Comment Letter D3

D3-1

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November 21, 2017

VIA OVERNIGHT MAIL & EMAIL

Mark Brunette, Senior Environmental Planner City of San Diego Development Services Center 1222 First Avenue, MS 501 San Diego, CA 92101 DSDEAS@sandiego.gov

> Re: Comments on the Draft Environmental Impact Report/ Environmental Impact Statement for the North City Project, Pure Water San Diego Program (SCH #2016081016 / PTS #499621)

We are writing on behalf of California Unions for Reliable Energy ("CURE") to provide comments on the Draft Environmental Impact Report and Draft Environmental Impact Statement ("DEIR/EIS") prepared by the City of San Diego and by the U.S. Bureau of Reclamation, pursuant to the California Environmental Quality Act, and its regulations ("CEPA"), and the National Environmental Policy Act, and its regulations ("NEPA"), a respectively, for the Pure Water San Diego Program, North City Project (SCH #201608101) PTS #499621) ("Project"),

The Project is being proposed by the City of San Diego, Public Utilities Department ("City" or "Applicant") and will include expanding the existing North City Water Reclamation Plant and constructing an adjacent North City Pure Water Facility with a purified water pipeline to Miramar Reservoir. A Project alternative would install a longer pipeline to deliver product water to the San Vicente Reservoir. Federal assistance for the Project is authorized by the Reclamation Wastewater and Groundwater Study and Facilities Act of 1992, which directs the

California Public Resources Code, §§ 21000 et seq.

² National Environmental Policy Act, 42 U.S.C. 4321 et seq. ³ DEIR/EIS, ES-1-2.

DEINEIS, ES-1-2.

4 DEIR/EIS, E

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Adams Broadwell Joseph & Cardozo Linda Sobczynski November 21, 2017

D3-1 Comment noted.

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Secretary of Interior, in cooperation with the City of San Diego, to participate in planning, designing, and constructing demonstration and permanent facilities to reclaim and re-use water in the San Diego metropolitan service area. This authority is delegated to the Bureau of Reclamation.

The North City Project, which includes a variety of facilities, will be located throughout the central coastal areas of San Diego County in the North City geographic area of the University, Mira Mesa, Scripps Miramar Ranch, Clairemont Mesa, Linda Vista, Mission Valley, Kearny Mesa, Tierrasanta, and Navajo Community Plan Areas. A new pure water facility, expanded water reclamation facility, and three pump stations would be located within the corporate boundaries of the City of San Diego. Proposed pipelines would traverse a number of local jurisdictions, including the cities of San Diego and Santee, and the community of Lakeside and other areas in unincorporated San Diego County, as well as federal lands within the Marine Corps Air Station Miramar. P

Other project components include: a new pump station and forcemain to deliver additional wastewater to the North City Water Reclamation Plant, a brine discharge pipeline, and upgrades to the existing Metropolitan Biosolids Center. 19 A new North City Renewable Energy Facility is proposed, and would be constructed at the North City Water Reclamation Plant to receive landfill gas from the City's Miramar Landfill gas collection system via a new gas pipeline, providing power to the North City Project components. 11 The landfill gas eline would cross Marine Corps Air Station Miramar and will require approval by the United States Marine Corps. 12

Based on our review of the DEIR/EIS, we conclude that it fails to comply with CEQA and NEPA and must be withdrawn. The document lacks substantial evidence to support its conclusions with respect to air quality, and it does not provide an accurate environmental setting against which to compare the Project's

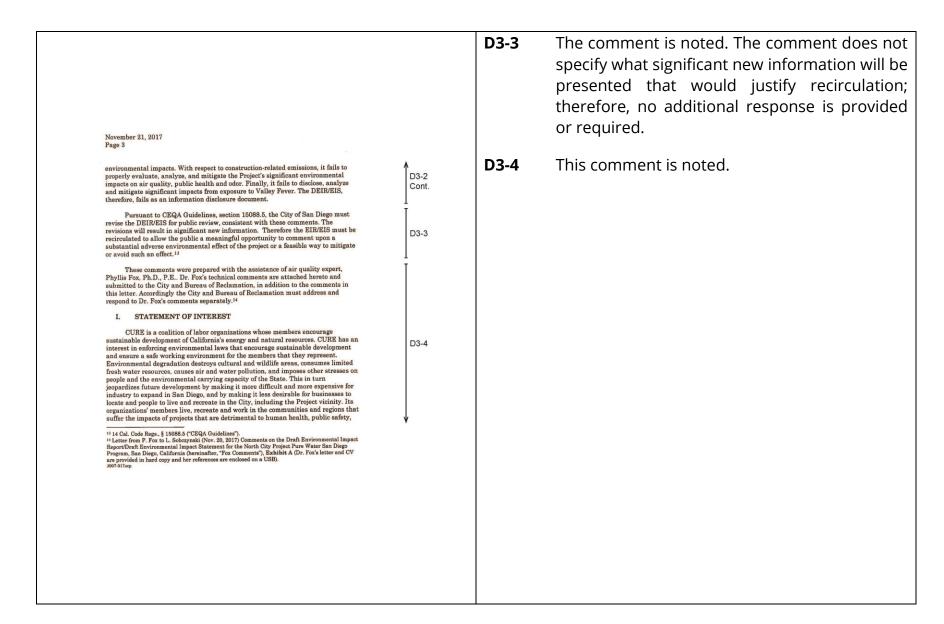
ODEIR/EIS, ES-1-2.
DEIR/EIS, ES-1-2.

D3-2 The comment is noted. The comment is acknowledged as an introduction to specific comments that follow.

