

# El Monte Walmart Project Final Environmental Impact Report



Prepared for:  
City of El Monte  
11333 Valley Boulevard  
El Monte, CA 91731

May 2015



**FINAL ENVIRONMENTAL IMPACT REPORT**

for the

**El Monte Walmart Project**

Prepared for:

City of El Monte  
11333 Valley Boulevard  
El Monte, CA 91731

Prepared by:

Applied Planning, Inc.  
5817 Pine Avenue, Suite A  
Chino Hills, CA 91709

May 2015

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# 1.0 INTRODUCTION

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# **1.0 INTRODUCTION**

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## **1.1 OVERVIEW**

This document, combined with the Draft Environmental Impact Report (DEIR), constitutes the Final EIR for the El Monte Walmart Project (Project). The DEIR describes existing environmental conditions relevant to the proposal, evaluates the Project's potential environmental effects, and identifies mitigation measures to reduce or avoid the potentially significant impacts. The DEIR was circulated for public review and comment from November 21, 2014 through January 5, 2015.

## **1.2 CONTENT AND FORMAT**

Subsequent to this introductory Section 1.0, Section 2.0 of this Final EIR presents revisions and errata corrections to the DEIR text. Responses to comments received on the DEIR are presented at Final EIR Section 3.0. The EIR Mitigation Monitoring Plan is presented at Final EIR Section 4.0.

## **1.3 DRAFT EIR COMMENTORS**

### **1.3.1 Overview**

The complete list of Draft EIR commentors, along with copies of comment letters and responses to comments, is presented at Section 3.0 of this Final EIR. The following list identifies the comment letters received in regard to the Draft EIR:

- Governor's Office of Planning and Research, State Clearinghouse
- California Department of Transportation, District 7
- City of Temple City
- County of Los Angeles Fire Department
- County Sanitation Districts of Los Angeles County

- Gabrieleno Band of Mission Indians
- Gideon Kracov
- Matt Hagemann (SWAPE) – Attachment to Gideon Kracov letter
- Hoffman & Grantham
- Geosyntec

### **1.3.2 Presentation of Comments and Responses**

All comment letters received in regard to the Draft EIR are included, along with corresponding responses, in their entirety at Final EIR Section 3.0, “Comments and Responses.”

## **1.4 LEAD AGENCY AND POINT OF CONTACT**

The Lead Agency for the Project and EIR is the City of El Monte. Any questions or comments regarding the preparation of this document, its assumptions, or its conclusions, should be referred to:

Mr. Jason Mikaelian, Planning Services Manager  
City of El Monte  
11333 Valley Boulevard  
El Monte, CA 91731

## **1.5 PROJECT SUMMARY**

The following information is summarized from the Project Description in the Draft EIR. For additional detail in regard to Project characteristics and Project-related improvements, along with analyses of the Project’s potential environmental impacts, please refer to Draft EIR Sections 3.0 and 4.0, respectively.

### **1.5.1 Project Location**

The Project site is located within the northwestern portion of the City of El Monte, within Los Angeles County, near the intersection of Valley Boulevard and Arden Drive. Specifically, Arden Drive borders the Project site to the west; the boundary of an existing City of El Monte Maintenance Facility located northerly of Rose Avenue comprises the

site's northerly boundary; Valley Circle forms the site's easterly boundary; and parcels containing commercial, industrial/office facilities with Valley Boulevard frontages comprise the site's southerly boundary.

### **1.5.2 Project Overview**

The Project includes the proposed construction and operation of a new 182,429-square-foot Walmart within the 15.41-acre Project site. In addition to offering general merchandise and groceries, the Walmart would include a bakery, deli, photo lab, off-site alcohol sales, along with a food tenant (e.g., McDonalds), a non-food tenant (e.g., a bank, medical clinic, portrait studio or salon), and an outdoor garden center. The store will operate 24 hours a day and would employ approximately 300 workers. Project operations would also include on-going site and facilities maintenance activities including but not limited to: parking lot sweeping, trash collection, landscape maintenance; and facilities cleaning, painting, and repairs.

### **1.5.3 Project Objectives**

The primary goal of the Project is the development of the subject site with a major commercial/retail store. Complementary Project objectives include the following:

- To provide a commercial/retail development that is responsive to current and anticipated demands for goods and services in the Project trade area;
- To provide a commercial/retail development that serves the local market area and beyond;
- To provide a convenient source of grocery and food items to serve the local community;
- To attract new customers to the City of El Monte;
- To provide goods and services at a local site, thereby reducing the number and length of trips currently being made to shop for these same goods and services;

- To maximize and broaden the City's tax base by providing a new tax-generating use and by increasing property tax revenues;
- To expand retail options by establishing a contemporary and energy efficient major store that provides daytime and nighttime shopping opportunities in a safe and secure environment;
- To improve and maximize economic viability of the currently vacant and underutilized Project site and area through the establishment of a new major commercial/retail store;
- To take advantage of available infrastructure; to enhance and improve local infrastructure systems to the benefit of the Project and surrounding areas; and to maximize access opportunities for the convenience of patrons;
- To provide a commercial development that creates new jobs for City residents.

## **1.5.4 Discretionary Actions**

### **1.5.4.1 Lead Agency Discretionary Actions and Permits**

Requested decisions, or discretionary actions, necessary to realize the Project include, but may not be limited to the following:

- Certification of the EIR;
- Approval of a Tentative Parcel Map to create a single commercial parcel;
- Design review to approve the Project design and architectural details of the proposed structures;
- Approval of a Conditional Use Permit for a multiple tenant development, as provided under Municipal Code Chapter 17.24, "Conditional Use Permits";

- Approval of a General Plan Amendment (Land Use Element) re-designating the Project site from “Industrial/Business Park” to “General Commercial”;
- Approval of a Zone Change, re-designating the Project site from “General Manufacturing” (M-2) to “Heavy Commercial” (C-4);
- Modification of the boundaries of the Northwest Industrial District to remove that portion generally located east of Arden Drive and south of the Southern Pacific Railroad;
- Approval of a Conditional Use Permit for alcohol sales as provided under Municipal Code Chapter 17.24, “Conditional Use Permits”;
- Approval of a modification pursuant to Municipal Code Chapter 17.20, “Modification – Variance,” to reduce the number of required loading docks from seven to six; and
- Approval of a Master Sign Program.

Additional various ministerial construction, grading, drainage, and encroachment permits from the City would also be required to allow implementation of the Project facilities.

#### **1.5.4.2 Responsible and Trustee Agency Discretionary Actions, Permits, and Consultation**

CEQA Guidelines Section 15124 also states that the EIR should, to the extent known, include a list of all the agencies expected to use the EIR in their decision-making (Responsible Agencies) and a list of permits and other approvals required to implement the project. Based on the current Project design concept, the anticipated permits to realize the proposal (and associated Responsible Agencies) will likely include, but are not limited to, the following:

- Stormwater management and associated permitting would be required consistent with the provisions of City of El Monte Municipal Code Chapter 13.16, “Stormwater

Management and Discharge Control,” and the “California General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities” (CGP) issued by the State Water Resources Control Board.

- Permitting may be required by/through the South Coast Air Quality Management District (SCAQMD) for certain aspects of the Project operations and its associated equipment, particularly regarding proposed restaurant tenant operations.
- Permitting (i.e., utility connection permits) may be required from utility providers.
- Other miscellaneous permits necessary to realize all on and offsite improvements related to the development of the site.

## **2.0 REVISIONS AND ERRATA CORRECTIONS**

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## **2.0 REVISIONS AND ERRATA CORRECTIONS**

### **2.1 INTRODUCTION**

Based on the comments received on the Draft EIR (which are provided in full in Section 3.0 of this Final EIR), this Section presents revisions to the text of the Draft EIR. For text corrections, additional text is identified by **bold underlined text**, while deletions are indicated by ~~strikeout font~~. All text revisions affecting mitigation measures have been incorporated into the Mitigation Monitoring Plan presented in Section 4.0 of this Final EIR. Text changes are presented under the chapter or topical section of the Draft EIR where they are located. The revisions and corrections provided here expand and clarify analyses previously provided, and do not constitute substantive new information. Conclusions of the Draft EIR are not affected by these revisions.

### **2.2 REVISIONS**

#### **2.2.1 Revisions to Draft EIR Section 3, Project Description**

The Lead Agency noted that the evaluation of potentially significant light/glare impacts was not provided within the DEIR.<sup>1</sup> As presented in DEIR Section 3.0, *Project Description*, Project lighting has been designed in a manner that precludes potential adverse effects of light overspill; therefore, it was determined that potential light/glare impacts are avoided and thus reduced to a less-than-significant impact through Project design elements and performance standards (Page 3-25, Figures 3.4-11, 3.4-12).

In response to comments received from County Sanitation Districts of Los Angeles County (CSD), DEIR Section 3.4.3.3, Page 3-18 (excerpt following) is amended to reflect

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<sup>1</sup> The Initial Study, at pages 3-5 and 3-48, indicated light and glare impacts would be analyzed as part of the Land Use section of the EIR.

the provided current updated information. Results and conclusions of the EIR are not affected.

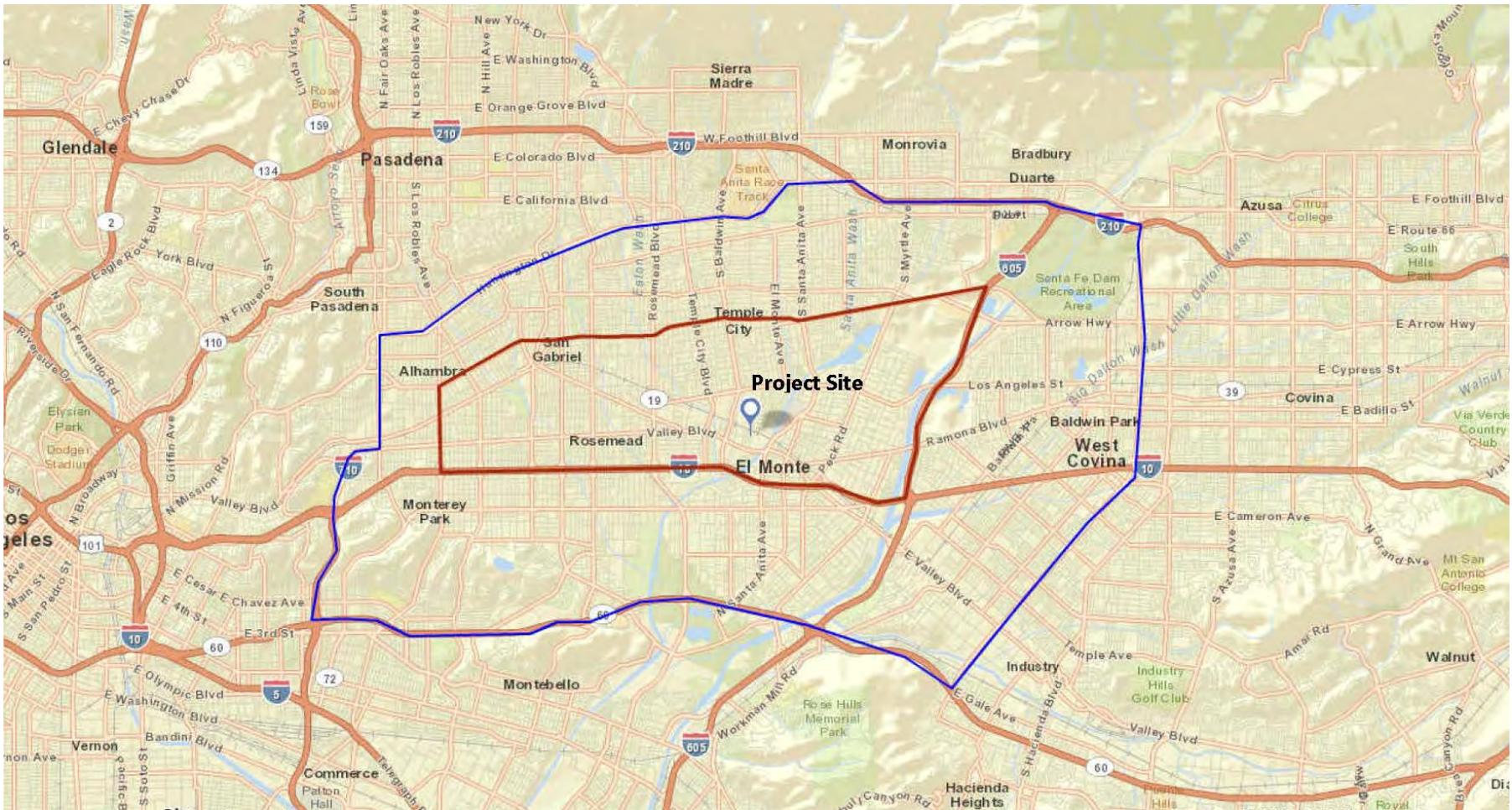
Wastewater generated by the Project would be conveyed by City wastewater facilities to ~~treatment plants operated by the Los Angeles County Sanitation District (LACSD)~~ the Joint Outfall "B" Unit 8A Trunk Sewer, in Arden Drive north of Valley Boulevard. The wastewater generated by the proposed Project will be treated at the San Jose Creek Water Reclamation Plant (WRP) located adjacent to the City of Industry, which has a design capacity of 100 mgd and currently processes an average flow of 73.1 mgd. Wastewater flows that exceed the capacity of the San Jose Creek WRP, and all biosolids, are diverted to and treated at the Joint Water Pollution Control Plant located in the City of Carson.

### **2.2.2 Revisions to Draft EIR Section 4.1, Land Use and Planning**

Draft EIR Figure 4.1-5, "Trade Area Map," incorrectly presented the primary and regional trade area boundaries. The graphic has been amended to reflect the correct boundaries as presented in the following figure (Figure 4.1-5 Amended). Results and conclusions of the EIR are not affected.

### **2.2.3 Revisions to Draft EIR Section 4.2, Traffic and Circulation**

Since the distribution of the DEIR, the Lead Agency has proposed improvements to two Project intersections which would be implemented prior to occupancy of the Project. Consequently, additional analysis was performed and a Technical Memorandum to the Project TIA was prepared to re-analyze the Levels of Service (LOS) at these two intersections with the currently proposed improvements to determine if the improvements would change the conclusions and findings of the Project TIA and DEIR. As indicated in the Technical Memorandum (Appendix A to this Final EIR), the improvements will mitigate Project-related impacts, consistent with the DEIR, and these improvements would serve to enhance the Safe Routes to School plans, consistent with General Plan Policy C-3.4.



Source: The Natelson Dale Group, Inc.

Figure 4.1-5 - Amended Trade Area Map

The City of El Monte has received funding through the Federal Safe Routes to School Program, a national program, administered by the states, which has the goal to increase the number of children who walk or bicycle to school by funding local projects that remove barriers that currently prevent them from doing so. Working with a coalition of parents, schools, professionals in transportation, engineering, health and law enforcements, City of El Monte's Safe Route to School program includes projects with the following anticipated outcomes:

- 1) sidewalk improvements will reduce the number of children walking in streets;
- 2) students will be crossing major streets in high visibility or raised crosswalks;
- 3) flashing stop signs will alert drivers to pay attention to approaching intersections where students will be crossing; and
- 4) children will be encouraged by the social marketing efforts of the PLACE initiative to increase their physical activity by walking and biking to school.

The Project TIA included an analysis of the Project's potential traffic impacts on schools. The TIA concluded that there would be no significant impacts on school access. At the intersection of Arden Drive at Arden Way (Intersection 34), there is an identified mitigation measure for traffic signal improvements that would not only achieve acceptable levels of service, but also enhance safety for school children because pedestrian crossings at that location would be made under traffic signal control. This mitigation measure is identified for Horizon Year, and would be installed in the future when traffic conditions warrant signal installation, as determined by the City of El Monte.

In the meantime, the City of El Monte will implement Cycle 2 Federal Safe Route to School pedestrian improvements at this intersection which include high visibility crossings of Arden Drive and Arden Way, as well as "bulbing" out of the curb at those crossings to reduce the width of pavement that the children have to cross. *Technical Addendum II to Traffic Impact Analysis for El Monte Wal-Mart* documents the analysis of traffic conditions with these Safe Route to School improvements, finds that installation of a traffic signal at this intersection will be required in the future, and concludes that

the installation of the traffic signal can be implemented consistent with the City's Safe Route to School program.

#### 2.2.4 Revisions to Draft EIR Section 4.7, Hydrology and Water Quality

In response to comments received from CSD, DEIR Section 4.7.3.6, Page 4.7-17 (excerpt following) is amended to reflect the provided current updated information. Results and conclusions of the EIR are not affected.

~~Collected wastewater is conveyed to the Whittier Narrows Water Reclamation Plant (WRP) for primary, secondary and tertiary treatment. The WRP serves a population of approximately 150,000 people. Virtually all of the reclaimed water is reused as groundwater recharge into the Rio Hondo and San Gabriel Coastal Spreading Grounds or for irrigation at an adjacent nursery.<sup>2</sup>~~ **the Joint Outfall "B" Unit 8A Trunk Sewer, in Arden Drive north of Valley Boulevard. The wastewater generated by the proposed Project will be treated at the San Jose Creek Water Reclamation Plant (WRP) located adjacent to the City of Industry, which has a design capacity of 100 mgd and currently processes an average flow of 73.1 mgd. Wastewater flows that exceed the capacity of the San Jose Creek WRP, and all biosolids, are diverted to and treated at the Joint Water Pollution Control Plant located in the City of Carson.**

Also in response to comments received from CSD, DEIR Section 4.7.3.6, Page 4.7-18 (excerpt following) is amended accordingly. Results and conclusions of the EIR are not affected.

The City of El Monte **is in District No. 15. District No. 15** is one of seventeen jurisdictions that are signatory to the Joint Outfall Agreement (Agreement).

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~~2 Sanitation Districts of Los Angeles County. Whittier Narrows Reclamation Plant. Web July 10, 2014. <[http://www.lacsd.org/wastewater/wwwfacilities/joint\\_outfall\\_system\\_wrp/whittier\\_narrows.asp](http://www.lacsd.org/wastewater/wwwfacilities/joint_outfall_system_wrp/whittier_narrows.asp)>~~

## 2.2.4 Revisions to Draft EIR Section 4.8, Public Services and Utilities

In response to comments received from Los Angeles County Fire Department (LAFD), DEIR Section 4.8.2.1, Page 4.8-4 (excerpt following) is amended accordingly. Results and conclusions of the EIR are not affected.

*Station No. 166 is staffed by ~~nine~~ four personnel, including ~~two~~ one captains, ~~two~~ one firefighter specialists, ~~three~~ and two firefighters on a 24-hour shift, and a 2-person paramedic squad.*

In response to comments received from CSD, DEIR Section 4.8.2.3, Page 4.8-5 (excerpt following) is amended to reflect the provided current updated information. Results and conclusions of the EIR are not affected.

Collected wastewater is conveyed to ~~the Whittier Narrows Water Reclamation Plant (WRP) for primary, secondary and tertiary treatment. The WRP serves a population of approximately 150,000 people. Virtually all of the reclaimed water is reused as groundwater recharge into the Rio Hondo and San Gabriel Coastal Spreading Grounds or for irrigation at an adjacent nursery.~~<sup>3</sup> the Joint Outfall "B" Unit 8A Trunk Sewer, in Arden Drive north of Valley Boulevard. The wastewater generated by the proposed Project will be treated at the San Jose Creek Water Reclamation Plant (WRP) located adjacent to the City of Industry, which has a design capacity of 100 mgd and currently processes an average flow of 73.1 mgd. Wastewater flows that exceed the capacity of the San Jose Creek WRP, and all biosolids, are diverted to and treated at the Joint Water Pollution Control Plant located in the City of Carson.

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<sup>3</sup> Sanitation Districts of Los Angeles County. *Whittier Narrows Reclamation Plant*. Web July 10, 2014. <[http://www.lacsd.org/wastewater/wwfacilities/joint\\_outfall\\_system\\_wrp/whittier\\_narrows.asp](http://www.lacsd.org/wastewater/wwfacilities/joint_outfall_system_wrp/whittier_narrows.asp)>

Additionally, in response to comments received from CSD, DEIR Section 4.8.5.2, Page 4.8-13 (excerpt following) is amended to accordingly. Results and conclusions of the EIR are not affected.

Wastewater generated by the Project will be conveyed for treatment to ~~the Whittier Narrows WRP. The WRP is operated by LACSD, and currently treats an average of 9 million gallons per day (mgd) and has capacity to treat 15 mgd.~~<sup>4</sup> **the Joint Outfall "B" Unit 8A Trunk Sewer, in Arden Drive north of Valley Boulevard. The wastewater generated by the proposed Project will be treated at the San Jose Creek Water Reclamation Plant (WRP) located adjacent to the City of Industry, which has a design capacity of 100 mgd and currently processes an average flow of 73.1 mgd. Wastewater flows that exceed the capacity of the San Jose Creek WRP, and all biosolids, are diverted to and treated at the Joint Water Pollution Control Plant located in the City of Carson.**

Subsequently, the text at DEIR Section 4.8.5.2, Page 4.8-16 (excerpt following) is amended to reflect the current updated information, as provided by County Sanitation Districts of Los Angeles County. Results and conclusions of the EIR are not affected.

Collected wastewater is conveyed to the ~~Whittier Narrows~~ **San Jose Creek** WRP for primary, secondary and tertiary treatment.

In response to comments received from CSD, Table 4.8-3 and subsequent text at DEIR Section 4.8.5.2, Page 4.8-17 (excerpt following) is amended to reflect the provided current updated information, as provided by County Sanitation Districts of Los Angeles County.<sup>5</sup> Results and conclusions of the EIR are not affected.

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<sup>4</sup> Personal communication with Mr. Bob Shomokochi, Maintenance Supervisor on June 18, 2014.

<sup>5</sup> Sanitation Districts of Los Angeles County. *Table 1, Loadings For Each Class Of Land Use*. Web. February 17, 2015. <<http://www.lacsd.org/civica/filebank/blobdload.asp?BlobID=3531>>

**Table 4.8-3  
Wastewater Generation**

Generation Rate	Calculation	Average Daily Wastewater Generation	Average Annual Wastewater Generation
23 gallons/1,000 sq. ft.	$(182,429 \text{ sq. ft.}) \times (0.023 \text{ gallons/sq. ft./day})$	4,196 gallons	1.5 million gallons (4.6 acre-feet) <sup>†</sup>
<b><u>150 gallons/1,000 sq. ft.</u></b>	<b><u><math>(182,429 \text{ sq. ft.}) \times (0.15 \text{ gallons/sq. ft./day})</math></u></b>	<b><u>27,364 gallons</u></b>	<b><u>10 million gallons (30.7 acre-feet)<sup>1</sup></u></b>

Source: Nasland Engineering; County Sanitation Districts of Los Angeles County; Applied Planning, Inc.

<sup>†</sup> 1 acre-foot = 325,851.43 gallons.

The wastewater flow anticipated from the Project site is ~~4,196~~ **27,364** gallons per day. This represents approximately ~~0.02~~ **0.03** percent of the current daily ~~Whittier Narrows WRP capacity of 15 mgd~~ **San Jose Creek WRP capacity of 100mgd**. As noted previously within this section, the WRP currently treats an average of ~~9 mgd~~ **73.1 mgd**, leaving ~~6 mgd~~ **26.9 mgd** of available capacity.

## 2.2.5 Revisions to Draft EIR Section 5, Other CEQA Considerations

The text at DEIR Section 5.1.1.8, Cumulative Impacts Related to Public Services and Utilities, Wastewater Treatment, Page 5.36 (excerpt following) is amended to reflect the current updated information, as provided by County Sanitation Districts of Los Angeles County. Results and conclusions of the EIR are not affected.

The cumulative impact area for wastewater treatment demands is defined by the service area of the wastewater treatment provider, in this case, the LACSD ~~Whittier Narrows~~ **San Jose Creek** Water Reclamation Plant (WRP). Wastewater generated by the Project would be conveyed for treatment to the ~~Whittier Narrows WRP~~. The WRP currently treats an average of 9 million gallons per day (mgd) and has capacity to treat 15 mgd.<sup>6</sup> **the Joint Outfall "B" Unit 8A Trunk Sewer, in Arden Drive north of Valley Boulevard. The wastewater generated by the proposed Project will be treated at the San Jose Creek Water Reclamation Plant (WRP) located adjacent to the City of Industry, which has a design capacity of 100 mgd and currently processes an average flow of 73.1 mgd.**

<sup>6</sup>Personal communication with Mr. Bob Shomokochi, Maintenance Supervisor on June 18, 2014.

**Wastewater flows that exceed the capacity of the San Jose Creek WRP, and all biosolids, are diverted to and treated at the Joint Water Pollution Control Plant located in the City of Carson.**

Service and connection fees paid by the Project and other wastewater generators within the ~~Whittier Narrows~~ **San Jose Creek** WRP service area would provide revenues available for improvement and expansion of wastewater treatment facilities commensurate with service area demands, thereby avoiding potentially significant cumulative impacts to wastewater treatment services.

## **3.0 COMMENTS AND RESPONSES**

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## 3.0 COMMENTS AND RESPONSES

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### 3.1 INTRODUCTION

The following Section presents written comments received pursuant to public review of the DEIR, and provides responses to those comments as required by California Code of Regulations, Title 14 (hereinafter, “*CEQA Guidelines*”) Sections 15089, 15132, and 15088. Specifically, *CEQA Guidelines* Section 15088 (a) requires that: “[t]he lead agency . . . evaluate comments on environmental issues received from persons who reviewed the draft EIR and . . . prepare a written response. The lead agency shall respond to comments received during the noticed comment period and any extensions and may respond to late comments.” The 45-day comment period on the Draft EIR commenced on November 21, 2014 and concluded January 5, 2015.

In summary, the City’s written responses describe the disposition of significant environmental issues raised and any revisions to the Draft EIR made as a result of the comments. Additionally, the City’s written responses provide a good faith, reasoned analysis of all environmental issues raised and cite to specific factual and legal support for the Draft EIR’s conclusions.

#### 3.1.1 Comments Received

The following Section presents a list of the comment letters received during the Draft EIR public review period. Comment letters have been generally organized by state agencies; county, city, and local agencies; utilities; and local organizations and individuals. Each letter has been assigned an identifying designation (generally an acronym or name abbreviation), and topical items within each letter have been numbered. Table 3-1 lists all DEIR commentors and the designation assigned to each. Commentor correspondence and

correlating responses are presented subsequently. Comments have been reproduced verbatim and without grammatical or typographical correction.

**Table 3-1  
DEIR Commentors**

Commentor	Acronym Assigned	Correspondence Date
<b>State Agencies</b>		
State Clearinghouse	SCH	November 24, 2014
California Department of Transportation, District 7	DOT	January 5, 2015
<b>County and Local Agencies</b>		
City of Temple City	CTC	January 8, 2015
County of Los Angeles Fire Department	LAFD	December 8, 2014
County Sanitation Districts of Los Angeles County	CSD	January 8, 2015
<b>Individuals and Organizations</b>		
Gabrieleno Band of Mission Indians	GBMI	December 7, 2014
Gideon Kracov	GK	January 7, 2015
Matt Hagemann (SWAPE) – Attachment to Gideon Kracov letter	MH	January 7, 2015
Hoffman & Grantham	HG	December 23, 2014
Geosyntec	GEO	December 2, 2014

In addition to the above comment letters, this section concludes with Table 3-2, which contains questions and comments that were presented at the January 6, 2015 Planning Commission Draft EIR Study Session. Although many of the comments are not specifically directed at the Draft EIR, they are included here to provide a record of concerns that were voiced during the Study Session and aid decision-makers in their deliberations on the Project.



Edmund G. Brown Jr.  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Ken Alex  
Director

January 6, 2015

Jerry Hittleman  
City of El Monte  
11333 Valley Boulevard  
El Monte, CA 91731

Subject: El Monte Walmart  
SCH#: 2014031042

Dear Jerry Hittleman:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on January 5, 2015, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Morgan".

Scott Morgan  
Director, State Clearinghouse

Enclosures  
cc: Resources Agency

**SCH#** 2014031042  
**Project Title** El Monte Walmart  
**Lead Agency** El Monte, City of

**Type** EIR Draft EIR  
**Description** The project will realize 182,429 sf of new retail/commercial uses within an ~15.41 acre site, located in the northwestern portion of the City of El Monte, near the intersection of Valley Boulevard and Arden Drive. The project includes the proposed El Monte Walmart, and all facilities proposed within the Project site, on-and off-site supporting improvements, and associated discretionary actions.

**Lead Agency Contact**

**Name** Jerry Hittleman  
**Agency** City of El Monte  
**Phone** 626 258-8626 **Fax**  
**email**  
**Address** 11333 Valley Boulevard  
**City** El Monte **State** CA **Zip** 91731

**Project Location**

**County** Los Angeles  
**City** El Monte  
**Region**  
**Lat / Long**  
**Cross Streets** Valley Boulevard/Arden Drive  
**Parcel No.** 8575-024-043  
**Township** **Range** **Section** **Base**

**Proximity to:**

**Highways** I-10  
**Airports** El Monte  
**Railways** Union Pacific/Metrolink  
**Waterways** Rio Hondo Channel  
**Schools** 10 ES/1 Private K-12  
**Land Use** Vacant, Undeveloped/Z: General Manufacturing (M-2)/General Plan: Industrial/Business Park

**Project Issues** Air Quality; Archaeologic-Historic; Drainage/Absorption; Noise; Public Services; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Water Quality; Landuse; Cumulative Effects; Aesthetic/Visual

**Reviewing Agencies** Resources Agency; Department of Fish and Wildlife, Region 5; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 7; Air Resources Board; Regional Water Quality Control Board, Region 4; Department of Toxic Substances Control; Native American Heritage Commission; Public Utilities Commission; Other - Public Comments

**Date Received** 11/21/2014 **Start of Review** 11/21/2014 **End of Review** 01/05/2015

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE OF PLANNING AND RESEARCH  
STATE CLEARINGHOUSE  
SCH No. 2014031042

Response SCH-1

State Clearinghouse receipt of the El Monte Walmart Project Draft EIR is acknowledged, as is distribution of the Draft EIR to the listed State Agencies. The State-assigned Clearinghouse reference number (SCH No. 2014031042) and dates of the public review period for the Draft EIR (November 21, 2014 through January 5, 2015) are also acknowledged.

DEPARTMENT OF TRANSPORTATION  
DISTRICT 7-OFFICE OF TRANSPORTATION PLANNING  
100 S. MAIN STREET, MS 16  
LOS ANGELES, CA 90012  
PHONE (213) 897-9140  
FAX (213) 897-1337  
www.dot.ca.gov



Serious drought.  
Help save water!

January 5, 2015

Mr. Jerry Hittleman  
City of El Monte  
Planning Division  
11333 Valley Boulevard  
El Monte, CA 91731

RE: El Monte Walmart  
Vic. LA-10, PM 27.96  
SCH # 2014031042  
Ref. IGR/CEQA No. 140329AL-NOP  
IGR/CEQA No. 141144AL-DEIR

Dear Mr. Mikaelian:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. The proposed project is to develop a new 182,429 square foot Wal-Mart shopping center.

DOT-1

On page 4.2-13 (Section 4.2.3.7 Caltrans Facilities) of the Draft Environmental Impact Report (DEIR), the thresholds of significance are incorrectly stated. In Caltrans' Guide, "The level of service (LOS) for operating State highway facilities is based upon measures of effectiveness (MOEs). Caltrans endeavors to maintain a target LOS at the transition between LOS 'C' and LOS 'D' on State highway facilities. If an existing State highway facility is operating at less than the appropriate target LOS, the existing MOE should be maintained."

DOT-2

The project is located near the I-10 freeway, which is currently operating near or at capacity during the peak hours at this time. On page 120 of the Traffic Impact Analysis, April 2014, Table 36 Caltrans Mainline Level of Service and Project-Related Impacts, we do not agree with the existing eastbound evening peak hour LOS for Caltrans mainline LOS and Project-Related Impacts. The study showed LOS C for many locations. These locations are operating at LOS E or F currently during the evening peak hours. Although the study indicates that the westbound AM peak period for these locations is operating at LOS C, Caltrans data indicates that they are operating at LOS D during the AM peak period. When the LOS is approaching LOS E or F, traffic speed should be used with cautious observation instead of density in order to calculate an accurate Level of Service.

DOT-3

Mr. Jerry Hittleman  
January 5, 2015  
Page 2 of 2

Table 4.2-8, page 4.2-29 of the DEIR indicates that the project will generate 7,595 daily trips, 277/572 AM/PM peak hour trips and 9,588 Saturday daily trips, 793 Saturday peak hour trips. Table 4.2-16 (TIA Related Projects), indicates that there are about 25 related projects from the City of El Monte, City of Arcadia, City of Rosemead, and City of Temple City; the study provides no generation for daily trips, AM/PM peak hour trips, and Saturday daily and AM/PM peak hour trips. The traffic study that was conducted for the Flair Spectrum Project, which is in the same vicinity as the Wal-Mart project, disclosed 49 related projects. The traffic reports should be consistent if the City is circulating both environmental documents at the same time.

DOT-4

Many of the potential trips will utilize State facilities; therefore, this project may contribute to a cumulative significant traffic impact to the State facilities in the future. The cumulative significant traffic impact may be unavoidable if no traffic mitigation is proposed. The decision maker should be aware of this issue and be prepared to mitigate cumulative project impact in the future. Caltrans is willing to work with the City to identify potential improvements to mitigate the cumulative traffic impacts.

DOT-5

For the Intersection at Baldwin Avenue/Flair Drive-I-10, the City proposes to install a traffic signal at intersection and widen along the west side of Baldwin Ave. to provide an exclusive southbound right-turn only lane onto Flair Dr. Currently, there is a free flow operation at this off-ramp. Additional traffic analysis is needed to validate this improvement. Caltrans is committed to work with the City to resolve congestion at this location.

DOT-6

We understand that this project may require regional mitigation improvements; the City of El Monte agrees to require the developers to pay a fee contribution to fund a project-specific report/project study report/feasibility report. This commitment is documented in the El Monte General Plan Circulation Element Policy C-1.7. The purpose of such report is to evaluate and explore feasible design modifications to the existing on/off ramps within the limits of the City of El Monte. The project applicant shall commit to a fair-share contribution for such study.

DOT-7

We are looking forward in working with the City to implement the above traffic mitigation. If you have any questions, please feel free to contact Alan Lin the project coordinator at (213) 897-8391 and refer to IGR/CEQA No. 141144AL.

DOT-8

Sincerely,

DIANNA WATSON  
IGR/CEQA Branch Chief

cc: Scott Morgan, State Clearinghouse

California Department of Transportation, District 7  
100 S. Main Street, MS 16  
Los Angeles, CA 90012

Letter Dated January 5, 2015

Comment DOT-1

*Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the above referenced project. The proposed project is to develop a new 182,429 square foot Wal-Mart shopping center.*

Response DOT-1

Caltrans participation in the Draft EIR review process and brief summary of the Project are noted.

Comment DOT-2

*On page 4.2-13 (Section 4.2.3.7 Caltrans Facilities) of the Draft Environmental Impact Report (DEIR), the thresholds of significance are incorrectly stated. In Caltrans' Guide, "The level of service (LOS) for operating State highway facilities is based upon measures of effectiveness (MOEs). Caltrans endeavors to maintain a target LOS at the transition between LOS 'C' and LOS 'D' on State highway facilities. If an existing State highway facility is operating at less than the appropriate target LOS, the existing MOE should be maintained."*

Response DOT-2

It is correctly noted that the Caltrans' thresholds of significance have been extracted from the Caltrans' Guide (Traffic Guide for Preparation of Traffic Studies, December 2002). However, the Caltrans' Guide also states that maintaining a transition target between LOS 'C' and LOS 'D' on State highway facilities "may not always be feasible and recommends that the lead agency consult with Caltrans to determine appropriate Levels of Service". During the El Monte General Plan Update, Caltrans was consulted. Caltrans' target LOS was identified to be LOS D and more refined thresholds of significance were identified through discussions with Caltrans (City of El Monte General Plan and Zoning Code Update

Environmental Impact Report (SCH No 200871012), May 2011, pages 5.13.3 to 5.13.4 and 5.13.27, respectively). These thresholds have been employed in the TIA as well. These thresholds recognize that the addition of fewer than 50 peak-hour trips would not degrade the pre-existing LOS based on any Measure of Effectiveness (MOE). Therefore, the thresholds identified in the DEIR are consistent with the Caltrans' Guide and the City of El Monte General Plan and as per direct consultation with Caltrans.

### Comment DOT-3

*The project is located near the 1-10 freeway, which is currently operating near or at capacity during the peak hours at this time. On page 120 of the Traffic Impact Analysis, April 2014, Table 36 Caltrans Mainline Level of Service and Project-Related Impacts, we do not agree with the existing eastbound evening peak hour LOS for Caltrans mainline LOS and Project-Related Impacts. The study showed LOS C for many locations. These locations are operating at LOS E or F currently during the evening peak hours. Although the study indicates that the westbound AM peak period for these locations is operating at LOS C, Caltrans data indicates that they are operating at LOS D during the AM peak period. When the LOS is approaching LOS E or F, traffic speed should be used with cautious observation instead of density in order to calculate an accurate Level of Service.*

### Response DOT-3

The LOS for the freeway study segments have been analyzed based on the most current traffic volumes published by Caltrans at the time of TIA preparation, the number of available travel lanes, using Highway Capacity Manual (HCM) 2010 methodology and density as the Measure of Effectiveness (MOE) for freeway segments, as specified by Caltrans in the Traffic Guide for Preparation of Traffic Studies, December 2002. Using speed observations instead of density would be a qualitative and potentially inconsistent assessment of traffic operations, since speed can change based on incidents both on and off the freeway mainline on any given day. It should be noted that the TIA states the following, which is consistent with the comment that operations may be worse than indicated by the LOS results:

*“As shown on Table 36, freeway segments are operating acceptably based on the demand-density relationship under Existing conditions. However, field observations*

*indicate that, due to constrained capacity (fewer lanes) west of the Temple City Boulevard, there are occasions when queues build up in the westbound direction during the morning peak hour and this queue-build-up affects operations within the study segment. Likewise, field observations indicate that, due to constrained capacity (fewer lanes) east of Valley Boulevard, there are occasions when queues build up in the eastbound direction during the evening peak hour and this queue-build-up affects operations in the study segment."*

Nevertheless, the Walmart project will add 22 or fewer trips on any I-10 segment during the peak hours of traffic. Assuming all 22 trips were assigned on the mixed-flow lanes with 5 travel lanes (thus excluding the 2 HOT lanes available in this segment, and presenting a "worst-case" scenario), these trips would utilize 0.2% of the total capacity, which would have an imperceptible increase in density and/or speed. Therefore, the conclusions that the Project will not degrade the LOS on any freeway segment are correct.

#### Comment DOT-4

*Table 4.2-8, page 4.2-29 of the DEIR indicates that the project will generate 7,595 daily trips, 277/572 AM/PM peak hour trips and 9,588 Saturday daily trips, 793 Saturday peak hour trips. Table 4.2-16 (TIA Related Projects), indicates that there are about 25 related projects from the City of El Monte, City of Arcadia, City of Rosemead, and City of Temple City; the study provides no generation for daily trips, AM/PM peak hour trips, and Saturday daily and AM/PM peak hour trips. The traffic study that was conducted for the Flair Spectrum Project, which is in the same vicinity as the Wal-Mart project, disclosed 49 related projects. The traffic reports should be consistent if the City is circulating both environmental documents at the same time.*

#### Response DOT-4

The City of El Monte and the surrounding jurisdictions provided a list of related projects which were either approved or anticipated at the time of TIA preparation. Traffic generated by these projects was explicitly added to study intersections. In addition, ambient traffic growth based on generalized growth factors for Regional Statistical Area (RSA) 25, which El Monte lies within, was applied to existing counts to account for regional traffic growth from development outside of the study area and any unspecified development not known

at the time of TIA preparation. While the Flair Spectrum Project, which was not known at the time of TIA preparation, lists 49 “related” projects, some of these are outside of the Project’s study area and traffic due to these “related” projects would not reach study intersections for the El Monte Walmart Project. As noted in the Project TIA, certain “related” projects in the Project TIA are consistent with the City of El Monte and respective jurisdictions’ General Plans, and their traffic would already be included in the ambient traffic growth rate anticipated by LACMTA and thus included in the ambient traffic growth for the Project TIA. Hence, a conservative evaluation of future conditions is presented.

#### Comment DOT-5

*Many of the potential trips will utilize State facilities; therefore, this project may contribute to a cumulative significant traffic impact to the State facilities in the future. The cumulative significant traffic impact may be unavoidable if no traffic mitigation is proposed. The decision maker should be aware of this issue and be prepared to mitigate cumulative project impact in the future. Caltrans is willing to work with the City to identify potential improvements to mitigate the cumulative traffic impacts.*

#### Response DOT-5

The Project has been identified to have a significant impact, and mitigation measures have been recommended, at the following locations which are under control and/or shared by Caltrans:

- a) Baldwin Avenue at Flair Drive/I-10 Eastbound Ramps
- b) Temple City Boulevard at Olney Street/I-10 Westbound On-Ramp

The TIA indicates that both improvements require Caltrans coordination and approval. If the City undertook these improvements, implementation of these improvements would have to occur through the formal Caltrans’ design review permit process, when more detailed evaluation, refinement and design of recommended improvements would be performed. Since there is no assurance that these can be implemented, the Project-related impacts have been deemed significant and unavoidable. The City of El Monte has recognized that regional improvements involving Caltrans facilities would need to be

implemented through their General Plan Update process, and that this needs to occur in a strategic manner. Therefore, the Project will participate in a fair-share contribution to fund a project-specific report for regional improvements in accordance with El Monte General Plan Circulation Element Policy C-1.7. The most appropriate improvements to address Project and cumulative impacts and phasing thereof will be determined jointly by Caltrans and the City of El Monte through this study.

Comment DOT-6

*For the Intersection at Baldwin Avenue/Flair Drive - I-10, the City proposes to install a traffic signal at intersection and widen along the west side of Baldwin Ave. to provide an exclusive southbound right-turn only lane onto Flair Dr. Currently, there is a free flow operation at this off-ramp. Additional traffic analysis is needed to validate this improvement. Caltrans is committed to work with the City to resolve congestion at this location.*

Response DOT-6

It is correct that the eastbound on- and off-ramps onto and from I-10 at Baldwin Avenue/Flair Drive operate as a free-flow movement under existing conditions. Due to this operation, the eastbound STOP-sign controlled movements from Flair Street onto Baldwin Avenue and/or the eastbound I-10 on-ramp currently experience excessive delays and this condition will continue with any increase of traffic regardless of the Project. The installation of a traffic signal will reduce overall intersection delay at this location; however, it will result in the need to stop traffic exiting and entering the freeway ramps while a green phase is provided for the eastbound movement. The DEIR and TIA recognize that any improvements at this intersection require coordination and approval from Caltrans, and this would occur through a formal design review permit process, where more detailed evaluation of recommended improvements would be performed. In addition, right-of-way acquisition may be needed in the northwest quadrant of this intersection to allow the construction of the southbound right-turn lane. Since there is no assurance that these can be implemented, the Project-related impacts have been deemed significant and unavoidable. Nevertheless, the Project will participate in a fair-share contribution to fund a project-specific report for regional improvements in accordance with El Monte General Plan Circulation Element Policy C-1.7. The most appropriate improvements to address

Project and cumulative impacts will be determined jointly by Caltrans and the City of El Monte through this study.

Comment DOT-7

*We understand that this project may require regional mitigation improvements; the City of El Monte agrees to require the developers to pay a fee contribution to fund a project-specific report/project study report/feasibility report. This commitment is documented in the El Monte General Plan Circulation Element Policy C-1.7. The purpose of such report is to evaluate and explore feasible design modifications to the existing on/off ramps within the limits of the City of El Monte. The project applicant shall commit to a fair-share contribution for such study.*

Response DOT-7

As noted, commentor is correct in stating that the Project will participate in a fair-share contribution to fund a project-specific report for regional improvements in accordance with El Monte General Plan Circulation Element Policy C-1.7, as is stated in Mitigation Measure 4.2.5.

Comment DOT-8

*We are looking forward in working with the City to implement the above traffic mitigation. If you have any questions, please feel free to contact Alan Lin the project coordinator at (213) 897-8391 and refer to IGR/CEQA No. 141144AL.*

Response DOT-8

The additional contact information provided is noted.



City of Temple City

January 8, 2015

Jason Mikaelian  
City of El Monte  
11333 Valley Boulevard  
El Monte, CA 91731

RE: El Monte Walmart Project

Dear Mr. Mikaelian,

The City of Temple City has reviewed the EIR for the El Monte Walmart Project and expresses concern regarding the project traffic impacts. The City is especially concerned about the stated impacts to the intersection of Arden Way and Lower Azusa Road. The proposed mitigation measure, if implemented, would improve the functioning of the intersection. However, the way in which the mitigation is written – requiring the applicant only pay fair share contributions – does not provide the city a guarantee that the traffic impacts will be mitigated. The City of Temple City encourages the City of El Monte to modify the mitigation measure so as to ensure that the project's impacts will be fully mitigated without any additional costs to Temple City.

