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May 22, 2024

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Via Email and Overnight Mail

Claudette Dain
Vice President, Finance & Administrative Services
Citrus Community College District
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Glendora, California 91741
Email: CEQAcomments@citruscollege.edu

Re: **Comments on the Initial Study / Mitigated Negative Declaration
Citrus College 2020-2030 Educational and Facilities Master Plan**

Dear Ms. Dain:

We are writing on behalf of Coalition for Responsible Equitable Economic Development Los Angeles ("CREED LA") to provide comments on the Initial Study / Mitigated Negative Declaration ("MND") prepared by the Citrus Community College District ("District") for the Citrus College 2020-2030 Educational and Facilities Master Plan (SCH No. 2024040908) ("Project").¹ The Project proposes site improvements including connectivity of on-site parking facilities, refinement of existing and additional drop-off/pick-up zones, improved pedestrian access and wayfinding. Renovations of buildings will address programming needs for flexible and technologically advanced classrooms and laboratory technology upgrades, improvements to space efficiency and utilization of space, improvements to existing infrastructure, and sustainability improvements.² The Project is proposed to be located at 1000 W. Foothill Boulevard in the City of Glendora, in Los Angeles County, California.³

The Project also involves demolition and construction of new buildings, including:

¹ Citrus Community College District, Citrus College 2020-2030 EFMP Initial Study/Mitigated Negative Declaration, Glendora, California (April 2024) (hereinafter "MND").

² MND at 1-2.

³ MND at 1.

- 1) A new 65,000 square foot (sq. ft.) Science and Veterans Center. The buildings that will be replaced by the Science and Veterans Center include the Life Science (LS), Lecture Hall (LH), and Physical Science (PS) building. After construction is completed, the Physical Science (PS), Lecture Hall (LH), Life Science (LS), and Earth Science (ES) will move into the building. The existing Life Science (LS), Lecture Hall (LH), and Physical Science (PS) buildings will be demolished after the construction of the Science and Veterans Center is completed. Approximately 112,131 sq. ft. of buildings will need to be demolished to construct the Science and Veterans Center.
- 2) A new 81,000 sq. ft. Career Technical Education (CTE) building will be constructed adjacent to the existing Technician Development (TD) and Technology Engineering (TE) buildings. The buildings to be removed in conjunction with the construction of this building are Professional Center (PC), Technology Center (TC), Automotive Annex (AA), Diesel Technology 1 (DT1), Diesel Technology 2 (DT2), Automotive Spray Booth (ASB) and Portable 3 (P3). Approximately 82,449 sq. ft. of buildings will need to be demolished to construct the CTE Building.
- 3) A new 55,000 sq. ft. Classroom and Information Services building. The buildings to be removed in conjunction with the construction of this building are Lifelong Learning (LL) and Portable 1 (P1). Approximately 12,000 sq. ft. of buildings will need to be demolished to construct the Classroom and Information Services Building.
- 4) A new offsite Center for Excellence Conference Center will be constructed on the location of the existing Christ the Cornerstone Christian Church (1155 West Foothill Blvd). The new two-story Center for Excellence will be approximately 20,000 sq. ft. The existing 10,000 sq. ft. church will be demolished, and the existing parking lot be removed and reconfigured.
- 5) A new Student Union / Dining Hall Building will be 15,000 sq. ft. and is proposed to be constructed at the location of the existing bookstore. The building to be replaced in conjunction with this recommendation is the existing Campus Center building. Approximately 12,000 sq. ft. of buildings will need to be demolished to construct the new Student Union.
- 6) A new 56,000 sq. ft. Library / Learning Resource Center will be constructed on the site of the existing library building. In addition, the on grade parking area will be repurposed. Approximately 43,380 sq. ft. of the existing Library will need to be demolished to construct the new Library.
- 7) A new 65,000 sq. ft. Kinesiology building will be adjacent to the existing gym facility and physical education buildings. The buildings to be replaced in conjunction with this recommendation are Adaptive Physical Education (AP), Aquatic Center (AQ), and Physical Education Gymnasium (PE). The Tennis Complex (TN), Adaptive Physical Education (AP), and Aquatic Center (AQ)

are in the footprint of the new building and will be removed. Approximately 117,933 sq. ft. of the existing buildings and resources will need to be demolished to construct the new Kinesiology Building.

The build-out of all the projects is anticipated to occur in eight development phases that will last for 10 years.⁴ The MND states that the campus-wide improvements (minor capital projects improving traffic circulation, signage, and improvements in hard- and landscaping) would begin in the Fall of 2022 [sic].⁵ The MND states that Phase 2 is anticipated to begin in Winter 2023 [sic].⁶ The MND estimates that building construction would occur over 28 months.⁷

These comments were prepared with the assistance of air quality, health risk, and GHG expert Dr. James Clark, Ph.D. and transportation expert Mr. Daniel Smith, P.E. Comments and curriculum vitae of Dr. Clark are attached to this letter as Exhibit A.⁸ Mr. Smith's comments and curriculum vitae are included as Exhibit B.⁹ Exhibit A and B are fully incorporated herein and submitted to the District herewith. We reserve the right to supplement these comments at a later date and at any future proceedings related to this Project.¹⁰

I. STATEMENT OF INTEREST

CREED LA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. The coalition includes the Sheet Metal Workers Local 105, International Brotherhood of Electrical Workers Local 11, Southern California Pipe Trades District Council 16, and District Council of Iron Workers of the State

⁴ MND at 45.

⁵ *Id.* at 7. The MND's construction timelines for the Project phases are clearly incorrect since it is currently 2024, the Project has not yet been approved or begun construction, and the MND was not released for public review until April 2024. Under the timelines set forth in the MND, Phases 1, 2, and possibly 3 would have already begun 1-2 years ago.