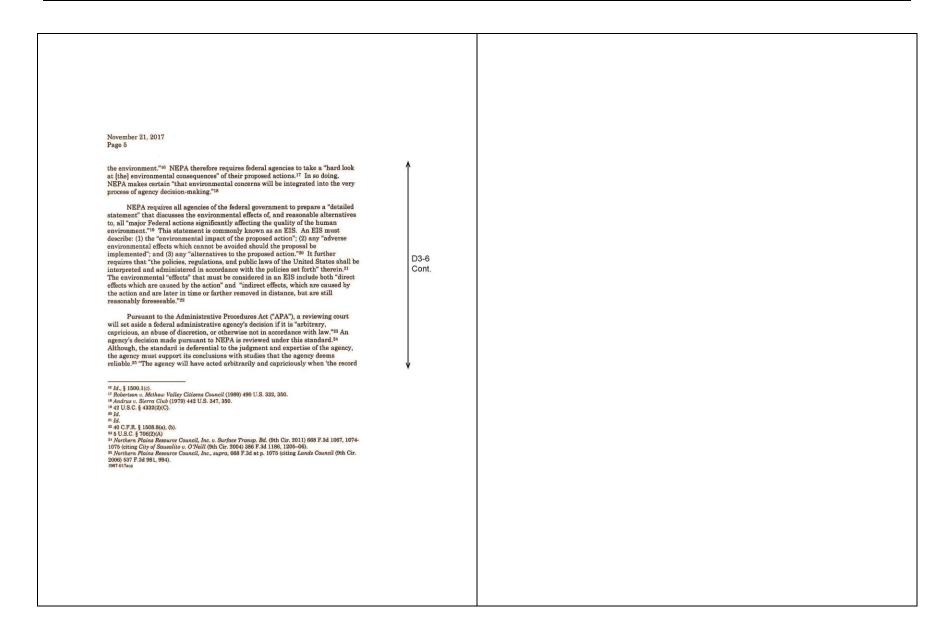
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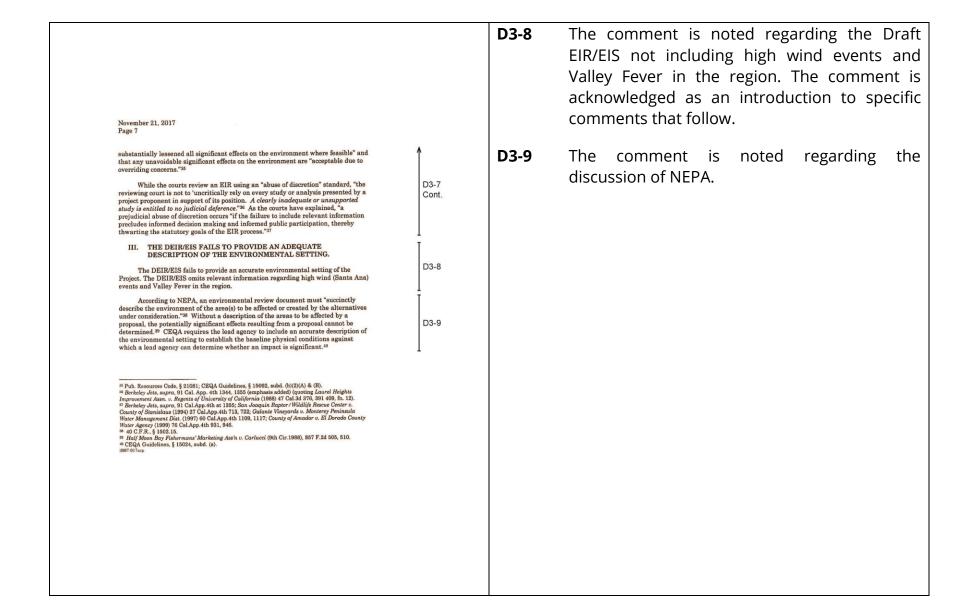
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Cont.



D3-5 The comment is noted. The comment does not raise specific issues related to the adequacy of the environmental analysis in the Draft EIR/EIS; therefore, no additional response is provided or required. November 21, 2017 D3-6 The comment is noted regarding the intent of and the environment, including in the San Diego regions that will be negatively impacted by the Project's environmental impacts. CURE therefore has a direct NEPA and EISs. interest in enforcing planning, zoning, land use, and environmental laws to minimize the adverse impacts of projects that would otherwise degrade the environment and threaten public health and safety. D3-4 Individual members of CURE's affiliates live, work, recreate and raise their Cont. families in the City of San Diego, County of San Diego and the surrounding counties, including the areas in and around where the Project is proposed. Accordingly, they will be directly affected by the Project's environmental and health and safety impacts. Individual members of CURE's affiliates may also work on the Project itself. They will, therefore, be first in line to be exposed to any hazardous materials, air contaminants or other health and safety hazards that exist onsite. THE DEIR/EIS FAILS TO COMPLY WITH NEPA AND CEQA. The DEIR/EIS must comply with NEPA's and CEQA's procedural and substantive requirements. As set out in further detail in the following sections, the DEIR/EIS fails to comply with NEPA and CEQA. The DEIR/EIS does not describe the existing setting necessary to adequately analyze potentially significant impacts. Also, the DEIR/EIS fails to disclose potentially significant impacts. Where the DEIR/EIS does discuss impacts, it lacks substantial evidence to support its D3-5 conclusions and otherwise fails to adequately disclose, analyze, and mitigate those impacts. Consequently, those environmental effects are new or more severe than they are reported. Due to the significant revisions that will be required to adequately analyze undisclosed, potentially significant environmental and public health impacts, and propose all necessary and feasible mitigation to reduce significant impacts, the City and Bureau of Reclamation must revise and recirculate a. National Environmental Policy Act ("NEPA") NEPA is "our basic national charter for protection of the environment." 15 Its D3-6 purpose is "to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance 15 40 C.F.R. § 1500.1(a). 3907-017acp





D3-10 Please refer to Response to Comment D3A-27 for a complete response to this topic. November 21, 2017 a. The DEIR/EIS fails to provide an adequate description of the environmental setting because it does not describe high wind The description of the environmental setting in the DEIR/EIS is inadequate as it omits highly relevant information regarding reasonably foreseeable high wind events. 10 r. Fox writes that the DEIR/EIS assumed a wind speed of 5.8 mph. 42 However, she adds that Santa Ana winds occur regularly and are capable of reaching 30 to 50 mph.43 Omitting these high wind events from the DEIR/EIS's description of the setting is a severe flaw because the proposed Project will involve significant amounts of excavation, thus exposing soil surfaces in freshly graded areas and storage piles.⁴¹ Dr. Fox writes that the DEIR/EIS should have included a separate D3-10 air quality analysis based on the fugitive dust generated by high wind events over the land and storage piles. 46 Without doing so, Dr. Fox states that the DEIR/EIS has not accounted for significant amounts of PM10, PM2.5 and Valley Fever spores, which would be dispersed by wind during the Project's grading, cut and fill, or soil movement, or from bare graded soil surface. 16 For example, the DEIR/EIS states that PM10 emissions and PM2.5 emissions are below the significance threshold.⁴⁷ The significance threshold for PM10 emissions is 100 lb/day.⁴⁸ The significance threshold for PM2.5 emissions is 67 ⁴¹ Fox Comments, p. 13. ⁴² Fox Comments, p. 14 (citing DEIR/EIS, Appx. A to Appx. B and Appx. B to Appx. B, 3, 31, 54, ⁴ Fox Comments, p. 14 (etting DEINEES, Appx. A to Appx. B and Appx. B to Appx. B, 3, 1, 04, possim.)
⁴ Fox Comments, p. 14; see also Fox Comments, p. 6 ("Windblown dust] must be separately as the Comments of ** See Fox Comments, p. 10.
** Fox Comments, pp. 61.3.
** Fox Comments, pp. 61.3.
** Fox Comments, pp. 64.13.
** Generally, wind erosion impacts are estimated using AERMOD.**
** DEIREIS, Appx. 8. pp. 7.1-72 (Table 7.2-20), pdf. p. 82-83.
** BORTONIS, Appx. 8. pp. 71-72 (Table 7.2-20), pdf. p. 82-83.
** BORTONIS, Appx. 8. pp. 71-72 (Table 7.2-20), pdf. p. 82-83.

