



T 510.836.4200
F 510.836.4205

1939 Harrison Street, Ste. 150
Oakland, CA 94612

www.lozeaudrury.com
kylah@lozeaudrury.com

COMMENT LETTER C

Via Email

August 13, 2025

Reynaldo Aquino, Senior Planner
Development Services
City of Jurupa Valley
8930 Limonite Avenue
Jurupa Valley, CA 92509
raquno@jurupavalley.org

Re: Comment on Draft Environmental Impact Report, MA22248 Wineville Development Project (SCH 2024090808)

Dear Mr. Aquino:

This comment is submitted on behalf of **Supporters Alliance for Environmental Responsibility ("SAFER")** regarding the Draft Environmental Impact Report ("DEIR") prepared for the MA22248 Wineville Development Project (SCH 2024090808) which proposes the construction of 232 residential units and 24,000 SF of commercial/retail space within the approximately 33-acre site located at located at cross streets of Wineville Avenue and Limonite Street in the City of Jurupa Valley ("Project").

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In support of its comments, SAFER has retained expert wildlife biologist Dr. Shawn Smallwood, Ph.D., and air quality experts Patrick Sutton, P.E. and Yilin Tian Ph.D., of Baseline Environmental Consulting. Dr. Smallwood's and Mr. Sutton's and Ms. Tian's comments and CVs are attached at Exhibit A and B, respectively.

LEGAL STANDARD

I. CEQA and Environmental Impact Report

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (14 CCR § 15002(a)(1).) "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.'" (*Citizens of Goleta Valley v. Board of*

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Supervisors (1990) 52 Cal.3d 553, 564.) Second, CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring “environmentally superior” alternatives and all feasible mitigation measures. (14 CCR § 15002(a)(2) and (3); see also *Berkeley Jets Over the Bay Com. v. Board of Port Cmrs.* (2001) 91 Cal.App.4th 1349, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.)

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an Environmental Impact Report (EIR) except in certain limited circumstances. (See, e.g., Pub. Resources Code, § 21100.) The EIR is the very heart of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652. The EIR is an “environmental ‘alarm bell’ whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return.” (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004), 124 Cal.App.4th 1184, 1220.) The EIR also functions as a “document of accountability,” intended to “demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.” (*Laurel Heights Improvements Assn. v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392.)

The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or significantly reduced.” (14 CCR § 15002(a)(2).) Critical to this purpose, the EIR must contain an “accurate and stable project description.” (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185 at 192-93 (“An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.”) The project description must contain (a) the precise location and boundaries of the proposed project, (b) a statement of the project objectives, and (c) a general description of the project’s technical, economic, and environmental characteristics. (14 CCR § 15124.)

II. Standard of Review

The California Supreme Court has emphasized that:

When reviewing whether a discussion is sufficient to satisfy CEQA, a court must be satisfied that the EIR (1) includes sufficient detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issues the proposed project raises [citation omitted]....

(*Sierra Club v. Cty. of Fresno* (2018) 6 Cal.5th 502, 510 (2018) [citing *Laurel Heights Improvement Assn.*, 47 Cal.3d at 405].) The Court in *Sierra Club v. Cty. of Fresno* also emphasized that another primary consideration of sufficiency is whether the EIR “makes a reasonable effort to substantively connect a project’s air quality impacts to likely health consequences.” (*Id.* at 510.) “Whether or not the alleged inadequacy is the complete omission of a required discussion or a patently inadequate one-paragraph discussion devoid of analysis, the

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reviewing court must decide whether the EIR serves its purpose as an informational document.” (*Id.* at 516.)

Although an agency has discretion to decide the manner of discussing potentially significant effects in an EIR, “a reviewing court must determine whether the discussion of a potentially significant effect is sufficient or insufficient, i.e., whether the EIR comports with its intended function of including ‘detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.’” (*Sierra Club*, 6 Cal.5th at 516, [citing *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1197].) “The determination whether a discussion is sufficient is not solely a matter of discerning whether there is substantial evidence to support the agency’s factual conclusions.” (*Id.* at 516.) As the Court emphasized:

[W]hether a description of an environmental impact is insufficient because it lacks analysis or omits the magnitude of the impact is not a substantial evidence question. A conclusory discussion of an environmental impact that an EIR deems significant can be determined by a court to be inadequate as an informational document without reference to substantial evidence.