⁶ *Id.*

⁷ MND, Appendix A Air Quality, Energy and Greenhouse Gas Emissions Impact Analysis, p. 47.

⁸ **Exhibit A:** Letter from James Clark to Adams Broadwell Joseph & Cardozo, Comment Letter on Citrus College 2020-2030 Educational and Facilities Master Plan Mitigated Negative Declaration (MND), SCH Number 2024040908 (May 16, 2024) ("**Clark Comments**").

⁹ **Exhibit B:** Letter from Dan Smith to Adams Broadwell Joseph & Cardozo, Citrus College Education And Facilities Master Plan IS/MND (May 20, 2024) ("**Smith Comments**").

¹⁰ Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

of California, along with their members, their families, and other individuals who live and work in the City of Glendora.

Individual members of CREED LA and its member organizations include Samuel Bowerman, Garrett May, Leo Vincent. These individuals live, work, recreate, and raise their families in the City of Glendora and surrounding communities. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They would be first in line to be exposed to any health and safety hazards that exist onsite.

CREED LA seeks to ensure a sustainable construction industry over the long-term by supporting projects that have positive impacts for the community, and which minimize adverse environmental and public health impacts. CREED LA has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making the area less desirable for new businesses and new residents. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

II. LEGAL BACKGROUND

CEQA requires that lead agencies analyze any project with potentially significant environmental impacts in an EIR, except in limited circumstances.¹¹ The purpose of an EIR "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."¹² The EIR has been described as "an environmental 'alarm bell' whose purpose is to alert the public and its responsible official to environmental changes before they have reached ecological points of no return."¹³

A negative declaration may be prepared instead of an EIR when, after preparing an initial study, a lead agency determines that a project "would not have

¹¹ Pub. Resources Code, § 21000; CEQA Guidelines, § 15002.

¹² *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 (internal citations omitted).

¹³ *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.

a significant effect on the environment.”¹⁴ Courts have held that if “no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.”¹⁵

The presumption in favor of preparing an EIR, rather than a negative declaration, is reflected in the “fair argument” standard. Under that standard, the lead agency “shall” prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.¹⁶ The fair argument standard creates a “low threshold” of favoring environmental review through an EIR, rather than through a negative declaration.

“Substantial evidence” required to support a fair argument is defined as “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.”¹⁷ “[I]n marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.”¹⁸

With respect to this Project, the MND fails to satisfy the basic purposes of CEQA. The District prepared a project-level MND which purports to evaluate “the potential environmental impacts that may result from development of the Project.”¹⁹ But, the MND fails to adequately disclose, investigate, and analyze the Project’s potentially significant impacts, and fails to provide substantial evidence to conclude that impacts will be mitigated to a less than significant level. Because the MND lacks basic information regarding the Project’s potentially significant impacts,

¹⁴ *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597; Pub. Resources Code, § 21080(c).

¹⁵ *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320.

¹⁶ Pub. Resources Code, §§ 21080(d), 21082.2(d); CEQA Guidelines, §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 1501-51; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.

¹⁷ CEQA Guidelines, § 15384(a).

¹⁸ CEQA Guidelines, § 15064(g).

¹⁹ MND at 6.

the MND's conclusion that the Project will have a less than significant impact on the environment is unsupported.²⁰ The District failed to gather the relevant data to support its finding of no significant impacts, and substantial evidence shows that the Project may result in potentially significant impacts. As detailed herein and in the attached expert comments, substantial evidence supports a fair argument that the Project may result in significant and unmitigated impacts to air quality, public health, and from transportation and traffic. The District must prepare an EIR that analyzes, discloses, and mitigates these impacts and which considers less environmentally damaging alternatives.

III. THE MND FAILS TO PROVIDE A COMPLETE PROJECT DESCRIPTION

CEQA requires that an Initial Study include a description of the project and an identification of the environmental setting.²¹ “An accurate and complete project description is necessary for an intelligent evaluation of the potential environmental impacts of the agency’s action.”²² Accordingly, a lead agency may not hide behind its failure to obtain a complete and accurate project description.²³ Without a complete project description, the environmental analysis under CEQA is impermissibly limited, thus minimizing the project’s impacts and undermining meaningful public review.²⁴

CEQA Guidelines section 15378 defines “project” to mean “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.”²⁵ “The term “project” refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term project does not mean each separate governmental approval.”²⁶ Courts have explained that a complete description of a project must “address not only the immediate environmental consequences of going forward with the project, but also all “*reasonably foreseeable* consequence[s] of the initial project.”²⁷

²⁰ Pub. Resources Code, § 21064.5.

²¹ CEQA Guidelines, §§ 15063(d), 15071.

²² *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-193.

²³ *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311 (“*Sundstrom*”).

²⁴ *See, e.g., Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376.

²⁵ CEQA Guidelines § 15378.

²⁶ *Id.*, § 15378(c).

²⁷ *Laurel Heights I*, 47 Cal. 3d 376, 398 (emphasis added); *see also Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 449-50.

Accordingly, a lead agency may not hide behind its failure to obtain a complete and accurate project description.²⁸

A. The MND Fails to Describe the Proposed Building Heights

The MND fails to provide an accurate and complete project description of each of the Project's elements. The following proposed developments in the MND do not include the building heights or number of stories:

1. Center for Excellence - Conference Center - The MND provides that the building will be two-stories²⁹ but does not state the building height.
2. Student Union Dining Hall – The MND provides that the Student Union Dining Hall will be 15,000 sq. ft.³⁰ and alternately states that the Student Union / Dining Hall facility will be 20,000 sq. ft.³¹ The MND also fails to provide the number of stories or building height.
3. Career Technical Education Building (CTE) - The MND provides that the CTE building will be 79,000 sq. ft.³² and alternately states the CTE building will be 81,000 sq. ft.³³ but fails to provide the number of stories or building height.
4. Classroom Building and Veterans Resource Center - The MND provides that the classroom building will be 44,000 sq. ft.³⁴ but fails to provide the number of stories or building height.
5. STEM / Science Building - The MND provides that the STEM building will be 58,000 sq. ft.³⁵ but fails to provide the number of stories or building height.
6. Library / Learning Resource Center - The MND provides that the Library building will be 56,000 sq. ft.³⁶ but fails to provide the number of stories or building height.
7. Kinesiology Building - The MND provides that the Kinesiology building will be 65,000 sq. ft. but fails to provide the number of stories or building height.³⁷

²⁸ *Sundstrom v. County of Mendocino* (“*Sundstrom*”) (1988) 202 Cal.App.3d 296, 311.

