

COMMENT LETTER G – SOUTHWEST REGIONAL CARPENTERS UNION

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VIA E-MAIL

August 23, 2021

Sonya Lui
City of Whittier
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Em: slui@cityofwhittier.org

RE: City of Whittier General Plan Update and Housing Element Update
Draft Environmental Impact Report

Dear Sonya Lui,

On behalf of the Southwest Regional Council of Carpenters (“Commenter” or “Southwest Carpenters”), my Office is submitting these comments on the City of Menifee’s (“City” or “Lead Agency”) Draft Program Environmental Impact Report (“DEIR or (P)EIR”) (SCH No. 2021040762) for the 2021-2029 update to the City’s General Plan and Housing Element (“Draft HEU” or “Project”).

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

Individual members of the Southwest Carpenters live, work and recreate in the City and surrounding communities and would be directly affected by the Project’s environmental impacts.

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

Commenters expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens*

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well trained workers are key to delivering emissions reductions and moving California closer to its climate targets.¹

Recently, on May 7, 2021, the South Coast Air Quality Management District found that that the “[u]se of a local state-certified apprenticeship program or a skilled and trained workforce with a local hire component” can result in air pollutant reductions.²

Cities are increasingly adopting local skilled and trained workforce policies and requirements into general plans and municipal codes. For example, the City of Hayward 2040 General Plan requires the City to “promote local hiring . . . to help achieve a more positive jobs-housing balance, and reduce regional commuting, gas consumption, and greenhouse gas emissions.”³

In fact, the City of Hayward has gone as far as to adopt a Skilled Labor Force policy into its Downtown Specific Plan and municipal code, requiring developments in its Downtown area to requiring that the City “[c]ontribute to the stabilization of regional construction markets by spurring applicants of housing and nonresidential developments to require contractors to utilize apprentices from state-approved, joint labor-management training programs, . . .”⁴ In addition, the City of Hayward requires all projects 30,000 square feet or larger to “utilize apprentices from state-approved, joint labor-management training programs.”⁵

Locating jobs closer to residential areas can have significant environmental benefits. As the California Planning Roundtable noted in 2008:

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¹ California Workforce Development Board (2020) Putting California on the High Road: A Jobs and Climate Action Plan for 2030 at p. ii, *available at* <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>

² South Coast Air Quality Management District (May 7, 2021) Certify Final Environmental Assessment and Adopt Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305, Submit Rule 2305 for Inclusion Into the SIP, and Approve Supporting Budget Actions, *available at* <http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2021/2021-May7-027.pdf?sfvrsn=10>

³ City of Hayward (2014) Hayward 2040 General Plan Policy Document at p. 3-99, *available at* https://www.hayward-ca.gov/sites/default/files/documents/General_Plan_FINAL.pdf.

⁴ City of Hayward (2019) Hayward Downtown Specific Plan at p. 5-24, *available at* <https://www.hayward-ca.gov/sites/default/files/Hayward%20Downtown%20Specific%20Plan.pdf>.

⁵ City of Hayward Municipal Code, Chapter 10, § 28.5.3.020(C).

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People who live and work in the same jurisdiction would be more likely to take transit, walk, or bicycle to work than residents of less balanced communities and their vehicle trips would be shorter. Benefits would include potential reductions in both vehicle miles traveled and vehicle hours traveled.⁶

In addition, local hire mandates as well as skill training are critical facets of a strategy to reduce vehicle miles traveled. As planning experts Robert Cervero and Michael Duncan noted, simply placing jobs near housing stock is insufficient to achieve VMT reductions since the skill requirements of available local jobs must be matched to those held by local residents.⁷ Some municipalities have tied local hire and skilled and trained workforce policies to local development permits to address transportation issues. As Cervero and Duncan note:

In nearly built-out Berkeley, CA, the approach to balancing jobs and housing is to create local jobs rather than to develop new housing.” The city’s First Source program encourages businesses to hire local residents, especially for entry- and intermediate-level jobs, and sponsors vocational training to ensure residents are employment-ready. While the program is voluntary, some 300 businesses have used it to date, placing more than 3,000 city residents in local jobs since it was launched in 1986. When needed, these carrots are matched by sticks, since the city is not shy about negotiating corporate participation in First Source as a condition of approval for development permits.

The City should consider utilizing skilled and trained workforce policies and requirements to benefit the local area economically and mitigate greenhouse gas, air quality and transportation impacts.

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⁶ California Planning Roundtable (2008) Deconstructing Jobs-Housing Balance at p. 6, available at <https://cproundtable.org/static/media/uploads/publications/cpr-jobs-housing.pdf>

⁷ Cervero, Robert and Duncan, Michael (2006) Which Reduces Vehicle Travel More: jobs-Housing Balance or Retail-Housing Mixing? Journal of the American Planning Association 72 (4), 475-490, 482, available at <http://reconnectingamerica.org/assets/Uploads/UTCT-825.pdf>.

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The City should also require the Project to be built to standards exceeding the current 2019 California Green Building Code to mitigate the Project's environmental impacts and to advance progress towards the State of California's environmental goals.

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I. THE PROJECT FAILS TO PROVIDE THE INFORMATION AND ANALYSES REQUIRED OF ALL HOUSING ELEMENTS

A. Background Concerning Housing Elements

Housing Elements of General Plans are the planning tools through which local governments ensure they make "adequate provision for the existing and projected housing needs" as determined through the share of the Regional Housing Needs Allocation ("RHNA") process. See Gov. Code § 65580(d). As specified in Gov. Code § 65580 *et seq.*, Housing Elements must include particular information and analyses related to existing and projected housing needs, constraints relative to meeting those needs, and the local government's specific plans to help fulfill those needs. Housing Elements that fail to provide required information and analyses may be deemed by the state or courts to be out of compliance with the law and the local government may be subject to substantial consequences. See Gov. Code §§ 65754, 65754.5, and 65755.

