

LAND DEVELOPMENT COMMITTEE
(*INITIAL CASE ACCEPTANCE) MEETING AGENDA)
RIVERSIDE COUNTY PLANNING DEPARTMENT
9TH FLOOR, CAC - P.O. Box 1409
Riverside, CA 92502-1409

DATE: **March 21, 2001**

| | |
|---------------------------------|--|
| TO: Transportation (3) | Western Municipal Water Dist. |
| Environmental Health | Caltrans #8 |
| Flood Control District | So. Cal Edison |
| Fire Department | So. Cal Gas |
| Building & Safety - Grading | Verizon |
| Building & Safety - Charles Ray | C.A. Dept. of Fish & Game |
| County Parks & Open Space | U.S. Fish and Wildlife Services |
| Riverside Co. Waste | U.S. Postal Service/S.B. |
| Sheriff's Dept. | EIC(Attachment A) |
| Commissioner Snell | Center for Community & Environmental Justice |
| Supervisor Tavaglione | West End Resource Conservation Dist. |
| CSA # 152 | |

PLOT PLAN NO. 16979 - EA No. 38240 - Applicant: Ernst & Adda Educational Trust - Engineer/Rep.: William Simpson Associates - Second Supervisorial District - Prado Mira-Loma Zoning Area - Located The site is located east of De Forest Circle, west of San Sevaine Channel and north of 60 freeway. - 10.75 acres - M-M, I-P (CZ 6286) Zone - **REQUEST:** This is an application to construct a 205,589 concrete tilt-up industrial building. - Schedule - APN: 156-160-018 - Related Cases: PM 28653, CZ 5904, COC 4710, PP 15152, CZ 6286, OPP 00326 (1ST LDC)

Please review the case described above, along with the attached tentative map/exhibit. This item will be discussed on **April 5, 2001** by the Land Development Committee. All County LDC Agencies and Departments, please have draft conditions in the Sierra System by the LDC date. If you cannot clear the exhibit, please have LDC corrections in the system and DENY the routing. Once the route is complete, and the approval screen is approved with or without corrections, the case can be scheduled for a public hearing. All other agencies, please have your comments/conditions to the Planning Department as soon as possible, but no later than 14 days after the LDC date. Your comments/recommendations/conditions are requested so that they may be incorporated in the staff report for this particular case.

Should you have any questions regarding this item, please do not hesitate to contact, **Kathleen Utter**, Project Planner, at **(909) 955-1888**.

COMMENTS:

DATE: SIGNATURE:
PLEASE PRINT NAME AND TITLE:
TELEPHONE:

If you do not use this letter for your response, please indicate the project planner's name. Thank you.

LAND DEVELOPMENT COMMITTEE
(*INITIAL CASE ACCEPTANCE) MEETING AGENDA
RIVERSIDE COUNTY PLANNING DEPARTMENT
9TH FLOOR, CAC - P.O. Box 1409
Riverside, CA 92502-1409

DATE: April 10, 2002

Transportation (4)
Environmental Health
Flood Control District
Fire Department
Building & Safety - Grading
Building & Safety- Mark Berg
Riv. Co. Sheriff's Dept.
Riv. Co. Waste
Supervisor Tavaglione
Commissioner Snell
Union for River Greenbelt-Ray Johnson

Jurupa Unified School Dist.
Jurupa Recreation and Parks Dist.
Jurupa Community Services Dist.
So. Calif. Edison Co.
So. Calif. Gas Co.
Pacific Bell
Caltrans Dist. #8
U.S. Postal Service/S.B.
Calif. Dept. of Fish and Game
Center for Community Action & Env. Justice

PLOT PLAN NO. 17788 - EA No. 38633 - Applicant: Millard Refrigerated Services - Engineer/Rep.: KCT Consultants, Inc. - Second Supervisorial District - District Zoning Prado-Mira Loma - Located east of Etiwanda Avenue, south of Philadelphia Avenue - 20.48 acres - M-M zone - **REQUEST:** This is an application to construct a 426,000+ square foot refrigerated warehouse. The project will be constructed in one phase. There will be just over 11,000 square feet of office space on two floors. The project will have parking for 322 private vehicles and 102,765 square feet of landscaping. - Scale: N/A - APN: 156-360-014 - Related Cases: PP 15767, (1st LDC)

Please review the case described above, along with the attached tentative map/exhibit. This item will be discussed on **May 2, 2002**, by the Land Development Committee. All County LDC Agencies and Departments, please have draft conditions in the Land Management System by the LDC date. If you cannot clear the exhibit, please have LDC corrections in the system and DENY the routing. Once the route is complete, and the approval screen is approved with or without corrections, the case can be scheduled for a public hearing. All other agencies, please have your comments/conditions to the Planning Department as soon as possible, but no later than 14 days after the LDC date. Your comments/ recommendations/conditions are requested so that they may be incorporated in the staff report for this particular case.

Should you have any questions regarding this item, please do not hesitate to contact, **Michael Freitas**, Project Planner, at **(909) 955-3258**.

COMMENTS:

DATE: SIGNATURE:
PLEASE PRINT NAME AND TITLE:
TELEPHONE:

If you do not use this letter for your response, please indicate the project planner's name. Thank you.

LAND DEVELOPMENT COMMITTEE
(*INITIAL CASE ACCEPTANCE) MEETING AGENDA
RIVERSIDE COUNTY PLANNING DEPARTMENT
9TH FLOOR, CAC - P.O. Box 1409
Riverside, CA 92502-1409

DATE: October 23, 2003

Transportation (4)
Environmental Health
Flood Control District
Fire Department
Building & Safety - Grading
Building & Safety - John Vasquez
Regional Parks & Open Space
Geologist
Biologist
EDA
Riv. Co. Sheriff
Riv. Co. Waste
Supervisor Tavaglione
Commissioner Snell

Riverside Transit Agency
Jurupa Rec & Park Dist.
Jurupa Unified School Dist.
Jurupa Community Services Dist.
Western municipal Water
So. Calif. Edison
So. Cal Gas
SBC
CA Dept of Fish and Game
Caltrans#8
U.S. Fish & Wildlife Service
U.S. Postal Service/S.B.
EIC(Attachment "A")
Center for Community Action & Environmental
Justice

PLOT PLAN NO.18875 - EA No. 39221 - Applicant: Obayashi Corporation - Engineer/Rep.: KCT Consultants, Inc. - Se 1 Supervisorial District - Prado-Mira Loma Zoning District - Located on the southwest corner of Hopkins Street and Deforest Cir. - 5 acres - M-M (Manufacturing Medium) zone - **REQUEST:** Plot Plan No. 18875 proposes the construction of a speculative warehouse facility with 93,350 square foot building, and an additional 10,860 square feet of office space. The project has 39,595 square feet of landscaping and 93 parking spaces. - Schedule: n/a - APN: 156-360-015 - Related Cases: EIR 450, (1st LDC)

Please review the case described above, along with the attached tentative map/exhibit. This item will be discussed on **November 13, 2003**, by the Land Development Committee. All County LDC Agencies and Departments, please have draft conditions in the Land Management System by the LDC date. If you cannot clear the exhibit, please have LDC corrections in the system and DENY the routing. Once the route is complete, and the approval screen is approved with or without corrections, the case can be scheduled for a public hearing. All other agencies, please have your comments/conditions to the Planning Department as soon as possible, but no later than 14 days after the LDC date. Your comments/ recommendations/conditions are requested so that they may be incorporated in the staff report for this particular case.

Should you have any questions regarding this item, please do not hesitate to contact, **Larry Ross**, Project Planner, at **(909) 955-2046**.

COMMENTS:

DATE: _____ SIGNATURE: _____
PLEASE PRINT NAME AND TITLE:
TELEPHONE: _____

If you do not use this letter for your response, please indicate the project planner's name. Thank you.

LAND DEVELOPMENT COMMITTEE
(*INITIAL CASE ACCEPTANCE) MEETING AGENDA
RIVERSIDE COUNTY PLANNING DEPARTMENT
9TH FLOOR, CAC - P.O. Box 1409
Riverside, CA 92502-1409

DATE: October 23, 2003

Transportation (4)
Environmental Health
Flood Control District
Fire Department
Building & Safety - Grading
Building & Safety - John Vasquez
Regional Parks & Open Space
Geologist
Biologist
EDA
Riv. Co. Sheriff
Riv. Co. Waste
Supervisor Tavaglione
Commissioner Snell

Riverside Transit Agency
Jurupa Rec & Park Dist.
Jurupa Unified School Dist.
Jurupa Community Services Dist.
Western municipal Water
So. Calif. Edison
So. Cal Gas
SBC
CA Dept of Fish and Game
Caltrans#8
U.S. Fish & Wildlife Service
U.S. Postal Service/S.B.
EIC(Attachment "A")
Center for Community Action & Environmental
Justice

PLOT PLAN NO.18876 - EA No. 39222 - Applicant: Obayashi Corporation - Engineer/Rep.: KCT Consultants, Inc. - Section 1 Supervisorial District - Prado-Mira Loma Zoning District - Located on the west side of Deforest Circle, on the east side of Etiwanda Ave. - 6.41 acres - I-P (Industrial Park) zone - **REQUEST:** Plot Plan No. 18876 proposes the construction of a speculative warehouse facility with 126,800 square foot building, and an additional 10,000 square feet of office space. The project has 48,374 square feet of landscaping and 136 parking places. - Schedule: n/a - APN: 156-360-020, 021 - Related Cases: EIR 450, (1st LDC)

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Should you have any questions regarding this item, please do not hesitate to contact, **Larry Ross**, Project Planner, at **(909) 955-2046**.

COMMENTS:

DATE: _____ SIGNATURE: _____
PLEASE PRINT NAME AND TITLE:
TELEPHONE: _____

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LAND DEVELOPMENT COMMITTEE
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9TH FLOOR, CAC - P.O. Box 1409
Riverside, CA 92502-1409

DATE: October 23, 2003

Transportation (4)
Environmental Health
Flood Control District
Fire Department
Building & Safety - Grading
Building & Safety - John Vasquez
Regional Parks & Open Space
Geologist
Biologist
EDA
Riv. Co. Sheriff
Riv. Co. Waste
Supervisor Tavaglione
Commissioner Snell

Riverside Transit Agency
Jurupa Rec & Park Dist.
Jurupa Unified School Dist.
Jurupa Community Services Dist.
Western municipal Water
So. Calif. Edison
So. Cal Gas
SBC
CA Dept of Fish and Game
Caltrans#8
U.S. Fish & Wildlife Service
U.S. Postal Service/S.B.
EIC(Attachment "A")
Center for Community Action & Environmental
Justice

PLOT PLAN NO.18877 - EA No. 39223 - Applicant: Obayashi Corporation - Engineer/Rep.: KCT Consultants, Inc. - Se 1 Supervisorial District - Prado-Mira Loma Zoning District - Located on the south side of Deforest Circle, north of Norco Ct. - 11.4 acres - I-P (Industrial Park) zone - **REQUEST:** Plot Plan No. 18877 proposes the construction of a speculative warehouse facility with 221,870 square foot building, and an additional 10,000 square feet of office space. The project has 71,625 square feet of landscaping and 198 parking places. - Schedule: n/a - APN: 156-360-027, 028 - Related Cases: EIR 450, (1st LDC)

Please review the case described above, along with the attached tentative map/exhibit. This item will be discussed on **November 13, 2003**, by the Land Development Committee. All County LDC Agencies and Departments, please have draft conditions in the Land Management System by the LDC date. If you cannot clear the exhibit, please have LDC corrections in the system and DENY the routing. Once the route is complete, and the approval screen is approved with or without corrections, the case can be scheduled for a public hearing. All other agencies, please have your comments/conditions to the Planning Department as soon as possible, but no later than 14 days after the LDC date. Your comments/ recommendations/conditions are requested so that they may be incorporated in the staff report for this particular case.

Should you have any questions regarding this item, please do not hesitate to contact, **Larry Ross**, Project Planner, at **(909) 955-2046**.

COMMENTS:

DATE: _____ SIGNATURE: _____
PLEASE PRINT NAME AND TITLE:
TELEPHONE: _____

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LAND DEVELOPMENT COMMITTEE
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9TH FLOOR, CAC - P.O. Box 1409
Riverside, CA 92502-1409

DATE: **October 23, 2003**

| | |
|----------------------------------|---|
| Transportation (4) | Riverside Transit Agency |
| Environmental Health | Jurupa Rec & Park Dist. |
| Flood Control District | Jurupa Unified School Dist. |
| Fire Department | Jurupa Community Services Dist. |
| Building & Safety - Grading | Western municipal Water |
| Building & Safety - John Vasquez | So. Calif. Edison |
| Regional Parks & Open Space | So. Cal Gas |
| Geologist | SBC |
| Biologist | CA Dept of Fish and Game |
| EDA | Caltrans#8 |
| Riv. Co. Sheriff | U.S. Fish & Wildlife Service |
| Riv. Co. Waste | U.S. Postal Service/S.B. |
| Supervisor Tavaglione | EIC(Attachment "A") |
| Commissioner Snell | Center for Community Action & Environmental Justice |

PLC PLAN NO.18879 - EA No. 39225 - Applicant: Obayashi Corporation - Engineer/Rep.: KCT Consultants, Inc. - Sec 1 Supervisorial District - Prado-Mira Loma Zoning District - Located on the west side of Deforest Circle, south of Nobel Ct. - 8 acres - I-P (Industrial Park) zone - **REQUEST:** Plot Plan No. 18879 proposes the construction of a speculative warehouse facility with 156,150 square foot building, and an additional 10,000 square feet of office space. The project has 62,740 square feet of landscaping and 121 parking places. - Schedule: n/a - APN: 156-360-031, 041 - Related Cases: EIR 450, (1st LDC)

Please review the case described above, along with the attached tentative map/exhibit. This item will be discussed on **November 13, 2003**, by the Land Development Committee. All County LDC Agencies and Departments, please have draft conditions in the Land Management System by the LDC date. If you cannot clear the exhibit, please have LDC corrections in the system and DENY the routing. Once the route is complete, and the approval screen is approved with or without corrections, the case can be scheduled for a public hearing. All other agencies, please have your comments/conditions to the Planning Department as soon as possible, but no later than 14 days after the LDC date. Your comments/ recommendations/conditions are requested so that they may be incorporated in the staff report for this particular case.

Should you have any questions regarding this item, please do not hesitate to contact, **Larry Ross**, Project Planner, at **(909) 955-2046**.

COMMENTS:

DATE: SIGNATURE:
PLEASE PRINT NAME AND TITLE:
TELEPHONE:

If you do not use this letter for your response, please indicate the project planner's name. Thank you.



16730 Arrow Boulevard, Suite B, Fontana, CA 92335

877-737-0727

www.WarehouseWorkersUnited.org

Riverside County Board of Supervisors

April 5, 2011

4080 Lemon Street

Riverside, California 92501

Sent to CHINOJOS@rctlma.org

Re: Appeal of Planning Commission Approval of Draft EIR for Mira Loma Commerce Center

Dear Supervisors,

My name is Sheheryar Kaoosji and I am here to comment on the Mira Loma Commerce Center. I am the coordinator of an organization called Warehouse Workers United. We are an organization dedicated to improving the conditions of warehouse jobs across the inland empire. In the past two years, we have spoken to over 5000 workers who have told us that the jobs in this industry are not adequate to support a family. They have told us that the majority of the 150,000 jobs in the industry employ through staffing agencies, with no real opportunity for permanent employment. These jobs pay minimum wage and do not provide regular or predictable employment. We have documented wage and hour violations in dozens of these warehouses and are working to report these violations to the department of labor.

Many of the warehouses we have seen employ their entire workforce through agencies, and as a result provide no opportunity for advancement or permanent employment. We believe that part of the problem in the region's economy is not just lack of jobs, but lack of quality, permanent jobs that can support families and give people the resources to live stable lives and actually spend money.

This industry is notoriously dangerous; we have begun to document the types of injuries that occur in these facilities. The primary cause of all these problems is the staffing agency system- new workers are brought in daily and not trained, and workers employed through

agencies are afraid to report hazards because of the extreme contingent status of their employment. Most of these warehouses provide little or no health insurance, and as a result if workers get injured or sick, they and their families are dependent on the county's emergency health care services.

What I would ask about this project is, if this project is promoted by promising jobs- who are the proposed tenants? Does this tenant propose permanent, full time jobs that provide benefits? What percentage of jobs will be through staffing agencies? Will the county ensure that these jobs are truly beneficial to the community?

If there are no assigned tenants, and this development is purely speculative, what evidence is there that these facilities are not just going to pull business from other warehouses in the region, even within Mira Loma? The industrial vacancy rate in Mira Loma is 8.8% in 4q 2010. Pulling businesses from other parts of the area is not economic development, it is economic displacement. And bringing business from other parts of the region better suited to industrial development into Mira Loma Village, right into a longstanding community's backyards makes no sense.

In closing, I would ask you to look beneath the surface of the project sponsor's statements about jobs and determine exactly what they are offering. Developers have made promises before and the jobs that were created are not benefiting the community.

Sincerely,



Sheheryar Kaoosji

Project Coordinator

Warehouse Workers United, Change to Win

**Response to
Johnson & Sedlack, Attorneys at Law
(on behalf of Center for Community Action and Environmental Justice)
Comment letter dated: November 30, 2010**

Johnson & Sedlack, Attorneys at Law (JS) provided comments regarding Draft EIR No. 450 for Plot Plan 16979, Plot Plan 17788, Plot Plan 18875, Plot Plan 18876, Plot Plan 18877 and Plot Plan 18879 in its letter dated November 30, 2010. The letter was submitted on behalf of the Center for Community Action and Environmental Justice (“CCA EJ”).

This letter and its approximately 150 pages of attached exhibits were submitted to the County the afternoon prior to the December 1, 2010 Planning Commission hearing, 18 months after the close of the public comment period on the Draft EIR, several months following the release of the Final EIR, and after two separate, publicly noticed Planning Director’s hearings in October of 2010. Accordingly, CEQA does not require a written response to these comments. (See, e.g., State CEQA Guidelines, § 15088(a) (no response to late comment letters required); *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1111.) Nonetheless, and to ensure a complete record and to respond to public concerns, the County is providing the following discussion in response to the comments. The following discussion provides responses to those comments.

The responses and edits provided below merely clarify and amplify the analysis and conclusions already presented in the Draft EIR (or DEIR) and Final EIR (or FEIR). The environmental issues raised in the comment letters and responded to below do not present any substantial evidence showing any new or different potentially significant impacts, nor do they raise any new issues that were not already analyzed and considered as part of the DEIR and FEIR process. Accordingly, none of the comments or responses below provide any basis for recirculating the EIR under CEQA. (State CEQA Guidelines, § 15088.5(a).)

JS Comment #1

Greetings:

This firm represents the Center for Community Action and Environmental Justice and submits these comments on their behalf in support of the appeal filed October 28, 2010. This is an appeal of the Planning Director’s October 18, 2010 decision regarding adoption of Resolution No. 2010-006, certification of the Final Environmental Impact Report (“Final EIR”) No. 450 for the Mira Loma Commerce Center (SCH# 2002121128), approval of Plot Plan Nos. 16979, 17788, 18875, 18876, 18877, 18879 and all associated environmental documents and approvals for the Mira Loma Commerce Center. The Planning Commission is scheduled to conduct a hearing on this appeal on December 1, 2010.

The Mira Loma Commerce Center is a proposal to construct and operate twenty four (24) industrial buildings on 65.05 acres for a total building area of 1,128,237 square feet. The Project would include 1,427 parking spaces, 30 trailer parking spaces and 123 loading docks. The Project site is located in the Community of Glen Avon of the Jurupa Area Plan in Western Riverside County, north of State Highway 80, south of Philadelphia Avenue, east of Etiwanda Avenue and west of Grapevine Street. The Project site is currently vacant and abuts the residential communities of Mira Loma Village and Country Village. Those Plot Plans closest to the residential Mira Loma Village and Country Village are zoned Industrial Park (I-P), while the other three (3) Plot Plans are zoned Manufacturing-Medium (M-M). Future uses of the development are currently unknown. The Project site consists of Assessor's Parcel Numbers 156-360-014, -015, -020, -021, -027, -028, -031, -032 and -041. The Final EIR concludes that the Project will result in significant and unavoidable impacts to/resulting from air quality, noise, and transportation and traffic.

As discussed in previous comment letters submitted by the Center for Community Action and Environmental Justice on May 28, 2009 and June 11, 2010, the EIR is inadequate as it fails to comply with the requirements of the California Environmental Quality Act (CEQA). Specifically, the EIR fails to adequately analyze impacts pertaining to air quality, greenhouse gas emissions, and traffic; fails to analyze and adopt all feasible mitigation measures; fails to comply with the County of Riverside General Plan; and fails to consider adequate project alternatives. In addition to those comments previously submitted, the following comments are being submitted in support of the application for appeal.

Response to JS Comment #1

The comments submitted in support of the CCAEJ's appeal are late. The County's Deputy Planning Director approved the Project on October 18th, 2010, and the County's 10 day appeal period expired thereafter. The only appeal timely submitted was that of the CCAEJ, which consisted of an 11-line statement of the reasons for appeal. As such, the more than 150 pages of materials submitted by the CCAEJ's attorney after the close of the appeal period are untimely. Regardless, however, the County is providing these responses in order to provide a complete record and respond to public concerns.

With regard to the two comment letters previously submitted by the CCAEJ, the County has considered those comments and has provided full and complete responses to those letters. Regarding the May 28, 2009 letter, the County provided a full written response in the FEIR. (FEIR pp. 2.0-100 through 2.0-109.) With regard to the CCAEJ's June 11, 2010 letter, the County provided a full written response attached to the Staff Report for the Director's Hearing on October 4, 2010. For all the reasons explained in those written responses, the Commenter's conclusions regarding the EIR's analysis of air quality, greenhouse gases, traffic, mitigation measures, General Plan consistency, and Project alternatives are incorrect and unsupported by the record.

With regard to the remainder of the comments – clarifying that the comments are submitted on behalf of the CCAEJ, the title and description of the Project being commented upon, etc. – no environmental issues are raised. Under CEQA, responses are not required for comments that do not raise environmental issues. (State CEQA Guidelines, § 15088(a).) Accordingly, and in

addition to the comments being submitted late, the comments do not require responses because they do not raise environmental issues.

JS Comment #2

General Comments:

CEQA was adopted as a disclosure and transparency document. The theory is that by providing a document that adequately describes the environmental consequences of a project to decision makers and the public, the decision makers will make a rational decision based upon the true environmental consequences of the project and if they do not, the electorate can hold them accountable for their decisions. The core of this statutory structure is the adequacy of the document as an informational document.

Unfortunately, the **Final EIR for this Project fails as an informational document.** The Final EIR also misleads decision makers and the public as to the extent and severity of the Project's environmental impacts. As the California Supreme Court has stated, "an EIR may not ignore the regional impacts of a project proposal, including those impacts that occur outside of its borders; on the contrary, a regional perspective is required."¹ CEQA requires that when an EIR identifies one or more significant environmental effects of a project, the public agency must make written findings for each of those effects. These findings must be supported by substantial evidence. Here, the Final EIR fails to comply with these CEQA requirements. The Final EIR is often conclusory, and does not provide the analysis or examination required by CEQA to inform the public and decision makers of the analytical pathway taken from facts to conclusions. Additionally, the findings required in the Final EIR **are not supported by substantial evidence** and the Final EIR fails as an informational document by conducting impact analyses based on unreasonably low estimates.

Moreover, CEQA requires that where feasible mitigation exists which can substantially lessen the environmental impacts of a project, **all feasible mitigation must be adopted.** In this way CEQA goes beyond its informational role to require that projects substantively lessen their negative effects on the environment. It is critical to proper drafting of an EIR that all feasible mitigation measures be required of a project. Moreover, all mitigation measures required in the EIR must be fully enforceable and certain to occur. This has not been done with this Project. This Project fails to ensure that all feasible mitigation will occur with this Project. This is unacceptable.

¹ *Board of Supervisors of the County of Santa Barbara v. Wallover, Inc.* (1990) 52 Cal. 3d 553 (citing *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263,283; CEQA Guidelines §§ 15125, 15206.)

Response to JS Comment #2

The commenter's conclusory statements above regarding the EIR are not supported by any evidence, much less substantial evidence. No explanation is provided regarding why the commenter believes that its conclusions are correct. In fact, the EIR includes a thorough,

complete, and careful analysis of all potentially significant impacts resulting from the Project, and the County has imposed all feasible mitigation measures that would reduce the proposed Project's potentially significant impacts. For example, and contrary to the Commenter's unsupported statements:

- The EIR does analyze regional impacts. As limited examples, the EIR analyzes regional air quality impacts based upon the Air Quality Management Plan for the entire South Coast Air region. (E.g., DEIR p. 4.3-37 et seq.) The EIR analyzes greenhouse gas emissions and impacts, which are by their very nature regional/global. (E.g., DEIR p. 4.3-54 et seq.) The EIR analyzes the Project's consistency with the Western Riverside County Multiple Species Habitat Conservation Plan, a regional plan that mitigates for impacts on biological resources. (E.g., DEIR p. 4.4-14 through 4.4-19.) The EIR analyzes the Project's consistency with the County of Riverside's general plan, a regional plan. (E.g., DEIR p. 4.9-5 through 4.9-20 et seq.) Moreover, there is an entire section of the DEIR devoted to analyzing the Project's consistent with regional plans. (E.g., DEIR, § 5.0, p. 5.0-1 through 5.0-9.)
- Adequate written findings were made regarding each potentially significant environmental impact. Not only are these impacts analyzed in detail in the DEIR and further discussed in the FEIR, the County has prepared separate detailed written findings documenting the impacts and mitigation measures for those impacts as required by State CEQA Guidelines 15091. Those written findings were included in the agenda packets of the publicly noticed Planning Director's October hearings and the publicly noticed December 1, 2010 Planning Commission hearing.
- All feasible mitigation measures for all potentially significant impacts were imposed on the Project by the County. The Mitigation Monitoring and Reporting Program presently includes well over 50 mitigation measures, each of which is fully enforceable as required by CEQA. (FEIR, § 3 [MMRP].) Additionally, the County has imposed dozens of enforceable conditions of approval, which impose still other measures to ensure the Project is responsibly developed.

Accordingly, the Commenter's assertions are not supported by the record. Responses to the Commenter's remaining comments are provided below and describe in more detail how the EIR complies with CEQA.

JS Comment #3

Aesthetics:

All feasible mitigation measures were not adopted in the EIR. In order to avoid significant affects associated with light from the Project, the following mitigation measures must also be adopted:

1. **Site lighting shall be compatible with "Dark Sky" specifications.**
2. **Utilize low pressure sodium fixtures for exterior lighting including parking lots.**

Response to JS Comment #3

As outlined in the DEIR page 4.1-8, with implementation of design features and mitigation, impacts from the Project on light-levels were found to be less than significant “the proposed project will reduce light spill to surrounding areas through the use of hoods and other design features. Inclusion of these design features in the project will be required through implementation of standard County conditions of approval, plan check, and permit procedures...” The incorporation of **MM Aesthetics 1**, which states that “all outdoor light fixtures including street lights and operational, signage, and landscape lighting sources shall be shielded and situated so as to not cause glare or excessive light spillage into adjacent residential areas” will ensure that potential impacts from lighting the Project will be less than significant. The County also requires this as a standard Condition of Approval (“COA”) (10. Planning.3) for the Project requiring “any outside lighting shall be hooded and directed so as not to shine directly upon adjoining property or public rights-of-way.”

Additionally, as part of the Project’s design features (number 12 on page 4.3-36 of the DEIR), it states that:

All outdoor light fixtures including street lights and operational, signage, and landscape lighting sources will be shielded and situated so as to not cause glare or excessive light spillage into adjacent residential areas. Backlighting of exterior building walls may also be used as another means to further reduce glare or excessive light spillage into adjacent residential areas. All outdoor lighting will be controlled by the use of timers or photocells in order to automatically turn off outdoor lighting during daylight hours. Wherever practicable, energy efficient lighting will be used.

No further mitigation is necessary or required.