²⁹ MND at 4.

³⁰ MND at 17.

³¹ MND at 4.

³² MND at 5.

³³ MND at 16.

³⁴ MND at 5.

³⁵ *Id.*

³⁶ *Id.* at 6.

³⁷ MND at 19.

The MND includes a single vague reference to Project building heights ranging from one to three stories,³⁸ but fails to provide any clear information about the actual building heights proposed for each building. As a result, the MND fails to include basic information about Project components as required by CEQA. The lack of information about proposed building heights precludes an accurate assessment of impacts affected by the height and mass of buildings, such as air quality and health risk impacts, greenhouse gas emissions, aesthetics, and localized noise impacts from Project construction and operation. The MND's assessment of these impacts without accurate information about building heights is unsupported. The MND must be withdrawn and an EIR circulated which accurately characterizes the Project's building heights.

B. The MND Provides Inconsistent Information on Building Sizes

The MND includes several inconsistencies with respect to the size of individual Project components, including: the Student Union Dining Hall and the Career Technical Education Building (CTE).³⁹ The MND provides that the Student Union Dining Hall will be 15,000 sq. ft.⁴⁰ and alternately states that the Student Union / Dining Hall facility will be 20,000 sq. ft.⁴¹ The MND provides that the CTE building will be 79,000 sq. ft.⁴² and alternately states the CTE building will be 81,000 sq. ft.⁴³ An accurate assessment of the Project's construction and operational impacts is not possible without an accurate quantification of the Project's size. The MND must be withdrawn and an EIR prepared which includes accurate information about the Project's size.

C. The MND Lacks Information Regarding the Use of Backup Generators

The MND fails to disclose whether the Project will use backup generators to maintain power to the college buildings in the event of a loss of power at the Project site. Courts have explained that a complete description of a project must "address not only the immediate environmental consequences of going forward with the project, but also all "*reasonably foreseeable* consequence[s] of the initial project."⁴⁴ Thus, even if the initial design of the Project does not call for generators, they must

³⁸ MND, p. 29.

³⁹ *Id.* at 4; 5; 16; 17.

⁴⁰ *Id.* at 17.

⁴¹ *Id.* at 4.

⁴² *Id.* at 5.

⁴³ *Id.* at 16.

⁴⁴ *Laurel Heights I*, 47 Cal. 3d 376, 398 (emphasis added); *see also Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 449-50.

be analyzed if the Project's projected uses will require use of generators. Backup generators are a reasonably foreseeable component of a project of this type, and are a major source of diesel particulate matter, and have air quality, greenhouse gas, and energy impacts.

In this case, a backup generator may be required by California Building Code if there are elevators in the proposed Project buildings.⁴⁵ California Building Code Title 24, Part 2 § 2702.2.2 requires that "Standby power shall be provided for elevators and platform lifts."⁴⁶ Additionally, if a building has an accessible floor four or more stories above ground level, the building must have an elevator with a standby power for the elevator equipment.⁴⁷ The MND references possibly building heights of one to three stories,⁴⁸ but as discussed above, does not clearly describe the proposed building heights. The Project may be required to have standby power in the form of a back-up generator for an onsite elevator. Backup generators may also be required to support uninterrupted use of scientific or other equipment related to the Project's academic operations. The MND is silent on this issue.

Backup generators commonly rely on fuels such as natural gas or diesel,⁴⁹ and thus can significantly impact air quality, GHG emissions, and public health through toxic DPM emissions.⁵⁰ Backup generators increase operational emissions during testing periods and unscheduled events. Unscheduled events include, but are not limited to, Public Safety Power Shutoff (PSPS) events and extreme heat events ("EHEs"). EHEs are defined as periods where in the temperatures throughout California exceed 100 degrees Fahrenheit.⁵¹ From January, 2019 through December, 2019, Southern California Edison reported 158 of their circuits underwent a PSP event.⁵² In 2021, the Governor Of California declared that during extreme heat events the use of stationary generators shall be deemed an emergency

⁴⁵ California Building Code Title 24, Part 2 § 2702.2.2.

⁴⁶ California Building Code Title 24, Part 2 § 2702.2.2.

⁴⁷ *Id.* § 1009.4.1; 3008.8.

⁴⁸ MND, p. 29.

⁴⁹ SCAQMD, Fact Sheet on Emergency Backup Generators, <http://www.aqmd.gov/home/permits/emergency-generators> ("Most of the existing emergency backup generators use diesel as fuel").

⁵⁰ California Air Resources Board, Emission Impact: Additional Generator Usage Associated with Power Outage (January 30, 2020), available at <https://ww2.arb.ca.gov/resources/documents/emissions-impact-generator-usage-during-psps> (showing that generators commonly rely on gasoline or diesel, and that use of generators during power outages results in excess emissions).

⁵¹ Governor of California. 2021. Proclamation of a state of emergency. June 17, 2021.