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B. The City's Housing Element Fails to Provide Required Information and Analyses

The City's Housing Element update is missing critically important information and analyses required by law. Those deficiencies include:

- The failure to describe diligent efforts to include all economic segments of the community in the development and update of the housing element and a summary of the public input received and a description of how it will be considered and incorporated into the housing element, Gov. Code, § 65583(c)(8);
- Failure to report on and analyze implementation of the 5th Cycle Housing Element's programs, Gov. Code, § 65588(a), (b);
- Failure to evaluate employment trends, to quantify the need for housing affordable to extremely low-income households, and to analyze of the housing characteristics, Gov. Code, § 65583(a);

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- Inadequate analysis of governmental and non-governmental constraints on housing development, such as development fees, local permitting time, and land use controls, Gov. Code, § 65583(a)(5);
- Inadequate identification and analysis of the special housing needs in the City, including the housing needs of people with disabilities and large families, Gov. Code, § 65583(a)(7);
- The absence of a site-specific inventory of land “suitable for residential development” and be available for housing development within the planning period to accommodate the City's RHNA, Gov. Code, § 65583(a)(3), 65583.2;
- Inadequate programs to remove constraints to the development of housing for lower-income households and people with disabilities, Gov. Code, § 65583(c);
- Absence of a program to make sites available to accommodate the RHNA during the planning period, Gov. Code, § 65583(c)(1);
- Failure to identify the agencies and officials responsible for the implementation of the various program actions, Gov. Code, § 65583(c)(8).
- Failure to demonstrate that manufactured housing is permitted in the same manner and in the same zones as conventionally constructed housing, Gov. Code, § 65582.3;
- Failure to identify a zone or zones where emergency shelters are allowed as a permitted use without discretionary review, Gov. Code § 65583(a)(4)(A);
- Lack of actions to promote fair housing and to affirmatively further fair housing, Gov. Code, § 65583(c)(5); and
- Absence of quantified objectives that estimate by income level the number of units that can be constructed, rehabilitated, and conserved over the planning period, Gov. Code, § 65583(b).

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These deficiencies in the City's Housing Element must be addressed to fulfill the City's obligations and avoid noncompliance with the housing element law.

- i. *The Proposed Housing Element Fails to Include an Adequate Program to Affirmatively Further Fair Housing.*

For housing elements updated after January 1, 2021, the program to affirmatively further fair housing must include all of the following pursuant to Gov. Code §65583(b)(10)(A)(i)–(v)):

- A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity;
- An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs within the jurisdiction, including displacement risk;
- An assessment of the contributing factors for the fair housing issues identified under the foregoing analysis;
- An identification of the jurisdiction's fair housing priorities and goals, giving highest priority to those factors identified in the foregoing assessment that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved; and
- Strategies and actions to implement those priorities and goals, which may include (but are not limited to) enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement.

For purposes of Gov. Code § 65584(d)(5), "affirmatively furthering fair housing" means taking meaningful actions, in addition to combating discrimination, that

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overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. Gov. Code § 65584(e).

Here, the City has not developed or incorporated *any* substantive programs to address fair housing issues in the Draft HEU. HCD’s Guidance is clear that specific goals and actions are required, such as:

- Enhancing mobility strategies and promoting inclusion for protected classes;
- Encouraging development of new affordable housing in high-resource areas;
- Implementing place-based strategies to encourage community revitalization, including preservation of existing affordable housing; and
- Protecting existing residents from displacement.⁸

Although the City may contract with the Housing Rights Center (HRC) to promote and secure fair housing—what is the HRC doing for the City that meets the requirements of the AFFH statute? HRC is an advocacy organization for tenants, it cannot develop affordable housing or implement strategies or policies for the City to meet its AFFH obligations.

The Draft HEU should be revised to implement specific goals and policies that address the proactive mandates of the AFFH statute.

- ii. *The Proposed Housing Element Includes an Inadequate and Flawed Inventory of Sites Available for Housing Development.*

Commenters are particularly concerned about a number of issues with the Draft HEU relating to its sites inventory, including:

⁸ *Id.* at 13.

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- A failure to assess in the sites inventory any parcel's *likelihood* of development to satisfy RHNA requirements; and
- Vacant sites are identified to satisfy RHNA requirements which may not be suitable for development.

Planning's process for selecting sites and assessing their capacity seemingly fails to account for any parcel's *likelihood of development*, and its draft site inventory includes many parcels where housing development may or could be extremely unlikely. The Draft HEU includes a sites inventory table in the appendices.

First, while the inventory may or may not account for all or most APNs with a preliminary analysis of capacity, it does not analyze the likelihood that any of these APNs would be developed to increase the number of available housing units in the City. The inventory also does not analyze whether any of the available sites would improve or exacerbate fair housing conditions in the City.

The Draft HEU should also include information about the methodology utilized to analyze or determine site capacity and any site-specific constraints that might apply to particular APNs. All of this is required pursuant to Government Code, section 65583, subdivision (a)(3), and section 65583.1.

An accurate assessment of the site inventory's housing capacity is necessary in order for the housing element to achieve sufficient housing production. The site capacity estimate should account for the following two factors:

1. What is the likelihood that the site will be developed during the planning period?
2. If the site were to be developed during the planning period, how many net new units of housing are likely to be built on it?

The portion of the jurisdiction's RHNA target that a site will realistically accommodate during the planning period is:

$(\text{likelihood of development}) \times (\text{net new units if developed}) = \text{realistic capacity}^9$.

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⁹ See HCD June 10, 2020 Memo re Housing Element Site Inventory Guidebook Gov. Code Sec. 65583.2, available at https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf.

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Recommendations:

1. Provide a quantitative estimate of parcels' development probabilities, and incorporate this factor into the estimate of sites' realistic capacity.
2. Report the proportion of sites in the previous housing element's inventory that were developed during the planning period.
3. Remove parcels from the site inventory where redevelopment is unlikely to occur during the 6th Cycle.
4. Commit to a mid-cycle review to verify Planning's assumptions about development probabilities. If it turns out that sites within a tier, or category, were developed at a lower-than-expected rate during the first half of the cycle, then the city should rezone for additional capacity or make other appropriate adjustments for the second half of the planning period.
5. Identify sufficient sites to provide a 15-30% No Net.

Secondly, it appears that Planning may have counted many vacant sites towards specific income RHNA targets, despite their potential unsuitability for housing production. Planning must not include "vacant" sites that have no realistic chance of being developed. As with the Suitable Sites inventory, these sites must be discounted by their likelihood of development. Since the likelihood of development for some of these sites could effectively be zero, they should be excluded from Planning's list of vacant sites after further review.

Recommendations:

1. Exclude all vacant parcels that are unsuitable for residential development due to size, shape, gradient, location, and lack of street access.
2. Provide a quantitative estimate of parcels' development probabilities, and incorporate this factor into the estimate of sites' realistic capacity.

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iii. The City Should Consider Incorporating Programs and Policies Designed to Achieve the Additional Production of Housing Units Under the Sixth Cycle RHNA Requirements.

First, the City has failed to characterize the inadequacy of its response to its 5th Cycle Housing Element obligations to build additional housing units in Whittier. Conveniently, the City has cherry picked goals and objectives from its previous Housing Element to analyze past performance that do not relate to the state mandate to build more housing. However, the City does explain elsewhere in the Draft HEU that the housing stock in the City increased by 130 units between 2010 and 2020. Most of that development was in the form of single-family homes. The City's 5th Cycle obligations amounted to 878 total units. Thus, the City has not done nearly enough to facilitate housing production in Whittier.