November 21, 2017 lb/day.49 The DEIR/EIS reports that daily PM10 emissions for the Miramar Reservoir Alternative are 70.03 lb/day for PM10 and 36.13 lb/day for PM2.5.50 However, this conclusion - that the PM10 and PM2.5 emissions are below significance thresholds — is not supported by substantial evidence because the Project's emissions are underestimated. Dr. Fox explains that: A Santa Ana wind event could easily significantly increase total PM10 and PM2.5 emissions, which increase with increasing wind velocity[.] [I]ncluding the omitted windblown dust emissions could increase PM10 and PM2.5 emissions over significance thresholds, resulting in

Not only does the DEIR/EIS fail to consider high wind events, as described above, but it also fails to accurately calculate windblown dust from graded areas and storage piles. The DEIR/EIS solely relies on outdated CalEEMod modeling, which does not include fugitive dust generated by wind over land and storage piles. 52 Consequently, Dr. Fox provides substantial evidence that once windblown dust is correctly accounted for, 53 PM2.5 and PM10 could be significant, unmitigated, and require all feasible mitigation.54

significant unmitigated impacts that require all feasible mitigation.51

Accurately describing existing high wind events is critical to evaluating the Project's potentially significant impacts on air quality and public health.55 The City and the Bureau of Reclamation are required to gather the relevant data and provide an adequate description of the existing environmental setting in a revised DEIR/EIS. Only with a complete description of the existing environmental setting

- D3-11 Please refer to Response to Comment D3A-29 for a complete response to this topic.
- D3-12 Please refer to Response to Comment D3A-27 for a complete response to this topic.

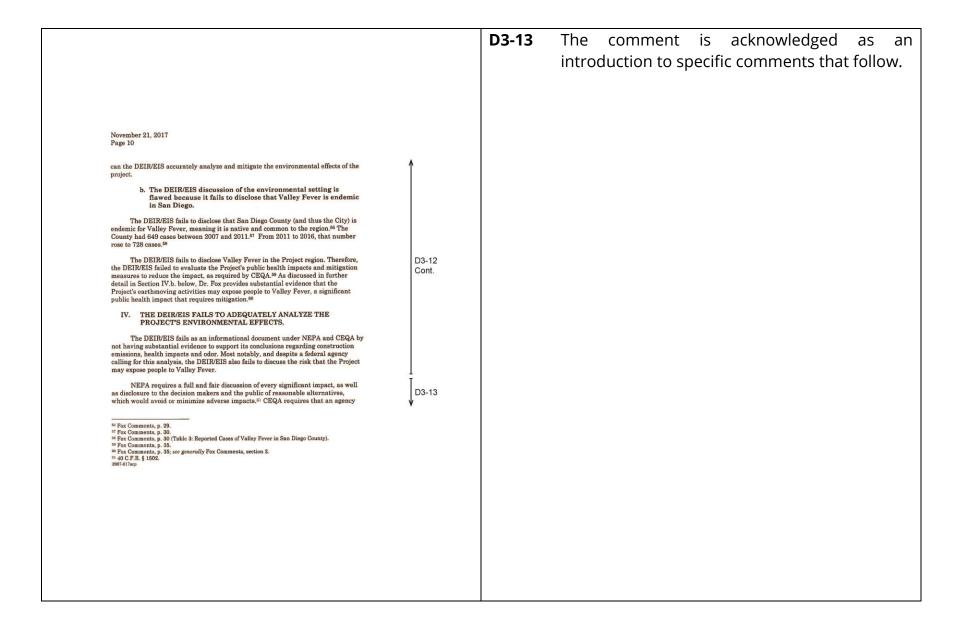
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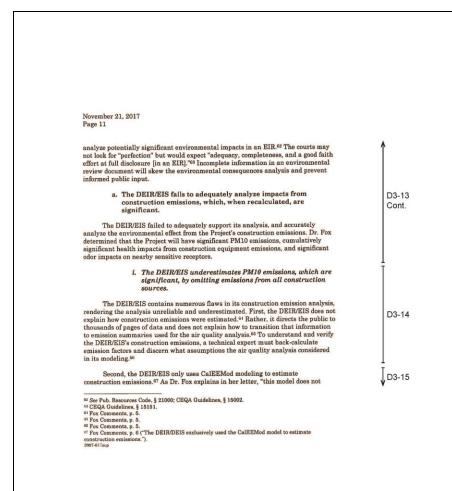
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DEIR/EIS, Appx. B, pp. 71-72 (Table 7.2-20), pdf. p. 82-83.
 DEIR/EIS, Appx. B, pp. 71-72 (Table 7.2-20), pdf. p. 82-83.