JS Comment #4

Construction

Although the Project will result in significant and unavoidable direct and cumulative air quality impacts from construction and abuts the residential communities of Country Village (a senior community) and Mira Loma Village, the EIR fails to adopt all feasible mitigation. This is unacceptable. The Project will result in the emission of ROG and NOx above the South Coast Air Quality Management District (SCAQMD) recommended daily regional thresholds and the emission of PM10 and PM2.5 above the SCAQMD recommended localized thresholds during construction. Therefore, a *number of changes to the current mitigation measures should be implemented in order to provide increased levels of mitigation.*

The County decided not to incorporate several mitigation measures which were considered in the DEIR, finding that implementation would be infeasible. The County reasoned that Proposed Mitigation Measure (MM) Air 3, to provide on-site services to minimize truck traffic such as: meal or cafeteria service, ATMs, convenience stores, is infeasible since the Project is in an industrially zoned area, does not include parking requirements for commercial/service facilities, and is plainly, just not needed since there are similar facilities on Etiwanda Avenue. Yet, in light of this reasoning, County could still provide ATMs onsite and allow for a meal van to come onsite during operating hours. These measures would not require any zone changes or change in parking requirements. Additionally, these measures would greatly decrease the vehicle miles traveled in order to get to the commercial facility on Etiwanda Avenue. Additionally, in the alternative, the Project should be required to provide shuttle service for employees and construction workers to the commercial facility on Etiwanda Avenue. These are feasible mitigation measures which the County has failed to properly adopt.

MM Air 2 should be modified so as to require that construction vehicles *and delivery vehicles* be prohibited from idling for a period in excess of *three (3)* minutes, rather than the current five (5) minutes. Similarly, MM Air 3b should be modified so that on-street traffic will have idling times of *three (3)* minutes, rather than the current five (5) minutes. MM Air 3b should also require in addition to “[r]equiring all trucks hauling dirt, sand, soil, or other loose materials” be covered, that at least six (6) inches of freeboard space from the top of the container be maintained. Also, when sweeping streets at the end of the day, reclaimed water shall be used.

Response to JS Comment #4

The commenter incorrectly states that the County “decided not to incorporate several mitigation measures which were considered in the EIR.” The County did not simply decide to exclude certain measures; instead, the County discussed in the DEIR and FEIR potential mitigation measures and, based upon substantial evidence, determined that some of those measures were infeasible and, on that basis, did not impose them. Those included the provision of on-site meal/cafeteria services and convenience stores (Annotated DEIR p. 4.3-99). Moreover, the provision of restaurants or convenience stores on site would likely attract additional traffic from

the surrounding community seeking to utilize those services, which would actually increase traffic emissions at the Project site. Accordingly, these proposed measures remain infeasible.

Regarding potential modifications to Proposed MM Air 3 (Annotated DEIR p, 4.3-99), providing a shuttle service to commercial facilities or an on-site ATM for the Project at each plot plan or one ATM at a single site is impractical and infeasible. The Project is composed of six separate plot plans that will have six different private end-user and are not a part of a Specific Plan or Master Plan making it infeasible to collectively provide a shuttle service for employees, given that employees are likely traveling to the site from a variety of local locations – thus making a shuttle service ineffective and transportation time-consuming for workers. However, the Project will comply with the intent behind this measure through (1) **MM Air 11** which requires that information about park and ride programs be provided to employees and (2) **MM Air 15** which encourages carpooling through the provision of designated priority parking spaces for high occupancy vehicles and vans used for ride-sharing. (DEIR pp. 4.3-76 through 4.3-78.) Similarly, it is infeasible to require construction contractors to provide shuttles for workers, particularly when the site is not in a remote location, when workers are anticipated to be traveling to the site from a variety of local locations making a shuttle service ineffective and transportation time-consuming for workers, and when construction grading has been spread out over time to reduce impacts – which necessarily also reduces the number of construction workers on site at any one time and further reduces the feasibility of providing shuttle service. Indeed, the Project does not constitute a large job center, for which shuttle services might be feasible. (FEIR, p. 1.0-34.) Large job centers are generally considered individual businesses with more than 500 employees.¹ While the Project is estimated to create between 567 to 1,101 jobs (DEIR, p. 5.0-4), this is the total for all six independently owned Plot Plans combined and not one individual Plot Plan.

Regarding ATM's specifically, ATM's are more practical in merchant locations where patrons and employees are anticipated to be shopping. Further, an ATM would need to be bought or leased and money to recoup these costs is only earned through the surcharge fees paid by ATM users. Because shopping opportunities are very limited in industrial areas (consistent with concerns for safety and compatible land uses), the use of ATM is expected to be very low. Moreover, while ATM placement programs do exist², the qualifications for this service are dependent upon heavy foot traffic (a characteristic that is generally incompatible with industrial uses and truck traffic) and include businesses with:

- An existing location processing over 300 ATM transactions per month,
- A gas station, grocery store, convenience store, or truck stop with 500 or more customers per day,
- A hotel/motel with 200 or more rooms,
- A casino or busy bingo hall,
- A night club, bar, or entertainment center,
- An amusement park with over 1,000 customers per day,
- A hospital with over 100 beds, or

¹http://findarticles.com/p/articles/mi_m1153/is_4_123/ai_63502351/;
<http://www.fda.gov/Food/FoodDefense/Bioterrorism/Recordkeeping/UCM061727>; <http://www.onesourceem.com/www.sba.gov>

² <http://www.cordfinancial.com/free-atm>, accessed 12-10-10

- A college or university

The Project is an industrial warehouse facility that does not include any of these uses. Indeed, comments from the surrounding community members have confirmed that they do not want a truck stop in their community, or other uses that would attract increased truck traffic into their neighborhoods. Regarding a meal van/cafeteria services as proposed by the comment, there is nothing to prohibit meal vans from serving the Project area. It is infeasible to require a meal van or cafeteria for each of the proposed Plot Plans for the reasons already provided in the DEIR (DEIR, p. 4.3-99) and because the Project tenants are speculative at this time with no known operations plan. It is likely that a meal service would need to be contracted with to ensure a meal van serviced the site routinely or that additional employees would be hired to operate the cafeteria. Implementation and enforcement are also infeasible because there is not County staff to review this without a use permit. Further, once the final inspections are cleared for the buildings, the County would not be involved in future tenants.

Finally, the Commenter is incorrect that – even if these measures were feasible and were imposed – that they “would greatly decrease the vehicle miles traveled in order to get to the commercial facility on Etiwanda Avenue.” The commercial facility on Etiwanda Avenue is not a great distance from the proposed Project. It is also reasonable to assume that truck drivers would not be making a separate trip to a commercial facility from the Project; rather, they would presumably be stopping on their way to or from the Project such that no increase in vehicle miles would result.

The comment also recommended modification to MM Air 2 and MM Air 3b limit idling during construction from five minutes to three minutes and also recommended including construction vehicles to this requirement. MM Air 2 and MM Air 3b already include construction vehicles in idling limits so no modification is necessary (construction vehicle refers to both off-road mobile equipment and on-road vehicles). Additionally, an existing Condition of Approval (“COA”) (10.Planning.51 for Plot Plan 16979, 10.Planning.44 for Plot Plan 17788, 10.Planning.48 for Plot Plan 18875, 10.Planning.59 for Plot Plan 18876 and 18877, and 10.Planning.57 for Plot Plan 18879.) requires that idling time be limited to no more than five (5) minutes. To address the reduction in idling time requested, however, that COA will be modified to prohibit any vehicle (construction- or operation-related) from idling in excess of three minutes, as identified below:

The developer/owner of the project shall reduce all truck idling time (including off-road equipment used during construction or operation) to a maximum of three (3) five (5) minutes within the site warehouse/distribution center.

The comment recommends revision to MM Air 3b to also require all haul trucks to maintain at least six inches of freeboard. MM Air 3d already includes a provision to cover all haul trucks to control fugitive dust or to maintain at least two feet of freeboard space in accordance with Section 23114 of the California Vehicle Code. Nonetheless, the following COA will be added to each plot plan requiring all construction vehicles to maintain at least six inches of freeboard, as identified below:

All trucks hauling dirt, sand, soil, or other loose materials shall maintain at least six inches of freeboard space from the top of the container.

Lastly, the commenter recommended the use of reclaimed water during construction street sweeping. As stated in the Draft EIR (FEIR p. 4.3-36) and COA (10.Planning.17), reclaimed water will be used for irrigation purposes when it is made available to the site. The Project area currently does not have reclaimed water service. Because service does not currently exist, use of reclaimed water cannot be required and is infeasible. Further, the purpose of street sweepers during construction is to control fugitive dust emissions. The use of reclaimed water does not change the effectiveness of street sweeping activities. No further reduction in dust emissions would result from the use of reclaimed water. Moreover, the COA (10.Planning.46) require that any street sweepers conform with the AQMD's Rule 1186.1 for Less-Polluting Sweepers.

JS Comment #5

Additionally, the following mitigation measures should be adopted:

1. All roadways, driveways, sidewalks, etc. should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
2. All roads on construction sites shall be paved.
3. Limit fugitive dust sources to 20 percent opacity.
4. A dust control plan shall be required for earthmoving operations.
5. The contractor or builder shall designate a person or persons to monitor the dust control program and order increased watering, as necessary, to prevent transport of dust offsite.
6. Implement activity management techniques including a) development of a comprehensive construction management plan designed to minimize the number of large construction equipment operating during any given time period; b) limitation of the length of construction work-day period; and c) phasing of construction activity.*
7. Extend grading period sufficiently to reduce air quality impacts below a level of significance.
8. Require high pressure injectors on diesel construction equipment.*
9. Restrict truck operation to "clean" trucks, such as a 2007 or newer model year or 2010 compliant vehicles.*
10. Require the use of CARB certified particulate traps that meet level 3 requirements on all construction equipment.*
11. Utilize only CARB certified equipment for construction activities.*
12. Restrict engine size of construction equipment to the minimum practical size.*
13. Use electric construction equipment where technically feasible.*
14. Substitute gasoline-powered for diesel-powered construction equipment.*
15. Require use of alternatively fueled construction equipment, using, e.g., compressed natural gas, liquefied natural gas, propane, or biodiesel.
16. Install catalytic converters on gasoline-powered equipment.*
17. Require the use of Alternative Diesel Fuels on diesel equipment used. Alternative diesel fuels exist that achieve PM10 and NOx reductions. PuriNOx is an alternative diesel formulation that was verified by CARB on January 31, 2001 as achieving a 14% reduction in NOx and a 63% reduction in PM10 compared to CARB diesel. It can be used in any direct-injection, heavy-duty compression ignition engine and is compatible with existing engines and existing storage, distribution, and vehicle fueling facilities. Operational experience indicates little or no difference in performance and startup time, no discernable operational differences, no increased engine noise, and significantly reduced visible smoke.
18. Reroute construction trucks away from congested streets and sensitive receptor areas.*
19. Configure construction parking to minimize traffic interference.*
20. Prior to the issuance of a grading and building permit, the applicant shall submit verification that a ridesharing program for the construction crew has been encouraged and will be supported by the contractor via incentives or other inducements.*
21. Minimize construction worker trips by requiring carpooling, when feasible, and providing lunch onsite.*
22. Provide shuttle service to food service establishments/commercial areas.*
23. Provide shuttle service to transit stations/multimodal centers.*

Response to JS Comment #5:

The following table lists each of the measures identified by above and how the Project implements these measures as part of the Project design or mitigation, or, if the Project does not implement the measure, why the measure is not applicable or infeasible.

| Johnson & Sedlack Recommended Construction-Related Mitigation Measure | Disposition of Measure |
|--|--|
| <p>1. All roadways, driveways, sidewalks, etc. should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.</p> | <p>This measure reduces fugitive dust during construction and is not necessary because a similar measure is already included in existing mitigation. MM Air 3d includes several measures for the reduction of fugitive dust. Specifically, bullet points one and two reduce fugitive dust during construction by requiring the application of water and/or approved nontoxic chemical soil stabilizers according to manufacturer's specification to all inactive construction areas (previously graded areas that have been inactive for 10 or more days) and periodic watering for short-term stabilization of disturbed surface area and haul roads to minimize visible fugitive dust emissions. Watering, with complete coverage, shall occur at least three times a day, preferably in the mid-morning, afternoon, and after work is done for the day. Further, measures such as the one proposed are more applicable to larger sites where internal roadways could be constructed early in construction to reduce fugitive dust.</p> |
| <p>2. All roads on construction sites shall be paved.</p> | <p>This measure is aiming to reduce fugitive dust. The six separate Project sites are not large enough to warrant the paving of temporary roads because – in order to reduce impacts – only one plot plan at a time will be graded. This measure is more applicable for a large Project site with multiple phases where construction vehicles would be accessing an active construction area by traversing an inactive construction area. MM Air 3d is proposed to reduce fugitive dust during Project construction.</p> |
| <p>3. Limit fugitive dust sources to 20 percent opacity.</p> | <p>This recommended measure is an existing requirement of SCAQMD Rule 403 which limits the amount of airborne fugitive dust emissions; therefore the Project is already required to comply with this measure. Moreover, implementation of MM Air 3d reduces fugitive dust emissions from construction in accordance with SCAQMD Rule 403. Therefore, this measure is not necessary because its purpose is already being met by the Project.</p> |

| Johnson & Sedlack Recommended Construction-Related Mitigation Measure | Disposition of Measure |
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| 4. A dust control plan shall be required for earthmoving operations. | This measure is a dust control plan which is duplicative of MM Air 3d and therefore is already being implemented by the Project. Further, an existing COA (10.BS GRADE.5) also states that all measures necessary to control fugitive dust shall be implemented by the developer during grading and that, in addition to MM Air 3d , a PM10 plan may also be required at the time a grading permit is issued. |
| 5. The contractor or builder shall designate a person or persons to monitor the dust control program and order increased watering, as necessary, to prevent transport of dust offsite. | This measure would designate a person to monitor the dust control activities. With the required watering occurring three times per day at specified intervals as identified in MM Air 3d and monitored by the Building and Safety Department pursuant to Mitigation, Monitoring, and Reporting Program (MMRP), this measure is not necessary. Nonetheless, MM Air 3f already meets the purpose of the proposed measure by requiring the posting of contact information for the public to independently verify that dust issues are being appropriately addressed and a means to report any violations. |
| 6. Implement activity management techniques including a) development of a comprehensive construction management plan designed to minimize the number of large construction equipment operating during any given time period; b) limitation of the length of construction work-day period; and c) phasing of construction activity.* | This recommended measure would implement construction activity techniques to generally reduce construction-related emissions through minimizing the amount of large equipment that is operating at any given time, limiting construction work-day periods, and phasing construction activities. This measure is already being implemented by the Project for the following reasons: 1) due to the relatively small size of proposed development on each plot plan (many with only a single building) dividing them into separate phases of construction so only a portion of the site is developed at one time is not feasible for the reasons discussed above, but phasing the grading as is required would reduce the overall number of large equipment onsite at any one time; 2) construction work-day periods are already limited by Riverside County Ord. 457 Section 1.F.1 which limits construction hours between 6:00 p.m. and 6:00 a.m. during the months of June through September and between the hours of 6:00 p.m. and 7:00 a.m. during the months of October through May; and 3) it is infeasible to further limit the amount of large construction equipment because the NO _x emissions exceed the threshold only because construction of all six plot plans are assumed to occur concurrently in order to provide a worst-case analysis (although they may not be built |

| Johnson & Sedlack Recommended Construction-Related Mitigation Measure | Disposition of Measure |
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| | concurrently) and it is infeasible to prohibit concurrent construction because the plot plans are owned separately as discussed in Proposed MM Air 4 in the Draft EIR (p. 4.3-100). Additionally, the Project applicants have included MM Air 3e which limits grading activities to only one plot plan at a time to minimize impacts from fugitive dust emissions. |
| 7. Extend grading period sufficiently to reduce air quality impacts below a level of significance. | This recommended measure would extend the grading period to reduce impacts below the level of significance. MM Air 3e already breaks grading into six separate phases by requiring that no more than one plot plan at a time be graded, which ensures PM-10 and PM-2.5 impacts remain below the SCAQMD regional significance thresholds for construction. Further extending the grading period to reduce the PM-10 and PM-2.5 impacts below the SCAQMD localized significance thresholds (LST) would result in more than doubling the grading duration for some plot plans. This spreads out the same amount of emissions over a longer time period and has the unintended and undesirable consequence of creating more construction-related impacts (noise, traffic, etc.) than were analyzed in the Draft EIR. For example, the grading-related GHG emissions (from equipment exhaust) for some plot plans would more than double. Accordingly, it is infeasible to further extend the grading period. Moreover, the request to extend the grading period appears to conflict with the commenter's other recommended measure, which is to complete the construction of building pads as quickly as possible in order to minimize dust emissions. |
| 8. Require high pressure injectors on diesel construction equipment.* | MM Air 1 requires that all equipment be kept in good and proper tune per manufacturer's specifications. MM Air 3a requires the use of Tier 4 construction equipment to reduce emissions. MM Air 3b requires a traffic control plan to improve traffic flow during construction. MM Air 3c requires the use of electricity from power poles during construction. The recommended measure is duplicative of these existing measures to reduce emissions during construction because it meets the same purpose. No further analysis is necessary. |
| 9. Restrict truck operation to "clean" trucks such as a 2007 or newer model year or 2010 compliant vehicles. * | This recommended measure is infeasible. Recommended measure 9 restricts truck operation to "clean" (i.e., new or retrofitted) trucks. The On-road truck trips during grading will be limited |

| Johnson & Sedlack Recommended Construction-Related Mitigation Measure | Disposition of Measure |
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| | <p>because the plot plans do not anticipate significant soil import or export. During subsequent phases of construction, deliveries of materials may be limited to vendors available in the area which may not have new truck fleets. Thus, imposing a restriction that only new or retrofitted trucks be used would likely result in increased emissions, as new trucks would have to be brought in from distant locations to serve the Project's construction needs, resulting in overall greater vehicle miles traveled and greater pollution emissions and a concurrent loss of local jobs. Moreover, this type of discrimination against all construction companies who may not have a fleet comprised entirely of new trucks is infeasible for financial reasons as well. As previously outlined in the FEIR (FEIR, p. 2.0-95) "very few tenants have truck fleets comprised of 100% brand new trucks or a truck fleet that has been 100% retrofitted to meet 2010-standards. According to an article posted by the Gerson Lehrman Group in August 2009 (Appendix C of the Final EIR), the price increases for 2010 compliant diesel trucks would be between \$8,000 and \$9,600. This does not include the price of a new engine or a new diesel truck (tractor). Accordingly, assuming that the number of daily trucks serving the project site is only 500 (a conservative estimate assuming some trucks make multiple trips per day since the Traffic Study estimated 736 trucks per day), the cost increase for 2010-compliant trucks would still range between \$4,000,000 and \$4,800,000 not including the cost of hiring CARB trained enforcement staff. This is assuming it would cost between \$8,000 and \$9,600 to repower existing truck engines within a tenant's fleet and does not account for the replacement of an entire engine to comply nor does it account for any replacement of an entire tractor (which can cost \$100,000)." The cost of retrofitting a pre-2007 truck to meet 2007 standards is approximately \$10,000 - \$20,000 per truck.³ Lastly, existing regulations require the phase in of 2010-compliant trucks beginning in 2015 through 2023 depending on the age of the engine under the CARB Truck and Bus Regulation⁴ (amended December 17, 2010). Restricting truck fleets to 2007 or 2010-complaint vehicles during Project operation would also be</p> |

³ <http://www.truckline.com/AdvIssues/Advocacy%20Materials/2009%20ATA%20CA-RegMatrix.pdf>

⁴ <http://www.arb.ca.gov/regact/2010/truckbus10/truckbusappd.pdf>

| Johnson & Sedlack Recommended Construction-Related Mitigation Measure | Disposition of Measure |
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| | <p>infeasible due to the cost of compliance. Nonetheless, the Project is conditioned (COA 10.Planning.54 for Plot Plan 16979, 10.Planning.47 for Plot Plan 17788, 10.Planning.51 for Plot Plan 18875, 10.Planning.62 for Plot Plan 18876, 10.Planning.60 for Plot Plan 18877 and 18879) to require that all tenants apply for funding to retrofit their trucks.</p> |
| <p>10. Require that use of CARB certified particulate traps that meet level 3 requirements on all construction equipment.*</p> | <p>Level 3 CARB certified particulate traps reduce particulate matter by 85 percent⁵. MM Air 3a requires construction equipment equivalent to Tier 4 once it becomes available. Tier 4 engines reduce particulate matter between 90 and 95 percent compared to Tier 3 engines, depending upon engine size⁶. Therefore, the proposed measure is less effective than the existing mitigation. No further analysis is required.</p> |
| <p>11. Utilize only CARB certified equipment for construction activities.</p> | <p>MM Air 3a is functionally equivalent to the proposed measure by requiring construction equipment equivalent to Tier 4 once it becomes available.</p> |
| <p>12. Restrict engine size of construction equipment to the minimum practical size.</p> | <p>MM Air 1 requires that all equipment be kept in good and proper tune per manufacturer's specifications. MM Air 3a requires the use of Tier 4 construction equipment to reduce emissions. MM Air 3b requires a traffic control plan to improve traffic flow during construction. MM Air 3c requires the use of electricity from power poles during construction. The recommended measure is duplicative of these existing measures to reduce emissions during construction because it meets the same purpose. No further analysis is necessary.</p> |
| <p>13. Use electric construction equipment where technically feasible.*</p> | <p>MM Air 3c is proposed measure 13 requiring the use of electricity from power poles.</p> |
| <p>14. Substitute gasoline- powered for diesel-powered construction equipment.*</p> | <p>MM Air 1 requires that all equipment be kept in good and proper tune per manufacturer's specifications. MM Air 3a requires the use of Tier 4 construction equipment to reduce emissions. MM Air 3b requires a traffic control plan to improve traffic flow during construction. MM Air 3c requires the use of electricity from power poles during construction. The recommended measure is duplicative of these existing measures to reduce emissions during construction because it meets the same purpose. No further analysis is necessary.</p> |

⁵ <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>

⁶ http://www.aqmd.gov/ceqa/handbook/mitigation/offroad/MM_offroad.html

| Johnson & Sedlack Recommended Construction-Related Mitigation Measure | Disposition of Measure |
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| 15. Require use of alternatively fueled construction equipment, using, e.g., compressed natural gas, liquefied natural gas, propane, or biodiesel. | MM Air 3a is functionally equivalent to the proposed measure by requiring construction equipment equivalent to Tier 4 once it becomes available. This could include alternative fueled equipment with Tier 4 compliant emissions. |
| 16. Install catalytic converters on gasoline-powered equipment.* | MM Air 1 requires that all equipment be kept in good and proper tune per manufacturer's specifications. MM Air 3a requires the use of Tier 4 construction equipment to reduce emissions. MM Air 3b requires a traffic control plan to improve traffic flow during construction. MM Air 3c requires the use of electricity from power poles during construction. The recommended measure is duplicative of these existing measures to reduce emissions during construction because it meets the same purpose. No further analysis is necessary. |
| 17. Require that use of Alternative Diesel Fuels on diesel equipment. Alternative diesel fuels exist that achieve PM10 and NOx reductions. PurNox is an alternative diesel formulation that was verified by CARB on January 31, 2001 as achieving a 14% reduction in NOx and a 63% reduction in PM10 compared to CARB diesel. It can be used in any direct-injection, heavy-duty compression ignition engine and is compatible with existing engines and existing storage, distribution, and vehicle fueling facilities. Operational experience indicates little or no difference in performance and startup time, no discernable operational differences, no increased engine noise, and significantly reduced visible smoke. | MM Air 3a is functionally equivalent to the proposed measure by requiring construction equipment equivalent to Tier 4 once it becomes available. As stated in the disposition for recommended measure 10 above, Tier 4 engines reduce particulate matter between 90 and 95 percent compared to Tier 3 engines, depending upon engine size ⁷ . Similarly, Tier 4 emissions of NO _x are reduced between 12 and 47 percent compared to Tier 3 engines, depending upon engine size. Therefore, the proposed measure is less effective than the existing mitigation. No further analysis is required. |
| 18. Reroute construction trucks away from congested streets and sensitive receptor areas.* | This recommended measure would reroute construction trucks away from congested streets and sensitive receptor areas, and is already being implemented by the Project. First, each of the six plot plans is located within an existing industrial park, which is not directly accessed through residential areas or other sensitive receptor areas. However, the Project abuts a major transportation corridor (SR-60 freeway) in an area with congested streets (Etiwanda Avenue) that are adjacent to existing residences. As Etiwanda Avenue is a major arterial that is intended to carry traffic to the SR-60 |

⁷ http://www.aqmd.gov/ceqa/handbook/mitigation/offroad/MM_offroad.html

| Johnson & Sedlack Recommended Construction-Related Mitigation Measure | Disposition of Measure |
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| | <p>freeway, requiring that the Project utilize a roadway that is not nearby any residences is infeasible. Nonetheless, to reduce construction-related traffic congestion, the Project is implementing MM Air 3 and MM Air 3b. To ensure trucks avoid residential areas and schools, MM Air 4 was imposed as well as a COA prohibiting trucks from unnecessarily traversing through residential neighborhoods (COA 10.Planning.49 for Plot Plan 16979, 10.Planning.42 for Plot Plan 17788, 10.Planning.46 for Plot Plan 18875, 10.Planning.57 for Plot Plans 18876 and 18877, and 10.Planning.55 for Plot Plan 18879. Additionally, MM Air 9 requires that entrances to and exits from the Project site be oriented to minimize truck emissions to homes.</p> |
| <p>19. Configure construction parking to minimize traffic interference.*</p> | <p>MM Air 3 is equivalent to proposed measure 19 requiring construction parking configuration to reduce traffic interference.</p> |
| <p>20. Prior to the issuance of a grading and building permit, the applicant shall submit verification that a ridesharing program for the construction crew has been encouraged and will be supported by the contractor via incentives or other inducements.*</p> | <p>This measure is infeasible because such practices are more applicable to dense commercial/retail employment centers, not construction sites. Further, the source of the labor pool is likely to come from numerous, albeit local, locations, such that it is infeasible to require contractors to provide ridesharing incentives for an individual development. (See Response to JS Comment 4, supra.) Also, restaurants and food service is available in the Project area within a short distance.</p> |
| <p>21. Minimize construction worker trips by requiring carpooling, when feasible, and providing lunch onsite.*</p> | <p>This measure is infeasible because such practices are more applicable to dense commercial/retail employment centers, not construction sites. Also, a contractor cannot require employees to carpool. Further, the source of the labor pool is likely to come from numerous, albeit local, locations, such that it is infeasible to implement carpooling or provide lunch onsite. (See Response to JS Comment 4, supra.) Also, restaurants and food service is available in the Project area within a short distance.</p> |
| <p>22. Provide shuttle service to food service establishments/ commercial areas.*</p> | <p>This measure is infeasible because such practices are more applicable to dense commercial/retail employment centers, not construction sites. Further, the source of the labor pool is likely to come from numerous, albeit local, locations, such that it is infeasible to implement shuttle services. (See Response to JS Comment 4, supra.) Also, restaurants and food service is available in the Project area within a short distance.</p> |

| Johnson & Sedlack Recommended Construction-Related Mitigation Measure | Disposition of Measure |
|--|--|
| 23. Provide shuttle series to transit stations/ multimodal centers.* | As stated in Response to JS Comment #4, it is infeasible to require construction contractors to provide shuttles for workers, particularly when the site is not in a remote location, when workers are anticipated to be traveling to the site from a variety of local locations making a shuttle service ineffective and transportation time-consuming for workers, and when construction grading has been spread out over time to reduce impacts – which necessarily also reduces the number of construction workers on site at any one time and further reduces the feasibility of providing shuttle service. |

JS Comment #6

Operational:

As stated in the previous comment letter, the air quality analysis does not reflect the true air quality impacts of the Project as it uses an unjustifiably short trip length. As the SCAQMD has suggested, given the nature of this Project, the fact that the development consists of more than 1.1 million acres of industrial buildings, with 123 loading docks and 30 trailer parking spaces, and that the primary business in the Inland Empire is from the Ports of Los Angeles and Long Beach, it is expected that the Project will be used by trucks travelling to and from these Ports. Additionally, this Project meets the low threshold of "reasonable expectat[i]ons" that the freight moves from the port areas as detailed in the 2008 Reasonable Transportation Plan of the Inland Empire. Yet, the Air Quality Analysis fails to analyze for this impact, instead using an average trip length of 8.9 miles, clearly not accounting for the fact that the distance from the Project site to the Ports is approximately 50 to 60 miles in one direction. Even though, as County noted, the Project will not consist completely of warehouse space, it will make up 847,773 square feet, more than 75% of the Project space. Additionally, particularly since the future occupants are unidentified at this time, the County has failed to support with evidence in the EIR, that trip lengths associated with this Project will be significantly lower than that projected for other warehouse distribution centers where an average trip length of 40 miles has been used. By greatly underestimating the projected trip lengths, failing to provide any substantive authority for why such a short trip length was used or why only trips to the Ontario Airport will be part of the Project, the analysis in the EIR regarding operational air quality impacts is flawed and misleading. Nothing provided in the EIR assures that trip lengths will be as minimal as suggested. Therefore, the EIR fails as an informational document and should not have been certified by the Planning Director.