(*Id.* at 514.) “[I]n preparing an EIR, the agency must consider and resolve every fair argument that can be made about the possible significant environmental effects of a project.” (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App. 4th 1099, 1109.)

III. Mitigation Measures

In general, mitigation measures must be designed to minimize, reduce or avoid an identified environmental impact or to rectify or compensate for that impact. (14 CCR § 15370.) Where several mitigation measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. (14 CCR § 15126.4(a)(1)(B).) A lead agency may not make the required CEQA findings unless the administrative record clearly shows that all uncertainties regarding the mitigation of significant environmental impacts have been resolved.

If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.” (Pub. Res. Code, § 21081; 14 CCR § 15092(b)(2)(A) and (B).)

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DISCUSSION

IV. The Project's Analysis of Impacts to Biological Resources is Not Supported By Substantial Evidence.

Dr. Smallwood reviewed and analyzed the Project's analysis of impacts to biological resources prepared by ECORP and found that ECORP failed to accurately characterize the Project's environmental setting, failed to adequately analyze significant impacts to wildlife, and failed to provide adequate mitigation measures. As a result, the Project's analysis of impacts to biological resources is not supported by substantial evidence.

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A. The Project's environmental setting was not accurately characterized.

Dr. Smallwood's associate, Noriko Smallwood conducted a 3.7-hour site visit on August 1, 2025, and detected 25 species of vertebrate wildlife. (Ex. A, p. 10.) ECORP detected four species of vertebrate wildlife that Ms. Smallwood did not detect, resulting in a combined 29 species detected in total. During her survey, Ms. Smallwood observed two special-status species, the monarch butterfly and Allen's hummingbird. (*Id.*) The monarch butterfly is a candidate for listing under the federal Endangered Species Act and Allen's hummingbird is listed by the U.S. Fish and Wildlife Service as a Bird of Conservation Concern, meaning that this species has been identified as a priority for conservation action. Based on Ms. Smallwood's survey results, Dr. Smallwood determined that the Project Site supports at least twelve special-status species. (*Id.* at p. 12.)

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Dr. Smallwood found that the Project site is "far richer in special-status species" than is characterized by ECORP. (*Id.* at 17.) Dr. Smallwood notes that ECORP "screened out many special-status species from further consideration" due to its reliance on the California Natural Diversity Data Base ("CNDDB") for documented occurrences of special-status species near the Project site. (*Id.* at 16.) Dr. Smallwood explains that the problem with CNDDB is that:

CNDDB relies entirely on volunteer reporting from biologists who were allowed to access whatever properties they report from. Many properties have never been surveyed by biologists. Many properties have been surveyed multiple times, but not all survey outcomes reported to the CNDDB. Furthermore, the CNDDB is interested only in the findings of special-status species, which means that species more recently assigned special status will have been reported many fewer times to CNDDB than were species assigned special status since the inception of the CNDDB. (*Id.*)

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Beyond ECORP's misuse of the CNDDB to determine the occurrence likelihood of special-status species on the Project Site, Dr. Smallwood also found that ECORP's burrowing

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owl surveys, which were conducted in 2022, were not only insufficient but are now outdated. (*Id.* at p. 15.) The burrowing owl is a candidate for listing under the California Endangered Species Act and covered under the Western Riverside County Multi-Species Habitat Conservation Plan ("MSHCP"). Dr. Smallwood explains that the burrowing owl surveys that ECORP conducted all occurred "at the tail end of the defined breeding season when the likelihood of encountering breeding burrowing owls was least." (*Id.*) Furthermore, "the [P]roject [S]ite supports ground squirrels, which are important to owl breeding success." (*Id.*) Given that the burrowing owl is a candidate for listing, the MSHCP has not achieved its burrowing conservation objectives, and ECORP determined that the species has a high potential to occur on the Project Site, it is imperative that ECORP conduct adequate surveys to ensure the species' protection. (*Id.* at p. 35.)

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Due to ECORP's failure to accurately characterize the environmental setting, including the occurrence likelihoods of special-status species, the Project's description of the environmental setting does not constitute substantial evidence of the Project's impacts to biological resources.

B. Significant impacts to wildlife

After reviewing the DEIR, Dr. Smallwood found and analyzed "several types of impacts likely to result from the [P]roject, none of which is adequately analyzed in the DEIR." (*Id.* at p. 26.)

