not the case. Note first that the EIR and all supporting technical documents are available in electronic format through the City's web site: [www.cityofchino.org/government-services/community-development/environmental-documents](http://www.cityofchino.org/government-services/community-development/environmental-documents).

The Lead Agency's presentation of the EIR in electronic format allows for scaling of text and graphics to the readers preference. The commentor has forgone this option. Additionally, a CD with electronic copies of the DEIR and technical study files is attached to the back cover of each hard copy of the DEIR, also allowing for preferential scaling of information.

Note further that the graphic information presented in the DEIR is schematic and conceptual in nature and is not intended, nor is required, to provide engineering or construction level detail or accuracy such as that suggested by the commentor. Contrary to the commentor's assertions otherwise, the information provided comports with CEQA informational precepts; adequately describes the Project and its context; and identifies, discloses and provides mitigation for the Project's potentially significant environmental impacts.

Results and conclusions of the EIR are not affected.

#### Comment DS-7

*The DEIR Must Clarify Whether Site Plan Dimensions Allow the Tractors of Tractor-Trailer Rigs to Remain Attached to the Rig While On-Site, Stages Them Elsewhere On Site or Requires That They Be Staged Off-Site*

*It has become the practice at modern high-cube warehouses to dimension the loading bay aprons so tightly that tractor-trailer units of big-rigs cannot remain attached to the trailers in the loading bays*

*except while actively bringing them or removing them. Often there are no provisions for staging the tractor units elsewhere on site and they must stage off-site. As a consequence, delivery and removal of a trailer to and from the site involves 4 trips instead of 2. This causes unnecessary truck traffic in the vicinity of the site and unnecessary pollutant emissions from trucks classified as 3-axle trucks that are actually the tractor units of 5+axle big rigs. Please explain the intent of the Site Plan in this regard. If the intent is that tractor units be staged off-site, please consider changing the site plan to facilitate on-site staging as both a traffic and air pollutant emissions mitigation measure.*

#### Response DS-7

The commentor asserts “[t]he DEIR must clarify whether site plan dimensions allow the tractors of tractor-trailer rigs to remain attached to the rig while on-site, stages them elsewhere on site or requires that they be staged off-site.” This is incorrect.

More specifically, as part of the Project, adequate parking for all uses would be provided consistent with City requirements. Specifically, the Project Site Plan Concept identifies a total of 1,563 parking stalls, including 230 trailer stalls for the Project’s proposed warehouse uses, and a total of 409 parking stalls for other light industrial/business park uses within the Project site. The Project would adhere to the requirements set forth by the City of Chino Parking Ordinance 20.18 <sup>22</sup> and the final parking plan for the Project, as approved by the City. Parking assignments and design of parking areas within the Project site are subject to City review and approval (EIR Section 3.0, *Project Description*, p. 3-13).

Note further, that within the expansive parking pools provided, there would be more than ample space to accommodate any temporary “staging” of trucks that may be required. As an example, included in the parking areas assigned to Project Building No. 3 (proposed distribution warehouse) are 69 (12’ x 53’) trailer parking stalls (TIA Exhibit 1-1, Preliminary Site Plan), or approximately one-acre of parking surface that would be available at least in part to accommodate any temporary parking that may be required for transient staged trucks.



The Project warehouse/distribution center use would generate a total of 11 AM peak-hour truck trips and 14 PM peak-hour truck trips (includes all 2-axle, 3-axle, and 4-axle trucks - TIA Table 4-3, Project Trip Generation Summary, p. 133). Even assuming all of these trucks required staging and each occupied one full trailer stall, a total of 11 – 14 stalls would be temporarily occupied. The remaining stalls would be permanently available for trailer parking, and additional trailer parking stalls would become available as any temporarily-staged trucks exit the Project site. On a daily basis, Building No. 3 would generate a total of 225 truck trips (includes all 2-axle, 3-axle, and 4-axle trucks - TIA Table 4-3, Project Trip Generation Summary, p. 133). If averaged over 24 hours, this equates to approximately 9 – 10 truck trips per hour. Again, adequate temporary staging areas for these trucks would be available within the expanse of parking surface provided at Building No. 3.

Notwithstanding the commentor's statements to the contrary, it has not been the experience of the Project Applicant, Lead Agency, or the TIA preparers that dedicated "truck staging areas" are required or warranted for uses such as those proposed by the Project. Further, additional paved areas accommodating such dedicated truck staging facilities conflict with City and Regional Water Quality Control Board policies and strategies to limit impervious surfaces generally and thereby reduce potential stormwater runoff impacts from development proposals.