Response to JS Comment #6

The commenter provides no evidence that the primary business in the Inland Empire is from the Ports of Los Angeles and Long Beach. The proposed Project does not have any tenants identified; thus to assume – as the commenter does – that all traffic will be coming from the Ports is completely speculative. Additionally, as outlined below, the commenter mis-states the facts. The Project EIR did not state that the truck trips would be exclusively to or from the Ontario Airport. Rather, it is assumed that the proximity to the Ontario Airport and the relatively small size of the Project's buildings would substantially contribute to the Project's truck traffic relative to Ontario Airport. Moreover, the commenter states that a trip length of 40 miles should be used, but this mileage is not supported by any cited evidence (much less substantial evidence). Finally, the commenter incorrectly states that that the Project includes "1.1 million acres of industrial buildings." The Project actually includes only 60 acres. (Revised Draft EIR, p. 1.0-6.)

As stated in the attachment to the Director's Hearing Staff Report from October 4, 2010, Response to SCAQMD Comment # 2, provided below and in Final EIR (p. 2.0-65), provides an explanation of why the analysis used the default urban trips lengths for Riverside County and why they are appropriate for this Project:

The comment correctly states the trip lengths utilized in the Air Quality Impact Analysis for this project. The values used are the default urban trip lengths listed in URBEMIS 2007 for Riverside County. As the western Riverside County is an urban environment, the urban setting was selected. The URBEMIS 2007 computer model, approved by both California Air Resources Board (CARB) and SCAQMD⁸, was last updated in February 2008 and did not contain any updates to the average trip length assumptions used in the model demonstrating that they were still accurate. According to staff at SCAQMD⁹, there are no published documents that describe how to adjust trip lengths for development projects. This is particularly the case when there are no building occupants identified. Suggested document to review for potential trip length information included the 2003 Fontana *Truck Trip Generation Study*, the *Mira Loma PM₁₀ Monitoring* report prepared by SCAQMD in 2001. Upon further review, these studies did not include information on trip lengths. Additional research was also conducted by the County, including review of documents from CARB, the Californian Department of Transportation (Caltrans), and regional metropolitan planning organizations, to determine reasonable assumptions for altering the default trip length.¹⁰ No methodology was found that could provide a more accurate trip length for speculative buildings. Regarding sources of trip lengths, URBEMIS 2007 *Software User's Guide*, prepared for the SCAQMD, "More detailed breakdowns may be available from the Regional Transportation Planning Agency in your

⁸ <http://www.arb.ca.gov/planning/urbemis/urbemis2007/urbemis2007.htm>; <http://www.aqmd.gov/ceqa/models.html>

⁹ Personal communication with James Koizumi on 8/27/09.

¹⁰ These documents included, as examples, the CARB's *Goods Movement Action Plan*, SCAG's *Goods Movement Truck Count Study*, SCAG's 2008 *Regional Transportation Plan*, Federal Highway Administration's *Heavy-Duty Truck Activity Data*, Caltrans' Traffic Data Branch, *Annual Average Daily Truck Traffic*, Maricopa Association of Governments' *MAG Internal Truck Travel Survey and Truck Model Development Study*, and document posted on both the websites for the Ports of Los Angeles and Long Beach at http://www.portoflosangeles.org/environment/studies_reports.asp and <http://www.polb.com/environment/air/emissions.asp>; <http://www.arb.ca.gov/gmp/gmp.htm>

area.” (User’s Guide Appendix C, p. C-6.) The Southern California Association of Governments (SCAG), the regional transportation agency for the South Coast Air Basin does not have any published data for altering trip lengths. The default trip length in URBEMIS was relied upon in the absence of published documentation.

While it is understandable that other warehouse projects in the region have chosen to use a 40-mile one-way trip length, it is not as applicable to the proposed project as described herein. The project consists of six separate plot plans, two of which are business/industrial park uses rather than warehouses. Businesses draw local, short-distance trips in comparison to warehouses and because the project includes businesses, the average trip lengths generated will be shorter than if the project was entirely warehousing. The remaining four plot plans are smaller scale warehouse uses ranging from 104,210 square feet to 426,212 square feet in size. Typically, the larger warehouses over 250,000 square feet accommodate goods that may come from the ports. Only one plot plan of this project is over 250,000 square feet and there are no plot plans with very large regional-type warehouses over one million square feet in size. The smaller size of the majority of the project’s plot plans makes them more suitable for local distribution facilities. It is also reasonable to assume that goods may be traveling to the project site from the Ontario Airport only five miles west of the project site.

Additionally, the *Subregional Freight Movement Truck Access Study* prepared by SCAG and the San Bernardino Association of Governments in 2004¹¹ reported that heavy-duty truck trips to/ from the Ports and Western Riverside County were a total of approximately eight trips during three peak hours periods (AM, Midday, and PM) in 1999 and will decrease by 2030 to four trips during three peak hours periods. Peak hour traffic is a fraction of total daily traffic. The total daily Port traffic will increase by a proportional amount when compared to the peak hour estimates, regardless of the area analyzed. Therefore, the peak hour estimates can be used as an indicator of the percentages of Port-related truck traffic traveling to different areas within the region. The western Riverside County area receives the least amount of truck trips related to the Ports, second only to the Coachella Valley/Idyllwild which receives no truck trips. This is also the only area to decrease heavy-duty truck trips in 2030. This further justifies that the project area is not frequently served by the Ports.

Because the project’s trips will primarily be localized, short-distance trips associated with business matters or warehouse trips to Ontario Airport – and not regional, long-distance trips associated with Port warehouse activities – the average trip lengths used in the air quality analysis (which are URBEMIS default trip lengths) are accurate.

For these reasons, the mobile sources emissions were not recalculated as the trip lengths used in the Draft EIR are deemed appropriate.

Further, as stated in the letter submitted by SCAQMD on October 1, 2010, “The air quality analysis included consideration of AQMD staff written comments on the Draft EIR, and subsequent verbal comments. While the final air quality analysis may differ from AQMD

¹¹ http://www.scag.ca.gov/goodsmove/pdf/SFM_Truck_Access_Study_0704.pdf

recommended methodologies in some respects, the basic conclusions of the Final EIR would likely not change with further refinement to the air quality calculations. The lead agency concludes that air quality impacts and health risks remain significant and unavoidable during construction and operation.” Notably, the AQMD did not further question the average trip length used, nor did it recommend any alternative average trip length.

JS Comment #7

Additionally, all feasible mitigation measures were not adopted. Although the Project will result in significant and unavoidable direct and cumulative air quality impacts from construction, abuts the residential communities of Country Village (a senior community) and Mira Loma Village, and fails to meet SCAQMD’s recommended 300 meter (1000 feet) setback, the EIR fails to adopt all feasible mitigation. This is unacceptable. The Project will result in the emission of ROG, NOx and CO above SCAQMD’s daily thresholds in both winter and summer. Therefore, a number of changes to the current mitigation measures should be implemented in order to provide increased levels of mitigation.

MM Air 4 should be modified so as to require that signs be posted at Project exits indicating the proper route to take in order to avoid residential areas and schools.

MM Air 5 should also include the following: “Trucks incapable of utilizing the electrical hookup for powering refrigeration units shall be prohibited from accessing the site. All leasing documents shall include these requirements and provide that violation of those provisions will constitute a material breach of the lease that will result in the termination of the lease. Because of the fact that these lease terms are designed to benefit the public, the public shall be considered to be a third party beneficiary with standing to enforce the requirements of the lease.”*

As in MM Air 2 and MM Air 3, MM Air 7 should be modified so as to require that all vehicles be prohibited from idling for a period in excess of *three (3)* minutes, rather than the current five (5) minutes.

Response to JS Comment #7

The Final EIR previously responded to the comment submitted by CCAEJ during the public review period for the Draft EIR regarding a 300 meter setback on pages 2.0-102 through 2.0-104 and included a figure stating:

As shown in **Figure 2.0-1, CCAEJ Proposed Setbacks**, a setback of 1,000 feet from the boundaries of nearby residential development would encompass the entirety of three of the proposed plot plan sites (PP18876, PP18877 and PP18879 and most of the other three plot plan sites (PP16979, PP17788 and PP18879). A 1,500-foot setback encompasses the entire project site. Thus the either setback proposed by CCAEJ in their comment would prevent development of any portion of the project site in accordance with the current “Community Development: Light Industrial” general plan designation and current Medium Manufacturing (M-M) and Industrial Park (I-P) zoning. Because imposition of the setbacks described by CCAEJ would result in no development on the project site, CCAEJ is using the referenced setbacks to describe the Draft EIR’s “No Project

Alternative”, which is evaluated in the “Alternatives to the Proposed Project” discussion beginning on p. 6.0-31 of the Draft EIR. The “No Project Alternative” would not meet any of the project Objectives listed in the Draft EIR (pp. 6.0-31 and 6.0-32).

Accordingly, and consistent with both the *Handbook* and the explanation provided in the Draft EIR, a setback requirement is infeasible.

Regarding recommended revisions to MM Air 4, the immediate Project vicinity is predominantly built out with light industrial uses and does not include residential neighborhoods that the Project trucks would be traversing through. As outlined in the DEIR, the nearest schools to the project site are Mission Bell Elementary School located approximately ¾ mile southeast of the project site, Granite Hill Elementary School located approximately 1¼ mile east of the project site and Jurupa Valley High School located approximately 1¼ mile south of the project site (DEIR, p. 4.3-87). Given the Project’s proximity to the SR-60 freeway and its location on Etiwanda Avenue – a major arterial in the area designed to accommodate truck traffic – it is infeasible to require that Project trucks completely avoid traversing past the existing Mira Loma Village neighborhood off of Etiwanda Avenue. Nonetheless, Mitigation Measure Air-4 already requires that Project generated trucks avoid residential areas and schools. Additionally, COAs already exist that prevent trucks from traversing through residential areas or conducting any vehicle repairs in residential neighborhoods. (E.g., COA 10.Planning. 49).

Regarding recommended revisions to MM Air 5 for electrical hook-ups for TRUs, the Project is already complying with the intent of that measure. A COA (10.Planning.32) already exists stating:

Tenant(s) receiving shipping container refrigerated units shall provide electrical hook-ups at all dock door positions as part of the tenant improvement project for the building. The use of truck engines or auxiliary generators to power refrigerated shipping container units for more than five minutes is not allowed.

Further, an additional COA already exist states that, “The use of truck engines or auxiliary generators to power refrigerated shipping container units for more than five minutes is not allowed.” Accordingly, and in order to prevent any refrigerated goods from spoiling in the delivery trucks, the COAs assure that any trucks accessing the site will have to have the ability to hook up to an electrical power supply or else load/unload any goods within only a few minutes.

Finally, the recommended revision to MM Air 2, MM Air 3, and MM Air 7 prohibiting idling in excess if three minutes has already been addressed by the modification to the existing COA provided above under Response to JS Comment #4. The Project is now required to restrict all idling to not more than three minutes.

JS Comment #8

Additionally, the following mitigation measures should be adopted:

1. The operator of the primary facilities (buildings of 400,000 s.f. or more) shall become SmartWay Partner.*
2. The operator of the primary facilities (buildings of 400,000 s.f. or more) shall incorporate requirements or incentives sufficient to achieve at least 20% per year (as a percentage of previous percentage, not total trips) increase in percentage of long haul trips carried by SmartWay carriers until it reaches a minimum of 90% of all long haul trips carried by SmartWay 1.0 or greater carriers. Results, including backup data shall be reported to the Planning Department semi-annually.*
3. The operator of the primary facilities (buildings of 400,000 s.f. or more) shall incorporate requirements or incentives sufficient to achieve a 15% per year (as a percentage of previous percentage, not total trips) increase in percentage of consolidator trips carried by SmartWay carriers until it reaches a minimum of 85% of all consolidator trips carried by SmartWay 1.0 or greater carriers. Results, including backup data shall be reported to the Planning Department semi-annually.*
4. All fleet vehicles shall conform to 2010 air quality standards or better. Results, including backup data shall be reported to the Planning Department semi-annually.*
5. Install catalytic converters on gasoline-powered equipment.*
6. Require the use of Alternative Diesel Fuels on diesel equipment used. Alternative diesel fuels exist that achieve PM10 and NOx reductions. PuriNOx is an alternative diesel formulation that was verified by CARB on January 31, 2001 as achieving a 14% reduction in NOx and a 63% reduction in PM10 compared to CARB diesel. It can be used in any direct-injection, heavy-duty compression ignition engine and is compatible with existing engines and existing storage, distribution, and vehicle fueling facilities. Operational experience indicates little or no difference in performance and startup time, no discernable operational differences, no increased engine noise, and significantly reduced visible smoke.
7. Require each user to establish a carpool/vanpool program.*
8. Provide on-site child care or contribute to off-site child care within walking distance.*
9. Provide preferential parking for carpool/vanpool vehicles.*
10. Provide secure, weather-protected bicycle parking for employees.*
11. Provide direct safe, direct bicycle access to adjacent bicycle routes.*
12. Provide showers and lockers for employees bicycling or walking to work.*
13. Short-term bicycle parking for retail customers and other non-commute trips.*
14. Provide shuttle service to food service establishments/commercial areas.*
15. Provide shuttle service to transit stations/multimodal centers.*
16. Implement parking fee for single-occupancy vehicle commuters.*
17. Implement parking cash-out program for non-driving employees.*
18. Provide direct, safe, attractive pedestrian access from project to transit stops and adjacent development.*
19. Implement a compressed workweek schedule.*
20. Provide electrical vehicle ("EV") and compressed natural gas ("CNG") vehicles in vehicle fleets.*
21. Install EV charging facilities for a minimum of 10% of all parking spaces.*
22. Install a CNG fueling facility.*
23. Provide preferential parking locations for EVs and CNG vehicles.*
24. Utilize electrical equipment for landscape maintenance.*

25. Utilize only CARB certified equipment for construction activities.*
26. All forklifts shall be electric or natural gas powered.*
27. Provide subsidies or incentives to employees who use public transit or carpooling, including preferential parking.*
28. Plant shade trees in parking lots to provide minimum 50% cover to reduce evaporative emissions from parked vehicles.*
29. Utilize low pressure sodium fixtures for exterior lighting including parking lots.
30. Utilize electric yard trucks.*
31. All buildings shall be constructed to LEED Platinum standards.*
32. The operator shall meet SmartWay 1.25 ratings.*
33. The operator shall use only freight companies that meet SmartWay 1.25 ratings.*
34. The developer shall install photovoltaic solar systems sufficient to offset all electrical usage.*
35. The developer shall install photovoltaic solar systems sufficient to offset all vehicular emissions.*
36. The operator shall purchase only green/renewable power.*
37. Install solar water heater systems to generate all of the Project's hot water requirements.*
38. Implement home-based telecommunicating program when feasible.

Response to JS Comment #8

The following table lists each of the measures identified by above and how the Project implements these measures as part of the Project design or mitigation, or, if the Project does not implement the measure, why the measure is not applicable or infeasible.

| Johnson & Sedlack Recommended Operation-Related Mitigation Measure | Disposition of Measure |
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| 1. The operator of the primary facilities (buildings of 400,000 s.f. or more) shall become SmartWay Partner* | Only Plot Plan 17788 is over 400,000 sf. SmartWay certification is a requirement under the approved CARB Heavy-Duty (Tractor Trailer) GHG Regulation. The recent amendments to this rule, adopted by CARB December 17, 2010 require 20% of trailers to comply by 2012. With 100% compliance with the rule by 2016. ¹² Because future occupants are unknown, it is infeasible to require unknown fleet owners to be SmartWay certified. However, state regulations are achieving the same result as the proposed measure. |
| 2. The operator of the primary facilities (buildings of (400,00s.f. or more) shall incorporate requirements or incentives sufficient to achieve at least 20% per year (as a percentage of pervious percentage, not total trips) increase in percentage of long haul trips carried by SmartWay 1.0 greater carriers. Results, including backup data | See response to item 1, above. |

¹² <http://www.arb.ca.gov/regact/2010/truckbus10/truckbusappf.pdf>

| Johnson & Sedlack Recommended Operation-Related Mitigation Measure | Disposition of Measure |
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| shall be reported to the Planning Department semi-annually. | |
| 3. The operator of the primary facilities (buildings of 400,000 s.f. or more) shall incorporate requirements or incentives sufficient to achieve a 15% per year (as a percentage of previous percentage, not total trips) increase in percentage of consolidator trips carried by SmartWay 1.0 or greater carriers. Results, including backup data shall be reported to the Planning Department semi-annually.* | See response to item 1, above. |
| 4. All fleet vehicles shall conform to 2010 air quality standards or better. Results, including backup data shall be reported to the Planning Department semi- annually.* | As previously outlined in the FEIR (FEIR, p. 2.0-95) “very few tenants have truck fleets comprised of 100% brand new trucks or a truck fleet that has been 100% retrofitted to meet 2010-standards. According to an article posted by the Gerson Lehrman Group in August 2009 (Appendix C of the Final EIR), the price increases for 2010 compliant diesel trucks would be between \$8,000 and \$9,600. This does not include the price of a new engine or a new diesel truck (tractor). Accordingly, assuming that the number of daily trucks serving the project site is only 500 (a conservative estimate assuming some trucks make multiple trips per day since the Traffic Study estimated 736 trucks per day), the cost increase for 2010-compliant trucks would still range between \$4,000,000 and \$4,800,000 not including the cost of hiring CARB trained enforcement staff. This is assuming it would cost between \$8,000 and \$9,600 to repower existing truck engines within a tenant’s fleet and does not account for the replacement of an entire engine to comply nor does it account for any replacement of an entire tractor (which can cost \$100,000).” Lastly, existing regulations require the phase in of 2010-compliant trucks beginning in 2015.through 2023 depending on the age of the engine under the CARB Truck and Bus Regulation ¹³ (amended December 17, 2010). Due to cost and decreased marketability, this measure is infeasible. Nonetheless, the Project is conditioned (COA 10.Planning.54 for Plot Plan 16979, 10.Planning.47 for Plot Plan 17788, 10.Planning.51 for Plot Plan 18875, 10.Planning.62 for Plot Plan 18876, 10.Planning.60 for Plot Plan 18877 and 18879) to require that all tenants apply for funding to retrofit their trucks. |

¹³ <http://www.arb.ca.gov/regact/2010/truckbus10/truckbusappd.pdf>

| Johnson & Sedlack Recommended Operation-Related Mitigation Measure | Disposition of Measure |
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| 5. Install catalytic converters on gasoline – powered equipment* | The main gasoline-powered equipment expected at this type of Project during operation would be a forklift. MM Air 6 requires service equipment to be low-emission propane or electric (i.e. forklifts). Therefore, this measure is not necessary as the existing measure is actually more strict than the measure proposed by the commenter. |
| 6. Require that use of Alternative Diesel Fuels on diesel equipment. Alternative diesel fuels exist that achieve PM10 and NOx reductions. PurNox is an alternative diesel formulation that was verified by CARB on January 31, 2001 as achieving a 14% reduction in NOx and a 63% reduction in PM10 compared to CARB diesel. It can be used in any direct-injection, heavy- duty compression ignition engine and is compatible with existing engines and existing storage, distribution, and vehicle fueling facilities. Operational experience indicates little or no difference in performance and startup time, no discernable operational differences, no increased engine noise, and significantly reduced visible smoke. | The building occupants are unknown and the various developers and/or County have no control over the truck fleets that may frequent the sites. If such a requirement were imposed, it would severely limit the number of potential building occupants which would significantly affect the economic viability of the Project. A tenant of a particular building may not even have control over the trucks used to transport goods to and from the facility. Specifically, in a competitive market like that which exists today, imposing the recommended measure will likely result in the Project standing vacant. As outlined in Response to CCAEJ/NRDC Comment #6 (attached to the Staff report for the Director’s Hearing on 10-4-2010), because the imposition of the measure proposed by the commenter would make the Project unmarketable and, thus, likely to remain vacant, the implementation of those measures would introduce other potentially significant impacts associated with aesthetics, hazards, and other environmental effects. Accordingly, they are rejected as infeasible for environmental reasons as well. (See <i>ibid.</i>) |
| 7. Require each user to establish a carpool/ vanpool program* | As stated in the FEIR (p. 1.0-30): Mitigation measure MM Air 11 provides information to employees about park and ride programs. To promote ride sharing and reduce GHG emissions, a new mitigation measure MM Air 15 , which will designate priority parking spaces for high-occupancy vehicles and vans used for ride-sharing, was imposed to read as follows: MM Air 15: The project proponents of each plot plan shall designate parking spaces for high-occupancy vehicles and provide larger parking spaces to accommodate vans used for ride sharing. Proof of compliance will be required prior to the issuance of occupancy permits. |
| 8. Provide on-site child care or contribute to off-site child care with-in walking distance.* | Since diesel particulate matter is a significant Project impact, imposing this measure would expose more persons to the estimated increase in excess cancer risk. Moreover, requiring an |

| Johnson & Sedlack Recommended Operation-Related Mitigation Measure | Disposition of Measure |
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| | increased density of children within an industrial facility with truck traffic introduces additionally safety hazard impacts. Thus, this measure is infeasible due to environmental impacts as well. |
| 9. Provide preferential parking for carpool/vanpool vehicles.* | MM Air 15, as described in measure 7, above, achieves this measure. |
| 10. Provide secure, weather protected bicycle parking for employees.* | <p>The following COA (90.Planning.13 for PP16979; 90.Planning.14 for PP18875; and 90.Planning.10 for PP17788, PP18876, PP18877, and PP18879) will be modified as shown below to state that:</p> <p style="padding-left: 40px;">A bicycle rack with a minimum of six (6) spaces shall be provided in convenient locations to facilitate bicycle access to the project area as shown on APPROVED EXHIBIT A [EXHIBIT L for PP18877 and PP18879]. The bicycle racks shall be shown on project landscaping and improvement plans submitted for Planning Department approval, and shall be installed in accordance with those plans. <u>All bicycle racks shall be weather-protected.</u></p> |
| 11. Provide direct safe, direct bicycle access to adjacent bicycle routes.* | As stated in the FEIR, p 1.0-35, There are no General Plan-designated Bike Paths in the vicinity of the proposed Project. Additionally, the proposed Project is an infill project located within the otherwise fully developed MLCC. This measure is not applicable to the proposed project, inasmuch as it is directed towards residential and large developments. The proposed project is not a new industrial use within an undeveloped area, but rather an infill development within an existing industrial park. All streets that will serve the project are existing developed roads currently providing vehicular access to the existing development within the industrial park. |
| 12. Provide showers and lockers for employees bicycling or walking to work.* | As previously stated, the Project is speculative at this time with no know building occupants. To require the Project to build showers and lockers is impractical. Future tenants will determine whether there is a need for showers and lockers for employee use. Moreover, because few employees are expected to travel to work on foot or by bicycle, imposing this measure would not reduce air quality or GHG emissions in any measurable way. Thus, it is not a measure that will actually reduce any potentially significant impacts. |

| Johnson & Sedlack Recommended Operation-Related Mitigation Measure | Disposition of Measure |
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| 13. Short-Term bicycle parking for retail customers and other non-commute trips.* | The Project does not include retail. Therefore, this measure is not applicable. |
| 14. Provide shuttle service to food service establishments/ commercial areas.* | This measure is identical to the one proposed by the commenter for Project construction. As contained in the response to construction measure 22, above, this measure is infeasible because such practices are more applicable to dense commercial/retail employment centers, not construction sites. Further, the source of the labor pool is likely to come from numerous, albeit local, locations, such that it is infeasible to implement shuttle services. Also, restaurants and food service is available in the Project area within a short distance. |
| 15. Provide shuttle service to transit stations / multimodal centers* | As stated in the FEIR, p. 1.0-34, although the RTA provides bus service from approximately ¾ mile to 1½ miles from different portions of the project site, it does not currently provide service to the project site and at this time has no plans to extend bus service to the project site. As the project does not constitute a large job center, providing a shuttle service to public transit is not practical. Further, requiring employees to park at transit station before reaching the Project site may not reduce vehicle miles traveled. Some employees would past the Project site to park at the park and ride lots or train station just to be shuttled back towards the Project site. Additionally, through implementation of MM Air 11 , the project proponents have committed to doing what is feasible by providing information about park-and-ride programs that are administered through local agencies or other organizations to the tenants. In addition, an existing park and ride lot is located at the SR-60 westbound off-ramp for Country Village Road which is between approximately one-half to one mile east of the project site. In this way, the future tenants and employees of the project will be able to take advantage of those programs to reduce overall commuting trips. (FEIR, p. 2.0-88) |
| 16. Implement a parking fee for single-occupancy vehicle commuters.* | As stated in the FEIR, p. 1.0-33, the County doesn't have the available resources to collect parking fees on streets and private parking lots; therefore, this measure is not applicable to the proposed Project. Additionally, within Riverside County employees of private development do not typically pay to park as they would in other counties or cities like Los Angeles – where housing is co-located with job opportunities – so to institute such a program would |

| Johnson & Sedlack Recommended Operation-Related Mitigation Measure | Disposition of Measure |
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| | make the Project non-competitive. Moreover, during this time of economic crisis and unemployment within Riverside County, penalizing local workers by fining them for driving to work makes this measure infeasible. |
| 17. Implement parking cash- out program for non-driving employees.* | See response to item 16 above. |
| 18. Provide direct, safe, attractive pedestrian access from project to transit stops and adjacent development.* | As stated in the FEIR, p.1.0-30, the proposed project is an infill development located within an existing industrial development; rather than the development of a new industrial destination within an undeveloped area. All streets that will serve the project are existing developed roads currently providing vehicular access to the existing development within the industrial park. Therefore, this measure is not applicable. |
| 19. Implement a compressed workweek schedule. | As stated in the FEIR, p. 1.0-36, "Jobs that entail working alone or working with equipment which can be kept at the alternate work site are often suitable for telecommuting. Examples include a writer, editor, analyst, word processor, or programmer. These types of uses are not consistent with the types of jobs provided by the project which typically require physical presence. The MLCC is an industrial park and implementation of telecommuting or compressed work schedules is not appropriate for the proposed Project. The hours of operation for the uses that will be developed by the proposed Project have not been established, but to the extent that some uses may have extended hours of operation, work hours are anticipated to be staggered by having different shifts of employees working at the proposed Project. Project operations that evaluated potential extended hours include the aesthetics and noise sections of the Draft EIR under nighttime glare (p. 4.1-8) and nighttime noise (p. 4.11-16)" |
| 20. Provide electrical vehicle ("EV") and compressed natural gas ("CNG") vehicles in vehicle fleets.* | This measure would reduce Project competitiveness because the future occupants are unknown. See response to items 4 and 6, above. Moreover, this is not a retail-based project or a residential development where internal vehicle fleets would be in use. Accordingly, this measure is inapplicable as well. Nonetheless, the Project is required to have service equipment (such as fork lifts) that are propane or electric powered by MM Air 6. |
| 21. Install EV charging facilities for a minimum of 10% of all parking spaces.* | As stated in the FEIR regarding providing EV charging facilities, (p. 1.0-32) "The project is not a |

| Johnson & Sedlack Recommended Operation-Related Mitigation Measure | Disposition of Measure |
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| | high employment generator whereas this measure is more appropriate for large job centers with many employees. Additionally, inasmuch as the proposed project is not anticipated to be home of large owner-operated vehicle fleets; the construction of an alternative fueling station will not be an effective means of reducing project-related GHG emissions.” |
| 22. Install a CNG fueling facility.* | This measure is similar to item 21 above regarding EV charging facilities. See the response above. |
| 23. Provide preferential parking locations for EVs and CNG vehicles.* | The following COA will be added for each Plot Plan stating: Preferential parking shall be provided for EV, hybrid, and CNG vehicles. |
| 24. Utilize electrical equipment for landscape maintenance.* | It is not practical to require future tenants (currently unknown) to ensure landscape maintenance equipment is electrical. Moreover, to power electrical landscape equipment, the buildings would have to be redesigned and the electric system redistributed to provide regular power outlets on the exterior of the buildings. At this point, and given the Project’s other energy saving measures, redesigning the building is impractical and infeasible. Moreover, the use of electrical landscaping equipment would not appreciably reduce the operational air quality emissions of the Project. As such, this measure is infeasible because it won’t actually reduce the Project’s impacts in any measurable way. |
| 25. Utilize only CARB certified equipment for construction activities.* | The measure is not applicable because it is for construction activities whereas the context of the measures provided by the commenter was for operations. Regardless of this, however, MM Air 3a already requires that construction equipment be limited to CARB certified Tier 4 equipment (as soon as that equipment becomes available) or retrofitted to meet Tier 4 standards. |
| 26. All forklifts shall be electric or natural gas powered.* | This measure is already implemented by MM Air 6. |
| 27. Provide subsidies or incentives to employees who use public transit or carpooling, including preferential parking.* | MM Air 11 provides information to employees about park and ride programs. MM Air 15 requires the provision of preferential parking as an incentive for carpools/vanpools as indicated in the proposed measure. |
| 28. Plant shade trees in parking lots to provide minimum 50% cover to reduce evaporative emissions from parked vehicles.* | See item 31 below regarding LEED certification. The Project will be LEED certified, which will incorporate as practical, measures such as this but may not achieve 50% coverage due to conflicting |