The Draft HEU appears to be headed in the same direction—it fails to undertake a schedule of actions that will achieve SCAG's Sixth Cycle RHNA allocation for the City. The City is required to build an additional 3,431 units from 2021-2029. However, the City is not planning to implement any programs, plans, policies, or the like that will come anywhere close to achieving that mandate. The Draft HEU's Housing Plan only contains vague goals, without any specific plan to implement the necessary changes. For example, the Housing Plan calls for reviewing projects in a timely manner, facilitating coordination between lenders and developers, using density bonuses, etc. (Draft HEU, Housing Plan, 3.) There are no specifics or implementation actions.

HCD has suggested that effective programs contain the following items¹⁰:

- Definite time frames for implementation (e.g. annually during the planning period, upon adoption of general plan amendment, by June 2020, etc.).
- Identification of agencies and officials responsible for implementation (e.g., planning department, county community development department, city building official, housing manager, public housing authority, etc.).

¹⁰ See <https://www.hcd.ca.gov/community-development/building-blocks/program-requirements/program-overview.shtml>.

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- Description of the local government’s specific role in program implementation (e.g. a description of how the city will market the availability of rehabilitation funds).
- Description of the specific action steps to implement the program.
- Proposed measurable outcomes (e.g., the number of units created, completion of a study, development of a homeless shelter, initiation of a rezone program, preservation of at-risk units, etc.).
- Demonstration of a firm commitment to implement the program (e.g., the city will apply for HOME funds by June 2009).
- Identification of specific funding sources, where appropriate (e.g., dollar amounts of annual funding entitlements or allocations — Community Development Block Grants; Emergency Solutions Grants; Housing Opportunities for Persons with AIDS; continuum of care; redevelopment successor agency’s low- to moderate-income housing funds; bond proceeds; tax credit allocations; and other federal, state and local resources).

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The Draft HEU should be amended to consider more effective and definite plans and policies to achieve the City’s 6th Cycle RHNA obligations.

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

A. Background Concerning the California Environmental Quality Act

CEQA has two basic purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14 California Code of Regulations (“CCR” or “CEQA Guidelines”) § 15002(a)(1).¹¹ “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’ [Citation.]” *Citizens of Goleta*

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¹¹ The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 15000 *et seq.*, are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. (Cal. Pub. Res. Code § 21083.) The CEQA Guidelines are given “great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous.” *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal. 4th 204, 217.

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

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 1344, 1355 (emphasis added) (quoting *Laurel Heights*, 47 Cal. 3d at 391, 409 fn. 12). Drawing this line and determining whether the EIR complies with CEQA’s information disclosure requirements presents a question of law subject to independent review by the courts. *Sierra Club v. Cnty. of Fresno* (2018) 6 Cal. 5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal. App. 4th 48, 102, 131. As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355:

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

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR’s function is to ensure that

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

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B. The DEIR is Not Supported by Substantial Evidence

An agency's determination whether to classify a particular impact as a significant effect on the environment involves the exercise of discretion. *Jensen v. City of Santa Rosa* (2018) 23 Cal. App. 5th 877, 887. It "calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data." CEQA Guidelines §15064(b)(1). Distinguishing between substantial and insubstantial environmental effects requires that the agency make a policy decision based in part on the setting. *W.M. Barr & Co. v. South Coast Air Quality Mgmt. Dist.* (2012) 207 Cal. App. 4th 406, 433.

When new information is brought to light showing that an impact previously discussed in the DEIR (or IS/ND) but found to be insignificant with or without mitigation in the DEIR's analysis has the potential for a significant environmental impact supported by substantial evidence, the EIR must consider and resolve the conflict in the evidence. See *Visalia Retail, L.P. v. City of Visalia* (2018) 20 Cal. App. 5th 1, 13, 17; see also *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal. App. 4th 1099, 1109. While a lead agency has discretion to formulate standards for determining significance and the need for mitigation measures—the choice of any standards or thresholds of significance must be “based to the extent possible on scientific and factual data and an exercise of reasoned judgment based on substantial evidence. CEQA Guidelines § 15064(b); *Cleveland Nat'l Forest Found. v. San Diego Ass'n of Gov'ts* (2017) 3 Cal. App. 5th 497, 515; *Mission Bay Alliance v. Office of Community Inv. & Infrastructure* (2016) 6 Cal. App. 5th 160, 206. And when there is evidence that an impact could be significant, an EIR cannot adopt a contrary finding without providing an adequate explanation along with supporting evidence. *East Sacramento Partnership for a Livable City v. City of Sacramento* (2016) 5 Cal. App. 5th 281, 302.

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In addition, a determination that regulatory compliance will be sufficient to prevent significant adverse impacts must be based on a project-specific analysis of potential impacts and the effect of regulatory compliance. In *Californians for Alternatives to Toxics v. Department of Food & Agric.* (2005) 136 Cal. App. 4th 1, the court set aside an EIR for a statewide crop disease control plan because it did not include an evaluation of the risks to the environment and human health from the proposed program but simply presumed that no adverse impacts would occur from use of pesticides in accordance with the registration and labeling program of the California Department of Pesticide Regulation. See also *Ebbetts Pass Forest Watch v Department of Forestry & Fire Protection* (2008) 43 Cal. App. 4th 936, 956 (fact that Department of Pesticide Regulation had assessed environmental effects of certain herbicides in general did not excuse failure to assess effects of their use for specific timber harvesting project).

Here, the level and degree of analysis included in the Draft PEIR to determine whether any particular impact is significant fails to meet CEQA requirements based upon substantial evidence. Based on the City's current Regional Housing Needs Assessment Allocation, it must provide at least another 3,439 housing units by 2029, and nowhere in the Draft PEIR does the City analyze the potentially significant impacts, in any category, of future development. (See DPEIR, 1-3.) The City Draft Housing Element Update details in its sites inventory and elsewhere in that document that housing sites within the City will be rezoned or upzoned to accommodate SCAG's RHNA allocation requirements—yet the DPEIR does not analyze the environmental consequences or impacts of those zoning changes. (See, e.g., Draft HEU, 9-15.)

As a result, the City's environmental analysis relating to impacts of adding 3,439 additional housing units is not based upon substantial evidence. The impacts of anticipated growth resulting from identification of specific sites for construction of additional housing necessitates that the City provide a full review of potential impacts relating to that future development.

The City needs to revise and recirculate the DPEIR with adequate environmental analysis of all CEQA issues.

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a. The Draft EIR Unlawfully Piecemeals its Environmental Analysis

The City’s decision to omit analysis of the potentially significant impacts of future development of specifically identified future project sites unlawfully piecemeals the environmental analysis for this Project.

CEQA provides that a public agency may not divide a single project into smaller individual subprojects to avoid responsibility for considering the environmental impact of the project as a whole. *Orinda Ass’n v Board of Supervisors* (1986) 182 Cal. App. 3d 1145, 1171. CEQA “cannot be avoided by chopping up proposed projects into bite-sized pieces which, individually considered, might be found to have no significant effect on the environment or to be only ministerial.” *Tuolumne County Citizens for Responsible Growth, Inc. v City of Sonoma* (2007) 155 Cal App. 4th 1214; *Association for a Cleaner Env’t v Yosemite Community College Dist.* (2004) 116 Cal. App. 4th 629, 638; *Plan for Arcadia, Inc. v City Council* (1974) 42 Cal. App. 3d 712, 726.