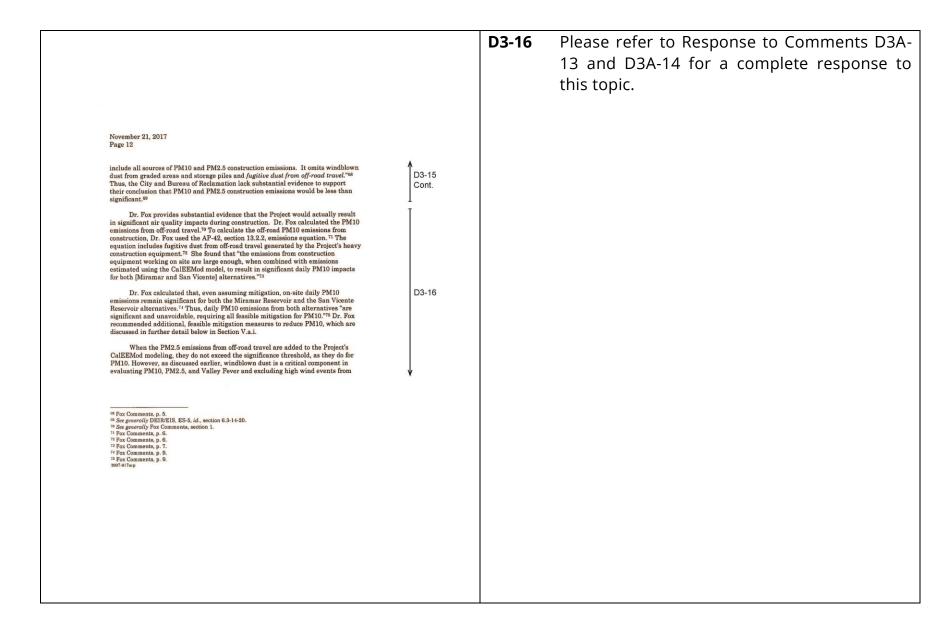
⁵¹ Fox Comments, p. 15.

⁵⁴ Fox Comments, p. 15.
⁵⁵ Fox Comments, p. 6: d., at p. 4 ("Construction emissions should be revised to use [the latest] version [2016.3.2.")
⁵⁶ Fox Comments, p. 6: d., at p. 4 ("Construction emissions from off-road travel, which also increases emissions of PM10 and PM2.5. This is discussed in Section IV.a.i.
⁵⁶ Fox Comments, p. 15 ("IS stata Ana winds occurred during grading, cut and fill, or soil movement; or from bare graded soil surfaces, even if periodically wetted, significant amounts of PM10, PM2.5, and associated Valley Fever spores would be released. These emissions could result in public health impacts from Valley Fever spores and/or violations of PM10 and PM2.5 CAAQS and NAAQS.").
⁵⁶ CEQA Guidelines, § 1512.5, subt. (a): see also Communities For A Better Environment v. South Coast Air Quality Management Dist. (2010) 48 Cal.4th 310, 321.





- **D3-14** Please refer to Response to Comment D3A-9 for a complete response to this topic.
- **D3-15** Please refer to Response to Comments D3A-27 and D3A-30 for a complete response to this topic.





the air quality analysis has resulted in a flawed DEIR/EIS.76 According to Dr. Fox, high wind events may result in significant PM2.5 emissions.77

The City and Bureau of Reclamation must revise the DEIR/EIS to add in all emissions sources — windblown dust and fugitive dust from off-road travel consistent with these comments. 78 The agencies will consequently need to recirculate the revised EIR/EIS to ensure that the public is not deprived of a meaningful opportunity to comment upon the significant PM10 emissions and proposed mitigation measures to reduce this air quality impact.

The DEIR/EIS does not adequately analyze health impacts caused by construction equipment.

Despite the well-known public health impact that construction is known to have on surrounding communities, the DEIR/EIS does not evaluate health impacts from Project construction equipment emissions. 79 According to Dr. Fox, the Project will use diesel-fueled, off-road equipment such as "heavy-duty trucks, cranes, bulldozers, excavators, and graders."80 Not only will the equipment emit large amounts of diesel particulate matter ("DPM"), but it will also emit other hazardous air pollutants, such as benzene, which can cause cancer and other acute and chronic health impacts.81 As Dr. Fox writes in her comments, construction is well known to result in significant health impacts in surrounding communities. 82 And, for this Project, there are sensitive receptors that are very close to construction sites, within

Even though the Project's emissions of DPM and other hazardous air pollutants will be near sensitive receptors, the DEIR/EIS did not include an

- D3-17 Please refer to Response to Comment D3A-31 for a complete response to this topic.
- D3-18 Please refer to Response to Comments D3A-31 and D3A-37 for a complete response to this topic.

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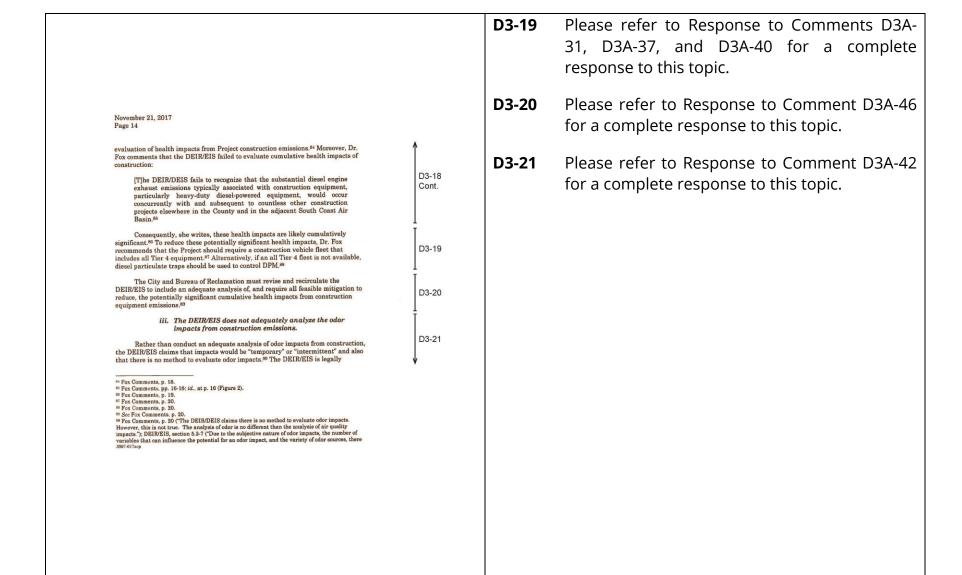
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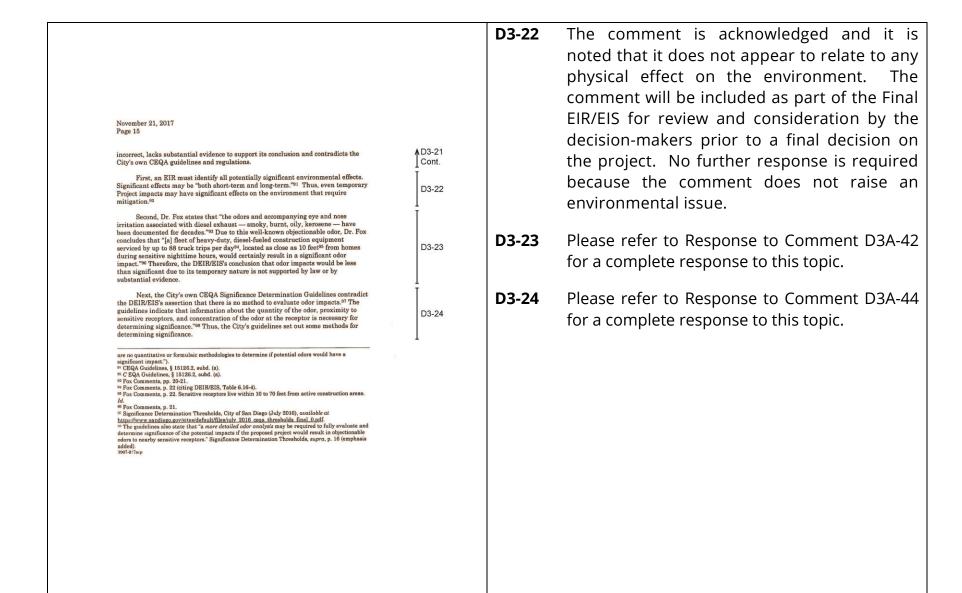
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³⁶ High wind events may result in significant PM10 and PM2.5 emissions. Fox Comments, p. 15.
³⁷ Fox Comments, p. 15 ('Including the omitted windblown dust emissions could increase PM10 and PM2.5 emissions over these significance thresholds, resulting in significant unmitigated impacts that require all feasible mitigation.').
³⁸ Sec, supro, Section III.a.; see also Fox Comments, p. 14 (The added emissions during Santa Ana winds must be included in the Project emissions).
³⁹ Pox Comments, p. 15; see generally Fox Comments, section 1.7.
**Pox Comments, p. 15