| Johnson & Sedlack Recommended Operation-Related Mitigation Measure | Disposition of Measure |
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| | measures for water conservation and drought tolerant landscaping. In other words, providing more vegetation on site will increase landscaping water demands, which correlates to an increased energy demand and (with it) increased GHG emissions. Accordingly, strictly requiring this proposed measure is infeasible. |
| 29. Utilize low pressure sodium fixtures for exterior lighting including parking lots. | A similar measure is already identified in the DEIR Design Considerations of the Air Quality section, item 12 (DEIR, p. 4.3-36) relates to outdoor lighting stating " All outdoor lighting will be controlled by the use of timers or photocells in order to automatically turn off outdoor lighting during daylight hours. Wherever practicable, energy efficient lighting will be used." |
| 30. Utilize electric yard trucks.* | The intent of this measure is already implemented by MM Air 6 requiring the use of low-emission proposing or electric service equipment. |
| 31. All buildings shall be constructed to LEED Platinum standards.* | <p>LEED Platinum standards are the highest rating in the LEED certification and are granted by the U.S. Green Building Council. Because the Project has no known future occupants, and becomes exceedingly costly to design with no guarantee that the Platinum certification will be granted, requiring LEED Platinum certification is infeasible. Further, the proposed Project is composed of warehouse/industrial park buildings. Nonetheless, the Project will require each Plot Plan to be, at a minimum, LEED Certified as imposed by the following COA to be included in the COA for each Plot Plan:</p> <p>The project shall comply with the requirements for a LEED Certified building, in accordance with the edition of the USGBC New Construction (NC) Reference Manual in effect at time of project registration. The building(s) and facilities shall be maintained in the condition that awarded LEED certification.</p> |
| 32. The operator shall meet SmartWay 1.25 ratings.* | See response to items 1 through 3 above. |
| 33. The operator shall use only freight companies that meet SmartWay 1.25 ratings.* | See response to items 1 through 3 above. |
| 34. The developer shall install photovoltaic solar systems sufficient to offset all electrical usage.* | The Project applicant has consulted with Southern California Edison (SCE), the local electricity provider, to determine feasibility and applicability of installing photovoltaic (PV) panels on the |

| Johnson & Sedlack Recommended Operation-Related Mitigation Measure | Disposition of Measure |
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| | <p>rooftops of each plot plan. SCE's Solar Rooftop Program enables building owners to lease under-utilized roof space to SCE for added revenue and to benefit from public awareness that they are part of a historic transition to renewable electricity generation. It was determined that building with roof surfaces substantially larger than 200,000 square feet are suitable for PV panels and would be considered under SCE's Solar Rooftop Program. (See SCE's Solar Photovoltaic Program Testimony Before the Public Utilities Commission at pp. 4, 34-35 [2008] [discussing technological and business restrictions dictating minimum roof top size and stating that minimum roof size is actually closer to 250,000 square feet].) Plot Plan 16979 is 200,731 square feet, but is not considered suitable because it is not substantially more than 200,000 square feet. (<i>Ibid.</i>) Accordingly, only Plot Plan 17788 (426,212 square feet) is suitable for PV panels.</p> <p>To promote the responsible use of natural resources and to reduce the use of power generated by the use of fossil fuels in order to further reduce greenhouse gas emissions, the applicant for Plot Plan 17788 has proposed and the County has incorporated the following COA :</p> <p style="padding-left: 40px;">Plot Plan 17788 shall incorporate features that permit the installation of a photovoltaic (PV) power generation system. This requirement shall include the up-grade of building structural, electrical & roofing systems as determined to support an approximate 1 Megawatt PV system. The property owner of this facility shall submit the project to Southern California Edison, the local electrical utility provider, for inclusion into either the "Utility Owned Generation" (UOG) or "Independent Power Producer" (IPP) program, through which the leasing of the rooftop and the actual installation of solar panels by SCE could occur. It is understood that the Utility Company will have the final word on whether the building will be included in the program.</p> |
| 35. The developer shall install photovoltaic solar systems sufficient to offset all vehicular emissions.* | See the response to item 34, above. |
| 36. The Operator shall purchase only green/ | This measure is impractical as the Project will be |

| Johnson & Sedlack Recommended Operation-Related Mitigation Measure | Disposition of Measure |
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| renewable power.* | subject to the energy mix provided by the utility providers i.e. electricity, natural gas, water). Moreover, the site is not located on a renewable geothermal heat source, nor is it in a mountain pass where wind turbines might be a source of renewable energy. Finally, see response to proposed measure 34, above, discussing the potential for solar energy. |
| 37. Install solar water heater systems to generate all of the Project's hot water requirements.* | As stated in the DEIR Design Considerations (item 6) in the Air Quality Section (DEIR, p. 4.3-36), , tankless water heaters (flash heaters) will be used, wherever practicable, where hot water is required in each building. These heaters are much more efficient than the standard tank-type heaters. Therefore, this measure achieves the same purpose and is not necessary. |
| 38. Implement home-based telecommunicating program when feasible. | See response to measure 19, above. |

JS Comment # 9

Greenhouse Gas/Climate Change:

The arguments discussed above regarding the low trip length used in the Air Quality Analysis, also apply to the section on greenhouse gases. Impacts to climate change will be significant and must be mitigated. Those mitigation measures listed above, which contain an asterisk (*) also serve to mitigate for climate change impacts and should be implemented.

Response to JS Comment #9

The AQIA used appropriate assumptions for mobile source trip distances, as outlined above, it is complete, conservative, and adequate and therefore, the related greenhouse gas emissions were also estimated adequately. Impacts to GHG were found to be cumulatively significant and unavoidable in the DEIR (p. 4.3-106). Feasibility of the recommended measures are provided in the previous responses, above.

JS Comment #10

Biological Resources

The Project will result in a cumulatively significant impact at the General Plan level by resulting in “the direct mortality of individuals of listed, proposed or candidate species or the loss of habitat occupied by such species.” Even with implementation of RCIP General Plan EIR mitigation measures, impacts will remain significant. Therefore, the following mitigation measure should be required:

1. Require off-site mitigation within Riverside County in order to preserve similar type and amount of habitat.

Response to JS Comment #10

As outlined in the DEIR, Biological Resources Section, Page 4.4-22, based on the results of the biological surveys and after implementation of mitigation measures (which require compliance with the MBTA, preconstruction surveys for burrowing owl, and payment of MSHCP fees) - and contrary to the commenter’s unsupported statement – potential adverse impacts associated with special-status species and the loss of habitat will be reduced to less than significant levels, on a Project-specific and cumulative basis.

The DEIR, Mandatory CEQA Topics Section, page 6.0-14-17 discusses the impacts associated with the implementation of the General Plan, the impacts in the absence of the MSHCP, and details the type and potential for biological species to be on-site. The quote used in the comment letter regarding “the direct mortality of individuals of listed, proposed or candidate species or the loss of habitat occupied by such species” is from the Riverside County General Plan EIR’s

summary of the impacts from build-out of the General Plan, not of the Project. With incorporation of Project-specific mitigation measures, the Project will not result in significant impacts to sensitive species or their habitat. This is confirmed by the MSHCP, its Implementing Agreement, and the take permits issued by the California Department of Fish and Game and the United States Fish and Wildlife Service – all of which confirm that compliance with the MSHCP provides full and complete mitigation for impacts to biological resources. Accordingly, no additional mitigation measures are required to reduce impacts to less than significant levels, including no requirement for off-site mitigation.

JS Comment #11

Cultural Resources

In order to further insure that unique cultural resources are not impacted by Project construction, changes to the adopted mitigation measures must be made. In violation of CEQA, MM Cultural 1 (3) is vague and must instead provide that grading and further ground disturbance shall not resume within *100 feet* of the discovery of cultural resources until an agreement has been reached.

MM Cultural 3 is also vague and should require, in order to ensure that paleontological resources are not harmed, that if paleontological resources are uncovered, construction/development activities “shall be moved to other parts of the project site” *at least 500 feet away.*

Responses to JS Comment #11

As outlined in the DEIR, on pages 4.5-6 through 4.5-10, no evidence of archaeological resources were observed and grading and construction are not anticipated to result in impacts to cultural or historic resources. The entire site was mass graded in the 1990s and no paleontological resources were found; therefore, impacts are not anticipated. Additionally, “no evidence of archaeological resources was observed during the archaeological impact assessment conducted in July 2002 by Christopher E. Drover Ph.D. on the parcels proposed for development and located within the MLCC. Further, the 2002 assessment found that no evidence remained of previously identified archaeological site Riv-4105 (located outside the present survey area). As a result, grading and construction proposed to implement the development proposed by the applicant will not result in any significant impacts to cultural or historic resources.” However, to be conservative, the DEIR includes mitigation measures to reduce potential impacts if these resources are uncovered during grading/construction.

Part 1 of **MM Cultural 1**: already outlines a 100-foot avoidance area for discovered cultural resource: “All ground disturbance activities within 100 feet of discovered cultural resource shall be halted” until a meeting is convened and decision made as to appropriate mitigation (documentation, recovery, avoidance, etc.) of the resource. Part 3 further outlines that “Grading or further ground disturbance shall not resume within the area of the discovery until an agreement has been reached...” and **MM Cultural 3** outlines the protocol that must be followed

in the event that a *significant* paleontological resource is uncovered. Applying the recommended language to the mitigation measure would require a 500-foot avoidance buffer for all uncovered paleontological resources, even if not determined a significance resource. The mitigation outlines appropriate protocol to follow in the event the resource is determined a significant resource by a qualified paleontologist. No further mitigation is necessary or required.

JS Comment #12

Hydrology and Water Quality:

The Project site will reduce the area of pervious surface within the Chino III groundwater subbasin by between 75 to 90 percent on individual plot plan sites, effectively decreasing the potential for groundwater recharge. The County concludes that “[d]ue to the small size of the Project in relation to the total size of the groundwater subbasins, there will not be a substantial effect upon groundwater recharge within the groundwater subbasin and the proposed Project *should* not interfere with the groundwater table.” Therefore, the County concludes that there will not be a significant effect on hydrology. County has based this conclusion of insignificance on an uncertain inference. This is improper particularly since this analysis fails to account for the cumulative effects that other projects will have on decreased groundwater recharge and the fact that southern California has and is expected to continue to have decreased water supply. Additionally, the County states that “the Project may contribute new sources of polluted runoff.”

Therefore, the County must adopt the following mitigation measure:

1. Pavement and impermeable surfaces must be reduced to the greatest extent feasible. Where paving is necessary, permeable paving alternatives must be utilized such that infiltration happens passively through the site.

This mitigation measure will help mitigate for the Project’s substantial effects upon groundwater recharge, and will also help achieve decreased amounts of polluted runoff.

Responses to JS Comment #12

As outlined in the Draft EIR page 4.8-16, the Project will reduce the imperviousness on the individual Project sites by between approximately 75 percent and 90 percent. Each plot plan averages 10 acres, which is small in relation to the total size of the groundwater subbasins [Chino Basin is 154,000 acres (~240 square miles)]. Ultimately, the approximately 60-acre Project site – portions of which shall remain permeable and landscaped – constitutes only 0.03% of the Chino Basin. According to pages 3-14 to 3-15 of the Project-specific Water Supply Assessment, JCSD’s legal right to pump water in an amount necessary to meet all demands as sanctioned and protected by the Basin Adjudication Judgment, is buttressed by a number of programs and projects directed to ensuring the sufficiency of groundwater supplies from the Basin, particularly during dry years.

The Judgment represents a plenary adjudication of all water rights in the Basin and is currently administered under the authority of the Chino Basin Watermaster with continuing jurisdiction by the Court. The principal function of adjudication generally is to control the use of a water source in order to ensure the source is utilized in an optimum manner. For purposes of adjudication, the

central feature is the determination of the safe yield of the Basin. The sufficiency of the Basin includes the availability of recharge water and recharge capacity for purposes of maintaining the safe yield of the Basin consistent with the JCSD's Optimum Basin Management Program (OBMP) and Judgment. Recharge water includes imported water supplied by MWD, recycled water and stormwater. The OBMP addresses the use of recharge water, including projections with respect to availability and recharge capacity. Therefore, the OBMP JCSD's WSA – which is partially based on that OBMP – have already taken into consideration the effects that development (like the Project) would have on recharge capacity, and JCSD still found that there was adequate water sources available to service the Project. Furthermore, the Adjudication Judgment, the OBMP, and the analysis of the JCSD's total water supplies are all documents that necessarily consider basin-wide impacts and water demands. Accordingly, and contrary to the commenter's assertion, there was no failure to consider cumulative impacts. Instead, the EIR's analysis is properly based upon documents that inherently account for those impacts by discussing and analyzing water issues across the entire basin. Thus, the Project's effects are less than significant as explained in the EIR (see Draft EIR pages 4.16-21 through 4.16-39) and the commenter's proposed mitigation measures are not required. (See State CEQA Guidelines, § 15126.4 [requiring mitigation only for potentially significant impacts].)

The existing undeveloped sites currently do not provide a significant source of recharge because they have been mass graded and compacted and do not allow for significant amounts of recharge. Thus, further development of the site will not eliminate sites of groundwater recharge and would not contribute to a significant cumulative loss of recharge areas.

Although the Project may contribute new sources of polluted runoff, as new development is anticipated to, compliance with NPDES permit requirements and implementation of mitigation measures identified in DEIR ensure the potential for the Project to contribute new sources of polluted runoff is less than significant.

JS Comment #13

Utilities:

As a portion of the projected build-out of the RCIP General Plan, this Project will contribute to the significant cumulative impact on existing solid waste services. The County provided several mitigation measures to mitigate for this effect. Yet, some of these mitigation measures, as currently written, are ineffective and unenforceable as they merely require that recycling containers and solid waste dumpsters be placed at the Project site. There is nothing contained within these mitigation measures, particularly Mitigation Measure Utilities 1 and 2, that ensure or require that the future occupants and employees will actually recycle. Therefore, these mitigation measures should require within contracts with future occupants, measures to ensure that all recyclable materials resulting from operation of the Project actually be recycled.

Responses to JS Comment #13

Impacts to solid waste are addressed in pages 4.16-39 through 4.16-41 of the DEIR. As outlined in the DEIR p. 4.16-43 “the proposed project will not result in any significant adverse impacts to

utilities; therefore, mitigation is not required.” However, to lessen the already less than significant impacts even further, mitigation measures **MM Utilities 1** through **5** will be incorporated to reduce the waste-stream and encourage recycling and re-use. (See also FEIR, section 5 and MMRP pp. 3.0-39 through 3.0-40 [confirming that impacts are less than significant even without the imposition of any mitigation].) The mitigation measures are not required to reduce potential impacts to less than significant levels but are included in order to reduce Project-generated solid waste requiring disposal within landfills. Given that CEQA only requires mitigation for potentially significant impacts, the Commenter’s suggested edits and measures are not required. (See State CEQA Guidelines, § 15126.4 [requiring mitigation only for potentially significant impacts].) As detailed in Section 3.0, Mitigation Monitoring and Reporting Program on page 3.0-39 through 3.0-41 of the FEIR, **MM Utilities 1** will be monitored by the Submittal of the Recyclables Collection and Loading Area plot plan to the Riverside County Waste Management Department and verification of the installation of recycling areas by the Waste Management Department; **MM Utilities 2** will be monitored by verification of the installation of recycling areas by the Waste Management Department; **MM Utilities 3** will be monitored through compliance with the Riverside County Waste Management Department Construction and Demolition Waste Diversion Program – Form B or Form C process, submitted to the Waste Management Department. Both **MM Utilities 4** and **MM Utilities 5** will be monitored through the verification of the existence of the program by the Waste Management Department. Moreover, it is a reasonable assumption that if recycle facilities are installed and designated, the tenants will use them. (See State CEQA Guidelines, § 15384 [“substantial evidence includes ... reasonable assumptions predicated upon facts”].)

JS Comment #14

Noise:

The Project will result in significant noise impacts. Noise levels due to construction at the Project site are expected to reach up to 85 dBA at the nearest sensitive receptors, consisting of occupied residences. This is well in excess of the daytime exterior noise standards of 55 dBA for residential land uses allowable under Riverside County Ordinance (RCO) No. 847, Section 4, Table 1. Yet, the County concludes that merely through the Project’s compliance with RCO No. 847, Section 2, that construction-related noise impacts will be less than significant. This is a completely faulty analysis and conclusion. The mere fact that the

excess construction noise will be restricted to daytime hours does not mitigate the fact that noise levels of 85 dBA will be in excess of the County’s noise ordinance and experienced by nearby residents during *daytime* hours. The fact that the ordinance establishes time frames does not eliminate or lessen the environmental impact it merely means that the impacts are not subject to criminal sanctions. Thus, reliance on MM Noise 1 which merely limits construction activities “within one-quarter mile of occupied residences” to the daytime hours set forth in RCO No. 457, Section 1.G.1, (recently amended to RCO No. 457.102, Section 1.F.1) does nothing to mitigate these substantial effects.

The following additional mitigation measures should be adopted in order to reduce construction noise impacts to below a level of significance:

1. Provide temporary noise barriers during project construction regardless of whether there will be nocturnal trucking activities.
2. During project construction, the developer shall require all contractors to turn off all construction equipment and delivery vehicles when not in use or prohibit idling in excess of 3 minutes.
3. When technically feasible, utilize only electrical construction equipment.

The County states that “[d]aytime operational noise is not considered a source of significant impact if a barrier shields the *visibility* of the loading activity from any ground-floor observers. (Resolution No. 2010-06, pg. 103.) This is merely not true. Further, the Project will have significant cumulative noise impacts due to the already existing noisy environment. Yet, only mitigation measures pertaining to nighttime operations have been adopted.

The following additional mitigation measures should be adopted in order to reduce operational noise impacts (project-level and cumulative) to below a level of significance:

1. Provide a permanent noise barrier sufficient to reduce daytime noise levels to below the County mandated 55 dBA daytime exterior noise level for residential land uses at the nearest sensitive receptors.
2. Require the use of rubberized asphalt for construction of all roadways and parking lots.
3. All trucks, tractors and forklifts shall be operated with proper operating and well maintained mufflers.
4. Maintain quality pavement conditions that are free of bumps to minimize truck noise.
5. Require all trucks to turn off engines when not in use or prohibit idling in excess of 3 minutes.

Responses to JS Comment #14

The residential noise standards, as described in Chapter 7, in Table N-2, on page 8 of the Riverside County General Plan Noise Element for Riverside County are shown below:

| | |
|--------------------------|------------|
| Exterior (not to exceed) | 65 dB CNEL |
| Interior (not to exceed) | 45 dB CNEL |

The commenter’s statements regarding Ordinance 847 section 4 and the so-called “mandated” noise levels are incorrect. The Riverside County noise standards for planning purposes are stated above. Per conversation with Steve Hinde at the Riverside County Office of Industrial Hygiene (May 20, 2009), the noise levels described in Ordinance 847 were never intended to be used for planning, rather as tool to assist in code enforcement, and should not be used in planning documents, as it was not the author’s intent. Moreover, the commenter overlooks the fact that

the very first section of the Ordinance itself states that, “[t]his ordinance is not intended to establish thresholds of significance for the purpose of any analysis required by the California Environmental Quality Act and no such thresholds are hereby established.” Accordingly, the commenter’s conclusions that the County’s regulatory noise standards for planning purposes are thresholds for CEQA analysis is incorrect. As explained in the DEIR, the County determines whether a Project’s noise is significant based on the General Plan’s Noise Element, County policies, the likelihood of noise causing a nuisance, and the Riverside County Department of Public Health – Office of Industrial Hygiene’s standards. (DEIR pp. 4.11-14 through 4.11-17.)

Mitigation measures to minimize construction-related noise impacts, as stated on page 4.11-19 of the DEIR, are as follows:

MM Noise 1: To reduce construction-related noise, site preparation, grading and construction activities within one-quarter mile of occupied residences shall be limited to those hours as set forth in Section 1.G.1 of Riverside County Ordinance No. 457.

MM Noise 2: All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.

MM Noise 3: Construction staging areas shall not be located within 200 feet of any occupied residence.

MM Noise 4: No combustion powered equipment, such as pumps or generators, shall be allowed to operate within 500 feet of any occupied residence unless the equipment is surrounded by a noise protection barrier.

MM Noise 4 is similar to the commenter’s suggested mitigation measure #1 for construction noise; therefore, the mitigation measure is already required of the Project. The commenter’s suggested mitigation measure #2 for construction is similar to **MM Air 2**, on page 4.3-96 of the DEIR which states “the project proponent shall assure that the following requirement be incorporated into all relevant construction drawings and the contract between the project proponent and the general contractor: Construction vehicles shall be prohibited from idling for a period in excess of 5 minutes both on-site and off-site. Each subcontractor or material supplier shall be responsible for compliance with this provision and the general contractor will have responsibility to oversee implementation. Further, the general contractor shall place a sign at each building driveway notifying equipment operators that idling times shall not exceed five minutes.” The commenter’s suggested mitigation measure #3 for construction noise is not feasible due to the fact that, as shown in Table 4.11-C on page 4.11-12 of the DEIR, the commonly used construction equipment that generate the most noise are large pieces of equipment that have no electrically-run equivalent, additionally, electrical equipment shall be used to the extent feasible as mandated by **MM Air 3c**, as stated on page 4.3-97 of the DEIR Air Section.

Mitigation measures **MM Noise 2** through **MM Noise 4** all require noise attenuation from construction equipment and/or the use of noise attenuating barriers. Mitigation to a less than significant level does not rely solely on Ordinance No. 847. Mitigation measure **MM Noise 1**

will reduce the duration of construction-related noise and ensure that construction only occurs between the hours of 6:00 p.m. and 6:00 a.m. during the months of June through September and between the hours of 6:00 p.m. and 7:00 a.m. during the months of October through May as set forth in Section 1.F.1 of Riverside County Ordinance No. 457, and as stated in Section 3.0 – Mitigation Monitoring and Reporting Program pages 3.0-29 of the FEIR, the grading permit, obtained from the Building and Safety Department, shall stipulate hours of construction.

The commenter's suggested mitigation measures numbers 1 through 4 (for operational noise above) are not necessary or are already required as the on-site operational noise impacts to residential land uses were analyzed and found to be in compliance with the residential daytime noise planning standard of 65 dBA.

Operational mitigations measures for the project, as stated on page 4.11-20 of the DEIR Noise Section, are as follows:

MM Noise 5: Facility-related noise must not exceed the following worst-case noise levels 45dB(A) – 10 minute noise equivalent level ("leq"), between the hours of 10 p.m. to 7 a.m. (nighttime standard) and 65 dB(A) – 10 minute leq, between 7 a.m. and 10 p.m. (daytime standard) as measured at any habitable dwelling, hospital, school, library, nursing home or other similar noise sensitive land use.

MM Noise 6: An 8-foot high perimeter barrier shall be required if nocturnal (10 p.m. to 7 a.m.) loading dock materials handling activities are conducted within 300 feet of any residence. If nocturnal trucking activities are conducted simultaneously with the operation of the warehouse/loading dock, the 8-foot-high barrier shall be required if such combined activities occur within 600 feet of an existing home. These wall heights can be reduced by performing a subsequent acoustical analysis after the final grading plan is complete.

MM Noise 7: Prior to the issuance of building permits for Plot Plan 16979 and Plot Plan 18879, an acoustical analysis shall be submitted for the Plot Plan for which a building permit is being requested to the Riverside County Planning Department and the Riverside County Department of Public Health, Office of Industrial Hygiene verifying that the perimeter barrier required by mitigation measure MM Noise 6, above, reduces potential nocturnal (10 p.m. to 7 a.m.) noise impacts for that Plot Plan to noise levels mandated by Riverside County Ordinance No. 847. If the acoustical analysis determines that a higher perimeter barrier is required to bring nocturnal noise impacts to Ordinance No. 847 levels, the required perimeter barrier shall be raised, as required by the acoustical analysis, to a maximum height of 12 feet to reduce potential noise impacts to Ordinance No. 847 levels.

MM Noise 8: No nocturnal loading/unloading shall occur within 100 feet of any residence. No combined trucking movements and unloading/loading shall occur within 200 feet of any residence from 10 p.m. to 7 a.m.

MM Noise 9: No nocturnal operations within Plot Plan 18876 and Plot Plan 18877 shall take place between the hours of 10 p.m. and 7 a.m.

The commenter's suggested mitigation measure for Project operations #1 (utilizing the correct exterior noise standard) has already been addressed and is required of the project through the incorporation of **MM Noise 5**. The commenter's suggested mitigation measure #2 for operational noise is not required. As shown on page 4.11-9 of the DEIR, the impacts from roadway noise are less than significant, additionally the majority of noise associated with vehicles (large trucks included) emanates from engine noise, more specifically from fans within the engine. Tire noise on asphalt only starts to become a factor at speed, and delivery vehicles will not be speeding around the parking lots. Therefore, proposed mitigation measure #2 is neither necessary nor required. Commenter's suggested mitigation measure #3 has already addressed in **MM Air 6** on page 4.3-98 of the DEIR Air Section, and is required by the Project. Commenter's suggested mitigation measure for operational noise #4 is not required for the same reasons that commenter's suggested mitigation measure #2 was not required. Commenter's suggested mitigation measure #5 for operational noise has already been addressed by **MM Air 7**, on page 4.3-98 of the DEIR Air Section, which states that the Project shall "prohibit all vehicles from idling in excess of five minutes." Further, as modified above, in Response to JS Comment #4, idling from both construction and operation has been limited to three minutes which addresses the commenter's request.

Furthermore, as stated on page 4.11-17 of the DEIR,

Of the six plot plans that comprise the proposed project, the two that are closest to existing residences are Plot Plan 18876 and Plot Plan 18877. The developer of these plot plans has agreed to have no nocturnal activities, and this restriction will be implemented through mitigation measure MM Noise 9. Plot Plan 18875 is located greater than 600 feet from the nearest residence. The building within Plot Plan No. 18879 is oriented to provide a noise barrier between nocturnal operations and residences to the east. Plot Plan 17788 is partially located within 600 feet of existing residences, however, loading dock activities and related trucking activities are expected to occur 600 feet or greater from the nearest residences. Plot Plan 16979 is located greater than 200 feet from the nearest residence. Due to building orientation, intervening land uses and the orientation of the nearest residences, the noise impacts from potential nocturnal operations associated with Plot Plan 18879, Plot Plan 17788 and Plot Plan 16979 will be mitigated to below the level of significance through implementation of mitigation measures MM Noise 5, MM Noise 6, MM Noise 7 and MM Noise 8.

Noise attenuation is achieved when the line-of-sight is broken between the source and the receiver. As stated on page 4.11-16 of the DEIR, the potential for daytime operational noise impacts was analyzed and because the building itself would act as a noise barrier, additionally, the Project design calls for 6-foot high separation walls which would attenuate on-site noise even more. Further mitigation is neither required nor necessary to achieve the 65 dBA daytime noise standard at the residential boundary line. Furthermore, per COA 10.Planning.22 for Plot Plan 16979 and 10.Planning.21 for Plot Plan 17788,

Exterior noise levels produced by any use allowed under this permit, including, but not limited to, any outdoor public address system, shall not exceed 55 db(A), 10-minute LEQ, between the hours of 10:00 p.m. to 7:00 a.m., and 75 db(A), 10-minute LEQ, at all

other times as measured at any residential, hospital, school, library, nursing home or other similar noise sensitive land use. In the event noise exceeds this standard, the permittee or the permittee's successor-in-interest shall take the necessary steps to remedy the situation, which may include discontinued operation of the facilities. The permit holder shall comply with the applicable standards of Ordinance No. 847.