The City is violating CEQA by unlawfully limiting the scope of environmental analysis in the Draft EIR.

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b. The Draft EIR Unlawfully Omits Information

Finally, the Draft EIR unlawfully omits information by excluding any discussion of the potentially significant impacts of the rezoning and upzoning for higher density residential uses required by the updated Housing Element. The DPEIR’s land use analysis also fails to include any information relating to whether changes to the City’s General Plan elements will result in a horizontally and vertically consistent land use plan.

CEQA requires that an environmental document identify and discuss the significant effects of a Project, alternatives and how those significant effects can be mitigated or avoided. CEQA Guidelines § 15126.2; PRC §§ 21100(b)(1), 21002.1(a). An environmental documents discussion of potentially significant effects must “provide an adequate analysis to inform the public how its bare numbers translate to create potential adverse impacts or it must adequately explain what the agency does know and why, given existing scientific constraints, it cannot translate potential health impacts further.” *Sierra Club v. County of Fresno* (2018) 6 Cal. 5th 502, 521; *see also* citing *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 405; *see also* PRC §§ 21002.1(e), 21003(b).

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The Court may determine whether a CEQA environmental document sufficiently discloses information required by CEQA *de novo* as “noncompliance with the information disclosure provisions” of CEQA is a failure to proceed in a manner required by law. PRC § 21005(a); *see also Sierra Club v. County of Fresno* (2018) 6 Cal. 5th 502, 515; CEQA Guidelines.

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i. The DPEIR Fails to Include a Water Supply Assessment and Findings Backed by Substantial Evidence.

Under SB 610, specific projections about water availability must be developed before certain large development projects to be served by a public water system may be approved. Water Code §§10910–10915; CEQA Guidelines §15155; *Gray v. County of Madera* (2008) 167 Cal. App. 4th 1099, 1131 (SB 610 applies to projects to be served by public water systems, not private systems). The public water system identified as the water provider for a proposed project must prepare a water supply assessment that is then to be included in the EIR or negative declaration prepared for a project. *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal. App. 4th 48, 96, overruled on other grounds in *Neighbors for Smart Rail v. Exposition Metro Line Constr. Auth.* (2013) 57 Cal. App. 4th 439. Senate Bill 610 applies when a city or county determines that a “project” subject to CEQA would result in the construction of 500 or more dwelling units. Water Code §10912 and CEQA Guidelines §15155(a)(1).

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Here, the Draft EIR does include any analysis of water supply that would meet future population growth associated with development of 8,000 plus additional housing units for the 2021-2029 RHNA period. The City must prepare a water supply assessment for the Project that meets the requirements of SB 610. Water Code §§ 10910–10915; CEQA Guidelines § 15155; *Gray v. County of Madera* (2008) 167 Cal. App. 4th 1099, 1131 (SB 610 applies to projects to be served by public water systems, not private systems).

C. Certification of the PEIR and General Plan Amendment is Premature Before HCD Has Submitted Final Comments and Approval

The City *cannot* now approve or certify environmental review for the HEU because HCD has not yet issued its final approval for the Project. Indeed, HCD only received the City’s Draft HEU on June 11, 2021 and the Project is still undergoing HCD review.¹² HCD has not even returned comment to the City on its Draft HEU. The

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¹² See <https://www.hcd.ca.gov/community-development/housing-element/docs/status.pdf>.

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California Department of Housing and Community Development (HCD) plays the critical role of reviewing every local government’s housing element to determine whether it complies with state law and then submits written findings back to each local government. HCD’s approval is *required* before a local government can adopt its housing element as part of its overall General Plan.¹³

It is consequently inexplicable why the City chose to charge forward with the Project as if the required Housing Element updates are not critically important to the completeness of the Project or the sufficiency of the EIR. It is unclear why the City elected instead to prematurely seek certification of the PEIR and adopt the General Plan amendment, despite both documents being likely to change along with the Housing Element. Being incomplete and subject to considerable change, the Housing Element’s environmental impacts and therefore the HEU’s environmental impacts are currently undeterminable.

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If the City moves forward with the General Plan Update and certification of the PEIR, the City will need to issue a subsequent or supplemental EIR for further public comment after its amendment of the HEU and recertify the EIR. Substantial changes to the EIR may trigger additional review, as well as new information showing more substantial or severe environmental impacts. Cal. Pub Res. Code §§21166, 21167.2; CEQA Guidelines §§15162–15163; see *Friends of the College of San Mateo Gardens v. San Mateo County Community College Dist.* (2016) 1 Cal.App.5th 937, 956. It will additionally be required to yet again amend the General Plan to reflect changes to the HEU.

The City should wait to issue approvals or certification until final approval has been received from HCD.

III. THE PROJECT VIOLATES THE STATE PLANNING AND ZONING LAW AS WELL AS THE CITY’S GENERAL PLAN

A. Background Regarding the State Planning and Zoning Law

Each California city and county must adopt a comprehensive, long-term general plan governing development. *Napa Citizens for Honest Gov. v. Napa County Bd. of Supervisors* (2001) 91 Cal. App. 4th 342, 352, citing Gov. Code §§ 65030, 65300. The general plan sits at the top of the land use planning hierarchy (See *DeVita v. County of Napa* (1995) 9 Cal. App. 4th 763, 773), and serves as a “constitution” or “charter” for all

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¹³ See <https://www.hcd.ca.gov/community-development/housing-element/index.shtml#hesubmittal>.

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future development. *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal. App. 3d 531, 540.

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

State law mandates two levels of consistency. First, a general plan must be internally or “horizontally” consistent: its elements must “comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.” (See Gov. Code § 65300.5; *Sierra Club v. Bd. of Supervisors* (1981) 126 Cal. App. 3d 698, 704.) A general plan amendment thus may not be internally inconsistent, nor may it cause the general plan as a whole to become internally inconsistent. See *DeVita*, 9 Cal. App. 4th at 796 fn. 12.

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

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

A project cannot be found consistent with a general plan if it conflicts with a general plan policy that is “fundamental, mandatory, and clear,” regardless of whether it is consistent with other general plan policies. See *Endangered Habitats League v. County of Orange* (2005) 131 Cal. App. 4th 777, 782-83; *Families Unafraid to Uphold Rural El Dorado County v. Bd. of Supervisors* (1998) 62 Cal. App. 4th 1332, 1341-42 (“FUTURE”).

Moreover, even in the absence of such a direct conflict, an ordinance or development project may not be approved if it interferes with or frustrates the general plan’s policies and objectives. See *Napa Citizens*, 91 Cal. App. 4th at 378-79; see also *Lesher*, 52 Cal. App. 3d at 544 (zoning ordinance restricting development conflicted with growth-oriented policies of general plan).