⁵² SCAQMD. 2020. Proposed Amendment to Rules (PARS) 1110.2, 1470, and 1472. Dated December 10, 2020. http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1110.2/1110-2_1470_1472/par1110-2_1470_wgm_121020.pdf?sfvrsn=6.

use under California Code of Regulations (CCR), title 17, section 93115.4 sub. (a) (30) (A)(2). The number of Extreme Heat Events is likely to increase in California with the continuing change in climate.

According to the California Public Utilities Commission (“CPUC”) de-energization report⁵³ in October 2019, there were almost 806 PSPS events that impacted almost 973,000 customers (~7.5% of households in California) of which ~854,000 were residential customers, and the rest were commercial/industrial/medical baseline/other customers. CARB’s data also shows that on average each of these customers had about 43 hours of power outage in October 2019.⁵⁴ Using the actual emission factors for each diesel backup generator engines in the air district’s stationary backup generator database, CARB staff calculated that the 1,810 additional stationary running during a PSPS in October 2019 generated 126 tons of NOx, 8.3 tons of particulate matter, and 8.3 tons of DPM.

For every PSPS or Extreme Heat Event (“EHE”) triggered during the operational phase of the project, significant concentrations of DPM will be released that are not accounted for in the District’s analysis. In 2021, two EHEs were declared. During the June 17, 2021 EHE, the period for which stationary generator owners were allowed to use their backup generators lasted 48 hours. For the July 9, 2021 EHE, the period for which stationary generator owners were allowed to use their backup generators lasted 72 hours. These two events would have necessarily increased the calculated DPM emissions from the Project for the year if the project had been in operation.

The District must account for the use of all potential backup generators and their associated air quality, GHG emissions, and health risks from DPM emissions in an EIR, or, alternatively, include conditions restricting the District from using backup generators in order to prevent unmitigated air quality and health impacts.

IV. THE MND FAILS TO PROVIDE AN ADEQUATE DESCRIPTION OF THE ENVIRONMENTAL SETTING

The MND fails to adequately describe the environmental setting against which the Project’s environmental impacts are to be measured for several critical aspects of the Project, including transportation. This contravenes the fundamental

⁵³ <https://www.cpuc.ca.gov/deenergization/> as cited in CARB, 2020. Potential Emission Impact of Public Safety Power Shutoff (PSPS), Emission Impact: Additional Generator Usage associated With Power Outage.

⁵⁴ CARB, 2020. Potential Emission Impact of Public Safety Power Shutoff (PSPS), Emission Impact: Additional Generator Usage associated With Power Outage.

purpose of the environmental review process, which is to determine whether there is a potentially substantial, adverse change compared to the existing setting.⁵⁵ CEQA requires that a lead agency include a description of the physical environmental conditions, or “baseline,” in the vicinity of the project as they exist at the time environmental review commences.⁵⁶ As the courts have repeatedly held, the impacts of a project must be measured against the “real conditions on the ground.”⁵⁷ The description of the environmental setting constitutes the “baseline” physical conditions against which the lead agency assesses the significance of a project’s impacts.⁵⁸ An Environmental Setting is required “to give the public and decision makers the most accurate and understandable picture practically possible of the project’s likely near-term and long-term impacts.”⁵⁹

The MND fails to analyze the environmental setting with respect to transportation and traffic. The Project may exacerbate existing traffic and transportation issues, according to CREED LA’s transportation expert Dan Smith. But, the MND fails to analyze “whether there are existing transportation operational or safety problems in the Project vicinity that might be disproportionately exacerbated by small concentrations of incremental traffic...”⁶⁰ Mr. Smith concluded that the MND’s analysis is therefore inadequate.⁶¹ He explains that, if the MND had accounted for the correct baseline transportation conditions, the record would demonstrate that the Project may result in significant traffic impacts which the MND fails to analyze. Substantial evidence as presented in Dan Smith’s comments supports a fair argument that the Project may result in significant traffic and transportation impacts requiring preparation of an EIR. The MND must be withdrawn and an EIR prepared which includes accurate information about the Project’s environmental setting and baseline transportation impacts.

⁵⁵ CEQA Guidelines, § 15063, subd. (d).

⁵⁶ CEQA Guidelines, § 15125(a); *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal. 4th 310, 321 (“*CBE v. SCAQMD*”).

⁵⁷ *CBE v. SCAQMD*, 48 Cal. 4th at 321; *Save Our Peninsula Com. v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 121-22; *City of Carmel-by-the-Sea v. Bd. of Supervisors of Monterey County* (1986) 183 Cal.App.3d 229, 246.

⁵⁸ CEQA Guidelines, § 15125(a); *CBE v. SCAQMD*, 48 Cal. 4th at 321.

⁵⁹ 14 CCR § 15125(a).

⁶⁰ Smith Comments, p. 2.

⁶¹ *Id.*

V. THE DISTRICT MUST PREPARE AN EIR BECAUSE THERE IS SUBSTANTIAL EVIDENCE SUPPORTING A FAIR ARGUMENT THAT THE PROJECT MAY RESULT IN SIGNIFICANT AIR QUALITY IMPACTS

CEQA documents must fully disclose all potentially significant impacts of a project, and implement all feasible mitigation to reduce those impacts to less than significant levels. The lead agency's significance determination with regard to each impact must be supported by accurate scientific and factual data.⁶² An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.⁶³

Moreover, the failure to provide information required by CEQA is a failure to proceed in the manner required by CEQA.⁶⁴ Challenges to an agency's failure to proceed in the manner required by CEQA, such as the failure to address a subject required to be covered by CEQA or to disclose information about a project's environmental effects or alternatives, are subject to a less deferential standard than challenges to an agency's factual conclusions.⁶⁵ In reviewing challenges to an agency's approval of a CEQA document based on a lack of substantial evidence, the court will "determine de novo whether the agency has employed the correct procedures, scrupulously enforcing all legislatively mandated CEQA requirements."⁶⁶ Reviewing courts will not "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."⁶⁷

A. The MND Fails to Accurately Analyze Emissions or Disclose the Project's Potentially Significant Air Quality Impacts

The MND relies on inconsistent data with respect to building heights, square footage, construction phases, and construction timing to conclude that air quality impacts will be less than significant. Substantial evidence, as presented in Dr. Clark's expert comments supports a fair argument that, when accounting for the correct square footage, height, and construction lengths and equipment, the Project will result in significant air quality impacts requiring preparation of an EIR.