Additionally, current industry practices (e.g., cross-docking) and information technologies provide for scheduling and delivery efficiencies that act to limit the down time and temporary staging of trucks. That is, trucks making deliveries at one dock are immediately assigned to the next delivery exiting the site and are therefore not "staged."

Lastly, the commentor's remarks in total are considered speculative, and based on erroneous assumptions.

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22 Parking Ordinance Section 20.18.080 – A (3). Trailer parking/waiting space required, states: "Industrial developments having two or more dock-high loading spaces shall provide one trailer parking/waiting space, minimum twelve feet wide by forty-five feet long, for each two loading spaces. This Code requirement responds directly to provision of "staging areas" suggested by the commentor.

There is no requirement for the DEIR to provide specific dimensioning of facilities such as suggested by the commentor. Results and conclusions of the DEIR are not affected.

Comment DS-8

***The Summary of Impacts and Mitigations Does Not Classify Impacts on Traffic Facilities Wholly Within or Shared With Other Jurisdictions As Significant and Unavoidable as it Should Have***

*A number of the Project's traffic impacts fall at locations wholly within the jurisdictions of the Cities of Ontario, Chino Hills, Eastvale, Jarupa [sic] Valley or the California Department of Transportation (Caltrans) or is shared between the City of Chino and one of those jurisdictions. The Summary Of Impacts And Mitigations section of the DEIR contains elaborate legalistic recitals about negotiating yet-to-be-defined -or entered-into individual inter-jurisdictional agreements between the City of Chino and each of those other jurisdictions to implement the recommended traffic mitigation improvements through fair share fee payments. However, successful negotiation of those inter-jurisdictional agreements and implementing timely mitigation measures through that vehicle is uncertain - apparently so much so in the cases of Chino Hills, Eastvale and Jarupa [sic] Valley that the language of the mitigation measure includes refund to the Project Sponsor of funds deposited with the City of Chino for inter-jurisdictional mitigation purposes if the mitigations are not implemented within 5 years. On these mitigation items, the DEIR has no entry in the Level of Significance With Mitigation column of the Summary of Impacts and Mitigations section. This is misleading to the public and improper under CEQA. The entries should be Significant And Unavoidable.*

Response DS-8

The commentor's statements are incorrect. Please refer to the DEIR Section 1.10, *Summary of Significant Project Impacts*. The listed significant impacts include the extra-jurisdictional and shared jurisdictional facilities noted by the commentor. Because the Lead Agency does not have plenary control over inter-jurisdictional or shared-jurisdictional traffic facilities, fee payment and fee-sharing mechanisms [DEIR Mitigation Measures 4.2.4 through 4.2.14] noted by the commentor are incorporated to ensure to the extent feasible that the Project's contributions to impacts at inter-jurisdiction or shared-jurisdictional traffic facilities are mitigated. Nonetheless, the DEIR clearly states: "[d]espite the incorporation of Mitigation

Measures 4.2.4 through 4.2.14, the Project's contribution to cumulative traffic impacts would be considered cumulatively significant and unavoidable, as noted previously in these discussions" (DEIR, p. 4.2-105). Consistent with the DEIR body text, the summary of cumulative traffic impacts presented at EIR Section 1.10, *Summary of Significant Project Impacts*, is clarified as follows:

**Opening Year (2018) Conditions:**

***Cumulatively Significant and Unavoidable Impacts.***

Pending completion of required improvements, the Project's incremental contributions to Opening Year cumulative traffic impacts as identified at DEIR Section 1.10, *Summary of Significant Project Impacts*, are cumulatively significant and unavoidable.

**Long Term Post-2035 Conditions:**

***Cumulatively Significant and Unavoidable Impacts.***

Pending completion of required improvements, the Project's incremental contributions to Post-2035 cumulative traffic impacts as identified at DEIR Section 1.10, *Summary of Significant Project Impacts*, are cumulatively significant and unavoidable.

Results and conclusion of the EIR are not affected.