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B. The DPEIR Fails to Demonstrate Internal Consistency with the General Plan

The legislature has expressed its intent that "the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency." Gov. Code §65300.5. This statute requires the policies of a general plan to be consistent, but not necessarily with the objectives within the various elements of the general plan. *Cadiz Land Co. v Rail Cycle, L.P.* (2000) 83 Cal. App. 4th 74, 115.

Here, the City is updating the General Plan and Housing Element in conformance with the 2021-2029 update cycle for jurisdictions in the SCAG region and Cal. Gov. Code requirements. However, the DPEIR does not contain any analysis or evidence that the General Plan Update will result in an internally consistent Plan. This analysis has been omitted from the DPEIR.

The City needs to update the DPEIR's land use analysis to include a vertical and horizontal consistency analysis to determine whether General Plan changes will be wholly consistent.

IV. CONCLUSION

Commenters request that the City consider the aforementioned issues raised. Please contact my Office if you have any questions or concerns.

Sincerely,



Mitchell M. Tsai
Attorneys for Southwest Regional
Council of Carpenters

Attached:

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling (Exhibit A);

Air Quality and GHG Expert Paul Rosenfeld CV (Exhibit B); and

Air Quality and GHG Expert Matt Hagemann CV (Exhibit C).

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EXHIBIT A



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G-12 Entire Letter

March 8, 2021

Mitchell M. Tsai
155 South El Molino, Suite 104
Pasadena, CA 91101

Subject: Local Hire Requirements and Considerations for Greenhouse Gas Modeling

Dear Mr. Tsai,

Soil Water Air Protection Enterprise ("SWAPE") is pleased to provide the following draft technical report explaining the significance of worker trips required for construction of land use development projects with respect to the estimation of greenhouse gas ("GHG") emissions. The report will also discuss the potential for local hire requirements to reduce the length of worker trips, and consequently, reduced or mitigate the potential GHG impacts.

Worker Trips and Greenhouse Gas Calculations

The California Emissions Estimator Model ("CalEEMod") is a "statewide land use emissions computer model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify potential criteria pollutant and greenhouse gas (GHG) emissions associated with both construction and operations from a variety of land use projects."¹ CalEEMod quantifies construction-related emissions associated with land use projects resulting from off-road construction equipment; on-road mobile equipment associated with workers, vendors, and hauling; fugitive dust associated with grading, demolition, truck loading, and on-road vehicles traveling along paved and unpaved roads; and architectural coating activities; and paving.²

The number, length, and vehicle class of worker trips are utilized by CalEEMod to calculate emissions associated with the on-road vehicle trips required to transport workers to and from the Project site during construction.³

¹ "California Emissions Estimator Model." CAPCOA, 2017, available at: <http://www.aqmd.gov/caleemod/home>.

² "California Emissions Estimator Model." CAPCOA, 2017, available at: <http://www.aqmd.gov/caleemod/home>.

³ "CalEEMod User's Guide." CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.

Specifically, the number and length of vehicle trips is utilized to estimate the vehicle miles travelled (“VMT”) associated with construction. Then, utilizing vehicle-class specific EMFAC 2014 emission factors, CalEEMod calculates the vehicle exhaust, evaporative, and dust emissions resulting from construction-related VMT, including personal vehicles for worker commuting.⁴

Specifically, in order to calculate VMT, CalEEMod multiplies the average daily trip rate by the average overall trip length (see excerpt below):

$$\text{VMT}_d = \sum (\text{Average Daily Trip Rate}_i * \text{Average Overall Trip Length}_i) \quad n$$

Where:

n = Number of land uses being modeled.”⁵

Furthermore, to calculate the on-road emissions associated with worker trips, CalEEMod utilizes the following equation (see excerpt below):

$$\text{Emissions}_{\text{pollutant}} = \text{VMT} * \text{EF}_{\text{running,pollutant}}$$

Where:

$\text{Emissions}_{\text{pollutant}}$ = emissions from vehicle running for each pollutant

VMT = vehicle miles traveled

$\text{EF}_{\text{running,pollutant}}$ = emission factor for running emissions.”⁶

Thus, there is a direct relationship between trip length and VMT, as well as a direct relationship between VMT and vehicle running emissions. In other words, when the trip length is increased, the VMT and vehicle running emissions increase as a result. Thus, vehicle running emissions can be reduced by decreasing the average overall trip length, by way of a local hire requirement or otherwise.

Default Worker Trip Parameters and Potential Local Hire Requirements

As previously discussed, the number, length, and vehicle class of worker trips are utilized by CalEEMod to calculate emissions associated with the on-road vehicle trips required to transport workers to and from the Project site during construction.⁷ In order to understand how local hire requirements and associated worker trip length reductions impact GHG emissions calculations, it is important to consider the CalEEMod default worker trip parameters. CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but the California Environmental Quality Act (“CEQA”) requires that such changes be justified by substantial evidence.⁸ The default number of construction-related worker trips is calculated by multiplying the

⁴ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 14-15.

⁵ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 23.

⁶ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 15.

⁷ “CalEEMod User’s Guide.” CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.

⁸ CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 1, 9.

2.0 Response to Comments

number of pieces of equipment for all phases by 1.25, with the exception of worker trips required for the building construction and architectural coating phases.⁹ Furthermore, the worker trip vehicle class is a 50/25/25 percent mix of light duty autos, light duty truck class 1 and light duty truck class 2, respectively.”¹⁰ Finally, the default worker trip length is consistent with the length of the operational home-to-work vehicle trips.¹¹ The operational home-to-work vehicle trip lengths are:

“[B]ased on the *location* and *urbanization* selected on the project characteristic screen. These values were *supplied by the air districts or use a default average for the state*. Each district (or county) also assigns trip lengths for urban and rural settings” (emphasis added).¹²

Thus, the default worker trip length is based on the location and urbanization level selected by the User when modeling emissions. The below table shows the CalEEMod default rural and urban worker trip lengths by air basin (see excerpt below and Attachment A).¹³

Worker Trip Length by Air Basin		
Air Basin	Rural (miles)	Urban (miles)
Great Basin Valleys	16.8	10.8
Lake County	16.8	10.8
Lake Tahoe	16.8	10.8
Mojave Desert	16.8	10.8
Mountain Counties	16.8	10.8
North Central Coast	17.1	12.3
North Coast	16.8	10.8
Northeast Plateau	16.8	10.8
Sacramento Valley	16.8	10.8
Salton Sea	14.6	11
San Diego	16.8	10.8
San Francisco Bay Area	10.8	10.8
San Joaquin Valley	16.8	10.8
South Central Coast	16.8	10.8
South Coast	19.8	14.7
Average	16.47	11.17
Minimum	10.80	10.80
Maximum	19.80	14.70
Range	9.00	3.90

⁹ “CalEEMod User’s Guide.” CAPCOA, November 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 34.