CTC-1

The City of Temple City is open to additional conversations in order to address the impacts of the El Monte Walmart Project.

With Thanks,

Scott Reimers  
Planning Manager

City of Temple City  
9701 Las Tunas Drive  
Temple City, CA 91780

Letter Dated January 8, 2015

Comment CTC-1

*The City of Temple City has reviewed the EIR for the El Monte Walmart Project and expresses concern regarding the project traffic impacts. The City is especially concerned about the stated impacts to the intersection of Arden Way and Lower Azusa Road. The proposed mitigation measure, if implemented, would improve the functioning of the intersection. However, the way in which the mitigation is written - requiring the applicant only pay fair share contributions - does not provide the city a guarantee that the traffic impacts will be mitigated. The City of Temple City encourages the City of El Monte to modify the mitigation measure so as to ensure that the project's impacts will be fully mitigated without any additional costs to Temple City.*

*The City of Temple City is open to additional conversations in order to address the impacts of the El Monte Walmart Project.*

Response CTC-1

The commentor is referring to DEIR Mitigation Measure 4.2.1, which has been provided below for reference.

*4.2.1 Prior to the issuance of building permits, the Project Applicant shall pay fair share fees toward the construction of the following improvement at the intersection of Lower Azusa Road and Arden Way (Intersection 16):*

- *Installation of a traffic signal.*

As acknowledged in the DEIR, payment of traffic impact fees does not ensure timely completion of those traffic improvements necessary to mitigate potentially significant cumulative traffic impacts. Additionally, coordination with Temple City would be required for implementation of the needed traffic signal. Because neither the Project Applicant nor the City of El Monte has plenary control over intersections that share a border with Temple

City, the completion of the required improvements at this intersection in a timely manner (i.e., prior to the opening of the Project) cannot be guaranteed. Results and conclusions of the DEIR are not affected.



# COUNTY OF LOS ANGELES

## FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE  
LOS ANGELES, CALIFORNIA 90063-3294

DARYL L. OSBY  
FIRE CHIEF  
FORESTER & FIRE WARDEN

December 8, 2014

Jerry Hittleman, Contract Planner  
City of El Monte  
Planning Division  
11333 Valley Boulevard  
El Monte, CA 91731

Dear Mr. Hittleman:

**NOTICE OF AVAILABILITY OF A DRAFT ENVIRONMENTAL IMPACT REPORT,  
"WALMART PROJECT," PROPOSES CONSTRUCTION AND OPERATION OF A  
NEW 182,429-SQUARE-FOOT WALMART WITHIN THE 15.41-ACRE PROJECT  
SITE, INTERSECTION OF VALLEY BLVD. AND ARDEN DRIVE, EL MONTE  
(FFER 201400222)**

The Notice of Availability of a Draft Environmental Impact Report has been reviewed by the Planning Division, Land Development Unit, Forestry Division, and Health Hazardous Materials Division of the County of Los Angeles Fire Department. The following are their comments:

LAFD-1

**PLANNING DIVISION**

Section 4.8.2.1 Fire Protection Services, third paragraph, first sentence, should be corrected as follows:

LAFD-2

Station No. 166 is staffed by ~~nine~~ four personnel, including ~~two~~ one captains, ~~two~~ one fire fighter specialists, ~~three~~ and two fire fighters on a 24-hour shift.

SERVING THE UNINCORPORATED AREAS OF LOS ANGELES COUNTY AND THE CITIES OF:

- |              |           |                  |                      |           |                      |                       |                  |
|--------------|-----------|------------------|----------------------|-----------|----------------------|-----------------------|------------------|
| AGOURA HILLS | CALABASAS | DIAMOND BAR      | HIDDEN HILLS         | LA MIRADA | MALIBU               | POMONA                | SIGNAL HILL      |
| ARTESIA      | CARSON    | DUARTE           | HUNTINGTON PARK      | LA PUENTE | MAYWOOD              | RANCHO PALOS VERDES   | SOUTH EL MONTE   |
| AZUSA        | CERRITOS  | EL MONTE         | INDUSTRY             | LAKELAND  | NORWALK              | ROLLING HILLS         | SOUTH GATE       |
| BALDWIN PARK | CLAREMONT | GARDENA          | INGLEWOOD            | LANCASTER | PALMDALE             | ROLLING HILLS ESTATES | TEMPLE CITY      |
| BELL         | COMMERCE  | GLENDORA         | IRWINDALE            | LAWDALE   | PALOS VERDES ESTATES | ROSEMead              | WALNUT           |
| BELL GARDENS | COVINA    | HAWAIIAN GARDENS | LA CANADA FLINTRIDGE | LOMITA    | PARAMOUNT            | SAN DIMAS             | WEST HOLLYWOOD   |
| BELLFLOWER   | CUDAHY    | HAWTHORNE        | LA HABRA             | LYNWOOD   | PICO RIVERA          | SANTA CLARITA         | WESTLAKE VILLAGE |
| BRADBURY     |           |                  |                      |           |                      |                       | WHITTIER         |

Jerry Hittleman, Contract Planner  
December 8, 2014  
Page 2

**LAND DEVELOPMENT UNIT**

**GENERAL REQUIREMENTS**

**WATER REQUIREMENTS:**

1. The development of this project must comply with all applicable code and ordinance requirements for construction, access, water mains, fire flows, and fire hydrants.
2. Specific fire and life safety requirements for the construction phase will be addressed at the building fire plan check. There may be additional fire and life safety requirements during this time.
3. Every building constructed shall be accessible to the Fire Department's apparatus by way of access roadways with an all-weather surface of not less than the prescribed width. The roadway shall be extended to within 150 feet of all portions of the exterior walls when measured by an unobstructed route around the exterior of the building.
4. The Fire Department requirements for access, fire flows, and hydrants are addressed during the building permit stage.

**WATER REQUIREMENTS:**

5. The development may require fire flows up to 8,000 gallons per minute at 20 per square inch residual pressure for up to a four-hour duration. Final fire flows will be based on the size of buildings, its relationship to other structures, property lines, and types of construction used.
6. Fire hydrant spacing shall be 300 feet and shall meet the following requirements:
  - a) No portion of lot frontage shall be more than 200 feet via vehicular access from a public fire hydrant.
  - b) No portion of a building shall exceed 400 feet via vehicular access from a properly spaced public fire hydrant.
  - c) Additional hydrants will be required if hydrant spacing exceeds specified distances.

LAFD-3  
cont'd.

Jerry Hittleman, Contract Planner  
December 8, 2014  
Page 3

- d) When cul-de-sac depth exceeds 200 feet on a commercial street, hydrants shall be required at the corner and midblock.
- e) A cul-de-sac shall not be more than 500 feet in length when serving land zoned for commercial use.

ACCESS REQUIREMENTS:

- 7. Turning radii shall not be less than 32 feet. This measurement shall be determined at the centerline of the road. The Fire Department approved turning area shall be provided for all driveways exceeding 150 feet in-length and at the end of all cul-de-sacs.
- 8. All on-site driveways/roadways shall provide a minimum unobstructed width of 28 feet, clear-to-sky, and exclusive of shoulders. The on-site driveway is to be within 150 feet of all portions of the exterior walls of the first story of the building, as measured by an approved route around the building when the height of the building above the lowest level of the Fire Department's vehicular access road is more than 30 feet in high or the building is more than 3 stories. The access roadway shall be located a minimum of 15 feet and a maximum of 30 feet from the building and shall be positioned parallel to one entire side of the building. The side of the building on which the aerial fire apparatus' access road is positioned shall be approved by the fire code official. Fire Code 503.1.1 and 503.2.2.
- 9. The County of Los Angeles Fire Department's Land Development Unit's comments are only general requirements. Specific fire and life safety requirements will be addressed at the building and fire plan check phase. There may be additional requirements during this time.
- 10. The Fire Department's requirements for access, fire flows, and hydrants are addressed during the building permit stage.
- 11. The County of Los Angeles Fire Department's Land Development Unit appreciates the opportunity to comment on this project.
- 12. The statutory responsibilities of the County of Los Angeles Fire Department's Land Development Unit are to review and comment on all projects within the unincorporated areas of the County of Los Angeles. Our emphasis is on the availability of sufficient water supplies for firefighting operations and local/regional access issues. However, we review all projects for issues that may

LAFD-3  
cont'd.

Jerry Hittleman, Contract Planner  
December 8, 2014  
Page 4

have a significant impact on the County of Los Angeles Fire Department. We are responsible for the review of all projects within contract cities (cities that contract with the County of Los Angeles Fire Department for fire protection services). We are responsible for all County facilities located within non-contract cities. The County of Los Angeles Fire Department's Land Development Unit may also comment on conditions that may be imposed on a project by the Fire Prevention Division which may create a potentially significant impact to the environment.

LAFD-3  
cont'd.

- 13. Should any questions arise regarding subdivision, water systems, or access, please contact the County of Los Angeles Fire Department's Land Development Unit's Inspector Claudia Soia at (323) 890-4243.

**FORESTRY DIVISION – OTHER ENVIRONMENTAL CONCERN**

- 1. The statutory responsibilities of the County of Los Angeles Fire Department's Forestry Division include erosion control, watershed management, rare and endangered species, vegetation, fuel modification for Very High Fire Hazard Severity Zones or Fire Zone 4, archeological and cultural resources, and the County Oak Tree Ordinance. Our previous comments remain unchanged.

LAFD-4

**HEALTH HAZARDOUS MATERIALS DIVISION**

- 1. The Health Hazardous Materials Division has no additional comments than those already provided.

LAFD-5

If you have any additional questions, please contact this office at (323) 890-4330.

Very truly yours,



FRANK VIDALES, CHIEF, FORESTRY DIVISION  
PREVENTION SERVICES BUREAU

FV: ad

County of Los Angeles Fire Department  
1320 North Eastern Avenue  
Los Angeles, CA 90063

Letter Dated December 8, 2014

Comment LAFD-1

*The Notice of Availability of a Draft Environmental Impact Report has been reviewed by the Planning Division, Land Development Unit, Forestry Division, and Health Hazardous Materials Division of the County of Los Angeles Fire Department. The following are their comments:*

Response LAFD-1

The Lead Agency appreciates the Los Angeles County Fire Department comment and input on the Draft EIR.

Comment LAFD-2

*Section 4.8.2.1 Fire Protection Services, third paragraph, first sentence, should be corrected as follows:*

*Station No. 166 is staffed by ~~nine~~ four personnel, including ~~two~~ one captains, ~~two~~ one fire fighter specialists, ~~three~~ and two fire fighters on a 24-hour shift.*

Response LAFD-2

Current station information is noted and DEIR Section 4.8.2.1, Page 4.8-4 (excerpt following) is amended accordingly.

*Station No. 166 is staffed by ~~nine~~ four personnel, including ~~two~~ one captains, ~~two~~ one firefighter specialists, ~~three~~ and two firefighters on a 24-hour shift, ~~and a 2-person paramedic squad~~.*

These revisions are reflected in Final EIR Section 2.0, Revisions and Errata Corrections. Results and conclusions of the DEIR are not affected.

Comment LAFD-3

LAND DEVELOPMENT UNIT

GENERAL REQUIREMENTS

WATER REQUIREMENTS:

1. *The development of this project must comply with all applicable code and ordinance requirements for construction, access, water mains, fire flows, and fire hydrants.*
2. *Specific fire and life safety requirements for the construction phase will be addressed at the building fire plan check. There may be additional fire and life safety requirements during this time.*
3. *Every building constructed shall be accessible to the Fire Department's apparatus by way of access roadways with an all-weather surface of not less than the prescribed width. The roadway shall be extended to within 150 feet of all portions of the exterior walls when measured by an unobstructed route around the exterior of the building.*
4. *The Fire Department requirements for access, fire flows, and hydrants are addressed during the building permit stage.*

WATER REQUIREMENTS:

5. *The development may require fire flows up to 8,000 gallons per minute at 20 per square inch residual pressure for up to a four-hour duration. Final fire flows will be based on the size of buildings, its relationship to other structures, property lines, and types of construction used.*
6. *Fire hydrant spacing shall be 300 feet and shall meet the following requirements:*
  - a) *No portion of lot frontage shall be more than 200 feet via vehicular access from a public fire hydrant.*
  - b) *No portion of a building shall exceed 400 feet via vehicular access from a properly spaced public fire hydrant.*
  - c) *Additional hydrants will be required if hydrant spacing exceeds specified distances.*
  - d) *When cul-de-sac depth exceeds 200 feet on a commercial street, hydrants shall be required at the corner and mid block.*
  - e) *A cul-de-sac shall not be more than 500 feet in length when serving land zoned for commercial use.*

ACCESS REQUIREMENTS:

7. *Turning radii shall not be less than 32 feet. This measurement shall be determined at the centerline of the road. The Fire Department approved turning area shall be provided for all driveways exceeding 150 feet in-length and at the end of all cul-de-sacs.*
8. *All on-site driveways/roadways shall provide a minimum unobstructed width of 28 feet, clear-to-sky, and exclusive of shoulders. The on-site driveway is to be within 150 feet of all portions of the exterior walls of the first story of the building, as measured by an approved route around the building when the height of the building above the lowest level of the Fire Department's vehicular access road is more than 30 feet in high or the building is more than 3 stories. The access roadway shall be located a minimum of 15 feet and a maximum of 30 feet from the building and shall be positioned parallel to one entire side of the building. The side of the building on which the aerial fire apparatus' access road is positioned shall be approved by the fire code official. Fire Code 503.1.1 and 503.2.2.*
9. *The County of Los Angeles Fire Department's Land Development Unit's comments are only general requirements. Specific fire and life safety requirements will be addressed at the building and fire plan check phase. There may be additional requirements during this time.*
10. *The Fire Department's requirements for access, fire flows, and hydrants are addressed during the building permit stage.*
11. *The County of Los Angeles Fire Department's Land Development Unit appreciates the opportunity to comment on this project.*
12. *The statutory responsibilities of the County of Los Angeles Fire Department's Land Development Unit are to review and comment on all projects within the unincorporated areas of the County of Los Angeles. Our emphasis is on the availability of sufficient water supplies for firefighting operations and local/regional access issues. However, we review all projects for issues that may have a significant impact on the County of Los Angeles Fire Department. We are responsible for the review of all projects within contract cities (cities that contract with the County of Los Angeles Fire Department for fire protection services). We are responsible for all County facilities located within non-contract cities. The County of Los Angeles Fire Department's Land Development Unit may also comment on conditions that may be imposed on a project by the Fire Prevention Division which may create a potentially significant impact to the environment.*

13. *Should any questions arise regarding subdivision, water systems, or access, please contact the County of Los Angeles Fire Department's Land Development Unit's Inspector Claudia Soia at (323) 890-4243.*

Response LAFD-3

As noted within these comments, the Project's development plans are subject to further Fire Department review as part of the City's design review process, which would occur subsequent to EIR Certification. Pursuant to Conditions of Approval, the Project will comply with all applicable code and ordinance requirements. Further, the City will coordinate its review of the Project with Fire Department staff, to ensure that the Project's design complies with all relevant requirements in regard to fire prevention and safety. Contact information is noted. No further response is required.

Comment LAFD-4

FORESTRY DIVISION - OTHER ENVIRONMENTAL CONCERN

1. *The statutory responsibilities of the County of Los Angeles Fire Department's Forestry Division include erosion control, watershed management, rare and endangered species, vegetation, fuel modification for Very High Fire Hazard Severity Zones or Fire Zone 4, archeological and cultural resources, and the County Oak Tree Ordinance. Our previous comments remain unchanged.*

Response LAFD-4

Forestry Division remarks are noted. No further response is necessary.

Comment LAFD-5

HEALTH HAZARDOUS MATERIALS DIVISION

1. *The Health Hazardous Materials Division has no additional comments than those already provided.*

Response LAFD-5

Health Hazardous Materials Division remarks are noted. No further response is necessary.



# COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

1955 Workman Mill Road, Whittier, CA 90601-1400  
Mailing Address: P.O. Box 4998, Whittier, CA 90607-4998  
Telephone: (562) 699-7411, FAX: (562) 699-5422  
www.lacsd.org

GRACE ROBINSON HYDE  
Chief Engineer and General Manager

January 8, 2015

Ref File No.: 3155172

Mr Jerry Hittleman  
Contract Planner  
City of El Monte  
11333 Valley Boulevard  
El Monte, CA 91731-3293

Dear Mr. Hittleman:

### El Monte Walmart

The County Sanitation Districts of Los Angeles County (Districts) received a Draft Environmental Impact Report for the subject project on November 21, 2014. The proposed development is located within the jurisdictional boundaries of District No. 15. We offer the following comments:

CSD-1

1. **Section 3.4.3.3 Wastewater Conveyance and Treatment, Page 3-18, paragraph 3** – “Wastewater generated by the Project would be conveyed by City wastewater facilities to treatment plants operated by the Los Angeles County Sanitation District (LACSD).”

Wastewater generated by the Project would be conveyed by City wastewater facilities to the Joint Outfall “B” Unit 8A Trunk Sewer, in Arden Drive north of Valley Boulevard. The wastewater generated by the proposed project will be treated at the San Jose Creek Water Reclamation Plant (WRP) located adjacent to the City of Industry, which has a design capacity of 100 mgd and currently processes an average flow of 73.1 mgd. Wastewater flows that exceed the capacity of the San Jose Creek WRP, and all biosolids, are diverted to and treated at the Joint Water Pollution Control Plant located in the City of Carson.

CSD-2

2. **Section 4.7.3.6 Los Angeles County Sanitation Districts, Wastewater Permitting, Page 4.7-17, paragraph 3** – “Collected wastewater is conveyed to the Whittier Narrows Water Reclamation Plant (WRP)...”

The wastewater generated by the proposed project will be treated at the San Jose Creek WRP. Refer back to Item No. 1 for San Jose Creek WRP capacity information.

CSD-3

3. **Section 4.7.3.6 Los Angeles County Sanitation Districts, Wastewater Permitting, Page 4.7-18, paragraph 1** – “The City of El Monte is one of seventeen jurisdictions that are signatory to the Joint Outfall Agreement (Agreement).”

The City of El Monte is in District No. 15. District No. 15 is one of the seventeen jurisdictions that are signatory to a Joint Outfall Agreement.

CSD-4

4. **Section 4.8.2.3 Water and Wastewater Treatment Services, Page 4.8-5, paragraph 1** – “Collected wastewater is conveyed to the Whittier Narrows Water Reclamation Plant (WRP)...”

CSD-5

Mr Jerry Hittleman

-2-

January 8, 2015

The wastewater generated by the proposed project will be treated at the San Jose Creek WRP. Refer back to Item No. 1 for San Jose Creek WRP capacity information.

CSD-5  
cont'd.

- 5. **Section 4.8.5.2 Impact Statements, Impact Analysis: Wastewater Treatment, Page 4.8-13, last paragraph** – “Wastewater generated by the Project will be conveyed for treatment to the Whittier Narrows WRP.”

CSD-6

The wastewater generated by the proposed project will be treated at the San Jose Creek WRP. Refer back to Item No. 1 for San Jose Creek WRP capacity information.

- 6. **Section 4.8.5.2 Impact Statements, Impact Analysis: Wastewater Treatment, Page 4.8-16, last paragraph** – “Collected wastewater is conveyed to the Whittier Narrows Water Reclamation Plant (WRP).”

CSD-7

The wastewater generated by the proposed project will be treated at the San Jose Creek WRP. Refer back to Item No. 1 for San Jose Creek WRP capacity information.

- 7. **Section 4.8.5.2 Impact Statements, Table 4.8.3 Wastewater Generation, Page 4.8-17** – Average Daily Wastewater Generation is 4,196 per a 23 gallon/1,000 sq. ft. Generation Rate.

CSD-8

The expected average wastewater flow from the proposed project, a 182,429 square foot Walmart, is 27,364 gallons per day. For a copy of the Districts’ average wastewater generation factors, go to [www.lacsd.org](http://www.lacsd.org), Wastewater & Sewer Systems, click on Will Serve Program, and click on the Table 1, Loadings for Each Class of Land Use link.

- 8. **Section 5.1.1.8 Cumulative Impacts Related to Public Services and Utilities, Wastewater Treatment, Page 5.36, last paragraph** – “Wastewater generated by the Project would be conveyed for treatment to the Whittier Narrows WRP.”

CSD-9

The wastewater generated by the proposed project will be treated at the San Jose Creek WRP. Refer back to Item No. 1 for San Jose Creek WRP capacity information.

- 9. All other information concerning Districts’ facilities and sewerage service contained in the document is current.

CSD-10

If you have any questions, please contact the undersigned at (562) 908-4288, extension 2717.

Very truly yours,

Grace Robinson Hyde

Adriana Raza  
Customer Service Specialist  
Facilities Planning Department

AR:ar

cc: M. Tremblay  
J. Ganz

County Sanitation Districts of Los Angeles County  
19955 Workman Mill Road  
Whittier, CA 90601

Letter Dated January 8, 2015

Comment CSD-1

*The County Sanitation Districts of Los Angeles County (Districts) received a Draft Environmental Impact Report for the subject project on November 21, 2014. The proposed development is located within the jurisdictional boundaries of District No. 15. We offer the following comments:*

Response CSD-1

Comment noted. The Project location within LACSD District No. 15 is recognized.

Comment CSD-2

1. *Section 3.4.3.3 Wastewater Conveyance and Treatment, Page 3-18, paragraph 3 - "Wastewater generated by the Project would be conveyed by City wastewater facilities to treatment plants operated by the Los Angeles County Sanitation District (LACSD)."*

*Wastewater generated by the Project would be conveyed by City wastewater facilities to the Joint Outfall "B" Unit 8A Trunk Sewer, in Arden Drive north of Valley Boulevard. The wastewater generated by the proposed project will be treated at the San Jose Creek Water Reclamation Plant (WRP) located adjacent to the City of Industry, which has a design capacity of 100 mgd and currently processes an average flow of 73.1 mgd. Wastewater flows that exceed the capacity of the San Jose Creek WRP, and all biosolids, are diverted to and treated at the Joint Water Pollution Control Plant located in the City of Carson.*

Response CSD-2

The text at DEIR Section 3.4.3.3, Wastewater Conveyance and Treatment, Page 3-18 (excerpt following) is amended to reflect the current updated information, as provided by County Sanitation Districts of Los Angeles County. These revisions have also been included in Final EIR Section 2.0, "Revisions and Errata." Results and conclusions of the EIR are not affected.

Wastewater generated by the Project would be conveyed by City wastewater facilities to treatment plants operated by the Los Angeles County Sanitation District (LACSD) the Joint Outfall "B" Unit 8A Trunk Sewer, in Arden Drive north of Valley Boulevard. The wastewater generated by the proposed Project will be treated at the San Jose Creek Water Reclamation Plant (WRP) located adjacent to the City of Industry, which has a design capacity of 100 mgd and currently processes an average flow of 73.1 mgd. Wastewater flows that exceed the capacity of the San Jose Creek WRP, and all biosolids, are diverted to and treated at the Joint Water Pollution Control Plant located in the City of Carson.

Comment CSD-3

2. Section 4.7.3.6 Los Angeles County Sanitation Districts, Wastewater Permitting, Page 4.7-17, paragraph 3 - "Collected wastewater is conveyed to the Whittier Narrows Water Reclamation Plant (WRP) ... "

*The wastewater generated by the proposed project will be treated at the San Jose Creek WRP. Refer back to Item No. 1 for San Jose Creek WRP capacity information.*

Response CSD-3

The text at DEIR Section 4.7.3.6, Los Angeles County Sanitation Districts, Wastewater Permitting, Page 4.7-17 (excerpt following) is amended to reflect the current updated information, as provided by County Sanitation Districts of Los Angeles County. These revisions have also been included in Final EIR Section 2.0, "Revisions and Errata." Results and conclusions of the EIR are not affected.

~~Collected wastewater is conveyed to the Whittier Narrows Water Reclamation Plant (WRP) for primary, secondary and tertiary treatment. The WRP serves a population of approximately 150,000 people. Virtually all of the reclaimed water is reused as groundwater recharge into the Rio Hondo and San Gabriel Coastal Spreading Grounds or for irrigation at an adjacent~~

nursery.<sup>1</sup> the Joint Outfall "B" Unit 8A Trunk Sewer, in Arden Drive north of Valley Boulevard. The wastewater generated by the proposed Project will be treated at the San Jose Creek Water Reclamation Plant (WRP) located adjacent to the City of Industry, which has a design capacity of 100 mgd and currently processes an average flow of 73.1 mgd. Wastewater flows that exceed the capacity of the San Jose Creek WRP, and all biosolids, are diverted to and treated at the Joint Water Pollution Control Plant located in the City of Carson.

Comment CSD-4

3. Section 4.7.3.6 Los Angeles County Sanitation Districts, Wastewater Permitting, Page 4. 7-18, paragraph 1 - "The City of El Monte is one of seventeen jurisdictions that are signatory to the Joint Outfall Agreement (Agreement)."

*The City of El Monte is in District No. 15. District No. 15 is one of the seventeen jurisdictions that are signatory to a Joint Outfall Agreement.*

Response CSD-4

The text at DEIR Section 4.7.3.6, Los Angeles County Sanitation Districts, Wastewater Permitting, Page 4.7-18 (excerpt following) is amended to reflect the current updated information, as provided by County Sanitation Districts of Los Angeles County. These revisions have also been included in Final EIR Section 2.0, "Revisions and Errata." Results and conclusions of the EIR are not affected.

The City of El Monte **is in District No. 15. District No. 15** is one of seventeen jurisdictions that are signatory to the Joint Outfall Agreement (Agreement).

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1 ~~Sanitation Districts of Los Angeles County. Whittier Narrows Reclamation Plant. Web July 10, 2014. <[http://www.lacsd.org/wastewater/wwwfacilities/joint\\_outfall\\_system\\_wrp/whittier\\_narrows.asp](http://www.lacsd.org/wastewater/wwwfacilities/joint_outfall_system_wrp/whittier_narrows.asp)>~~

Comment CSD-5

4. Section 4.8.2.3 Water and Wastewater Treatment Services, Page 4.8-5, paragraph 1 - "Collected wastewater is conveyed to the Whittier Narrows Water Reclamation Plant (WRP) ... "

*The wastewater generated by the proposed project will be treated at the San Jose Creek WRP. Refer back to Item No. 1 for San Jose Creek WRP capacity information.*

Response CSD-5

The text at DEIR Section 4.8.2.3, Water and Wastewater Treatment Services, Page 4.8-5 (excerpt following) is amended to reflect the current updated information, as provided by County Sanitation Districts of Los Angeles County. These revisions have also been included in Final EIR Section 2.0, "Revisions and Errata." Results and conclusions of the EIR are not affected.

Collected wastewater is conveyed to ~~the Whittier Narrows Water Reclamation Plant (WRP) for primary, secondary and tertiary treatment. The WRP serves a population of approximately 150,000 people. Virtually all of the reclaimed water is reused as groundwater recharge into the Rio Hondo and San Gabriel Coastal Spreading Grounds or for irrigation at an adjacent nursery.~~<sup>2</sup> **the Joint Outfall "B" Unit 8A Trunk Sewer, in Arden Drive north of Valley Boulevard. The wastewater generated by the proposed Project will be treated at the San Jose Creek Water Reclamation Plant (WRP) located adjacent to the City of Industry, which has a design capacity of 100 mgd and currently processes an average flow of 73.1 mgd. Wastewater flows that exceed the capacity of the San Jose Creek WRP, and all biosolids, are diverted to and treated at the Joint Water Pollution Control Plant located in the City of Carson.**

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<sup>2</sup> ~~Sanitation Districts of Los Angeles County. Whittier Narrows Reclamation Plant. Web July 10, 2014. <[http://www.lacsd.org/wastewater/wwfacilities/joint\\_outfall\\_system\\_wrp/whittier\\_narrows.asp](http://www.lacsd.org/wastewater/wwfacilities/joint_outfall_system_wrp/whittier_narrows.asp)>~~

Comment CSD-6

5. Section 4.8.5.2 Impact Statements, Impact Analysis: Wastewater Treatment, Page 4.8-13, last paragraph – “Wastewater generated by the Project will be conveyed for treatment to the Whittier Narrows WRP.”

*The wastewater generated by the proposed project will be treated at the San Jose Creek WRP. Refer back to Item No. 1 for San Jose Creek WRP capacity information.*

Response CSD-6

The text at DEIR Section 4.8.5.2, Page 4.8-13 (excerpt following) is amended to reflect the current updated information, as provided by County Sanitation Districts of Los Angeles County. These revisions have also been included in Final EIR Section 2.0, “Revisions and Errata.” Results and conclusions of the EIR are not affected.

~~Wastewater generated by the Project will be conveyed for treatment to the Whittier Narrows WRP. The WRP is operated by LACSD, and currently treats an average of 9 million gallons per day (mgd) and has capacity to treat 15 mgd.<sup>3</sup>~~ **the Joint Outfall “B” Unit 8A Trunk Sewer, in Arden Drive north of Valley Boulevard. The wastewater generated by the proposed Project will be treated at the San Jose Creek Water Reclamation Plant (WRP) located adjacent to the City of Industry, which has a design capacity of 100 mgd and currently processes an average flow of 73.1 mgd. Wastewater flows that exceed the capacity of the San Jose Creek WRP, and all biosolids, are diverted to and treated at the Joint Water Pollution Control Plant located in the City of Carson.**

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<sup>3</sup> Personal communication with Mr. Bob Shomokochi, Maintenance Supervisor on June 18, 2014.

Comment CSD-7

6. Section 4.8.5.2 Impact Statements, Impact Analysis: Wastewater Treatment, Page 4.8-16, last paragraph- "Collected wastewater is conveyed to the Whittier Narrows Water Reclamation Plant (WRP) ... "

*The wastewater generated by the proposed project will be treated at the San Jose Creek WRP. Refer back to Item No. 1 for San Jose Creek WRP capacity information.*

Response CSD-7

The text at DEIR Section 4.8.5.2, Page 4.8-16 (excerpt following) is amended to reflect the current updated information, as provided by County Sanitation Districts of Los Angeles County. These revisions have also been included in Final EIR Section 2.0, "Revisions and Errata." Results and conclusions of the EIR are not affected.

Collected wastewater is conveyed to the ~~Whittier Narrows~~ San Jose Creek WRP for primary, secondary and tertiary treatment.

Comment CSD-8

7. Section 4.8.5.2 Impact Statements, Table 4.8.3 Wastewater Generation, Page 4.8-17 - Average Daily Wastewater Generation is 4,196 per a 23 gallon/1,000 sq. ft. Generation Rate.

*The expected average wastewater flow from the proposed project, a 182,429 square foot Walmart, is 27,364 gallons per day. For a copy of the Districts' average wastewater generation factors, go to [www.lacsd.org](http://www.lacsd.org), Wastewater & Sewer Systems, click on Will Serve Program, and click on the Table I. Loadings for Each Class of Land Use link.*

Response CSD-8

The Table 4.8-3 and subsequent text at DEIR Section 4.8.5.2, Page 4.8-17 (excerpt following) is amended to reflect the current updated information, as provided by County Sanitation Districts of Los Angeles County.<sup>4</sup> These revisions have also been included in Final EIR Section 2.0, "Revisions and Errata." Results and conclusions of the EIR are not affected.

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<sup>4</sup> Sanitation Districts of Los Angeles County. Table 1, Loadings For Each Class Of Land Use. Web. February 17, 2015. < <http://www.lacsd.org/civica/filebank/blobdload.asp?BlobID=3531>>

**Table 4.8-3  
Wastewater Generation**

Generation Rate	Calculation	Average Daily Wastewater Generation	Average Annual Wastewater Generation
23 gallons/1,000 sq. ft.	<del>(182,429 sq. ft.) x (0.023 gallons/sq. ft./day)</del>	4,196 gallons	1.5 million gallons (4.6 acre-feet) <sup>1</sup>
<b>150 gallons/1,000 sq. ft.</b>	<b>(182,429 sq. ft.) x (0.15 gallons/sq. ft./day)</b>	<b>27,364 gallons</b>	<b>10 million gallons (30.7 acre-feet)<sup>1</sup></b>

Source: ~~Nasland Engineering~~; County Sanitation Districts of Los Angeles County; Applied Planning, Inc.  
<sup>1</sup> 1 acre-foot = 325,851.43 gallons.

The wastewater flow anticipated from the Project site is ~~4,196~~ **27,364** gallons per day. This represents approximately ~~0.02~~ **0.03** percent of the current daily ~~Whittier Narrows WRP capacity of 15 mgd~~ **San Jose Creek WRP capacity of 100mgd**. As noted previously within this section, the WRP currently treats an average of ~~9 mgd~~ **73.1 mgd**, leaving ~~6 mgd~~ **26.9 mgd** of available capacity.

Comment CSD-9

8. Section 5.1.1.8 Cumulative Impacts Related to Public Services and Utilities, Wastewater Treatment, Page 5.36, last paragraph - "Wastewater generated by the Project would be conveyed for treatment to the Whittier Narrows WRP."

*The wastewater generated by the proposed project will be treated at the San Jose Creek WRP. Refer back to Item No. 1 for San Jose Creek WRP capacity information.*

Response CSD-9

The text at DEIR Section 5.1.1.8, Cumulative Impacts Related to Public Services and Utilities, Wastewater Treatment, Page 5.36 (excerpt following) is amended to reflect the current updated information, as provided by County Sanitation Districts of Los Angeles County. These revisions have also been included in Final EIR Section 2.0, "Revisions and Errata." Results and conclusions of the EIR are not affected.

The cumulative impact area for wastewater treatment demands is defined by the service area of the wastewater treatment provider, in this case, the LACSD ~~Whittier Narrows~~ **San Jose Creek** Water Reclamation Plant (WRP). Wastewater generated by the Project would be conveyed for treatment to ~~the Whittier Narrows WRP~~. ~~The WRP currently treats an average of 9 million~~

gallons per day (mgd) and has capacity to treat 15 mgd.<sup>5</sup> **the Joint Outfall "B" Unit 8A Trunk Sewer, in Arden Drive north of Valley Boulevard. The wastewater generated by the proposed Project will be treated at the San Jose Creek Water Reclamation Plant (WRP) located adjacent to the City of Industry, which has a design capacity of 100 mgd and currently processes an average flow of 73.1 mgd. Wastewater flows that exceed the capacity of the San Jose Creek WRP, and all biosolids, are diverted to and treated at the Joint Water Pollution Control Plant located in the City of Carson.**

Service and connection fees paid by the Project and other wastewater generators within the ~~Whittier Narrows~~ **San Jose Creek** WRP service area would provide revenues available for improvement and expansion of wastewater treatment facilities commensurate with service area demands, thereby avoiding or potentially significant cumulative impacts to wastewater treatment services.

Comment CSD-10

9. *All other information concerning Districts' facilities and sewerage service contained in the document is current.*

*If you have any questions, please contact the undersigned at (562) 908-4288, extension 2717.*

Response CSD-10

The Lead Agency appreciates the District's comments. District contact information is noted.

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<sup>5</sup> ~~Personal communication with Mr. Bob Shomokochi, Maintenance Supervisor on June 18, 2014.~~

**From:** Gabrieleno Band of Mission Indians <[gabrielenoindians@yahoo.com](mailto:gabrielenoindians@yahoo.com)>

**Date:** December 7, 2014, 11:13:41 PM PST

**To:** "[Jhittleman@elmonteteca.gov](mailto:Jhittleman@elmonteteca.gov)" <[Jhittleman@elmonteteca.gov](mailto:Jhittleman@elmonteteca.gov)>, Christina Swindall <[christinaswindall@yahoo.com](mailto:christinaswindall@yahoo.com)>, Tim Miguel <[timmiguel@sbcglobal.net](mailto:timmiguel@sbcglobal.net)>, "Matt Teutimez.Kizh Gabrieleno" <[matt.teutimez@gmail.com](mailto:matt.teutimez@gmail.com)>

**Subject:** El Monte Walmart city of El Monte Ca

**Reply-To:** Gabrieleno Band of Mission Indians <[gabrielenoindians@yahoo.com](mailto:gabrielenoindians@yahoo.com)>

Dear Jerry Hittleman  
Contract Planner

This is regards to the above project

*"The project locale lies in an Highly sensitive area where the traditional territories of the Kizh(Kitc) Gabrieleño, villages adjoined and overlapped with each other, at least during the Late Prehistoric and Protohistoric Periods. The homeland of the Kizh (Kitc) Gabrieleños , probably the most influential Native American group in aboriginal southern California (Bean and Smith 1978a:538), was centered in the Los Angeles Basin, and reached as far east as the San Bernardino-Riverside area. Whatever the linguistic affiliation, Native Americans in and around the project area exhibited similar organization and resource procurement strategies. Villages were based on clan or lineage groups. Their home/ base sites are marked by midden deposits, often with bedrock mortars. During their seasonal rounds to exploit plant resources, small groups would migrate within their traditional territory in search of specific plants and animals. Their gathering strategies often left behind signs of special use sites, usually grinding slicks on bedrock boulders, at the locations of the resources. Therefore in order to protect our resources we would like to request one of our experienced & certified Native American monitors to be on site during any and all ground disturbances. please see attachments*

**In all cases, when the NAHC (Native American Heritage Commission) states there are " NO" records of sacred sites" in the subject area; they always refer the contractors back to the Native American Tribes whose tribal territory is within the project area. This is due to the fact, that the NAHC is only aware of general information on each California NA Tribe they are NOT the "experts" on our Tribe. Our Elder Committee & Tribal Historians are the experts and is the reason why the NAHC will always refer contractors to the local tribes. Please contact our office regarding this project to coordinate a NA monitor to be present. Thank You**

GBMI-1

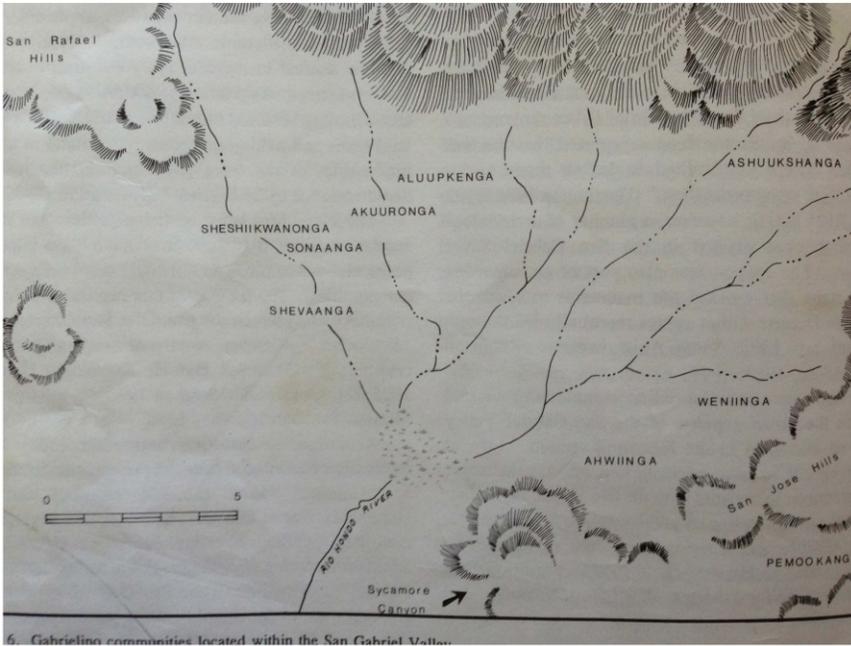
Andrew Salas, Chairman  
Gabrieleno Band of Mission Indians - Kizh(Kit'c) Nation  
PO Box 393  
Covina, CA 91723  
cell (626)926-4131  
email: [gabrielenoindians@yahoo.com](mailto:gabrielenoindians@yahoo.com)

<image001.jpg>

<image002.jpg>

<image003.jpg>

<image004.jpg>



6. Gabrielino communities located within the San Gabriel Valley.

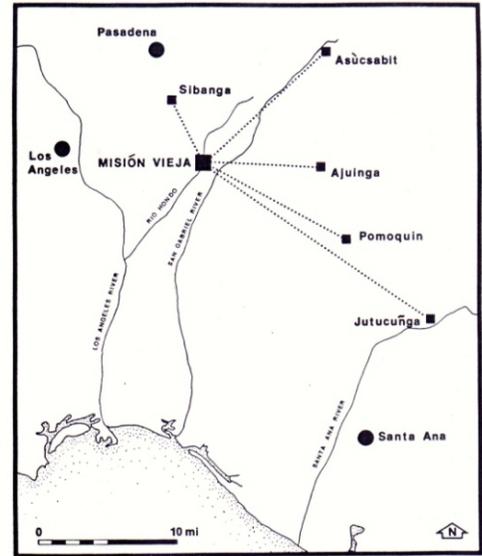


Figure A-1. Rancherias associated with Misión Vieja.

## Gabrielino

LOWELL JOHN BEAN AND CHARLES R. SMITH

The Gabrielino (gābērał'fno) are, in many ways, one of the most interesting—yet least known—of native California peoples. At the time of Spanish contact in 1769 they occupied the “most richly endowed coastal section in southern California” (Blackburn 1962:1963-6), which is most of present-day Los Angeles and Orange counties, plus several offshore islands (San Clemente, Santa Catalina, San Nicolas). With the possible exception of the Chumash, the Gabrielino were the wealthiest, most populous, and most powerful ethnic nationality in aboriginal southern California, their influence spreading as far north as the San Joaquin valley Yokuts, as far east as the Colorado River, and south into Baja California.

### Language, Territory, and Environment

Gabrielino was one of the Cupan languages in the Takic family, which is part of the Uto-Aztecan linguistic stock (Bright 1975).<sup>\*</sup> Internal linguistic differences existed, Harrington (1962:viii) suggesting four dialects and Kroeber (1925), six. Harrington’s four-part division includes: Gabrielino proper, spoken mainly in the Los Angeles basin area; Fernandefio, spoken by people north of the Los Angeles basin, mainly in the San Fernando valley region; Santa Catalina Island dialect; and San Nicolas Island dialect—although according to Bright (1975) insufficient data exist to be sure of the Cupan affiliation of the San Nicolas speech. There were probably dialectal differences also between many mainland villages, a result not only of geographical separation but also of social, cultural, and linguistic mixing with neighboring non-Gabrielino speakers.

The names Gabrielino and Fernandefio (fernał'dā-nyó) refer to the two major Spanish missions established in Gabrielino territory—San Gabriel and San Fernando.

It was to these two missions that the majority of the Indians living on the coastal plains and valleys of southern California were removed.

Although the major outlines of Gabrielino territorial occupation are known, the fixing of definitive boundaries is difficult. Generally, Gabrielino territory included the watersheds of the Los Angeles, San Gabriel, and Santa Ana rivers, several smaller intermittent streams in the Santa Monica and Santa Ana mountains, all of the Los Angeles basin, the coast from Aliso Creek in the south to Topanga Creek in the north, and the islands of San Clemente, San Nicolas, and Santa Catalina (fig. 1). The area thus bounded encompassed several biotic zones (such as Coast-Marsh, Coastal Strand, Prairie, Chaparral, Oak Woodland, Pine) and, following Hudson’s (1971) studies, can be divided into four macro-environmental zones (excluding the islands): Interior Mountains/Adjacent Foothills, Prairie, Exposed Coast, and Sheltered Coast. Each area is characterized by a particular floral-faunal-geographical relationship that allows delineation of subsistence-settlement patterns “according to the macro-environmental setting.” The interior mountains and foothills, according to Hudson, comprise an area of numerous resources including “many small animals, deer, acorns, sage, piñon nuts, and a variety of other plants and animal foods.” Settlement-pattern studies



Fig. 1. Tribal territory.

*Naxaaw'nga* and *Sehat* were two Gabrielino communities located near the modern community of Los Nietos. Reid placed “Nacaug-na” on “Carpenter’s Farm,” a reference to Lemuel Carpenter, mentioned above in the discussion of *Chokiishnga* (Reid 1852:8). Harrington concluded that “the Carpenter place was the old Nieto . . . headquarters,” referring to the adobe home of José Manuel Nieto—Nieto held one of the earliest California land grants, an enormous tract of land known as Los Nietos, which he received in 1784. Lemuel Carpenter apparently purchased the adobe and 24,000 acres of property from the widow of one of the Nieto heirs around 1843. The adobe home was later washed away when the San Gabriel River flooded in 1867 (Harrington 1933:203-207).

José de los Santos Juncos, whom Harrington often referred to by the nickname of “Kewen,” confirmed the identification of *Naxaaw'nga* with the Nieto-Carpenter adobe. “Kewen knew the name of the Carpenter adobe house site as Nakaw'na and volunteered the location of the site as being somewhere in the bed of New River [the San Gabriel River] a little upstream of the Downey (= the Sanford) adobe house. In this information he agreed with Reid” (Harrington 1933:207).