**Comment DS-9**

*We also note that the TIA is summarily dismissive of the Project's cumulative impacts on the State Highway System (SHS). At TIA page 196 it states: "At this time, Caltrans has no fee programs or other improvement programs in place to address the deficiencies caused by development projects in the City of Chino (or other neighboring jurisdictions) on SHS roadway segments. As such, no improvements have been recommended to address the Opening Year Cumulative (2018) deficiencies on the SHS, because there is no feasible mitigation available."*

*Caltrans does have procedures to enter into binding agreements accepting fair share funding to implement improvements on the SHS. And the fact that Caltrans has no ready plans to address the*

*mitigation needs does not relieve the DEIR and its preparers of the of the obligation under CEQA to make a good faith effort to define feasible mitigation. The DEIR is inadequate and misleading in this respect.*

#### Response DS-9

The commentor incorrectly asserts: [t]he TIA is summarily dismissive of the Project's cumulative impacts on the State Highway System (SHS)." The TIA appropriately and accurately recognizes that there are no planned physical improvements to SHS freeway segments that would timely achieve near-term (2018) resolution of cumulative freeway segment impacts. This is not a dismissive statement, it is fact.

The DEIR notes further:

Mitigation of freeway facilities impacts is addressed through regional improvements plans and programs. All freeway facilities within the Study Area are under Caltrans jurisdiction; Caltrans has no planned or programmed improvements that would address near-term freeway segment deficiencies. Moreover, there is no mechanism by which the Lead Agency (City of Chino) or the Project Applicant can autonomously construct, or guarantee the construction of, any improvements at potentially affected Study Area freeways segments.

Traditional funding mechanisms providing for freeway mainline improvements include San Bernardino County's Measure "I" retail sales tax revenue for transportation; state and federal gas tax; and formula distributions from vehicle registration fees. Future employees/patrons of the Project would contribute indirectly to freeway improvements through these sources.

State Highway improvements are programmed pursuant to the State Transportation Improvement Program (STIP) as summarized below:

The STIP is a multi-year capital improvement program of transportation projects on and off the State Highway System, funded with revenues from the Transportation Investment Fund and other funding sources. STIP programming generally occurs every two years. The programming cycle begins with the release of a proposed fund estimate in July of odd-numbered years, followed by California Transportation Commission (CTC) adoption of the fund estimate in August (odd years). The fund estimate serves to identify the amount of new funds available for the programming of transportation projects. Once the fund estimate is adopted, Caltrans and the regional planning agencies prepare transportation improvement plans for submittal by December 15<sup>th</sup> (odd years). Caltrans prepare the Interregional Transportation Improvement Plan (ITIP) and regional agencies prepare Regional Transportation Improvement Plans (RTIPs). Public hearings are held in January (even years) in both northern and southern California. The STIP is adopted by the CTC by April (even years). This process, as well as the fund distribution process, is outlined in charts available on the Transportation Programming website <http://www.dot.ca.gov/hq/transprog><sup>23</sup> (DEIR p. 4.2-56).

The TIA identifies necessary improvements to SHS freeway intersections/ramps that would achieve acceptable LOS and thereby reduce the Project's contributions to potentially significant cumulative impacts to levels that would be less-than-significant. The Project would pay its fair share towards improvements at SHS intersections based on fair share percentage identified in Table 1-4 of the TIA. Project fair share fee requirements for Study Area improvements (including improvements to SHS freeway intersections/ramps) are incorporated as mitigation in the EIR (Mitigation Measure 4.2.3, below).

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23 Caltrans Division of Local Assistance. *State Transportation Improvement Program (STIP)*. Caltrans. Web. September 22, 2015. <<http://www.dot.ca.gov/hq/LocalPrograms/STIP.htm>>

4.2.3 Prior to the issuance of building permits, the Project Applicant shall pay requisite fees toward the construction of Post-2035 improvements for the locations indicated at Table 4.2-17 (with Limonite Avenue extension), and summarized at Table 4.2-18 and illustrated at Figure 4.2-6. Project traffic impact fee payments in all instances shall be based on the Project's greatest proportional (fair share) traffic contributions as identified. Estimated maximum costs of improvements under all development scenarios are summarized at EIR Tables 4.2-19 and 4.2-20.

The commentor provides observations regarding Caltrans procedures and binding agreements to accept fair share funding to implement improvements on the SHS. The EIR recognizes these procedures and includes mechanisms that would allow for assignment of Project fair share fees to Caltrans (Mitigation Measures 4.2-13, 4.2-14, below).