⁶² 14 CCR § 15064(b).

⁶³ *Kings Cty. Farm Bur. v. Hanford* (1990) 221 Cal.App.3d 692, 732.

⁶⁴ *Sierra Club v. State Bd. Of Forestry* (1994) 7 Cal.4th 1215, 1236.

⁶⁵ *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.

⁶⁶ *Id.*; *Madera Oversight Coal., Inc. v. County of Madera* (2011) 199 Cal. App. 4th 48, 102.

⁶⁷ *Berkeley Jets*, 91 Cal.App.4th at 1355.

The MND relies air quality modeling based on the conclusion that 316,904 sq ft of buildings will be demolished.⁶⁸ This figure does not match with the square footage outlined in Table 1-1 Citrus College Campus Existing Building Inventory.⁶⁹ The figure also does not comport with the figures detailed in Table A, which provides that the existing space is 759,786 sq ft.⁷⁰ The demolition of 759,786 sq ft would result in more significant construction emissions impacts than the MND analyzed.⁷¹

The MND provides that “[b]uild-out of all of the projects will occur in eight development phases. Phase 1, campus-wide improvements will begin in Fall of 2022 and all construction would be completed by 2032. In order to provide a worst-case analysis, all eight phases of construction activities were modeled in CalEEMod as occurring in one phase.”⁷² The MND’s air quality modeling artificially compressed the emissions associated with construction into two years instead of analyzing impacts over the ten-year period.⁷³ This resulted in artificially reduced construction air quality impacts.⁷⁴ The long-term construction emissions impacts should have been analyzed over the course of ten years, to accurately reflect the emissions to nearby sensitive receptors including homes located as near as 15 feet east of the Center for Excellence site, homes as near as 15 feet from the south side, 80 feet from the east side, and 90 feet from the north and westsides of the existing Citrus College site, along with a K-12 school, Powell Elementary School, which is located as near as 1,100 feet south of the existing Citrus College site.⁷⁵

The MND also fails to analyze impacts associated with concurrent phases of construction, and assumes that construction emissions are less than significant. Dr. Clark found that when accounting for overlapping periods of construction activity, Project air quality emissions are significant.⁷⁶

The MND’s conclusion that air quality impacts are less than significant is therefore not supported by substantial evidence. Substantial evidence in Dr. Clark’s comments supports a fair argument that the Project may result in a significant air quality impact from emissions of criteria and toxic pollutants from on-site motorized operational equipment.

⁶⁸ MND at 7.

⁶⁹ *Id.* at 9.

⁷⁰ *Id.* at 7.

⁷¹ Clark Comments, p. 6.

⁷² MND at 54.

⁷³ Clark Comments, p. 9.

⁷⁴ *Id.*

⁷⁵ *Id.* at 1.

⁷⁶ Clark Comments, p. 10.

VI. THE DISTRICT MUST PREPARE AN EIR BECAUSE THERE IS SUBSTANTIAL EVIDENCE SUPPORTING A FAIR ARGUMENT THAT THE PROJECT MAY RESULT IN SIGNIFICANT HEALTH RISK IMPACTS

A lead agency's significance determination must be supported by accurate scientific and factual data.⁷⁷ An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.⁷⁸

In *Sierra Club v. County of Fresno*, the California Supreme Court affirmed CEQA's mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.⁷⁹ In *Sierra Club*, the Supreme Court held that the EIR for the Friant Ranch Project—a 942-acre master-planned, mixed-use development with 2,500 senior residential units, 250,000 square feet of commercial space, and open space on former agricultural land in north central Fresno County—was deficient as a matter of law in its informational discussion of air quality impacts as they connect to adverse human health effects.⁸⁰ As the Court explained, “a sufficient discussion of significant impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact.”⁸¹ The Court concluded that the County's EIR was inadequate for failing to disclose the nature and extent of public health impacts caused by the project's air pollution. The EIR failed to comply with CEQA because the public, after reading the EIR, “would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin.”⁸² CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.⁸³

⁷⁷ 14 C.C.R. § 15064(b).

⁷⁸ *Kings County Farm Bureau*, 221 Cal.App.3d at 732.

⁷⁹ *Sierra Club*, 6 Cal.5th at 518–522.

⁸⁰ *Id.* at 507–508, 518–522.

⁸¹ *Id.* at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.

⁸² *Id.* at 518. CEQA's statutory scheme and legislative intent also include an express mandate that agencies analyze human health impacts and determine whether the “***environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.***” (Public Resources Code § 21083(b)(3) (emphasis added).) Moreover, CEQA directs agencies to “take immediate steps to identify any critical thresholds for the ***health and safety of the people*** of the state and take all coordinated actions necessary to prevent such thresholds being reached.” (Public Resources Code § 21000(d) (emphasis added).)

⁸³ *Sierra Club*, 6 Cal.5th at 518–522.