<sup>\*</sup> Italicized Gabrielino words have been written in a phonetic alphabet by Kenneth C. Hill, on the basis of John Peabody Harrington’s unpublished field notes. The consonants are: (stops and affricates) p, t, c, k, 4\*, ʔ (fricatives) s, x, h, (nasals) m, n, ŋ (approximants) ɣ, ʎ, w. Stressed vowels are: e [e], a [a], i [i], u [u], which may occur long or short; in unstressed syllables the vowels are only i [e], a, and u [a].

Gabrieleno Band of Mission Indians- Kizh(Kit'c) Nation  
P.O. Box 393  
Covina, CA 91723

Email Dated December 7, 2014

Comment GBMI-1

*This is regards to the above project*

*“The project locale lies in an Highly sensitive area where the traditional territories of the Kizh (Kitc) Gabrieleño, villages adjoined and overlapped with each other, at least during the Late Prehistoric and Protohistoric Periods. The homeland of the Kizh (Kitc) Gabrieleños, probably the most influential Native American group in aboriginal southern California (Bean and Smith 1978a:538), was centered in the Los Angeles Basin, and reached as far east as the San Bernardino-Riverside area. Whatever the linguistic affiliation, Native Americans in and around the project area exhibited similar organization and resource procurement strategies. Villages were based on clan or lineage groups. Their home/ base sites are marked by midden deposits, often with bedrock mortars. During their seasonal rounds to exploit plant resources, small groups would migrate within their traditional territory in search of specific plants and animals. Their gathering strategies often left behind signs of special use sites, usually grinding slicks on bedrock boulders, at the locations of the resources. Therefore in order to protect our resources we would like to request one of our experienced & certified Native American monitors to be on site during any and all ground disturbances. please see attachments*

*In all cases, when the NAHC (Native American Heritage Commission) states there are “ NO” records of sacred sites” in the subject area; they always refer the contractors back to the Native American Tribes whose tribal territory is within the project area. This is due to the fact, that the NAHC is only aware of general information on each California NA Tribe they are NOT the “experts” on our Tribe. Our Elder Committee & Tribal Historians are the experts and is the reason why the NAHC will always refer contractors to the local tribes.*

*Please contact our office regarding this project to coordinate a NA monitor to be present. Thank You*

Response GBMI-1

The City acknowledges that the location of the Project site is within a “highly sensitive area” of the Kizh (Kit’c) Gabrieleno Band of Mission Indians, and is thus considered culturally sensitive. As provided in the DEIR, Mitigation Measure 4.5.1 requires the Project developer to provide cultural resource monitoring during site excavation and grading activities. Additionally, Mitigation Measure 4.5.2 requires that any prehistoric artifacts identified during the monitoring of earth-moving onsite would be recovered, recorded, and curated in accordance with professional guidelines, and in consultation with local Native American tribal representatives.

As requested, the City will arrange and coordinate a meeting with the Kizh (Kit’c) Gabrieleno Band of Mission Indians. Contact information provided (see below) is acknowledged.

Andrew Salas, Chairman  
Gabrieleno Band of Mission Indians – Kizh (Kit’c) Nation  
PO Box 393  
Covina, CA 91723  
cell (626)926-4131  
email: [gabrielenoindians@yahoo.com](mailto:gabrielenoindians@yahoo.com)

**GIDEON KRACOV**

Attorney at Law

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11th Floor  
Los Angeles, California 90017

(213) 629-2071  
Fax: (213) 623-7755

gk@gideonlaw.net  
www.gideonlaw.net

**Via Email and Overnight Mail**

jmikaelian@elmonteca.gov

January 7, 2015

Jason Mikaelian  
City of El Monte  
11333 Valley Boulevard  
El Monte, CA 91731

Re: Draft Environmental Impact Report  
El Monte Walmart Project

Dear Mr. Mikaelian:

The undersigned writes on behalf of El Monte resident Aaron Montenegro ("Commentor") with regard to the California Environmental Quality Act ("CEQA") Draft Environmental Impact Report ("DEIR") for the referenced El Monte Walmart Project ("Project").

GK-1

The Project involves the construction of an 182,429 square foot Walmart supercenter with associated circulation, parking and loading facilities on a 15.4 acre site. The supercenter would include merchandise and groceries, off-site alcohol sales, a food tenant and non-food tenants (e.g. bank, medical clinic, portrait studio or salon) and an outdoor garden center. Parking for 755 vehicles would be accessed by two driveways along Arden Drive, while heavy truck access would be provided via Valley Circle. The supercenter will be open 24 hours a day, 7 days a week.

GK-2

**I. INTRODUCTION**

Commentor writes to express several concerns about the DEIR and Project. He has reviewed the DEIR and Project proposal and does not feel it is good for El Monte and its residents. He opposes the Project.

GK-3

First, the DEIR uses the wrong baseline to calculate undoubtedly significant greenhouse gas impacts caused by the thousands of daily car trips to the supercenter. The existing greenhouse gas baseline is a vacant site, but the DEIR instead uses a hypothetical, fantasy existing Walmart. This violates CEQA

GK-4



baseline law. As a result, the DEIR improperly deems greenhouse gas emissions as insignificant and unlawfully fails to attempt to feasibly mitigate these significant greenhouse gas emissions. The DEIR will need to be recirculated with legally compliant greenhouse gas analysis and mitigation.

GK-4  
cont'd.

Next, the DEIR fails to adequately mitigate admittedly significant smog impacts caused by mobile source emissions from all the car trips to and from the supercenter. The DEIR concludes that nothing can be done to reduce these smog emissions, but this is wrong – additional commonly used mitigation is available and a revised DEIR should be prepared to identify this mitigation.

GK-5

Third, the Project eliminates the existing manufacturing land use designation for the site, instead adding 182,000 sq. ft. of commercial use that will compete with small local retail businesses, attracting thousands of vehicle trips and causing several unmitigated traffic impacts at many intersections including at the I-10, Arden Dr. and Valley Bl. This is inconsistent with the El Monte General Plan and Northwest Industrial District Designation. As a result, the required General Plan Amendment and Zone Change findings under Municipal Code Section 17.26.120 – that “the public necessity, convenience, general welfare or good community planning practice justify such action” – cannot be made.

GK-6

Last, a statement of overriding considerations will be required for this Project, balancing Project benefits and impacts. However, a statement of overriding considerations is allowed only if the environmental impacts remain significant and unavoidable after the imposition of all feasible mitigation. Here, the DEIR fails to do this, particularly for air quality and greenhouse gas impacts. This is improper under CEQA. Moreover, the City must make specific overriding consideration findings, supported by substantial evidence, concerning the economic benefits of the Project including “the provision of employment opportunities for highly trained workers” created. The DEIR fails to provide substantial evidence on such job quality, living wages and economic benefits for the Walmart. The City has leverage to disapprove the Project or to ensure that the Project actually benefits El Monte. Please use it. Planning Commissioner Peralta highlighted this point during the Planning Commission workshop – that the City should push the applicant to provide extensive, additional community benefits. In reality, the DEIR should be recirculated with analysis of the economic benefits issue, including an economic impact study. The City cannot find that the economic benefits of the Project outweigh the environmental costs if it does not have real data to know what the economic benefits will be.

GK-7

GK-8

A revised DEIR should be prepared to disclose and adequately discuss these issues and to identify mitigation measures.

We have prepared these comments with the expert assistance of Matt Hagemann, P.G., C.Hg., QSD, QSP, an expert with over 15 years experience in environmental site assessment. Mr. Hagemann’s expert comments are attached as Exhibit A hereto. Pursuant to Pub. Res. Code Section 21091(d), we expect

GK-9

detailed written responses to this comment letter, as well as the attached comments of Mr. Hagemann.

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## II. **STANDING**

Aaron Montenegro is a longtime and current resident of the City of El Monte.

He has a beneficial interest and is impacted by the matters set forth in this letter. His interests will continue to be directly affected by the Project and the City's failure to comply with the requirements of CEQA and the Municipal Code in connection with the Project. He frequents the location, the intersections at and in the vicinity of the Project, and will be affected by negative impacts of the Project on traffic and transportation, air quality, cumulative impacts and urban decay. He lives, works and plays in El Monte.

GK-10

## III. **LEGAL STANDARD FOR A CEQA DEIR**

The California Environmental Quality Act requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report. (See, e.g., Pub. Res. Code § 21100; *Communities for a Better Environment v. South Coast Air Quality Management Dist. (ConocoPhillips)* (2010) 48 Cal. 4th 310 (“CBE v. SCAQMD”).) The EIR is the very heart of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.) “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Communities for a Better Environment v. Calif. Resources Agency* (2002) 103 Cal. App. 4th 98, 109 (“CBE v. CRA”).)

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (14 Cal. Code Regs. (“CEQA Guidelines” or “Guidelines”) § 15002(a)(1).) “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564.) The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” (*Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal. App. 4th 1344, 1354 (“Berkeley Jets”); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.)

GK-11

Second, CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring implementation of “environmentally superior” alternatives and all feasible mitigation measures. (CEQA Guidelines §

15002(a)(2) and (3); See also, *Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta*, 52 Cal.3d at 564.) The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or significantly reduced.” (Guidelines §15002(a)(2).) If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.” (Pub. Res. Code § 21081; Guidelines § 15092(b)(2)(A) & (B).)

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#### IV. THE DEIR INADEQUATELY DISCLOSES, ANALYZES AND MITIGATES GREENHOUSE GAS EMISSIONS

##### A. The DEIR Contains Inadequate Disclosure and Analysis of Greenhouse Gas Emissions – The Baseline Is Wrong

An EIR must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. (*Communities for a Better Environment v. Richmond (Chevron)* (2010) 184 Cal.App.4th 70, 80 (“*CBE v. Richmond*”) (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449–50).) The DEIR for the Project fails to meet these standards with regard to analysis of greenhouse gas emissions from the supercenter and its thousands upon thousands of car trips.

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The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been taken into account. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Id.* Indeed, the fundamental goals of environmental review under CEQA are information, participation, mitigation, and accountability. (*Lincoln Place Tenants Ass’n. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 443-444.)

GK-13

An EIR must disclose all potentially significant adverse environmental impacts of a project. (Pub. Res. Code § 21100(b)(1); Guidelines § 15126(a); *Berkeley Jets*, 91 Cal. App. 4th 1344, 1354.) CEQA requires that an EIR must not only identify the impacts, but must also provide “information about how adverse the impacts will be.” (*Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 83.1) The lead agency may deem a particular

GK-14

impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. (*Kings County*, 221 Cal.App.3d at 692.) The DEIR for this Project fails to do so. Substantial evidence in the record must support any foundational assumptions used for the impacts analyses in the EIR. (See *Citizens of Goleta Valley*, 52 Cal. 3d at 568 (EIR must contain facts and analysis, not just bare conclusions); *Laurel Heights*, 47 Cal. 3d at 392-93 (agency's conclusions must be supported with substantial evidence).)

GK-14  
cont'd.

As a result, every CEQA document must start from a "baseline" assumption – which means the existing conditions on the ground – here a vacant property. The CEQA "baseline" is the set of environmental conditions against which to compare a project's anticipated impacts. (*CBE v. SCAQMD* (2010) 48 Cal. 4th 310, 321.) Section 15125(a) of the CEQA Guidelines states in pertinent part that a lead agency's environmental review under CEQA:

GK-15

"...must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time [environmental analysis] is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant."

With regard to greenhouse gas, the analysis should focus on the project's contribution to the impact in combination with other projects (Guidelines, §§ 15130, 15355) and consider "whether the additional impact associated with the project should be considered significant in light of the serious nature of existing problems."<sup>1</sup> Climate change is by definition a cumulative impact,

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<sup>1</sup> Section 15064.4 of the Guidelines is titled "Determining the Significance of Impacts from Greenhouse Gas Emissions" and states "The determination of the significance of greenhouse gas emissions calls for a careful judgment by the lead agency consistent with the provisions in [Guidelines] section 15064. A lead agency should make a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project." (Guidelines, § 15064.4, subd. (a).) The Guidelines also provide that "[a] lead agency shall have discretion to determine, in the context of a particular project, whether to: (1) Use a model or methodology to quantify greenhouse gas emissions resulting from a project, and which model or methodology to use ... provided it supports its decision with substantial evidence ... and/or (2) Rely on a qualitative analysis or performance based standards." (Ibid.) The Guidelines also state that a lead agency "should consider" three factors, "among others," "when assessing" the significance of impacts from greenhouse gas emissions on the environment: "(1) The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting; (2) Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project[; and] (3) The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. Such requirements must be adopted by the relevant public agency through a public review process and must reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding

because it does not result from any single project but from “emissions generated globally over many decades,” and its effects are “global rather than local.” (2 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 2011) §§ 20.83, 20.84, pp. 1033-1035 (rev. 3/12); see Guidelines, § 15355 [“[c]umulative impacts’ refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts”].)

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cont’d.

A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process.” (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 722]; *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal. App. 4th 1109, 1117; *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 946.) The EIR must disclose information that is needed for a reasoned analysis of the issues. (*Madera Oversight Coalition v. County of Madera* (2011) 199 Cal.App.4<sup>th</sup> 48, 104.)

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While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position.’ A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” (*Berkeley Jets*, 91 Cal. App. 4th 1344, 1355 (emphasis added), quoting *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal. 3d 376, 391 409, fn. 12 (1988).)

*Here, Expert Mr. Hagemann’s comments attached as Exhibit A show that the DEIR contains inadequate assessment and analysis of significant greenhouse gas (GHG) impacts for the Project:*

“The DEIR, in an effort to comply with AB 32 and establish a Project baseline, compares the Project’s GHG emissions to a business as usual (BAU) scenario. However, the DEIR’s definition of a BAU scenario for the Project site is inaccurate, and the comparison utilized to achieve compliance with AB 32 results in inflated baseline emissions, and overstates the proposed Project’s presumed benefits and compliance measures. A revised DEIR needs to identify an acceptable method of reaching compliance with AB 32, and needs to determine an alternative threshold to compare Project emissions to. Recirculation of the DEIR therefore is required.

GK-18

The 2008 Scoping Plan indicates that statewide AB 32 compliance would be achieved provided that there was a minimum 28.5 percent reduction in

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compliance with the adopted regulations or requirements, an EIR must be prepared for the project.” (*Id.*, subd. (b).)

BAU GHG emissions for the time frame of 1990 to 2020.<sup>2</sup> The DEIR utilizes this reduction percentage as a way to show compliance with GHG regulations (p. 4.9-26), and determines that the Project's "conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases" is less-than-significant (p. 4.9-31). This level of significance is, of course, achieved by creating a BAU baseline; however, the DEIR does not clearly define what its BAU scenario encompasses. This is buried in Appendix D of the DEIR (Air Quality Analysis & Health Risk Assessment). The CalEEMod output tables in Appendix D of the DEIR (Air Quality Analysis & Health Risk Assessment) show that the BAU scenario is modeled in the DEIR as if the proposed Project was constructed and in operation by 2005, and then compares this "BAU Scenario" to a "Project Scenario" where the proposed Project is constructed and in operation by 2020. Comparison of the 2005 BAU scenario to the 2020 Project scenario results in a 36.06 percent reduction of GHG emissions (p. 4.9-30).

But this is an improper baseline that does not exist because the site is a vacant lot of land. Utilizing 2005 Project emissions as a BAU scenario is not consistent with the CARB definition of BAU. CARB defines BAU in their Scoping Plan as emission levels that would occur if existing conditions in California continued to grow and add new GHG emissions, but did not adopt any measures to reduce emissions.<sup>3</sup> Utilizing this definition, a BAU scenario at the proposed Project site would be a vacant lot of land, which would result in zero as a baseline for all emissions. Comparison of the proposed Project site to an essentially zero baseline certainly would show significant GHG emissions exceeding appropriate significance thresholds.

To determine whether the Project's GHG emissions are significant, methods that have been proposed in other recent CEQA documents should be utilized and included in a revised DEIR.<sup>4</sup> For example, the Commerce Retail Center Project determines significance by utilizing the SCAQMD draft local agency tiered threshold (Commerce DEIR p. 3.2-62). The threshold is as follows:

- Tier 1: The project is not exempt under CEQA; go to Tier 2.
- Tier 2: There is no GHG reduction plan applicable to the project; go to Tier 3.

<sup>2</sup> <http://www.arb.ca.gov/cc/ab32/ab32.htm>

<sup>3</sup>

[http://www.arb.ca.gov/cc/scopingplan/2013\\_update/first\\_update\\_climate\\_change\\_scoping\\_plan.pdf](http://www.arb.ca.gov/cc/scopingplan/2013_update/first_update_climate_change_scoping_plan.pdf)

<sup>4</sup> <http://ca-commerce.civicplus.com/DocumentCenter/View/1875>

- Tier 3: Project GHG emissions compared with the threshold: 3,000 MTCO<sub>2e</sub> per year.
- Tier 4, Option 1: Reduce GHG emissions from business as usual by 28.4 percent. The California 2020 emissions target is 427 MMTCO<sub>2e</sub> and the 2020 baseline (without any AB 32 related regulations) is 596 MMTCO<sub>2e</sub>. Therefore, a 28.4 percent reduction is required to reduce emissions to the target.<sup>5</sup>

The Project DEIR utilizes Tier 4, Option 1 to achieve compliance with AB 32; however, this analysis is inaccurate because, as explained above, the BAU scenario defined in the DEIR is not consistent with the CARB BAU definition. Furthermore, establishing a BAU scenario at this site would be difficult because it is currently undeveloped. Therefore, the best approach to show compliance with AB 32 would be to compare emissions to the Tier 3 threshold of 3,000 MTCO<sub>2e</sub> per year. Table 4.9-3 in the DEIR shows that the Project's total GHG emissions would be equal to 7,575.35 MTCO<sub>2e</sub> per year, which is above the 3,000 MTCO<sub>2e</sub> per year threshold (p. 4.9-30). Therefore this Project will have significant GHG impacts that must be better characterized and mitigated." (Hagemann Comment Ex. A hereto.)

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cont'd.

#### B. The DEIR Contains No Mitigation of Greenhouse Gas

Mitigation measures should be capable of "avoiding the impact altogether," "minimizing impacts," "rectifying the impact," or "reducing the impact." CEQA Guidelines § 15370. Importantly, mitigation measures must be "fully enforceable through permit conditions, agreements, or other measures" so "that feasible mitigation measures will actually be implemented as a condition of development." (*Federation of Hillside & Canyon Ass'ns v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261.) This needs to be done for the Project's significant greenhouse gas emissions.

So too, CEQA disallows deferring the formulation of mitigation measures to post-approval studies. (*CBE v. Richmond*, 184 Cal. App. 4th at 92, CEQA Guidelines § 15126.4(a)(1)(B); *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309.) An agency may only defer the formulation of mitigation measures when it possesses "'meaningful information' reasonably justifying an expectation of compliance." (*Sundstrom* at 308; see also *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028-29 (mitigation measures may be deferred only "for kinds of impacts for which mitigation is known to be feasible").) A lead agency is precluded from making the required CEQA findings unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved; an agency may not rely on mitigation measures of uncertain efficacy or feasibility (*Kings County*, 221 Cal.App.3d at 727 (finding groundwater purchase agreement inadequate mitigation because there was no evidence that replacement water

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<sup>5</sup> [http://www.arb.ca.gov/cc/inventory/archive/sp\\_2008\\_projection.pdf](http://www.arb.ca.gov/cc/inventory/archive/sp_2008_projection.pdf)

was available.) This approach helps “insure the integrity of the process of decisionmaking by precluding stubborn problems or serious criticism from being swept under the rug.” (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935.)

Here, expert Mr. Hagemann’s comments attached as Exhibit A hereto show that the DEIR contains inadequate, and in fact zero, mitigation of GHG impacts:

“Because GHG emissions are significant when compared to the Tier 3 threshold, the Applicant should obtain emission reduction credits, also referred to as carbon offsets, to serve as mitigation and reduce the Project’s emissions to a less than significant level. Offsets are specifically mentioned by the California Resources Agency as a measure to mitigate the significant effects of greenhouse gas emissions.<sup>6</sup> Offsets should be identified in a revised DEIR for the Project. Verification that the offsets are real and measureable, such as those available from the California Climate Action Registry’s Climate Action Reserve<sup>7</sup>, should be provided in the revised DEIR.

The DEIR does not attempt to mitigate construction and operational GHG emissions, because emissions comply with GHG reduction regulations (AB 32) by comparing Project emissions to a BAU scenario, as previously described. However, because the assumptions made to meet compliance are incorrect, mitigation measures should be implemented to reduce GHG emissions to below the Tier 3 threshold for commercial Projects of 3,000 MTCO<sub>2</sub>e per year. It should be noted that some of the NOx mitigation measures, mentioned above, have the potential to reduce NOx emissions and other Criteria Pollutant emissions, as well as reduce GHG emissions. Therefore, this list of additional mitigation measures should be compared to the mitigation measures already implemented in the DEIR; a summary of the mitigation measures implemented can be found in Table 1.10-1 in the Executive Summary of the DEIR (p. ES1-35 -56). Additional mitigation measures that could be implemented to reduce GHG emissions include, but are not limited to, the following:<sup>8</sup>

<sup>6</sup>

[http://ceres.ca.gov/ceqa/docs/Adopted\\_and\\_Transmitted\\_Text\\_of\\_SB97\\_CEQA\\_Guidelines\\_Amendments.pdf](http://ceres.ca.gov/ceqa/docs/Adopted_and_Transmitted_Text_of_SB97_CEQA_Guidelines_Amendments.pdf), p.21

<sup>7</sup> <http://www.climateregistry.org/reserve.html>

<sup>8</sup> [http://ag.ca.gov/globalwarming/pdf/GW\\_mitigation\\_measures.pdf](http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf)

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- Use passive solar design, such as:<sup>9,10</sup>
  - Orient buildings and incorporate landscaping to maximize passive solar; heating during cool seasons, and minimize solar heat gain during hot seasons;
  - Enhance natural ventilation by taking advantage of prevailing winds; and
  - Design buildings to take advantage of sunlight, and install sun screens to reduce energy use.
- Reduce unnecessary outdoor lighting by utilizing design features such as limiting the hours of operation of outdoor lighting.
- Develop and follow a “green streets guide” that requires:
  - Light emitting diodes (“LEDs”) for traffic, street, and other outdoor lighting;
  - Use of minimal amounts of concrete and asphalt;
  - Installation of permeable pavement to allow for storm water infiltration;
  - Use of groundcovers rather than pavement to reduce heat reflection; and
  - Incorporation of shade trees where feasible.<sup>11</sup>
  -
- Implement Project design features such as:
  - Shade HVAC equipment from direct sunlight;
  - Install high-albedo white thermoplastic polyolefin roof membrane;
  - Install high-efficiency HVAC with hot-gas reheat;
  - Install formaldehyde-free insulation; and
  - Use recycled-content gypsum board.
- Provide education on energy efficiency to residents, customers, and/or tenants. Provide information on energy management services for large energy users.
- Meet “reach” goals for building energy efficiency and renewable energy use.
- Install solar, wind, and geothermal power systems and solar hot water heaters.

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<sup>9</sup> Santa Barbara Air Pollution Control District, Scope and Content of Air Quality Sections in Environmental Documents, September 1997.

<sup>10</sup> Butte County Air Quality Management District, Indirect Source Review Guidelines, March 1997.

<sup>11</sup> See Irvine Sustainable Travelways “Green Street” Guidelines; [www.ci.irvine.ca.us/civica/filebank/blobdload.asp?BlobID=8934](http://www.ci.irvine.ca.us/civica/filebank/blobdload.asp?BlobID=8934); and Cool Houston Plan; [www.harc.edu/Projects/CoolHouston](http://www.harc.edu/Projects/CoolHouston).

- Install solar panels on unused roof and ground space, and over carports and parking areas. Locations where solar systems cannot feasibly be incorporated into the Project at the outset, build “solar ready” structures.
- Include energy storage where appropriate to optimize renewable energy generation systems and avoid peak energy use.
- Plant low-VOC emitting shade trees, e.g., in parking lots to reduce evaporative emissions from parked vehicles.
- Use CARB-certified or electric landscaping equipment in project and tenant operations; and introduce electric lawn, and garden equipment exchange program.
- Install an infiltration ditch to provide an opportunity for 100% of the storm water to infiltrate on-site.
- Reuse and recycle 80% of construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard).” (Hagemann Comment, Ex. A.)

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V. **EIR RECIRCULATION WILL BE NECESSARY TO INCLUDE LEGALLY COMPLIANT GREENHOUSE GAS CALCULATIONS AND MITIGATION**

As discussed above and in expert Mr. Hagemann’s comments, the Project’s GHG analysis and mitigation is faulty. Properly addressing these issues will require Draft EIR recirculation.

CEQA requires a lead agency to re-circulate an EIR when significant new information is added to the EIR following public review but before certification. Pub. Res. Code § 21092.1. The Guidelines clarify that new information is significant if “the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project” including, for example, “a disclosure showing that ... [a] new significant environmental impact would result from the project.” (Guidelines § 15088.5.)<sup>12</sup>

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<sup>12</sup> The Guidelines require recirculation when: (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented, (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance, (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it, and (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

In *Mountain Lion Coalition v. Fish & Game Com.* (1989) 214 Cal.App.3d 1043, the court required recirculation of an FEIR that failed to contain a cumulative impacts analysis for which the trial court had issued a writ of mandate. Recirculation was required. The court noted that:

“The cumulative impact analysis contained in the final EID has never been subjected to public review and criticism. If we were to allow the deficient analysis in the draft EID to be bolstered by a document that was never circulated for public comment, we would not only be allowing appellants to follow a procedure which deviated substantially from the terms of the writ [of mandate issued by the trial court], but we would be subverting the important public purposes of CEQA. Only at the stage when the draft EID is circulated can the public and outside agencies have the opportunity to analyze a proposal and submit comment. No such right exists upon issuance of a final EID unless the project is substantially modified or new information becomes available. (See Guidelines § 15162.) To evaluate the draft EID in conjunction with the final EID in this case would only countenance the practice of releasing a report for public consumption that hedges on important environmental issues while deferring a more detailed analysis to the final EID that is insulated from public review.” *Id.* at 1052

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This is the case here. In this circumstance, the DEIR must be recirculated to include the required GHG analysis and mitigation.

VI. **THE DEIR DOES NOT SUFFICIENTLY MITIGATE THE PROJECT'S MOBILE SOURCE EMISSIONS**

Air quality impacts, and their concomitant impacts on human health must be studied in a DEIR. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal. App. 4th 1184, 1220.) If an impact is significant, the agency must impose all feasible mitigation measures, and may only declare the impacts to be unavoidable if it remains significant after imposition of all feasible mitigation measures. Thus, the court held in *Bakersfield Citizens*, 124 Cal. App. 4th at 1220, that:

“Guidelines section 15126.2, subdivision (a) requires an EIR to discuss, inter alia, "health and safety problems caused by the physical changes" that the proposed project will precipitate . . . It is well known that air pollution adversely affects human respiratory health. (See, e.g., *Bustillo, Smog Harms Children's Lungs for Life, Study Finds*, L.A. Times (Sept. 9, 2004).) . . . Air quality indexes are published daily in local newspapers, schools monitor air quality and restrict outdoor play when it is especially poor and the public is warned to limit their activities on days when air quality is particularly bad. Yet, neither EIR acknowledges the health consequences that necessarily result from the identified adverse air quality impacts. Buried in the description of some of the various

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substances that make up the soup known as "air pollution" are brief references to respiratory illnesses. However, there is no acknowledgement or analysis of the well-known connection between reduction in air quality and increases in specific respiratory conditions and illnesses. After reading the EIR's, the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin. On remand, the health impacts resulting from the adverse air quality impacts must be identified and analyzed in the new EIRs."

These air quality issues in the City of El Monte are no different, and expert Hagemann concludes in his comment letter attached hereto as Exhibit A that the DEIR does not sufficiently mitigate the Project's significant smog-causing operational NOx emissions.

"The DEIR admits that mitigated Project operational-source NOx emissions would be in exceedance of SCAQMD regional thresholds, and would result in a significant and unavoidable impact (DEIR p. 4.3-31). The DEIR states that the Project "implements all feasible mitigation measures and complies with all applicable SCAQMD Rules directed toward reduction of NOx emissions," and that "no feasible mitigation measures exist that would further substantively reduce these emissions" (p. 4.3-32).

Despite this claim, additional commonly used mitigation is available. A revised DEIR should be prepared to identify additional mitigation.

According to Table 4.3-7 in the DEIR, mobile sources contribute to the majority of the NOx emissions (p.4.3-32). An excerpt of this table is shown below.

**Operational-Source Emissions Summary--With Mitigation  
Maximum Daily Winter/Summer (lbs/day)**

Emissions Sources	Pollutants					
	VOC	NO <sub>x</sub>	CO	SO <sub>x</sub>	PM <sub>10</sub>	PM <sub>2.5</sub>
Area Sources (Landscape and Building Maintenance, Consumer Products)	10.81	9.40e-4	0.10	1.00e-5	3.50e-4	3.50e-4
Building Energy Consumption	8.70e-3	0.08	0.07	4.70e-4	6.01e-3	6.01e-3
Mobile Sources	39.31	76.37	335.82	0.60	41.18	11.66
<b>Maximum Daily Emissions</b>	<b>50.13</b>	<b>76.45</b>	<b>335.99</b>	<b>0.60</b>	<b>41.19</b>	<b>11.66</b>
SCAQMD Regional Threshold	55	55	550	150	150	55
Threshold Exceeded?	NO	YES	NO	NO	NO	NO

NOx is a byproduct of fuel combustion, and according to the DEIR, approximately 99.9 percent of the operational NOx emissions are from vehicles accessing the site (p.4.3-32). The DEIR goes on to explain that "neither the Project Applicant nor the City has any regulatory control over tail pipe emissions from individual sources" (p.4.3-32). However,

GK-21  
cont'd.

additional mobile mitigation measures can be found in CAPCOA's *Quantifying Greenhouse Gas Mitigation Measures*, which attempt to reduce Greenhouse Gas (GHG) levels from mobile sources, as well as reduce Criteria Air Pollutants such as NOx.<sup>13</sup>

Mitigation for mobile source NOx emissions should include consideration of the following measures that are proposed in CAPCOA's *Quantifying Greenhouse Gas Mitigation Measures*, in an effort to reduce operational NOx emissions to below SCAQMD thresholds.

- Reduce vehicle miles traveled (VMT) by increasing destination accessibility (LUT-4). Destination accessibility is measured in terms of the number of jobs or other attractions reachable within a given travel time, which tends to be highest at central locations and lowest at peripheral ones. The Project Applicant would have to provide the distance to downtown or to major job centers for this mitigation measure to take effect. Implementation of this mitigation measure would reduce mobile source NOx running emissions by 6.7 to 20 percent.
- Reduce VMT by increasing transit accessibility (LUT-5). The use of transit results in a mode shift and therefore reduced VMT. Implementation of this mitigation measure would reduce mobile source NOx running emissions by 0.5 to 24.6 percent. The Project would need to include, at a minimum, the following design features:
  - A transit station/stop with high-quality, high-frequency bus service located within a five to ten minute walk, or roughly a quarter of a mile from stop to edge of development,
  - Or a rail station located within a 20 minute walk or roughly half a mile from station edge to development;
  - Fast, frequent, and reliable transit service connecting to a high percentage of regional destinations;
  - Neighborhood designed for walking and bicycling.
- Reduce VMT by locating the Project near a bike path/lane (LUT-8). A Project that is designed around an existing or planned bicycle facility encourages alternative mode use. This measure is most effective when applied in combination of multiple design elements that encourage this use, such as the previously mentioned land use strategy (LUT-4). This measure should be grouped with the Increase Destination Accessibility strategy to increase the opportunities for multi-modal travel.

GK-21  
cont'd.

<sup>13</sup> <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>

- Reduce VMT by including improved design elements to enhance walkability and connectivity (LUT-9). Improved street network characteristics is measured in terms of sidewalk coverage, building setbacks, street widths, pedestrian crossings, presence of street trees, and a host of other physical variables that differentiate pedestrian-oriented environments from auto-oriented environments. Implementation of this mitigation measure would reduce mobile source NOx running emissions by 3.0 to 21.3 percent.
- Reduce VMT by incorporating bicycle lanes, routes, and shared-use paths into street systems, new subdivisions, and large developments (SDT-5). These improvements can help reduce peak-hour vehicle trips by making commuting by bike easier and more convenient for more people. In addition, improved bicycle facilities can increase access to and from transit hubs, thereby expanding the “catchment area” of the transit stop or station and increasing ridership. Bicycle access can also reduce parking pressure on heavily-used and/or heavily-subsidized feeder bus lines and auto-oriented park-and-ride facilities. This mitigation measure is the most effective when combined with mitigation measure LUT-9, previously mentioned.
- Reduce VMT by providing bike parking in non-residential projects (SDT-6). A non-residential project will provide short-term and long-term bicycle parking facilities to meet peak season maximum demand. This mitigation measure is the most effective when combined with mitigation measure LUT-9, previously mentioned.
- Reduce tailpipe emissions by providing electric vehicle parking (SDT-8). This mitigation measure implements accessible electric vehicle parking. Design features include conductive/inductive electric vehicle charging stations and signage prohibiting parking of non-electric vehicles.
- Reduce VMT by limiting the parking supply (PDT-1). This mitigation measure will change parking requirements and types of supply within the Project site to encourage “smart growth” development and alternative transportation choices by project residents and employees. Implementation of this mitigation measure would result in a reduction of mobile source NOx running emissions by 5 to 12.5 percent. This will be accomplished in a multi-faceted strategy:
  - Elimination (or reduction) of minimum parking requirements
  - Creation of maximum parking requirements

GK-21  
cont'd.

- Provision of shared parking

These measures are more stringent and prescriptive than those measures identified in the DEIR, and provide many simple design features, that when combined together, optimize VMT reductions and thus reduce NOx emissions. The CalEEMod output tables in Appendix D of the DEIR (Air Quality Analysis & Health Risk Assessment) show that only three mitigation measures were utilized for operational mobile-source emissions: (1) LUT-3, increase diversity of urban and suburban developments; (2) SDT-1, provide pedestrian network improvements; (3) SDT-2, implement traffic calming measures. The addition of these new measures (listed above), incorporated with the mobile mitigation measures already in place, will reduce the total mobile source NOx emissions, potentially to a level that does not exceed the SCAQMD NOx threshold. A revised DEIR should be prepared to include additional mitigation measures, as well as include an updated air quality assessment to ensure that the necessary mitigation measures are implemented to reduce NOx mobile source emissions to below SCAQMD thresholds.” (Hagemann Comment, Ex. A hereto.)

Furthermore, there are a long list of other feasible air quality mitigation measures that are ignored by the DEIR to address the NOx air quality impacts issue, but that should be analyzed for implementation for the Project:

- Purchase and install filtration systems for the impacted community.
- Requires the use of alternative fuel construction equipment, such as natural gas, electric, emulsified diesel, biodiesel, or other clean fuels.
- Require the use of Diesel Particulate Filters and/or Diesel Oxidation Catalysts on construction equipment.
- Configure construction parking to minimize traffic interference.
- Consolidate truck deliveries when possible.
- Provide dedicated turn lanes for movement of construction trucks and equipment on and off site.
- Suspend use of all construction equipment operations during second stage smog alerts.
- Establish a staging zone for trucks that are waiting to load or unload material at the work zone in a location where diesel emissions from the trucks will have minimum impact on abutters and the general public.

GK-21  
cont'd.

- Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners and operable windows.
- Require all diesel trucks used by construction contractor(s) at the site, or for on-road hauling of construction material, to be post-1996 models.
- Purchase or create local offsets for the duration of the construction period.
- Employ a construction site manager to verify that engines are properly maintained and keep a maintenance log.
- Diesel portable generators less than 50 horsepower shall not be allowed at the construction site.
- Prohibit the use of conventional cut-back asphalt for paving and restrict the maximum VOC content of asphalt emulsion.
- Use low-ROG paints and other low-VOC construction materials.
- For backfilling during earthmoving operations, water backfill material or apply dust palliative to maintain material moisture or to form crust when not actively handling; cover or enclose backfill material when not actively handling; mix backfill soil with water prior to moving; dedicate water truck or large hose to backfilling equipment and apply water as needed; water to form crust on soil immediately following backfilling; and empty loader bucket slowly; minimize drop height from loader bucket. (CCHD)<sup>14</sup>
- During clearing and grubbing, prewet surface soils where equipment will be operated; for areas without continuing construction, maintain live perennial vegetation and desert pavement; stabilize surface soil with dust palliative unless immediate construction is to continue; and use water or dust palliative to form crust on soil immediately following clearing/grubbing. (CCHD)
- While clearing forms, use single stage pours where allowed; use water spray to clear forms; use sweeping and water spray to clear forms; use

GK-21  
cont'd.

<sup>14</sup> The following acronyms are used in this listing of mitigation measures: ADEQ = Arizona Department of Environmental Quality; BCAQMD = Butte County Air Quality Management District; CCHD = Clark County (Nevada) Health Department; MBUAPCD = Monterey Bay Unified Air Pollution Control District; SBCAPCD = Santa Barbara County Air Pollution Control District; SJVUAPCD = San Joaquin Valley Unified Air Pollution Control District; SLOCAPCD = San Luis Obispo County Air Pollution Control District.

industrial shop vacuum to clear forms; and avoid use of high pressure air to blow soil and debris from the form. (CCHD)

- During cut and fill activities, prewater with sprinklers or wobblers to allow time for penetration; prewater with water trucks or water pulls to allow time for penetration; dig a test hole to depth of cut to determine if soils are moist at depth and continue to prewater if not moist to depth of cut; use water truck/pull to water soils to depth of cut prior to subsequent cuts; and apply water or dust palliative to form crust on soil following fill and compaction. (CCHD)
- For large tracts of disturbed land, prevent access by fencing, ditches, vegetation, berms, or other barriers; install perimeter wind barriers 3 to 5 feet high with low porosity; plant perimeter vegetation early; and for long-term stabilization, stabilize disturbed soil with dust palliative or vegetation or pave or apply surface rock. (CCHD)
- In staging areas, limit size of area; apply water to surface soils where support equipment and vehicles are operated; limit vehicle speeds to 15 mph; and limit ingress and egress points. (CCHD)
- For stockpiles, maintain at optimum moisture content; remove material from downwind side; avoid steep sides or faces; and stabilize material following stockpile-related activity. (CCHD)
- To prevent trackout, pave construction roadways as early as possible; install gravel pads; install wheel shakers or wheel washers, and limit site access. (CCHD, SLOCAPCD)
- When materials are transported off-site, all material shall be covered, effectively wetted to limit visible dust emissions, or at least six inches of freeboard space from the top of the container shall be maintained. (BAAQMD, SJVUAPCD, ADEQ) (*Maintain at least 12 inches of freeboard.*) (SLOCAPCD)
- All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at least once every 24 hours when operations are occurring. (BAAQMD) (*The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.*) (*Use of blower devices is expressly forbidden.*) (SJVUAPCD)
- Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant. (SJVUAPCD, ADEQ)

GK-21  
cont'd.

- During initial grading, earth moving, or site preparation, projects 5 acres or greater may be required to construct a paved (or dust palliative treated) apron, at least 100 ft in length, onto the project site from the adjacent site if applicable. (BCAQMD)
- Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 24 hrs. (BCAQMD, MBUAPCD, CCHD)
- Prior to final occupancy, the applicant demonstrates that all ground surfaces are covered or treated sufficiently to minimize fugitive dust emissions. (BCAQMD)
- Gravel pads must be installed at all access points to prevent tracking of mud on to public roads. (SBCAPCD)
- The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. (SBCAPCD, SLOCAPCD)
- Prior to land use clearance, the applicant shall include, as a note on a separate informational sheet to be recorded with map, these dust control requirements. All requirements shall be shown on grading and building plans. (SBCAPCD, SLOCAPCD)
- All roadways, driveways, sidewalks, etc., to be paved 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. (SLOCAPCD)
- Limit fugitive dust sources to 20 percent opacity. (ADEQ)
- Require a dust control plan for earthmoving operations. (ADEQ)
- Design buildings to employ passive energy efficiency. Site buildings to take advantage of shade, prevailing winds, landscaping and sun screens to reduce energy use.<sup>15,16</sup>

All these feasible measures to reduce NO<sub>x</sub> air quality impacts should be studied in the DEIR.

<sup>15</sup> Santa Barbara Air Pollution Control District, Scope and Content of Air Quality Sections in Environmental Documents, September 1997.

<sup>16</sup> Butte County Air Quality Management District, Indirect Source Review Guidelines, March 1997.

**VII. THE PROJECT IS INCONSISTENT WITH THE GENERAL PLAN, AND ZONE CHANGE AND PLAN AMENDMENT FINDINGS ARE IMPROPER**

A DEIR must discuss any inconsistencies between the proposed Project and applicable general plans. (Guidelines § 15125(d).) In this case, such inconsistencies include conflict with the General Plan and Northwest Industrial District designation.

As summarized in the General Plan, allowable uses within the Industrial/Business Park designation “include a mix of sustainable manufacturing, processing, office, warehousing, and distribution uses that generate employment, minimize traffic, and are compatible with residential neighborhoods. Supporting and limited retail uses are also allowed. Industrial uses are allowed at an intensity of up to 1.0 FAR.” (General Plan, page L-8).

The Project site also lies within the General Plan’s Northwest Industrial District designed to . . . “serve as the employment engine for the City, but transition to an area that attracts a balance of sustainable light manufacturing, distribution, and technology-oriented business. It [The District] can provide opportunities for investment, entrepreneurship, and significant creation of well-paid jobs in a well-managed and sustainable environment that minimizes traffic impacts, promotes a clean environment, ensures long vitality, and strengthens neighborhoods.” (General Plan, page LU-30).

The Project eliminates the existing manufacturing land use designation for the site, instead adding 182,000 sq. ft. of commercial use that will compete with small local retail businesses, attracting thousands of vehicle trips and causing several unmitigated traffic impacts at many intersections including at the I-10, Arden Dr. and Valley Bl. This is inconsistent with the El Monte General Plan and Northwest Industrial District Designation. As a result, the required General Plan Amendment and Zone Change findings under Municipal Code Section 17.26.120 – that “the public necessity, convenience, general welfare or good community planning practice justify such action” – cannot be made. Here, General Plan inconsistencies include:

CD-2.4 Roadway Capacity. Ensure that roadways are appropriately sized with adequate traffic management devices to allow for the smooth and safe flow of traffic consistent with the function and performance standards set forth by the Circulation Element.

Goal CD-7. A modern, clean industrial park that provides opportunity for investment and commerce and is denoted by its clean, attractive, and well-managed environment compatible with surrounding residential neighborhoods.

GK-22

Goal LU-3. Distinct and identifiable residential neighborhoods and commercial, industrial and office districts that reflect and augment the historical, cultural, economic, and social fabric and roles in El Monte.

Goal LU-4. A complementary balance of land uses that provide adequate opportunities for housing, economic activity, transportation, parks, and recreation to support an exemplary quality of life and a sustainable community.

LU-4.5. Balanced Growth. Direct land uses and community growth in a manner that is consistent with community-wide goals and is consistent with the vision of the General Plan.

C-2.2. Roadway Performance Standards. The City desires to maintain a level of service (LOS) D throughout the City . . .

C-3.2. Traffic Flow Management. Manage traffic flow on roadways for appropriate vehicle speeds, calm traffic in the City, and protect neighborhoods from traffic intrusion. Apply appropriate techniques to control the volume and speed of traffic consistent with land use policy, sensitive uses, and other concerns.

C-6.6. Project Mitigation. Require appropriate mitigation measures to be implemented by projects that have a significant or potentially significant impact on the transportation network.

Goal ED-7. An improved El Monte business environment that promotes growth of manufacturing firms, creates well-paid jobs, and offers opportunities for business relocation and expansion in the Northwest Industrial District.

In sum, this Project which eliminates land designated for manufacturing use and generates thousands of extra car trips clearly violates the General Plan and its goals and objectives for the Northwest Industrial District, invalidating the land use consistency analysis in the DEIR and making it improper for the City to make the required General Plan Amendment and Zone Change findings under Municipal Code Section 17.26.120.

VIII. **OVERRIDING CONSIDERATIONS CANNOT IGNORE CERTAIN SIGNIFICANT ADVERSE IMPACTS, AND MUST BETTER ANALYZE AND REQUIRE PROJECT BENEFITS**

The DEIR concludes that the Project will have significant, unmitigated air quality and traffic impacts and, as set forth herein, also understates or ignores certain significant impacts. As a result, a statement of overriding considerations will be required. However, the statement of overriding considerations is allowed

GK-22  
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GK-23

only if the environmental impacts remain significant and unavoidable after the imposition of all feasible mitigation. As stated above, the DEIR fails to do this, particularly for air quality and GHG impacts. This is improper under CEQA.