4.2.13 Certain of the intersections listed at Mitigation Measures 4.2.1 through 4.2.3 either share a mutual border with Caltrans areas or are wholly located within Caltrans jurisdictional areas. Because the City of Chino does not have plenary control over intersections that share a border with Caltrans jurisdictional areas, the City cannot guarantee that such improvements will be constructed. Thus, the following additional mitigation measure is required: The City of Chino shall participate in a multi-jurisdictional effort with Caltrans to develop a study to identify fair share contribution funding sources attributable to and paid from private and public development to supplement other regional and State funding sources necessary to implement the improvements identified at Mitigation Measures 4.2.1 through 4.2.3 that are located within Caltrans jurisdictional areas. The study shall include fair-share contributions related to private and or public development based on nexus requirements contained in the Mitigation Fee Act (Govt. Code § 66000 et seq.) and 14 Cal. Code of Regs. §15126.4(a)(4) and, to this end, the study shall recognize that impacts attributable to Caltrans facilities that are not attributable to development located within the City of Chino are not paying in excess of such developments' fair share obligations. The fee study shall also be compliant with Government Code § 66001(g) and any other applicable provisions of law. The study shall set forth a timeline and other agreed-upon relevant criteria for implementation

*of the recommendations contained within the study to the extent the other agencies agree to participate in the fee study program. Because the City of Chino and Caltrans are responsible to implement this mitigation measure, the Project Applicant shall have no compliance obligations with respect to this Mitigation Measure.*

*4.2.14 Fair-share amount(s) agreed to by the City and Project Applicant for non-DIF improvements at intersections that share a mutual border with Caltrans jurisdictional areas, or are wholly located within Caltrans jurisdictional areas shall be paid by the Applicant to the City of Chino prior to the issuance of the Project's final certificate of occupancy. The City of Chino shall hold the Project Applicant's Fair Share Contribution in trust and shall apply the Project Applicant's Fair Share Contribution to any fee program adopted or agreed upon by the City of Chino and Caltrans as a result of implementation of Mitigation Measure 4.2.13. If, within five (5) years of the date of collection of the Project Applicant's Fair Share Contribution the City of Chino and Caltrans do not comply with Mitigation Measure 4.2.13, then the Project Applicant's Fair Share Contribution shall be returned to the Project Applicant.*

As supported by the above Response and the detailed information presented in the EIR and TIA, the DEIR appropriately discloses cumulatively significant traffic impacts affecting the SHS, and identifies feasible mitigation that would act to mitigate the Project's incremental contributions to those impacts. Contrary to the commentor's assertions otherwise, the EIR and supporting technical information in total comport with CEQA intent and directives addressing good faith effort, disclosure, and feasible mitigation.

Results and conclusions of the EIR are not affected.

#### Comment DS-10

#### ***Unreasonable Assumptions Concerning Heavy Truck Traffic at Non-High Cube Portion of Business Park***

*The DEIR, Air Quality Impact Analysis (AQIA - DEIR Appendix D), and TIA all assume that the proposed Business Park land uses will not generate heavy-duty truck trips, and as such, the AQIA*

*does not account for heavy-duty truck trips in its CalEEMod model for the proposed Business Park land uses. As a result, the Project's operational emissions are underestimated.*

*According to the Traffic Impact Analysis (TIA), "ITE land use code 770 (Business Park) has been used to derive the site specific trip generation estimates for Buildings 9 through 25. Per the ITE Trip Generation manual and as shown on the preliminary site plan, the business park uses are not anticipated to generate any heavy truck traffic. As such, no vehicle mix has been applied to the business park uses proposed as part of the Project" (p. 137). This is completely nonsensical because, according to the DEIR, Business Park uses may include offices, retail and wholesale stores, restaurants, recreational areas and warehousing, manufacturing, light industrial or scientific research functions (DEIR, p. 3-6).*

*Furthermore, according to the ITE Trip Generation Manual, the average mix of land uses within a Business Park is 20 to 30 percent office/commercial and 70 to 80 percent industrial/warehousing. Therefore, the conclusion that the Business Park would not generate any heavy truck traffic is incorrect, as future tenants of the proposed buildings may require warehouse and industrial uses which clearly do attract heavy-duty truck trips. Moreover, even office uses attract heavy-duty trucks delivering office supplies, restaurants are frequently supplied using heavy-duty trucks and everything is served by heavy-duty garbage trucks. The entire analysis must be redone under more reasonable truck traffic assumptions regarding this part of the Project.*

#### Response DS-10

The commentor incorrectly states: "[t]he DEIR, Air Quality Impact Analysis (AQIA - DEIR Appendix D), and TIA all assume that the proposed Business Park land uses will not generate heavy-duty truck trips, and as such, the AQIA does not account for heavy-duty truck trips in its CalEEMod model for the proposed Business Park land uses. As a result, the Project's operational emissions are underestimated."