For Plot Plans 18875, 18876, 18877, and 18879, COA 10.Planning.22 for Plot Plan 18875 and 10.Planning 21 for Plot Plans 18876, 18877, and 18879 specify that:

1. Facility-related noise, as projected to any portion of any surrounding property containing a "sensitive receiver, habitable dwelling, hospital, school, library or nursing home", must not exceed the following worst-case noise levels 45 dB(A) - 10 minute noise equivalent level ("leq"), between the hours of 10:00 p.m. to 7:00 a.m. (nighttime standard) and 65 dB (A) - 10 minute leq, between 7:00 a.m. and 10:00 p.m. (daytime standard).
2. Whenever a construction site is within one-quarter (1/4) of a mile of an occupied residence or residences, no construction activities shall be under taken between the hours of 6:00 p.m. and 6:00 a.m. during the months of June through September and between the hours of 6:00 p.m. and 7:00 a.m. during the months of October through May. Exceptions to these standards shall be allowed only with the written consent of the building official. Each Plot Plan is to provide a noise report that provides daily and hourly number of trucks, operating hours, dBA 10 minute Leq levels with worse case scenarios, noise readings from similar operations and distances to the nearest sensitive receivers for the below recommendations to apply or be modified.
3. The proposed 6-foot high separation wall between project parcels adjacent to existing residential uses should be raised to 8 feet if daytime trucking activity occurs within 200 feet of the property line.
4. A 12-foot high perimeter barrier shall be required if nocturnal (10 p.m. to 7 a.m.) loading dock material handling activities are conducted within 300 feet of any residence. If nocturnal trucking activities are conducted simultaneously of the warehouse/loading dock, the 12-foot-high barrier shall be required if such combined activities occur within 600 feet of an existing home.
5. No nocturnal loading / unloading shall occur within 100 feet of any residence for Plot Plans 18876 and 18877. No combined trucking movements and unloading /loading shall occur within 200 feet of any residence from 10 p.m. to 7 a.m.
6. Our Department must receive, review and approve an acoustical report addressing the noise that might be produced from each specific tenant / plot plan. The Office of Industrial Hygiene will determine which businesses will be required to have an acoustical report.

7. The applicant shall pay review fees (prior to pulling your building permits) to the Department of Public Health for all time spent in review of this project. Fees will be assessed at the Department's hourly rate for Industrial Hygienists.

Additionally, COA 10.Planning.23 for Plot Plans 16979 and 18875 and 10.Planning.22 for Plot Plans 17788, 18876, 18877, and 18879 specify that:

The permit holder may be required to submit periodic noise monitoring reports as determined by the Department of Building and Safety as part of a code enforcement action. Upon written notice from the Department of Building and Safety requiring such a report, the permittee or the permittee's successor-in-interest shall prepare and submit an approved report within thirty (30) calendar days to the Department of Building and Safety, unless more time is allowed through written agreement by the Department of Building and Safety. The noise monitoring report shall be approved by the Office of Industrial Hygiene of the Health Service Agency (the permittee or the permittee's successor-in-interest shall be required to place on deposit sufficient funds to cover the costs of this approval prior to commencing the required report).

Therefore, together with implementation of the mitigation measures and the requirements set forth in the COA, noise impacts from on-site operations are considered to be less than significant.

The Project does not significantly contribute to cumulative noise as shown in Table 4.11-B on page 4.11-10 of the DEIR. The difference between year 2020 noise levels with the Project is a maximum of 3 dBA on Dulles Drive south of Philadelphia. A difference of 5 dBA is considered significant. No further mitigation is necessary or required.

JS Comment #15

Traffic and Transportation:

As the EIR concludes, even after mitigation, the Project's cumulative traffic impacts will remain significant. Additionally, as previously discussed in the air quality section above, the impacts to traffic and transportation will be even greater than estimated in the EIR as the traffic analysis uses an unjustifiably short trip length.

As the Resolution states, although development fees will be paid, "the actual construction of the required off-site improvements" is uncertain and therefore cumulative traffic impacts

may not be mitigated to below a level of significance. Yet, the Project fails to adopt all feasible mitigation measures and those measures that were adopted are uncertain and not fully enforceable.

In order to ensure that MM Trans 6 is fully enforceable, it should read as follows:
“[s]igning/stripping shall be implemented in conjunction with detailed construction plans for the Project site.”

MM Trans 7 should also require that “If the timing of the final phase of the project precedes the planned off-site improvements that will be implemented through payment of the aforementioned fees, the project shall be required to construct interim improvements to provide adequate capacity until the ultimate improvements are completed.”

The following mitigation measures, if not previously adopted in the air quality section, should also be adopted:

1. Provide preferential parking for carpool/vanpool vehicles.
2. Provide secure, weather-protected bicycle parking for employees.
3. Provide direct, safe bicycle access to adjacent bicycle routes.
4. Provide showers and lockers for employees bicycling or walking to work.
5. Provide shuttle service to food service establishments/commercial areas.
6. Provide shuttle service to transit stations/multimodal centers.
7. Implement parking fee for single-occupancy vehicle commuters.
8. Implement parking cash-out program for non-driving employees.
9. Improve traffic flow by signal synchronization.

Responses to JS Comment #15

The traffic report and DEIR analysis of transportation impacts are not based on trip lengths, but rather the number of trips and their distribution. The County analyzed a typical study area that included intersections at which the proposed Project would add 50 or more peak hour trips. Lengthening the trips does not increase the number of trips distributed on roadways. Because all affected intersections meeting this criterion were previously analyzed, no further analysis is necessary. Therefore, the impacts to traffic and transportation outlined in the traffic study and DEIR are not underestimated and would not change based on this assertion.

The Project’s contribution to cumulative impacts is based on the uncertainty of the timing of the off-site improvements, not the adequacy of the mitigation measures or their ability to reduce impacts to less than significant levels. On page 6.0-26 of the DEIR, it states that:

The cumulative effects of the project can be reduced by the payment of fees (e.g., TUMF, DIF) where each development pays its “fair share” for the traffic impacts that are caused that project’s contribution to cumulative traffic levels. These fees may be used by the County to upgrade intersections and roadway segments. Although the development will pay fees to mitigate its “fair share” of the cumulative impacts, the actual construction of the required off-site improvements cannot be determined with

certainty. Thus, it is possible that the required improvements will not be constructed in time to mitigate the project's cumulative impacts to below the level of significance. Therefore, after mitigation, the project's cumulative traffic impacts will remain significant. Adoption of a Statement of Overriding Considerations will be required prior to project approval.

To address the requested modification to mitigation measure MM Trans 6, the following County COA will be included stating:

A signing and striping plan is required for this project. The project proponent shall be responsible for any additional paving and/or striping removal caused by the striping plan. Traffic signing and striping shall be performed by County forces with all incurred costs borne by the applicant, unless otherwise approved by the County Traffic Engineer.

Cumulative impacts can be lessened by the payment of TUMF. Under the TUMF, developers of residential, industrial, and commercial property pay a development fee to fund transportation projects that will be required as a result of the growth the projects create. The purpose of paying TUMF, as described in MM Trans 7, is to mitigate cumulative impacts. The TUMF is expected to create almost \$3 billion in transportation projects for western Riverside County, with more than \$1.4 billion programmed and implemented by Riverside County Transportation Commission (RCTC)¹⁴. Moreover, it is infeasible to construct interim improvements that would mitigate for the potential interim cumulative impacts that may occur until the TUMF improvements are built. Requiring this single Project to bear the full cost of correcting a cumulative impact resulting from dozens and dozens of surrounding projects would violate the requirement that mitigation be "roughly proportionate" to the impacts caused by the Project itself – a requirement that stems from the state and federal constitutional prohibitions against takings. (State CEQA Guidelines, § 15126.4(a)(4).) Additionally, it is not feasible to know what required off-site improvements would be specifically required from this Project not to mention what may already be built. Accordingly, it is both practically and legally infeasible to require that this Project fully fund and construct improvements that vastly exceed the relatively minor portion of the cumulative impact that results from several dozen other projects.

MM Air 4 states that "project-generated trucks shall be instructed to avoid residential areas and schools" will reduce traffic congestion around schools and residential neighborhoods. MM Air 10 "implements signal synchronization to improve track flow;" these measures are similar to the commenter's suggested mitigation measure #9. MM Air 11, requires that "each plot plan proponent shall be responsible for providing information about park and ride programs for employees;" MM Air 15 requires that "the project proponents of each plot plan shall designate parking spaces for high-occupancy vehicles and provide larger parking spaces to accommodate vans used for ride sharing. Proof of compliance will be required prior to the issuance of occupancy permits." MM Air 15 is similar to commenter's suggested mitigation measure 1. Accordingly, the commenter's proposed measures are already being implemented and the intent behind those measures is already being met by the Project. No further mitigation is required.

¹⁴ <http://www.rctc.org/tumf.asp>

The Commenter's suggested mitigation measures #2 and #3 are addressed in MM Air 11, and provide an incentive for alternative transportation. The following COA (90.Planning.13 for PP16979; 90.Planning.14 for PP18875; and 90.Planning.10 for PP17788, PP18876, PP18877, and PP18879) will be modified as shown below to state that:

A bicycle rack with a minimum of six (6) spaces shall be provided in convenient locations to facilitate bicycle access to the project area as shown on APPROVED EXHIBIT A [EXHIBIT L for PP18877 and PP18879]. The bicycle racks shall be shown on project landscaping and improvement plans submitted for Planning Department approval, and shall be installed in accordance with those plans. All bicycle racks shall be weather-protected.

And that "Bike rack spaces or bike lockers shall be shown on the Project's parking and landscaping plan submitted to the Planning Department for approval. A minimum of six spaces shall be provided." (COA 80.Planning.19 for Plot Plan 16979 and 18875; 80.Planning.12 for Plot Plans 17788, 18876, and 18879; 80.Planning.6 for Plot Plan 18877) Beyond that, providing direct, safe bicycle access to bicycle routes is infeasible, because – as explained in the DEIR – there are no bicycle-specific pathways planned for the Project vicinity. (DEIR pp. 4.3-78 through 4.3-79.)

Regarding the commenter's suggested mitigation measure 4, and as previously stated, the Project's future tenants are unknown at this time. To require the Project to build showers and lockers is impractical. Future tenants will determine whether there is a need for showers and lockers for employee use. Moreover, because few employees are expected to travel to work on foot or by bicycle, imposing this measure would not reduce air quality or GHG emissions in any measurable way. Thus, it is not a measure that will actually reduce any potentially significant impacts.

Regarding the commenter's suggested mitigation measures 5 through 8, page 4.3-72 of the Annotated DEIR states "the proposed Project is not a new industrial use within an undeveloped area, but rather an infill development within an existing industrial park. Additionally, the Project is in close proximity to local and regional transportation corridors, including State Route 60 and Interstate 10, and the Ontario Airport. Both of these factors further the GHG Reduction Measures goal of encouraging "infill" and "efficient delivery of services and goods." Additionally, as stated on page 4.3-77 of the Annotated DEIR, "although the RTA provides bus service from approximately ¾ mile to 1½ miles from different portions of the project site, it does not currently provide service to the Project site and at this time has no plans to extend bus service to the Project site. As the Project does not constitute a large job center, providing a shuttle service to public transit is not practical." Therefore, the commenter's suggestions (#5 and #6 above) to provide shuttle service is not necessary or feasible. (See also Response to JS Comment # 4, supra [further addressing the infeasibility of shuttle services].) Additionally, incorporating public transportation into Project considerations has already been addressed on page 4.3-73 of the Annotated DEIR where it states:

Although, the Riverside Transit Agency (RTA) does not currently provide service to the Project site and at this time has no plans to extend bus service to the Project site, the RTA

has two bus routes (Route 21 and Route 49) that serve the area east of the Project site. At their closest point, (the intersection of Philadelphia Avenue and Cabernet Drive in the city of Fontana), these routes are approximately $\frac{3}{4}$ mile from the nearest portion of the Project site (Plot Plan 17788) and from approximately $1\frac{1}{4}$ mile to $1\frac{1}{2}$ mile from the remainder of the project site.

Regarding the commenter's suggested mitigation measures #7 and #8, specifically, as stated on page 4.3-76 of the Air Section of the Annotated DEIR:

Implementation of a paid parking system is appropriate for large job centers with centralized parking structures that facilitate a payment system. The Project site will not include large, centralized parking structures. Rather, individual parking lots will be provided at each facility. Further, the County doesn't have the available resources to collect parking fees on streets and private parking lots; therefore, this measure is not applicable to the proposed Project. Additionally, within Riverside County employees of private development do not typically pay to park as they would in other counties or cities like Los Angeles so to institute such a program would make the Project non-competitive.

JS Comment #16:

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Johnson & Sedlack, an Environmental Law firm representing plaintiff environmental groups in environmental law litigation, primarily CEQA.

City Planning:

Current Planning

- Two years principal planner, Lenexa, Kansas (consulting)
- Two and one half years principal planner, Lee's Summit, Missouri
- One year North Desert Regional Team, San Bernardino County
- Twenty-five years subdivision design: residential, commercial and industrial
- Twenty-five years as applicants representative in various jurisdictions in: Missouri, Texas, Florida, Georgia, Illinois, Wisconsin, Kansas and California
- Twelve years as applicants representative in the telecommunications field

General Plan

- Developed a policy oriented Comprehensive Plan for the City of Lenexa, Kansas.
- Updated Comprehensive Plan for the City of Lee's Summit, Missouri.
- Created innovative zoning ordinance for Lenexa, Kansas.
- Developed Draft Hillside Development Standards, San Bernardino County, CA.
- Developed Draft Grading Standards, San Bernardino County.
- Developed Draft Fiscal Impact Analysis, San Bernardino County

Environmental Analysis

- Two years, Environmental Team, San Bernardino County
 - Review and supervision of preparation of EIR's and joint EIR/EIS's
 - Preparation of Negative Declarations
 - Environmental review of proposed projects
- Eighteen years as an environmental consultant reviewing environmental documentation for plaintiffs in CEQA and NEPA litigation

Representation:

- Represented various clients in litigation primarily in the fields of Environmental and Election law. Clients include:
 - Sierra Club
 - San Bernardino Valley Audubon Society
 - Sea & Sage Audubon Society

- o San Bernardino County Audubon Society
- o Center for Community Action and Environmental Justice
- o Endangered Habitats League
- o Rural Canyons Conservation Fund
- o California Native Plant Society
- o California Oak Foundation
- o Citizens for Responsible Growth in San Marcos
- o Union for a River Greenbelt Environment
- o Citizens to Enforce CEQA
- o Friends of Riverside's Hills
- o De Luz 2000
- o Save Walker Basin
- o Elsinore Murrieta Anza Resource Conservation District

Education:

- B. A. Economics and Political Science, Kansas State University 1970
- Masters of Community and Regional Planning, Kansas State University, 1974
- Additional graduate studies in Economics at the University of Missouri at Kansas City
- J.D. University of La Verne. 1997 Member, Law Review, Deans List, Class Valedictorian, Member Law Review, Published, Journal of Juvenile Law

Professional Associations:

- o Member, American Planning Association
- o Member, American Institute of Certified Planners
- o Member, Association of Environmental Professionals

Johnson & Sedlack, Attorneys at Law

26785 Camino Seco
 Temecula, CA 92590
 (951) 506-9925

12/97- Present

Principal in the environmental law firm of Johnson & Sedlack. Primary areas of practice are environmental and election law. Have provided representation to the Sierra Club, Audubon Society, AT&T Wireless, Endangered Habitats League, Center for Community Action and Environmental Justice, California Native Plant Society and numerous local environmental groups. Primary practice is writ of mandate under the California Environmental Quality Act.

Planning-Environmental Solutions

26785 Camino Seco
 Temecula, CA 92590
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8/94- Present

Served as applicant's representative for planning issues to the telecommunications industry. Secured government entitlements for cell sites. Provided applicant's representative services to private developers of residential projects. Provided design services for private residential development projects. Provided project management of all technical consultants on private developments including traffic, geotechnical, survey, engineering, environmental, hydrogeological, hydrologic, landscape architectural, golf course design and fire consultants.

San Bernardino County Planning Department

Environmental Team
385 N. Arrowhead
San Bernardino, CA 92415
(909) 387-4099

6/91-8/94

Responsible for coordination of production of EIR's and joint EIR/EIS's for numerous projects in the county. Prepared environmental documents for numerous projects within the county. Prepared environmental determinations and environmental review for projects within the county.

San Bernardino County Planning Department

General Plan Team
385 N. Arrowhead
San Bernardino, CA 92415
(909) 387-4099

6/91-6/92

Created draft grading ordinance, hillside development standards, water efficient landscaping ordinance, multi-family development standards, revised planned development section and fiscal impact analysis. Completed land use plans and general plan amendment for approximately 250 square miles. Prepared proposal for specific plan for the Oak Hills community.

San Bernardino County Planning Department

North Desert Regional Planning Team
15505 Civic
Victorville, CA
(619) 243-8245

6/90-6/91

Worked on regional team. Reviewed general plan amendments, tentative tracts, parcel maps and conditional use permits. Prepared CEQA documents for projects.

Broadmoor Associates/Johnson Consulting

229 NW Blue Parkway
Lee's Summit, MO 64063
(816) 525-6640

2/86-6/90

Sold and leased commercial and industrial properties. Designed and developed an executive office park and an industrial park in Lee's Summit, Mo. Designed two additional industrial parks and residential subdivisions. Prepared study to determine target industries for the industrial parks. Prepared applications for tax increment financing district and grants under Economic Development Action Grant program. Prepared input/output analysis of proposed race track. Provided conceptual design of 800 acre mixed use development.

Shepherd Realty Co.

Lee's Summit, MO
6/84-2-86

Sold and leased commercial and industrial properties. Performed investment analysis on properties. Provided planning consulting in subdivision design and rezoning.

Contemporary Concepts Inc.

Lee's Summit, MO

9/78-5/84

Owner

Designed and developed residential subdivision in Lee's Summit, Mo. Supervised all construction trades involved in the development process and the building of homes.

Environmental Design Association

Lee's Summit, Mo.

Project Coordinator

6/77-9/78

Was responsible for site design and preliminary building design for retirement villages in Missouri, Texas and Florida. Was responsible for preparing feasibility studies of possible conversion projects. Was in charge of working with local governments on zoning issues and any problems that might arise with projects. Coordinated work of local architects on projects. Worked with marketing staff regarding design changes needed or contemplated.

City of Lee's Summit, MO

220 SW Main

Lee's Summit, MO 64063

Community Development Director

4/75-6/77

Supervised Community Development Dept. staff. Responsible for preparation of departmental budget and C.D.B.G. budget. Administered Community Development Block Grant program. Developed initial Downtown redevelopment plan with funding from block grant funds. Served as a member of the Lee's Summit Economic Development Committee and provided staff support to them. Prepared study of available industrial sites within the City of Lee's Summit. In charge of all planning and zoning matters for the city including comprehensive plan.

Howard Needles Tammen & Bergendoff

9200 Ward Parkway

Kansas City, MO 64114

(816) 333-4800

Economist/Planner

5/73-4/75

Responsible for conducting economic and planning studies for Public and private sector clients. Consulting City Planner for Lenexa, KS.

Conducted environmental impact study on maintaining varying channel depth of the Columbia River including an input/output analysis. Environmental impact studies of dredging the Mississippi River. Worked on the Johnson County Industrial Airport industrial park master plan including a study on the demand for industrial land and the development of target industries based upon location analysis. Worked on various airport master plans. Developed policy oriented comprehensive plan for the City of Lenexa, KS. Developed innovative zoning ordinance heavily dependent upon performance standards for the City of Lenexa, KS.

Response to JS Comment #16:

This commenter appears to be a copy of a resume. As it does not raise any environmental issues, no response is required pursuant to CEQA. (State CEQA Guidelines, § 15088.) Additionally, to the extent the commenter is holding themselves out as an expert based upon this resume, it must be noted that any comments must be supported by “substantial evidence”. Even assuming, for the sake of argument only, that the commenter is a planning expert, substantial evidence does not flatly extend to all expert statements. Indeed, substantial evidence includes only facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts, but does not include speculation or information that is clearly erroneous or conclusory. (State CEQA Guidelines, § 15384.) As discussed in the above responses, the commenter’s comments are not supported by facts and, in many instances, are based on an incorrect or incomplete reading of the EIR and applicable laws. Accordingly, the comments are not supported by substantial evidence.

JS Comment #17:

EXHIBITS INCLUDED WITH 11.30.2010 APPEAL LETTER

- (1) May 28, 2009 CCAEJ Comment Letter re: Mira Loma Commerce Center
- (2) June 11, 2010 CCAEJ & NRDC Comment Letter re: Mira Loma Commerce Center
- (3) Kleinman, Michael T., South Coast Air Quality Management District (Fall 2000). The Health Effects of Air Pollution on Children.
- (4) Office of the California Attorney General (May 21, 2008). The California Environmental Quality Act: Addressing Global Warming Impacts at the Local Agency Level.
- (5) Southern California Association of Governments (January 2008). 2003 Model Validation and Summary, Regional Transportation Model, Chapter 7: Heavy Duty Truck Model. Available at <http://www.scag.ca.gov/modeling/index.htm>.
- (6) California Air Resources Board (April 2005). Air Quality and Land Use Handbook: A Community Health Perspective. (pages ES1-ES3, 1-15)
- (7) California Air Resources Board (2008). Staff Report: Initial Statement of Reasons for Proposed Rulemaking – Proposed Regulation for In-Use On-Road Vehicles, Appendix G: Emissions Inventory Methodology and Results. Available at <http://www.arb.ca.gov/regact/2008/truckbus08/appg.pdf>.

Response to JS Comment # 17:

The commenter provided an attachment sheet indicating seven separate exhibits were included. However, Exhibit 6, California Air Resources Board’s (CARB’s) *Air Quality and Land Use Handbook: A Community Health Perspective*, was not included with the submittal. Further, none of the exhibits were specifically mentioned in the text of the comment letter.

Exhibit 1 is a duplicate copy of the comment letter received from CCAEJ during the public review period of the Draft EIR that the County provided a full written response to in the Final EIR (FEIR pp. 2.0-100 through 2.0-109.).

Exhibit 2 is a duplicate copy of the comment letter dated June 11, 2010 (more than one year after the close of public review) submitted jointly by CCAEJ and the Natural Resources Defense Council (NRDC). Full written responses to this comment letter were attached to the Staff Report for the Director's Hearing on October 4, 2010.

Exhibit 3 is an article by the South Coast Air Quality Management District (SCAQMD) titled *The Health Effects of Air Pollution on Children* (Fall 2000). This article summarizes what is known about the health effects of criteria pollutants on sensitive populations such as children and recommends reducing strenuous activity during pollution episodes and to take advantage of those hours when airborne particulate pollutant levels are lowest. Health effects of criteria pollutants are summarized in the Draft EIR (pp. 4.3-7 through 4.3-9) as well as the effects of diesel exhaust and toxic air contaminants (Draft EIR pp. 4.3-9 through 4.3-11). This attachment does not provide information that changes any analysis in the EIR because it provides background information on the health effects of criteria pollutants.

Exhibit 4 is a list of various measures provided by the State of California Attorney General that local agencies may consider to offset or reduce greenhouse gas (GHG) emissions at the project-level and the general plan level. Each of the identified project-level measures was fully considered and responded to in the Final EIR (DEIR pp. 4.3-61 through 4.3-79) in a table labeled *California Attorney General's Office Identified GHG Reduction Measures* with an explanation of how the Project implements these measures as part of Project design or mitigation, or, if the Project does not implement the measure, why the measure is not applicable or infeasible.

Exhibit 5 is Chapter 7 (Heavy Duty Truck Model) of the Southern California Association of Governments (SCAG) January 2008 report *Year 2003 Model Validation and Summary: Regional Transportation Model*. The chapter summarized the Heavy Duty Truck Model as it was used in the report. This attachment does not provide information that changes any analysis in the EIR because it provides background information on the Heavy Duty Truck Model as integrated in the SCAG Regional Transportation Model and does not provide any data specific to the proposed Project nor does the commenter provide the context in which the Exhibit was attached.

As noted above, Exhibit 6 (CARB's Air Quality and Land Use Handbook) was not attached with the submitted comment letter. CARB's Air Quality and Land Use Handbook provides recommendations for siting new sensitive land uses. These recommendations include a 500-foot buffer between new sensitive land uses and freeways or urban roads with 100,000 vehicles per day. The Handbook also recommends to avoid the placement of new sensitive land uses within 1,000 feet of a distribution center (accommodating more than 100 trucks per day, 40 trucks with transport refrigeration units (TRUs), or where TRUs operate more than 300 hours a week) and to take into account the configuration of existing distribution centers and avoid locating residences and other sensitive land uses near entry and exit points. These are recommendations, not mandates, and land use decisions ultimately lie with the local agency which needs to balance other considerations. The relationship of this Project to recommended setbacks is further

discussed in Response to JS Comment #7, above, and previously responded to in the Final EIR in response to the CCAEJ comment letter dated May 28, 2009 (.FEIR pp. 2.0-102 through 2.0-104.).

Exhibit 7 is Appendix G, Emissions Inventory Methodology and Results, of the CARB *Staff Report: Initial Statement of Reasons for Proposed Rulemaking – Proposed Regulation for In-Use On-Road Vehicles*. This attachment does not provide information that changes any analysis in the EIR because it provides background information on the methodology used in the cited CARB report.

Responses to Johnson & Sedlack, February 16, 2010 Comment letter on the Mira Loma Commerce Center EIR #450:

All comments/topics addressed in this letter have been responded to previously in responses to prior comment letters from Johnson & Sedlack or others. A few subjects are further clarified below.

Comment 1:

Aesthetics:

All feasible mitigation measures were not adopted in the EIR to mitigate for potential significant impacts from light. Requiring timers to turn off lights during the day in no way mitigates for impacts from light at night, presumably the predominant time when lighting would be utilized. The design feature that, "Wherever practicable, energy efficient lighting will be used," also does not provide any mitigation or enforceable measures. The proposed mitigation that low pressure sodium fixtures be used for exterior lighting is feasible and should be implemented to reduce impacts. Also, the proposed mitigation that site lighting be compatible with "Dark Sky" specifications has not been shown to be infeasible and should be required.

Response 1:

The comment suggesting "Dark Sky" specifications was made and responded to in prior comments/responses from/to Johnson & Sedlack. To further clarify how the proposed downlighting is equivalent to "Dark Sky" lighting, the following is a brief description of this terminology and the County's requirements for meeting such requirements.

The Dark Sky Society educates members and legislative efforts to eliminate *light pollution*. "Light pollution is defined as: Glare, light trespass, and light which is reflected into the night sky, contributing to sky glow, through the use of unshielded, misplaced, excessive, or unnecessary outdoor night lighting." (<http://www.darkskysociety.org/>) Light pollution is any adverse effect of manmade light; often used to denote urban sky glow. Light trespass is light falling where it is not wanted or needed; spill light; obtrusive light. Glare is intense and blinding light. (<http://www.darksky.org>)

County of Riverside Ordinance 655, Regulating Light Pollution, does not apply in this portion of the County because the site is more than 45 miles north of the Mount Palomar Observatory, but it does include regulations intended to: "restrict the permitted use of certain light fixtures emitting into the night sky undesirable light rays which have a detrimental effect on astronomical observation and

research.” In this same ordinance, shielded lights that meet this definition and avoid the light pollution opposed by Dark Sky entities are defined as fully shielded and partially shielded:

- “Fully shielded means outdoor light fixtures shielded or constructed so that light rays emitted by the fixtures are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted.
- Partially shielded means outdoor light fixtures designed or constructed so that ninety percent (90%) of the light rays emitted by the fixture are projected below the horizontal plane passing through the lowest point of the shield.”

The project is already conditioned to use outdoor lights for building security and parking lots which are hooded and directed so as to not shine directly upon adjoining properties (COA 10.Planning.3) and to comply with Riverside County Ord. 655 (80.Planning.21). The project design features also include shielded light fixtures (No. 12 on p. 4.3-36 of the DEIR).

Although covered through the use of hooded lighting fixtures and energy efficient lighting which includes low pressure sodium, LED and others, existing COA 10.Planning.3 will be modified to clarify the use of fully shielded fixtures and energy efficient outdoor lighting:

Any outside lighting shall be fully hooded and directed so as not to shine directly upon adjoining property or public rights-of-way. The project shall use energy efficient outdoor lighting.

Thus, the project will meet “Dark Sky” recommendations and use energy efficient lighting.

Comment 2:

~~In MM Air 15, preferential parking for carpool/vanpool only applies to high-occupancy vehicles and vans used for ride sharing, not basic cars, trucks, or vans carpooling. Mitigation should provide preferential parking to all carpoolers.~~

Response 2:

All comments/topics addressed in this letter related to air quality have been responded to previously in response to prior comment letters from Johnson & Sedlack or others. Further clarification of “high-occupancy vehicles” is provided to help clarify this mitigation measure.