Fox Comments, p. 15.
Fox Comments, p. 15.

¹² Fox Comments, p. 15. ⁴⁴ Fox Comments, pp. 18, 22 ("[T]here are many nearby sensitive receptors located within 10 to 70 feet from active construction areas.").
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D3-25 Please refer to Response to Comments D3A-43, D3A-44, and D3A-45 for a complete response to this topic. Please refer to Response to Comment D3A-27 D3-26 November 21, 2017 for a complete response to this topic. Separately, the San Diego Municipal Code provides a proximity-based regulation, which states that odors should not be permitted to emanate beyond the boundaries of the premises upon which the use emitting the contaminants is located.99 Dr. Fox adds her expert opinion that analyzing odor is no different than analyzing air quality impacts. She explains that the agency can quantify odor by identifying the odiferous compounds, estimating their emission rates, and using modeling to estimate the concentration of those odiferous compounds at the location of sensitive receptors. 100 The DEIR/EIS's conclusion that there is no method to evaluate odor impacts is not supported by the City's guidelines, by municipal code, D3-25 or by Dr. Fox's expert opinion. Dr. Fox provides substantial evidence, based on her expert experience, that odor impacts will be significant. ¹⁰¹ Mitigation is available and should be required to reduce the significant odor impact from all construction within at least 1,000 feet of sensitive receptors. 102 For example, the construction equipment can be equipped with diesel oxidation catalysts, which eliminate odors. 103 The DEIR/EIS must be revised and recirculated to adequately address and mitigate the Project's significant odor impact. b. The DEIR/EIS fails to disclose and analyze significant impacts due to exposure to Valley Fever. D3-26 According to Dr. Fox, the Project will have a significant health impact as a result of disturbing soils that may contain Valley Fever spores. 104 Yet, the 99 San Diego Municipal Code Chapter 14: General Regulations, §142.0710 (Air Contaminant http://docs.sandiego.gov/municode/MuniCodeChapter14/Ch14Art02Division07.pdf.

100 Fox Comments, pp. 21-22. Fox Comments, pp. 21-22.
For Comments, pp. 21-22.
Fox Comments, p. 23.
Fox Comments, p. 23.
Fox Comments, p. 23.
Fox Comments, p. 23.
see also Fox Comments, p. 23.
see also Fox Comments, p. 23.
see also Fox Comments, p. 28.
Fox Comments, p. 28.
Fox Comments, p. 28.
Fox Comments, p. 28.

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DEIR/EIS failed to disclose this health impact, 105 despite the U.S. EPA's scoping comments advising the City to include a discussion on the disease. 106

In her letter, Dr. Fox describes the disease and those who are most at-risk. 107 Coccidiodomycosis, also known as Valley Fever, is contracted by inhaling spores of the dimorphic fungus Coccidioides spp. (Coccidioides immitis and Coccidioides posadasii) from soil or airborne dust. ¹⁰⁸ The fungus lives in the top 2 to 12 inches of soil. 109 When soil containing the fungus is disturbed during earth moving activities, such as digging or construction, the fungal spores become air borne. 110 The spores are too small to be seen by the naked eye and there is no reliable way to test the spores before working in a particular area.¹¹¹ However, some areas carry higher risk because they are native and common, or endemic, to the disease. The Project is in an endemic zone for Valley Fever. 112

"Typical symptoms of Valley Fever include fatigue, fever, cough, headache, shortness of breath, rash, muscle aches, and joint pain. Symptoms of advanced Valley Fever include chronic pneumonia, meningitis, skin lesions, and bone or joint infections."113 As Dr. Fox writes, no vaccine or known cure exists for the disease.114 The disease is debilitating particularly to construction and agricultural workers as it prevents them from working,115

Additionally, infection rates generally spike during the hot summer months. 116 This means that in California the majority of Valley Fever cases occur D3-27

D3-26

Cont.

D3-27

The comment is acknowledged and it is noted that it does not appear to relate to any physical effect on the environment. The comment will be included as part of the Final EIR/EIS for review and consideration by the decision-makers prior to a final decision on the project. No further response is required because the comment does not raise an environmental issue.

¹⁰⁵ Fox Comments, p. 35.
¹⁰⁵ DEIR/EIS, at Appendix A (Scoping Letter, NOP/NOI, and NOP Comments), pdf. pp. 76-77 (U.S. EPA) Detailed Scoping Comments on the Pure Water Project, San Diego County, California, September 6, 2016, pp. 6-7); see also Fox Comments, p. 36.

¹⁰⁷ See Fox Letter, section 2.