Under CEQA, when an agency approves a project with significant environmental impacts that will not be fully mitigated, it must adopt a “statement of overriding considerations” finding that, because of the project’s overriding benefits, it is approving the project despite its environmental harm. (Guidelines §15043; Pub. Res. Code §21081(B); *Sierra Club v. Contra Costa County* (1992) 10 Cal.App.4<sup>th</sup> 1212, 1222) A statement of overriding considerations expresses the “larger, more general reasons for approving the project, such as the need to create new jobs, provide housing, generate taxes and the like.” (*Concerned Citizens of South Central LA v. Los Angeles Unif. Sch. Dist.* (1994) 24 Cal.App.4<sup>th</sup> 826, 847.)

A statement of overriding considerations must be supported by substantial evidence in the record. (Guidelines §15093(b); *Sierra Club v. Contra Costa Co.* (1992) 10 Cal.App.4<sup>th</sup> 1212, 1223.) The agency must make “a fully informed and publicly disclosed” decision that “specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project.” (Guidelines §15043(b).) As with all findings, the agency must present an explanation to supply the logical steps between the ultimate finding and the facts in the record. (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.)

An agency may adopt a statement of overriding considerations only *after* it has imposed all feasible mitigation measures to reduce a project’s impact to less than significant levels. (Guidelines §§ 15126.4, 15091.) CEQA prohibits agencies from approving projects with significant environmental impacts when feasible mitigation measures can substantially lessen or avoid such impacts. (Pub. Res. Code § 21002.) As explained in Guidelines section 15092(b)(2), an agency is prohibited from approving a project unless it has “[e]liminated or substantially lessened all significant effects on the environment where feasible.”

CEQA prohibits agencies from approving projects with significant environmental impacts when feasible mitigation measures can substantially lessen or avoid such impacts. (Pub. Res. Code § 21002; Guidelines, 15092(b)(2).) Further, its findings to this effect must be supported with meaningful detail and independent analysis contained in the EIR or administrative record. Put differently, a statement of overriding consideration is not a substitute for the findings required by CEQA section 21081; instead, a statement of overriding considerations must supplement the City’s findings and support its determination to proceed with the Project despite its adverse effects. (*Federation of Hillside & Canyon Assns v Los Angeles* (2000) 126 Cal.App.4<sup>th</sup> 1180, 1201.)

GK-23  
cont’d.

Here, expert Mr. Hagemann discusses that feasible mitigation measures exist to reduce the Project's air quality and GHG impacts. Yet, the City has failed to impose feasible mitigation measures to reduce these impacts. Therefore the City may not adopt a statement of overriding considerations.

GK-23  
cont'd.

A. **Overriding Considerations Must Discuss Job Quality**

Moreover, to the extent that overriding considerations are needed, key among the findings that the lead agency *must* make is that:

“Specific economic, legal, social, technological, or other considerations, including the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.. [and that those] benefits of the project outweigh the significant effects on the environment.” (Pub. Res. Code §21081(a)(3), (b) emphasis added.)

Thus, the City must make specific findings, supported by substantial evidence, concerning both the environmental impacts of the Project, and the economic benefits including “the provision of employment opportunities for highly trained workers” created. The DEIR fails to provide substantial evidence to support a statement of overriding considerations.

In particular, the document makes no effort to assess the quality, or pay rate of jobs, especially given the known tenant here – Walmart – has questionable pay and benefit practices for its employees. See [http://rodinoassociates.com/pdfs/RODINO\\_REPORT\\_SUPERSTORE\\_IMPACTS.pdf](http://rodinoassociates.com/pdfs/RODINO_REPORT_SUPERSTORE_IMPACTS.pdf); [http://laborcenter.berkeley.edu/pdf/2011/bigbox\\_livingwage\\_policies11.pdf](http://laborcenter.berkeley.edu/pdf/2011/bigbox_livingwage_policies11.pdf); <http://www.americansfortaxfairness.org/files/Walmart-on-Tax-Day-Americans-for-Tax-Fairness-1.pdf>.

GK-24

Here, the DEIR makes no attempt to determine whether new jobs created by the Project, in either the construction phase or the operational phase, will be for “highly trained workers,” and what the likely salary and wage ranges of these jobs will be. Without this information, the City lacks substantial evidence to make any statement of overriding considerations.

The City should require payment of prevailing wages for all construction phase workers, and living wages for all operational phase workers. Such a requirement will ensure that the Project provides “employment opportunities for highly trained workers” in accordance with the mandates of CEQA. Without such requirements, the Project may actually depress wage rates and fail to provide high quality job opportunities.

In reality, the DEIR should be recirculated with analysis of this issue, including an economic impact study. The City cannot find that the economic

benefits of the Project outweigh the environmental costs if it does not know what the economic benefits will be. A revised DEIR is required to provide this information.

GK-24  
cont'd.

B. **Overriding Considerations Require Analysis of Project Benefits**

As mentioned above, overriding considerations require analysis of whether the “benefits of the project outweigh the significant effects on the environment.” (Pub. Res. Code §21081(a)(3), (b) emphasis added.) *The City has leverage to ensure the Project actually benefits El Monte.* Planning Commissioner Peralta highlighted this point during the Planning Commission workshop – that the City should push the applicant to incorporate project benefits including but not limited to:

- LEED Certification;
- Local Hiring;
- Stormwater capture and infiltration;
- A community benefits agreement on sharing profits with community projects;
- Pre-paying full cost of traffic improvements at I-10/Flair and Lower Azusa/Arden;
- An economic impact study that helps to identify the economic benefits of the Project, job quality and outline potential community needs and benefits.

GK-25

IX. **CONCLUSION**

After carefully reviewing the DEIR together with the expert consultant, it is evident that the document contains omissions that preclude accurate analysis of the Project. Commentor has reviewed the DEIR and Project proposal and does not feel it is good for El Monte and its residents. He opposes the Project.

First, the DEIR uses the wrong baseline to calculate undoubtedly significant greenhouse gas impacts caused by the thousands of daily car trips to the supercenter. The existing greenhouse gas baseline is a vacant site, but the DEIR instead uses a hypothetical, fantasy existing Walmart. This violates CEQA baseline law. As a result, the DEIR improperly deems greenhouse gas emissions as insignificant and unlawfully fails to attempt to feasibly mitigate these significant greenhouse gas emissions. The DEIR will need to be recirculated with legally compliant greenhouse gas analysis and mitigation.

GK-26

Next, the DEIR fails to adequately mitigate admittedly significant smog impacts caused by mobile source emissions from all the car trips to and from the supercenter. The DEIR concludes that nothing can be done to reduce these smog emissions, but this is wrong – additional commonly used mitigation is available and a revised DEIR should be prepared to identify this mitigation.

Third, the Project eliminates the existing manufacturing land use designation for the site, instead adding 182,000 sq. ft. of commercial use that will compete with small local retail businesses, attracting thousands of vehicle trips and causing several unmitigated traffic impacts at many intersections including at the I-10, Arden Dr. and Valley Bl. This is inconsistent with the El Monte General Plan and Northwest Industrial District Designation. As a result, the required General Plan Amendment and Zone Change findings under Municipal Code Section 17.26.120 – that “the public necessity, convenience, general welfare or good community planning practice justify such action” – cannot be made.

Last, a statement of overriding considerations will be required for this Project, balancing Project benefits and impacts. However, a statement of overriding considerations is allowed only if the environmental impacts remain significant and unavoidable after the imposition of *all* feasible mitigation. Here, the DEIR fails to do this, particularly for air quality and greenhouse gas impacts. This is improper under CEQA. Moreover, the City must make specific overriding consideration findings, supported by substantial evidence, concerning the economic benefits of the project including “the provision of employment opportunities for highly trained workers” created. The DEIR fails to provide substantial evidence on such job quality, living wages and economic benefits for the Walmart. *The City has leverage to disapprove the Project or to ensure that the Project actually benefits El Monte. Please use it.* Planning Commissioner Peralta highlighted this point during the Planning Commission workshop – that the City should push the applicant to provide extensive, additional community benefits. In reality, the DEIR should be recirculated with analysis of the economic benefits issue, including an economic impact study. The City cannot find that the economic benefits of the Project outweigh the environmental costs if it does not have real data to know what the economic benefits will be.

A revised DEIR should be prepared to disclose and adequately discuss these issues and to identify mitigation measures.

Commentor very much appreciates and value this opportunity to provide these comments. The entire record pertaining to this Project is hereby incorporated by this reference.

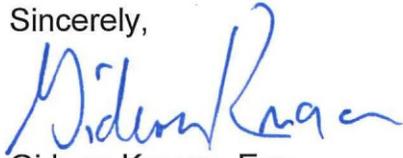
Thank you for considering these comments. *Pursuant to Pub. Res. Code Section 21091(d), we expect a detailed written response to this comment letter, as well as the attached comments of Expert Matt Hagemann P.G., C.Hg., QSD, QSP.*

GK-26  
cont'd.

Pursuant to Pub. Res. Code Section 21092.2 and Gov. Code Section 65092, please notify the undersigned in writing of any hearings, decisions, notifications, or actions referring or related to this Project.

↑  
GK-26  
cont'd.

Sincerely,



Gideon Kracov, Esq.  
Lawyer for Aaron Montenegro

Cc: All El Monte City Councilmembers

Attachs.

Gideon Kracov, Attorney at Law  
801 South Grand Avenue, 11<sup>th</sup> Floor  
Los Angeles, CA 90017

Letter Dated January 7, 2015

Comment GK-1

*The undersigned writes on behalf of El Monte resident Aaron Montenegro (“Commentor”) with regard to the California Environmental Quality Act (“CEQA”) Draft Environmental Impact Report (“DEIR”) for the referenced El Monte Walmart Project (“Project”).*

Response GK-1

Authorship, representation, and intent stated are acknowledged.

Comment GK-2

*The Project involves the construction of an 182,429 square foot Walmart supercenter with associated circulation, parking and loading facilities on a 15.4 acre site. The supercenter would include merchandise and groceries, off-site alcohol sales, a food tenant and non-food tenants (e.g. bank, medical clinic, portrait studio or salon) and an outdoor garden center. Parking for 755 vehicles would be accessed by two driveways along Arden Drive, while heavy truck access would be provided via Valley Circle. The supercenter will be open 24 hours a day, 7 days a week.*

Response GK-2

The summary Project description provided is materially correct. Please refer also to DEIR Section 3.0, *Project Description*.

Comment GK-3

*Commentor writes to express several concerns about the DEIR and Project. He has reviewed the DEIR and Project proposal and does not feel it is good for El Monte and its residents. He opposes the Project.*

Response GK-3

Commentor opinions about, and opposition to, the Project are recognized and are forwarded to the decision-makers. Commentor concerns regarding the DEIR are addressed herein. Results and conclusions of the DEIR are not affected.

Comment GK-4

*First, the DEIR uses the wrong baseline to calculate undoubtedly significant greenhouse gas impacts caused by the thousands of daily car trips to the supercenter. The existing greenhouse gas baseline is a vacant site, but the DEIR instead uses a hypothetical, fantasy existing Walmart. This violates CEQA baseline law. As a result, the DEIR improperly deems greenhouse gas emissions as insignificant and unlawfully fails to attempt to feasibly mitigate these significant greenhouse gas emissions. The DEIR will need to be recirculated with legally compliant greenhouse gas analysis and mitigation.*

Response GK-4

As discussed in the DEIR and restated subsequently within these Responses, the DEIR analysis and conclusions addressing the Project's potential greenhouse gas (GHG) emissions impacts is consistent with applicable CEQA requirements, protocols and methodologies, and are correct and accurate as presented. Contrary to the commentor's assertion otherwise, the DEIR GHG analysis was conducted consistent with CEQA and CARB guidance, and does not reflect a "hypothetical, fantasy existing Walmart." Rather, the DEIR analyzes whether the Project's GHG emissions are consistent with the GHG emissions reductions targets established by the California Air Resources Board and therefore compliant with the mandates of AB 32. Applying these criteria, the DEIR concludes that the Project's potential GHG emissions impacts would be less-than-significant. CEQA supports the use of AB compliance as a criterion for determining the significance of GHG emission impacts. Thus, there is no violation of CEQA baseline law, and no requirement for recirculation of the DEIR. Please also refer to Response GK-18.

Comment GK-5

*Next, the DEIR fails to adequately mitigate admittedly significant smog impacts caused by mobile source emissions from all the car trips to and from the supercenter. The DEIR concludes that*

*nothing can be done to reduce these smog emissions, but this is wrong - additional commonly used mitigation is available and a revised DEIR should be prepared to identify this mitigation.*

Response GK-5

Consistent with CEQA disclosure policies and mandates, potentially significant environmental impacts resulting from the Project are identified in the DEIR, and feasible mitigation of these impacts is proposed. Even after application of feasible mitigation, Project operational-source NO<sub>x</sub> emissions would exceed applicable SCAQMD regional thresholds (DEIR p. 1-30). Per SCAQMD significance guidance, these impacts at the Project level are identified as significant, and are also considered cumulatively significant and would persist over the life of the Project. NO<sub>x</sub> emissions are ozone precursors. As disclosed in the DEIR, Project operational-source NO<sub>x</sub> emissions have the potential to contribute considerably to existing ozone non-attainment conditions within the Basin. This is a cumulatively significant impact persisting over the life of the Project.

Project impacts and proposed mitigation are discussed in detail throughout the DEIR. A summary of impacts and mitigation is provided at DEIR Table 1.10-1, pp. 1-35 through 1-56. Mitigation measures, together with mitigation timing and monitoring/reporting responsibilities are comprehensively presented at Final EIR Section 4.0, Mitigation Monitoring Plan.

The commentor states . . . *“additional commonly used mitigation is available and a revised DEIR should be prepared to identify this mitigation.”*

The commentor here alludes to, and subsequently offers numerous additional measures as a means to reduce the operational threshold exceedances of NO<sub>x</sub> identified within the Draft EIR. As discussed herein, the commentor provides no substantiated efficacy of the measures offered. Estimated emissions reduction ranges stated by the commentor are predicated on faulty or unsubstantiated assumptions, are not supported by evidence, and are considered speculative.

Nor are the suggested measures' feasibility <sup>6</sup> and applicability to the Project meaningfully considered or established by the commentor. Certain of the suggested measures presume the availability of, and Applicant control of, an alternative site that would concurrently: allow for implementation of the Project; substantive diminishment of air quality impacts; and attainment of the Project Objectives. No such site exists. Moreover, relocation of the Project may collaterally result in other increased environmental impacts not otherwise resulting from the Project in its current location. It is further noted that the Project in its current location and configuration tend to reduce VMT and associated vehicular-source emissions within the region (DEIR p. 5-118). Please also refer to EIR Section 5.0, *Alternatives Analysis*. Certain other measures offered by the commentor replicate Project components, existing policies/requirements/regulations, and would not constitute an "additional" mitigation measure. Other measures offered by the commentor are policy level actions, clearly beyond the scope of the Project under consideration and beyond the control of the Applicant, with no demonstrated or quantified reduction in the Project's operational-source NOx emissions. The commentor offers a "long list of other feasible" measures to reduce construction-source emissions. These measures are redundant of SCAQMD rules, with which the Project is already required to comply, and are not "mitigation." Moreover, the DEIR substantiates that Project construction-source emissions would be less-than-significant as mitigated pursuant to measures identified in the DEIR; as a result, no additional mitigation is required.

Lastly, it should be recognized that the Project operational-source air quality analyses, consistent with SCAQMD guidance and CalEEMod protocols, necessarily assume that all vehicle trips generated by the Project are "new" trips within the region. In practice, new land use projects (such as the proposed El Monte Walmart Project) tend to redistribute existing trips and emissions sources within the region, rather than generate entirely new trips and emissions. The net effect being an overestimation of likely regional air quality impacts as presented in the DEIR and Project air quality analyses. Please refer also to Response GK-21. Results and conclusions of the DEIR are not affected.

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<sup>6</sup>The term feasible is not to be construed as "within the realm of possibilities." The State Resources Agency, the State Agency charged with implementing CEQA's regulatory scheme, has defined feasible, "for purposes of CEQA review, as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."

Comment GK-6

*Third, the Project eliminates the existing manufacturing land use designation for the site, instead adding 182,000 sq. ft. of commercial use that will compete with small local retail businesses, attracting thousands of vehicle trips and causing several unmitigated traffic impacts at many intersections including at the 1-10, Arden Dr. and Valley 81. This is inconsistent with the El Monte General Plan and Northwest Industrial District Designation. As a result, the required General Plan Amendment and Zone Change findings under Municipal Code Section 17.26.120- that “the public necessity, convenience, general welfare or good community planning practice justify such action” - cannot be made.*

Response GK-6

The Project and its proposed land uses are contingent on City approval of the requested General Plan Amendment, Zone Change, and Modification of the boundaries of the Northwest Industrial District. Pursuant to land use designations resulting from the discretionary actions listed above, the Project would be subject to, and would be consistent with City General Plan “General Commercial,” land use goals, policies, objectives, and related requirements. Project General Plan consistency is evaluated and substantiated at DEIR Table 4.1-1, *General Plan Land Use Goals and Policies Consistency*. Under the requested “Heavy Commercial” Zoning designation, the Project would comply with the requirements stated at Municipal Code Chapter 17.56, C-4 Zone District, §17.56.020 Regulations. Project Municipal Code consistency is evaluated and substantiated at DEIR Table 4.1-2, *Municipal Code Chapter 17.56 C-4 Zone District Regulations and Development Standards Consistency*.

Pursuant to the requested discretionary action, the Project site and certain neighboring properties would be excluded from the Northwest Industrial District and would not be subject to the District’s industrially-oriented goals/policies. This is consistent with the commercially-oriented uses proposed under the Project.

If the requested discretionary actions are approved, the City would make all required findings consistent with Municipal Code Section 17.26.120. The findings requirements as stated within the Municipal Code for a zone change or General Plan Amendment may be based upon multiple factors including, but not limited to, project impacts as defined by

CEQA. It is further noted the City General Plan and related City documents (e.g., Zoning Map/Zoning Ordinance) are not immutable precepts requiring a certain and unwavering vision for the City. Rather, these documents guide and govern development and growth of the City subject to the City's evolving needs and desires. Project-requested amendments to the City General Plan and Zoning Map/Ordinance would be at the City's discretion.

Comment GK-7

*Last, a statement of overriding considerations will be required for this Project, balancing Project benefits and impacts. However, a statement of overriding considerations is allowed only if the environmental impacts remain significant and unavoidable after the imposition of all feasible mitigation. Here, the DEIR fails to do this, particularly for air quality and greenhouse gas impacts.*

Response GK-7

As substantiated in the DEIR and reinforced within these Responses, the Project would implement all feasible mitigation addressing potentially significant environmental impacts. Should the Project be approved, the City is required to adopt a Statement of Overriding Considerations acknowledging the Project's significant impacts. Results and conclusions of the DEIR are not affected.

Comment GK-8

*This is improper under CEQA. Moreover, the City must make specific overriding consideration findings, supported by substantial evidence, concerning the economic benefits of the Project including "the provision of employment opportunities for highly trained workers" created. The DEIR fails to provide substantial evidence on such job quality, living wages and economic benefits for the Walmart. The City has leverage to disapprove the Project or to ensure that the Project actually benefits El Monte. Please use it. Planning Commissioner Peralta highlighted this point during the Planning Commission workshop- that the City should push the applicant to provide extensive, additional community benefits. In reality, the DEIR should be recirculated with analysis of the economic benefits issue, including an economic impact study. The City cannot find that the economic benefits of the Project outweigh the environmental costs if it does not have real data to know what the economic benefits will be.*

*A revised DEIR should be prepared to disclose and adequately discuss these issues and to identify mitigation measures.*

Response GK-8

Please refer to Response GK-6. CEQA requires the Lead Agency to balance the Project benefits against its significant environmental impacts when determining whether to approve the Project, please refer to *CEQA Guidelines* Section 15093 (a), excerpted in pertinent part below.

[*CEQA Guidelines*] 15093. Statement of Overriding Considerations

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”

Findings supporting “the provision of employment opportunities for highly trained workers” are not specifically required, though the Lead Agency may make such findings if applicable.

Comment GK-9

*We have prepared these comments with the expert assistance of Matt Hagemann, P.G., C.Hg., QSD, QSP, an expert with over 15 years experience in environmental site assessment. Mr. Hagemann’s expert comments are attached as Exhibit A hereto. Pursuant to Pub. Res. Code Section 21091 (d), we expect detailed written responses to this comment letter, as well as the attached comments of Mr. Hagemann.*

Response GK-9

Consistent with PRC Section 21091 (d), the Lead Agency has evaluated comments provided on environmental issues and has herein provided responses pursuant to PRC Section 21091 (d), subparagraph (B). Mr Hagemann's expertise, though perhaps extensive, appears to be focused in the areas of geology, hydrology, hydrogeology, and related potential environmental concerns such as groundwater contamination (see commentor's attached professional and educational résumés at Response MH-7). Mr. Hagemann's educational and professional background is notably deficient in technical evaluation of air pollution issues in general, and greenhouse gas emissions impacts in specific, the commentor's expressed topics of concern. Results and conclusions of the EIR are not affected.

Comment GK-10

*"Standing"*

*Aaron Montenegro is a longtime and current resident of the City of El Monte. He has a beneficial interest and is impacted by the matters set forth in this letter. His interests will continue to be directly affected by the Project and the City's failure to comply with the requirements of CEQA and the Municipal Code in connection with the Project. He frequents the location, the intersections at and in the vicinity of the Project, and will be affected by negative impacts of the Project on traffic and transportation, air quality, cumulative impacts and urban decay. He lives, works and plays in El Monte.*

Response GK-10

Commentor standing and opinions as described do not include specific objections or comments related to statements or conclusions in the DEIR. For purposes of this response to comment only, the statements as written are assumed to be materially correct. As substantiated in the DEIR and reinforced herein, the City (Lead Agency) has complied with applicable CEQA requirements as well as requirements of the City Municipal Code. Results and conclusions of the EIR are not affected.

Comment GK-11

*“Legal Standard for a CEQA DEIR”*

*The California Environmental Quality Act requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report. (See, e.g., Pub. Res. Code § 211 00; Communities for a Better Environment v. South Coast Air Quality Management Dist. (Conoco Phillips) (2010) 48 Cal. 4th 310 (“CBE v. SCAQMD”).) The EIR is the very heart of CEQA. (Dunn-Edwards v. BAAQMD (1992) 9 Cal.App.4th 644, 652.) “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (Communities for a Better Environment v. Calif. Resources Agency (2002) 103 Cal. App. 4th 98, 109 (“CBE v. CRA”).)*

*CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (14 Cal. Code Regs. (“CEQA Guidelines” or “Guidelines”)§ 15002(a)(1).) “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’” (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal. 3d 553, 564.) The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” (Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs. (2001) 91 Cal. App. 4th 1344, 1354 (“Berkeley Jets”); County of/Inyo v. Yorty (1973) 32 Cal.App.3d 795, 810.)*

*Second, CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring implementation of “environmentally superior” alternatives and all feasible mitigation measures. (CEQA Guidelines § 15002(a)(2) and (3); See also, Berkeley Jets, 91 Cal. App. 4th 1344, 1354; Citizens of Goleta, 52 Cal. 3d at 564.) The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or significantly reduced.” (Guidelines §15002(a)(2).) If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment*

*where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.” (Pub. Res. Code§ 21081; Guidelines§ 15092(b)(2)(A) & (B).)*

#### Response GK-11

CEQA Guidelines, California Public Resources Code (PRC), and case law references offered by the commentor are acknowledged. The DEIR comports with all applicable CEQA Guidelines and PRC provisions and requirements. Results and conclusions of the DEIR are not affected.

#### Comment GK-12

*“The DEIR inadequately discloses, analyzes and mitigates greenhouse gas emissions”*

*“The DEIR Contains Inadequate Disclosure and Analysis of Greenhouse Gas Emissions -The Baseline Is Wrong”*

*An EIR must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. (Communities for a Better Environment v. Richmond (Chevron) (2010) 184 Cal.App.4th 70, 80 (“CBE v. Richmond”) (quoting Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 449-50).) The DEIR for the Project fails to meet these standards with regard to analysis of greenhouse gas emissions from the supercenter and its thousands upon thousands of car trips.*

#### Response GK-12

Commentor opinions are acknowledged. The DEIR accurately and appropriately evaluates, mitigates and discloses the Project’s potential environmental impacts. Informational and disclosure principles of CEQA and are identified in the DEIR (EIR pp. 1-8, 2-1) and are incorporated throughout. Information regarding, analysis of, and disclosure of, the Project’s potential greenhouse gas (GHG)/global climate change (GCC) impacts are presented at DEIR Section 4.9, *Global Climate Change and Greenhouse Gas Emissions*. Supporting technical analysis is presented at EIR Appendix H, *Greenhouse Gas Analysis*. As substantiated in the EIR, the Project’s potential GCC/GHG impacts are less-than-significant. Project trip

generation is identified in the DEIR. “[T]he Project would generate 277 net new trips (155 inbound, 122 outbound) during the weekday morning peak hour; 572 net new trips (280 inbound, 292 outbound) during the weekday evening peak hour; and 793 new trips (396 inbound, 396 outbound) during the Saturday midday peak hour. During a typical weekday, the Project would generate 7,595 daily trips, and during a typical weekend day, the Project would generate 9,588 daily trips” (DEIR p. 4.2-30). Result and conclusions of the DEIR are not affected.

### Comment GK-13

*The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been taken into account. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. /d. Indeed, the fundamental goals of environmental review under CEQA are information, participation, mitigation, and accountability. (Lincoln Place Tenants Ass’n. v. City of Los Angeles (2007) 155 Cal.App.4th 425, 443-444.)*

### Response GK-13

Function, purpose and content of EIRs as stated by the commentor are acknowledged. The DEIR complies with all applicable PRC and CEQA Guidelines provisions and requirements. Please refer to also to Responses GK-4, GK-5, and GK-10. Results and conclusions of the DEIR are not affected.

### Comment GK-14

*An EIR must disclose all potentially significant adverse environmental impacts of a project. (Pub. Res. Code§ 21100(b)(1); Guidelines§ 15126(a); Berkeley Jets, 91 Cal. App. 4th 1344, 1354.) CEQA requires that an EIR must not only identify the impacts, but must also provide “information about how adverse the impacts will be.” (Santiago County Water Dist. v. County of Orange (1981) 118 Cal.App.3d 818, 83.1) The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. (Kings*

County, 221 Cal.App.3d at 692.) *The DEIR for this Project fails to do so. Substantial evidence in the record must support any foundational assumptions used for the impacts analyses in the EIR. (See Citizens of Goleta Valley, 52 Cal. 3d at 568 (EIR must contain facts and analysis, not just bare conclusions); Laurel Heights, 47 Cal. 3d at 392-93 (agency's conclusions must be supported with substantial evidence).)*

#### Response GK-14

Commentor opinions are acknowledged. The DEIR accurately and appropriately evaluates, mitigates and discloses the Project's potential environmental impacts. Please refer also to Responses GK-4, GK-5, GK-10, and GK-13. Results and conclusions of the DEIR are not affected.

#### Comment GK-15

*As a result, every CEQA document must start from a "baseline" assumption - which means the existing conditions on the ground- here a vacant property. The CEQA "baseline" is the set of environmental conditions against which to compare a project's anticipated impacts. (CBE v. SCAQMD (201 0) 48 Cal. 4th 310, 321.) Section 15125(a) of the CEQA Guidelines states in pertinent part that a lead agency's environmental review under CEQA:*

*". . . must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time [environmental analysis] is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant."*

#### Response GK-15

Existing conditions (setting) and incremental and cumulative environmental impacts of the Project are accurately evaluated and disclosed throughout the DEIR as required under CEQA. The City, as lead agency, had the discretion to select the method by which it would determine whether project impacts triggered the selected significance threshold. CEQA Guidelines Section 15064.4, subdivision (a), vests the lead agency with discretion to "select the . . . methodology it considers most appropriate provided it supports its decision with

substantial evidence.” *Guidelines* §15064.4, subd. (a)(1). Please refer to Responses GK-4, GK-5, GK-10, and GK-13. Results and conclusions of the DEIR are not affected.

#### Comment GK-16

*With regard to greenhouse gas, the analysis should focus on the project’s contribution to the impact in combination with other projects (Guidelines, §§ 15130, 15355) and consider “whether the additional impact associated with the project should be considered significant in light of the serious nature of existing problems.” Climate change is by definition a cumulative impact, because it does not result from any single project but from “emissions generated globally over many decades,” and its effects are “global rather than local.” (2 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont. Ed. Bar 2011) §§ 20.83, 20.84, pp. 1033-1035 (rev. 3/12); see Guidelines, § 15355 [“[c]umulative impacts’ refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts”].)*

#### Response GK-16

*CEQA Guidelines* Sections 15130, 15355 addressing cumulative impact analyses referenced by the commentor are acknowledged. The DEIR evaluates the Project’s potential GHG emissions impacts consistent with all CEQA Guidelines provisions and protocols. Please refer to DEIR Section 4.9, *Global Climate Change and Greenhouse Gas Emissions*; DEIR Section 5.0, *Cumulative Impacts*, 5.1.1.9 *Global Climate Change and Greenhouse Gas Emissions Impacts*. Specific citation to CEQA guidance in addressing GHG analysis methodologies and direction for Lead Agency determination of GHG impact significance is provided in the DEIR, and is excerpted in pertinent part below:

#### **CEQA Guidelines**

CEQA Guideline § 15064.4(a) states “A lead agency shall have discretion to determine, in the context of a particular project, whether to: (1) Use a model or methodology to quantify greenhouse gas emissions resulting from a project, and which model or methodology to use . . .; or (2) Rely on a qualitative analysis or performance based standards.”

CEQA emphasizes that the effects of greenhouse gas emissions are cumulative, and should be analyzed in the context of CEQA's requirements for cumulative impacts analysis. (See: *CEQA Guidelines* Section 15130(f)).

Section 15064.4(b) of the *CEQA Guidelines* provides direction for lead agencies for assessing the significance of impacts of greenhouse gas emissions:

1. The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting;
2. Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project; or
3. The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. Such regulations or requirements must be adopted by the relevant public agency through a public review process and must include specific requirements that reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project (DEIR pp. 4.9-22, 4.9-23).

The following discussions present substantial evidence supporting the conclusion that, irrespective of accepted BAU comparative analyses, the Project's GHG emissions impacts are less-than-significant based on *CEQA Guidelines* § 15064.4(b) GHG/GCC Significance Factors.

**FACTOR NO. 1:** *The extent to which the Project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting.*

The Lead Agency determines compliance with this measure based on a qualitative review of a project's GHG emissions, the extent to which a project may result in increased or decreased energy efficiency. Future development projects are expected to result in increased GHG emissions if they substantially increase electricity and natural gas consumption.

The Project would incorporate energy efficient/energy conserving Project design features that would reduce GHG emissions when compared to baseline Title 24 compliant design requirements. Many of the Project design features are consistent with GHG reduction strategies developed by groups and public agencies, such as ARB, CAPCOA and the California Attorney General Office. Construction of the Walmart Store (Store) would use steel containing approximately 90 to 98 percent recycled structural steel, which utilizes less energy in the mining and manufacturing process than does new steel.

Walmart employs a centralized energy management system (EMS) to monitor and system control the heating, air conditioning, refrigeration and lighting systems for all stores from Walmart's corporate headquarters. The EMS enables Walmart to constantly monitor and control the expanded store's energy usage, analyze refrigeration temperatures, observe HVAC and lighting performance, and adjust system levels from a central location 24 hours per day, seven days per week. Energy usage for the entire Store will be monitored and controlled in this manner. Skylights will provide natural daylighting resulting in reduced requirements for interior artificial light sources, with corollary reductions in electrical lighting power consumption (EIR Section 3.0, *Project Description*, 3.4.12, *Energy Efficiency/Sustainability*).

Additionally, pursuant to EIR Mitigation Measure 4.3.4, the Project would implement energy efficient designs representing a minimum 5% improvement on incumbent Title 24 standards. Energy efficient designs implemented by the Project would reduce operational source air pollutant emissions collectively, including GHG emissions.

**FACTOR NO.2:** *Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project.*

Project GHG emissions would not exceed a threshold of significance that the lead agency determines applies to the Project. To the contrary, the Project is consistent with the numerous regulations that are being adopted pursuant to AB 32, Executive Order S-3-05, and others. The Project supports and would not conflict with AB 32 and Executive Order S-3-05 goals and objectives. As addressed directly above, development of the Project includes several features which would not hinder or otherwise diminish attainment of the state's goals of reducing greenhouse gas emissions to 1990 levels by 2020, and an 80 percent reduction below 1990 levels by 2050. The Project would further new contemporary energy-efficient designs, and implementation of energy efficient facilities, appliances, and operational efficiencies. Moreover, the Project includes several sustainability measures that are consistent with recommendations by key climate change constituencies. See generally EIR Section 3.0 *Project Description*, and specifically, Section 3.4.12 *Energy Efficiency/Sustainability*. Please refer also to EIR Mitigation Measure 4.3.4.

The Project would also constitute development within an established community and would not be opening up a new geographical area for development such that it would draw mostly new trips, or substantially lengthen existing trips. Rather, the Project would provide an opportunity for nearby residents to shop closer to home. While the Project may increase vehicle miles traveled (VMT) for some customers, most of the trips would be coming from within the immediate area. Given the location of other comparable stores within more distant portions of the region, customers that would previously have traveled to these locations will now have a store closer to their homes. Accordingly, the Project would tend to reduce vehicular-source GHG emissions by reducing vehicle trip lengths and regional VMT when compared to continued travel patterns outside of the City to access the retail opportunities and amenities otherwise provided by the Project.

**FACTOR NO.3:** *The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. Such requirements must be adopted by the relevant public agency*

*through a public review process and must reduce or mitigate the project's incremental contribution of greenhouse gas emissions. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable, notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project.*

The City of El Monte nor the SCAQMD have formally adopted a significance threshold for GHG emissions generated by a project, or a uniform methodology for analyzing impacts related to GHG emissions or global climate change. The Project is nonetheless consistent and complies with state GHG emissions plans, goals, and strategies as substantiated in the EIR and reiterated within the Responses. On this basis, the Project complies with the regulations or requirements adopted to implement all applicable plans for the reduction or mitigation of greenhouse gas emissions.

On the basis of the preceding discussions, Project GHG emissions would be considered less-than-significant in the context of *CEQA Guidelines* § 15064.4(b) GHG/GCC Significance Factors.

In summary, the DEIR appropriately and accurately evaluates and discloses the Project's potential GHG emissions impacts, which are substantiated to be less-than-significant. Please refer to DEIR Section 4.9, *Global Climate Change and Greenhouse Gas Emissions*; DEIR Appendix H, *Greenhouse Gas Analysis*. Results and conclusions of the DEIR are not affected.

#### Comment GK-17

*A prejudicial abuse of discretion occurs "if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process." (San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27 Cal. App. 4th 713, 722]; Galante Vineyards v. Monterey Peninsula Water Management Dist. (1997) 60 Cal. App. 4th 11 09, 1117; County of Amador v. El Dorado County Water Agency (1999) 76 Cal. App. 4th 931, 946.) The EIR must disclose information that is needed for a reasoned analysis of the issues. (Madera Oversight Coalition v. County of Madera (2011) 199 Cal.App.4th 48, 1 04.)*

*While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position.’ A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” (Berkeley Jets, 91 Cal. App. 4th 1344, 1355 (emphasis added), quoting Laurel Heights Improvement Assn. v. Regents of University of California, 47 Cal. 3d 376, 391 409, fn. 12 (1988).)*

#### Response GK-17

Case law references offered by the commentor are acknowledged. The commentor does not note any specific comments or objections to statements or conclusions within the Draft EIR. Results and conclusions of the DEIR are not affected.

#### Comment GK-18

*Here, expert Mr. Hagemann’s comments attached as Exhibit A show that the DEIR contains inadequate assessment and analysis of significant greenhouse gas (GHG) impacts for the Project:*

*“The DEIR, in an effort to comply with AB 32 and establish a Project baseline, compares the Project’s GHG emissions to a business as usual (BAU) scenario. However, the DEIR’s definition of a BAU scenario for the Project site is inaccurate, and the comparison utilized to achieve compliance with AB 32 results in inflated baseline emissions, and overstates the proposed Project’s presumed benefits and compliance measures. A revised DEIR needs to identify an acceptable method of reaching compliance with AB 32, and needs to determine an alternative threshold to compare Project emissions to. Recirculation of the DEIR therefore is required.”*

*The 2008 Scoping Plan indicates that statewide AB 32 compliance would be achieved provided that there was a minimum 28.5 percent reduction in BAU GHG emissions for the time frame of 1990 to 2020. The DEIR utilizes this reduction percentage as a way to show compliance with GHG regulations (p. 4.9-26), and determines that the Project’s “conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases” is less-than-significant (p. 4.9-31).*

*This level of significance is, of course, achieved by creating a BAU baseline; however, the DEIR does not clearly define what its BAU scenario encompasses. This is buried in Appendix D of the DEIR (Air Quality Analysis & Health Risk Assessment). The CalEEMod output tables in Appendix D of the DEIR (Air Quality Analysis & Health Risk Assessment) show that the BAU scenario is modeled in the DEIR as if the proposed Project was constructed and in operation by 2005, and then compares this “BAU Scenario” to a “Project Scenario” where the proposed Project is constructed and in operation by 2020. Comparison of the 2005 BAU scenario to the 2020 Project scenario results in a 36.06 percent reduction of GHG emissions (p. 4.9-30).*

*But this is an improper baseline that does not exist because the site is a vacant lot of land. Utilizing 2005 Project emissions as a BAU scenario is not consistent with the CARB definition of BAU. CARB defines BAU in their Scoping Plan as emission levels that would occur if existing conditions in California continued to grow and add new GHG emissions, but did not adopt any measures to reduce emissions. Utilizing this definition, a BAU scenario at the proposed Project site would be a vacant lot of land which would result in zero as a baseline for all emissions. Comparison of the proposed Project site to an essentially zero baseline certainly would show significant GHG emissions exceeding appropriate significance thresholds.*

*To determine whether the Project’s GHG emissions are significant, methods that have been proposed in other recent CEQA documents should be utilized and included in a revised DEIR.<sup>4</sup> For example, the Commerce Retail Center Project determines significance by utilizing the SCAQMD draft local agency tiered threshold (Commerce DEIR p. 3.2-62). The threshold is as follows:*

- Tier 1: The project is not exempt under CEQA; go to Tier 2.*
- Tier 2: There is no GHG reduction plan applicable to the project; go to Tier 3.*
- Tier 3: Project GHG emissions compared with the threshold: 3,000 MTCO<sub>2e</sub> per year.*
- Tier 4, Option 1: Reduce GHG emissions from business as usual by 28.4 percent. The California 2020 emissions target is 427 MMTCO<sub>2e</sub> and the 2020 baseline (without any AB 32 related regulations) is 596 MMTCO<sub>2e</sub>. Therefore, a 28.4 percent reduction is required to reduce emissions to the target.*

*The Project DEIR utilizes Tier 4, Option 1 to achieve compliance with AB 32; however, this analysis is inaccurate because, as explained above, the BAU scenario defined in the DEIR is not consistent with the CARB BAU definition. Furthermore, establishing a BAU scenario at this site would be difficult because it is currently undeveloped. Therefore, the best approach to show compliance with AB 32 would be to compare emissions to the Tier 3 threshold of 3,000 MTCO<sub>2</sub>e per year. Table 4.9-3 in the DEIR shows that the Project's total GHG emissions would be equal to 7,575.35 MTCO<sub>2</sub>e per year, which is above the 3,000 MTCO<sub>2</sub>e per year threshold (p. 4.9-30). Therefore this Project will have significant GHG impacts that must be better characterized and mitigated.” (Hagemann Comment Ex. A hereto.)*

#### Response GK-18

Based on the California Air Resource Board's (CARB's) definition, the forecast of 2020 GHG emissions in a business-as-usual (BAU) scenario as presented in the DEIR is an estimate of the emissions expected to occur in the year 2020 if none of the foreseeable measures included in the *First Update to the Climate Change Scoping Plan* (CARB) May 2014 (Scoping Plan) were implemented (see Page 92, 6<sup>th</sup> paragraph of *First Update to the Climate Change Scoping Plan – May 2014*). CARB also defines “business-as-usual” to mean “the normal course of business or activities for an entity or a project before the imposition of greenhouse gas emissions reduction requirements or incentives.”<sup>7</sup>

The California Air Pollution Control Officers Association (CAPCOA) acknowledges that the “business-as-usual” scenario is the estimate of emissions that would occur in the absence of measures to reduce emissions. CAPCOA goes on to further state that “business-as-usual” is the projection of GHG emissions at a future date based on current technologies and regulatory requirements in absence of other reductions.<sup>8</sup> In this case, the base BAU scenario would reflect emissions that would be generated by the Project absent implementation of AB32 which is effectively a 2005 year emissions profile since AB32 was adopted in 2006. Additionally, CARB's emissions baseline period in its scoping plan reflects

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<sup>7</sup> ARB: “Preliminary Draft Regulation for a California Cap-and-Trade Program,” Section 95802 (a)(18), Dec., 2009; page 7.

<sup>8</sup> CAPCOA: “Model Policies for Greenhouse Gases in General Plans,” Jun., 2009, page 15.

the average emissions from 2002 to 2004.<sup>9</sup> Use of 2005 year emission factors from a greenhouse gas standpoint is appropriate since the emission factors in 2005 would reflect what would happen in 2020 if the Scoping Plan measures were not implemented.

Contrary to the commentor's erroneous assertion that information is "buried" in Appendix D, the information is appropriately provided at Appendix H as support to the analysis provided in the Draft EIR document. Please refer to DEIR Section 4.9, *Global Climate Change and Greenhouse Gas Emissions*; DEIR Appendix H, *Greenhouse Gas Analysis*.

The DEIR substantiates that the Project GHG emissions would be reduced consistent with AB 32 emissions reductions targets when compared with the BAU scenario as defined by CARB, and Project GHG emissions impacts would therefore be less-than-significant.

When compared to a "vacant site" condition, incremental Project GHG emissions would also be considered less-than-significant. As disclosed in the DEIR, the Project would generate an estimated 7,575.35 metric tons CO<sub>2</sub>e emissions when compared to existing vacant site conditions. In context, and as a benchmark point of reference, the City of El Monte Existing (2011) GHG emissions as estimated in the City's General Plan Environmental Impact Report (EIR) totaled approximately 1.39 million metric tons (MMT) CO<sub>2</sub>e.<sup>10</sup> Project GHG emissions [7,575.35 metric tons CO<sub>2</sub>e] would represent approximately 0.54 percent of the City's estimated 2011 GHG emissions total.

An individual development proposal, such as the proposed El Monte Walmart Project cannot generate enough GHG emissions to influence global climate change. The Project would, however, participate in potential cumulative GHG emissions impacts by its incremental contribution combined with the cumulative increase of all other sources of GHGs, which when taken together may have a potentially significant impact on global climate change.

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<sup>9</sup> ARB: "Climate Change Scoping Plan: a framework for change," Dec., 2008; page 11.

<sup>10</sup> El Monte General Plan EIR, p. 5.5-6, Table 5.5-2, *Existing GHG Emissions Inventory*.

As substantiated in the DEIR, the proposed El Monte Walmart Project would be in concert with and would support AB 32 and international efforts to address global climate change, and would reflect specific local requirements set forth in the El Monte General Plan and General Plan EIR intended to substantially lessen cumulative GHG emissions impacts. The proposed El Monte Walmart Project would therefore fulfill its mitigation requirements as defined at *CEQA Guidelines* §15130(a)(3) and §15183.5, and the Project's incremental contribution to GHG emissions impacts would therefore not be cumulatively considerable.

The commentor suggests use of SCAQMD's proposed Interim Tier III "Numerical Screening Threshold" of 3,000 MT CO<sub>2</sub>e for commercial projects. In this regard, in 2008, the SCAQMD approved the "Interim Greenhouse Gas (GHG) Significance Threshold to be Used by the AQMD for Industrial Source Projects, Rules and Plans When it is the Lead Agency for Projects Subject to CEQA" ("AQMD Interim Threshold"). [SCAQMD, 2008]. South Coast Air Quality Management District (SCAQMD), Interim CEQA GHG Significance Threshold for Stationary Sources, Rules, and Plans.] The AQMD Interim Threshold established a fixed 10,000 MTCO<sub>2</sub>e threshold based on a goal of a 90 percent emission capture rate for all new or modified stationary source/industrial projects for which the AQMD is the lead agency under CEQA.

The Board Resolution adopting the AQMD Interim Threshold expressly provided that:

[the AQMD] "Governing Board does not intend, at this time, to require other public agencies to use the AQMD's Board-adopted GHG significance threshold for industrial sources when in preparation or review of their CEQA documents for land use projects."