As an initial response to the above, the commentor conflates and confuses trip generation estimates made for traffic impacts analytic purposes with trip generation estimates made for air quality analytic purposes. This no doubt contributes to the commentor's misunderstanding of potential traffic impacts and traffic-source air quality impacts



resulting from the Project. Trip generation for traffic impact analytic purposes vs. trip generation estimates employed for air quality impact analytic purposes are clarified here.

For the purposes of the Project Traffic Impact Analysis (TIA), aggregate Project trips, (expressed in passenger car equivalents, PCEs) were estimated in order to determine likely peak-hour traffic level of service (LOS) impacts within the Study Area. The TIA in this regard converts all vehicle classes (trucks, light duty trucks, heavy-duty trucks, etc.) to their equivalent PCEs, thereby recognizing and acknowledging physical size differences in vehicles and related effects on roadways and at intersections.

In contrast, and because different classes of vehicles exhibit differing emissions characteristics, the Project AQIA quantifies and purposely segregates vehicle trips by vehicle class (passenger cars, light duty (LD) trucks, heavy duty (HD) trucks, heavy-heavy-duty (HHD) trucks, etc.). This establishes likely emissions levels that would be generated by each class of vehicles accessing the Project site. Emissions generated by each class of vehicle were then summed in order to estimate the Project's total daily vehicular-source emissions

Thus, while related because both rely at least in part on Project trip generation estimates, the Project traffic and air quality analyses are developed through differing methodologies and for differing purposes. Trip estimates in either of the analyses therefore necessarily do not translate directly to the other, as erroneously inferred by the commentor.

The commentor's stated concerns and incorrect statements regarding trip generation factors employed for the Project Business Park uses are addressed next. As background, it is important for the commentor to understand the proposed Business Park uses as an integral part of the Project design. Specifically, the Business Park component of the Project establishes a series of comparatively small buildings ranging in size from approximately 5,825 square feet to 11,500 approximately square feet (including office space). As a site planning function, the Business Park portion of the Project serves as a buffer between the larger warehouse uses proposed in the northerly portions of the Project site and existing residential uses located southerly of the Project site, across Kimball Avenue. These smaller

Business Park use buildings do not include parking suitable for truck or tractor-trailers, and include no more than one or two roll up doors per building. Moreover, warehouse-type dock height doors intended for use by heavy duty trucks are not provided for the proposed Business Park uses. In combination, these design aspects of the Project effectively preclude substantive heavy truck traffic from accessing the proposed Business Park uses.

Note further that the ITE general description of Business Park uses cited by the commentor indicating inclusion of warehousing is necessarily generic, broad, and inclusive of a wide variety of potential Business Park land uses. The ITE generic description of Business Park uses is by no means definitive for every possible Business Park-type development proposal, and does mean that all Business Park uses by definition include a substantive warehouse component. This is true in the case of the instant Project.

More specifically, the Project Applicant and Lead Agency intend that the Business Park component of the Project would be marketed to, and occupied by, small businesses and/or light retail users (e.g., dry cleaner, sandwich shop, etc.). The multiple small buildings reflected in the Project Site Plan Concept discussed above, reflects these types of uses, not warehouses.

Further, heavy truck traffic (if any) generated by the Project Business Park uses would not occur during peak commute hours (i.e., 7am – 9am and 4pm – 6pm). The limited number of delivery or box-type traffic that may access the proposed Business Park uses would likely occur in off-peak times, and would therefore have no demonstrable effect on the Study Area facilities peak-hour Level of Service (LOS) operations. The amount of off-peak truck traffic that may be generated would consequently not affect the significance of scope of the Project's traffic impacts, nor alter the degree and/or type of required traffic improvements and/or traffic mitigation.