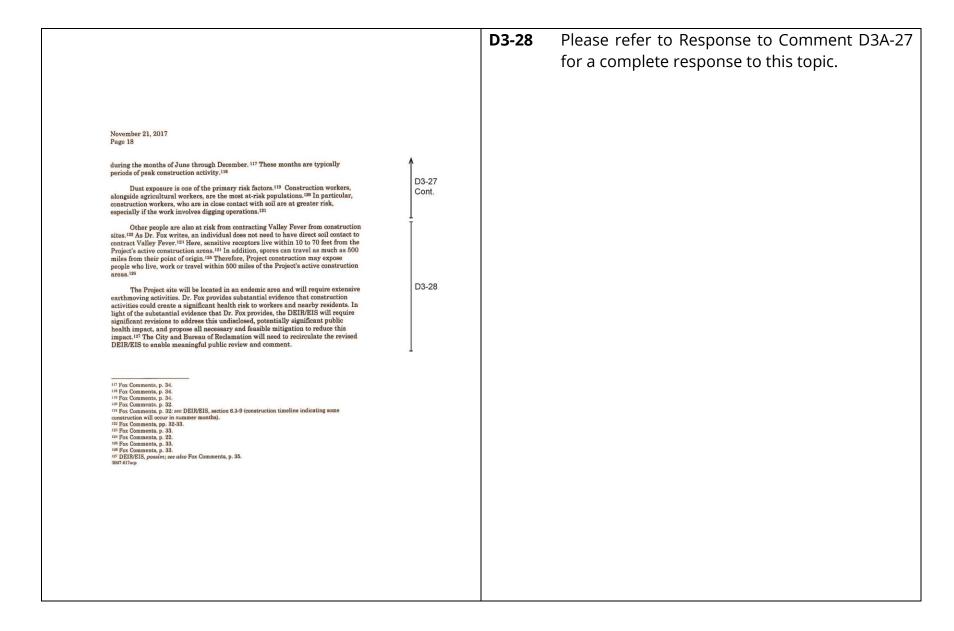
¹⁰⁸ Fox Comments, p. 28.
109 Fox Comments, p. 28.

¹¹⁹ Fox Comments, p. 28.
111 Fox Comments, p. 28.

¹¹² Fox Comments, p. 29.

¹¹³ Fox Comments, p. 34.

Fox Comments, p. 34.
 Fox Comments, p. 32 ("The longest period of disability from occupational exposure in California is to construction workers, with 62% of the reported cases resulting in over 60 days of lost work."). 116 Fox Comments, p. 34.



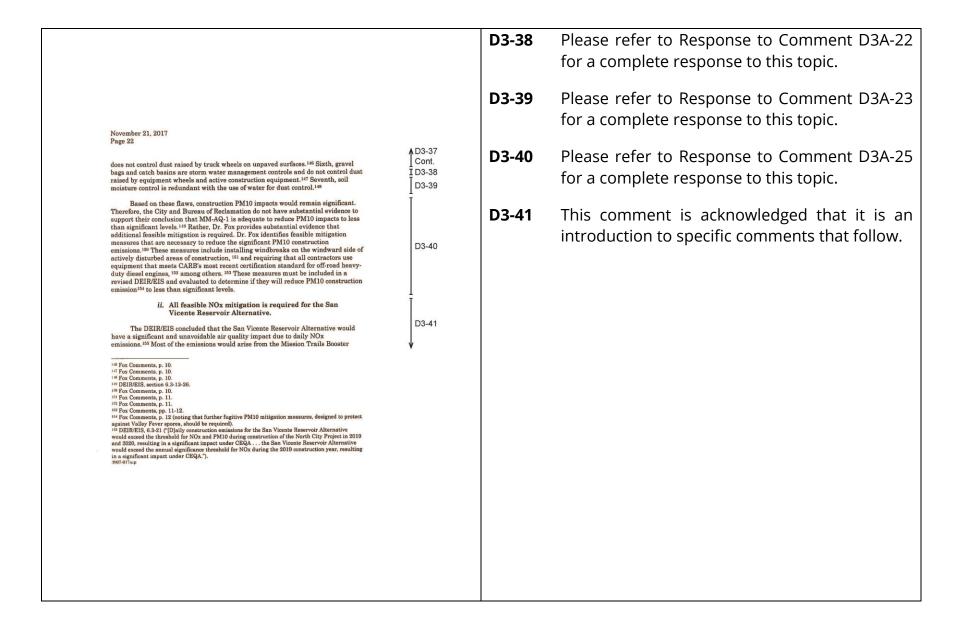
November 21, 2017 Page 19 THE DEIR/EIS FAILS TO REQUIRE ALL FEASIBLE MITIGATION TO REDUCE SIGNIFICANT IMPACTS. The DEIR/EIS fails to require all feasible mitigation to reduce impacts from construction emissions, and the DEIR/EIS must include mitigation measures to reduce the public health impact from exposure to Valley Fever spores to less than Pursuant to NEPA, an EIS must include a discussion of "appropriate mitigation measures not already included in the proposed action or alternatives."128 Mitigation includes "minimizing impacts by limiting the degree or magnitude of the D3-29 action and its implementation."129 Under CEQA, an EIR is inadequate unless it includes "a detailed statement setting forth . . . mitigation measures proposed to minimize [the project's] significant effects on the environment." 130 An EIR may conclude an impact is significant and unavoidable only if all available and feasible mitigation measures have been proposed, but are inadequate to reduce the impact to a less than significant level. ¹³¹ Mitigation measures must be fully enforceable through permit conditions, agreements or other legally binding instruments. 132 A CEQA lead agency may not rely on mitigation measures of uncertain efficacy or feasibility.133 This approach helps "insure the integrity of the process of decision by precluding stubborn problems or serious criticism from being swept under the a. Construction emissions are significant and require all feasible mitigation measures. D3-30 The DEIR/EIS must include all feasible mitigation measures to reduce impacts from PM10 and NOx emissions from off-road vehicles to less than significant levels. 139 40 C.F.R., § 1508.20(b).
138 Pub. Resources Code, § 21100, subd. (b)(3); CEQA Guidelines, § 15126, subd. (e).
139 Pub. Resources Code, § 21081; CEQA Guidelines, § 15092, subd. (b)(2)(A) & (B). Fig. neadures code, \$1001, Code Othermes, \$1002, and colored Code Othermes, \$1002, and code Othe replacement water was available).