As subsequently recorded in the *AQMD Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group #15 Tuesday, September 28, 2014 . . .*

"on December 5, 2008, the SCAQMD Governing Board adopted a numerical GHG significance threshold of 10,000 MTCO<sub>2</sub>e/year for industrial projects where the SCAQMD is the lead agency. Staff is now proposing to extend the

industrial GHG significance threshold for use by all lead agencies. Similarly, with regard to numerical residential/commercial GHG significance thresholds, at the 11/19/2009 stakeholder working group meeting staff presented two options that lead agencies could choose: option #1 – separate numerical thresholds for residential projects (3,500 MTCO<sub>2</sub>e/year), commercial projects (1,400 MTCO<sub>2</sub>e/year), and mixed use projects (3,000 MTCO<sub>2</sub>e/year) and; option #2 – a single numerical threshold for all nonindustrial projects of 3,000 MTCO<sub>2</sub>e/year. If a lead agency chooses one option, it must consistently use that same option for all projects where it is lead agency. The current staff proposal is to recommend the use of option #2, but allow lead agencies to choose option #1 if they prefer that approach.”<sup>11</sup>

Neither the AQMD or the Lead Agency have adopted the interim 3,000 MT CO<sub>2</sub>e/yr. GHG emissions significance “threshold,” offered by the commentor, and it has no bearing on, or binding effect in determining the Project’s potential GHG emissions impacts.

Nonetheless, it is recognized that some public agencies have used the AQMD Interim Threshold for projects for which the AQMD is not the lead agency, largely because it represents a clear and “easy to apply” quantifiable number. The AQMD Interim Threshold, however, has been criticized by environmental professionals, who question the validity of SCAQMD’s data set, particularly given that the threshold was derived without considering and allowing for offsite indirect GHG emissions, such as would be generated by development-related traffic. As such, the AQMD Interim Threshold (3,000 MT CO<sub>2</sub>e) offered by the commentor is not an appropriate measure for uses that are heavily vehicle dependent and for which the predominance of GHG emissions are generated by off-site mobile sources such as is the case for the proposed El Monte Walmart Project. Moreover, the AQMD Interim Thresholds remains “interim,” and have not been modified or updated to reflect current GHG emissions strategies and policies.

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<sup>11</sup> AQMD. *Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group #15 Tuesday, September 28, 2010 SCAQMD, Room GB, 10:00 AM – 12:00 PM.* web. Feb. 12, 2015.

Since the adoption of the CEQA Guidelines regulating GHG emissions, more local agencies have adopted the Business As Usual (“BAU”) threshold approach. The rationale behind the BAU threshold is CEQA Guidelines Section 15064.4(b)(3), which provides that, when determining the significance of GHG emissions, a lead agency may consider whether a project complies with the regulations or requirements adopted pursuant to a statewide plan intended to reduce or mitigate GHG.

CARB’s Climate Change Scoping Plan (“Scoping Plan”), originally prepared in 2008 and reapproved and updated in August 2011 as part of CARB’s mandate to implement AB 32, is one such plan. Consistent with AB 32, the Scoping Plan mandates a reduction in California’s GHG emissions to 1990 levels by 2020 and sets forth strategies for GHG reductions to reach this target through a combination of regulations, market mechanisms and other actions. To achieve the reduction goal established in AB 32, the Scoping Plan projected the reasonable expected GHG emissions growth by 2020 absent such reduction strategies (i.e., BAU) and then calculated the GHG emission reductions that are anticipated to occur as a result of the Scoping Plan’s strategies.

The BAU threshold has been upheld in three recent court cases. See *Citizens for Responsible Equitable Environmental Development v. City of Chula Vista* (2011) 197 Cal.App.4<sup>th</sup> 327; *North Coast Rivers Alliance v. Marin Municipal Water District* (2013) 216 Cal.App.4<sup>th</sup> 614, 650-654; and *Friends of Oroville v. City of Oroville* (2013) 219 Cal.App.4<sup>th</sup> 832, 841 (“City properly adopted Assembly Bill 32’s reduction targets for GHG emissions as the threshold-of-significance standard in determining whether the Project’s GHG emissions constituted a significant environmental impact”).

As substantiated in the DEIR and reinforced here, the analysis of the Project’s GHG emissions impacts is consistent with CEQA intent, guidance, and requirements. The DEIR contains substantial evidence that the GHG emission levels are consistent with the CARB Scoping Plan and are compliant with AB 32. Thus, the DEIR accurately and appropriately concludes that the Project’s GHG emissions impacts are less- than-significant. Results and conclusions of the DEIR are not affected.

Comment GK-19

*“The DEIR Contains No Mitigation of Greenhouse Gas”*

*Mitigation measures should be capable of “avoiding the impact altogether,” “minimizing impacts,” “rectifying the impact,” or “reducing the impact.” CEQA Guidelines § 15370. Importantly, mitigation measures must be “fully enforceable through permit conditions, agreements, or other measures” so “that feasible mitigation measures will actually be implemented as a condition of development.” (Federation of Hillside & Canyon Ass'ns v. City of Los Angeles (2000) 83 Cal.App.4th 1252, 1261.) This needs to be done for the Project’s significant greenhouse gas emissions.*

*So too, CEQA disallows deferring the formulation of mitigation measures to post-approval studies. (CBE v. Richmond, 184 Cal. App. 4th at 92, CEQA Guidelines § 15126.4(a)(1)(B); Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, 308-309.) An agency may only defer the formulation of mitigation measures when it possesses “‘meaningful information’ reasonably justifying an expectation of compliance.” (Sundstrom at 308; see also Sacramento Old City Association v. City Council of Sacramento (1991) 229 Cal.App.3d 1011, 1028-29 (mitigation measures may be deferred only “for kinds of impacts for which mitigation is known to be feasible”).) A lead agency is precluded from making the required CEQA findings unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved; an agency may not rely on mitigation measures of uncertain efficacy or feasibility (Kings County, 221 Cal.App.3d at 727 (finding groundwater purchase agreement inadequate mitigation because there was no evidence that replacement water was available).) This approach helps “insure the integrity of the process of decision-making by precluding stubborn problems or serious criticism from being swept under the rug.” (Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn. (1986) 42 Cal.3d 929, 935.)*

*Here, expert Mr. Hagemann’s comments attached as Exhibit A hereto show that the DEIR contains inadequate, and in fact zero, mitigation of GHG impacts:*

*“Because GHG emissions are significant when compared to the Tier 3 threshold, the Applicant should obtain emission reduction credits, also referred to as carbon offsets, to serve as mitigation and reduce the Project’s emissions to a less than significant level. Offsets are specifically mentioned by*

*the California Resources Agency as a measure to mitigate the significant effects of greenhouse gas emissions.<sup>6</sup> Offsets should be identified in a revised DEIR for the Project. Verification that the offsets are real and measureable, such as those available from the California Climate Action Registry's Climate Action Reserve should be provided in the revised DEIR."*

*The DEIR does not attempt to mitigate construction and operational GHG emissions, because emissions comply with GHG reduction regulations (AB 32) by comparing Project emissions to a BAU scenario, as previously described. However, because the assumptions made to meet compliance are incorrect, mitigation measures should be implemented to reduce GHG emissions to below the Tier 3 threshold for commercial Projects of 3,000 MTCO<sub>2e</sub> per year. It should be noted that some of the NO<sub>x</sub> mitigation measures, mentioned above, have the potential to reduce NO<sub>x</sub> emissions and other Criteria Pollutant emissions, as well as reduce GHG emissions. Therefore, this list of additional mitigation measures should be compared to the mitigation measures already implemented in the DEIR; a summary of the mitigation measures implemented can be found in Table 1.10-1 in the Executive Summary of the DEIR (p. ES1-35 -56). Additional mitigation measures that could be implemented to reduce GHG emissions include, but are not limited to, the following:*

- *Use passive solar design, such as:*
  - *Orient buildings and incorporate landscaping to maximize passive solar; heating during cool seasons, and minimize solar heat gain during hot seasons;*
  - *Enhance natural ventilation by taking advantage of prevailing winds; and*
  - *Design buildings to take advantage of sunlight, and install sun screens to reduce energy use.*
  
- *Reduce unnecessary outdoor lighting by utilizing design features such as limiting the hours of operation of outdoor lighting.*
  
- *Develop and follow a "green streets guide" that requires:*
  - *Light emitting diodes ("LEDs") for traffic, street, and other outdoor lighting;*
  - *Use of minimal amounts of concrete and asphalt;*
  - *Installation of permeable pavement to allow for storm water infiltration;*
  - *Use of groundcovers rather than pavement to reduce heat reflection; and*
  - *Incorporation of shade trees where feasible.*

- *Implement Project design features such as:*
  - *Shade HVAC equipment from direct sunlight;*
  - *Install high-albedo white thermoplastic polyolefin roof membrane;*
  - *Install high-efficiency HVAC with hot-gas reheat;*
  - *Install formaldehyde-free insulation; and*
  - *Use recycled-content gypsum board.*
  - *Provide education on energy efficiency to residents, customers, and/or tenants. Provide information on energy management services for large energy users.*
  
- *Meet “reach” goals for building energy efficiency and renewable energy use.*
- *Install solar, wind, and geothermal power systems and solar hot water heaters.*
- *Install solar panels on unused roof and ground space, and over carports and parking areas. Locations where solar systems cannot feasibly be incorporated into the Project at the outset, build “solar ready” structures.*
- *Include energy storage where appropriate to optimize renewable energy generation systems and avoid peak energy use.*
- *Plant low-VOC emitting shade trees, e.g., in parking lots to reduce evaporative emissions from parked vehicles.*
- *Use CARB-certified or electric landscaping equipment in project and tenant operations; and introduce electric lawn, and garden equipment exchange program.*
- *Install an infiltration ditch to provide an opportunity for 100% of the storm water to infiltrate on-site.*
- *Reuse and recycle 80% of construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard).” (Hagemann Comment, Ex. A.)*

### Response GK-19

CEQA Guidelines references offered by the commentor are acknowledged. The DEIR comports with all applicable CEQA provisions and requirements including identification of mitigation where required (please refer to DEIR Table 1.10-1, Impacts and Mitigation Summary, and FEIR Section 4.0, Mitigation Monitoring Plan).

The commentor erroneously applies interim Tier III “thresholds” and then incorrectly concludes that the Project would result in potentially significant GHG emissions impacts. In this regard, as noted at Response GK-18, the 3,000 MTCO<sub>2</sub>e/yr. interim Tier III “threshold” cited by the commentor has not been adopted by AQMD or the Lead Agency, and is not applicable to the Project, or the DEIR analyses. The noted interim Tier III GHG emissions standard provides no relevant basis for significance conclusions when considering the Project’s potential GHG emissions impacts.

Numerous and varied “mitigation measures” are offered by the commentor. As substantiated in the DEIR and with these Responses (please refer to Response GK-18), Project GHG emissions impacts related to both construction and operations would in fact be less-than-significant, and no mitigation is required. (CEQA Guidelines Section 15126.4 (a) (3) “Mitigation Measures are not required for effects which are not found to be significant”). The Project nonetheless incorporates design features and operational programs promoting energy efficiency and sustainability; coincident reductions in air pollutants (including those pollutants also considered to be GHGs) would result from implementation of these features and programs. Please refer to DEIR Section 3.4, Energy Efficiency/Sustainability. No deferred mitigation is proposed or required. Results and conclusions of the DEIR are not affected.

#### Comment GK-20

*“EIR Recirculation Will Be Necessary To Include Legally Compliant Greenhouse Gas Calculations and Mitigation”*

*As discussed above and in expert Mr. Hagemann’s comments, the Project’s GHG analysis and mitigation is faulty. Properly addressing these issues will require Draft EIR recirculation.*

*CEQA requires a lead agency to re-circulate an EIR when significant new information is added to the EIR following public review but before certification. Pub. Res. Code § 21092.1. The Guidelines clarify that new information is significant if “the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the*

project” including, for example, “a disclosure showing that ... [a] new significant environmental impact would result from the project.” (Guidelines § 15088.5.)

In *Mountain Lion Coalition v. Fish & Game Com.* (1989) 214 Cal.App.3d 1043, the court required recirculation of an FEIR that failed to contain a cumulative impacts analysis for which the trial court had issued a writ of mandate. Recirculation was required. The court noted that:

*“The cumulative impact analysis contained in the final EID has never been subjected to public review and criticism. If we were to allow the deficient analysis in the draft EID to be bolstered by a document that was never circulated for public comment, we would not only be allowing appellants to follow a procedure which deviated substantially from the terms of the writ [of mandate issued by the trial court], but we would be subverting the important public purposes of CEQA. Only at the stage when the draft EID is circulated can the public and outside agencies have the opportunity to analyze a proposal and submit comment. No such right exists upon issuance of a final EID unless the project is substantially modified or new information becomes available. (See Guidelines§ 15162.) To evaluate the draft EID in conjunction with the final EID in this case would only countenance the practice of releasing a report for public consumption that hedges on important environmental issues while deferring a more detailed analysis to the final EID that is insulated from public review.”* Id. at 1052

*This is the case here. In this circumstance, the DEIR must be recirculated to include the required GHG analysis and mitigation.*

#### Response GK-20

PRC and CEQA references provided by the commentor are acknowledged. None of the requirements or conditions identified at PRC 21092.1 and/or Guidelines§ 15162 are germane to the Project and/or the DEIR. The DEIR comports with all applicable CEQA provisions and requirements including cumulative impacts analyses (please refer to DEIR Section 5.1, Cumulative Impact Analysis). No recirculation of the DEIR is required. Results and conclusions of the DEIR are not affected.

Comment GK-21

*“The DEIR Does Not Sufficiently Mitigate The Project’s Mobile Source Emissions”*

*Air quality impacts, and their concomitant impacts on human health must be studied in a DEIR. (Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 Cal. App. 4th 1184, 1220.) If an impact is significant, the agency must impose all feasible mitigation measures, and may only declare the impacts to be unavoidable if it remains significant after imposition of all feasible mitigation measures. Thus, the court held in Bakersfield Citizens, 124 Cal. App. 4th at 1220, that:*

*“Guidelines section 15126.2, subdivision (a) requires an EIR to discuss, inter alia, “health and safety problems caused by the physical changes” that the proposed project will precipitate . . . It is well known that air pollution adversely affects human respiratory health. (See, e.g., Bustillo, Smog Harms Children's Lungs for Life, Study Finds, L.A. Times (Sept. 9, 2004).) . . . Air quality indexes are published daily in local newspapers, schools monitor air quality and restrict outdoor play when it is especially poor and the public is warned to limit their activities on days when air quality is particularly bad. Yet, neither EIR acknowledges the health consequences that necessarily result from the identified adverse air quality impacts. Buried in the description of some of the various substances that make up the soup known as “air pollution” are brief references to respiratory illnesses. However, there is no acknowledgement or analysis of the well-known connection between reduction in air quality and increases in specific respiratory conditions and illnesses. After reading the EIR’s, the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin. On remand, the health impacts resulting from the adverse air quality impacts must be identified and analyzed in the new EIRs.”*

*These air quality issues in the City of El Monte are no different, and expert Hagemann concludes in his comment letter attached hereto as Exhibit A that the DEIR does not sufficiently mitigate the Project’s significant smog-causing operational NOx emissions.*

*“The DEIR admits that mitigated Project operational-source NOx emissions would be in exceedance of SCAQMD regional thresholds, and would result in a significant and unavoidable impact (DEIR p. 4.3-31). The DEIR states that the Project “implements all feasible mitigation measures and complies with all applicable SCAQMD Rules directed toward reduction of NOx emissions,” and that “no feasible mitigation measures exist that would further substantively reduce these emissions” (p. 4.3-32).*

*Despite this claim, additional commonly used mitigation is available. A revised DEIR should be prepared to identify additional mitigation. According to Table 4.3-7 in the DEIR, mobile sources contribute to the majority of the NOx emissions (p.4.3-32). [COMMENTOR EXCERPT FROM DEIR]*

*NOx is a byproduct of fuel combustion, and according to the DEIR approximately 99.9 percent of the operational NOx emissions are from vehicles accessing the site (p.4.3-32). The DEIR goes on to explain that “neither the Project Applicant nor the City has any regulatory control over tail pipe emissions from individual sources” (p.4.3-32). However, additional mobile mitigation measures can be found in CAPCOA’s Quantifying Greenhouse Gas Mitigation Measures, which attempt to reduce Greenhouse Gas (GHG) levels from mobile sources, as well as reduce Criteria Air Pollutants such as NOx. Mitigation for mobile source NOx emissions should include consideration of the following measures that are proposed in CAPCOA’s Quantifying Greenhouse Gas Mitigation Measures, in an effort to reduce operational NOx emissions to below SCAQMD thresholds.*

- Reduce vehicle miles traveled (VMT) by increasing destination accessibility (LUT-4). Destination accessibility is measured in terms of the number of jobs or other attractions reachable within a given travel time, which tends to be highest at central locations and lowest at peripheral ones. The Project Applicant would have to provide the distance to downtown or to major job centers for this mitigation measure to take effect. Implementation of this mitigation measure would reduce mobile source NOx running emissions by 6.7 to 20 percent.*
- Reduce VMT by increasing transit accessibility (LUT-5). The use of transit results in a mode shift and therefore reduced VMT. Implementation of this mitigation measure would reduce mobile*

source NOx running emissions by 0.5 to 24.6 percent. The Project would need to include, at a minimum, the following design features:

- A transit station/stop with high-quality, high-frequency bus service located within a five to ten minute walk, or roughly a quarter of a mile from stop to edge of development, Or a rail station located within a 20 minute walk or roughly half a mile from station edge to development;
  - Fast, frequent, and reliable transit service connecting to a high percentage of regional destinations;
  - Neighborhood designed for walking and bicycling.
- 
- Reduce VMT by locating the Project near a bike path/lane (LUT-8). A Project that is designed around an existing or planned bicycle facility encourages alternative mode use. This measure is most effective when applied in combination of multiple design elements that encourage this use, such as the previously mentioned land use strategy (LUT-4). This measure should be grouped with the Increase Destination Accessibility strategy to increase the opportunities for multi-modal travel.
  
  - Reduce VMT by including improved design elements to enhance walkability and connectivity (LUT-9). Improved street network characteristics is measured in terms of sidewalk coverage, building setbacks, street widths, pedestrian crossings, presence of street trees, and a host of other physical variables that differentiate pedestrian-oriented environments from auto-oriented environments. Implementation of this mitigation measure would reduce mobile source NOx running emissions by 3.0 to 21.3 percent.
  
  - Reduce VMT by incorporating bicycle lanes, routes, and shared-use paths into street systems, new subdivisions, and large developments (SDT-5). These improvements can help reduce peak-hour vehicle trips by making commuting by bike easier and more convenient for more people. In addition, improved bicycle facilities can increase access to and from transit hubs, thereby expanding the “catchment area” of the transit stop or station and increasing ridership. Bicycle access can also reduce parking pressure on heavily-used and/or heavily-subsidized feeder bus lines and auto-oriented park-and-ride facilities. This mitigation measure is the most effective when combined with mitigation measure LUT-9, previously mentioned.

- *Reduce VMT by providing bike parking in non-residential projects (SDT-6). A non-residential project will provide short-term and long-term bicycle parking facilities to meet peak season maximum demand. This mitigation measure is the most effective when combined with mitigation measure LUT-9, previously mentioned.*
  
- *Reduce tailpipe emissions by providing electric vehicle parking (SDT-8). This mitigation measure implements accessible electric vehicle parking. Design features include conductive/inductive electric vehicle charging stations and signage prohibiting parking of non-electric vehicles.*
  
- *Reduce VMT by limiting the parking supply (PDT-1). This mitigation measure will change parking requirements and types of supply within the Project site to encourage “smart growth” development and alternative transportation choices by project residents and employees. Implementation of this mitigation measure would result in a reduction of mobile source NOx running emissions by 5 to 12.5 percent. This will be accomplished in a multi-faceted strategy:*
  - *Elimination (or reduction) of minimum parking requirements;*
  - *Creation of maximum parking requirements;*
  - *Provision of shared parking.*

*These measures are more stringent and prescriptive than those measures identified in the DEIR, and provide many simple design features, that when combined together, optimize VMT reductions and thus reduce NOx emissions. The CalEEMod output tables in Appendix D of the DEIR (Air Quality Analysis & Health Risk Assessment) show that only three mitigation measures were utilized for operational mobile-source emissions: (1) LUT-3, increase diversity of urban and suburban developments; (2) SDT-1, provide pedestrian network improvements; (3) SOT-2, implement traffic calming measures. The addition of these new measures (listed above), incorporated with the mobile mitigation measures already in place, will reduce the total mobile source NOx emissions, potentially to a level that does not exceed the SCAQMD NOx threshold. A revised DEIR should be prepared to include additional mitigation measures, as well as include an updated air quality assessment to ensure that the necessary mitigation measures are implemented to reduce NOx mobile source emissions to below SCAQMD thresholds.” (Hagemann Comment, Ex. A hereto.)*

*Furthermore, there are a long list of other feasible air quality mitigation measures that are ignored by the DEIR to address the NOx air quality impacts issue, but that should be analyzed for implementation for the Project:*

- Purchase and install filtration systems for the impacted community.*
- Requires the use of alternative fuel construction equipment, such as natural gas, electric, emulsified diesel, biodiesel, or other clean fuels.*
- Require the use of Diesel Particulate Filters and/or Diesel Oxidation Catalysts on construction equipment.*
- Configure construction parking to minimize traffic interference.*
- Consolidate truck deliveries when possible.*
- Provide dedicated turn lanes for movement of construction trucks and equipment on and off site.*
- Suspend use of all construction equipment operations during second stage smog alerts.*
- Establish a staging zone for trucks that are waiting to load or unload material at the work zone in a location where diesel emissions from the trucks will have minimum impact on abutters and the general public.*

*Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners and operable windows.*

- Require all diesel trucks used by construction contractor(s) at the site, or for on-road hauling of construction material, to be post-1996 models.*
- Purchase or create local offsets for the duration of the construction period.*
- Employ a construction site manager to verify that engines are properly maintained and keep a maintenance log.*
- Diesel portable generators less than 50 horsepower shall not be allowed at the construction site.*
- Prohibit the use of conventional cut-back asphalt for paving and restrict the maximum VOC content of asphalt emulsion.*
- Use low-ROG paints and other low-VOC construction materials.*
- For backfilling during earthmoving operations, water backfill material or apply dust palliative to maintain material moisture or to form crust when not actively handling; cover or enclose backfill material when not actively handling; mix backfill soil with water prior to moving; dedicate water truck or large hose to backfilling equipment and apply water as needed; water to form crust on soil*

*immediately following backfilling; and empty loader bucket slowly; minimize drop height from loader bucket. (CCHD)*

- During clearing and grubbing, prewet surface soils where equipment will be operated; for areas without continuing construction, maintain live perennial vegetation and desert pavement; stabilize surface soil with dust palliative unless immediate construction is to continue; and use water or dust palliative to form crust on soil immediately following clearing/grubbing. (CCHD)*
- While clearing forms, use single stage pours where allowed; use water spray to clear forms; use sweeping and water spray to clear forms; use industrial shop vacuum to clear forms; and avoid use of high pressure air to blow soil and debris from the form. (CCHD)*
- During cut and fill activities, prewater with sprinklers or wobblers to allow time for penetration; prewater with water trucks or water pulls to allow time for penetration; dig a test hole to depth of cut to determine if soils are moist at depth and continue to prewater if not moist to depth of cut; use water truck/pull to water soils to depth of cut prior to subsequent cuts; and apply water or dust palliative to form crust on soil following fill and compaction. (CCHD)*
- For large tracts of disturbed land, prevent access by fencing, ditches, vegetation, berms, or other barriers; install perimeter wind barriers 3 to 5 feet high with low porosity; plant perimeter vegetation early; and for long-term stabilization, stabilize disturbed soil with dust palliative or vegetation or pave or apply surface rock. (CCHD)*
- In staging areas, limit size of area; apply water to surface soils where support equipment and vehicles are operated; limit vehicle speeds to 15 mph; and limit ingress and egress points. (CCHD)*
- For stockpiles, maintain at optimum moisture content; remove material from downwind side; avoid steep sides or faces; and stabilize material following stockpile-related activity. (CCHD)*
- To prevent trackout, pave construction roadways as early as possible; install gravel pads; install wheel shakers or wheel washers, and limit site access. (CCHD, SLOCAPCD)*
- When materials are transported off-site, all material shall be covered, effectively wetted to limit visible dust emissions, or at least six inches of freeboard space from the top of the container shall be maintained. (BAAQMD, SJVUAPCD, ADEQ) (Maintain at least 12 inches of freeboard. (SLOCAPCD)*
- All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at least once every 24 hours when operations are occurring. (BAAQMD) (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient*

wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.) (SJVUAPCD)

- Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant. (SJVUAPCD, ADEQ) During initial grading, earth moving, or site preparation, projects 5 acres or greater may be required to construct a paved (or dust palliative treated) apron, at least 100ft in length, onto the project site from the adjacent site if applicable. (BCAQMD)
- Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 24 hrs. (BCAQMD, MBUAPCD, CCHD)
- Prior to final occupancy, the applicant demonstrates that all ground surfaces are covered or treated sufficiently to minimize fugitive dust emissions. (BCAQMD)
- Gravel pads must be installed at all access points to prevent tracking of mud on to public roads. (SBCAPCD)
- The contractor or builder shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust offsite. (SBCAPCD, SLOCAPCD)
- Prior to land use clearance, the applicant shall include, as a note on a separate informational sheet to be recorded with map, these dust control requirements. All requirements shall be shown on grading and building plans. (SBCAPCD, SLOCAPCD)
- All roadways, driveways, sidewalks, etc., to be paved should be completed as soon as possible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binder are used. (SLOCAPCD)
- Limit fugitive dust sources to 20 percent opacity. (ADEQ)
- Require a dust control plan for earthmoving operations. (ADEQ)
- Design buildings to employ passive energy efficiency. Site buildings to take advantage of shade, prevailing winds, landscaping and sun screens to reduce energy use.

All these feasible measures to reduce NOx air quality impacts should be studied in the DEIR.

### Response GK-21

As summarized in the DEIR, Project operational-source NO<sub>x</sub> emissions would exceed applicable SCAQMD regional thresholds (DEIR p. 1-30). Per SCAQMD significance guidance, these impacts at the Project level are also considered cumulatively significant and would persist over the life of the Project. NO<sub>x</sub> emissions are ozone precursors. As disclosed in the DEIR, Project operational-source NO<sub>x</sub> emissions have the potential to contribute considerably to existing ozone non-attainment conditions within the Basin. This is a cumulatively significant impact persisting over the life of the Project.

Although the Project is expected to exceed the SCAQMD's regional thresholds for NO<sub>x</sub>, this does not in itself constitute a significant health impact to the population adjacent to the Project and within the air basin. The SCAQMD's regional thresholds are based in part on Section 180 (e) of the federal Clean Air Act (CAA) – it should be noted that the numeric regional mass daily thresholds have not changed since their adoption as part of the *CEQA Air Quality Handbook* published by SCAQMD in 1993 (over 20 years ago). The regional daily thresholds are also intended to provide a means of consistency in significance determination within the environmental review process. Notwithstanding, simply exceeding the SCAQMD's regional thresholds does not constitute a particular health impact to an individual receptor. The reason for this is that the mass daily thresholds are in pounds per day emitted into the air whereas health effects are determined based on the concentration of emissions in the air at a particular receptor (e.g., parts per million by volume of air, or micrograms per cubic meter of air). State and federal ambient air quality standards (CAAQS and NAAQS) were developed to protect the most susceptible population groups from adverse health effects and were established in terms of parts per million or micrograms per cubic meter for the applicable emissions. In this latter regard, potential health impacts of Project-source NO<sub>x</sub> emissions is evaluated and substantiated within the DEIR Localized Significance Thresholds (LST) analysis. The LST analysis evaluates Project-source emissions in the context of applicable CAAQS and NAAQS. As substantiated in the DEIR, Project-source NO<sub>x</sub> emissions would not violate applicable CAAQS/NAAQS:

While Project operational-source NO<sub>x</sub> emissions would exceed SCAQMD regional thresholds, Localized Significance Thresholds (LSTs) for NO<sub>x</sub> emissions would not be exceeded. LSTs were developed in response to the SCAQMD Governing Board's Environmental Justice Initiative I-4. More specifically, to address potential Environmental Justice implications of localized air pollutant impacts, the SCAQMD adopted LSTs indicating whether a project would cause or contribute to localized air quality impacts and thereby cause or contribute to potential localized adverse health effects. LSTs apply to carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), particulate matter less than 10 microns (PM<sub>10</sub>), and particulate matter less than 2.5 microns (PM<sub>2.5</sub>). LSTs represent the maximum emissions from a project that would not cause or contribute to an exceedance of the most stringent National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS). These Standards are the levels of air quality that are considered safe, with an adequate margin of safety, to protect the public health and welfare. As indicated subsequently at EIR Table 4.3-11, Project localized operational-source NO<sub>x</sub> emissions (4.43 lbs./day) would represent approximately 2.2 percent of the applicable SCAQMD LST for NO<sub>x</sub> (203 lbs./day), and therefore would not cause or result in a potential health risk. Please refer also to subsequent discussions of the Project's potential localized emissions impacts (DEIR pp. 4.3-32, 33).

Potential health effects of NO<sub>x</sub> in general are summarized at DEIR p. 4.3-5.

Project impacts and proposed mitigation are discussed in detail throughout the DEIR. A summary of impacts and mitigation is provided at DEIR Table 1.10-1, pp. 1-35 through 1-56. Mitigation measures, together with mitigation timing and monitoring/reporting responsibilities are comprehensively presented at Final EIR Section 4.0, Mitigation Monitoring Plan.

The commentor offers numerous additional measures as a means to reduce the operational threshold exceedances of NO<sub>x</sub> identified within the Draft EIR. However the commentor

provides no substantiated efficacy of the measures offered. Estimated emissions reduction ranges stated by the commentor are predicated on faulty or unsubstantiated assumptions, are not supported by evidence, and are considered speculative.

Nor are the suggested measures' feasibility<sup>12</sup> and applicability to the Project meaningfully considered or established by the commentor. Certain of the suggested measures presume availability of, and Applicant control of, an alternative site that would concurrently: allow for implementation of the Project; substantive diminishment of air quality impacts; and attainment of the Project Objectives. No such site exists. Moreover, relocation of the Project may collaterally result in other increased environmental impacts not otherwise resulting from the Project in its current location. It is further noted that the Project in its current location and configuration tend to reduce VMT and associated vehicular-source emissions within the region (DEIR p. 5-118). Please refer to also EIR Section 5.0, *Alternatives Analysis*. Certain other measures offered by the commentor replicate Project components, existing policies/requirements/regulations, and would not constitute "mitigation."

Other measures offered by the commentor are policy level actions, clearly beyond the scope of the Project under consideration and beyond the control of the Applicant, with no demonstrated or quantified reduction in the Project's operational-source NO<sub>x</sub> emissions. The commentor offers a "long list of other feasible" measures to reduce construction-source emissions. These measures are redundant of SCAQMD rules, with which the Project is already required to comply, and are not "mitigation." Moreover, the DEIR substantiates that Project construction-source emissions would be less-than-significant as mitigated pursuant to measures identified in the DEIR, no additional mitigation is required.

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<sup>12</sup>The term feasible is not to be construed as "within the realm of possibilities." The State Resources Agency, the State Agency charged with implementing CEQA's regulatory scheme, has defined feasible, "for purposes of CEQA review, as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." In formulating mitigation measures, the Lead Agency is subject to the "rule of reason." CEQA does not require analysis of every *imaginable* alternative or mitigation measure; its concern is with *feasible* means of reducing environmental effects.

Lastly, it should be recognized that the Project air quality analyses, consistent with SCAQMD guidance and CalEEMod protocols, necessarily assume that all vehicle trips generated by the Project are “new” trips within the region. In practice, new land use projects (such as the proposed El Monte Walmart Project) tend to redistribute existing trips and emissions sources within the region, rather than generate entirely new trips and emissions. The net effect being an overestimation of vehicle trips and vehicular-source emissions air quality impacts as presented in the DEIR and Project air quality analyses.

Continuing, in *Santa Clarita Organization for Planning the Environment v. City of Santa Clarita* (“SCOPE”) (2011) 197 Cal.App.4th 1042, opponents challenged an EIR, which concluded that the increased GHG emissions associated with Project vehicles and transportation sources would be significant, and that there were no feasible mitigation measures to reduce the impact to a less-than-significant level. The opponents challenged this latter claim, citing a comprehensive list of suggested mitigation measures for GHG emissions prepared by the California Attorney General’s office.

In response, the court ruled that the city was not required to address the feasibility of each of the numerous measures recommended by the Attorney General, distinguishing cases where courts faulted an agency for not considering specific, potentially feasible measures (see, e.g., 197 Cal.App.4th at 1055 (“Considering the large number of possible mitigation measures . . . as well as the [opponent’s admission] that not all measures would be appropriate for every project, it is unreasonable to impose on the city an obligation to explore each and every one.”)).

The Court’s holding in SCOPE is analogous to the Project at issue, where the new Walmart building would be constructed to maximize building efficiency, in accordance with Walmart’s building practices as well as California Code of Regulations Title 24, acting to reduce the Project’s potential stationary/area-source emissions. However, the preponderance of Project operational-source emissions would be generated by motor vehicles (by weight, approximately 98 percent of all operational-source emissions; and 99.9 percent of NOx emissions would be generated by mobile sources). As a commercial project, only about two percent of the vehicle trips are generated by employees. The

remaining trips would be generated by customers. There are no feasible measures to reduce or restrict the number of customer vehicles traveling to and from the site to a level where the net increase in operational emissions would be substantively reduced; or that would reduce NOx emissions below the regional threshold of significance recommended by the SCAQMD for NOx. Notwithstanding, urban location of the Project proximate to local and regional transportation facilities acts to reduce vehicle miles traveled (VMT) within the region (EIR Section 3.0, *Project Description, Project Location*). Reductions in regional VMT would yield corollary reductions in vehicular-source NOx emissions. Additionally, the Project would accommodate a mix of automobile, pedestrian, and transit modes of transportation. In this latter regard, location of the Project along Arden Drive provides access to proximate City of El Monte bus services. The City of El Monte Transportation Services Division "Red Route" travels along Arden Avenue with approximate 40 minute service intervals. A bus stop and shelter is currently located at Valley Boulevard and Arden Avenue (EIR Section 3.0, *Project Description, Transit Services*). Transit availability at the Project site would also act to reduce regional VMT, with associated reductions in mobile-source NOx emissions. The Project would also comport with all applicable City Transportation Demand Management (TDM) measures such as: priority employee carpool parking; electric vehicle charging stations; and providing employees with information on alternative transit opportunities (EIR Section 4.2, *Traffic and Circulation, Table 4.2-38, General Plan Objectives and Policies/Programs Consistency*). Project implementation of TDM measures would further reduce regional VMT and vehicular-source NOx emissions.

The Court noted further that emissions from vehicle exhaust are controlled by the state and federal government, and were therefore outside the control of the Lead Agency or the Project Applicant. This is consistent with the EIR presentation and analysis of the Project's potential operational-source NOx emissions impacts; a representative EIR discussion is excerpted below.

NOx is a byproduct of fuel combustion and the primary source of NOx emissions from the Project are a result of tail pipe emissions from vehicles accessing the site (approximately 99.9 percent of the Project operational NOx

emissions would be generated by Project traffic). Neither the Project Applicant nor the City has any regulatory control over tail pipe emissions from individual sources. Rather, vehicle tail pipe source emissions are regulated by CARB and USEPA. The amount of NOx emissions from vehicle sources has been reduced dramatically over the past years and is expected to further decline as clean vehicle and fuel technologies improve. The Project implements all feasible mitigation measures and complies with all applicable SCAQMD Rules directed toward reduction of NOx emissions. No feasible mitigation measures exist that would further substantively reduce these emissions (DEIR p. 4.3-32).

In sum, this and subsequent related remarks offered by the commentor do not appear to identify any substantive inadequacy within the EIR, and merely suggests the commentor's belief that "something could be done" to reduce emissions. Particularly in light of the court's ruling in SCOPE, these potential other mitigation measures are not required to be discussed in the DEIR.

All feasible mitigation measures to reduce operational-source NOx emissions have been adequately and appropriately addressed within the DEIR, and no further response is necessary. Results and conclusions of the DEIR are not affected.

Comment GK-22

*"The Project is Inconsistent with the General Plan, and Zone Change and Plan Amendment Findings Are Improper"*

*A DEIR must discuss any inconsistencies between the proposed Project and applicable general plans. (Guidelines§ 15125(d).) In this case, such inconsistencies include conflict with the General Plan and Northwest Industrial District designation. As summarized in the General Plan, allowable uses within the Industrial/Business Park designation "include a mix of sustainable manufacturing, processing, office, warehousing, and distribution uses that generate employment, minimize traffic, and are compatible with residential neighborhoods. Supporting and limited retail uses are also allowed. Industrial uses are allowed at an intensity of up to 1.0 FAR." (General Plan, page L-8).*

*The Project site also lies within the General Plan's Northwest Industrial District designed to ... "serve as the employment engine for the City, but transition to an area that attracts a balance of sustainable light manufacturing, distribution, and technology-oriented business. It [The District] can provide opportunities for investment, entrepreneurship, and significant creation of well paid jobs in a well-managed and sustainable environment that minimizes traffic impacts, promotes a clean environment, ensures long vitality, and strengthens neighborhoods." (General Plan, page LU-30).*

*The Project eliminates the existing manufacturing land use designation for the site, instead adding 182,000 sq. ft. of commercial use that will compete with small local retail businesses, attracting thousands of vehicle trips and causing several unmitigated traffic impacts at many intersections including at the 1-10, Arden Dr. and Valley Bl. This is inconsistent with the El Monte General Plan and Northwest Industrial District Designation. As a result, the required General Plan Amendment and Zone Change findings under Municipal Code Section 17.26.120 - that "the public necessity, convenience, general welfare or good community planning practice justify such action" - cannot be made.*

*Here, General Plan inconsistencies include:*

*CD-2.4 Roadway Capacity. Ensure that roadways are appropriately sized with adequate traffic management devices to allow for the smooth and safe flow of traffic consistent with the function and performance standards set forth by the Circulation Element.*

*Goal CD-7. A modern, clean industrial park that provides opportunity for investment and commerce and is denoted by its clean, attractive, and well-managed environment compatible with surrounding residential neighborhoods.*

*Goal LU-3. Distinct and identifiable residential neighborhoods and commercial, industrial and office districts that reflect and augment the historical, cultural, economic, and social fabric and roles in El Monte.*

*Goal LU-4. A complementary balance of land uses that provide adequate opportunities for housing, economic activity, transportation, parks, and recreation to support an exemplary quality of life and a sustainable community.*

*LU-4.5. Balanced Growth. Direct land uses and community growth in a manner that is consistent with community-wide goals and is consistent with the vision of the General Plan.*

*C-2.2. Roadway Performance Standards. The City desires to maintain a level of service (LOS) D throughout the City . . .*

*C-3.2. Traffic Flow Management. Manage traffic flow on roadways for appropriate vehicle speeds, calm traffic in the City, and protect neighborhoods from traffic intrusion. Apply appropriate techniques to control the volume and speed of traffic consistent with land use policy, sensitive uses, and other concerns.*

*C-6.6. Project Mitigation. Require appropriate mitigation measures to be implemented by projects that have a significant or potentially significant impact on the transportation network.*

*Goal ED-7. An improved El Monte business environment that promotes growth of manufacturing firms, creates well-paid jobs, and offers opportunities for business relocation and expansion in the Northwest Industrial District.*

*In sum, this Project which eliminates land designated for manufacturing use and generates thousands of extra car trips clearly violates the General Plan and its goals and objectives for the Northwest Industrial District, invalidating the land use consistency analysis in the DEIR and making it improper for the City to make the required General Plan Amendment and Zone Change findings under Municipal Code Section 17.26.120.*

#### Response GK-22

Requested discretionary actions identified in the DEIR include:

- Approval of a General Plan Amendment (Land Use Element) re-designating the Project site from “Industrial/Business Park” to “General Commercial”;
- Approval of a Zone Change, re-designating the Project site from “General Manufacturing” (M-2) to “Heavy Commercial” (C-4);
- Modification of the boundaries of the Northwest Industrial District to remove that portion generally located east of Arden Drive and south of the Southern Pacific Railroad;

The Project and its proposed land uses are contingent on City approval of the requested General Plan Amendment, Zone Change, and Modification of the boundaries of the Northwest Industrial District. Pursuant to land use designations resulting from the discretionary actions listed above, the Project would be subject to, and would be consistent with City General Plan “General Commercial,” land use goals, policies, objectives, and related requirements. Project General Plan consistency is evaluated and substantiated at DEIR Table 4.1-1, General Plan Land Use Goals and Policies Consistency. Under the requested “Heavy Commercial” Zoning designation, the Project would comply with the requirements stated at Municipal Code Chapter 17.56, C-4 Zone District, §17.56.020 Regulations. Project Municipal Code consistency is evaluated and substantiated at DEIR Table 4.1-2, *Municipal Code Chapter 17.56 C-4 Zone District Regulations and Development Standards Consistency*.

Pursuant to the requested discretionary action, the Project site and certain neighboring properties would be excluded from the Northwest Industrial District and would not be subject to the District’s industrially-oriented goals/policies. This is consistent with the commercially-oriented uses proposed under the Project.

If the requested discretionary actions are approved, the City would make all required findings consistent with Municipal Code Section 17.26.120. The findings requirements as stated within the Municipal Code for a zone change or General Plan Amendment may be based upon multiple factors including, but not limited to, project impacts as defined by CEQA. It is further noted the City General Plan and related City documents (e.g., Zoning

Map/Zoning Ordinance) are not immutable precepts requiring a certain and unwavering vision for the City. Rather, these documents guide and govern development and growth of the City subject to the City's evolving needs and desires. Project-requested amendments to the City General Plan and Zoning Map/Ordinance would be at the City's discretion.

Project consistency with applicable General Land Use Goals and Policies is, as noted above, substantiated at DEIR Table 4.1-1, General Plan Land Use Goals and Policies Consistency. Project consistency with applicable Municipal Code Regulations and Development Standards is, as noted above, substantiated at DEIR Table 4.1-2, Municipal Code Chapter 17.56 C-4 Zone District Regulations and Development Standards Consistency. Project consistency with applicable General Circulation Goals and Policies is substantiated at DEIR Table 4.2-38, General Plan [Circulation Element] Objectives and Policies/Programs Consistency. Results and conclusions of the DEIR are not affected.

#### Comment GK-23

*“Overriding Considerations Cannot Ignore Certain Significant Adverse Impacts, and Must Better Analyze and Require Project Benefits”*

*The DEIR concludes that the Project will have significant, unmitigated air quality and traffic impacts and, as set forth herein, also understates or ignores certain significant impacts. As a result, a statement of overriding considerations will be required. However, the statement of overriding considerations is allowed only if the environmental impacts remain significant and unavoidable after the imposition of all feasible mitigation.*

*As stated above, the DEIR fails to do this, particularly for air quality and GHG impacts. This is improper under CEQA. Under CEQA, when an agency approves a project with significant environmental impacts that will not be fully mitigated, it must adopt a “statement of overriding considerations” finding that, because of the project's overriding benefits, it is approving the project despite its environmental harm. {Guidelines §15043; Pub. Res. Code §21081(8); Sierra Club v. Contra Costa County (1992) 10 Cal.App.4th 1212, 1222} A statement of overriding considerations expresses the “larger, more general reasons for approving the project, such as the need*

*to create new jobs, provide housing, generate taxes and the like.” (Concerned Citizens of South Central LA v. Los Angeles Unit. Sch. Dist. (1994) 24 Cal.App.4th 826, 847.)*

*A statement of overriding considerations must be supported by substantial evidence in the record. (Guidelines §15093(b); Sierra Club v. Contra Costa Co. (1992) 10 Cal.App.4th 1212, 1223.) The agency must make “a fully informed and publicly disclosed” decision that “specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project.” (Guidelines §15043(b).) As with all findings, the agency must present an explanation to supply the logical steps between the ultimate finding and the facts in the record. (Topanga Assn. for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 515.)*

*An agency may adopt a statement of overriding considerations only after it has imposed all feasible mitigation measures to reduce a project’s impact to less than significant levels. (Guidelines §§ 15126.4, 15091.) CEQA prohibits agencies from approving projects with significant environmental impacts when feasible mitigation measures can substantially lessen or avoid such impacts. (Pub. Res. Code § 21002.) As explained in Guidelines Section 15092(b)(2), an agency is prohibited from approving a project unless it has “[e]liminated or substantially lessened all significant effects on the environment where feasible.”*

*CEQA prohibits agencies from approving projects with significant environmental impacts when feasible mitigation measures can substantially lessen or avoid such impacts. (Pub. Res. Code § 21002; Guidelines, 15092(b)(2).) Further, its findings to this effect must be supported with meaningful detail and independent analysis contained in the EIR or administrative record. Put differently, a statement of overriding consideration is not a substitute for the findings required by CEQA section 21081; instead, a statement of overriding considerations must supplement the City’s findings and support its determination to proceed with the Project despite its adverse effects. (Federation of Hillside & Canyon Assns v Los Angeles (2000) 126 Cal.App.4th 1180, 1201.)*

*Here, expert Mr. Hagemann discusses that feasible mitigation measures exist to reduce the Project’s air quality and GHG impacts. Yet, the City has failed to impose feasible mitigation measures to reduce these impacts. Therefore the City may not adopt a statement of overriding considerations.*

Response GK-23

PRC and CEQA Guidelines references offered by the commentor are acknowledged. The DEIR complies with all applicable PRC and CEQA provisions and requirements. The DEIR provides mitigation for all potentially significant impacts as required under CEQA. As also required under CEQA, impacts that cannot be mitigated to levels that are less-than-significant are identified and disclosed in the DEIR. A summary of significant Project impacts is presented at DEIR pp. 1-29 through 31. A summary of impacts and mitigation measures is presented at DEIR Table 1.10-1. As substantiated in the DEIR and reinforced in these responses, 99.9 percent of NOx emissions generated by the Project operations would be generated by vehicular sources and cannot be feasibly or substantively reduced by actions of the Project Applicant or the Lead Agency. Please refer also to Response GK-21. GHG emissions impacts resulting from the Project would be less-than-significant and no mitigation is required. Please refer also to Response GK-19. Should the Project be approved, the City is required to adopt a Statement of Overriding Considerations acknowledging the Project's significant impacts. Results and conclusions of the DEIR are not affected.