Mitigation Measure MM Air 15 states:

MM Air 15: The project proponents of each plot plan shall designate parking spaces for high-occupancy vehicles and provide larger parking spaces to accommodate vans used for

ride sharing. Proof of compliance will be required prior to the issuance of occupancy permits.

Caltrans defines high-occupancy vehicles as "vehicles occupied by two (sometimes three) or more persons such as carpools and buses. (www.dot.ca.gov/dist4/sfobb/appendixD.html) Therefore, the definition of HOV does not specify the type of vehicle used for this purpose. MM Air 15 already requires parking spaces for cars, trucks and other vehicles used for carpooling. In addition, it requires larger spaces for vans.

Comment 3:

The project will have significant noise impacts, contrary to the conclusion of the EIR. For instance, even taking into account the 5 dBA threshold for a significant permanent noise increase adopted in the EIR (whether or not this threshold is well above what constitutes a significant noise increase per our prior comments), the project will result in increases of up to 8 dBA at Hopkins and Etiwanda. This is a significant impact.

Response to Comment 3:

The DEIR (p. 4.11-9) explains that a 5 dBA change is perceptible to a healthy human ear and was therefore used a threshold of significance which is consistent with the certified General Plan FEIR. The area along Hopkins Street east of Etiwanda consists entirely of industrial uses and there are no outside uses (such as break areas) or even sidewalks to facilitate or encourage pedestrians along this stretch of road. Therefore, it is highly unlikely that there would be a sensitive receptor (pedestrian) in the area to be able to perceive the 8 dBA change in the noise environment from 2002 existing levels. The DEIR (p. 4.11-9) states:

The maximum project-related noise increases is +8 dB along Hopkins Street east of Etiwanda Avenue. That increase, however, occurs along industrial property where the noise/land use standard is 75 dB(A) CNEL. Additionally, while a 5 dB or greater increase in noise levels experienced by sensitive receptors is generally considered to be significant, there are no sensitive receptors along Hopkins Street. Since the "with project" traffic noise level of 68 dB(A) CNEL at 100 feet from the centerline will only be experienced by industrial uses rather than sensitive receptors and the noise level falls within acceptable ranges as shown in Figure 4.11-3, the increase in noise along Hopkins Street will not significantly impact any adjacent land uses.

As the noise standard for industrial land uses is 75 dBA and the project-related traffic will increase the noise level to only 68 dBA; well below the 75 dBA standard. The impact, although greater than 5 dBA from existing (2002) levels, is less than significant.

Comment 4:

A noise barrier should be constructed around the project sites. By this terminology, Johnson & Sedfaek specifically means some sort of noise attenuation wall, not merely distances which are unable to mitigate noise below a level of significance.

Lastly, although the project design calls for 6ft high separation walls, which may be higher if nighttime activities occur, there is no requirement that the walls reduce impacts to a level below significance or meet any sort of performance standards. Additional mitigation requiring that these walls reduce noise below significant levels should be required.

Response to Comment 4:

One page 2 , 3rd complete paragraph down, of the Noise Impact Study (included in Appendix I of the DEIR), Giroux and Associates describe the Riverside County standards (65 dBA for daytime, 7 a.m. to 10 p.m., and 45 dBA for nighttime, 10 p.m. to 7 a.m.) for assessing stationary noise impacts to residential land uses. The last sentence of that paragraph states that "if a proposed project has the potential to exceed these limits, then noise abatement in the form of source control or propagation barriers should be considered." The noise analyst was aware of, and took into consideration, the fact that noise levels needed to be mitigated to 65 dBA during the day and to 45 dBA at night. The study stated if trucking activity occurred within 200 feet of the 6-foot high separation wall, it was recommended that a masonry perimeter barrier of 8 feet in height be constructed, separating any project parcel along a shared residential property line for daytime visual and noise shielding. Therefore, a 6-foot high barrier would mitigate noise impacts to 65 dBA from daytime trucking activity further than 200 feet from said separation wall; the 8-foot barrier would mitigate daytime noise impacts to 65 dBA at the sensitive receptor boundary. The study also stated that the barrier would need to be increased to 12 feet (in order to mitigate the noise level down to 45 dBA) if nocturnal loading-dock activities were expected.

The Project Conditions of Approval reflect this as shown in items three through 5 of COA 10.Planning. 22 for PP18875, and 10.Planning. 21 for PP18876, PP18877, and PP18879 which state that:

3. The proposed 6-foot high separation wall between project parcels adjacent to existing residential uses should be raised to 8 feet if daytime trucking activity occurs within 200 feet of the property line.
4. A 12-foot high perimeter barrier shall be required if nocturnal (10 p.m. to 7 a.m.) loading dock material handling activities are conducted within 300 feet of any residence. If nocturnal trucking activities are conducted simultaneously of the warehouse/loading dock, the 12-foot-high barrier shall be required if such combined activities occur within 600 feet of an existing home.
5. No nocturnal loading / unloading shall occur within 100 feet of any residence for Plot Plans 18876 and 18877. No combined trucking movements and unloading /loading shall occur within 200 feet of any residence from 10 p.m. to 7 a.m.

However, page 4.11-17 of the DEIR states that

although the Noise Impact Study determined that a 12-foot high perimeter wall is required if nocturnal loading dock materials handling is conducted within 300 feet of any residence or if nocturnal trucking activities are conducted concurrently with loading dock activities within 600 feet of a residence, the Riverside County Planning Department has determined that the

aesthetics of a 12-foot high wall is not ideal nor compatible with the design of the area. Therefore, the Planning Department has determined that the maximum height of this wall, if necessary to address nocturnal activities, should be eight feet.

Of the six plot plans that comprise the proposed project, the two that are closest to existing residences are Plot Plan 18876 and Plot Plan 18877. The developer of these plot plans has agreed to have no nocturnal activities, and this restriction will be implemented through mitigation measure **MM Noise 9**.

MM Noise 9 states that “no nocturnal operations within Plot Plan 18876 and Plot Plan 18877 shall take place between the hours of 10 p.m. and 7 a.m.” Therefore, impacts to sensitive receptors will be within levels required by the County noise standards.

Comment 5:

~~Recommended mitigation measure 4, regarding maintaining roads well and ensuring that they are bump-free, is intended to reduce noise from trucks and their loads, not merely tire noise. For this reason, this measure differs substantially from rubberized asphalt and should be required of the project.~~

Response to Comment 5:

The comment suggesting rubberized asphalt was made and responded to in prior comments/responses from/to Johnson & Sedlack.

Impacts to roads and their maintenance were addressed on page 4.15-19 of the Traffic and Transportation section of the DEIR which states.

***Threshold:** Cause an effect upon, or a need for new or altered maintenance of roads.*

The proposed project will not involve the construction of public roadways. The increase of truck traffic for the proposed industrial developments may result in the need for increased roadway maintenance. There may be potential impacts to existing roadways resulting in the need for increased road maintenance from increased truck traffic. **The project is addressed through standard County conditions of approval, plan check and permit procedures, and code enforcement practices, therefore impacts upon public facilities, such as roads, will be less than significant.**

Impacts were found to be less than significant. No further mitigation is required.

Johnson & Sedlack

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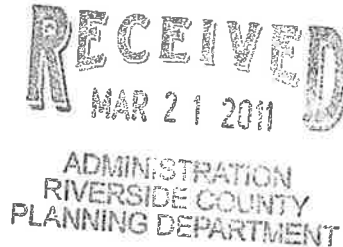
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March 17, 2011

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RE: Appeal of Planning Director's Hearing Resolution No. 2010-006, Certifying Environmental Impact Report No. 450 for the Mira Loma Commerce Center, State Clearinghouse No. 2002121128.

Honorable Commissioners:

This is one of two letters submitted on behalf of the Center For Community Action and Environmental Justice in support of the appeal of the approval of the Mira Loma Commerce Center Project. The second letter is of a more technical nature and I hope that you will read and heed it. This letter will really only deal with the issue of air pollution and its concomitant health impacts to the residents of Mira Loma. I hope you will seriously consider the below comments and reconsider the approval of this Project in light of the grave health risks to which the Project will subject area residents.

There are two significant and distinct areas of pollution, one generalized air pollution and the other health risks associated with toxic air contaminants, specifically diesel particulates. Unfortunately, at the February hearing, there seemed to be some confusion and conflation of the two issues. The Project will result in significant air quality impacts and this seemed to be the focus of the hearing. While there are unquestionably significant air quality impacts that will cumulatively impact the entire community and region, there are also significant health risks from increased cancer risk that are particular to the Mira Loma Village community immediately adjacent to the Project, the retirement community of Country Village, Mission Bell Elementary School (approximately $\frac{3}{4}$ mile southeast of the project site), Granite Hill Elementary School (approximately $1\frac{1}{4}$ mile east of the project site), and Jurupa Valley High School (approximately $1\frac{1}{4}$ mile south of the project site). The February discussion tended to concentrate on the generalized cumulative impacts; not the increased risk of cancer and other severe health related impacts to the adjacent Mira Loma Village. The increased health risks in the adjacent project area are significant and unmitigated with this Project. However, these risks are *avoidable* if certain changes to the Project are adopted, as detailed below.

The nearby residents are among the most powerless in the County: lower income, elderly, largely minority residents. Neighborhood schools also serve lower income areas and the children attending them are without a political voice. Their interests are pitted against large scale development, with seemingly unlimited resources to lobby for their interests. The result of this has historically been environmental inequities, which continue to persist in the area. Namely, the development of environmentally harmful projects mostly occurs in poorer areas, causing those residents to suffer increased health problems such as asthma, cancer, and heart problems. Government instituted environmental justice initiatives and policies have been undertaken to cure these inequities, yet the imbalance persists. In this case, the decision rests with the Planning Commission whether it will choose to protect the welfare of these residents or not.

Mitigation measures proposed at the February hearing, while they may improve air quality issues county-wide and make the Commissioners feel better, will do nothing to prevent the health risk to the residents of Mira Loma Village, Country Village, Mission Bell Elementary School, Granite Hill Elementary School, and Jurupa Valley High School from the toxic air contaminants. The proposed mitigation measures at the February hearing will not reduce diesel particulate emissions, the primary cause of toxic air contaminant-related cancer and a localized air quality issue. The health related impacts to area schools and residents will remain the same with these additional mitigation measures incorporated.

There are ways to avoid these localized air quality related health impacts. The developer falsely presents development of the Project as an all or nothing question: either the developer must be allowed to build precisely what it wants, or the Planning Commission can deny the Project. This is simply not the case. There is an environmentally superior alternative, the Reduced Density Alternative, that will significantly decrease not only the generalized air quality impacts but also the cancer, cardiovascular and respiratory risks to the adjacent subdivision, retirement community and schools.

Where there is an environmentally superior alternative that significantly decreases the significant impacts of the Project then that alternative must be approved rather than the Project if that alternative is feasible, even if the alternative would impede to some degree the attainment of the project objectives, or would be more costly. [(PRC§ 21002; *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 597, State CEQA Guidelines § 15126.6(b)] In this case, the developer falsely claims that the alternative is infeasible. This claim is based upon a contention that the alternative will not meet three Project Objectives:

- The proposed alternative will not **optimize** the economic potential of the undeveloped parcels within the Mira Loma Commerce Center in compliance with the site's land use designation. [emphasis added]
- The alternative will not create an array of new employment opportunities to utilize the skilled labor pool within Riverside County **as compared to the proposed Project**. [emphasis added]
- The proposed alternative will not improve the economic development potential of the Mira Loma area by utilizing the site's location and proximity to major interstate transportation corridors pursuant to the Mira Loma Warehouse/Distribution Center policy in the Jurupa Area Plan **to the same extent as the proposed project**. [emphasis added]

Too often, project alternatives are selected that are not realistic from the county perspective but rather are designed by the developer to ensure that there are no feasible project alternatives. In this case, there is no contention that the environmentally superior alternative fails to completely meet core project objectives, but rather that it doesn't do so as well as the Project. County government is here to protect the welfare of the residents, not just to guarantee maximum profits for developers. There is no contention that the environmentally superior alternative is not financially feasible, merely that it is potentially less profitable.

A basic question remains: Is it the job of the Commission to ensure that a developer is entitled to the maximum profit on a project regardless of the impact on the local residents; or is the Commission's duty to ensure development in a manner which protects local residents from harmful, and possibly fatal, development, while allowing developers a reasonable return on their investment?

What is the cost of allowing the developer to maximize profits? In this case, in addition to adding to existing serious problem with air pollution in an area that has been identified as having some of the worst air quality in the nation, causing a significant traffic impact, and creating a significant noise impact, the cost is a significant cancer risk to the residents of Mira Loma Village, the retirement community of Country Village, Mission Bell Elementary School (approximately ¾ mile southeast of the project site), Granite Hill Elementary School (approximately 1¼ mile east of the project site), and Jurupa Valley High School (approximately 1¼ mile south of the project site). Additionally, there will be greatly increased non-cancer risk of pulmonary and cardiovascular problems, particularly for the elderly and the young. Is the developer contributing to the \$6.3 billion annually that poor air quality costs Riverside and San Bernardino annually in health care expenses? Will the developer pay to treat the additional cancers which this project will create? Will the developer hand a child attending one of the local schools his asthma inhaler when his lungs fail to develop properly?

This development will also result in lost utility of the public schools and private property in the area. The developer in this case, aided by the County is creating a **taking of the private property without compensation and without due process of law**, of the residents of Mira Loma Village. The residents are losing the right of quiet enjoyment of their property. If they want to be able to live, free of cancer, asthma or heart attack, they must abandon their property and move somewhere else. They are being forced from their property, or in the alternative, being forced to endure the certainty of increased and unhealthy noise levels, and the very real likelihood of asthma, heart disease or cancer as a result of allowing the developer to maximize its profits. Is the developer compensating the residents of Mira Loma Village for the lost quiet enjoyment of their property? Likewise, resident children and teachers will be forced from these public schools or forced to suffer various serious lung problems as a result of high toxic air contaminant levels. Is the developer contributing to the County for the lost utility of these local public schools? When the developer and County proceed with a project that they know will result in health risks, will they become liable for health impacts of the proposed Project and is the developer indemnifying the County for those claims?

On the other hand, what is the cost of developing the environmentally superior alternative such that local residents are protected and the developer earns only a reasonable return on its investment? The environmentally superior alternative, while it might not maximize developer profits, would none the less meet other project objectives and would not endanger the health of nearby residents and school children. While the alternative may or may not provide as many jobs as the proposed Project, there remain many other opportunities to provide employment in Riverside County without jeopardizing the health of nearby residents and school children. This is not the last piece of developable ground in Riverside County. Because of the shift away from the larger warehouse component there may actually be more jobs created. In addition these jobs would likely pay more than warehouse jobs. If this Project is unable to meet demands for warehouse space in the County then there will be plenty of opportunities for other projects to do so. It is also entirely likely that by reducing the building sizes, as would occur with the environmentally superior alternative, that there will actually be more jobs created because the uses become more process oriented versus the Project-proposed bulk warehousing, which has a very low level of employment per square foot.

It would appear to me that the appropriate role for the County Government is to maximize opportunities without jeopardizing the health and welfare of the residents of the county. Where there are opportunities to mitigate the environmental impacts of a project then these measures should be adopted. By law, where the mitigation measures are incapable of mitigating the significant environmental impacts, then project alternatives that will substantially mitigate the environmental impacts **must** be approved **instead** of the Project. **The proposed Project cannot be legally approved.** This is not an all or nothing decision: the Project may successfully be developed per the environmentally superior alternative or other alternatives.

I respectfully ask that the Commission choose to deny the proposed Project, approve the Reduced Density Alternative, or have the Project redesigned to remove heavy diesel truck users to protect nearby residents and students. The health and welfare of area residents should take precedence over, or at the very least be weighed against, the success and profitability of this poorly conceived development. Thank you for your consideration of these comments.

Sincerely,

Johnson & Sedlack

A handwritten signature in black ink, appearing to read "Raymond W. Johnson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Raymond W. Johnson, Esq. AICP

cc: Sarah Morrison

Johnson & Sedlack

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March 17, 2011

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RE: Planning Commission Appeal of Planning Director's Hearing Resolution No. 2010-006, Certifying Environmental Impact Report No. 450 for the Mira Loma Commerce Center, State Clearinghouse No. 2002121128.

Greetings:

This firm represents the Center for Community Action and Environmental Justice and submits these comments on their behalf in support of the Mira Loma Commerce Center (SCH# 2002121128) appeal.

This project fails to make adequate findings, *based on substantial evidence* that the environmentally superior alternative, the Reduced Scope Alternative, is infeasible. Likewise, the Statement of Overriding Consideration made for the project is not supported by substantial evidence in the record. This project will have significant impacts and specifically will emit substantial levels of Toxic Air Contaminants in an area known to have some of the worst air quality in the nation. This is unacceptable, and CCAEJ properly asks that the Planning Commission decide to deny project approval

STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA Guidelines § 15093 (b) provides that when the agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR, but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The decision to approve a project in spite of significant environment impacts requires the decision-making agency to balance the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks. (Guidelines § 15093(a).) However, the Statement of Overriding Considerations ("SOC") shall be supported by **substantial evidence** in the record. (*Id.*) In *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4th 1212, 1222, the court said: "Whereas the [mitigation and feasibility] findings ... typically focus on the feasibility of specific proposed alternatives and mitigation measures, the statement of overriding considerations

focuses on the larger, more general reasons for approving the project, such as the need to create new jobs, provide housing, generate taxes, and the like.”

The Mira Loma Commerce Center will have significant and immitigable environmental impacts to air quality, noise, and transportation/traffic impacts, and CEQA requires that the County adopt a Statement of Overriding Considerations for these impacts. Such a Statement is improper in this instance as there is no substantial evidence in the record to support a determination that this project’s so-called benefits outweigh its severe impacts, particularly when it comes to Toxic Air Contaminants (TACs) resulting from the project’s mobile diesel emissions. The potential health risks to the community including the risk of cancer, death, lung diseases, etc. far outweigh any potential the meager benefits of this project to the developers and site users. CCAEJ thus respectfully asks that the Planning Commission deny approval of this project.

Diesel Particulate Matter (PM) and Health Risks:

This project will substantially contribute to TACs in the form of Diesel PM, the result of which is an increased risk of cancer and other health impacts to the individuals residing near this project, especially infants, children, and the elderly. In the immediate vicinity of the project site are the Mira Loma Village neighborhood, the retirement community of Country Village, Mission Bell Elementary School (approximately ¼ mile southeast of the project site), Granite Hill Elementary School (approximately 1¼ mile east of the project site), and Jurupa Valley High School (approximately 1¼ mile south of the project site). All of these sensitive receptors will be adversely impacted, as detailed below, by the diesel PM emissions created by this project.

TACs are air pollutants which may cause or contribute to an increase in deaths or in serious illness, or which may pose a present or potential hazard to human health. In 1998, CARB designated Diesel PM as a TAC. CARB also set a lifetime cancer risk from diesel particles at 3 in 10,000.

The Riverside County General Plan states the following with regards to particulate matter:

“The Environmental Protection Agency (EPA) defines particulate matter (PM) as either airborne photochemical precipitates or windborne dust. Consisting of tiny solid or liquid particles of soot, dust, smoke, fumes, and aerosols, common sources of PM are manufacturing and power plants, agriculture, *diesel trucks* and other vehicles, construction sites, fire and windblown dust. Generally PM settles from atmospheric suspension as either particulate or acid rain and fog that has the potential to damage health, crops, and property. Particulate of 2.5 microns or smaller (2.5 microns is approximately equal to .000098 inches) may stay suspended in the air for longer periods of time and when inhaled can penetrate deep into the lungs. Among the health effects related to PM2.5 are *premature death, decreased lung function and exacerbation of asthma and other respiratory tract illnesses.*

Particulate sized between 2.5 and 10 microns (10 microns is approximately equal to .0004 inches), known as PM10 also pose a great risk to human health. PM10 can easily enter the air sacs in the lungs where they may be deposited, resulting in an *increased risk*

of developing cancer, potentially changing lung function and structure, and possibly exacerbating preexisting respiratory and cardiovascular diseases. It can also irritate the eyes, damage sensitive tissues, sometimes carry disease, and may even cause premature death. PM2.5 and PM10 are especially hazardous to the old, young and infirm.

Although it produces less than 10% of the South Coast Air Basin's particulate matter, *western Riverside County, which is part of the SOCAB, exceeds federal standards more than any other urban area in the nation, and has the highest particulate concentration in the SOCAB.* These high levels of particulate matter are largely imported from the urbanized portions of Los Angeles and Orange Counties. This imported particulate is generally composed of photochemical precipitates rather than dust, smoke or soot. *Riverside County is also responsible for generating large amounts of particulate matter from sources such as agriculture, warehousing operations, and truck traffic...*

While sources and severity of particulate pollution differ in subareas of the County, it is the County's objective to control particulate matter throughout all of Riverside County. However, where necessary, the County shall tailor its control measures and implementation procedures to best address the unique situations found in each area. **One example of such an area is the Mira Loma community, where particulate pollutant levels are among the worst in the nation. In such an area, strong measures must be taken immediately to protect the health and welfare of residents, especially children, the elderly and those with respiratory illnesses.** [emphasis added]

Diesel particulates contribute about 84% of the total air toxics cancer risk in the project area. (Multiple Air Toxics Exposure Study (MATES) III Final Report September 2008, <<http://aqmd.gov/prdas/matesIII/matesIII.html>>, p. 2-10.) The Health Risk Assessment ("HRA") conducted for this project found that at residences in Mira Loma Village and Country Village the Mira Loma Commerce Center project, in and of itself, would result in up to 22.2 in one million additional cancers (21.5 with mitigation), more than double SCAQMD's significance threshold of 10 in one million. (EIR, Table 4.3-V) The project would exceed significance levels at 12 out of the 40 sensitive receptors measured, and 12 out of the 20 measured in the Mira Loma Village residential area. (EIR, Table 4.3-V) This is in addition to the existing ambient TACs and diesel PM at these sensitive receptors, which are far in excess of acceptable levels at up to 45.6 additional cancers per million. (EIR, Table 4.3-T)

Importantly, in studies conducted for this project regarding adopting specific truck fleet requirements to reduce air quality impacts, namely 50 % of trucks at 2007 emission standards and 20% at 2010 emission standards, it was found that these improvements would not significantly reduce TACs. These requirements would therefore *not mitigate* for the substantial health impacts from TACs to area residents, despite any improvements to air quality overall.

Moreover, the HRA accounts only for the cancer risk caused by this project. In addition to the risk of cancer, diesel PM is known to cause immune system effects; reproductive, developmental, and endocrine effects; nervous system effects; and lung health problems, as recognized by the County in the General Plan. Immune system effects include increased allergic

inflammatory responses and suppression of infection fighting ability. Diesel PM has also been associated with reproductive effects such as decreased sperm production, changes in fetal development, low birth weight and other impacts. Diesel PM exposure may also cause impairment to the central nervous system. (*The Health Effects of Air Pollution on Children*, Michael T. Kleinman, Ph.D, Fall 2000, <http://aqmd.gov/forstudents/health_effects_on_children.html#WhyChildren>; See also, *Diesel and Health in America: the Lingering Threat*, Clean Air Task Force, February 2005, <http://www.catf.us/resources/publications/files/Diesel_Health_in_America.pdf>)

SCAQMD has stated with regards to the health effects from diesel PM:

“Diesel particles consist mainly of elemental carbon and other carbon-containing compounds... Diesel particles are microscopic... Due to their minute size, diesel particles can penetrate deeply into the lung. There is evidence that once in the lung, diesel particles may stay there for a long time.

In addition to particles, diesel exhaust contains several gaseous compounds including carbon monoxide, nitrogen oxides, sulfur dioxide and organic vapors, for example formaldehyde and 1,3-butadiene. Formaldehyde and 1,3-butadiene have been classified as toxic and hazardous air pollutants. Both have been shown to cause tumors in animal studies and there is evidence that exposure to high levels of 1,3-butadiene can cause cancer in humans...

Diesel emissions may also be a problem for asthmatics. Some studies suggest that children with asthma who live near roadways with high amounts of diesel truck traffic have more asthma attacks and use more asthma medication.

Some human volunteers, exposed to diesel exhaust in carefully controlled laboratory studies, reported symptoms such as eye and throat irritation, coughing, phlegm production, difficulty breathing, headache, lightheadedness, nausea and perception of unpleasant odors. Another laboratory study, in which volunteers were exposed to relatively high levels of diesel particles for about an hour, showed that such exposures could cause lung inflammation.” (*The Health Effects of Air Pollution on Children, supra*; See also, *Mira Loma Commerce Center EIR No. 450, Air Quality, Section 4.*)

Furthermore, infants, children, and the elderly are more susceptible to diesel PM and its associated health impacts. Given this project’s close proximity to three schools and a retirement community, this increased susceptibility is extremely relevant. With regards to infants and children, increased susceptibility to TACs and diesel PM exists for a variety of reasons. Children are generally more active than adults, have higher respiration rates, and inhale more pollutants deeper into the lung. Children also have more lung surface area in proportion to their body size and inhale more air pound for pound when compared to adults, taking in 20 to 50 percent more air and associated air pollutants than adults. When compared to adults, children spend more active time outdoors in polluted air environments and exert themselves harder than adults when playing outside. Importantly, this exposure to high pollutant levels in children

occurs while their lungs are still developing, and therefore has more severe impacts on this sensitive group. (*The Health Effects of Air Pollution on Children, supra.*)

This increased susceptibility to air pollutant emissions for children has resulted in the California EPA Office of Environmental Health Hazard Assessment ("OEHHA") weighting cancer risk by a factor of 10 for exposures to carcinogens from birth to two years old, and by a factor of 3 for exposures from 2 years old to 15 years old. (*Technical Support Document for Cancer Potency Factors: Methodologies for derivation, listing of available values, and adjustments to allow for early life stage exposures*, California EPA OEHHA Air Toxicology and Epidemiology Branch, April 2009, p. 3. <http://www.oehha.ca.gov/air/hot_spots/pdf/TSDCPFApril_09.pdf>)

Additionally, recent studies conducted by SCAQMD's Brain and Lung Tumor and Air Pollution Foundation have found a specific connection between exposure to diesel PM and brain cancer in children. (Annual Meeting of the Brain & Lung Tumor and Air Pollution Foundation, April 2, 2010, <<http://www.aqmd.gov/hb/2010/April/100425a.htm>>)

In addition to an increased risk of cancer, the effects of diesel PM on children include slowed lung function and growth, increased emergency room visits, increased incidences of asthma and bronchitis, crib death, asthma respiratory infections, allergic symptoms, and asthma hospitalizations. (*Diesel and Health in America: the Lingering Threat, supra.*)

Seniors have also been found to be at higher risk to diesel PM. Studies have found that diesel PM changes heart rhythms in seniors, increases cardiovascular disease mortality, and increases daily mortality. (*Diesel and Health in America: the Lingering Threat, supra.*)

This project will contribute to an already dire TAC situation in Riverside and particularly the Mira Loma area. Notably, the same day that the appeal of this project last came before the Planning Commission for consideration, you considered and approved GPA 1096, an amendment to the General Plan to add a Healthy Communities Element which seeks to reduce hazardous air quality impacts to environmental and human health. The Healthy Communities Element of the General Plan was approved in view of the following significant health impacts resulting from already poor air quality in Riverside County:

- ***Asthma-Related Hospitalizations:*** In 2005, the greatest percentage of asthma-related hospitalizations were among those under age 18 (38%) followed by those over 65 (19%). Blacks experienced the greatest rate of hospitalizations in 2005 at 225.7 per 100,000 population, versus 99.5 and 81.2 for Hispanics and whites, respectively.
- ***Risk of Cancer from Diesel Soot and Other Toxic Air Pollutants: Whereas the regional risk of cancer from diesel soot and other toxic air pollutants dropped by 8 percent between 1998 and 2005, the cancer risk in Riverside County increased by 2 percent.***
- Poor air quality costs Riverside and San Bernardino around ***\$6.3 billion annually*** in health care expenses.
- 19% of private schools, 11% of public schools, an 21% of licensed child care centers in Riverside County are located within a quarter (1/4) mile of a major highway.
- Around 350,000 Riverside County residents live within a half (1/2) mile of a major highway, including about 40,000 children under age 5.

- Five schools in Riverside County rank in the 10th percentile for air quality, meaning that 90 percent of the schools in the country had better air. Twenty-five schools ranked in the 50th percentile or below.