¹⁰ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 15.

¹¹ “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 14.

¹² “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6, p. 21.

¹³ “Appendix D Default Data Tables.” CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4, p. D-84 – D-86.

As demonstrated above, default rural worker trip lengths for air basins in California vary from 10.8- to 19.8- miles, with an average of 16.47 miles. Furthermore, default urban worker trip lengths vary from 10.8- to 14.7- miles, with an average of 11.17 miles. Thus, while default worker trip lengths vary by location, default urban worker trip lengths tend to be shorter in length. Based on these trends evident in the CalEEMod default worker trip lengths, we can reasonably assume that the efficacy of a local hire requirement is especially dependent upon the urbanization of the project site, as well as the project location.

Practical Application of a Local Hire Requirement and Associated Impact

To provide an example of the potential impact of a local hire provision on construction-related GHG emissions, we estimated the significance of a local hire provision for the Village South Specific Plan ("Project") located in the City of Claremont ("City"). The Project proposed to construct 1,000 residential units, 100,000-SF of retail space, 45,000-SF of office space, as well as a 50-room hotel, on the 24-acre site. The Project location is classified as Urban and lies within the Los Angeles-South Coast County. As a result, the Project has a default worker trip length of 14.7 miles.¹⁴ In an effort to evaluate the potential for a local hire provision to reduce the Project's construction-related GHG emissions, we prepared an updated model, reducing all worker trip lengths to 10 miles (see Attachment B). Our analysis estimates that if a local hire provision with a 10-mile radius were to be implemented, the GHG emissions associated with Project construction would decrease by approximately 17% (see table below and Attachment C).

Local Hire Provision Net Change	
Without Local Hire Provision	
Total Construction GHG Emissions (MT CO ₂ e)	3,623
Amortized Construction GHG Emissions (MT CO ₂ e/year)	120.77
With Local Hire Provision	
Total Construction GHG Emissions (MT CO ₂ e)	3,024
Amortized Construction GHG Emissions (MT CO ₂ e/year)	100.80
% Decrease in Construction-related GHG Emissions	17%

As demonstrated above, by implementing a local hire provision requiring 10 mile worker trip lengths, the Project could reduce potential GHG emissions associated with construction worker trips. More broadly, any local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

This serves as an example of the potential impacts of local hire requirements on estimated project-level GHG emissions, though it does not indicate that local hire requirements would result in reduced construction-related GHG emission for all projects. As previously described, the significance of a local hire requirement depends on the worker trip length enforced and the default worker trip length for the project's urbanization level and location.

¹⁴ "Appendix D Default Data Tables." CAPCOA, October 2017, available at: http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4, p. D-85.

Disclaimer

SWAPE has received limited discovery. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matt Hagemann".

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

A handwritten signature in blue ink, appearing to read "Paul E. Rosenfeld".

Paul E. Rosenfeld, Ph.D.

EXHIBIT B



Technical Consultation, Data Analysis and
Litigation Support for the Environment

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Paul Rosenfeld, Ph.D.

Principal Environmental Chemist

Chemical Fate and Transport & Air Dispersion Modeling

Risk Assessment & Remediation Specialist

Education

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Thesis on wastewater treatment.

Professional Experience

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

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

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
 UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
 UCLA School of Public Health; 2003 to 2006; Adjunct Professor
 UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
 UCLA Institute of the Environment, 2001-2002; Research Associate
 Komex H₂O Science, 2001 to 2003; Senior Remediation Scientist
 National Groundwater Association, 2002-2004; Lecturer
 San Diego State University, 1999-2001; Adjunct Professor
 Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
 Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
 Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
 King County, Seattle, 1996 – 1999; Scientist
 James River Corp., Washington, 1995-96; Scientist
 Big Creek Lumber, Davenport, California, 1995; Scientist
 Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
 Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

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

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

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

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

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

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

Presentations:

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

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

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

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

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

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

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

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

2.0 Response to Comments

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Teaching Experience:

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

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

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

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

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

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

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

Academic Grants Awarded:

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

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

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

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

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

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

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

Deposition and/or Trial Testimony:

- In the United States District Court For The District of New Jersey
Duarte et al, *Plaintiffs*, vs. United States Metals Refining Company et. al. *Defendant*.
Case No.: 2:17-cv-01624-ES-SCM
Rosenfeld Deposition. 6-7-2019
- In the United States District Court of Southern District of Texas Galveston Division
MT Carla Maersk, *Plaintiffs*, vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS “Conti Perdido”
Defendant.
Case No.: 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition. 5-9-2019
- In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No.: No. BC615636
Rosenfeld Deposition, 1-26-2019
- In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No.: No. BC646857
Rosenfeld Deposition, 10-6-2018; Trial 3-7-19
- In United States District Court For The District of Colorado
Bells et al. Plaintiff vs. The 3M Company et al., Defendants
Case: No 1:16-cv-02531-RBJ
Rosenfeld Deposition, 3-15-2018 and 4-3-2018
- In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosiences, LLC, et al., Defendants
Cause No 1923
Rosenfeld Deposition, 11-17-2017
- In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No C12-01481
Rosenfeld Deposition, 11-20-2017
- In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition, 8-23-2017
- In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC
Case No.: LC102019 (c/w BC582154)
Rosenfeld Deposition, 8-16-2017, Trail 8-28-2018
- In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., *Plaintiffs*, vs. Meritor Inc., et al., *Defendants*
Case Number: 4:16-cv-52-DMB-JVM
Rosenfeld Deposition: July 2017

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- In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No.: No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial, March 2017
- In The Superior Court of the State of California, County of Alameda
Charles Spain, Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No.: RG14711115
Rosenfeld Deposition, September 2015
- In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No.: LALA002187
Rosenfeld Deposition, August 2015
- In The Iowa District Court For Wapello County
Jerry Dovico, et al., Plaintiffs vs. Valley View Sine LLC, et al., Defendants
Law No.: LALA105144 - Division A
Rosenfeld Deposition, August 2015
- In The Iowa District Court For Wapello County
Doug Pauls, et al., et al., Plaintiffs vs. Richard Warren, et al., Defendants
Law No.: LALA105144 - Division A
Rosenfeld Deposition, August 2015
- In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action NO. 14-C-30000
Rosenfeld Deposition, June 2015
- In The Third Judicial District County of Dona Ana, New Mexico
Betty Gonzalez, et al. Plaintiffs vs. Del Oro Dairy, Del Oro Real Estate LLC, Jerry Settles and Deward
DeRuyter, Defendants
Rosenfeld Deposition: July 2015
- In The Iowa District Court For Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No 4980
Rosenfeld Deposition: May 2015
- In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case Number CACE07030358 (26)
Rosenfeld Deposition: December 2014
- In the United States District Court Western District of Oklahoma
Tommy McCarty, et al., Plaintiffs, v. Oklahoma City Landfill, LLC d/b/a Southeast Oklahoma City
Landfill, et al. Defendants.
Case No. 5:12-cv-01152-C
Rosenfeld Deposition: July 2014

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

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

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

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

EXHIBIT C



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Matthew F. Hagemann, P.G., C.Hg., QSD, QSP

**Geologic and Hydrogeologic Characterization
Industrial Stormwater Compliance
Investigation and Remediation Strategies
Litigation Support and Testifying Expert
CEQA Review**

Education:

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

Professional Certifications:

California Professional Geologist
California Certified Hydrogeologist
Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 25 years of experience in environmental policy, assessment and remediation. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) while also working with permit holders to improve hydrogeologic characterization and water quality monitoring.