Comment GK-24

*"Overriding Considerations Must Discuss Job Quality"*

*Moreover, to the extent that overriding considerations are needed, key among the findings that the lead agency must make is that: "Specific economic, legal, social, technological, or other considerations, including the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report .. [and that those] benefits of the project outweigh the significant effects on the environment." (Pub. Res. Code §21 081 (a)(3), (b) emphasis added.)*

*Thus, the City must make specific findings, supported by substantial evidence, concerning both the environmental impacts of the Project, and the economic benefits including "the provision of employment opportunities for highly trained workers" created. The DEIR fails to provide substantial evidence to support a statement of overriding considerations.*

*In particular, the document makes no effort to assess the quality, or pay rate of jobs, especially given the known tenant here - Walmart – has questionable pay and benefit practices for its employees. See [http://rodinoassociates.com/pdfs/RODINO REPORT SUPERSTORE IMPACTS .lillf](http://rodinoassociates.com/pdfs/RODINO_REPORT_SUPERSTORE_IMPACTS_lillf); [http://laborcenter.berkeley.edu/pdf/2011/bigbox livingwage policies11 .pdf](http://laborcenter.berkeley.edu/pdf/2011/bigbox_livingwage_policies11.pdf); [http://www.americansfortaxfairness.org/files/Walmart-on-Tax-Day-Americans-forTax-Fairness-1 .pdf](http://www.americansfortaxfairness.org/files/Walmart-on-Tax-Day-Americans-forTax-Fairness-1.pdf).*

*Here, the DEIR makes no attempt to determine whether new jobs created by the Project, in either the construction phase or the operational phase, will be for “highly trained workers,” and what the likely salary and wage ranges of these jobs will be. Without this information, the City lacks substantial evidence to make any statement of overriding considerations.*

*The City should require payment of prevailing wages for all construction phase workers, and living wages for all operational phase workers. Such a requirement will ensure that the Project provides “employment opportunities for highly trained workers” in accordance with the mandates of CEQA. Without such requirements, the Project may actually depress wage rates and fail to provide high quality job opportunities.*

*In reality, the DEIR should be recirculated with analysis of this issue, including an economic impact study. The City cannot find that the economic benefits of the Project outweigh the environmental costs if it does not know what the economic benefits will be. A revised DEIR is required to provide this information.*

#### Response GK-24

PRC reference provided by the commentor is acknowledged. The commentor infers that all projects with significant environmental impacts must provide employment opportunities for highly trained workers in order for the Lead Agency to find that the benefits of the project under consideration outweigh its potential environmental effects. Contrary to the commentor’s offered opinions, *CEQA Guidelines* Section 15093(a) requires the Lead Agency to balance the Project benefits against its significant environmental impacts when determining whether to approve the Project. Please also refer to Response GK-8.

Commentor opinions regarding Walmart employment opportunities are acknowledged, no environmental issues are raised; no response is required.

It is further noted that unless related to an impact on the physical environment, a social or economic impact is not a significant effect under CEQA, as per PRC §§ 21080, subd. (e) (2) . . . “[s]ubstantial evidence is not . . . evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment), 21082.2 (C) (same); *CEQA Guidelines*, § 15064, subd (e).

Analysis of the Project’s economic effects that could potentially contribute to, or cause, adverse physical impacts is presented in the DEIR Urban Decay Study, DEIR Appendix B (*Urban Decay Study for El Monte Walmart* [The Natelson Dale Group, Inc.] September 4, 2013.) The Study evaluates the potential economic impacts of the proposed City of El Monte Walmart Project to the extent such impacts have the potential to result in urban decay. In addition to addressing the potential impacts of the proposed project itself, the study also considers cumulative impacts, taking into account the impacts from other planned and proposed retail projects in the trade area. The economic analysis provided in the Study is used to determine, in accordance with CEQA, the proposed project’s potential to create urban decay. CEQA does not trigger an automatic presumption that urban decay will occur as a result of other businesses being closed. However, store closures can lead to conditions that can, in turn, create urban decay.

Urban decay is defined as physical deterioration due to store closures and resulting longterm vacancies that is so prevalent and substantial that the health, safety, and welfare of the surrounding community is impaired. Physical deterioration includes, but is not limited to, abandoned buildings and commercial sites in disrepair, boarded doors and windows, long-term unauthorized use of properties and parking lots, extensive gang or offensive graffiti painted on buildings, dumping of refuse or overturned dumpsters on properties, dead trees or shrubbery, extensive litter, uncontrolled weed growth, and homeless encampments. The Study concludes that the Project would not have significant economic impacts on existing retailers and would not result in adverse physical impacts (urban decay).

Results and conclusions of the DEIR are not affected.

Comment GK-25

*“Overriding Considerations Require Analysis of Project Benefits”*

*As mentioned above, overriding considerations require analysis of whether the “benefits of the project outweigh the significant effects on the environment.” (Pub. Res. Code §21081(a)(3), (b) emphasis added.) The City has leverage to ensure the Project actually benefits El Monte. Planning Commissioner Peralta highlighted this point during the Planning Commission workshop-that the City should push the applicant to incorporate project benefits including but not limited to:*

- LEED Certification;*
- Local Hiring;*
- Stormwater capture and infiltration;*
- A community benefits agreement on sharing profits with community projects;*
- Pre-paying full cost of traffic improvements at 1-1 0/Flair and Lower Azusa/Arden;*
- An economic impact study that helps to identify the economic benefits of the Project, job quality and outline potential community needs and benefits.*

Response GK-25

Please refer also to Responses GK-6, and GK-8. Analysis, disclosure and mitigation of the Project’s potential environmental impacts is accurately and appropriately presented in the DEIR. Consideration of the specific list of “benefits” proposed by the commentor is beyond the scope of the DEIR. Results and conclusions of the DEIR are not affected.

Comment GK-26

*“Conclusion”*

*After carefully reviewing the DEIR together with the expert consultant, it is evident that the document contains omissions that preclude accurate analysis of the Project. Commentor has reviewed the DEIR and Project proposal and does not feel it is good for El Monte and its residents. He opposes the Project.*

*First, the DEIR uses the wrong baseline to calculate undoubtedly significant greenhouse gas impacts caused by the thousands of daily car trips to the supercenter. The existing greenhouse gas baseline is a vacant site, but the DEIR instead uses a hypothetical, fantasy existing Walmart. This violates CEQA baseline law. As a result, the DEIR improperly deems greenhouse gas emissions as insignificant and unlawfully fails to attempt to feasibly mitigate these significant greenhouse gas emissions. The DEIR will need to be recirculated with legally compliant greenhouse gas analysis and mitigation.*

*Next, the DEIR fails to adequately mitigate admittedly significant smog impacts caused by mobile source emissions from all the car trips to and from the supercenter. The DEIR concludes that nothing can be done to reduce these smog emissions, but this is wrong - additional commonly used mitigation is available and a revised DEIR should be prepared to identify this mitigation.*

*Third, the Project eliminates the existing manufacturing land use designation for the site, instead adding 182,000 sq. ft. of commercial use that will compete with small local retail businesses, attracting thousands of vehicle trips and causing several unmitigated traffic impacts at many intersections including at the 1-10, Arden Dr. and Valley 81. This is inconsistent with the El Monte General Plan and Northwest Industrial District Designation. As a result, the required General Plan Amendment and Zone Change findings under Municipal Code Section 17.26.120- that “the public necessity, convenience, general welfare or good community planning practice justify such action” - cannot be made.*

*Last, a statement of overriding considerations will be required for this Project, balancing Project benefits and impacts. However, a statement of overriding considerations is allowed only if the environmental impacts remain significant and unavoidable after the imposition of all feasible mitigation. Here, the DEIR fails to do this, particularly for air quality and greenhouse gas impacts.*

*This is improper under CEQA. Moreover, the City must make specific overriding consideration findings, supported by substantial evidence, concerning the economic benefits of the project including “the provision of employment opportunities for highly trained workers” created. The DEIR fails to provide substantial evidence on such job quality, living wages and economic benefits*

*for the Walmart. The City has leverage to disapprove the Project or to ensure that the Project actually benefits El Monte. Please use it. Planning Commissioner Peralta highlighted this point during the Planning Commission workshop – that the City should push the applicant to provide extensive, additional community benefits. In reality, the DEIR should be recirculated with analysis of the economic benefits issue, including an economic impact study. The City cannot find that the economic benefits of the Project outweigh the environmental costs if it does not have real data to know what the economic benefits will be.*

*A revised DEIR should be prepared to disclose and adequately discuss these issues and to identify mitigation measures.*

*Commentor very much appreciates and value this opportunity to provide these comments. The entire record pertaining to this Project is hereby incorporated by this reference.*

*Thank you for considering these comments. Pursuant to Pub. Res. Code Section 21091(d), we expect a detailed written response to this comment letter, as well as the attached comments of Expert Matt Hagemann P.G., C.Hg., QSD, QSP.*

*Pursuant to Pub. Res. Code Section 21092.2 and Gov. Code Section 65092, please notify the undersigned in writing of any hearings, decisions, notifications, or actions referring or related to this Project.*

#### Response GK-26

As detailed in the DEIR and reinforced in these Responses, the DEIR accurately evaluates and discloses potential environmental impacts of the Project, and presents mitigation addressing those impacts determined to be potentially significant. The DEIR supports and is consistent with all applicable CEQA goals, policies, and requirements. Commentor opinions regarding the DEIR, and opposition to the Project, are acknowledged. Results and conclusions of the DEIR are not affected.

GHG emissions impacts of the Project are accurately and appropriately evaluated and disclosed in the DEIR (DEIR Section 4.9, *Global Climate Change and Greenhouse Gas Emissions*;

DEIR Appendix H, *Greenhouse Gas Analysis*), and are substantiated to be less-than-significant, and no mitigation is required. (CEQA Guidelines Section 15126.4 (a) (3) “Mitigation Measures are not required for effects which are not found to be significant”). Please refer also to Responses GK-4, GK-12, and GK-19. There is no requirement for recirculation of the DEIR. Results and conclusions of the DEIR are not affected.

Consistent with CEQA disclosure policies and mandates, potentially significant environmental impacts resulting from the Project are identified in the DEIR, and feasible mitigation of these impacts is proposed. Even after application of feasible mitigation, Project operational-source NO<sub>x</sub> emissions would exceed applicable SCAQMD regional thresholds (DEIR p. 1-30). Per SCAQMD significance guidance, these impacts at the Project level are identified as significant, and are also considered cumulatively significant and would persist over the life of the Project. NO<sub>x</sub> emissions are ozone precursors. As disclosed in the DEIR, Project operational-source NO<sub>x</sub> emissions have the potential to contribute considerably to existing ozone non-attainment conditions within the Basin. This is a cumulatively significant impact persisting over the life of the Project.

Project impacts and proposed mitigation are discussed in detail throughout the DEIR. A summary of impacts and mitigation is provided at DEIR Table 1.10-1, pp. 1-35 through 1-56. Mitigation measures, together with mitigation timing and monitoring/reporting responsibilities are comprehensively presented at Final EIR Section 4.0, Mitigation Monitoring Plan.

As substantiated in the DEIR and reinforced in these Responses, 99.9 percent of NO<sub>x</sub> emissions generated by the Project operations would be generated by vehicular sources and cannot be feasibly or substantively reduced by actions of the Project Applicant or the Lead Agency. Please refer also to Response GK-21. GHG emissions impacts resulting from the Project would be less-than-significant and no mitigation is required. Please refer also to Response GK-19. Should the Project be approved, the City is required to adopt a Statement of Overriding Considerations acknowledging the Project’s significant impacts. Results and conclusions of the DEIR are not affected.

Requested discretionary actions identified in the DEIR include:

- Approval of a General Plan Amendment (Land Use Element) re-designating the Project site from “Industrial/Business Park” to “General Commercial”;
- Approval of a Zone Change, re-designating the Project site from “General Manufacturing” (M-2) to “Heavy Commercial” (C-4);
- Modification of the boundaries of the Northwest Industrial District to remove that portion generally located east of Arden Drive and south of the Southern Pacific Railroad (DEIR p. 3-36).

The Project and its proposed land uses are contingent on City approval of the requested General Plan Amendment, Zone Change, and Modification of the boundaries of the Northwest Industrial District. Project consistency with applicable General Plan Land Use Goals and Policies is substantiated at DEIR Table 4.1-1, General Plan Land Use Goals and Policies Consistency. If the requested discretionary actions are approved, the City would make all required findings consistent with Municipal Code Section 17.26.120. The findings requirements as stated within the Municipal Code for a zone change or General Plan Amendment may be based upon multiple factors including, but not limited to, project impacts as defined by CEQA. Please refer also to Responses GK-6, and GK-22. Results and conclusions of the DEIR are not affected.

CEQA requires the Lead Agency to balance the Project benefits against its significant environmental impacts when determining whether to approve the Project. Please refer also to Responses GK-6, and GK-8. Recirculation of the DEIR is not required. Results and conclusions of the DEIR are not affected.

The DEIR accurately and appropriately evaluates, discloses, and mitigates the project’s potentially significant environmental impacts consistent with applicable PRC and CEQA Guidelines provisions and requirements. No revised DEIR is required.

Stated opportunity to comment on the Project and DEIR is acknowledged. Records incorporation by reference is acknowledged.

The Lead Agency has evaluated, and has provided responses to comments consistent with PRC Section 219091, and *CEQA Guidelines* Section 15088.

The commentor will be provided notice(s) pursuant to PRC Section 21092.2.



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January 7, 2015

Gideon Kracov  
Attorney at Law  
801 S. Grand Ave., 11th Fl.  
Los Angeles, CA 90017

**Subject: Comments on the El Monte Wal-Mart Project**

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Dear Mr. Kracov:

We have reviewed the November 19, 2014 Draft Environmental Impact Report (DEIR) for the El Monte Wal-Mart Project ("Project"). The Project, to be located on a 15.41 acre parcel in El Monte, California, consists of the development of an 182,429 square-foot retail/commercial center. The center would include merchandise and groceries, off-site alcohol sales, a food tenant and non-food tenants (e.g. bank, medical clinic, portrait studio or salon) and an outdoor garden center. Parking for 755 vehicles would be accessed by two driveways along Arden Drive, while heavy truck access would be provided via Valley Circle.

MH-1

As explained below, our review concludes that the DEIR fails to adequately mitigate operational mobile source emissions. Furthermore, the DEIR does not correctly establish a business as usual (BAU) baseline, and as a result, does not correctly assess the significance of or properly mitigate Project greenhouse gas (GHG) emissions. A revised DEIR should be prepared to disclose and adequately discuss these issues and to identify mitigation measures, where necessary.

MH-2

### Air Quality: Operational Air Emissions are Inadequately Mitigated

The DEIR admits that mitigated Project operational-source NOx emissions would be in exceedance of SCAQMD regional thresholds, and would result in a significant and unavoidable impact (DEIR p. 4.3-31). The DEIR states that the Project “implements all feasible mitigation measures and complies with all applicable SCAQMD Rules directed toward reduction of NOx emissions,” and that “no feasible mitigation measures exist that would further substantively reduce these emissions” (p. 4.3-32).

Despite this claim, additional commonly used mitigation is available. A revised DEIR should be prepared to identify additional mitigation.

According to Table 4.3-7 in the DEIR, mobile sources contribute to the majority of the NOx emissions (p.4.3-32). An excerpt of this table is shown below.

**Operational-Source Emissions Summary–With Mitigation  
Maximum Daily Winter/Summer (lbs/day)**

Emissions Sources	Pollutants					
	VOC	NO <sub>x</sub>	CO	SO <sub>x</sub>	PM <sub>10</sub>	PM <sub>2.5</sub>
Area Sources (Landscape and Building Maintenance, Consumer Products)	10.81	9.40e-4	0.10	1.00e-5	3.50e-4	3.50e-4
Building Energy Consumption	8.70e-3	0.08	0.07	4.70e-4	6.01e-3	6.01e-3
Mobile Sources	39.31	76.37	335.82	0.60	41.18	11.66
<b>Maximum Daily Emissions</b>	<b>50.13</b>	<b>76.45</b>	<b>335.99</b>	<b>0.60</b>	<b>41.19</b>	<b>11.66</b>
SCAQMD Regional Threshold	55	55	550	150	150	55
<b>Threshold Exceeded?</b>	<b>NO</b>	<b>YES</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>

MH-3

NOx is a byproduct of fuel combustion, and according to the DEIR, approximately 99.9 percent of the operational NOx emissions are from vehicles accessing the site (p.4.3-32). The DEIR goes on to explain that “neither the Project Applicant nor the City has any regulatory control over tail pipe emissions from individual sources” (p.4.3-32). However, additional mobile mitigation measures can be found in CAPCOA’s *Quantifying Greenhouse Gas Mitigation Measures*, which attempt to reduce Greenhouse Gas (GHG) levels from mobile sources, as well as reduce Criteria Air Pollutants such as NOx.<sup>1</sup>

Mitigation for mobile source NOx emissions should include consideration of the following measures that are proposed in CAPCOA’s *Quantifying Greenhouse Gas Mitigation Measures*, in an effort to reduce operational NOx emissions to below SCAQMD thresholds.

- Reduce vehicle miles traveled (VMT) by increasing destination accessibility (LUT-4). Destination accessibility is measured in terms of the number of jobs or other attractions reachable within a given travel time, which tends to be highest at central locations and lowest at peripheral ones. The Project Applicant would have to provide the distance to downtown or to major job centers for this mitigation measure to take effect. Implementation of this mitigation measure would reduce mobile source NOx running emissions by 6.7 to 20 percent.

<sup>1</sup> <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>

- Reduce VMT by increasing transit accessibility (LUT-5). The use of transit results in a mode shift and therefore reduced VMT. Implementation of this mitigation measure would reduce mobile source NOx running emissions by 0.5 to 24.6 percent. The Project would need to include, at a minimum, the following design features:
  - A transit station/stop with high-quality, high-frequency bus service located within a five to ten minute walk, or roughly a quarter of a mile from stop to edge of development,
  - Or a rail station located within a 20 minute walk or roughly half a mile from station edge to development;
  - Fast, frequent, and reliable transit service connecting to a high percentage of regional destinations;
  - Neighborhood designed for walking and bicycling.
  
- Reduce VMT by locating the Project near a bike path/lane (LUT-8). A Project that is designed around an existing or planned bicycle facility encourages alternative mode use. This measure is most effective when applied in combination of multiple design elements that encourage this use, such as the previously mentioned land use strategy (LUT-4). This measure should be grouped with the Increase Destination Accessibility strategy to increase the opportunities for multi-modal travel.
  
- Reduce VMT by including improved design elements to enhance walkability and connectivity (LUT-9). Improved street network characteristics is measured in terms of sidewalk coverage, building setbacks, street widths, pedestrian crossings, presence of street trees, and a host of other physical variables that differentiate pedestrian-oriented environments from auto-oriented environments. Implementation of this mitigation measure would reduce mobile source NOx running emissions by 3.0 to 21.3 percent.
  
- Reduce VMT by incorporating bicycle lanes, routes, and shared-use paths into street systems, new subdivisions, and large developments (SDT-5). These improvements can help reduce peak-hour vehicle trips by making commuting by bike easier and more convenient for more people. In addition, improved bicycle facilities can increase access to and from transit hubs, thereby expanding the “catchment area” of the transit stop or station and increasing ridership. Bicycle access can also reduce parking pressure on heavily-used and/or heavily-subsidized feeder bus lines and auto-oriented park-and-ride facilities. This mitigation measure is the most effective when combined with mitigation measure LUT-9, previously mentioned.
  
- Reduce VMT by providing bike parking in non-residential projects (SDT-6). A non-residential project will provide short-term and long-term bicycle parking facilities to meet peak season maximum demand. This mitigation measure is the most effective when combined with mitigation measure LUT-9, previously mentioned.

MH-3

- Reduce tailpipe emissions by providing electric vehicle parking (SDT-8). This mitigation measure implements accessible electric vehicle parking. Design features include conductive/inductive electric vehicle charging stations and signage prohibiting parking of non-electric vehicles.
- Reduce VMT by limiting the parking supply (PDT-1). This mitigation measure will change parking requirements and types of supply within the Project site to encourage “smart growth” development and alternative transportation choices by project residents and employees. Implementation of this mitigation measure would result in a reduction of mobile source NOx running emissions by 5 to 12.5 percent. This will be accomplished in a multi-faceted strategy:
  - Elimination (or reduction) of minimum parking requirements
  - Creation of maximum parking requirements
  - Provision of shared parking

MH-3  
cont'd.

These measures are more stringent and prescriptive than those measures identified in the DEIR, and provide many simple design features, that when combined together, optimize VMT reductions and thus reduce NOx emissions. The CalEEMod output tables in Appendix D of the DEIR (Air Quality Analysis & Health Risk Assessment) show that only three mitigation measures were utilized for operational mobile-source emissions: (1) LUT-3, increase diversity of urban and suburban developments; (2) SDT-1, provide pedestrian network improvements; (3) SDT-2, implement traffic calming measures. The addition of these new measures (listed above), incorporated with the mobile mitigation measures already in place, will reduce the total mobile source NOx emissions, potentially to a level that does not exceed the SCAQMD NOx threshold. A revised DEIR should be prepared to include additional mitigation measures, as well as include an updated air quality assessment to ensure that the necessary mitigation measures are implemented to reduce NOx mobile source emissions to below SCAQMD thresholds.

### Greenhouse Gas Emissions: Analysis Relies on Incorrect Baseline

The DEIR, in an effort to comply with AB 32 and establish a Project baseline, compares the Project’s GHG emissions to a business as usual (BAU) scenario. However, the DEIR’s definition of a BAU scenario for the Project site is inaccurate, and the comparison utilized to achieve compliance with AB 32 results in inflated baseline emissions, and overstates the proposed Project’s presumed benefits and compliance measures. A revised DEIR needs to identify an acceptable method of reaching compliance with AB 32, and needs to determine an alternative threshold to compare Project emissions to. Recirculation of the DEIR therefore is required.

MH-4

The 2008 Scoping Plan indicates that statewide AB 32 compliance would be achieved provided that there was a minimum 28.5 percent reduction in BAU GHG emissions for the time frame of 1990 to 2020.<sup>2</sup> The DEIR utilizes this reduction percentage as a way to show compliance with GHG regulations (p. 4.9-26), and determines that the Project’s “conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases” is less-than-significant (p. 4.9-31). This level of significance is, of course, achieved by creating a BAU baseline; however, the DEIR does

<sup>2</sup> <http://www.arb.ca.gov/cc/ab32/ab32.htm>

not clearly define what its BAU scenario encompasses. This is buried in Appendix D of the DEIR (Air Quality Analysis & Health Risk Assessment). The CalEEMod output tables in Appendix D of the DEIR (Air Quality Analysis & Health Risk Assessment) show that the BAU scenario is modeled in the DEIR as if the proposed Project was constructed and in operation by 2005, and then compares this “BAU Scenario” to a “Project Scenario” where the proposed Project is constructed and in operation by 2020. Comparison of the 2005 BAU scenario to the 2020 Project scenario results in a 36.06 percent reduction of GHG emissions (p. 4.9-30).

But this is an improper baseline that does not exist because the site is a vacant lot of land. Utilizing 2005 Project emissions as a BAU scenario is not consistent with the CARB definition of BAU. CARB defines BAU in their Scoping Plan as emission levels that would occur if existing conditions in California continued to grow and add new GHG emissions, but did not adopt any measures to reduce emissions.<sup>3</sup> Utilizing this definition, a BAU scenario at the proposed Project site would be a vacant lot of land, which would result in zero as a baseline for all emissions. Comparison of the proposed Project site to an essentially zero baseline certainly would show significant GHG emissions exceeding appropriate significance thresholds.

To determine whether the Project’s GHG emissions are significant, methods that have been proposed in other recent CEQA documents should be utilized and included in a revised DEIR.<sup>4</sup> For example, the Commerce Retail Center Project determines significance by utilizing the SCAQMD draft local agency tiered threshold (Commerce DEIR p. 3.2-62). The threshold is as follows:

- Tier 1: The project is not exempt under CEQA; go to Tier 2.
- Tier 2: There is no GHG reduction plan applicable to the project; go to Tier 3.
- Tier 3: Project GHG emissions compared with the threshold: 3,000 MTCO<sub>2e</sub> per year.
- Tier 4, Option 1: Reduce GHG emissions from business as usual by 28.4 percent. The California 2020 emissions target is 427 MMTCO<sub>2e</sub> and the 2020 baseline (without any AB 32 related regulations) is 596 MMTCO<sub>2e</sub>. Therefore, a 28.4 percent reduction is required to reduce emissions to the target.<sup>5</sup>

The Project DEIR utilizes Tier 4, Option 1 to achieve compliance with AB 32; however, this analysis is inaccurate because, as explained above, the BAU scenario defined in the DEIR is not consistent with the CARB BAU definition. Furthermore, establishing a BAU scenario at this site would be difficult because it is currently undeveloped. Therefore, the best approach to show compliance with AB 32 would be to compare emissions to the Tier 3 threshold of 3,000 MTCO<sub>2e</sub> per year. Table 4.9-3 in the DEIR shows that the Project’s total GHG emissions would be equal to 7,575.35 MTCO<sub>2e</sub> per year, which is above the 3,000 MTCO<sub>2e</sub> per year threshold (p. 4.9-30). Therefore this Project will have significant GHG impacts that must be better characterized and mitigated.

<sup>3</sup> [http://www.arb.ca.gov/cc/scopingplan/2013\\_update/first\\_update\\_climate\\_change\\_scoping\\_plan.pdf](http://www.arb.ca.gov/cc/scopingplan/2013_update/first_update_climate_change_scoping_plan.pdf)

<sup>4</sup> <http://ca-commerce.civicplus.com/DocumentCenter/View/1875>

<sup>5</sup> [http://www.arb.ca.gov/cc/inventory/archive/sp\\_2008\\_projection.pdf](http://www.arb.ca.gov/cc/inventory/archive/sp_2008_projection.pdf)

MH-4  
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Because GHG emissions are significant when compared to the Tier 3 threshold, the Applicant should obtain emission reduction credits, also referred to as carbon offsets, to serve as mitigation and reduce the Project's emissions to a less than significant level. Offsets are specifically mentioned by the California Resources Agency as a measure to mitigate the significant effects of greenhouse gas emissions.<sup>6</sup> Offsets should be identified in a revised DEIR for the Project. Verification that the offsets are real and measureable, such as those available from the California Climate Action Registry's Climate Action Reserve<sup>7</sup>, should be provided in the revised DEIR.

The DEIR does not attempt to mitigate construction and operational GHG emissions, because emissions comply with GHG reduction regulations (AB 32) by comparing Project emissions to a BAU scenario, as previously described. However, because the assumptions made to meet compliance are incorrect, mitigation measures should be implemented to reduce GHG emissions to below the Tier 3 threshold for commercial Projects of 3,000 MTCO<sub>2e</sub> per year. It should be noted that some of the NO<sub>x</sub> mitigation measures, mentioned above, have the potential to reduce NO<sub>x</sub> emissions and other Criteria Pollutant emissions, as well as reduce GHG emissions. Therefore, this list of additional mitigation measures should be compared to the mitigation measures already implemented in the DEIR; a summary of the mitigation measures implemented can be found in Table 1.10-1 in the Executive Summary of the DEIR (p. ES1-35 -56). Additional mitigation measures that could be implemented to reduce GHG emissions include, but are not limited to, the following:<sup>8</sup>

- Use passive solar design, such as:<sup>9,10</sup>
  - Orient buildings and incorporate landscaping to maximize passive solar; heating during cool seasons, and minimize solar heat gain during hot seasons;
  - Enhance natural ventilation by taking advantage of prevailing winds; and
  - Design buildings to take advantage of sunlight, and install sun screens to reduce energy use.
- Reduce unnecessary outdoor lighting by utilizing design features such as limiting the hours of operation of outdoor lighting.
- Develop and follow a "green streets guide" that requires:
  - Light emitting diodes ("LEDs") for traffic, street, and other outdoor lighting;
  - Use of minimal amounts of concrete and asphalt;
  - Installation of permeable pavement to allow for storm water infiltration;
  - Use of groundcovers rather than pavement to reduce heat reflection; and

<sup>6</sup> [http://ceres.ca.gov/ceqa/docs/Adopted\\_and\\_Transmitted\\_Text\\_of\\_SB97\\_CEQA\\_Guidelines\\_Amendments.pdf](http://ceres.ca.gov/ceqa/docs/Adopted_and_Transmitted_Text_of_SB97_CEQA_Guidelines_Amendments.pdf), p.21

<sup>7</sup> <http://www.climateregistry.org/reserve.html>

<sup>8</sup> [http://ag.ca.gov/globalwarming/pdf/GW\\_mitigation\\_measures.pdf](http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf)

<sup>9</sup> Santa Barbara Air Pollution Control District, Scope and Content of Air Quality Sections in Environmental Documents, September 1997.

<sup>10</sup> Butte County Air Quality Management District, Indirect Source Review Guidelines, March 1997.

MH-5

- Incorporation of shade trees where feasible.<sup>11</sup>
- Implement Project design features such as:
  - Shade HVAC equipment from direct sunlight;
  - Install high-albedo white thermoplastic polyolefin roof membrane;
  - Install high-efficiency HVAC with hot-gas reheat;
  - Install formaldehyde-free insulation; and
  - Use recycled-content gypsum board.
- Provide education on energy efficiency to residents, customers, and/or tenants. Provide information on energy management services for large energy users.
- Meet “reach” goals for building energy efficiency and renewable energy use.
- Install solar, wind, and geothermal power systems and solar hot water heaters.
- Install solar panels on unused roof and ground space, and over carports and parking areas. Locations where solar systems cannot feasibly be incorporated into the Project at the outset, build “solar ready” structures.
- Include energy storage where appropriate to optimize renewable energy generation systems and avoid peak energy use.
- Plant low-VOC emitting shade trees, e.g., in parking lots to reduce evaporative emissions from parked vehicles.
- Use CARB-certified or electric landscaping equipment in project and tenant operations; and introduce electric lawn, and garden equipment exchange program.
- Install an infiltration ditch to provide an opportunity for 100% of the storm water to infiltrate on-site.
- Reuse and recycle 80% of construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard).

MH-5  
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In conclusion, our review shows that the DEIR fails to adequately mitigate operational mobile source emissions. Furthermore, the DEIR does not correctly establish a business as usual (BAU) baseline, and as a result, does not correctly assess the significance of or properly mitigate Project greenhouse gas (GHG) emissions. A revised DEIR should be prepared to disclose and adequately discuss these issues and to identify mitigation measures, where necessary.

MH-6

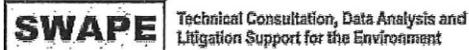
Sincerely,

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

<sup>11</sup> See Irvine Sustainable Travelways “Green Street” Guidelines; [www.ci.irvine.ca.us/civica/filebank/blobdload.asp?BlobID=8934](http://www.ci.irvine.ca.us/civica/filebank/blobdload.asp?BlobID=8934); and Cool Houston Plan; [www.harc.edu/Projects/CoolHouston](http://www.harc.edu/Projects/CoolHouston).

A handwritten signature in black ink, appearing to be 'JJ' with a long horizontal stroke extending to the right.

Jessie Jaeger



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

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

**Education:**

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.

B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

**Professional Certification:**

California Professional Geologist

California Certified Hydrogeologist

Qualified SWPPP Developer and Practitioner

**Professional Experience:**

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

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

Positions Matt has held include:

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

MH-7

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

**Senior Regulatory and Litigation Support Analyst:**

With SWAPE, Matt's responsibilities have included:

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

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

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.
- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.

MH-7  
cont'd.

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

**Executive Director:**

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

**Hydrogeology:**

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

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

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

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

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

MH-7  
cont'd.

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

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

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

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

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

**Policy:**

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

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

MH-7  
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**Geology:**

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

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

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

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

**Teaching:**

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

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

Matt currently teaches Physical Geology (lecture and lab) to students at Golden West College in Huntington Beach, California.

**Invited Testimony, Reports, Papers and Presentations:**

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

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

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

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

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

MH-7  
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Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

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

**Hagemann, M.F.**, 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

**Hagemann, M.F.**, 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

**Hagemann, M.F.**, 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal representatives, Parker, AZ.

**Hagemann, M.F.**, 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

**Hagemann, M.F.**, 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

**Hagemann, M.F.**, 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

**Hagemann, M.F.**, 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

**Hagemann, M.F.**, 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

**Hagemann, M.F.**, 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

**Hagemann, M.F.**, 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

**Hagemann, M.F.**, 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

**Hagemann, M.F.**, 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

MH-7  
cont'd.

Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and Hagemann, M.F. 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukunaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

MH-7  
cont'd.

Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

**Other Experience:**

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



MH-7  
cont'd.

**JESSIE MARIE JAEGER**

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Los Angeles CA, 90049

530-867-6202  
jaegerjessie600@gmail.com

***SUMMARY***

Innovative, energetic, driven, and a results oriented leader, with proven success producing quality results in research, student government, and academia. A recipient of the UCLA Bruin Advantage Scholarship, Dean's List honoree, and a leader amongst peers, who uses ambition and passion to effectively develop the skills needed to assess and solve major environmental and conservation issues.

Skills include:

- Execution of Laboratory Techniques (DNA extraction, Tissue Cataloging etc.)
- Understanding of Statistical Models used in Ecology and Conservation Biology
- Experience with programs such as Excel, Microsoft Access, QuickBooks, ArcGIS, AERMOD, CalEEMod, AERSCREEN, and ENVI
- Knowledge of California policies and municipal codes
- Experience in Field Work, including capture of Amphibian species and water sampling within Ballona Watershed
- Steering Committee Coordination and Working Group Management
- Organizational Skills
- Effective Communication Abilities
- Customer Service Experience

***PROFESSIONAL EXPERIENCE***

**SOIL WATER AIR PROTECTION ENTERPRISE, SANTA MONICA, CA**                      2014 – Present  
**SWAPE Technical Consultation, Data Analysis, and Litigation Support**

**Project Analyst**

<http://www.swape.com/staff/jessie-jaeger/>

Maintain and update national public water system database through use of Microsoft Excel and Access. Other responsibilities include cancer risk assessment calculations, in depth research of environmental issues such as fracking, Leaking Underground Storage Tanks (LUST) and their associated funding programs, groundwater contamination, Proposition 65 formaldehyde test methods, polychlorinated biphenyl (PCB) contamination within schools, and environmental modeling using AERMOD, CalEEMod, AERSCREEN, and ArcGIS.

- Expert understanding of Microsoft Excel and Access, with the ability to manipulate, analyze, and manage large sets of data. Expertise include the creation of queries via Access, utilization of Pivot Tables and statistical functions within Excel, and proficiency in formatting large datasets for use in final reports.
- Mastery of modeling programs such as CalEEMod, AERSCREEN, ArcGIS, as well as the ability to prepare datasets for use within these programs. For example, the conversion of addresses into geographical coordinates through the utilization of Geocode programs.
- Experience in the composition and compilation of final analytical reports and presentations, with proficiency in technical writing, organization of data, and creation of compelling graphics.
- Knowledge of federal and California EPA policies, such as CEQA, accepted methods, and reporting limits, as well as experience with city and county personnel and municipal codes.

MH-7  
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**UCLA H. BRADLEY SHAFFER LAB, LOS ANGELES, CA**

**2012 – 2014**

**Undergraduate Research Assistant**

Responsible for phylogenetic prioritization within the Turtles of the World project (TOTW). Methods include obtaining 2-3 tissue samples of every species of turtle on earth, and sequencing them for ~20 independent genes. The results of the TOTW project are being used to create a phylogenetic tree of as many currently existing turtle species as possible. This will allow evolutionary biologists and herpetologists to better understand how turtle taxa are interrelated, and will aid in efforts to conserve threatened turtle species.

- Expert understanding of laboratory techniques, including the amplification of DNA through the method of polymerase chain reactions (PCR), extraction of DNA from tissue, cataloging of tissue samples etc.
- Proficiency in programs such as Excel, Google Earth, and Specify.
- Mastery of laboratory equipment usage, including but not limited to, Thermocyclers, Centrifuges, Nanodrop Machines, Autoclave Devices, and Vortexes.
- Experience in fieldwork, including capture of salamander, turtle, and newt specimens to add to the Shaffer Lab tissue database.

**LOS ANGELES REGIONAL COLLABORATIVE, LOS ANGELES, CA**  
**Climate Action and Sustainability, Institute of the Environment, UCLA**

**2011-2012**

**Work Group and Event Manager**

Responsibility for organization of steering committee meetings, as well as for the organization of the working groups within the collaborative. Maintaining and updating the website, as well as sending out weekly newsletters on behalf of the Collaborative to its members.

- Organized the first Solar Planning working group within the steering committee, which consisted of representatives from universities, government agencies, and private sectors within LA County.
- Coordinated monthly steering committee meetings as well as assisted in the organization of Quarterly Meetings and Sustainability Forums.
- Managed membership, weekly newsletters, website updates, general assistance, and clerical duties.

**UNDERGRADUATE STUDENTS ASSOCIATION COUNCIL, UCLA**

**2012-2013**

**Academic Wellness Director, Academic Affairs Commissioner (2013)**  
**Student Groups Support Committee Member, Internal Vice President (2012)**

USAC's programs offer an invaluable service to the campus and surrounding communities by providing an opportunity for thousands of students to participate in and benefit from these services. Two to three thousand undergraduates participate annually in the more than 20 outreach programs.

- Directed the organization of academic campus programs that provide tools and resources to manage the academic rigors experienced by university students.
- Oversight control of and responsibility for the Academic Wellness committee and all its members.
- Created a Universal Funding application for student groups that facilitates the process of requesting funds to support philanthropic activities.

**EDUCATION**

**Bachelor of Science, Environmental Science**  
**Minor in Conservation Biology**  
**Senior Project, Ballona Watershed Phytoplankton and Water Quality Assessment**  
 University of California Los Angeles, Los Angeles, CA

**High School Diploma**  
**Valedictorian, June 2010**  
 Pioneer High School, Woodland, CA

**ACCOMPLISHMENTS**

**Recipient, Bruins Advantage Scholarship, 2010-2014**  
**Academic Honoree, Dean's List, 2013-2014**  
**Life Member, National Honor Society & California Scholarship Federation, 2006-2010**  
**Valedictorian, Pioneer High School, 2010**

MH-7  
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SWAPE

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

1640 5<sup>th</sup> Street, Suite 204

Santa Monica, California 90401

Letter Dated January 7, 2015

(Attachment to Gideon Kracov correspondence dated January 7, 2015)

Comment MH-1

*We have reviewed the November 19, 2014 Draft Environmental Impact Report (DEIR) for the El Monte Wal-Mart Project ("Project"). The Project, to be located on a 15.41 acre parcel in El Monte, California, consists of the development of an 182,429 square-foot retail/commercial center. The center would include merchandise and groceries, off-site alcohol sales, a food tenant and non-food tenants (e.g. bank, medical clinic, portrait studio or salon) and an outdoor garden center. Parking for 755 vehicles would be accessed by two driveways along Arden Drive, while heavy truck access would be provided via Valley Circle.*

Response MH-1

Commentor review of the DEIR is acknowledged. The summary Project description provided is materially correct. Please refer also to DEIR Section 3.0, Project Description.

Comment MH-2

*As explained below, our review concludes that the DEIR fails to adequately mitigate operational mobile source emissions. Furthermore, the DEIR does not correctly establish a business as usual (BAU) baseline, and as a result, does not correctly assess the significance of or properly mitigate Project greenhouse gas (GHG) emissions. A revised DEIR should be prepared to disclose and adequately discuss these issues and to identify mitigation measures, where necessary.*

Response MH-2

As substantiated in the DEIR and reinforced here, the analysis of the Project's GHG emissions impacts is consistent with CEQA intent, guidance, and requirements. The DEIR accurately and appropriately concludes that the Project's GHG emissions impacts are less-

than-significant. No mitigation of Project GHG emissions impacts is required. (CEQA Guidelines Section 15126.4 (a) (3) "Mitigation Measures are not required for effects which are not found to be significant"). Results and conclusions of the DEIR are not affected.

Comment MH-3

*"Air Quality: Operational Air Emissions are Inadequately Mitigated"*

*The DEIR admits that mitigated Project operational-source NOx emissions would be in exceedance of SCAQMD regional thresholds, and would result in a significant and unavoidable impact (DEIR p. 4.3-31). The DEIR states that the Project "implements all feasible mitigation measures and complies with all applicable SCAQMD Rules directed toward reduction of NOx emissions," and that "no feasible mitigation measures exist that would further substantively reduce these emissions" (p. 4.3-32).*

*Despite this claim, additional commonly used mitigation is available. A revised DEIR should be prepared to identify additional mitigation. According to Table 4.3-7 in the DEIR, mobile sources contribute to the majority of the NOx emissions (p.4.3-32). [COMMENTOR EXCERPT FROM DEIR]*

*NOx is a byproduct of fuel combustion, and according to the DEIR approximately 99.9 percent of the operational NOx emissions are from vehicles accessing the site (p.4.3-32). The DEIR goes on to explain that "neither the Project Applicant nor the City has any regulatory control over tail pipe emissions from individual sources" (p.4.3-32). However, additional mobile mitigation measures can be found in CAPCOA's Quantifying Greenhouse Gas Mitigation Measures, which attempt to reduce Greenhouse Gas (GHG) levels from mobile sources, as well as reduce Criteria Air Pollutants such as NOx. Mitigation for mobile source NOx emissions should include consideration of the following measures that are proposed in CAPCOA's Quantifying Greenhouse Gas Mitigation Measures, in an effort to reduce operational NOx emissions to below SCAQMD thresholds.*

- Reduce vehicle miles traveled (VMT) by increasing destination accessibility (LUT-4). Destination accessibility is measured in terms of the number of jobs or other attractions reachable within a given travel time, which tends to be highest at central locations and lowest at peripheral ones. The Project Applicant would have to provide the distance to downtown or to major job centers*

for this mitigation measure to take effect. Implementation of this mitigation measure would reduce mobile source NOx running emissions by 6.7 to 20 percent.