In *Berkeley Jets*, the Court of Appeal held that an EIR must analyze the impacts from human exposure to toxic substances.⁸⁴ In that case, the Port of Oakland approved a development plan for the Oakland International Airport.⁸⁵ The EIR admitted that the Project would result in an increase in the release of toxic air contaminants (“TACs”) and adopted mitigation measures to reduce TAC emissions, but failed to quantify the severity of the Project’s impacts on human health.⁸⁶ The Court held that mitigation alone was insufficient, and that the Port had a duty to analyze the health risks associated with exposure to TACs.⁸⁷ As the CEQA Guidelines explain, “[t]he EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected.”⁸⁸

The failure to provide information required by CEQA makes meaningful assessment of potentially significant impacts impossible and is presumed to be prejudicial.⁸⁹ Challenges to an agency’s failure to proceed in the manner required by CEQA, such as the failure to address a subject required to be covered in an EIR or to disclose information about a project’s environmental effects or alternatives, are subject to a less deferential standard than challenges to an agency’s factual conclusions.⁹⁰ Courts reviewing challenges to an agency’s approval of an EIR based on a lack of substantial evidence will “determine de novo whether the agency has employed the correct procedures, scrupulously enforcing all legislatively mandated CEQA requirements.”⁹¹

CEQA requires analysis of human health impacts. CEQA Guidelines Section 15065(a)(4) provides that the District is required to find that a project will have a significant impact on the environment and require an EIR if the environmental effects of a project will cause a substantial adverse effect on human beings. The Supreme Court has also explained that CEQA requires the lead agency to disclose the health consequences that result from exposure to a project’s air emissions.⁹²

The MND fails to disclose and analyze that the Project’s construction activities would generate TAC emissions, and failed to disclose the health risk resulting from human exposure to those emissions or evaluate the severity of the

⁸⁴ *Berkeley Jets*, 91 Cal.App.4th at 1369–1371.

⁸⁵ *Id.* at 1349–1350.

⁸⁶ *Id.* at 1364–1371.

⁸⁷ *Id.*

⁸⁸ 14 C.C.R. § 15003(b).

⁸⁹ *Sierra Club v. State Bd. Of Forestry* (1994) 7 Cal.4th 1215, 1236–1237.

⁹⁰ *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.

⁹¹ *Id.* (internal quotations omitted).

⁹² *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 516, 523.

exposure in relation to applicable health-based significance thresholds.⁹³ The MND provides that “[d]ue to the nominal number of diesel truck trips generated by the Proposed Project, a less than significant TAC impact would occur during the ongoing operations of the Proposed Project and no mitigation would be required.”⁹⁴ This conclusion is not supported by substantial evidence, in fact, the Project’s construction would generate DPM, a type of TAC.⁹⁵ DPM would be emitted during by heavy equipment, diesel trucks, and generators.⁹⁶ DPM has been linked to a range of serious health problems including an increase in respiratory disease, lung damage, cancer, and premature death.⁹⁷ The MND fails to disclose this potentially significant health risk.

A. The MND’s Qualitative Health Risk Analysis Lacks Adequate Information About the Extent of the Project’s Health Risk and is Not Supported by Substantial Evidence

The MND concludes that the Project would result in a less than significant health risk impact without a quantitative analysis based on three unsupported claims: (1) by comparing health risk to localized significance thresholds (“LST”), which do not apply to TACs; (2) by asserting that a health risk analysis is not required because the Project’s “short-term construction schedule” would not result in a long-term (i.e., 30 or 70 years) substantial source of toxic air contaminant emissions and corresponding individual cancer risk”; and (3) because 25 percent or more of the Project’s construction equipment fleets must be Tier 2 or higher.⁹⁸

⁹³ SCAQMD’s applicable CEQA significance thresholds for health risk from exposure to TACs (including carcinogens and non-carcinogens) are 10 in 1 million (Maximum Incremental Cancer Risk), Cancer Burden (> 0.5 excess cancer cases (in areas $\geq$ 1 in 1 million)), and/or Chronic & Acute Hazard Index $\geq$ 1.0 (project increment). See South Coast AQMD Air Quality Significance Thresholds, available at <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.aqmd.gov/docs/default-source/ceqa/handbook/south-coast-aqmd-air-quality-significance-thresholds.pdf%3Fsfvrsn%3D25&ved=2ahUKEwiOlJ2xpqKGAXUFAjQIHakYDtwQFnoECBoQAQ&usg=AOvVaw07n1OZu8Nvvtfq0AnstLMG>

⁹⁴ MND at v.

⁹⁵ California Air Resources Board, Diesel Exhaust & Health, <https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health#:~:text=5%2C%20DPM%20also%20contributes%20to,decreased%20lung%20function%20in%20children.>

⁹⁶ SCAQMD, Fact Sheet on Emergency Backup Generators, <http://www.aqmd.gov/home/permits/emergency-generators> (“Most of the existing emergency backup generators use diesel as fuel”).

⁹⁷ Office of Environmental Health Hazard Assessment & The American Lung Association, Health Effects of Diesel Exhaust, <https://oehha.ca.gov/media/downloads/calenviroscreen/indicators/diesel4-02.pdf>.

⁹⁸ MND, pp. 42-43.

As Dr. Clark explains in his comments, these conclusions are unsupported. First, the MND relies on an inapplicable methodology by using LST. The LST analysis is only applicable to NO_x, CO, PM₁₀, and PM_{2.5} emissions, which are collectively referred to as criteria air pollutants. Because LST can only be applied to criteria air pollutants, by design, this method cannot be used to determine whether emissions from diesel particulate matter (“DPM”), a known human carcinogen, will result in a significant health risk impact to nearby sensitive receptors. Dr. Clark explains that, as a result, health risk impacts from exposure to TACs, such as DPM, are not considered in the LST analysis for the proposed Project, thus leaving a gap in the MND’s analysis.⁹⁹

Second, Dr. Clark explains that individual cancer risk is not just affected by the duration of TAC exposure, but also by the concentration of the individual’s unique exposure scenario and the toxicity of the chemical.¹⁰⁰ Further, OEHHA¹⁰¹ guidance sets a recommended threshold for preparing an HRA of a construction period of two months or more.¹⁰² The OEHHA guidance document explicitly states that this threshold is applicable to short-term construction projects.¹⁰³

Finally, the MND contains no quantitative assessment of human TAC exposure based on the use of Tier 2 engines (or any other tier) during Project construction. The MND therefore contains no support for the assumption that TAC emissions associated with the use of Tier 2 equipment would be beneath health-based significance thresholds.