Matt has worked closely with U.S. EPA legal counsel and the technical staff of several states in the application and enforcement of RCRA, Safe Drinking Water Act and Clean Water Act regulations. Matt has trained the technical staff in the States of California, Hawaii, Nevada, Arizona and the Territory of Guam in the conduct of investigations, groundwater fundamentals, and sampling techniques.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2014;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt’s responsibilities have included:

- Lead analyst and testifying expert in the review of over 100 environmental impact reports since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, Valley Fever, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at industrial facilities.
- Manager of a project to provide technical assistance to a community adjacent to a former Naval shipyard under a grant from the U.S. EPA.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.
- Expert witness on two cases involving MTBE litigation.
- Expert witness and litigation support on the impact of air toxins and hazards at a school.
- Expert witness in litigation at a former plywood plant.

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

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.

- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

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

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

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

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

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation-wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

Policy:

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9. Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, *Oxygenates in Water: Critical Information and Research Needs*.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

Geology:

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

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

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

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

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

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt taught physical geology (lecture and lab) and introductory geology at Golden West College in Huntington Beach, California from 2010 to 2014.

Invited Testimony, Reports, Papers and Presentations:

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

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

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

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

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

Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

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

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Other Experience:

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

ID	Response to Comment Letter G – Southwest Regional Carpenters Union
G-1	The City understands the nature of the Southwest Regional Council of Carpenters (SRCC) and the role it plays in the CEQA process. The City further understands the SRCC may make additional comments prior to certification of the Final EIR as long as they are consistent with the timing outlined in CEQA.
G-2	<p>The SRCC has requested the City “require the Applicant provide additional community benefits such as requiring local hire and use of a skilled and trained workforce to build the Project.” As pointed out in the Draft EIR, the General Plan Update EIR is a programmatic CEQA document with no specific development project or private applicant involved. Therefore, the SRCC comments are not directly applicable to this EIR.</p> <p>Certainly businesses and private development projects have the option of using local skilled or union labor. However, it is beyond the City’s legal authority to require such hiring restrictions on private developers within the City. Therefore, the City rejects the idea of incorporating such specific and restrictive labor requirements into the General Plan. In addition, the City is concerned about the fairness of discriminating against otherwise skilled/best-qualified job candidates because they are more than 10 miles from the location of a job: persons who are less qualified could be selected in order to meet a quota for local labor. It is also worth noting for construction trades that, while possible, it is not very likely that an individual worker who is a Whittier resident would be able to consistently be working at job sites within a ten-mile radius of the City. Numerous factors can come into play regarding job site choices for workers, including fluctuations in demand for construction by geography, match of specific construction specialties to demand for such specialties, and pre-existing business relationships between construction companies (or individual workers). Travelling to wherever the work is, whether or not it is local, is endemic to construction-related professions.</p> <p>At some point in the future, the City may consider supporting local job centers where local workers can connect with local businesses which would be a type of community benefit.</p>
G-3	All the aspects of this comment are specifically regarding the Housing Element and do not address the General Plan EIR. Therefore, they are not addressed in this Final EIR.
G-4	Although the heading for this comment indicates that the project would be approved in violation of CEQA, nowhere in the comments is there any specific mention or substantiation of how the EIR is deficient with respect to CEQA requirements or processes. This entire comment simply provides citations from CEQA and from CEQA-related court cases on the legal requirements of CEQA regarding EIRs as informational document, as a tool for the decision-makers, mitigation, alternatives, and the City’s discretion during the CEQA process. However, it makes no specific comment about this DEIR so no response can be provided or is required. The City believes the EIR meets all of its legal requirements under CEQA and the City has followed the prescribed process for preparing and circulating the EIR for review.
G-5	Much of the comment presents more citations from CEQA and related court cases on the abuse of discretion and substantial evidence. The commenter states the EIR is inadequate because it is not supported by substantial evidence and does not evaluate specific impacts of developing specific sites identified by the updated

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	<p>Housing Element. However, it must be remembered this is a programmatic EIR and looks at the overall impacts of the additional housing units on a city-wide basis.</p> <p>The EIR also clearly states that future development will be evaluated at a project-level when a specific development is proposed on a specific site as outlined below. For example, Mitigation Measure AQ-1 in the Air Quality section 4.3 requires a project-level construction assessment for new discretionary development projects.</p> <p>The commenter states the EIR never addresses specific environmental impacts of the additional 3,439 housing units by 2029 as a result of its 2020 RHNA allocation. The EIR actually addresses the impacts of these additional units as part of each analysis section of the EIR (4.1 through 4.20) as appropriate. Many of the sections specifically state... “The proposed Project includes land use designations that support development of up to 53,649 dwelling units, accommodating a population of up to 161,291 residents by 2040. The Planning Area’s population would increase by approximately 20,190, from 141,102 in 2018 to 161,291 in 2040.” While the sections may not specifically reference the number of units in the 2020 RHNA allocation (3,439), they do address the anticipated buildout numbers under the GPU through 2040, as outlined in DEIR Section 3, Project Description. These growth projections through 2040 include or subsume the 2021-2029 RHNA units. There is no requirement for the programmatic EIR to specifically address the interim impacts to 2029 represented by the growth just from the current RHNA units alone.</p> <p>The commenter states “nowhere in the Draft PEIR does the City analyze the potentially significant impacts, in any category, of future development. (See DPEIR, 1-3.)” The DEIR p. 1-3 states... “Later activities proposed pursuant to the goals and policies of the General Plan will be reviewed in light of this EIR and may focus on those site-specific and localized environmental issues that could not be examined in sufficient detail as part of this EIR.” However, the commenter is correct only in that the PDEIR did not analyze the impacts of any specific future development, since that could only happen on a project level when specific development is proposed on a specific site (i.e., with a future CEQA process). Since no such site specific development proposal are included as <u>part</u> of this CEQA project it is impossible to assess potential impacts. However, each analysis section of the DEIR does make it clear it is evaluating the impacts of overall development and growth in the City through 2040 which comprises 373 additional single-family units and 6,447 additional multi-family units over that period (2020 to 2040) per DEIR Table 3-1. Therefore, the 3,439 units of the 2020 RHNA are included in those analyses.</p> <p>In conclusion, the analysis provided is thorough and appropriate for a program EIR so the City does not need to revise the document with additional information and recirculate it for additional public review.</p>
G-6	<p>Similar to Comment/Response G-5 above, the commenter states the EIR is inadequate because it does not evaluate specific impacts of developing specific sites so the EIR inappropriately piecemeals the project. However, this is a <u>program EIR</u> that looks at the overall impacts of the additional housing units on a city-wide basis through 2040. It reviews the entire project as a whole which is actually the opposite of piecemealing which would look at smaller parts of the whole project so that impacts are not evaluated as a whole. Page 1-3 of the EIR also clearly states that future development will be tiered and evaluated at a project-level when a</p>