Recognizing these present and unacceptable consequences of air pollution to the health of Riverside's residents, particularly children and the elderly, the County General Plan and recently approved Healthy Communities Element have adopted General Plan policies pertinent to this project.

General Plan Policies

Specifically with regards to Mira Loma and as stated above, the Riverside County General Plan states:

“[W]here necessary, the County shall tailor its control measures and implementation procedures to best address the unique situations found in each area. One example of such an area is the Mira Loma community, where particulate pollutant levels are among the worst in the nation. In such an area, strong measures must be taken immediately to protect the health and welfare of residents, especially children, the elderly and those with respiratory illnesses.”

In approving this project, the County will be subjecting the residents of Mira Loma and the County to even higher particulate pollutant levels than already exist. These are not the “strong measures” needed to protect the health and welfare of residents that the General Plan aspired to implement.

The Jurupa Area Plan also recognizes the significant air quality issues associated with development in the Mira Loma Area:

“The proximity of the warehousing uses to the residential areas has generated considerable concern in the community relating to air pollution impacts from the many diesel-powered vehicles and heavy trucks associated with the warehousing and distribution uses.”

In order to implement the objectives of the General Plan and reduce health risks associated with TACs, particularly with regards to Mira Loma, the Riverside County General Plan has adopted the following pertinent policies:

LU 6.4 Retain and enhance the integrity of existing residential, employment, agricultural, and open space areas by protecting them from encroachment of land uses that would result in impacts from noise, noxious fumes, glare, shadowing, and traffic.

LU 10.2 Ensure adequate separation between pollution producing activities and sensitive emission receptors, such as hospitals, residences, and schools.

LU 24.6 Control the development of industrial uses that use, store, produce, or transport toxins, generate unacceptable levels of noise or air pollution, or result in other impacts.

AQ 2.1 The County land use planning efforts shall assure that sensitive receptors are separated and protected from polluting point sources to the greatest extent possible.

AQ 2.2 Require site plan designs to protect people and land uses sensitive to air pollution through the use of barriers and/or distance from emissions sources when possible.

C 3.8 Restrict heavy duty truck through-traffic in residential and community center areas and plan land uses so that trucks do not need to traverse these areas.

The recently approved Healthy Communities Element also creates the following policies:

HC 14.1: "Pursue a comprehensive strategy to ensure that residents breathe clean air..."

HC 14.3: "To the extent feasible, avoid locating new facilities that may produce harmful air pollution near homes and other sensitive receptors."

This project is in complete opposition with all of the above policies of the RCIP. The County has repeatedly recognized the harm to human health caused by diesel PM. The County has also repeatedly recognized the necessity to avoid siting facilities which will generate harmful air pollution and diesel PM near sensitive receptors. Yet, when this project will site twenty four (24) industrial buildings comprising 1,128,237 square feet, with 1,427 parking spaces, 30 trailer parking spaces and 123 loading docks, in an area with one of the worst PM pollution problems in the nation *and* in close proximity to single family residences, the County approved the project.

Pursuant to CEQA, it is requisite that this decision to approve the project in light of its grave impacts to resident health, and in light of its total inconsistency with the above General Plan policies, must be based on ample overriding project benefits. This, however, is not the case, as the benefits of this project are meager and speculative at best.

Project Benefits:

This project will not have the specific economic, legal, social, technological, or other benefits to the County, region, or state which a Statement of Overriding Consideration requires. The benefits of the project, as enumerated in the Statement of Overriding Considerations, are insubstantial and will at best benefit only a few select individuals. Moreover, the "benefits" of this project merely restate the project objectives. Consequently, a Statement of Overriding Considerations cannot properly be adopted.

The specific "benefits" identified for this project in support of the Statement of Overriding Considerations include:

- A. Optimizing the economic potential of vacant land by developing the property in compliance with the land use designation.

- B. Generating additional employment opportunities for skilled labor.
- C. Maximizing the site's existing location and proximity to transportation corridors.
- D. Creating a cohesive design and building theme.
- E. Balancing housing and employment opportunities.
- F. Co-locating jobs and housing to reduce vehicle miles traveled.
- G. Placing project in an area compatible with its land use designation.
- H. Alternative locations are not environmentally superior.
- I. Avoid urban sprawl into previously undeveloped areas.

Of these "benefits," only (B) represents a benefit to the community, and can in no way be deemed to outweigh the severe environmental impacts of this project to human health and the environment. Furthermore, the benefit of employment opportunities is speculative, as the final development of these plot plans is uncertain and future occupation is unknown. While the project is speculatively estimated to create anywhere between 567 to 1,101 jobs (DEIR p. 5.0-4) if and when the warehouses are built and occupied, it is uncertain whether any of these jobs will require "skilled labor" as the warehouses uses are unknown. Hence the potential benefit outlined in (B) is minimal and speculative at best.

The remainder of the "benefits" merely state information about the project site or only benefit the developers and/ or future occupants of the building. Most of the "benefits" are simply facts about the site's land use and location. Benefits (A), (C), (G), and (H) all merely state that the project is in a good location for the developer(s) to turn a profit, and state facts about the land use designation of the project site. These statements assert absolutely no "specific economic, legal, social, technological, or other benefits" as required by CEQA.

(D) is simply a recitation of the project's requirement to reduce aesthetic impacts. This "cohesive building theme" would be unnecessary if the project was not developed.

The "benefits" of (E), (F), and (I) again merely make statements about the project site, and are nonetheless specifically offset by the resulting substantial harm from TACs that will result from this project. While land use policies generally seek to balance housing and employment and reduce vehicle miles traveled, coincident policies recognize the need to separate significant sources of TACs from existing residential communities, as discussed above. These so called benefits are particularly countered in the Mira Loma area where the County has repeatedly recognized the need for strong and immediate action to reduce PM and related health impacts to residents. Any alleged benefits are therefore specifically offset by the need to protect the health of residents from carcinogenic risks, risk of death, and other non-cancer impacts.

Overall, the so-called project "benefits" are merely statements that the project is in a good location for the developer, without referencing any specific economic, social, technological, or other benefits to the community which could outweigh the substantial impacts from the project to TACs and the health of area residents.

"The requirement of a statement of overriding considerations is central to CEQA's role as a public accountability statute; it requires public officials, in approving environmentally detrimental projects, to justify their decisions based on the counterbalancing social, economic or

other benefits, and to point to substantial evidence in support.” (*Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 124) There is no evidence, substantial or otherwise, which would support a policy decision approving this project. The benefits of this project are minimal at best, whereas the environmental impacts and concomitant health risks of this project severe in one of the worst air quality areas in the nation. This project simply generates too substantial of an impact for too little benefit. CCAEJ therefore respectfully requests that the Planning Commission deny approval of this project in order to protect and preserve the health and well-being of area residents, and particularly the most vulnerable children and the elderly.

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

If the Planning Commission determines to approve the project, it must adopt the environmentally superior alternative since the environmentally superior alternative is feasible and will substantially reduce impacts from TAC emissions, among others. CEQA is premised on the policy that state agencies should not approve projects as proposed if feasible alternatives exist which would substantially lessen the environmental effects of a project. (Public Resources Code § 21002.) To further this objective, CEQA requires that a public agency make the following finding if it decides to approve a project for which will cause significant environmental effects: “Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the ... project alternatives identified in the final EIR.” (PRC § 21081 (a)(3), Guidelines § 15091 (a)(3).) There is no evidence to support the County making of this finding with regards to this project.

The Reduced Scope Alternative was the environmentally superior alternative for this project. The Reduced Scope Alternative would develop 58.5% of the proposed building square footage and would correspondingly reduce traffic trips, air quality emissions from traffic (diesel PM), greenhouse gases, noise, and impacts solid waste. Importantly, adoption of this alternative would *reduce vehicular traffic by 41.5%*, and correspondingly reduce project related emission of diesel PM. Although the project would continue to contribute to an existing exceedance of diesel PM in the SCAB (cumulative impact), the project’s individual impact would be substantially reduced. Notably, the alternatives analysis in the EIR does not quantify this reduction, and the finding stating that individual exceedances of cancer risk due to diesel exhaust will persist is not based on substantial evidence.

Presumably the HRA for the Reduced Scope Alternative would find at least a 41.5% reduction in cancer risk, from high of 21.5 additional cancers per million (with project mitigation) to 12.6 additional cancers per million. (Table 4.3 V) This is almost half of the cancer risk of the project as proposed. Non-cancer health risks associated with diesel PM would likewise be halved. Moreover, applying this same 41.5% reduction, the Reduced Scope alternative would substantially reduce the number of sensitive receptors which would experience an exceedance of SCAQMD’s threshold (10 additional cancers per million), *from twelve (12) receptors to only two (2) receptors*. (Receptors 2 (12.6) and 3 (11.6) in the Mira Loma Village community) Stated another way, approving the Reduced Scope Alternative would reduce project specific impacts at ten sensitive receptors below a level of significance.

**CANCER RISK FROM PROJECT ONLY AT SENSITIVE RECEPTORS
WHICH EXCEED SCAQMD THRESHOLD WITH PROJECT MITIGATION**

| Receptor | Mitigated Cancer Risk of Proposed Project (Per Million) | Reduced Scope Alternative Cancer Risk Applying 41.5% Reduction (Per Million) |
|----------|---|--|
| 1 | 14.5 | 8.5 |
| 2 | 19.8 | 11.6 |
| 3 | 21.5 | 12.6 |
| 4 | 13.6 | 8.0 |
| 5 | 11.4 | 6.7 |
| 6 | 11.2 | 6.6 |
| 7 | 10.3 | 6.0 |
| 9 | 11.4 | 6.7 |
| 10 | 15.6 | 9.1 |
| 11 | 10.1 | 5.9 |
| 14 | 10.7 | 6.3 |
| 19 | 10.1 | 5.9 |

Also with the Reduced Scope Alternative, *traffic impacts will be reduced to a level below significance*. The reduction in vehicular traffic is likely to reduce TACs even further, as circulation will be improved compared to the project as proposed. This improved circulation will result in less idling on roadways and intersections near sensitive receptors, reducing TAC emissions individually and cumulatively. The Reduced Scope Alternative thereby substantially lessens the air quality impacts from TAC emissions and reduces traffic impacts below a level of significance. It also appears that this improvement will, individually, reduce project noise impacts below a level of significance, although cumulative impacts will remain the significant. Accordingly, this alternative must be adopted unless it is found to be infeasible.

There is no substantial evidence which the County may rely on to support a determination that the Reduced Scope Alternative is infeasible. The EIR found that the only impacts which will be “worse” with the Reduced Scope Alternative are Population and Housing and “Regional Element.” Both of these sections state the same thing: a reduced project will result in reduced jobs. However, impacts from reduced job creation are speculative. First, as detailed above, it is uncertain how many and what type of jobs this project will create, if it creates any at all. This is because the development and end uses to which the sites will be put are unknown. Second, the number of jobs created will depend on the end uses to which the development is put. As conceived, these end uses will most likely be warehouse distribution. If the uses are altered due to smaller building size, there is a potential that smaller sites may require more employees per square foot. Third, given the range estimating the number of jobs created by this project, from 567 to 1,101 jobs, it is possible that even half of the jobs created with a reduced project will remain within this range. Fourth, the “Regional Element,” namely the jobs/ housing ratio, is already evaluated as part of the Population and Housing section. As discussed above, the General Plan recognizes that the need to improve the jobs/ housing ratio *must be balanced*

against the health risks of siting new sources of air pollutants near sensitive receptors. The EIR evidently chose to overlook those contrary General Plan policies.

The findings necessary to approve the project over the Reduced Scope Alternative are weak and insubstantial, and surely not, "Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers" which "make infeasible the ...project alternatives," as CEQA requires. Essentially, the findings state that the alternative will not (1) "optimize the economic potential" of the site to the developer and (2) will create fewer jobs.

"The outcomes offered by the Reduced Project Scope Alternative are limited when compared to the proposed Project, to the extent that the proposed alternative will not optimize the economic potential of the undeveloped parcels within the Mira Loma Commerce Center in compliance with the site's land use designation. (Draft EIR, p. 6.0-57.) The alternative will also not create an array of new employment opportunities to utilize the skilled labor pool within Riverside County as compared to the proposed Project. (Draft EIR, p. 6.0-57.) The proposed alternative also will not improve the economic development potential of the Mira Loma area by utilizing the site's location and proximity to major interstate transportation corridors pursuant to the Mira Loma Warehouse/ Distribution Center policy in the Jurupa Area Plan to the same extent as the proposed Project. (Draft EIR, p. 6.0-57.) This alternative would not result in maximum utilization of the land use as compared to the proposed Project: Therefore, although the Reduced Project Scope Alternative is an environmentally superior alternative, it is not feasible for the economic, social, technological, and other factors identified above and thus is not being further considered for development in lieu of the proposed Project. (Draft EIR, p. 6.0-57.)"

When compared to the significant impacts of the project which will be reduced with this superior alternative, it is difficult to concur with the finding made for the project. As far as job creation, the number of jobs created is not merely reliant on the size of the buildings, but will have just as much to do with the end users and uses to which the sites are put, as discussed above. Reducing the size of buildings could actually *increase* the number of jobs created, as smaller buildings are more likely to be put to more people intense and process oriented uses when compared to warehousing/distribution. Moreover, stating that this alternative will not create an "array of new employment opportunities" is not based on any evidence, much less substantial evidence. Development of this alternative could potentially occur in a manner which would meet or exceed the employment creation objectives of the project.

Any discussion of "optimizing the economic potential of undeveloped parcels" and like statements discuss only benefits to those persons associated with the project, in this case the developer(s) and/or end users. There is in fact no indication or evidence that this alternative is economically infeasible, but instead only that it will result in some decreased profitability to the developer and/or end users. As stated in *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 599:

“The fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. *What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project.*” [emphasis added]

While the Reduced Scope Alternative may result in reduced profitability to the developer, there simply no substantial evidence to support a finding that the Reduced Scope Alternative is financially infeasible.

As there is no substantial evidence to demonstrate that the Reduced Scope Alternative’s impact on jobs and lost profits render the project impractical, the environmentally superior Reduced Scope Alternative must be approved over the proposed project.

OTHER POTENTIAL ALTERNATIVES

Alternatively, CCAEJ recommends either reducing the size of the buildings or putting the development to an alternative use. Reducing the size of the buildings at the project sites would correspondingly reduce the size of the trucks and distance the trucks will travel in accessing the building sites. This would substantially reduce the impact from the project’s mobile emissions of TACs while maintaining distribution warehouse uses.

Another alternative which would substantially reduce air quality impacts from TACs would involve putting this development to alternative uses not reliant on heavy trucks. Currently, the project proposes the development of distribution warehouses, a use reliant on heavy, diesel PM emitting trucks. However, the land use designations for the project sites permit land uses, such as service and commercial uses, which will have considerably reduced TAC emissions. For example, the Industrial Park and Medium Manufacturing designations permit: banks and financial institutions; blueprint and duplicating services; laboratories, film, medical, research, or testing centers; office equipment sales and service; offices, professional sales and service, including business, law, medical, dental, chiropractic, architectural and engineering; restaurants and other eating establishments; barber and beauty shops; health and exercise centers, etc.

Putting this proposed development toward these commercial or service uses instead of its present proposed use will substantially reduce the impacts and health risks from diesel PM. What is more, as with the Reduced Scope Alternative, development could potentially occur in a manner which would meet or exceed the employment creation objectives of the project, namely create between 500-1,100 new and varied employment opportunities in the area.

CONCLUSION

It boils down to a determination of what is more important: That the land be developed to the maximum extent so that the developer(s) can maximize profits? Or that the residents of Mira Loma and Riverside do not suffer adverse health impacts from harmful air quality emissions, extensive traffic, and excessive noise as a result of a poorly conceived project? It is time to stop promoting development to the detriment of the health of the area citizens. Please choose to act for the greatest benefit to the greatest number of people in Mira Loma. Deny this project.

March 17, 2011
Page 13

Thank you for your consideration of this appeal and the above comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond W. Johnson", with a long horizontal flourish extending to the right.

Raymond W. Johnson
Johnson & Sedlack

cc: Sarah Morrison



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

February 15, 2011

Ms. Carolyn Syms Luna
County of Riverside
Planning Department
4080 Lemon Street, 9th Floor, P.O. Box 1409
Riverside, CA 92502-1409

Subject: Proposed Mira Loma Commerce Center Project, Annotated Recirculated
Environmental Impact Report Number 450

Dear Ms. Luna:

The U.S. Environmental Protection Agency (EPA) was informed of the proposed Mira Loma Commerce Center project during a community organized tour of the Inland Valley in December of 2010. As part of the tour, we visited the Mira Loma Village neighborhood and spoke with several residents who voiced their concerns regarding the potential impacts from the proposed warehouse project described in the County of Riverside's Environmental Impact Report (EIR). While EPA does not routinely review EIRs, at the request of the community groups, EPA has reviewed the Mira Loma Commerce Center Project EIR and the associated comments from regulatory agencies, Southern California Association of Governments, and the Center for Community Action and Environmental Justice.

As described in the EIR, the diesel emissions from the constant truck traffic will add to the existing poor air quality in the area, resulting in significant health impacts to the residents of this overburdened, low income, and minority neighborhood. As you know, this area does not meet EPA's National Ambient Air Quality Standards (NAAQS) and is classified as extreme nonattainment for 8-hour and 1-hour ozone, serious nonattainment for particulate matter less than 10 microns, and nonattainment for particulate matter less than 2.5 microns. We support the mitigation measures suggested by the South Coast Air Quality Management District (SCAQMD) in its October 21, 2010 comment letter on the Final EIR, that would include a partial or phased requirement for a clean diesel truck fleet to serve the proposed commerce center. We have learned that the project proponent has recently begun discussions about the project with community groups directly affected by the Commerce Center. We hope these negotiations lead to additional mitigation measures to avoid or minimize impacts of the project.

The Mira Loma Village neighborhood is comprised of low-income, Latino residents, a fact that was not brought up in the EIR. As discussed in EPA's *Framework for Cumulative Risk*¹ and the *National Environmental Justice Advisory Council's Ensuring Risk Reduction in Communities with Multiple Stressors: Environmental Justice and Cumulative Risks/Impacts*², disadvantaged, underserved, and overburdened communities are likely to have pre-existing deficits of both a physical and social nature that make the effects of environmental pollution more, and in some cases

¹ Available at: http://oaspub.epa.gov/eims/eimscomm.getfile?p_download_id=36941

² Available at: <http://www.epa.gov/compliance/ej/resources/publications/nejac/nejac-cum-risk-rpt-122104.pdf>

unacceptably, burdensome. In making your decision on the project, we recommend you consider the potential for certain subpopulations, such as residents of Mira Loma Village or children attending schools near the project area, to be more adversely affected by air pollution, as we believe it further supports the need to avoid or mitigate emissions from the Commerce Center. We strongly encourage your office to evaluate any relevant and readily available health data (such as asthma prevalence rates and rates for asthma emergency department visits and hospitalizations) to determine the current health status of this community and the potential health impacts from the proposed project on what may be a more susceptible population. EPA recently promulgated a more stringent NAAQS for NO₂, an air pollutant which can aggravate asthma and other respiratory ailments, particularly for populations living near roadways. The scientific support documentation for the new NO₂ standard provides context for considering potentially more susceptible populations³.

Please contact me, at (415) 972-3843, or Tom Kelly, of my staff, at (415) 972-3856 or kelly.thomasp@epa.gov, if EPA can be of assistance in this matter.

Sincerely,



Enrique Manzanilla
Director, Communities and Ecosystems Division

cc: Ian MacMillan, South Coast Air Quality Management District

³ See U.S. EPA. Integrated Science Assessment for Oxides of Nitrogen – Health Criteria (Final Report), Section 4.3. U.S. Environmental Protection Agency, Washington, DC, EPA/600/R-08/071, 2008. Available at: <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=194645#Download>

Johnson & Sedlack

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February 16, 2011

Riverside County Planning Department
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RE: Planning Commission Agenda Item No. 3.5 -- Appeal of Planning Director's Hearing Resolution No. 2010-006, Certifying Environmental Impact Report No. 450 for the Mira Loma Commerce Center, State Clearinghouse No. 2002121128.

Greetings:

This firm represents the Center for Community Action and Environmental Justice and submits these comments on their behalf in support of the appeal in this action and in response to the Staff Report prepared for this hearing. This is an appeal of the Planning Director's October 18, 2010 decision regarding adoption of Resolution No. 2010-006, certification of the Final Environmental Impact Report ("Final EIR") No. 450 for the Mira Loma Commerce Center (SCH# 2002121128), approval of Plot Plan Nos. 16979, 17788, 18875, 18876, 18877, 18879 and all associated environmental documents and approvals for the Mira Loma Commerce Center.

Aesthetics:

All feasible mitigation measures were not adopted in the EIR to mitigate for potential significant impacts from light. Requiring timers to turn off lights during the day in no way mitigates for impacts from light at night, presumably the predominant time when lighting would be utilized. The design feature that, "Wherever practicable, energy efficient lighting will be used," also does not provide any mitigation or enforceable measures. The proposed mitigation that low pressure sodium fixtures be used for exterior lighting is feasible and should be implemented to reduce impacts. Also, the proposed mitigation that site lighting be compatible with "Dark Sky" specifications has not been shown to be infeasible and should be required.

Air Quality:

Shuttle service has not been demonstrated to be infeasible, particularly with regards to transport to and from the Etiwanda commercial center and to and from transit stations. The purpose of shuttle service is to reduce vehicle trips to and from the site and promote the utilization of public transit. Shuttle service should be required of this project.

With regards to the proposed mitigation of a meal truck, if a meal truck would likely access the site during construction and operation, it is not infeasible to require that a meal truck be contacted and ensured to be onsite as a contract specification to project tenants.

It has not been shown to be infeasible to limit phasing of construction activity among the 6 plot plans. As NOX emissions could be significantly reduced by not having concurrent building, such a plan should be implemented through contract specifications to future tenants.

Ridesharing incentives are not shown to be infeasible and should therefore be required of the project.

With regards to truck trips to and from the ports, the reasoning in the staff report is substantively flawed. The staff report claims that as this project consists of smaller warehouses, port trips will be unlikely. However, warehouses will be constructed up to 426,212 sq. ft., where the staff report defines small warehouses as 250,000 sq. ft. Also, this analysis only considered heavy duty truck trips, not smaller trips.

The suggested mitigation measures requiring SmartWay compliance or users is not shown to be infeasible because the future tenants are unknown. This requirement could easily be written into and required by contract specification.

Installing catalytic converters on gas powered equipment is not already mitigated by MM Air 6, which requires low emission propane or electric forklifts for forklifts only. MM Air 6 does not mitigate for any other gas powered equipment. Hence catalytic converters should still be required for other equipment. Likewise, for electric yard trucks, MM Air 6 does not apply and only applies to forklifts. A mitigation measure requiring electric yard trucks should be implemented with this project.

In MM Air 15, preferential parking for carpool/vanpool only applies to high-occupancy vehicles and vans used for ride sharing, not basic cars, trucks, or vans carpooling. Mitigation should provide preferential parking to all carpoolers.

Implementing a parking fee for single-occupancy vehicle commuters is not shown to be infeasible. In fact, the reasoning relied on that it would penalize people for driving to work is the purpose of the measure, such that carpooling and alternative transportation methods would be thereby promoted. This mitigation measure should be required of the project as it has not been shown to be infeasible and would reduce air quality impacts.

There is no explanation of why incentives for public transit or carpooling are infeasible. Preferential parking for vans and high occupancy vehicles does not incentivize public transit.

The project is unclear as to what level of LEED certification is required and does not explain why requiring a specific LEED certification is infeasible. If platinum is infeasible, the project could require LEED gold certification.

A mitigation measure requiring that solar power be used sufficient to provide for the needs of the project and all project mobile sources should still be required and is not shown to be infeasible. The staff report States that only one building would possibly be used in SCE's Solar Rooftop Program, however this doesn't explain why the developers could not feasibly build solar on the other buildings. Also, there is no guarantee that solar will be build by SCE. A mitigation measure should require some sort of guarantee that solar will be build onsite, such as a letter of intent from SCE.

Solar water heaters can feasibly be required of this project and will provide substantial mitigation over tankless water heaters. Also, tankless will only be used "wherever practicable," and is uncertain to ever be used on this project. Solar water heating is thus still feasible and would substantially reduce this project's air quality emissions.

Biological Resources

As this project will result in a potentially significant impact to biological resources, all feasible mitigation is required. Neither the EIR nor staff report demonstrate that it is infeasible to require off-site mitigation of a similar type and amount of habitat as proposed by CCAEJ.

Hydrology and Water Quality:

The staff report claims that all development was discussed in JCSD's Optimum Basin Management Plan WSA; however the WSA did not include this specific project in calculations, just impacts of "development". Also, it is unclear if any cumulative impacts of nearby projects were taken into account in making this determination that there would be sufficient recharge capacity. Therefore, the County must adopt the following additional mitigation measure which has not been shown to be infeasible:

1. Pavement and impermeable surfaces must be reduced to the greatest extent feasible. Where paving is necessary, permeable paving alternatives must be utilized such that infiltration happens passively through the site.

Utilities:

Cumulative solid waste impacts are not addressed in the staff report analysis of individual solid waste impacts. Moreover, the assumption that if recycling facilities are installed, they will be used to the maximum extent possible to reduce impacts is invalid and not predicated on fact. There is no reason why it is infeasible to require contracts with future occupants to require that all recyclable materials be recycled. This mitigation must be required of the project.

Noise:

The project will have significant noise impacts, contrary to the conclusion of the EIR. For instance, even taking into account the 5 dbA threshold for a significant permanent noise increase adopted in the EIR (whether or not this threshold is well above what constitutes a significant noise increase per our prior comments), the project will result in increases of up to 8 dBA at Hopkins and Etiwanda. This is a significant impact.

The mitigation measures in the noise section specifically and improperly rely on Ordinance 847.

A noise barrier should be constructed around the project sites. By this terminology, Johnson & Sedlack specifically means some sort of noise attenuation wall, not merely distances which are unable to mitigate noise below a level of significance.

The staff report and EIR do not adequately evaluate or mitigate for cumulative noise impacts. Specifically, facility-related noise individually is referred to when impacts cumulatively may be much more severe.

There is no mitigation for daytime impacts. This is improper where the project will result in significant impacts as a result of significant permanent noise increases over existing levels. According, the mitigation measures recommended with the appeal filing and beforehand by Johnson & Sedlack should be implemented.

Recommended mitigation measure 4, regarding maintaining roads well and ensuring that they are bump-free, is intended to reduce noise from trucks and their loads, not merely tire noise. For this reason, this measure differs substantially from rubberized asphalt and should be required of the project.

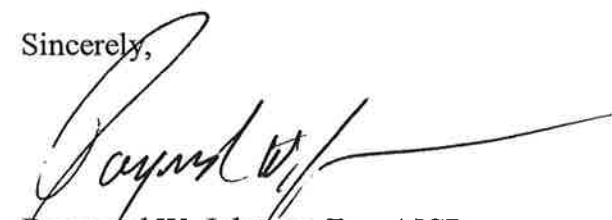
Lastly, although the project design calls for 6ft high separation walls, which may be higher if nighttime activities occur, there is no requirement that the walls reduce impacts to a level below significance or meet any sort of performance standards. Additional mitigation requiring that these walls reduce noise below significant levels should be required.

Traffic and Transportation:

Johnson & Sedlack restates their comments provided in the Air Quality section of this letter, as they are substantively the same, and will provide traffic mitigation as well.

Thank you for your consideration.

Sincerely,



Raymond W. Johnson, Esq. AICP
JOHNSON & SEDLACK

Johnson & Sedlack

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FAX COVER SHEET

DATE: November 30, 2010

TO: **PLANNING COMMISSION**
COMPANY: **COUNTY OF RIVERSIDE**
DEPARTMENT: **PLANNING DEPARTMENT**
FAX: (951) 955-1811

FROM: RAYMOND W. JOHNSON, ESQ. AICP
PHONE: 951-506-9925
FAX: 951-506-9725

RE: **MIRA LOMA COMMERCE CENTER**

CASE NUMBER:

Number of pages including cover sheet: 76

Urgent For Review Please Comment Please Reply Please Recycle

COMMENTS:

Comment letter and exhibits (in part) re Appeal of Adoption of Planning Commission Resolution No. 2010-06 for the Mira Loma Commerce Center, for review by the Planning Commission December 1, 2010 Public Hearing, Agenda Item No. 4.5. Additional exhibits to be sent via email.