- *Reduce VMT by increasing transit accessibility (LUT-5). The use of transit results in a mode shift and therefore reduced VMT. Implementation of this mitigation measure would reduce mobile source NOx running emissions by 0.5 to 24.6 percent. The Project would need to include, at a minimum, the following design features:*
  - *A transit station/stop with high-quality, high-frequency bus service located within a five to ten minute walk, or roughly a quarter of a mile from stop to edge of development, Or a rail station located within a 20 minute walk or roughly half a mile from station edge to development;*
  - *Fast, frequent, and reliable transit service connecting to a high percentage of regional destinations;*
  - *Neighborhood designed for walking and bicycling.*
  
- *Reduce VMT by locating the Project near a bike path/lane (LUT-8). A Project that is designed around an existing or planned bicycle facility encourages alternative mode use. This measure is most effective when applied in combination of multiple design elements that encourage this use, such as the previously mentioned land use strategy (LUT-4). This measure should be grouped with the Increase Destination Accessibility strategy to increase the opportunities for multi-modal travel.*
  
- *Reduce VMT by including improved design elements to enhance walkability and connectivity (LUT-9). Improved street network characteristics is measured in terms of sidewalk coverage, building setbacks, street widths, pedestrian crossings, presence of street trees, and a host of other physical variables that differentiate pedestrian-oriented environments from auto-oriented environments. Implementation of this mitigation measure would reduce mobile source NOx running emissions by 3.0 to 21.3 percent.*
  
- *Reduce VMT by incorporating bicycle lanes, routes, and shared-use paths into street systems, new subdivisions, and large developments (SDT-5). These improvements can help reduce peak-hour vehicle trips by making commuting by bike easier and more convenient for more people. In addition, improved bicycle facilities can increase access to and from transit hubs, thereby expanding the "catchment area" of the transit stop or station and increasing ridership. Bicycle access can also*

*reduce parking pressure on heavily-used and/or heavily-subsidized feeder bus lines and auto-oriented park-and-ride facilities. This mitigation measure is the most effective when combined with mitigation measure LUT-9, previously mentioned.*

- *Reduce VMT by providing bike parking in non-residential projects (SDT-6). A non-residential project will provide short-term and long-term bicycle parking facilities to meet peak season maximum demand. This mitigation measure is the most effective when combined with mitigation measure LUT-9, previously mentioned.*

- *Reduce tailpipe emissions by providing electric vehicle parking (SDT-8). This mitigation measure implements accessible electric vehicle parking. Design features include conductive/inductive electric vehicle charging stations and signage prohibiting parking of non-electric vehicles.*

- *Reduce VMT by limiting the parking supply (PDT-1). This mitigation measure will change parking requirements and types of supply within the Project site to encourage "smart growth" development and alternative transportation choices by project residents and employees. Implementation of this mitigation measure would result in a reduction of mobile source NOx running emissions by 5 to 12.5 percent. This will be accomplished in a multi-faceted strategy:*

- *Elimination (or reduction) of minimum parking requirements;*
- *Creation of maximum parking requirements;*
- *Provision of shared parking.*

*These measures are more stringent and prescriptive than those measures identified in the DEIR, and provide many simple design features, that when combined together, optimize VMT reductions and thus reduce NOx emissions. The CalEEMod output tables in Appendix D of the DEIR (Air Quality Analysis & Health Risk Assessment) show that only three mitigation measures were utilized for operational mobile-source emissions: (1) LUT-3, increase diversity of urban and suburban developments; (2) SDT-1, provide pedestrian network improvements; (3) SOT -2, implement traffic calming measures. The addition of these new measures (listed above), incorporated with the mobile mitigation measures already in place, will reduce the total mobile source NOx emissions, potentially*

*to a level that does not exceed the SCAQMD NOx threshold. A revised DEIR should be prepared to include additional mitigation measures, as well as include an updated air quality assessment to ensure that the necessary mitigation measures are implemented to reduce NOx mobile source emissions to below SCAQMD thresholds.*

### Response MH-3

As summarized in the DEIR, Project operational-source NOx emissions would exceed applicable SCAQMD regional thresholds (DEIR p. 1-30). Per SCAQMD significance guidance, these impacts at the Project level are also considered cumulatively significant and would persist over the life of the Project. NOx emissions are ozone precursors. As disclosed in the DEIR, Project operational-source NOx emissions have the potential to contribute considerably to existing ozone non-attainment conditions within the Basin. This is a cumulatively significant impact persisting over the life of the Project. Please refer to DEIR Section 4.3, *Air Quality*; DEIR Appendix D, *Air Quality Impact Analysis*.

Although the Project is expected to exceed the SCAQMD's regional thresholds for NOx, this does not in itself constitute a significant health impact to the population adjacent to the Project and within the air basin. The SCAQMD's regional thresholds are based in part on Section 180 (e) of the federal Clean Air Act (CAA) – it should be noted that the numeric regional mass daily thresholds have not changed since their adoption as part of the *CEQA Air Quality Handbook* published by SCAQMD in 1993 (over 20 years ago). The regional daily thresholds are also intended to provide a means of consistency in significance determinations within the environmental review process. Notwithstanding, simply exceeding the SCAQMD's regional thresholds does not constitute a particular health impact to an individual receptor. The reason for this is that the mass daily thresholds are in pounds per day emitted into the air whereas health effects are determined based on the concentration of emissions in the air at a particular receptor (e.g., parts per million by volume of air, or micrograms per cubic meter of air). State and federal ambient air quality standards (CAAQS and NAAQS) were developed to protect the most susceptible population groups from adverse health effects and were established in terms of parts per million or micrograms per cubic meter for the applicable emissions. In this latter regard, potential health impacts of Project-source NOx emissions is evaluated and substantiated

within the DEIR Localized Significance Thresholds (LST) analysis. The LST analysis evaluates Project-source emissions in the context of applicable CAAQS and NAAQS. As substantiated in the DEIR, Project-source NO<sub>x</sub> emissions would not violate applicable CAAQS/NAAQS:

While Project operational-source NO<sub>x</sub> emissions would exceed SCAQMD regional thresholds, Localized Significance Thresholds (LSTs) for NO<sub>x</sub> emissions would not be exceeded. LSTs were developed in response to the SCAQMD Governing Board's Environmental Justice Initiative I-4. More specifically, to address potential Environmental Justice implications of localized air pollutant impacts, the SCAQMD adopted LSTs indicating whether a project would cause or contribute to localized air quality impacts and thereby cause or contribute to potential localized adverse health effects. LSTs apply to carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), particulate matter less than 10 microns (PM<sub>10</sub>), and particulate matter less than 2.5 microns (PM<sub>2.5</sub>). LSTs represent the maximum emissions from a project that would not cause or contribute to an exceedance of the most stringent National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS). These Standards are the levels of air quality that are considered safe, with an adequate margin of safety, to protect the public health and welfare. As indicated subsequently at EIR Table 4.3-11, Project localized operational-source NO<sub>x</sub> emissions (4.43 lbs./day) would represent approximately 2.2 percent of the applicable SCAQMD LST for NO<sub>x</sub> (203 lbs./day), and therefore would not cause or result in a potential health risk. Please refer also to subsequent discussions of the Project's potential localized emissions impacts (DEIR pp. 4.3-32, 33).

Potential health effects of NO<sub>x</sub> in general are summarized at DEIR p. 4.3-5.

Project impacts and proposed mitigation are discussed in detail throughout the DEIR. A summary of impacts and mitigation is provided at DEIR Table 1.10-1, pp. 1-35 through 1-56. Mitigation measures, together with mitigation timing and monitoring/reporting

responsibilities are comprehensively presented at Final EIR Section 4.0, Mitigation Monitoring Plan.

The commentor offers numerous additional measures as a means to reduce the operational threshold exceedances of NO<sub>x</sub> identified within the Draft EIR. However the commentor provides no substantiated efficacy of the measures offered. Estimated emissions reduction ranges stated by the commentor are predicated on faulty or unsubstantiated assumptions, are not supported by evidence, and are considered speculative.

Nor are the suggested measures' feasibility<sup>13</sup> and applicability to the Project meaningfully considered or established by the commentor. Certain of the suggested measures presume availability of, and Applicant control of, an alternative site that would concurrently: allow for implementation of the Project; substantive diminishment of air quality impacts; and attainment of the Project Objectives. No such site exists. Moreover, relocation of the Project may collaterally result in other increased environmental impacts not otherwise resulting from the Project in its current location. It is further noted that the Project in its current location and configuration tend to reduce VMT and associated vehicular-source emissions within the region (DEIR p. 5-118). Please refer to also EIR Section 5.0, Alternatives analysis. Certain other measures offered by the commentor replicate Project components, existing policies/requirements/regulations, and would not constitute "mitigation". Other measures offered by the commentor are policy level actions, clearly beyond the scope of the Project under consideration and beyond the control of the Applicant, with no demonstrated or quantified reduction in the Project's operational-source NO<sub>x</sub> emissions.

Lastly, it should be recognized that the Project air quality analyses, consistent with SCAQMD guidance and CalEEMod protocols, necessarily assume that all vehicle trips

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<sup>13</sup>The term feasible is not to be construed as "within the realm of possibilities." The State Resources Agency, the State Agency charged with implementing CEQA's regulatory scheme, has defined feasible, "for purposes of CEQA review, as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." In formulating mitigation measures, the Lead Agency is subject to the "rule of reason." CEQA does not require analysis of every *imaginable* alternative or mitigation measure; its concern is with *feasible* means of reducing environmental effects.

generated by the Project are “new” trips within the region. In practice, new land use projects (such as the proposed El Monte Walmart Project) tend to redistribute existing trips and emissions sources within the region, rather than generate entirely new trips and emissions. The net effect being an overestimation of vehicle trips and vehicular-source emissions air quality impacts as presented in the DEIR and Project air quality analyses.

Continuing, in *Santa Clarita Organization for Planning the Environment v. City of Santa Clarita* (“SCOPE”) (2011) 197 Cal.App.4th 1042, opponents challenged an EIR, which concluded that the increased GHG emissions associated with Project vehicles and transportation sources would be significant, and that there were no feasible mitigation measures to reduce the impact to a less-than-significant level. The opponents challenged this latter claim, citing a comprehensive list of suggested mitigation measures for GHG emissions prepared by the California Attorney General’s office.

In response, the court ruled that the city was not required to address the feasibility of each of the numerous measures recommended by the Attorney General, distinguishing cases where courts faulted an agency for not considering specific, potentially feasible measures (see, e.g., 197 Cal.App.4th at 1055 (“Considering the large number of possible mitigation measures . . . as well as the [opponent’s admission] that not all measures would be appropriate for every project, it is unreasonable to impose on the city an obligation to explore each and every one.”)).

The Court’s holding in SCOPE is analogous to the Project at issue, where the new Walmart building would be constructed to maximize building efficiency, in accordance with Walmart’s building practices as well as California Code of Regulations Title 24, acting to reduce the Project’s potential stationary/area-source emissions. However, the preponderance of Project operational-source emissions would be generated by motor vehicles (by weight, approximately 98 percent of all operational-source emissions; and 99.9 percent of NOx emissions would be generated by mobile sources). As a commercial project, only about two percent of the vehicle trips are generated by employees. The remaining trips would be generated by customers. There are no feasible measures to reduce or restrict the number of customer vehicles traveling to and from the site to a level

where the net increase in operational emissions would be substantively reduced; or that would reduce NO<sub>x</sub> emissions below the regional threshold of significance recommended by the SCAQMD for NO<sub>x</sub>.

The Court noted further that emissions from vehicle exhaust are controlled by the state and federal government, and were therefore outside the control of the Lead Agency or the Project Applicant. This is consistent with the EIR presentation and analysis of the Project's potential operational-source NO<sub>x</sub> emissions impacts; a representative EIR discussion is excerpted below.

NO<sub>x</sub> is a byproduct of fuel combustion and the primary source of NO<sub>x</sub> emissions from the Project are a result of tail pipe emissions from vehicles accessing the site (approximately 99.9 percent of the Project operational NO<sub>x</sub> emissions would be generated by Project traffic). Neither the Project Applicant nor the City has any regulatory control over tail pipe emissions from individual sources. Rather, vehicle tail pipe source emissions are regulated by CARB and USEPA. The amount of NO<sub>x</sub> emissions from vehicle sources has been reduced dramatically over the past years and is expected to further decline as clean vehicle and fuel technologies improve. The Project implements all feasible mitigation measures and complies with all applicable SCAQMD Rules directed toward reduction of NO<sub>x</sub> emissions. No feasible mitigation measures exist that would further substantively reduce these emissions (DEIR p. 4.3-32).

In sum, this and subsequent related remarks offered by the commentor do not appear to identify any substantive inadequacy within the EIR, and merely suggests that "something could be done" to reduce emissions. Particularly in light of the court's ruling in SCOPE, these potential other mitigation measures are not required to be discussed in the DEIR.

All feasible mitigation measures to reduce operational-source NO<sub>x</sub> emissions have been adequately and appropriately addressed within the DEIR, and no further response is necessary. Results and conclusions of the DEIR are not affected.

Comment MH-4

*“Greenhouse Gas Emissions: Analysis Relies on Incorrect Baseline”*

*The DEIR, in an effort to comply with AB 32 and establish a Project baseline, compares the Project’s GHG emissions to a business as usual (BAU) scenario. However, the DEIR’s definition of a BAU scenario for the Project site is inaccurate, and the comparison utilized to achieve compliance with AB 32 results in inflated baseline emissions, and overstates the proposed Project’s presumed benefits and compliance measures. A revised DEIR needs to identify an acceptable method of reaching compliance with AB 32, and needs to determine an alternative threshold to compare Project emissions to. Recirculation of the DEIR therefore is required.”*

*The 2008 Scoping Plan indicates that statewide AB 32 compliance would be achieved provided that there was a minimum 28.5 percent reduction in BAU GHG emissions for the time frame of 1990 to 2020. The DEIR utilizes this reduction percentage as a way to show compliance with GHG regulations (p. 4.9-26), and determines that the Project’s “conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases” is less-than-significant (p. 4.9-31).*

*This level of significance is, of course, achieved by creating a BAU baseline; however, the DEIR does not clearly define what its BAU scenario encompasses. This is buried in Appendix D of the DEIR (Air Quality Analysis & Health Risk Assessment). The CalEEMod output tables in Appendix D of the DEIR (Air Quality Analysis & Health Risk Assessment) show that the BAU scenario is modeled in the DEIR as if the proposed Project was constructed and in operation by 2005, and then compares this “BAU Scenario” to a “Project Scenario” where the proposed Project is constructed and in operation by 2020. Comparison of the 2005 BAU scenario to the 2020 Project scenario results in a 36.06 percent reduction of GHG emissions (p. 4.9-30).*

*But this is an improper baseline that does not exist because the site is a vacant lot of land. Utilizing 2005 Project emissions as a BAU scenario is not consistent with the CARB definition of BAU. CARB defines BAU in their Scoping Plan as emission levels that would occur if existing conditions in California continued to grow and add new GHG emissions, but did not adopt any measures to reduce emissions. Utilizing this definition, a BAU scenario at the proposed Project site would be a*

*vacant lot of land which would result in zero as a baseline for all emissions. Comparison of the proposed Project site to an essentially zero baseline certainly would show significant GHG emissions exceeding appropriate significance thresholds.*

*To determine whether the Project's GHG emissions are significant, methods that have been proposed in other recent CEQA documents should be utilized and included in a revised DEIR.<sup>4</sup> For example, the Commerce Retail Center Project determines significance by utilizing the SCAQMD draft local agency tiered threshold (Commerce DEIR p. 3.2-62). The threshold is as follows:*

- *Tier 1: The project is not exempt under CEQA; go to Tier 2.*
- *Tier 2: There is no GHG reduction plan applicable to the project; go to Tier 3.*
- *Tier 3: Project GHG emissions compared with the threshold: 3,000 MTCO<sub>2e</sub> per year.*
- *Tier 4, Option 1: Reduce GHG emissions from business as usual by 28.4 percent. The California 2020 emissions target is 427 MMTCO<sub>2e</sub> and the 2020 baseline (without any AB 32 related regulations) is 596 MMTCO<sub>2e</sub>. Therefore, a 28.4 percent reduction is required to reduce emissions to the target.*

*The Project DEIR utilizes Tier 4, Option 1 to achieve compliance with AB 32; however, this analysis is inaccurate because, as explained above, the BAU scenario defined in the DEIR is not consistent with the CARB BAU definition. Furthermore, establishing a BAU scenario at this site would be difficult because it is currently undeveloped. Therefore, the best approach to show compliance with AB 32 would be to compare emissions to the Tier 3 threshold of 3,000 MTCO<sub>2e</sub> per year. Table 4.9-3 in the DEIR shows that the Project's total GHG emissions would be equal to 7,575.35 MTCO<sub>2e</sub> per year, which is above the 3,000 MTCO<sub>2e</sub> per year threshold (p. 4.9-30). Therefore this Project will have significant GHG impacts that must be better characterized and mitigated.*

#### Response MH-4

Based on the California Air Resource Board's (CARB's) definition, the forecast of 2020 GHG emissions in a business-as-usual (BAU) scenario as presented in the DEIR is an estimate of the emissions expected to occur in the year 2020 if none of the foreseeable measures included in the *First Update to the Climate Change Scoping Plan* (CARB) May 2014 (Scoping Plan) were implemented (see Page 92, 6<sup>th</sup> paragraph of *First Update to the Climate Change*

*Scoping Plan – May 2014*). CARB also defines “business-as-usual” to mean “the normal course of business or activities for an entity or a project before the imposition of greenhouse gas emissions reduction requirements or incentives.”<sup>14</sup>

The California Air Pollution Control Officers Association (CAPCOA) acknowledges that the “business-as-usual” scenario is the estimate of emissions that would occur in the absence of measures to reduce emissions. CAPCOA goes on to further state that “business-as-usual” is the projection of GHG emissions at a future date based on current technologies and regulatory requirements in absence of other reductions.<sup>15</sup> In this case, the base BAU scenario would reflect emissions that would be generated by the Project absent implementation of AB32 which is effectively a 2005 year emissions profile since AB32 was adopted in 2006. Additionally, CARB’s emissions baseline period in its scoping plan reflects the average emissions from 2002 to 2004.<sup>16</sup> Use of 2005 year emission factors from a greenhouse gas standpoint is appropriate since the emission factors in 2005 would reflect what would happen in 2020 if the Scoping Plan measures were not implemented.

Contrary to the commentor’s erroneous assertion that information is “buried” in Appendix D; the information is appropriately provided at Appendix H as support to the analysis provided in the Draft EIR document. Please refer to DEIR Section 4.9, *Global Climate Change and Greenhouse Gas Emissions*; DEIR Appendix H, *Greenhouse Gas Analysis*.

The DEIR substantiates that the Project GHG emissions would be reduced consistent with AB 32 emissions reductions targets when compared with the BAU scenario as defined by CARB, and Project GHG emissions impacts would therefore be less-than-significant.

When compared to a “vacant site” condition, incremental Project GHG emissions would also be considered less-than-significant. As disclosed in the DEIR, the Project would generate an estimated 7,575.35 metric tons CO<sub>2</sub>e emissions when compared to existing vacant site conditions. In context, and as a benchmark point of reference, the City of El

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<sup>14</sup> ARB: “Preliminary Draft Regulation for a California Cap-and-Trade Program,” Section 95802 (a)(18), Dec., 2009; page 7.

<sup>15</sup> CAPCOA: “Model Policies for Greenhouse Gases in General Plans,” Jun., 2009, page 15.

<sup>16</sup> ARB: “Climate Change Scoping Plan: a framework for change,” Dec., 2008; page 11.

Monte Existing (2011) GHG emissions as estimated in the City's General Plan Environmental Impact Report (EIR) totaled approximately 1.39 MMT CO<sub>2</sub>e.<sup>17</sup> Project GHG emissions [7,575.35 metric tons CO<sub>2</sub>e] would represent approximately 0.54 percent of the City's estimated 2011 GHG emissions total.

An individual development proposal, such as the proposed El Monte Walmart Project cannot generate enough GHG emissions to influence global climate change. The Project would, however, participate in potential cumulative GHG emissions impacts by its incremental contribution combined with the cumulative increase of all other sources of GHGs, which when taken together may have a potentially significant impact on global climate change.

As substantiated in the DEIR, the proposed El Monte Walmart Project would be in concert with and would support AB 32 and international efforts to address global climate change, and would reflect specific local requirements set forth in the El Monte General Plan and General Plan EIR intended to substantially lessen cumulative GHG emissions impacts. The proposed El Monte Walmart Project would therefore fulfill its mitigation requirements as defined at *CEQA Guidelines* §15130(a)(3) and §15183.5, and the Project's incremental contribution to GHG emissions impacts would therefore not be cumulatively considerable.

The commentor suggests use SCAQMD's proposed Interim Tier III "Numerical Screening Threshold" of 3,000 MT CO<sub>2</sub>e for commercial projects. In this regard, in 2008, the SCAQMD approved the "Interim Greenhouse Gas (GHG) Significance Threshold to be Used by the AQMD for Industrial Source Projects, Rules and Plans When it is the Lead Agency for Projects Subject to CEQA" ("AQMD Interim Threshold"). [SCAQMD, 2008]. South Coast Air Quality Management District (SCAQMD), Interim CEQA GHG Significance Threshold for Stationary Sources, Rules, and Plans.] The AQMD Interim Threshold established a fixed 10,000 MTCO<sub>2</sub>e threshold based on a goal of a 90 percent emission capture rate for all new or modified stationary source/industrial projects for which the AQMD is the lead agency under CEQA.

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<sup>17</sup> El Monte General Plan EIR, p. 5.5-6, Table 5.5-2, *Existing GHG Emissions Inventory*.

The Board Resolution adopting the AQMD Interim Threshold expressly provided that:

[the AQMD] “Governing Board does not intend, at this time, to require other public agencies to use the AQMD’s Board-adopted GHG significance threshold for industrial sources when in preparation or review of their CEQA documents for land use projects.”

As subsequently recorded in the AQMD *Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group #15 Tuesday, September 28, 2014 . . .*

“on December 5, 2008, the SCAQMD Governing Board adopted a numerical GHG significance threshold of 10,000 MTCO<sub>2</sub>e/year for industrial projects where the SCAQMD is the lead agency. Staff is now proposing to extend the industrial GHG significance threshold for use by all lead agencies. Similarly, with regard to numerical residential/commercial GHG significance thresholds, at the 11/19/2009 stakeholder working group meeting staff presented two options that lead agencies could choose: option #1 – separate numerical thresholds for residential projects (3,500 MTCO<sub>2</sub>e/year), commercial projects (1,400 MTCO<sub>2</sub>e/year), and mixed use projects (3,000 MTCO<sub>2</sub>e/year) and; option #2 – a single numerical threshold for all nonindustrial projects of 3,000 MTCO<sub>2</sub>e/year. If a lead agency chooses one option, it must consistently use that same option for all projects where it is lead agency. The current staff proposal is to recommend the use of option #2, but allow lead agencies to choose option #1 if they prefer that approach.”<sup>18</sup>

Neither the AQMD or the Lead Agency have adopted the interim 3,000 MT CO<sub>2</sub>e/yr. GHG emissions significance “threshold,” offered by the commentor, and it has no bearing on, or binding effect in determining the Project’s potential GHG emissions impacts.

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<sup>18</sup> AQMD. *Minutes for the GHG CEQA Significance Threshold Stakeholder Working Group #15 Tuesday, September 28, 2010 SCAQMD, Room GB, 10:00 AM – 12:00 PM.* web. Feb. 12, 2015.

Nonetheless, it is recognized that some public agencies have used the AQMD Interim Threshold for projects for which the AQMD is not the lead agency, largely because it represents a clear and “easy to apply” quantifiable number. The AQMD Interim Threshold, however, has been criticized by environmental professionals, who question the validity of SCAQMD’s data set, particularly given that the threshold was derived without considering and allowing for offsite indirect GHG emissions, such as would be generated by development-related traffic. As such, the AQMD Interim Threshold (3,000 MTCO<sub>2e</sub>) offered by the commentor is not an appropriate measure for uses that are heavily vehicle dependent and for which the predominance of GHG emissions are generated by off-site mobile sources such as is the case for the proposed El Monte Walmart Project. Moreover, the AQMD Interim Thresholds remains “interim,” and have not been modified or updated to reflect current GHG emissions strategies and policies.

Since the adoption of the CEQA Guidelines regulating GHG emissions, more local agencies have adopted the Business As Usual (“BAU”) threshold approach. The rationale behind the BAU threshold is CEQA Guidelines Section 15064.4(b)(3), which provides that, when determining the significance of GHG emissions, a lead agency may consider whether a project complies with the regulations or requirements adopted pursuant to a statewide plan intended to reduce or mitigate GHG.

CARB’s Climate Change Scoping Plan (“Scoping Plan”), originally prepared in 2008 and reapproved and updated in August 2011 as part of CARB’s mandate to implement AB 32, is one such plan. Consistent with AB 32, the Scoping Plan mandates a reduction in California’s GHG emissions to 1990 levels by 2020 and sets forth strategies for GHG reductions to reach this target through a combination of regulations, market mechanisms and other actions. To achieve the reduction goal established in AB 32, the Scoping Plan projected the reasonable expected GHG emissions growth by 2020 absent such reduction strategies (i.e., BAU) and then calculated the GHG emission reductions that are anticipated to occur as a result of the Scoping Plan’s strategies.

The BAU threshold has been upheld in three recent court cases. See *Citizens for Responsible Equitable Environmental Development v. City of Chula Vista* (2011) 197 Cal.App.4<sup>th</sup> 327; *North*

*Coast Rivers Alliance v. Marin Municipal Water District* (2013) 216 Cal.App.4th 614, 650-654; and *Friends of Oroville v. City of Oroville* (2013) 219 Cal.App.4th 832, 841 (“City properly adopted Assembly Bill 32’s reduction targets for GHG emissions as the threshold-of-significance standard in determining whether the Project’s GHG emissions constituted a significant environmental impact”).

As substantiated in the DEIR and reinforced here, the analysis of the Project’s GHG emissions impacts is consistent with CEQA intent, guidance, and requirements. The DEIR contains substantial evidence that the GHG emission levels are consistent with the CARB Scoping Plan and are compliant with AB 32. Thus, the DEIR accurately and appropriately concludes that the Project’s GHG emissions impacts are less- than-significant. Results and conclusions of the DEIR are not affected.

#### Comment MH-5

*Because GHG emissions are significant when compared to the Tier 3 threshold, the Applicant should obtain emission reduction credits, also referred to as carbon offsets, to serve as mitigation and reduce the Project’s emissions to a less than significant level. Offsets are specifically mentioned by the California Resources Agency as a measure to mitigate the significant effects of greenhouse gas emissions.<sup>6</sup> Offsets should be identified in a revised DEIR for the Project. Verification that the offsets are real and measureable, such as those available from the California Climate Action Registry’s Climate Action Reserve should be provided in the revised DEIR.”*

*The DEIR does not attempt to mitigate construction and operational GHG emissions, because emissions comply with GHG reduction regulations (AB 32) by comparing Project emissions to a BAU scenario, as previously described. However, because the assumptions made to meet compliance are incorrect, mitigation measures should be implemented to reduce GHG emissions to below the Tier 3 threshold for commercial Projects of 3,000 MTC02e per year. It should be noted that some of the NOx mitigation measures, mentioned above, have the potential to reduce NOx emissions and other Criteria Pollutant emissions, as well as reduce GHG emissions. Therefore, this list of additional mitigation measures should be compared to the mitigation measures already implemented in the DEIR; a summary of the mitigation measures implemented can be found in Table 1.10-1 in the*

*Executive Summary of the DEIR (p. ES1-35 -56). Additional mitigation measures that could be implemented to reduce GHG emissions include, but are not limited to, the following:*

- *Use passive solar design, such as:*
  - *Orient buildings and incorporate landscaping to maximize passive solar; heating during cool seasons, and minimize solar heat gain during hot seasons;*
  - *Enhance natural ventilation by taking advantage of prevailing winds; and*
  - *Design buildings to take advantage of sunlight, and install sun screens to reduce energy use.*
  
- *Reduce unnecessary outdoor lighting by utilizing design features such as limiting the hours of operation of outdoor lighting.*
  
- *Develop and follow a "green streets guide" that requires:*
  - *Light emitting diodes ("LEDs") for traffic, street, and other outdoor lighting;*
  - *Use of minimal amounts of concrete and asphalt;*
  - *Installation of permeable pavement to allow for storm water infiltration;*
  - *Use of groundcovers rather than pavement to reduce heat reflection; and*
  - *Incorporation of shade trees where feasible.*
  
- *Implement Project design features such as:*
  - *Shade HVAC equipment from direct sunlight;*
  - *Install high-albedo white thermoplastic polyolefin roof membrane;*
  - *Install high-efficiency HVAC with hot-gas reheat;*
  - *Install formaldehyde-free insulation; and*
  - *Use recycled-content gypsum board.*
  - *Provide education on energy efficiency to residents, customers, and/or tenants. Provide information on energy management services for large energy users.*
  
- *Meet "reach" goals for building energy efficiency and renewable energy use.*
- *Install solar, wind, and geothermal power systems and solar hot water heaters.*

- *Install solar panels on unused roof and ground space, and over carports and parking areas. Locations where solar systems cannot feasibly be incorporated into the Project at the outset, build "solar ready" structures.*
- *Include energy storage where appropriate to optimize renewable energy generation systems and avoid peak energy use.*
- *Plant low-VOC emitting shade trees, e.g., in parking lots to reduce evaporative emissions from parked vehicles.*
- *Use CARB-certified or electric landscaping equipment in project and tenant operations; and introduce electric lawn, and garden equipment exchange program.*
- *Install an infiltration ditch to provide an opportunity for 100% of the storm water to infiltrate on-site.*
- *Reuse and recycle 80% of construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard).*

#### Response MH-5

The DEIR comports with all applicable CEQA provisions and requirements including identification of mitigation where required (please refer to DEIR Table 1.10-1, Impacts and Mitigation Summary, and FEIR Section 4.0, Mitigation Monitoring Plan.

The commentor erroneously concludes that the Project would result in potentially significant GHG emissions impacts. Numerous and varied "mitigation measures" are offered by the commentor. As substantiated in the DEIR and with these Responses (please refer to Response MH-4), Project GHG emissions impacts would in fact be less-than-significant, and no mitigation is required. (CEQA Guidelines Section 15126.4 (a) (3) "Mitigation Measures are not required for effects which are not found to be significant"). The Project nonetheless incorporates design features and operational programs promoting energy efficiency and sustainability; coincident reductions in air pollutants (including those pollutants also considered to be GHGs) would result from implementation of these features and programs. Please refer to DEIR Section 3.4, Energy Efficiency/Sustainability. As noted at Response MH-4, the 3,000 MTCO<sub>2</sub>e/yr. interim "threshold" cited by the commentor has not been adopted by AQMD or the Lead Agency, and is not applicable to the Project, or the

DEIR analyses. GHG emissions impact mitigation is not proposed and none is required. Results and conclusions of the DEIR are not affected.

Comment MH-6

*In conclusion, our review shows that the DEIR fails to adequately mitigate operational mobile source emissions. Furthermore, the DEIR does not correctly establish a business as usual (BAU) baseline, and as a result, does not correctly assess the significance of or properly mitigate Project greenhouse gas (GHG) emissions. A revised DEIR should be prepared to disclose and adequately discuss these issues and to identify mitigation measures, where necessary.*

Response MH-6

Commentor opinions are acknowledged. The DEIR accurately and appropriately evaluates, mitigates and discloses the Project's potential environmental impacts. Informational and disclosure principles of CEQA and are identified in the DEIR (EIR pp. 1-8, 2-1) and are incorporated throughout.

As summarized in the DEIR, Project operational-source NO<sub>x</sub> emissions would exceed applicable SCAQMD regional thresholds (DEIR p. 1-30) and are recognized as significant. Despite commentor opinions to the contrary, there are no feasible means by which the Applicant and/or Lead Agency can substantively reduce Project operational-source NO<sub>x</sub> emissions. The commentor offers numerous additional measures as a means to reduce the operational threshold exceedances of NO<sub>x</sub> identified within the Draft EIR. However the commentor provides no substantiated efficacy of the measures offered. Estimated emissions reduction ranges stated by the commentor are predicated on faulty or unsubstantiated assumptions, are not supported by evidence, and are considered speculative.

Nor are the suggested measures' feasibility and applicability to the Project meaningfully considered or established by the commentor. Certain of the suggested measures presume availability of, and Applicant control of, an alternative site that would concurrently: allow for implementation of the Project; substantive diminishment of air quality impacts; and attainment of the Project Objectives. No such site exists. Moreover, relocation of the Project

may collaterally result in other increased environmental impacts not otherwise resulting from the Project in its current location. Please refer to also EIR Section 5.0, Alternatives analysis. Certain other measures offered by the commentor replicate Project components, existing policies/requirements/regulations, and would not constitute “mitigation.” Results and conclusions of the DEIR are not affected. No revised DEIR is required.

Information regarding, analysis of, and disclosure of, the Project’s potential greenhouse gas (GHG)/global climate change (GCC) impacts are presented at DEIR Section 4.9, *Global Climate Change and Greenhouse Gas Emissions*. Supporting technical analysis is presented at EIR Appendix H, *Greenhouse Gas Analysis*. As substantiated in the EIR, the Project’s potential GCC/GHG impacts are less-than-significant. Results and conclusions of the DEIR are not affected. No revised DEIR is required.

Comment MH-7

The commentor attaches educational and professional résumés.

Response MH-7

Commentor’s attached educational and professional résumés are acknowledged. Mr. Hagemann’s expertise, though perhaps extensive, appears to be focused in the areas of geology, hydrology, hydrogeology, and related potential environmental concerns such as groundwater contamination (see commentor’s attached professional and educational résumés at Response MH-7). Mr. Hagemann’s educational and professional background is notably deficient in technical evaluation of air pollution issues in general, and greenhouse gas emissions impacts in specific, the commentor’s expressed topics of concern. No further response is required. Results and conclusions of the DEIR are not affected.

# HOFFMAN & GRANTHAM LLP

ATTORNEYS

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TELEPHONE: (213) 236-3777

December 23, 2014

RECEIVED  
JAN 04 2014

BY: \_\_\_\_\_

VIA OVERNIGHT COURIER

Mr. Minh Thai  
Director of Economic Development  
Mr. Frank Senteno  
Director of Public Works  
City of El Monte  
11333 Valley Boulevard  
El Monte, California 91731-3227

Re: *Eastside El Monte Operable Unit Work Parties' Comments*  
*El Monte Walmart Draft Environmental Impact Report*  
*CEQA State Clearinghouse No.: 2014031042*

Gentlemen:

Thank you for the opportunity to comment on Walmart's Draft Environmental Impact Report ("DEIR") for the proposed new Walmart Supercenter planned for 4000 N. Arden Drive, El Monte, the former manufacturing location of Ball Glass Corporation and its successors on the site, including Saint-Gobain Containers, Inc.

The Eastside El Monte Operable Unit Work Parties ("Eastside Work Parties") initially emphasize that we take no position and do not comment on the merits of the proposed El Monte Walmart Supercenter. Rather, our concern involves two damaged monitoring wells ("MW-4" and "MW-5") located on what is now Walmart's property: the proposed site of the new Walmart Supercenter. The United States Environmental Protection Agency ("EPA") has approved both MW-4 and MW-5 as part of the network of wells installed to monitor the presence and movement, if any, of chemicals of concern affecting groundwater on the Eastside of the El Monte Operable Unit ("EMOU").

HG-1

With respect to MW-4 and MW-5, Appendix "F" of Walmart's DEIR, "Environmental Site Assessments," includes a Final Phase I Environmental Site Assessment Report, Tait Environmental Services, Inc., dated March 27, 2012. Tait's Phase I report states, at page 38:

"Two groundwater monitoring wells (MW-4 and MW-5) are reported to have been located on the Site. During its Site reconnaissance, TAIT observed what appeared to be an uncapped well MW-4 in the southeastern portion of the Site. TAIT did not observe evidence of well MW-5; neither did TAIT identify abandonment documentation for this well."

HG-2

Tait's Phase I report on the Walmart site then concludes, at page 40:

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“\*\*\*

3. An uncapped groundwater well is located in the southeastern portion of the Site. The well is located in an area of a known groundwater monitoring well (MW-4). The well currently serves as an open conduit to underlying groundwater. [See also, DEIR, page 4.6-7]

4. Groundwater monitoring well MW-5 reportedly existed in the southwestern portion of the Site. TAIT did not uncover abandonment documentation for this well; thus, it is reasonable to assume that the well is still located at the Site.” [See also, DEIR, page 4.6-7]

HG-2  
 cont'd.

Although not included with Tait’s Phase I report, or otherwise included in Walmart’s DEIR, the Eastside Work Parties enclose two additional photos, purportedly depicting the condition of MW-4. The photos are printed on Tait letterhead and dated April 13, 2012, approximately two weeks after the date of Tait’s Phase I report on the Walmart site.

Appendix “F” of Walmart’s DEIR, “Environmental Site Assessments,” also includes the January, 2009, Soil Management Plan (“2009 SMP”) prepared by Hazard Management Consulting.

Section 4 of the 2009 SMP provides in part:

“The purpose of this SMP is to document the procedures that will be used to monitor the grading activities in order to identify and properly manage:

\*\*\*

- Groundwater monitoring and extraction wells...”

HG-3

Section 7.2 of the 2009 SMP, page 7, then provides that the “SMP program manager will coordinate with the parties responsible for the groundwater monitoring wells so that those wells may be abandoned.”

Simply stated, the 2009 SMP was not followed. MW-4 and MW-5 on the Walmart property have been damaged. MW-4 and MW-5 were never properly abandoned. Even according to Tait’s Phase I report on the Walmart site, these monitoring wells may pose a threat to groundwater by acting as a vertical conduit for downward migration of liquids.

Consequently the damaged wells need to be located and properly destroyed per the requirements in Section 23 of the California Well Standards. Additionally, replacement wells for MW-4 and MW-5 need to be installed per requirements set forth by all applicable documents of record for the EPA EMOU of the San Gabriel Valley Area 1 Superfund Site.

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Moreover, Section 4.6.4 of Walmart's DEIR currently provides that "[p]rior to the issuance of building permits," Walmart's representative "shall coordinate with the parties responsible for the existing groundwater monitoring wells" and "demonstrate to the satisfaction of the City of El Monte that agreements for the proper abandonment of these wells are in place" [DEIR, page 4.6-23].

HG-3  
 cont'd.

The only agreement satisfactory to the Eastside Work Parties is one where the site property owner, currently Walmart, agrees to fix, replace, and pay for what the site ownership has damaged. This includes:

1. Locate MW-4 and MW-5.
2. Properly destroy MW-4 and MW-5 as required under Section 23 of the California Well Standards  
 ([http://www.water.ca.gov/groundwater/well\\_info\\_and\\_other/california\\_well\\_standards/ws/www\\_combined\\_sec23.html](http://www.water.ca.gov/groundwater/well_info_and_other/california_well_standards/ws/www_combined_sec23.html)).
3. Install replacement wells for MW-4 and MW-5 to the satisfaction of the Eastside Work Parties, and the United States EPA.

HG-4

Very truly yours,

HOFFMAN & GRANTHAM LLP

Robert A. Grantham  
[rgrantham@hoffmangrantham.com](mailto:rgrantham@hoffmangrantham.com)

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 Ellen Berkowitz, Gresham Savage Nolan & Tilden  
 Garry Brown, Gresham Savage Nolan & Tilden  
 CEQA State Clearinghouse



ATTACHMENT 2  
PHOTOGRAPHS  
APRIL 13, 2012



Well MW-4



Well MW-4

Hoffman & Grantham, LLP  
515 S. Flower Street, 36<sup>th</sup> Floor  
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Letter Dated December 23, 2014

Comment HG-1

*Thank you for the opportunity to comment on Walmart's Draft Environmental Impact Report ("DEIR") for the proposed new Walmart Supercenter planned for 4000 N. Arden Drive, El Monte, the former manufacturing location of Ball Glass Corporation and its successors on the site, including Saint-Gobain Containers, Inc.*

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Response HG-1

Comment noted. No further response is necessary.

Comment HG-2

*With respect to MW-4 and MW-5, Appendix "F" of Walmart's DEIR, "Environmental Site Assessments," includes a Final Phase I Environmental Site Assessment Report, Tait Environmental Services, Inc., dated March 27, 2012. Tait's Phase I report states, at page 38:*

*"Two groundwater monitoring wells (MW-4 and MW-5) are reported to have been located on the Site. During its Site reconnaissance, TAIT observed what appeared to be an uncapped well MW-4 in the southeastern portion of the Site. TAIT did not observe evidence of well MW-5; neither did TAIT identify abandonment documentation for this well."*

*Tait's Phase I report on the Walmart site then concludes, at page 40:*

- 3. An uncapped groundwater well is located in the southeastern portion of the Site. The well is located in an area of a known groundwater monitoring well (MW-4). The well currently serves as an open conduit to underlying groundwater. [See also, DEIR, page 4.6-7]*
- 4. Groundwater monitoring well MW-5 reportedly existed in the southwestern portion of the Site. TAIT did not uncover abandonment documentation for this well; thus, it is reasonable to assume that the well is still located at the Site." [See also, DEIR, page 4.6-7]*

*Although not included with Tait's Phase I report, or otherwise included in Walmart's DEIR, the Eastside Work Parties enclose two additional photos, purportedly depicting the condition of MW-4. The photos are printed on Tait letterhead and dated April 13, 2012, approximately two weeks after the date of Tait's Phase I report on the Walmart site.*

#### Response HG-2

Comments and referenced photos are acknowledged. After Walmart purchased the property in 2012, Tait capped MW-4 to ensure that it would not serve as an open conduit to underlying groundwater. No further response is necessary.

#### Comment HG-3

*Appendix "F" of Walmart's DEIR, "Environmental Site Assessments," also includes the January, 2009, Soil Management Plan ("2009 SMP") prepared by Hazard Management Consulting.*

*Section 4 of the 2009 SMP provides in part:*

*"The purpose of this SMP is to document the procedures that will be used to monitor the grading activities in order to identify and properly manage:*

- Groundwater monitoring and extraction wells ..."*

*Section 7.2 of the 2009 SMP, page 7, then provides that the "SMP program manager will coordinate with the parties responsible for the groundwater monitoring wells so that those wells may be abandoned."*

*Simply stated, the 2009 SMP was not followed. MW-4 and MW-5 on the Walmart property have been damaged. MW-4 and MW-5 were never properly abandoned. Even according to Tait's Phase I report on the Walmart site, these monitoring wells may pose a threat to groundwater by acting as a vertical conduit for downward migration of liquids.*

*Consequently the damaged wells need to be located and properly destroyed per the requirements in Section 23 of the California Well Standards. Additionally, replacement wells for MW-4 and MW-5 need to be installed per requirements set forth by all applicable documents of record for the EPA EMOU of the San Gabriel Valley Area 1 Superfund Site.*

*Moreover, Section 4.6.4 of Walmart's DEIR currently provides that "[p]rior to the issuance of building permits," Walmart's representative "shall coordinate with the parties responsible for the existing groundwater monitoring wells" and "demonstrate to the satisfaction of the City of El Monte that agreements for the proper abandonment of these wells are in place" [DEIR, page 4.6-23].*

### Response HG-3

Neither well has been damaged. On March 30, 2015, Tait successfully located both MW-4 and MW-5. Both wells are capped and, according to Tait, both appeared to be in usable condition. (Please refer to supporting documentation provided at Appendix B.) Accordingly, neither well poses a threat to groundwater by acting as a vertical conduit for downward migration of liquids.

Walmart has no obligation to repair or maintain the monitoring wells. Under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), the only parties liable for the costs incurred with maintaining and/or repairing the monitoring wells are those entities/persons that have been found to be liable by the U.S. Environmental Protection Agency (U.S. EPA) as a Responsible Party, or if a party was found to be a Potentially Responsible Party (PRP) but later settled with U.S. EPA ("Settling Defendants").<sup>19</sup> Walmart has never been deemed a "Responsible Party" by U.S. EPA, nor has it ever reached a settlement with EPA with respect to any actual or alleged liability for the Superfund cleanup. Further, since purchasing the Site in May of 2012, Walmart has

attempted to ensure the integrity of all remedial elements (the wells) on the site and to comply with all environmental restrictions applicable to the site, including retaining Tait to cap MW-4 when Walmart purchased the property in 2012.

The Eastside Work Parties (EWPs) are the Settling Defendants that are solely responsible for advancing and monitoring the cleanup work required by U.S. EPA, which includes the ongoing monitoring of groundwater through the use of monitoring wells. The EWPs have previously utilized the monitoring wells located on the site, and the EWPs are required to maintain and repair these wells. As indicated in supporting documents (Appendix B, GSNT letter dated May 18, 2015), Walmart has submitted an access agreement to allow site access to EWP for any well maintenance and/or installation activities.

Contrary to the allegations contained in the comment letters, Walmart has never damaged any wells located on the site. Before Walmart took ownership of the site, monitoring well BIMW-5 was buried by the previous owner; BIMW-4 was buried subsequent to Walmart's purchase.

CERCLA was drafted to enshrine into law the proposition that the *polluter must pay* for the damage they are responsible for contributing to, including the costs incurred for any remedial actions or monitoring work that may be deemed necessary by U.S. EPA. ("CERCLA ... imposes the costs of the cleanup on those responsible for the contamination." *Pennsylvania v. Union Gas Co.* 491 U.S. 1, 7 (1989)). In April 2004, numerous defendants - which had been deemed by U.S. EPA as "Potentially Responsible Parties" in connection with the Superfund - settled with U.S. EPA and California Department of Toxic Substances Control (DTSC) on issues related to liability for contamination present on the Site. These parties entered into a settlement agreement with U.S. EPA, pursuant to which the parties agreed to bear the costs and responsibility for the Superfund cleanup and recovery work. This settlement agreement is embodied in the El Monte Operable Unit Consent Decree (the "Consent Decree").

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<sup>19</sup> Either by declaration or by cost recovery action.