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	<p>specific development is proposed on a specific site. That includes future development of the 3,439 additional housing units under the City's 2020 RHNA allocation through 2029. In addition, no specific development has been proposed yet on the specific sites identified in the Housing Element, so it is not possible to evaluate that future development at this time. Therefore, this level of analysis is adequate for a program EIR and the City does not need to revise and recirculate the document.</p>
G-7	<p>The commenter states the EIR omits information about potentially significant impacts of rezoning for higher density residential uses. Again, it must be remembered this EIR is programmatic and looks at the broad impacts of changing land use designations and what the increased number of units will have on a city-wide basis through 2040. The EIR clearly states in the Project Description (see page 3-19) the following:</p> <p style="padding-left: 40px;">The subdivision regulations, zoning map, zoning regulations, standards, permits and procedures that are contained in Title 17 and Title 18 and other parts of the Whittier Municipal Code, as applicable, will be revised following adoption of the General Plan Update to be consistent with its the goals, policies, exhibits and texts</p> <p>Note that these actions would occur after adoption of the General Plan Update. These later activities will likely be tiered off of this EIR and will be reviewed for consistency with it. Providing for zoning consistency after adoption of a General Plan is a very common practice that is no different than any other implementation action undertaken for a General Plan. There is no requirement in state law that zoning or subdivision regulations must be updated concurrent with a General Plan Update. No information has been omitted because no specific changes to zoning or subdivision regulations is currently being proposed. In addition, there is no specific information about rezoning a specific property for a specific project at this time, so such changes cannot be evaluated. The EIR has provided appropriate programmatic information about potential impacts of overall development under the GPU consistent with CEQA and the CEQA Guidelines.</p>
G-8	<p>Again this EIR is programmatic in nature for a city-wide General Plan and is not a specific development project on a specific site. The state WSA requirements are only applicable to <u>actual specific proposed development</u> over certain size. Programmatic documents that require subsequent CEQA evaluation of specific development on specific sites in the future are not subject to the WSA requirements of SB 221, SB 610, and SB 900. The commenter even states "SB 610 applies to projects" however this is program document. The DEIR did appropriately incorporate data from the Urban Water Management Plans for the various water agencies serving the City which would be the basis for WSAs for specific development projects on specific sites in the future.</p> <p>The following citation is from DEIR Section 4.19.2, Regulatory Framework:</p> <p><u><i>Senate Bills 610 and 221, Water Supply Assessment and Verification</i></u></p> <p><i>Senate Bills (SB) 610 and 221 amended State law to improve the link between the information on water supply availability and certain land use decisions made by cities and counties. Both statutes require detailed information regarding water</i></p>

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	<p><i>availability (water supply assessment or WSA) to be provided to city and county decision-makers prior to approval of specified large development projects (projects greater than 500 dwelling units, or an equivalent water demand). Both statutes require this detailed information to be included in the administrative record. Under SB 610, WSAs must be furnished to local governments for inclusion in the environmental document for certain projects, as defined in Water Code 10912, subject to the California Environmental Quality Act (CEQA). Under SB 221, approval by a city or county of certain residential subdivisions requires an affirmative written verification of sufficient water supply. The City's General Plan does not require a WSA but individual future projects within the City that are subject to SB 610 and SB 221 will require WSAs.</i></p> <p>In addition, the commenter states the EIR did not contain any analysis of water supply. However, both Sections 4.10 on Hydrology and 4.19, Utilities-Water Supply, both contain a text analysis as well as the same table repeated in both sections (Tables 4.10-1 and 4.19-1) which clearly provide an estimate of the anticipated water demands of future growth under the GPU and the estimated water supply that will available at that time. The analysis determined there may not be sufficient water supplies by 2040 to accommodate City growth. Therefore, a potential significant impact was identified and Mitigation Measure UTL-1 was recommended to reduce the potential impact to a less than significant level.</p>
G-9	<p>The commenter states the City must wait to adopt its General Plan Update and the EIR until at least when it has received comments from HCD on the draft Housing Element (HE). Otherwise, the City risks having to prepare a subsequent or supplemental EIR to address HCD comments and potential changes to the Housing Element. HCD has indicated directly to the City that, due to COVID restrictions and its current workload, it is not able to provide preliminary comments on the draft HE in time to meet the statutory deadline for HE approval (October 15). Therefore, the City has elected to move ahead with adoption of the General Plan and EIR and anticipates accommodating comments or changes if any) from HCD. If there are any changes that affect the EIR they will be addressed, if necessary, with an Addendum to the EIR. Based on discussion with HCD and experiences of other cities' HEs, the City does not anticipate having to prepare subsequent or supplemental EIR to address HCD comments and potential changes to the Housing Element. It should also be noted that, as CEQA Lead Agency, the City has the discretion to certify the Final EIR whether or not the HCD approves the Housing Element submitted for their review.</p>
G-10	<p>The commenter presents a lot of information on state planning law and related court case requirements. However, the primary issue raised is the General Plan and other City planning documents must be "vertically" consistent with each other. However, DEIR Section 3, Project Description, clearly states that portions of the Zoning Code will be modified to be consistent with the GPU if it is approved by the City Council. This tiered action can be found to be consistent with state planning law and CEQA and is wholly appropriate and typical for cities revising their General Plans.</p>
G-11	<p>The commenter states the EIR "does not contain any analysis or evidence that the General Plan Update will result in an internally consistent Plan." However, the updated General Plan document is consistent with state general plan law which does require such consistency. This assumption is part of the DEIR Section 3,</p>

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	<p>Project Description, so the proposed GP is assumed to be internally consistent at this time.</p> <p>It should also be noted that internal consistency is a General Plan requirement and not necessarily a CEQA requirement. The General has been designed to be internally consistent as required by state law and will be received by the City for internal consistency during public hearings for adoption of the General Plan. It is also worth noting that the commenter has not identified any inconsistencies in the proposed General Plan.</p>
G-12	<p>The entire SWAPE letter relates to Comment/Response G-2 in terms of skilled labor force and whether the City should or can require future development to use union labor. Please see Response G-2 for discussion of the information and issues presented in this letter.</p>