⁹⁹ Clark Comments, p. 11.

¹⁰⁰ “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, *available at*: http://oehha.ca.gov/air/hot_spots/hotspots2015.html (“OEHHA Guidance”), pg. 8-17.

¹⁰¹ OEHHA is the organization responsible for providing recommendations and guidance on how to conduct health risk assessments in California. See OEHHA organization description, *available at* <http://oehha.ca.gov/about/program.html>.

¹⁰² See “Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments.” OEHHA, February 2015, *available at*: http://oehha.ca.gov/air/hot_spots/hotspots2015.html (“OEHHA Guidance”), p. 8-18.

¹⁰³ *Id.* (“The local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation. Frequently, the issue of how to address cancer risks from short-term projects arises... We recommend that exposure from projects longer than 2 months but less than 6 months be assumed to last 6 months (e.g., a 2-month project would be evaluated as if it lasted 6 months). Exposure from projects lasting more than 6 months should be evaluated for the duration of the project.”)

The MND's assertion that a health risk analysis is not required is unsupported by law or fact and omits basic information about TACs that is fundamental to evaluate health risk.

B. The MND Fails to Adequately Analyze and Mitigate Diesel Particulate Matter Emissions Which Pose a Potentially Significant Risk to Human Health

The MND concludes, absent substantial evidence, that air quality impacts are less than significant.¹⁰⁴ Substantial evidence, though, supports a fair argument that Project construction may result in significant air quality and public health impacts, requiring preparation of an EIR.¹⁰⁵ Dr. Clark's comments provide substantial evidence supporting a fair argument that Project construction may expose sensitive receptors to substantial pollutant concentrations.¹⁰⁶

Construction equipment emits diesel particulate matter ("DPM" or "exhaust PM10"), which is a hazardous air pollutant.¹⁰⁷ Construction workers, workers at adjacent facilities, and nearby residents will be exposed to DPM emissions during construction, resulting in a significant impact under CEQA.¹⁰⁸

CEQA requires a project's environmental review document to disclose the project's potential health risks to a degree of specificity that would allow the public to make the correlation between the project's impacts and adverse effects to human health.¹⁰⁹ The California Office of Environmental Health Hazard Assessment ("OEHHA") risk assessment guidelines also recommends that a formal health risk assessment be conducted for short-term construction exposures lasting longer than 2 months, and exposures from projects lasting more than 6 months for the duration of the project.¹¹⁰ The MND provides that "[b]uildout of all of the projects will occur in eight development phases. Phase 1, campus-wide improvements will begin in Fall of 2022 and all construction would be completed by 2032."¹¹¹ Further, the

¹⁰⁴ MND, p. 31-44.

¹⁰⁵ Clark Comments, p. 12.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.

¹¹⁰ Office of Environmental Health Hazard Assessment (OEHHA), Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments, February 2015 (OEHHA 2015), Section 8.2.10: Cancer Risk Evaluation of Short Term Projects, pp. 8-17/18; <https://oehha.ca.gov/air/crnrr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0>.

¹¹¹ MND at 8.

MND provides that total project construction would occur over 28 months over the course of ten years.¹¹² This is an extremely conservative estimate for how long construction will last for all of the Project components. Construction may last significantly longer than just 28 months. Regardless, OEHHA risk assessment guidelines recommend a health risk assessment for a construction project of this length. The District must prepare an EIR which includes a health risk analysis to adequately analyze the Project's construction health risk impacts.

The MND fails to adequately analyze the construction health risk associated with DPM emissions and fails to adequately mitigate the associated health risks. The District must prepare an EIR which adequately analyzes project construction health risk and adequately mitigates the impacts, including through measures proposed by Dr. Clark, like requiring Tier 4 Final engines in the construction fleet and through retrofitting CARB-compliant engines with diesel particulate traps.¹¹³ Absent these measures in a legally enforceable mitigation monitoring and reporting program, the Project results in significant environmental impacts, in violation of CEQA. The District must withdraw the MND and circulate an EIR which fully discloses, analyzes and mitigates the Project's construction health risk impact.

Additionally, the District failed to analyze a critical dispersion factor – building downwash – which affects the rate and severity of exposure to TACs, without explaining why. Dr. Clark's comments show that an AERMOD model can be run to account for building downwash. The District's failure to include this emission factor in its health risk analysis represents a failure to accurately to analyze and disclose the ground level concentration of DPM emissions generated by the Project. Further, the District's failure to clarify the Project's building heights precludes a thorough analysis of the ground level concentrations of DPM emissions when accounting for building downwash effect.¹¹⁴ The MND must be withdrawn and EIR circulated to adequately analyze and mitigate Project health risk impacts.

The District must circulate an EIR which adequately analyzes all of the Project's potentially significant impacts, and require all feasible mitigation to reduce the Project's significant environmental and public health impacts to less than significant levels. Feasible mitigation includes, but is not limited to, the following:

1. Until construction of the Project is completed, District shall require that all diesel off-road construction equipment must meet USEPA Tier 4 Final

¹¹² MND at 47.

¹¹³ *Id.* at 24.

¹¹⁴ Clark Comments, p.