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i. Habitat loss

Dr. Smallwood notes that "[h]abitat loss results in reduced productive capacity of affected wildlife species, but the DEIR does not attempt to estimate the numerical or productive capacities of the site for nesting birds." (*Id.* at p. 26.) Dr. Smallwood calculated that the Project would cause the loss of 126 nest sites and 175 nest attempts per year. (*Id.* at p. 27.) However, ECORP failed to analyze this significant impact. (*Id.*) Accordingly, this impact must be considered and analyzed in the Project's final environmental impact report.

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ii. Interference with wildlife movement

Dr. Smallwood found that ECORP did not adequately assess how the Project would interfere with wildlife movement because ECORP only considered whether the Project Site functions as a wildlife movement corridor. (*Id.* at p. 27.) However, "[w]hether the site functions as a wildlife movement corridor or is located within a corridor is not the only consideration when it comes to the standard CEQA Checklist question of whether the project would interfere with wildlife movement in the region." (*Id.*) As Dr. Smallwood notes, "[m]ost of the wildlife detected on the [P]roject [S]ite by ECORP and [Ms. Smallwood] could not have been there to be detected had they not moved to the site from somewhere else." (*Id.*) "Also important to wildlife movement in the region, however, are stopover sites consisting of the last patches of open space that remain after substantial habitat fragmentation." (*Id.*) The Project Site represents one of these

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last remaining stopover sites in the region. For example, the monarch butterfly observed by Ms. Smallwood on the Project Site “is one of those species that benefits from stopover sites as it migrates to and from winter roost sites.” (*Id.* at p. 28.)

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As a result, ECORP’s findings on wildlife movement are incomplete and therefore cannot be relied on as substantial evidence to determine the significance of the Project’s impacts to biological resources. (*Id.*)

i. Bird-window collisions

Dr. Smallwood predicts that the Project will result in 388 annual bird deaths due to window collisions. (*Id.* at p. 31.) Dr. Smallwood also notes that “[t]he vast majority of these predicted deaths would be birds protected under the Migratory Bird Treaty Act and under the California Migratory Bird Protection Act, thus causing significant unmitigated impacts.” (*Id.*) Therefore, the Project’s final environmental impact report must analyze and mitigate this impact.

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ii. Wildlife depredation by house cats

Dr. Smallwood explains that “[c]onsidering national trends, it is safe to assume that house cats would be introduced to the project area by residents of the proposed residential units.” (*Id.* at p. 31.) This is important “because house cats serve as one of the largest sources of avian mortality in North America,” and yet the DEIR does not consider this impact. (*Id.*) Based on the number of proposed units, the Project would likely result in 870 new residents, which when applied to the average rate of cat ownership results in 383 new cats introduced to the project area. (*Id.*) Dr. Smallwood concludes that this impact would result in significant mortality of vertebrate wildlife occurring on the Project Site. (*Id.*) Thus, the final environmental impact report must analyze and mitigate this impact.

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iii. Wildlife-vehicle collisions

Based on the Project’s annual VMT, Dr. Smallwood was able to predict that the Project would result in 5,034 vertebrate wildlife fatalities per year. (*Id.* at p. 34.) Yet, the DEIR failed to analyze this significant impact (*Id.*) Given that mitigation measures are available and feasible for this impact, such measures must be considered in the final environmental impact report for the Project in order to mitigate project-generated traffic impacts to wildlife. (*Id.*)

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C. The Project’s proposed mitigation measures are inadequate.

i. Reliance on MSIICP for burrowing owl mitigation is insufficient

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Given that the burrowing owl is now a candidate for listing, Dr. Smallwood notes that “[r]elying on the MSHCP to mitigate project impacts on burrowing owls would be a mistake.” (*Id.* at p. 35.) This is mainly because the MSHCP has not met its burrowing owl conservation goals and its performance is declining. (*Id.*) Thus, consultation with the California Department of Fish and Wildlife (“CDFW”) should be done prior to proceeding with the Project. (*Id.*)

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ii. Preconstruction surveys for Crotch’s humblebee is not sufficient mitigation.