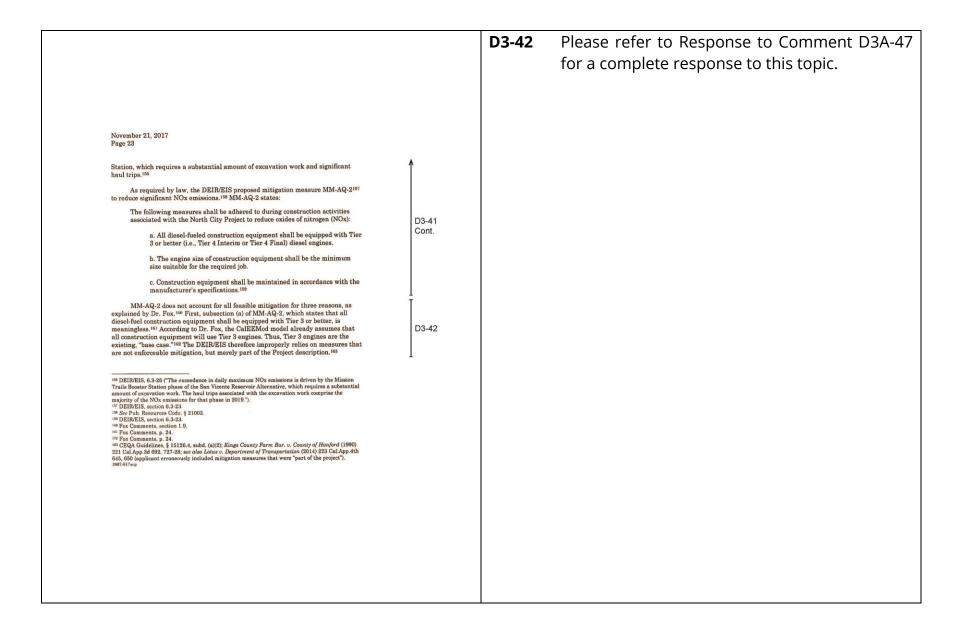
111 Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn. (1986) 42 Cal.3d 929, 935.

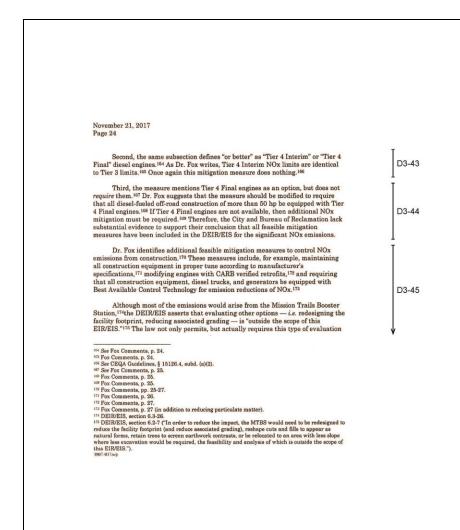
- **D3-29** Please refer to Response to Comments D3A-50 and D3A-51 for a complete response to this topic.
- **D3-30** Please refer to Response to Comments D3A-14 and D3A-49 for a complete response to this topic.

D3-31 Please refer to Response to Comment D3A-16 for a complete response to this topic. This comment is acknowledged that it is an D3-32 introduction to specific comments that follow. November 21, 2017 i. Mitigation Measure MM-AQ-1 is not adequate to mitigate significant off-road PM10 impacts. The DEIR/EIS includes some on-site particulate fugitive dust control D3-31 measures in Mitigation Measure MM-AQ-1135 However, as Dr. Fox writes, none of those mitigation measures would reduce particulate matter from off-road equipment travel to less than significant levels. At most, MM-AQ-1 would reduce particulate matter by 40%, which Dr. Fox accounted for in her revised PM10 calculations. 136 Dr. Fox explains that there are seven reasons for why MM-AQ-1 would not reduce particulate matter from off-road equipment travel to less than significant levels. 117 Mitigation Measure MM-AQ-1 states 138: The following best management practices shall be implemented during construction to comply with applicable San Diego Air Pollution Control District (SDAPCD) rules and regulations and to further reduce daily construction emissions: Best management practices that could be implemented during construction to reduce particulate emissions and reduce soil erosion and trackout include the following: D3-32 · Cover or water, as needed, any on-site piles of debris, dirt, or other dusty material. Use adequate water and/or other dust palliatives on all disturbed areas in order to avoid particle blow-off. Due to current drought conditions, the contractor shall consider use of a SDAPCD-approved dust suppressant where feasible to reduce the amount of water to be used for dust control. Use of recycled water in place of potable water shall also be considered provided that the use is approved by the City of San Diego and other applicable regulatory agencies prior to initiation of construction 135 DEIR/EIS, section 6.3-21-22. 136 Fox Comments, pp. 9-10 (discussing her calculations, which assumed 40% reductions of PM10). 187 Fox Comments, pp. 9-10.
128 DEIR/EIS, section 6.3-21-22; DEIR/EIS, Appendix B, p. 74.
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		D3-33	Please refer to Response to Comment D3A-17 for a complete response to this topic.
November 21, 2017		D3-34	Please refer to Response to Comment D3A-18 for a complete response to this topic.
Page 21 activity. Use of recycled water shall be in compliance with all applicable City of San Diego Rules and Regulation for Recycled Water (City of San Diego 2016a), particularly for the protection of public health per the California Code of Regulations, Title 22, Division 4.	1	D3-35	Please refer to Response to Comment D3A-19 for a complete response to this topic.
Wash down or sweep paved streets as necessary to control track out or fugitive dust. Cover or tarp all vehicles hauling dirt or spoils on public roads if sufficient freeboard is not available to prevent material blow-off during transport.	D3-32 Cont.	D3-36	Please refer to Response to Comment D3A-20 for a complete response to this topic.
 Use gravel bags and catch basins during ground disturbing operations. Maintain appropriate soil moisture, apply soil binders, and plant stabilizing vegetation.¹³⁹ 	ļ	D3-37	Please refer to Response to Comment D3A-21 for a complete response to this topic.
First, the DEIR/EIS contains no discussion of who would be responsible to develop these measures or oversee their implementation. 140 Second, MM-AQ-1 requires covering or watering stockpiles. 141 As Dr. Fox explains, watering stockpiles does not eliminate off-site, unpaved road dust from flat surfaces, unpaved roadways, and active working areas. 142 Relatedly and third, water or dust palliatives do not control dust from active working areas where excavators, and other equipment, are operating. 143 Dr. Fox estimates that this measure, coupled with moisture control, would control at most 40% of the dust. 144	D3-33 D3-34 D3-35		
Fourth, according to Dr. Fox, washing and sweeping paved streets does not control dust from either on-site or off-site unpaved areas. 142 Fifth, covering trucks 129 DEIR/EIS. section 6.3-21-22; id., Appendix B, p. 74. 140 Fox Comments, p. 9. 141 Fox Comments, p. 9-10. 142 Fox Comments, p. 9-10. 143 Fox Comments, p. 10.	I D3-36 ↓D3-37		
144 Fox Comments, p. 10. 145 Fox Comments, p. 10. 1807-917acp			







- **D3-43** Please refer to Response to Comment D3A-48 for a complete response to this topic.
- **D3-44** Please refer to Response to Comment D3A-49 for a complete response to this topic.
- **D3-45** Please refer to Response to Comments D3A-49 and D3A-50 for a complete response to this topic.