Furthermore, even presupposing that the Project Business Park uses would comprise predominantly light industrial occupancies (as suggested by the commentor) would not substantively affect the EIR traffic impact analyses or the EIR traffic impact significance conclusions. In this regard, comparison of PCE trip generation factors indicate that a

Business Park use would actually generate more trips than would a General Light Industrial use of the same scale.<sup>24</sup> For example, the 146,550 square feet of Business Park uses proposed by the Project would generate an estimated 1,823 daily trips (PCE), with 205 PCE trips during the AM peak hour and 184 PCE trips during PM peak hour (Project TIA, p. 136, et al.). In comparison, an assumed 146,550 square feet of General Light Industrial use would generate 1,296 daily PCE trips, with 171 PCE trips during AM peak hour and 180 PCE trips during PM peak hour. In summary, Business Park uses such those proposed by the Project are estimated to generate 527 more daily PCE trips, with 34 more PCE trips during AM peak hour and 4 more PCE trips during the PM peak hour than would General Light Industrial uses of the same square footage.

The commentor's erroneous statements regarding vehicular-source air quality impacts resulting from the Project's various uses is next addressed. In the case of the Project, the Project air quality analyses employ adopted emissions factors, and vetted vehicle trip generation factors and vehicle trip lengths for the various classes and quantities of vehicles anticipated to access the Project site. In combination, the AQIA trip generation, vehicle mix, and vehicle trip length assumptions yield a conservative overestimation of the Project's vehicular-source emissions impacts (AQIA, pp. 40-41).

For the Project Business Park uses cited by the commentor, CalEEMod default vehicle mixes and related emissions factors uses have been employed. Please refer to AQIA Appendix 3.1, CalEEMod Data Files, *Kimball Business Park-Operation Business Park*, pp.6-7 of 10; 4.2, *Trip Summary Information*; 4.3, *Trip Type Information*. Relevant CalEEMod modeling data is reproduced and presented at Appendix B of this FEIR. As explanatory notes to the appended data, under the heading 4.3, *Trip Type Information*, the various classes of vehicles reflected in the AQIA modeling of Business Park vehicular-source emissions are highlighted (p. 7 of Appendix B). The highlighted column headings identify the various vehicle classes reflected in the AQIA modeling, and the numeric column entries identify the percentage of trips assigned to each vehicle class. For example, the far left column quantifies the percentage (47.049 %) of the Business Park total daily trips assigned to the

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<sup>24</sup> PCE trip generation for Business Park use per Project TIA. PCE trip generation for General Light Industrial uses based on *City of Fontana Truck Trip Generation Study*.

Passenger Car (LDA) class. Similarly, the MHD (Medium Heavy Duty) column entry indicates that 1.663 percent of the total daily Business Park trips would accrue to Medium Heavy Duty trucks, etc. The CalEEMod default vehicle mix as employed in the Project AQIA accurately reflect the full range of vehicle types (passenger cars, medium duty trucks, heavy-duty trucks, heavy-heavy-duty trucks, buses, motorcycles, etc.) that would access the Project Business Park uses. The vehicle classes reflected in the AQIA modeling include, but are not limited to, the heavy truck class cited by the commentor. Contrary to commentor's assertion otherwise, the AQIA Business Park analysis does in fact include a heavy truck component.

As a matter of clarification and correction, the text at Project Air Quality Impact Analysis p.39, (and elsewhere in the Project air quality analyses), is amended as follows:

- ~~ITE land use code 770 (Business Park) has been used to derive the site specific trip generation estimates for Buildings 9 through 25. Per the ITE Trip Generation manual and as shown on the preliminary site plan, the business park uses are not anticipated to generate any heavy truck traffic. As such, no vehicle mix has been applied to the business park uses proposed as part of the Project.~~ **Vehicle mix and vehicle emissions factors for Buildings 9 through 25 have been modeled consistent with CalEEMod default parameters.**

As substantiated in the preceding Response and by the EIR air quality and traffic impact analyses in total, and contrary to the commentor's assertions otherwise, the EIR accurately reports all vehicle-source emissions generated by the Project, including but not limited to vehicular-source emissions that would be generated by heavy truck traffic accessing the Project Business Park uses. There is no basis for, or requirement for, reevaluation of the Project traffic impacts and/or air quality impacts.

Results and conclusions of the DEIR are not affected.

Comment DS-11

*Conclusion*

*This concludes my current comments on the Kimball Business Park Project DEIR. For the reasons stated above, I believe the traffic analysis should be redone and recirculated in draft status.*

Response DS-11

The Responses presented above and the detailed information presented in the EIR and TIA substantiate that Project traffic impacts are adequately and accurately presented, and that mitigation incorporated in the EIR acts to reduce potentially significant impacts to the extent feasible. There is no requirement for revaluation of Project traffic impacts, and no basis for recirculation of the EIR. Results and conclusions of the EIR are not affected.