- off-road emissions standards for equipment rated at 50 horsepower or greater wherever and whenever reasonably available. In the event that Tier 4 construction equipment is not available, the District may utilize Tier 3 construction equipment outfitted with Best Available Control Technology (“BACT”) devices, including but not limited to a CARB certified Level 3 Diesel Particulate Filters (“DPF”).
2. All heavy-duty trucks entering the Project site shall be model year 2017 or later to the extent feasible, and in any event all heavy duty trucks entering the Project site shall be no earlier than model year 2014.
 3. Provide EV capable infrastructure for a minimum of five medium-duty and/or heavy-duty trucks to accommodate future installation of medium-duty and/or heavy-duty EV charging stations.
 4. Require that all outdoor cargo handling equipment (including yard trucks, yard goats, pallet jacks, and forklifts) shall be zero emission. The Project site shall include the necessary charging stations for electric cargo handling equipment.

These measures should be included a Mitigation Monitoring and Reporting Program in a legally adequate EIR circulated for public review and scrutiny before the Project can be approved.

VII. THE DISTRICT MUST PREPARE AN EIR BECAUSE THERE IS SUBSTANTIAL EVIDENCE SUPPORTING A FAIR ARGUMENT THAT THE PROJECT MAY RESULT IN SIGNIFICANT TRANSPORTATION IMPACTS

An MND is improper, and an EIR must be prepared, whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant environmental impact.¹¹⁵ “[S]ignificant effect on the environment” is defined as “a substantial, or potentially substantial, adverse change in the environment.”¹¹⁶ An effect on the environment need not be “momentous” to meet the CEQA test for significance; it is enough that the impacts are “not trivial.”¹¹⁷ Substantial evidence, for purposes of the fair argument standard, includes “fact, a reasonable assumption predicated upon fact, or *expert opinion* supported by fact.”¹¹⁸

¹¹⁵ PRC § 21151; CEQA Guidelines § 15064(f)(1); *Citizens for Responsible Equitable Env’tl Dev. v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 330-31; *Communities for a Better Env’t v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 319.

¹¹⁶ PRC § 21068; CEQA Guidelines § 15382.

¹¹⁷ *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83.

¹¹⁸ PRC § 21080(e)(1) (emphasis added).

Moreover, the failure to provide information required by CEQA is a failure to proceed in the manner required by CEQA.¹¹⁹ Challenges to an agency's failure to proceed in the manner required by CEQA, such as the failure to address a subject required to be covered in an MND or to disclose information about a project's environmental effects or alternatives, are subject to a less deferential standard than challenges to an agency's factual conclusions.¹²⁰ Even when the substantial evidence standard is applicable to agency decisions to certify an MND and approve a project, reviewing courts will not "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."¹²¹

The MND concludes that transportation impacts will be less than significant.¹²² In making this conclusion, the MND disproportionately relies on student enrollment from "local neighborhoods" to artificially reduce the Project's vehicle miles traveled ("VMT") impacts.¹²³ The MND provides that the "enrollment growth is expected to come from local neighborhoods and is not expected to draw significantly from out-of-town students who would have a more significant impact on VMT."¹²⁴ The MND fails to analyze whether there are existing transportation operational or safety problems in the Project vicinity that might be disproportionately exacerbated by small concentrations of incremental traffic, such as for example, extended queue blockages of through lanes or pedestrian crossings.¹²⁵ Dan Smith concludes that the MND's transportation analysis is therefore unsupported by substantial evidence. Accounting for the accurate baseline traffic impacts, the Project may result in significant traffic impacts which the MND fails to analyze or mitigate. Mr. Smith's comments support a fair argument that the Project's VMT and traffic analysis underestimated the number of passenger vehicle trips, which may result in additional significant impacts on transportation that are undisclosed and unmitigated in the MND. The District must prepare an EIR to adequately analyze and mitigate impacts on transportation.

¹¹⁹ *Sierra Club v. State Bd. Of Forestry* (1994) 7 Cal.4th 1215, 1236.

¹²⁰ *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.

¹²¹ *Berkeley Keep Jets Over the Bay Committee v. Board of Port Com'rs* (2001) 91 Cal.App.4th 1344, 1355 [internal citations omitted].

¹²² MND at 86.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ Smith Comments, p. 2.

VIII. THE DISTRICT MUST PREPARE AN EIR BECAUSE THERE IS SUBSTANTIAL EVIDENCE SUPPORTING A FAIR ARGUMENT THAT THE PROJECT MAY RESULT IN SIGNIFICANT CUMULATIVE IMPACTS

The MND's conclusion that the Project would have a less than significant impact related to cumulatively considerable impacts, is not supported by substantial evidence.¹²⁶ "Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."¹²⁷ The MND asserts without substantial evidence that the Project would not result in a cumulatively considerable environmental impact.¹²⁸ The MND then goes on to conclude that "The incremental effects of the Proposed Project that could contribute to cumulative impacts include air, noise, and traffic impacts associated with vehicle trips generated by the Proposed Project and construction impacts."¹²⁹ But, the MND fails to analyze the cumulative impacts in these resource areas.

Further, the MND fails to analyze any "past projects...current projects, and the effects of probable future projects" in determining the cumulative significance of the Project.¹³⁰ CEQA requires lead agencies to conduct an analysis of "past projects, the effects of other current projects, and the effects of probable future projects."¹³¹ The MND fails to include any list of past, present, or future projects which may result in cumulatively considerable air quality, public health, greenhouse gas emissions, as well as noise and traffic impacts associated with vehicle trips and construction impacts of the Project.

IX. CONCLUSION

The district should withdraw the MND and direct staff to prepare an EIR. As described in detail above and in attached expert reports, substantial evidence supports of a fair argument that the Project poses a significant and unmitigated

¹²⁶ MND at 94.

¹²⁷; CEQA Guidelines Appendix G.

¹²⁸ MND at 94.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ CEQA Guidelines Appendix G.

May 22, 2024
Page 23

risk to the public due to unmitigated construction and operational air quality, health risk, greenhouse gas emissions, transportation, and cumulative impacts.

Sincerely,



Kelilah D. Federman

Attachments
KDF:acp