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when determining the scope of imposing mitigation for a significant and unavoidable impact. 176 The DEIR/EIS must be revised to include additional feasible construction mitigation measures to reduce the significant NOx emissions to below 250 lb/day.177 The City must then recirculate the revised DEIR/EIS for public

> b. Public health impacts from Valley Fever are significant and require all feasible mitigation measures.

As discussed above, the DEIR/EIS did not disclose, or analyze significant health impacts from exposure to Valley Fever spores.¹⁷⁸ Dr. Fox provides substantial evidence that the public health impacts are significant and require mitigation. Although the DEIR/EIS includes a conventional dust control measure to address construction impacts on air quality (Mitigation Measure MM-AQ-1), 179 Dr. Fox writes that the measure is inadequate to address the health risk posed by exposure to Valley Fever spores. 180 Therefore, the DEIR/EIS must be revised and recirculated to include mitigation measures that specifically mitigate the public health impact from exposure to Valley Fever spores.

Dr. Fox explains that conventional dust control measures are not adequate to address Valley Fever because those measures "largely focus on visible dust or large dust particles — the PM10 fraction — not the very fine particles where the Valley Fever spores are found,"181 Even after applying dust control measures, and observing that the air appears relatively clear and dust free, 182 the spores, can remain aloft for long periods and be carried hundreds of miles from their point of

¹⁵⁸ Pub. Resources Code, § 21002. ("the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects [italics added].")
¹³⁷ DEIR/DEIS, Appx. B, Table 7.2-29.

D3-46 Please refer to Response to Comment D3A-51 for a complete response to this topic.

D3-47 Please refer to Response to Comments D3A-54 and D3A-66 for a complete response to this topic.

D3-45

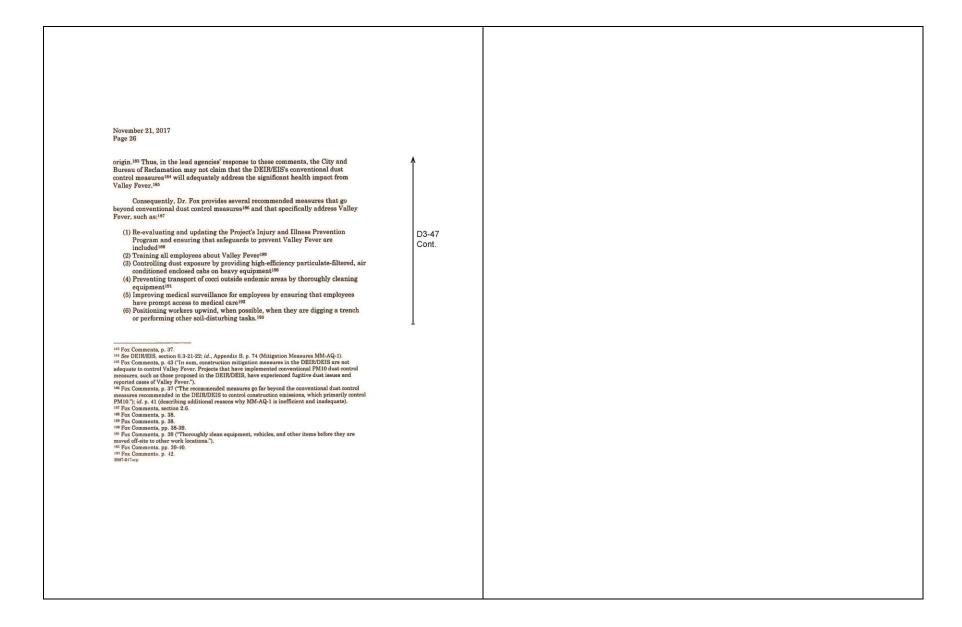
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¹⁷⁸ Fox Comments, p. 35.

^{**} Pox Comments, p. 30.
** Pox Comments, p. 30.
** Dr. Rox identifies flaws in MM-AQ-1, which she describes on pp. 41-42 of her comment letter. For example, "the DEIRDEIS contains no discussion of who would be responsible to develop these measures or oversee their implementation." Id.
** a ** Pox Comments, p. 36. 41.
** Pox Comments, p. 36. 41.
** Pox Comments, p. 36 discussing Mitigation Measures MM-AQ-1).

¹⁸⁰ Fox Comments, p. 37 "Spores of Occidences sp. have slow settling rates in air due to their small size (0.002 mm) and low terminal velocity, and possibly also due to their buoyancy, barrel shape, and commonly attached empty hyphae cell fragments.").
1807-017ap



November 21, 2017 Page 27 Dr. Fox concludes that "[e]ven if all the [recommended] measures are adopted, a recirculated DEIR/EIS is required to analyze whether these [recommended] measures are adequate to reduce [the Valley Fever] significant impact to a level below significance." "I'the lead agencies must propose mitigation D3-48 measures that go beyond conventional dust control measures and that are specifically designed to reduce the significant health impacts due to Valley Fever and then analyze their effectiveness. VI. CONCLUSION The DEIR/EIS contains legal errors and lacks substantial evidence to support its conclusions. Instead, substantial evidence shows that the Project will result in significant, unmitigated air quality and public health impacts. Therefore, the City and Bureau of Reclamation must prepare a revised DEIR/EIS. The agencies must then recirculate the revised DEIR/EIS to ensure that the public is not deprived of a D3-49 meaningful opportunity to comment on the significant impacts and feasible ways to mitigate or avoid those impacts. LTS: acp Attachments ¹⁹⁴ Fox Comments, pp. 43-44. 3907-017acp

- **D3-48** Please refer to Response to Comment D3A-68 for a complete response to this topic.
- **D3-49** This comment is acknowledged that it is a summary to specific comments that preceded it.