The DEIR proposes preconstruction surveys as a mitigation measure Crotch’s humble bee, for which the Project Site provides marginally suitable habitat. However, as Dr. Smallwood explains, “[a]n important difference between what the DEIR requires and what CDFW recommends is the timing of the surveys.” (*Id.* at p. 36.) CDFW “recommends completing the surveys prior to the public circulation of the environmental review document, which in this case would be the DEIR.” (*Id.*) However, the “DEIR treats the surveys as a preconstruction survey, which CDFW recommended surveys are not intended to be.” (*Id.*) Indeed, the surveys that CDFW recommends are intended to “provide the most valuable information for determining potential impacts of proposed projects and activities . . . and subsequently developing measures to avoid or minimize the take of these species.” (*Id.*) Thus, it is important that surveys be conducted well before construction so that adequate mitigation measures can be developed.

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V. The Project’s Air Quality and Greenhouse Gas Analysis is Not Supported By Substantial Evidence.

Mr. Sutton and Ms. Tian reviewed and analyzed the DEIR’s air quality and greenhouse gas analysis and found that it was inadequate because the DEIR failed to evaluate the Project’s health risks due to construction emissions and is not consistent with the California Air Resources Board 2022 Scoping Plan for Achieving Carbon Neutrality (“2022 Scoping Plan”).

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A. The DEIR failed to analyze diesel particulate matter emissions during construction.

Mr. Sutton and Ms. Yilin found that DEIR failed to evaluate the health risks associated with the Project’s emissions of diesel particulate matter (“DPM”). (Ex. B, p. 3.) DPM is “a toxic air contaminant (“TAC”) based on its potential to cause cancer and other adverse health effects,” and is “typically composed of carbon particles and a variety of organic compounds including more than 40 known cancer-causing organic substances.” (*Id.* at p. 1.) There are nearby sensitive receptors as close as 25 feet from the Project Site, yet the DEIR did not provide a health risk assessment (HRA) to evaluate the cancer risk the Project’s DPM emissions would pose to these nearby receptors during construction. (*Id.*) As Mr. Sutton and Ms. Yilin note, “the Office of Environmental Health Hazard Assessment (“OEHHA”), cancer risk should not be estimated for projects lasting less than two months due to the uncertainty in assessing very short-term

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exposures.” (*Id.* at p. 2.) However, the construction period for the Project here is expected to last 46 months, which certainly warrants a health risk assessment. (*Id.*)

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While a Localized Significance Threshold (LST) analysis was prepared to evaluate project emissions, Mr. Sutton and Ms. Tian note that such an analysis only covers criteria pollutants. (*Id.* at p. 3.) Since DPM is not a criteria pollutant but rather a TAC, the LST analysis prepared for the Project does not cover nor does it analyze the Project’s DPM emissions. As a result, the DEIR’s conclusion that the Project will have a less than significant impact on air quality is not supported by substantial evidence. A health risk assessment must be prepared for the Project and shared with the final environmental impact report.

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B. The Project is not consistent with the 2022 Scoping Plan.

Mr. Sutton and Ms. Tian found that the Project is not consistent with the VMT reduction and building decarbonization guidance established in the California Air Resources Board 2022 Scoping Plan. (*Id.* at p. 5.) The purpose of the 2022 Scoping Plan is to provide “guidance for residential projects to align with the State’s long-term climate goals.” (*Id.* at p. 3.)

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A part of the 2022 Scoping Plan VMT reduction guidance is to have at least 20 percent of units be affordable to lower-income residents. (*Id.* at p. 5.) However, the Project has not committed to providing at least 20 percent affordable housing. Thus, the Project is not consistent with the VMT reduction goals in the 2022 Scoping Plan.

The 2022 Scoping Plan building decarbonization guidance recommends the use of all-electric appliances without any natural gas connections. (*Id.*) The Project is not consistent with this guidance as the DEIR indicates that the Project would connect to and use natural gas.

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The Project’s inconsistencies with the 2022 Scoping Plan will result in a significant impact because the Project will not be serving the State’s carbon neutrality goal. Thus, the DEIR’s conclusion that the Project will have a less than significant greenhouse gas impact is not supported by substantial evidence.

CONCLUSION

For the forgoing reasons, SAFER respectfully requests that Project’s environmental impact report be revised to adequately analyze and mitigate significant impacts and to ensure compliance with CEQA. SAFER reserves its right to supplement these comments during review of the EIR for the Project. *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1120 (“any party may bring an action pursuant to section 21167 if it has raised an objection to the adequacy of an EIR prior to certification”).

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Sincerely,

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Kylah Staley
Lozeau | Drury LLP

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