This facsimile communication is for intended recipient only and is confidential and protected by attorney/client privilege. If you are not the intended recipient, please advise the sender immediately. Unauthorized use or distribution is prohibited and may be unlawful.

Johnson Sedlack

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November 30, 2010

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**RE: Planning Commission, December 1, 2010 Public Hearing – Agenda Item No. 4.5 --
Appeal of Adoption of Planning Commission Resolution No. 2010-06, Certification of
Environmental Impact Report No. 450 for the Mira Loma Commerce Center, State
Clearinghouse No. 2002121128.**

Greetings:

This firm represents the Center for Community Action and Environmental Justice and submits these comments on their behalf in support of the appeal filed October 28, 2010. This is an appeal of the Planning Director's October 18, 2010 decision regarding adoption of Resolution No. 2010-006, certification of the Final Environmental Impact Report ("Final EIR") No. 450 for the Mira Loma Commerce Center (SCH# 2002121128), approval of Plot Plan Nos. 16979, 17788, 18875, 18876, 18877, 18879 and all associated environmental documents and approvals for the Mira Loma Commerce Center. The Planning Commission is scheduled to conduct a hearing on this appeal on December 1, 2010.

The Mira Loma Commerce Center is a proposal to construct and operate twenty four (24) industrial buildings on 65.05 acres for a total building area of 1,128,237 square feet. The Project would include 1,427 parking spaces, 30 trailer parking spaces and 123 loading docks. The Project site is located in the Community of Glen Avon of the Jurupa Area Plan in Western Riverside County, north of State Highway 80, south of Philadelphia Avenue, east of Etiwanda Avenue and west of Grapevine Street. The Project site is currently vacant and abuts the residential communities of Mira Loma Village and Country Village. Those Plot Plans closest to the residential Mira Loma Village and Country Village are zoned Industrial Park (I-P), while the other three (3) Plot Plans are zoned Manufacturing-Medium (M-M). Future uses of the development are currently unknown. The Project site consists of Assessor's Parcel Numbers 156-360-014, -015, -020, -021, -027, -028, -031, -032 and -041. The Final EIR concludes that the Project will result in significant and unavoidable impacts to/resulting from air quality, noise, and transportation and traffic.

As discussed in previous comment letters submitted by the Center for Community Action and Environmental Justice on May 28, 2009 and June 11, 2010, the EIR is inadequate as it fails to comply with the requirements of the California Environmental Quality Act (CEQA). Specifically, the EIR fails to adequately analyze impacts pertaining to air quality, greenhouse gas emissions, and traffic; fails to analyze and adopt all feasible mitigation measures; fails to comply with the County of Riverside General Plan; and fails to consider adequate project alternatives. In addition to those comments previously submitted, the following comments are being submitted in support of the application for appeal.

COMMENTS ON PLANNING DIRECTOR'S ADOPTION OF RESOLUTION NO. 2010-006 AND CERTIFICATION OF ENVIRONMENTAL IMPACT REPORT (EIR) NO. 450:

General Comments:

CEQA was adopted as a disclosure and transparency document. The theory is that by providing a document that adequately describes the environmental consequences of a project to decision makers and the public, the decision makers will make a rational decision based upon the true environmental consequences of the project and if they do not, the electorate can hold them accountable for their decisions. The core of this statutory structure is the adequacy of the document as an informational document.

Unfortunately, the **Final EIR for this Project fails as an informational document.** The Final EIR also misleads decision makers and the public as to the extent and severity of the Project's environmental impacts. As the California Supreme Court has stated, "an EIR may not ignore the regional impacts of a project proposal, including those impacts that occur outside of its borders; on the contrary, a regional perspective is required."¹ CEQA requires that when an EIR identifies one or more significant environmental effects of a project, the public agency must make written findings for each of those effects. These findings must be supported by substantial evidence. Here, the Final EIR fails to comply with these CEQA requirements. The Final EIR is often conclusory, and does not provide the analysis or examination required by CEQA to inform the public and decision makers of the analytical pathway taken from facts to conclusions. Additionally, the findings required in the Final EIR **are not supported by substantial evidence** and the Final EIR fails as an informational document by conducting impact analyses based on unreasonably low estimates.

Moreover, CEQA requires that where feasible mitigation exists which can substantially lessen the environmental impacts of a project, **all feasible mitigation must be adopted.** In this way CEQA goes beyond its informational role to require that projects substantively lessen their negative effects on the environment. It is critical to proper drafting of an EIR that all feasible mitigation measures be required of a project. Moreover, all mitigation measures required in the EIR must be fully enforceable and certain to occur. This has not been done with this Project. This Project fails to ensure that all feasible mitigation will occur with this Project. This is unacceptable.

¹ *Board of Supervisors of the County of Santa Barbara v. Wallover, Inc.* (1990) 52 Cal. 3d 553 (citing *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263,283; CEQA Guidelines §§ 15125, 15206.)

Aesthetics:

All feasible mitigation measures were not adopted in the EIR. In order to avoid significant affects associated with light from the Project, the following mitigation measures must also be adopted:

1. Site lighting shall be compatible with "Dark Sky" specifications.
2. Utilize low pressure sodium fixtures for exterior lighting including parking lots.

Air Quality:

Construction

Although the Project will result in significant and unavoidable direct and cumulative air quality impacts from construction and abuts the residential communities of Country Village (a senior community) and Mira Loma Village, the EIR fails to adopt all feasible mitigation. This is unacceptable. The Project will result in the emission of ROG and NOx above the South Coast Air Quality Management District (SCAQMD) recommended daily regional thresholds and the emission of PM10 and PM2.5 above the SCAQMD recommended localized thresholds during construction. Therefore, a number of changes to the current mitigation measures should be implemented in order to provide increased levels of mitigation.

The County decided not to incorporate several mitigation measures which were considered in the DEIR, finding that implementation would be infeasible. The County reasoned that Proposed Mitigation Measure (MM) Air 3, to provide on-site services to minimize truck traffic such as: meal or cafeteria service, ATMs, convenience stores, is infeasible since the Project is in an industrially zoned area, does not include parking requirements for commercial/service facilities, and is plainly, just not needed since there are similar facilities on Etiwanda Avenue. Yet, in light of this reasoning, County could still provide ATMs onsite and allow for a meal van to come onsite during operating hours. These measures would not require any zone changes or change in parking requirements. Additionally, these measures would greatly decrease the vehicle miles traveled in order to get to the commercial facility on Etiwanda Avenue. Additionally, in the alternative, the Project should be required to provide shuttle service for employees and construction workers to the commercial facility on Etiwanda Avenue. These are feasible mitigation measures which the County has failed to properly adopt.

MM Air 2 should be modified so as to require that construction vehicles *and delivery vehicles* be prohibited from idling for a period in excess of *three (3)* minutes, rather than the current five (5) minutes. Similarly, MM Air 3b should be modified so that on-street traffic will have idling times of *three (3)* minutes, rather than the current five (5) minutes. MM Air 3b should also require in addition to "[r]equiring all trucks hauling dirt, sand, soil, or other loose materials" be covered, that at least six (6) inches of freeboard space from the top of the container be maintained. Also, when sweeping streets at the end of the day, reclaimed water shall be used.

Additionally, the following mitigation measures should be adopted:

1. All roadways, driveways, sidewalks, etc. should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used.
2. All roads on construction sites shall be paved.
3. Limit fugitive dust sources to 20 percent opacity.
4. A dust control plan shall be required for earthmoving operations.
5. The contractor or builder shall designate a person or persons to monitor the dust control program and order increased watering, as necessary, to prevent transport of dust offsite.
6. Implement activity management techniques including a) development of a comprehensive construction management plan designed to minimize the number of large construction equipment operating during any given time period; b) limitation of the length of construction work-day period; and c) phasing of construction activity.*
7. Extend grading period sufficiently to reduce air quality impacts below a level of significance.
8. Require high pressure injectors on diesel construction equipment.*
9. Restrict truck operation to "clean" trucks, such as a 2007 or newer model year or 2010 compliant vehicles.*
10. Require the use of CARB certified particulate traps that meet level 3 requirements on all construction equipment.*
11. Utilize only CARB certified equipment for construction activities.*
12. Restrict engine size of construction equipment to the minimum practical size.*
13. Use electric construction equipment where technically feasible.*
14. Substitute gasoline-powered for diesel-powered construction equipment.*
15. Require use of alternatively fueled construction equipment, using, e.g., compressed natural gas, liquefied natural gas, propane, or biodiesel.
16. Install catalytic converters on gasoline-powered equipment.*
17. Require the use of Alternative Diesel Fuels on diesel equipment used. Alternative diesel fuels exist that achieve PM10 and NOx reductions. PuriNOx is an alternative diesel formulation that was verified by CARB on January 31, 2001 as achieving a 14% reduction in NOx and a 63% reduction in PM10 compared to CARB diesel. It can be used in any direct-injection, heavy-duty compression ignition engine and is compatible with existing engines and existing storage, distribution, and vehicle fueling facilities. Operational experience indicates little or no difference in performance and startup time, no discernable operational differences, no increased engine noise, and significantly reduced visible smoke.
18. Reroute construction trucks away from congested streets and sensitive receptor areas.*
19. Configure construction parking to minimize traffic interference.*
20. Prior to the issuance of a grading and building permit, the applicant shall submit verification that a ridesharing program for the construction crew has been encouraged and will be supported by the contractor via incentives or other inducements.*
21. Minimize construction worker trips by requiring carpooling, when feasible, and providing lunch onsite.*
22. Provide shuttle service to food service establishments/commercial areas.*
23. Provide shuttle service to transit stations/multimodal centers.*

Operational:

As stated in the previous comment letter, the air quality analysis does not reflect the true air quality impacts of the Project as it uses an unjustifiably short trip length. As the SCAQMD has suggested, given the nature of this Project, the fact that the development consists of more than 1.1 million acres of industrial buildings, with 123 loading docks and 30 trailer parking spaces, and that the primary business in the Inland Empire is from the Ports of Los Angeles and Long Beach, it is expected that the Project will be used by trucks travelling to and from these Ports. Additionally, this Project meets the low threshold of "reasonable expectat[ions]" that the freight moves from the port areas as detailed in the 2008 Reasonable Transportation Plan of the Inland Empire. Yet, the Air Quality Analysis fails to analyze for this impact, instead using an average trip length of 8.9 miles, clearly not accounting for the fact that the distance from the Project site to the Ports is approximately 50 to 60 miles in one direction. Even though, as County noted, the Project will not consist completely of warehouse space, it will make up 847,773 square feet, more than 75% of the Project space. Additionally, particularly since the future occupants are unidentified at this time, the County has failed to support with evidence in the EIR, that trip lengths associated with this Project will be significantly lower than that projected for other warehouse distribution centers where an average trip length of 40 miles has been used. By greatly underestimating the projected trip lengths, failing to provide any substantive authority for why such a short trip length was used or why only trips to the Ontario Airport will be part of the Project, the analysis in the EIR regarding operational air quality impacts is flawed and misleading. Nothing provided in the EIR assures that trip lengths will be as minimal as suggested. Therefore, the EIR fails as an informational document and should not have been certified by the Planning Director.

Additionally, all feasible mitigation measures were not adopted. Although the Project will result in significant and unavoidable direct and cumulative air quality impacts from construction, abuts the residential communities of Country Village (a senior community) and Mira Loma Village, and **fails to meet SCAQMD's recommended 300 meter (1000 feet) setback**, the EIR fails to adopt all feasible mitigation. This is unacceptable. The Project will result in the emission of ROG, NO_x and CO above SCAQMD's daily thresholds in both winter and summer. Therefore, a number of changes to the current mitigation measures should be implemented in order to provide increased levels of mitigation.

MM Air 4 should be modified so as to require that signs be posted at Project exits indicating the proper route to take in order to avoid residential areas and schools.

MM Air 5 should also include the following: "Trucks incapable of utilizing the electrical hookup for powering refrigeration units shall be prohibited from accessing the site. All leasing documents shall include these requirements and provide that violation of those provisions will constitute a material breach of the lease that will result in the termination of the lease. Because of the fact that these lease terms are designed to benefit the public, the public shall be considered to be a third party beneficiary with standing to enforce the requirements of the lease."*

As in MM Air 2 and MM Air 3, MM Air 7 should be modified so as to require that all vehicles be prohibited from idling for a period in excess of *three (3)* minutes, rather than the current five (5) minutes.

Additionally, the following mitigation measures should be adopted:

1. The operator of the primary facilities (buildings of 400,000 s.f. or more) shall become SmartWay Partner.*
2. The operator of the primary facilities (buildings of 400,000 s.f. or more) shall incorporate requirements or incentives sufficient to achieve at least 20% per year (as a percentage of previous percentage, not total trips) increase in percentage of long haul trips carried by SmartWay carriers until it reaches a minimum of 90% of all long haul trips carried by SmartWay 1.0 or greater carriers. Results, including backup data shall be reported to the Planning Department semi-annually.*
3. The operator of the primary facilities (buildings of 400,000 s.f. or more) shall incorporate requirements or incentives sufficient to achieve a 15% per year (as a percentage of previous percentage, not total trips) increase in percentage of consolidator trips carried by SmartWay carriers until it reaches a minimum of 85% of all consolidator trips carried by SmartWay 1.0 or greater carriers. Results, including backup data shall be reported to the Planning Department semi-annually.*
4. All fleet vehicles shall conform to 2010 air quality standards or better. Results, including backup data shall be reported to the Planning Department semi-annually.*
5. Install catalytic converters on gasoline-powered equipment.*
6. Require the use of Alternative Diesel Fuels on diesel equipment used. Alternative diesel fuels exist that achieve PM10 and NOx reductions. PuriNOx is an alternative diesel formulation that was verified by CARB on January 31, 2001 as achieving a 14% reduction in NOx and a 63% reduction in PM10 compared to CARB diesel. It can be used in any direct-injection, heavy-duty compression ignition engine and is compatible with existing engines and existing storage, distribution, and vehicle fueling facilities. Operational experience indicates little or no difference in performance and startup time, no discernable operational differences, no increased engine noise, and significantly reduced visible smoke.
7. Require each user to establish a carpool/vanpool program.*
8. Provide on-site child care or contribute to off-site child care within walking distance.*
9. Provide preferential parking for carpool/vanpool vehicles.*
10. Provide secure, weather-protected bicycle parking for employees.*
11. Provide direct safe, direct bicycle access to adjacent bicycle routes.*
12. Provide showers and lockers for employees bicycling or walking to work.*
13. Short-term bicycle parking for retail customers and other non-commute trips.*
14. Provide shuttle service to food service establishments/commercial areas.*
15. Provide shuttle service to transit stations/multimodal centers.*
16. Implement parking fee for single-occupancy vehicle commuters.*
17. Implement parking cash-out program for non-driving employees.*
18. Provide direct, safe, attractive pedestrian access from project to transit stops and adjacent development.*
19. Implement a compressed workweek schedule.*
20. Provide electrical vehicle ("EV") and compressed natural gas ("CNG") vehicles in vehicle fleets.*
21. Install EV charging facilities for a minimum of 10% of all parking spaces.*
22. Install a CNG fueling facility.*
23. Provide preferential parking locations for EVs and CNG vehicles.*
24. Utilize electrical equipment for landscape maintenance.*

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25. Utilize only CARB certified equipment for construction activities.*
 26. All forklifts shall be electric or natural gas powered.*
 27. Provide subsidies or incentives to employees who use public transit or carpooling, including preferential parking.*
 28. Plant shade trees in parking lots to provide minimum 50% cover to reduce evaporative emissions from parked vehicles.*
 29. Utilize low pressure sodium fixtures for exterior lighting including parking lots.
 30. Utilize electric yard trucks.*
 31. All buildings shall be constructed to LEED Platinum standards.*
 32. The operator shall meet SmartWay 1.25 ratings.*
 33. The operator shall use only freight companies that meet SmartWay 1.25 ratings.*
 34. The developer shall install photovoltaic solar systems sufficient to offset all electrical usage.*
 35. The developer shall install photovoltaic solar systems sufficient to offset all vehicular emissions.*
 36. The operator shall purchase only green/renewable power.*
 37. Install solar water heater systems to generate all of the Project's hot water requirements.*
 38. Implement home-based telecommunicating program when feasible.

Greenhouse Gas/Climate Change:

The arguments discussed above regarding the low trip length used in the Air Quality Analysis, also apply to the section on greenhouse gases. Impacts to climate change will be significant and must be mitigated. Those mitigation measures listed above, which contain an asterisk (*) also serve to mitigate for climate change impacts and should be implemented.

Biological Resources

The Project will result in a cumulatively significant impact at the General Plan level by resulting in "the direct mortality of individuals of listed, proposed or candidate species or the loss of habitat occupied by such species." Even with implementation of RCIP General Plan EIR mitigation measures, impacts will remain significant. Therefore, the following mitigation measure should be required:

1. Require off-site mitigation within Riverside County in order to preserve similar type and amount of habitat.

Cultural Resources

In order to further insure that unique cultural resources are not impacted by Project construction, changes to the adopted mitigation measures must be made. In violation of CEQA, MM Cultural 1 (3) is vague and must instead provide that grading and further ground disturbance shall not resume within *100 feet* of the discovery of cultural resources until an agreement has been reached.

MM Cultural 3 is also vague and should require, in order to ensure that paleontological resources are not harmed, that if paleontological resources are uncovered,

construction/development activities “shall be moved to other parts of the project site” *at least 500 feet away.*

Hydrology and Water Quality:

The Project site will reduce the area of pervious surface within the Chino III groundwater subbasin by between 75 to 90 percent on individual plot plan sites, effectively decreasing the potential for groundwater recharge. The County concludes that “[d]ue to the small size of the Project in relation to the total size of the groundwater subbasins, there will not be a substantial effect upon groundwater recharge within the groundwater subbasin and the proposed Project *should* not interfere with the groundwater table.” Therefore, the County concludes that there will not be a significant effect on hydrology. County has based this conclusion of insignificance on an uncertain inference. This is improper particularly since this analysis fails to account for the cumulative effects that other projects will have on decreased groundwater recharge and the fact that southern California has and is expected to continue to have decreased water supply. Additionally, the County states that “the Project may contribute new sources of polluted runoff.”

Therefore, the County must adopt the following mitigation measure:

1. Pavement and impermeable surfaces must be reduced to the greatest extent feasible. Where paving is necessary, permeable paving alternatives must be utilized such that infiltration happens passively through the site.

This mitigation measure will help mitigate for the Project’s substantial effects upon groundwater recharge, and will also help achieve decreased amounts of polluted runoff.

Utilities:

As a portion of the projected build-out of the RCIP General Plan, this Project will contribute to the significant cumulative impact on existing solid waste services. The County provided several mitigation measures to mitigate for this effect. Yet, some of these mitigation measures, as currently written, are ineffective and unenforceable as they merely require that recycling containers and solid waste dumpsters be placed at the Project site. There is nothing contained within these mitigation measures, particularly Mitigation Measure Utilities 1 and 2, that ensure or require that the future occupants and employees will actually recycle. Therefore, these mitigation measures should require within contracts with future occupants, measures to ensure that all recyclable materials resulting from operation of the Project actually be recycled.

Noise:

The Project will result in significant noise impacts. Noise levels due to construction at the Project site are expected to reach up to 85 dBA at the nearest sensitive receptors, consisting of occupied residences. This is well in excess of the daytime exterior noise standards of 55 dBA for residential land uses allowable under Riverside County Ordinance (RCO) No. 847, Section 4, Table 1. Yet, the County concludes that merely through the Project’s compliance with RCO No. 847, Section 2, that construction-related noise impacts will be less than significant. This is a completely faulty analysis and conclusion. The mere fact that the

excess construction noise will be restricted to daytime hours **does not mitigate the fact that noise levels of 85 dBA will be in excess of the County's noise ordinance and experienced by nearby residents during daytime hours.** The fact that the ordinance establishes time frames does not eliminate or lessen the environmental impact it merely means that the impacts are not subject to criminal sanctions. Thus, reliance on MM Noise 1 which merely limits construction activities "within one-quarter mile of occupied residences" to the daytime hours set forth in RCO No. 457, Section 1.G.1, (recently amended to RCO No. 457.102, Section 1.F.1) does nothing to mitigate these substantial effects.

The following additional mitigation measures should be adopted in order to reduce construction noise impacts to below a level of significance:

1. Provide temporary noise barriers during project construction regardless of whether there will be nocturnal trucking activities.
2. During project construction, the developer shall require all contractors to turn off all construction equipment and delivery vehicles when not in use or prohibit idling in excess of 3 minutes.
3. When technically feasible, utilize only electrical construction equipment.

The County states that "[d]aytime operational noise is not considered a source of significant impact if a barrier shields the *visibility* of the loading activity from any ground-floor observers. (Resolution No. 2010-06, pg. 103.) This is merely not true. Further, the Project will have significant cumulative noise impacts due to the already existing noisy environment. Yet, only mitigation measures pertaining to nighttime operations have been adopted.

The following additional mitigation measures should be adopted in order to reduce operational noise impacts (project-level and cumulative) to below a level of significance:

1. Provide a permanent noise barrier sufficient to reduce daytime noise levels to below the County mandated 55 dBA daytime exterior noise level for residential land uses at the nearest sensitive receptors.
2. Require the use of rubberized asphalt for construction of all roadways and parking lots.
3. All trucks, tractors and forklifts shall be operated with proper operating and well maintained mufflers.
4. Maintain quality pavement conditions that are free of bumps to minimize truck noise.
5. Require all trucks to turn off engines when not in use or prohibit idling in excess of 3 minutes.

Traffic and Transportation:

As the EIR concludes, even after mitigation, the Project's cumulative traffic impacts will remain significant. Additionally, as previously discussed in the air quality section above, the impacts to traffic and transportation will be even greater than estimated in the EIR as the traffic analysis uses an unjustifiably short trip length.

As the Resolution states, although development fees will be paid, "the actual construction of the required off-site improvements" is uncertain and therefore cumulative traffic impacts

may not be mitigated to below a level of significance. Yet, the Project fails to adopt all feasible mitigation measures and those measures that were adopted are uncertain and not fully enforceable.

In order to ensure that MM Trans 6 is fully enforceable, it should read as follows:
“[s]igning/striping **shall** be implemented in conjunction with detailed construction plans for the Project site.”


MM Trans 7 should also require that “If the timing of the final phase of the project precedes the planned off-site improvements that will be implemented through payment of the aforementioned fees, the project shall be required to construct interim improvements to provide adequate capacity until the ultimate improvements are completed.”

The following mitigation measures, if not previously adopted in the air quality section, should also be adopted:

1. Provide preferential parking for carpool/vanpool vehicles.
2. Provide secure, weather-protected bicycle parking for employees.
3. Provide direct, safe bicycle access to adjacent bicycle routes.
4. Provide showers and lockers for employees bicycling or walking to work.
5. Provide shuttle service to food service establishments/commercial areas.
6. Provide shuttle service to transit stations/multimodal centers.
7. Implement parking fee for single-occupancy vehicle commuters.
8. Implement parking cash-out program for non-driving employees.
9. Improve traffic flow by signal synchronization.

Thank you for your consideration.

Sincerely,


Raymond W. Johnson, Esq., AICP
JOHNSON & SEDLACK

- San Bernardino County Audubon Society
- Center for Community Action and Environmental Justice
- Endangered Habitats League
- Rural Canyons Conservation Fund
- California Native Plant Society
- California Oak Foundation
- Citizens for Responsible Growth in San Marcos
- Union for a River Greenbelt Environment
- Citizens to Enforce CEQA
- Friends of Riverside's Hills
- De Luz 2000
- Save Walker Basin
- Elsinore Murrieta Anza Resource Conservation District

Education:

- B. A. Economics and Political Science, Kansas State University 1970
- Masters of Community and Regional Planning, Kansas State University, 1974
- Additional graduate studies in Economics at the University of Missouri at Kansas City
- J.D. University of La Verne. 1997 Member, Law Review, Deans List, Class Valedictorian, Member Law Review, Published, Journal of Juvenile Law

Professional Associations:

- Member, American Planning Association
- Member, American Institute of Certified Planners
- Member, Association of Environmental Professionals

Johnson & Sedlack, Attorneys at Law

26785 Camino Seco
 Temecula, CA 92590
 (951) 506-9925

12/97- Present

Principal in the environmental law firm of Johnson & Sedlack. Primary areas of practice are environmental and election law. Have provided representation to the Sierra Club, Audubon Society, AT&T Wireless, Endangered Habitats League, Center for Community Action and Environmental Justice, California Native Plant Society and numerous local environmental groups. Primary practice is writ of mandate under the California Environmental Quality Act.

Planning-Environmental Solutions

26785 Camino Seco
 Temecula, CA 92590
 (909) 506-9825

8/94- Present

Served as applicant's representative for planning issues to the telecommunications industry. Secured government entitlements for cell sites. Provided applicant's representative services to private developers of residential projects. Provided design services for private residential development projects. Provided project management of all technical consultants on private developments including traffic, geotechnical, survey, engineering, environmental, hydrogeological, hydrologic, landscape architectural, golf course design and fire consultants.

San Bernardino County Planning Department

Environmental Team
385 N. Arrowhead
San Bernardino, CA 92415
(909) 387-4099

6/91-8/94

Responsible for coordination of production of EIR's and joint EIR/EIS's for numerous projects in the county. Prepared environmental documents for numerous projects within the county. Prepared environmental determinations and environmental review for projects within the county.

San Bernardino County Planning Department

General Plan Team
385 N. Arrowhead
San Bernardino, CA 92415
(909) 387-4099

6/91-6/92

Created draft grading ordinance, hillside development standards, water efficient landscaping ordinance, multi-family development standards, revised planned development section and fiscal impact analysis. Completed land use plans and general plan amendment for approximately 250 square miles. Prepared proposal for specific plan for the Oak Hills community.

San Bernardino County Planning Department

North Desert Regional Planning Team
15505 Civic
Victorville, CA
(619) 243-8245

6/90-6/91

Worked on regional team. Reviewed general plan amendments, tentative tracts, parcel maps and conditional use permits. Prepared CEQA documents for projects.

Broadmoor Associates/Johnson Consulting

229 NW Blue Parkway
Lee's Summit, MO 64063
(816) 525-6640

2/86-6/90

Sold and leased commercial and industrial properties. Designed and developed an executive office park and an industrial park in Lee's Summit, Mo. Designed two additional industrial parks and residential subdivisions. Prepared study to determine target industries for the industrial parks. Prepared applications for tax increment financing district and grants under Economic Development Action Grant program. Prepared input/output analysis of proposed race track. Provided conceptual design of 800 acre mixed use development.

Shepherd Realty Co.

Lee's Summit, MO
6/84-2-86

Sold and leased commercial and industrial properties. Performed investment analysis on properties. Provided planning consulting in subdivision design and rezoning.

Contemporary Concepts Inc.

Lee's Summit, MO

9/78-5/84

Owner

Designed and developed residential subdivision in Lee's Summit, Mo. Supervised all construction trades involved in the development process and the building of homes.

Environmental Design Association

Lee's Summit, Mo.

Project Coordinator

6/77-9/78

Was responsible for site design and preliminary building design for retirement villages in Missouri, Texas and Florida. Was responsible for preparing feasibility studies of possible conversion projects. Was in charge of working with local governments on zoning issues and any problems that might arise with projects. Coordinated work of local architects on projects. Worked with marketing staff regarding design changes needed or contemplated.

City of Lee's Summit, MO

220 SW Main

Lee's Summit, MO 64063

Community Development Director

4/75-6/77

Supervised Community Development Dept. staff. Responsible for preparation of departmental budget and C.D.B.G. budget. Administered Community Development Block Grant program. Developed initial Downtown redevelopment plan with funding from block grant funds. Served as a member of the Lee's Summit Economic Development Committee and provided staff support to them. Prepared study of available industrial sites within the City of Lee's Summit. In charge of all planning and zoning matters for the city including comprehensive plan.

Howard Needles Tammen & Bergendoff

9200 Ward Parkway

Kansas City, MO 64114

(816) 333-4800

Economist/Planner

5/73-4/75

Responsible for conducting economic and planning studies for Public and private sector clients. Consulting City Planner for Lenexa, KS.

Conducted environmental impact study on maintaining varying channel depth of the Columbia River including an input/output analysis. Environmental impact studies of dredging the Mississippi River. Worked on the Johnson County Industrial Airport industrial park master plan including a study on the demand for industrial land and the development of target industries based upon location analysis. Worked on various airport master plans. Developed policy oriented comprehensive plan for the City of Lenexa, KS. Developed innovative zoning ordinance heavily dependent upon performance standards for the City of Lenexa, KS.