Under the Consent Decree, the EWP's are responsible for addressing the contamination in the Eastern Shallow Zone of the Superfund area, which encompasses the Site. As part of these requirements, the EWP's are also expressly responsible for the operation and maintenance of all activities required to maintain the effectiveness of the remedial action, including the operation and maintenance of the required wells. (See Consent Decree Section 26 and 27). Pursuant to the Consent Decree, the EWP's are required to negotiate an agreement that will provide for allowing U.S. EPA and its contractors access to the Site for the purposes of "assessing the need for ... implementing additional response actions at or near the site" (i.e. repairing or closing/abandoning wells). (Consent Decree Section 26 (a)(S).)

U.S. EPA and the Consent Decree acknowledge that third-party landowners such as Walmart have no direct obligation to incur costs associated with the EWP's obligations. As specified by the Consent Decree, if a certain site is found to be necessary for implementing the required remedial or monitoring action, as the EWP's allege here, it is the EWP's obligation to use their best efforts to obtain an agreement to access the site from the new ownership; these best efforts include "the payment of reasonable sums of money in consideration of access, access easements." (Consent Decree, Sections 27 & 28.) In specifying this, the Consent Decree acknowledges that a landowner's obligation to the EWP's includes providing access and not obstructing the operation or integrity of any remedial component at the Site, both requirements with which Walmart has fully complied.

As Walmart is not a Responsible Party, nor a Settling Defendant, neither the EWP's nor the City may require or order Walmart to incur any costs or liabilities in connection with the EWP's remediation and monitoring responsibilities. Nevertheless, access was provided to the Responsible Parties' consultant, Geosyntec, to evaluate BIMW-4 for its potential use for monitoring the groundwater at the site. Geosyntec found the well to be unusable due to its dry condition and because of the presence of approximately three (3) feet of soil in the bottom of the casing. Geosyntec recommended that the well be closed. The EPA agreed that the well could be abandoned/closed and would have no further use as part of the Superfund site remedy.

The EPA has been informed of the schedule for closure of BIMW-4 and has also indicated that they have not yet determined whether a replacement for well BIMW-4 will be needed for this location. US EPA has confirmed that the responsible parties for the site (Gould Electronics and Johnson Control) will be required to install and maintain any replacement well that should be required. As indicated above, Walmart has submitted an access agreement to Geosyntec to allow site access for any well maintenance and/or installation activities. EPA has confirmed that it has no further expectations of Walmart in this matter. Please refer to supporting documentation provided at Appendix B.

#### Comment HG-4

*The only agreement satisfactory to the Eastside Work Parties is one where the site property owner, currently Walmart, agrees to fix, replace, and pay for what the site ownership has damaged. This includes:*

- 1. Locate MW-4 and MW-5.*
- 2. Properly destroy MW-4 and MW-5 as required under Section 23 of the California Well Standards ([http://www.water.ca.gov/groundwater/well\\_info\\_and\\_other/california\\_well\\_standards/wws/wws\\_combined\\_sec23.html](http://www.water.ca.gov/groundwater/well_info_and_other/california_well_standards/wws/wws_combined_sec23.html)).*
- 3. Install replacement wells for MW-4 and MW-5 to the satisfaction of the Eastside Work Parties, and the United States EPA.*

#### Response HG-4

While the EWP's are responsible for carrying out their responsibilities for implementing the Consent Decree's Statement of Work, including installation and maintenance of monitoring wells, the EWP's are also required to enter into agreements with land owners that are not parties to the remedial action to allow access to the Site. (See Consent Decree Section 27.) Walmart acknowledges the importance of assisting the EWP's in their effort to advance the remediation and monitoring effort. Thus, as previously indicated above at Response HG-3, Walmart has submitted an access agreement to Geosyntec (Responsible Parties consultant) to allow site access for any well maintenance and/or installation activities.

This approach is consistent with the Consent Decree and with the DEIR, specifically Section 4.6.4, which provides that Walmart will “coordinate with the parties responsible for the existing groundwater monitoring wells” and “demonstrate to the satisfaction of the City of El Monte that agreements for the proper abandonment of these wells are in place.” The DEIR therefore recognizes that Walmart’s responsibility is to assist the EWPs by negotiating access to the Site, not to assume responsibility for the costs associated with repairing or replacing the wells.

**From:** David Zell  
**Sent:** Tuesday, December 02, 2014 4:44 PM  
**To:** Minh Thai ([mthai@ci.el-monte.ca.us](mailto:mthai@ci.el-monte.ca.us))  
**Cc:** [dgondek@omlawyers.com](mailto:dgondek@omlawyers.com); 'TVinckier@gmail.com' ([TVinckier@gmail.com](mailto:TVinckier@gmail.com)); 'rgrantham@hoffmangrantham.com' ([rgrantham@hoffmangrantham.com](mailto:rgrantham@hoffmangrantham.com)); Dizon, Bella ([Dizon.Bella@epa.gov](mailto:Dizon.Bella@epa.gov))  
**Subject:** Monitoring Wells on Walmart Property

Minh,

David Gondek mentioned that the City is currently reviewing a draft EIR associated with the Walmart property on Arden Drive (Assessor ID#: 8575-024-043) and requested that we provide you with information regarding the improper destruction/abandonment of two monitoring wells located on that property. The two wells, BIMW-4 and BIMW-5, are part of a USEPA-mandated monitoring well network for the Eastern Shallow Zone EMOU groundwater remedy (see attached figure). If these wells have been damaged they pose a threat to groundwater quality as they may act as a vertical conduit for surface releases of contaminants to migrate down to the water table. Walmart gave us access to the property in January 2014 to try and locate the wells using survey coordinates and a GPS unit but we were unsuccessful. Due to grading activities and the thickness of fill overlying the well locations, we could not locate them.

We request that the City's approval of the draft EIR be contingent in part upon Walmart remedying this situation by either: 1) locating and repairing the buried wells, or 2) locating, properly destroying, and replacing the two wells. The repaired/replaced wells will then need to be completed in traffic rated well boxes and the top of well casings surveyed in the appropriate coordinate system. Further, we request that you require that Walmart notify me and the USEPA project manager, Bella Dizon, ([Dizon.Bella@epa.gov](mailto:Dizon.Bella@epa.gov)) when they are performing the work so that we can observe the work to ensure that the quality of work meets USEPA's standards for groundwater remedy project.

GEO-1

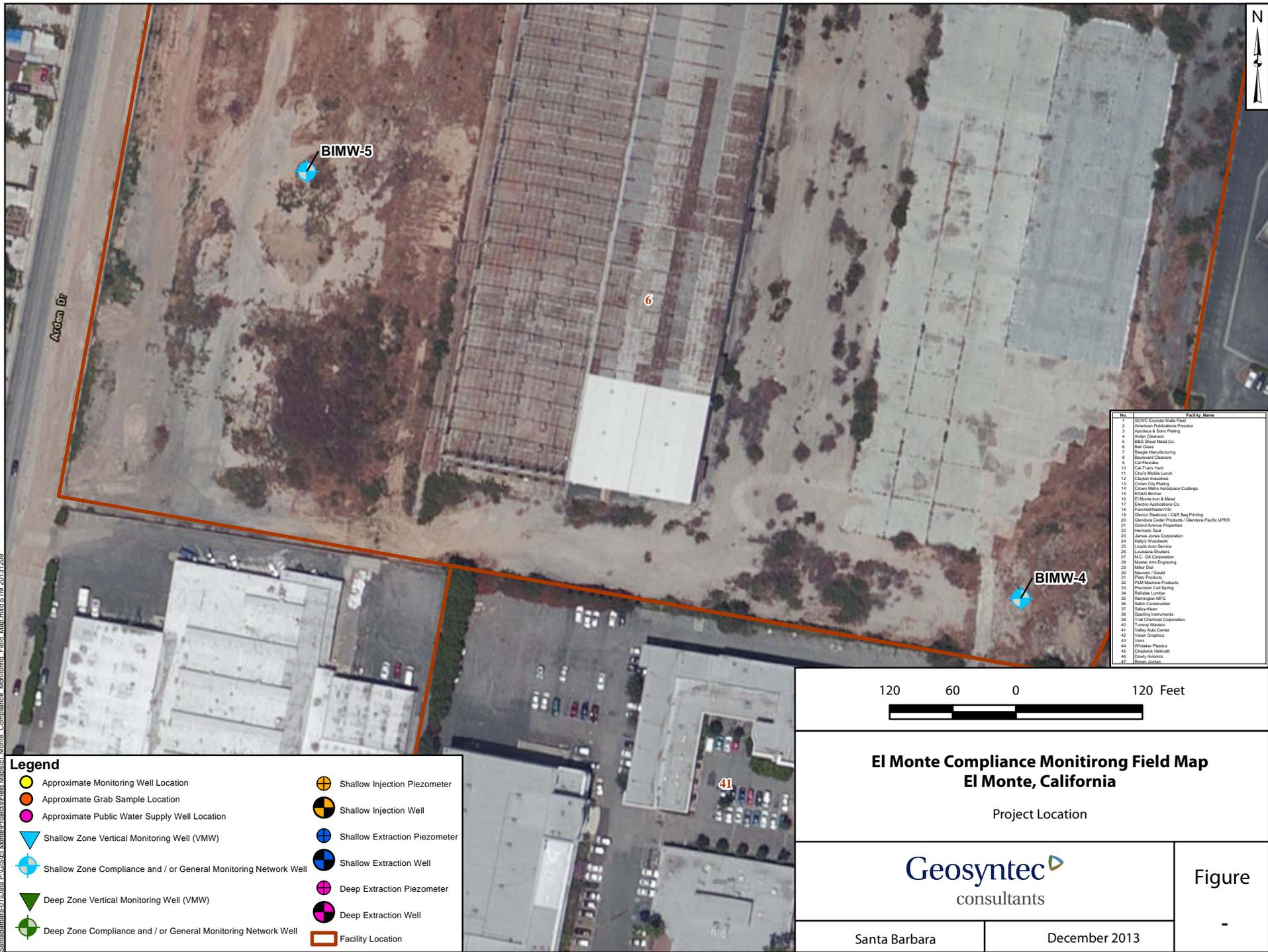
The surveyed coordinates for the two wells are presented below:

Location	Easting	Northing	CoordinateSystemProj	CoordinateSystemGeog	Datum	RefElevation
BIMW-4	403780.8447	3771246.562	NAD_1983_UTM_Zone_11N	GCS_North_American_1983	D_North_American_1983	279.92
BIMW-5	403574.2565	3771369.987	NAD_1983_UTM_Zone_11N	GCS_North_American_1983	D_North_American_1983	280.95

Thank you,

**David Zell, P.G.**  
**Senior Geologist**

-----  
 924 Anacapa Street, Suite 4A  
 Santa Barbara, CA 93101  
 Phone: (805) 897-3800 ext. 9124  
 Fax: (805) 899-8689  
[www.Geosyntec.com](http://www.Geosyntec.com)



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Legend	
	Approximate Monitoring Well Location
	Approximate Grab Sample Location
	Approximate Public Water Supply Well Location
	Shallow Zone Vertical Monitoring Well (VMW)
	Shallow Zone Compliance and / or General Monitoring Network Well
	Deep Zone Vertical Monitoring Well (VMW)
	Deep Zone Compliance and / or General Monitoring Network Well
	Shallow Injection Piezometer
	Shallow Injection Well
	Shallow Extraction Piezometer
	Shallow Extraction Well
	Deep Extraction Piezometer
	Deep Extraction Well
	Facility Location

No.	Facility Name
1	BOVIC Events Walls Field
2	Amalgam Refurbishment Processor
3	Appelica & Sons Plating
4	Arden Cleaners
5	B&G Sheet Metal Co.
6	Bar-Jones
7	Beagle Manufacturing
8	Beckwith Cleaners
9	Cal Plastics
10	Cal Trans Fuel
11	Choi's Mobile Lunch
12	Clayton Industries
13	Crown City Plating
14	Crown Metal Finishing Coatings
15	ES&G Barber
16	El Monte Iron & Metal
17	Electric Applications Co.
18	Fancliff/Marion/CI
19	Genova Sealcoats / CAR Bag Printing
20	Glendora Cedar Products / Glendora Pacific UPRR
21	Grand Avenue Properties
22	Hempels Steel
23	James Jones Corporation
24	Kelly's Woodwork
25	Loyola Auto Service
26	Louisiana Shapers
27	M.C. Oil Corporation
28	Messier Air Engineering
29	Mittler Die
30	Napoleon Goods
31	Plant Products
32	P.M. Machine Products
33	Precision Coil Spring
34	Rebels Lumber
35	Rearington MFG
36	Safety Construction
37	Safety-Klan
38	Sealing Instruments
39	Trail Chemical Corporation
40	Turney Machine
41	Valley Auto Center
42	Vision Graphics
43	Von
44	Whitaker Plastics
45	Chadwick Halmuth
46	Dewey America
47	Blow-Jobber



**El Monte Compliance Monitoring Field Map  
El Monte, California**

Project Location

**Geosyntec**  
consultants

Figure

Santa Barbara

December 2013

-

Geosyntec  
924 Anacapa Street, Suite 4A  
Santa Barbara, CA 93101

Email Dated December 2, 2014

Comment GEO-1

*David Gondek mentioned that the City is currently reviewing a draft EIR associated with the Walmart property on Arden Drive (Assessor ID#: 8575-024-043) and requested that we provide you with information regarding the improper destruction/abandonment of two monitoring wells located on that property. The two wells, BIMW-4 and BIMW-5, are part of a USEPA-mandated monitoring well network for the Eastern Shallow Zone EMOU groundwater remedy (see attached figure). If these wells have been damaged they pose a threat to groundwater quality as they may act as a vertical conduit for surface releases of contaminants to migrate down to the water table. Walmart gave us access to the property in January 2014 to try and locate the wells using survey coordinates and a GPS unit but we were unsuccessful. Due to grading activities and the thickness of fill overlying the well locations, we could not locate them.*

*We request that the City's approval of the draft EIR be contingent in part upon Walmart remedying this situation by either: 1) locating and repairing the buried wells, or 2) locating, properly destroying, and replacing the two wells. The repaired/replaced wells will then need to be completed in traffic rated well boxes and the top of well casings surveyed in the appropriate coordinate system. Further, we request that you require that Walmart notify me and the USEPA project manager, Bella Dizon, ([Dizon.Bella@epa.gov](mailto:Dizon.Bella@epa.gov)) when they are performing the work so that we can observe the work to ensure that the quality of work meets USEPA's standards for groundwater remedy project.*

Response GEO-1

Neither well has been damaged. On March 30, 2015, Tait successfully located both MW-4 and MW-5. Both wells are capped and, according to Tait, both appeared to be in usable condition. (Please refer to supporting documentation provided at Appendix B.) Accordingly, neither well poses a threat to groundwater by acting as a vertical conduit for downward migration of liquids.

Walmart has no obligation to repair or maintain the monitoring wells. Under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), the only parties liable for the costs incurred with maintaining and/or repairing the monitoring wells are those entities/persons that have been found to be liable by the U.S. Environmental Protection Agency (U.S. EPA) as a Responsible Party, or if a party was found to be a Potentially Responsible Party (PRP) but later settled with U.S. EPA (“Settling Defendants”).<sup>20</sup> Walmart has never been deemed a “Responsible Party” by U.S. EPA, nor has it ever reached a settlement with EPA with respect to any actual or alleged liability for the Superfund cleanup. Further, since purchasing the Site in May of 2012, Walmart has attempted to ensure the integrity of all remedial elements (the wells) on the site and to comply with all environmental restrictions applicable to the site, including retaining Tait to cap MW-4 when Walmart purchased the property in 2012.

The Eastside Work Parties (EWPs) are the Settling Defendants that are solely responsible for advancing and monitoring the cleanup work required by U.S. EPA, which includes the ongoing monitoring of groundwater through the use of monitoring wells. The EWPs have previously utilized the monitoring wells located on the site, and the EWPs are required to maintain and repair these wells. As indicated in supporting documents (Appendix B, GSNT letter dated May 18, 2015), Walmart has submitted an access agreement to allow site access to EWP for any well maintenance and/or installation activities.

Contrary to the allegations contained in the comment letters, Walmart has never damaged any wells located on the site. Before Walmart took ownership of the site, monitoring well BIMW-5 was buried by the previous owner; BIMW-4 was buried subsequent to Walmart’s purchase.

CERCLA was drafted to enshrine into law the proposition that the *polluter must pay* for the damage they are responsible for contributing to, including the costs incurred for any remedial actions or monitoring work that may be deemed necessary by U.S. EPA. (“CERCLA ... imposes the costs of the cleanup on those responsible for the contamination.” *Pennsylvania v. Union Gas Co.* 491 U.S. 1, 7 (1989)). In April 2004, numerous defendants -

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<sup>20</sup> Either by declaration or by cost recovery action.

which had been deemed by U.S. EPA as “Potentially Responsible Parties” in connection with the Superfund - settled with U.S. EPA and California Department of Toxic Substances Control (DTSC) on issues related to liability for contamination present on the Site. These parties entered into a settlement agreement with U.S. EPA, pursuant to which the parties agreed to bear the costs and responsibility for the Superfund cleanup and recovery work. This settlement agreement is embodied in the El Monte Operable Unit Consent Decree (the “Consent Decree”).

Under the Consent Decree, the EWPs are responsible for addressing the contamination in the Eastern Shallow Zone of the Superfund area, which encompasses the Site. As part of these requirements, the EWPs are also expressly responsible for the operation and maintenance of all activities required to maintain the effectiveness of the remedial action, including the operation and maintenance of the required wells. (See Consent Decree Section 26 and 27). Pursuant to the Consent Decree, the EWPs are required to negotiate an agreement that will provide for allowing U.S. EPA and its contractors access to the Site for the purposes of “assessing the need for ... implementing additional response actions at or near the site” (i.e. repairing or closing/abandoning wells). (Consent Decree Section 26 (a)(S).)

U.S. EPA and the Consent Decree acknowledge that third-party landowners such as Walmart have no direct obligation to incur costs associated with the EWPs’ obligations. As specified by the Consent Decree, if a certain site is found to be necessary for implementing the required remedial or monitoring action, as the EWPs allege here, it is the EWPs’ obligation to use their best efforts to obtain an agreement to access the site from the new ownership; these best efforts include “the payment of reasonable sums of money in consideration of access, access easements.” (Consent Decree, Sections 27 & 28.) In specifying this, the Consent Decree acknowledges that a landowner’s obligation to the EWPs includes providing access and not obstructing the operation or integrity of any remedial component at the Site, both requirements with which Walmart has fully complied.

As Walmart is not a Responsible Party, nor a Settling Defendant, neither the EWPs nor the City may require or order Walmart to incur any costs or liabilities in connection with the

EWPs' remediation and monitoring responsibilities. Nevertheless, access was provided to the Responsible Parties' consultant, Geosyntec, to evaluate BIMW-4 for its potential use for monitoring the groundwater at the site. Geosyntec found the well to be unusable due to its dry condition and because of the presence of approximately three (3) feet of soil in the bottom of the casing. Geosyntec recommended that the well be closed. The EPA agreed that the well could be abandoned/closed and would have no further use as part of the Superfund site remedy.

The EPA has been informed of the schedule for closure of BIMW-4 and has also indicated that they have not yet determined whether a replacement for well BIMW-4 will be needed for this location. US EPA has confirmed that the responsible parties for the site (Gould Electronics and Johnson Control) will be required to install and maintain any replacement well that should be required. As indicated above, Walmart has submitted an access agreement to Geosyntec to allow site access for any well maintenance and/or installation activities. EPA has confirmed that it has no further expectations of Walmart in this matter. Please refer to supporting documentation provided at Appendix B.

City of El Monte  
 Planning Commission Draft EIR Study Session

January 6, 2015

As mentioned at preceding Section 3.1.1, the following Table 3-2 contains questions and comments regarding the Project presented at the January 6, 2015 Planning Commission Draft EIR Study Session. Although many of the comments are not specifically directed at the Draft EIR, they are included here to provide a record of the concerns that were voiced during the Study Session and aid decision-makers in their deliberations on the Project. Within the Table, comments are presented in *bold, italicized* text, with responses provided subsequent.

**Table 3-2**  
**Planning Commission Draft EIR Study Session**  
**Comments and Responses**

<b>Commissioner Baker</b>	
<b>Baker – 1</b>	<b><i>Can the City limit Walmart's construction hours?</i></b>
	The City limits all construction under Municipal Code Section 8.36.050(C)(1). As stated therein, "it is unlawful for any person within the city to operate power construction tools or equipment in the performance of any outside construction or repair work on building, structures, or projects in or adjacent to a residential area, except between the hours of 6 a.m. and 7 p.m. Monday through Friday or between the hours of 8 a.m. and 7 p.m. on Saturday and Sunday." (Draft EIR page 4.4-20)
<b>Baker – 2</b>	<b><i>Is there a sufficient landscaped setback area?</i></b>
	The Project includes a landscaped setback of a minimum of 15 feet, as required by City development standards. Please also refer to Draft EIR Figure 3.4-8, "Landscape Concept."
<b>Baker – 3</b>	<b><i>Can the City require that the parking lot lighting be dimmed during hours the store is closed so as not to disturb residents?</i></b>
	Although the City is free to set any desired Project lighting conditions, subject to the minimum requirements set forth by City Code, it is noted that the store would operate 24 hours a day (Draft EIR page 3-8). Project lighting has been designed in a manner that precludes potential adverse effects of light overspill. Further, decreasing illumination of the site during nighttime hours may increase public concerns regarding crime and safety. Please refer also to Draft EIR Figures 3.4-11 and 3.4-12.

**Table 3-2**  
**Planning Commission Draft EIR Study Session**  
**Comments and Responses**

<b>Baker – 4</b>	<i>Does the Draft EIR adequately address issues of increased crime and “nuisance” activities around the store?</i>
	As stated within Draft EIR Section 4.8, “Public Services,” development of the Project would result in an incremental increase in the overall City-wide demand for police protection services, which could result in additional staffing or equipment requirements. However, based on the availability of existing facilities and services to the subject site, the Project is not anticipated to significantly affect existing response times or service ratios in regard to the provision of emergency services. Development impact fees and sales tax revenues generated by the Project will provide funding sources available for support and enhancement of police protection services. The City of El Monte and the El Monte Police Department administration will ultimately determine the most effective use of revenues generated by the Project, and how these funds will be employed for the provision and enhancement of police protection services. The Draft EIR determined that impacts in this regard would be less-than-significant.
<b>Baker – 5</b>	<i>Will the project prepare a developer agreement or propose some other community benefits package?</i>
	Neither a developer agreement nor a community benefits package is proposed. However, it is noted that all Project impacts are either mitigated below the threshold of significance or addressed within the Facts, Findings, and Overriding Considerations prepared for the Project.
<b>Baker – 6</b>	<i>Was an urban decay study prepared? Did it show that Walmart would put other stores out of business?</i>
	A Project-specific Urban Decay Study was prepared and provided as Draft EIR Appendix B. The findings and conclusions of the Study were summarized within Draft EIR Section 4.1, “Land Use and Planning.” In summary, the Study concluded that urban decay is unlikely to occur at any of the potentially competitive existing shopping centers or stores within the trade area as the result of implementing the El Monte Walmart Project. This conclusion is based on consideration of current market conditions; findings regarding diverted sales related to the Project and cumulative retail developments; and the potential re-tenanting of the existing retail vacancies. (Draft EIR page 4.1-43)
<b>Baker – 7</b>	<i>Can the project be conditioned to capture rainwater?</i>
	The City’s Low Impact Development (LID) stormwater permit requires runoff to be addressed given the following hierarchy: 1) infiltration, 2) capture and reuse, and 3) biofiltration. Due to past heavy manufacturing operations that occurred onsite between the late 1930s and 2007, the site has infiltration constraints. Based on the given hierarchy, capture and reuse is the next option for stormwater mitigation. In this regard, calculations were performed to determine the irrigation demand and typical average rainfall for the City of El Monte. Due to the low frequency of storm events occurring annually in El Monte, rainwater capture, while potentially feasible, would not yield meaningful or beneficial supplemental water resources.
<b>Baker – 8</b>	<i>Can the City obtain input from other surrounding communities that have Walmarts to learn about their experiences with respect to issues such as crime and impacts to other businesses? The goal would be to learn whether these cities feel Walmart has been bad for the city overall and whether the cities have had problems with Walmart.</i>
	The opinion of surrounding communities regarding other, unrelated developments is not suitable for analysis pursuant to CEQA; therefore, no response is necessary in this document. However, during the Study Session, City staff noted that they would undertake this type of research.

**Table 3-2**  
**Planning Commission Draft EIR Study Session**  
**Comments and Responses**

<b>Baker – 9</b>	<i>Will there be an economic impact study prepared to determine whether the project will have a negative impact on the City in terms of jobs and wages? The urban decay study does not provide these answers.</i>
	<p>Retail job and wage specifics are not subjects suitable for analysis pursuant to CEQA; therefore, no response is necessary in this document. It is further noted that unless related to an impact on the physical environment, a social or economic impact is not considered a significant effect under PRC §§ 21080, subd. (e) (2) . . . “[s]ubstantial evidence is not . . . evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment), 21082.2 (C) (same); CEQA Guidelines, § 15064, subd (e).</p> <p>Analysis of the Project’s economic effects that could potentially contribute to, or a cause, adverse physical impacts is presented in the DEIR Urban Decay Study, DEIR Appendix B (<i>Urban Decay Study For El Monte Walmart</i> (The Natelson Dale Group, Inc.) September 4, 2013. The Study evaluates the potential economic impacts of the proposed Project. In particular, the Study evaluates the potential economic impacts of the proposed City of El Monte Walmart Project to the extent such impacts have the potential to result in urban decay. Urban decay is defined as physical deterioration due to store closures and resulting longterm vacancies that is so prevalent and substantial that the health, safety, and welfare of the surrounding community is impaired. In addition to addressing the potential impacts of the proposed Project itself, the Study also considers cumulative impacts, taking into account the impacts from other planned and proposed retail projects in the trade area. The economic analysis provided in the Study is used to determine, in accordance with the CEQA, the proposed Project’s potential to create urban decay.</p>
<b>Baker – 10</b>	<i>The traffic mitigation requires Walmart to pay its fair share, but does not guarantee when the improvements will actually be built. Can we make Walmart, together with the Flair project, pay for all the improvements up front, and then Walmart and Flair could get reimbursed from other developments as they come on line? This would ensure that the improvements get built sooner, rather than later.</i>
	<p>Although the City is free to set any desired Project Conditions of Approval, it is noted that this intersection currently (without the Project) operates at a level below the City’s minimum standard under one or more peak-hour periods. CEQA Guidelines § 15126.4 subd. (a)(4) provides that there must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. Additionally, the mitigation measures must be roughly proportional to the impacts of the project. To this end, Draft EIR Mitigation Measures 4.2.1 through 4.2.5 require the Project to pay its fair share fees toward specific improvements that would alleviate Project impacts at area intersections affected by Project traffic.</p>
<b>Vice-Chair Peralta</b>	
<b>Peralta – 1</b>	<i>In 2008/2009, there were plans for a recreation center on this project. Was that considered as a viable option? The City is losing its recreation center space and really needs more; this is a prime undeveloped parcel that could be used for that purpose.</i>
	<p>Walmart has since purchased the property, and developed objectives for the development of the site. These objectives are presented at Draft EIR page 3-35. Pursuant to CEQA direction, the Draft EIR (Section 5.2) studied alternatives that would reduce the identified significant impacts and also fulfill the basic Project objectives. A public recreation center would not fulfill</p>

**Table 3-2**  
**Planning Commission Draft EIR Study Session**  
**Comments and Responses**

	the objectives identified by the property owner for the site, and is therefore was not considered a viable alternative from a CEQA analysis standpoint.
<b>Peralta – 2</b>	<i>We should require Walmart to be LEED certified. They have LEED certified projects in Boston, Washington, Texas, Oregon and Ohio. When pushed, they will do so. But only if we make them.</i>
	<p>The LEED process provides a means to certify a building through an auditing process that verifies that certain processes, materials, and systems have been incorporated into the design and construction of a structure. While the LEED process has been successful in many land use applications, it is a “one size fits all” application that may not lead to the most efficient design for a “big box” commercial retail building, such as that proposed by the El Monte Walmart Project. This is due, in part, to the number of customers that cycle through the building on a daily basis.</p> <p>As a specific example, studies have found that LEED-recommended “no flush toilets” do not perform well in high volume restrooms. This product relies on the use of replaceable carbon filters in lieu of water. Under normal circumstances, these filters need to be periodically replaced. However, under high volume applications, the filters need to be continually changed. Therefore, the benefits realized by their use are offset by the need to continually manufacture, purchase, and replace carbon filters. Alternatively, “low flow” toilets (such as those proposed as part of the Project) have proven to be a more efficient approach in high volume applications; however, these are not awarded “points” under the LEED process.</p> <p>Walmart has developed energy efficiency and sustainability features that are specific to a commercial retail use serving high volumes of customers on a daily basis. Please refer to Draft EIR Section 3.4.12 for a complete list of features that would be incorporated into the Project’s design, construction, and operations.</p>
<b>Peralta – 3</b>	<i>We should require Walmart to subsidize a “shopper shuttle” that would mitigate traffic impacts, and could take people to/from the store so they don’t have to drive.</i>
	Walmart is a commercial retailer and not well suited to provide public transportation. However, the City currently provides numerous transportation options, including senior/youth transit, dial-a-ride, bus transit, and commuter shuttles.
<b>Peralta – 4</b>	<i>We should require them to use permeable pavement in the parking lot to recharge groundwater.</i>
	Due to onsite historical heavy manufacturing uses, the site has infiltration constraints prohibiting groundwater recharge. Biofiltration planters will be used throughout the Project site to filter stormwater prior to release into the City storm drain system.
<b>Peralta – 5</b>	<i>We have to push them to do these things. Walmart will only do them if we make them.</i>
	Contrary to the assertion that “Walmart will only do them if we make them,” it is noted that established Walmart practices would meet or surpass all California Title 24 Energy Efficiency Standards. Please refer to Draft EIR Section 3.4.12 for a complete list of all Project energy efficiency/sustainability measures.
<b>Commissioner Garner</b>	
<b>Garner – 1</b>	<i>Is the proposed General Plan Amendment considered a decrease or an increase in land use intensity?</i>

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	The Project includes a General Plan Amendment, redesignating the site from “Industrial/Business Park” to “General Commercial.” From an environmental perspective and consistent with the hierarchy of City zones, a General Commercial land use is considered less intense than an Industrial/Business Park use.
<b>Garner – 2</b>	<b><i>Is the proposed zone change impacting this parcel or any other parcels?</i></b>
	The proposed Zone Change would only affect the Project site.
<b>Garner – 3</b>	<b><i>What is the Northwest Industrial District?</i></b>
	As detailed within Draft EIR Section 4.1, “Land Use and Planning,” the Project site lies within the City of El Monte’s Northwest Industrial District (District). The overall vision for the District is to . . . “serve as the employment engine for the City, but transition to an area that attracts a balance of sustainable light manufacturing, distribution, and technology-oriented business. It [The District] can provide opportunities for investment, entrepreneurship, and significant creation of well-paid jobs in a well-managed and sustainable environment that minimizes traffic impacts, promotes a clean environment, ensures long-term vitality, and strengthens neighborhoods.” (General Plan, page LU-30, Draft EIR page 4.1-9)
<b>Garner – 4</b>	<b><i>Although the zoning won’t impact other properties, the General Plan amendment will. Might these other properties be affected by this change?</i></b>
	As illustrated at Draft EIR Figure 4.1-3, “Northwest Industrial District Boundary,” the Project site and adjacent properties currently constitute a separate “island” in the Northwest Industrial District Boundary. The removal of the other properties from the District (in addition to the Project site) would provide a logical District boundary, as well as provide additional future redevelopment opportunities for those properties, many of which already operate as commercial (rather than industrial) establishments.
<b>Garner – 5</b>	<b><i>The Baldwin/Flair intersection has a significant and unavoidable impact. Mitigation should be implemented. What about the payment of Walmart’s fair share?</i></b>
	Draft EIR Mitigation Measure 4.2.2 requires the Project to pay its fair share fees towards improvements at this intersection. Notwithstanding, this intersection is subject to extra-jurisdictional coordination; neither the Lead Agency, nor the Project Applicant can autonomously construct improvements within areas or at locations under shared jurisdiction. Thus, while physical improvements may be capable of mitigating potentially significant impacts at the intersection, needed improvements cannot be feasibly implemented by the Project Applicant or the Lead Agency.
<b>Garner – 6</b>	<b><i>Couldn’t we do so by encroachment permit?</i></b>
	The purpose of this question is unclear, making an appropriate response difficult.
<b>Garner – 7</b>	<b><i>Was soil contamination found on the site? Was it clean?</i></b>
	The Phase I Report prepared for the Project indicates that no remediation or cleanup of the Project site would be required. Potentially contaminated soils within the Project site should, however, be handled and disposed of pursuant to the Project Soil Management Plan. Compliance with provisions of Project Soil Management Plan is effected through Draft EIR Mitigation Measures 4.6.1 through 4.6.4. (Draft EIR page 4.6-14)
<b>Garner – 8</b>	<b><i>What about the monitoring wells? The Draft EIR says Walmart will abandon them. If they are no longer needed, that would be OK, but they presumably are used for something. What will happen to them? Does access need to be provided to them?</i></b>
	The Comprehensive Environmental Response Compensation and Liability Act (CERCLA)

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	imposes the responsibility and associated costs of remediation on those responsible for the contamination. In this case, the Eastside Work Parties (EWPs) are solely responsible for advancing and monitoring the cleanup work required by the U.S. EPA, which includes the ongoing monitoring of groundwater through the use of monitoring wells. The EWPs have previously utilized the monitoring wells located on the site, and are required to continue to do so. Walmart has submitted an access agreement to allow site access for any well maintenance and/or installation activities. EPA has confirmed that it has no further expectations of Walmart in this matter.
<b>Garner – 9</b>	<b><i>Is the project providing sufficient parking?</i></b>
	A total of approximately 755 parking spaces are proposed within the Project site; of which approximately 17 parking spaces would be designated as handicap-accessible and 4 would be dedicated electrical vehicle recharging spaces. All parking area improvements, including but not limited to parking stalls, drive aisles, parking lot landscaping, and hardscape features would be designed and constructed pursuant to City of El Monte Municipal Code Chapter 17.08, Parking Requirements. (Draft EIR page 3-20)
<b>Commissioner Barrios</b>	
<b>Barrios – 1</b>	<b><i>How many noise complaints were received when the DMV and City Public Works yard were under construction? If there were none, why do we care so much about restricting hours of construction?</i></b>
	No noise complaints were received by the City during construction of the Department of Motor Vehicles (DMV) or the City Public Works yard. Additionally, as stated within the Draft EIR (and under previous response Baker-1), Municipal Code Section 8.36.050(C)(1) limits construction activities except between the hours of 6 a.m. and 7 p.m. Monday through Friday or between the hours of 8 a.m. and 7 p.m. on Saturday and Sunday.” (Draft EIR page 4.4-20)
<b>Barrios – 2</b>	<b><i>For the record, the City is not giving Walmart any money, tax breaks or incentives. This is a completely privately funded project.</i></b>
	The commentator correctly states that the Project would not receive tax breaks or incentives from the City.
<b>Barrios – 3</b>	<b><i>Could the City require a guarantee that some number of employees hired – perhaps 10 or 20% – be local residents?</i></b>
	It is noted that Project-related employment demands are typically expected to be largely filled by local residents of either the City of El Monte or neighboring communities. The types of employment opportunities offered by the Project (i.e., retail) do not generally attract commuters.
<b>Public Concerns</b>	
<b>Public – 1</b>	Numerous public comments presented at the Study Session were not environmental concerns, or related to the Draft EIR, rather the commentators presented opinions regarding issues such as Walmart business practices, salaries, and benefits. Opinions regarding operations and products were also offered. These opinions will be provided to the decisions-makers for consideration during their deliberations of the project.

## **4.0 MITIGATION MONITORING PLAN**

## 4.0 MITIGATION MONITORING PLAN

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### 4.1 INTRODUCTION

To ensure that the mitigation measures contained in this EIR are properly implemented, a monitoring plan has been developed pursuant to State law. This Mitigation Monitoring Plan (MMP) identifies measures incorporated in the Project which reduce its potential environmental effects; the entities responsible for implementation and monitoring of mitigation measures; and the appropriate timing for implementation of mitigation measures. As described at *CEQA Guidelines* Section 15097, this MMP employs both reporting on, and monitoring of, Project mitigation measures.

The objectives of the MMP are to:

- Assign responsibility for, and ensure proper implementation of mitigation measures;
- Assign responsibility for, and provide for monitoring and reporting of compliance with mitigation measures;
- Provide the mechanism to identify areas of noncompliance and need for enforcement action before irreversible environmental damage occurs.

Mitigation monitoring and reporting procedures incorporated in the Project are presented in the following Section 4.2. Specific mitigation measures incorporated in the Project, mitigation timing, and implementation and reporting/monitoring responsibilities are presented within this Section at Table 4.2-1.

## 4.2 MITIGATION MONITORING AND REPORTING

### **Mitigation Monitoring and Responsibilities**

As the Lead Agency, the City of El Monte is responsible for ensuring full compliance with the mitigation measures adopted for the proposed Project. The City will monitor and report on all mitigation activities. Mitigation measures will be implemented at different stages of development throughout the Project area. In this regard, the responsibilities for implementation have been assigned to the Applicant, Contractor, or a combination thereof.

If during the course of Project implementation, any of the mitigation measures identified herein cannot be successfully implemented, the City shall be immediately informed, and the City will then inform any affected responsible agencies. The City, in conjunction with any affected responsible agencies, will then determine if modification to the Project is required and/or whether alternative mitigation is appropriate.

**Table 4.2-1  
El Monte Walmart Project  
Mitigation Monitoring Plan**

**General Note:** *To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.*

	<b>Mitigation Measures</b>	<b>Mitigation Timing</b>	<b>Implementation Entity</b>	<b>Monitoring/Reporting Entity</b>	<b>Monitoring/Reporting Frequency</b>
<b><u>Traffic and Circulation</u></b>					
4.2.1	<i>Prior to the issuance of building permits, the Project Applicant shall pay fair share fees toward the construction of the following improvement at the intersection of Lower Azusa Road and Arden Way (Intersection 16):</i> <ul style="list-style-type: none"> <li>• <i>Installation of a traffic signal.</i></li> </ul>	<i>Prior to issuance of building permits.</i>	<i>Applicant.</i>	<i>City of El Monte.</i>	<i>City shall verify payment of fees at issuance of building permits.</i>
4.2.2	<i>Prior to the issuance of building permits, the Project Applicant shall pay fair share fees toward the construction of the following improvements at the intersection of Baldwin Avenue at Flair Drive/I-10 Eastbound Ramps (Intersection 31):</i> <ul style="list-style-type: none"> <li>• <i>Installation of a traffic signal; and</i></li> <li>• <i>Addition of a southbound right-turn lane.</i></li> </ul>	<i>Prior to issuance of building permits.</i>	<i>Applicant.</i>	<i>City of El Monte.</i>	<i>City shall verify payment of fees at issuance of building permits.</i>
4.2.3	<i>Based on a determination of the City Public Works Director and prior to the issuance of building permits, the Project Applicant shall pay fair share fees toward the construction of one of the following sets of improvements at the intersection of Valley Boulevard at Santa Anita Avenue (Intersection 4):</i> <ul style="list-style-type: none"> <li>• <i>Option 1</i> <ul style="list-style-type: none"> <li>- <i>Restriping southbound approach to provide one left-turn lane, two through lanes, and one optional through-or-right-turn lane.</i></li> <li>- <i>Removal of on-street parking on Santa Anita Avenue south of the intersection.</i></li> </ul> </li> </ul>	<i>Prior to issuance of building permits.</i>	<i>Applicant.</i>	<i>City of El Monte.</i>	<i>City shall verify payment of fees at issuance of building permits.</i>

**Table 4.2-1  
El Monte Walmart Project  
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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<ul style="list-style-type: none"> <li>• Option 2                             <ul style="list-style-type: none"> <li>- Widening of southbound approach to provide one left-turn lane, three through-lanes and one right-turn lane. This would require the widening of pavement to provide a 150-foot right-turn pocket with a 90-foot transition in the southbound direction with the relocation of sidewalk on the west side of Santa Anita Avenue along the widening, and would result in reducing the landscaping and park area on the northwest corner of this intersection.</li> <li>- Removal of on-street parking on the west side of Santa Anita Avenue south of the intersection.</li> </ul> </li> </ul> <p>4.2.4 Prior to the issuance of building permits, the Project Applicant shall pay fair share fees toward the construction of the following improvements at the intersection of Arden Drive at Arden Way (Intersection 34):</p> <ul style="list-style-type: none"> <li>• Installation of a traffic signal.</li> <li>• Striping of southbound approach with one left-turn lane and one through lane.</li> <li>• Channelization of the northbound right-turn lane with a raised, landscaped median to provide for improved pedestrian refuge areas and crossings.</li> <li>• Relocation of the pedestrian crossing of Arden Way to cross only the northbound channelized right-turn movement and install "Yield to Pedestrian" sign controls.</li> <li>• Striping of a new northbound pedestrian crossing of Arden Way at the Arden Way approach to Arden Drive, and operate this crossing under signal control.</li> </ul>	<p>Prior to issuance of building permits.</p>	<p>Applicant.</p>	<p>City of El Monte.</p>	<p>City shall verify payment of fees at issuance of building permits.</p>

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	<b>Mitigation Measures</b>	<b>Mitigation Timing</b>	<b>Implementation Entity</b>	<b>Monitoring/Reporting Entity</b>	<b>Monitoring/Reporting Frequency</b>
4.2.5	<i>Pursuant to City of El Monte General Plan's Circulation Element Policy C-1.7, prior to the issuance of building permits, the Project Applicant shall participate on a fair-share basis in funding a project-specific report for regionally significant projects.</i>	Prior to issuance of building permits.	Applicant.	City of El Monte.	City shall verify payment of fees at issuance of building permits.

**Air Quality**

4.3.1	<i>The following requirements shall be incorporated into Project plans and specifications in order to ensure implementation of SCAQMD Rule 403 and limit fugitive dust emissions:</i>	Prior to building plan check.	Applicant.	City of El Monte.	Ongoing throughout construction activity.
	<ul style="list-style-type: none"> <li>• <i>All clearing, grading, earth-moving, or excavation activities shall cease when winds exceed 25 miles per hour;</i></li> <li>• <i>The contractor shall ensure that all disturbed unpaved roads and disturbed areas within the Project site are watered at least three (3) times daily during dry weather. Watering, with complete coverage of disturbed areas, shall occur at least three times a day, preferably in the mid-morning, afternoon, and after work is done for the day; and</i></li> <li>• <i>The contractor shall ensure that traffic speeds on unpaved roads and Project site areas are reduced to 15 miles per hour or less.</i></li> </ul>				

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	<b>Mitigation Measures</b>	<b>Mitigation Timing</b>	<b>Implementation Entity</b>	<b>Monitoring/Reporting Entity</b>	<b>Monitoring/Reporting Frequency</b>
4.3.2	<i>Grading plans shall reference the requirement that a sign shall be posted on-site stating that construction workers need to shut off engines at or before five minutes of idling. This requirement is based on the California Air Resources Board regulation in Title 13, Chapter 10, Section 2485, Division 3 of the California Code of Regulations, which imposes a requirement that heavy duty trucks accessing the site shall not idle for greater than five minutes at any location. This measure applies to construction traffic.</i>	Prior to the issuance of grading plans.	Applicant.	City of El Monte.	At issuance of grading plans.
4.3.3	<i>During grading activity, all rubber tired dozers and scrapers (≥ 50 horsepower) shall be CARB Tier 3 Certified or better. Additionally, during grading activity, total horsepower-hours per day for all equipment shall not exceed 16,784; and the maximum (actively graded) disturbance area shall not exceed five (5) acres per day.</i>	During grading activity.	Construction contractor.	City of El Monte.	Ongoing throughout grading activity.
4.3.4	<i>Prior to the issuance of building permits, the Project applicant shall submit energy usage calculations showing that the Project is designed to achieve a minimum 5% efficiency beyond then incumbent California Building Code Title 24 requirements. Verification of increased energy efficiencies shall be shall be documented in Title 24 Compliance Reports provided by the Applicant, and reviewed and approved by the City prior to the issuance of</i>	Prior to issuance of building permits.	Applicant.	City of El Monte.	At issuance of building permits.

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El Monte Walmart Project  
Mitigation Monitoring Plan**

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<b>Mitigation Measures</b>	<b>Mitigation Timing</b>	<b>Implementation Entity</b>	<b>Monitoring/Reporting Entity</b>	<b>Monitoring/Reporting Frequency</b>
<p><i>building permits Examples of measures that reduce energy consumption include, but are not limited to, the following (it being understood that the items listed below are not all required and merely present examples; the list is not all-inclusive and other features that achieve the required energy efficiency performance standard also are acceptable):</i></p> <ul style="list-style-type: none"> <li><i>• Increase in insulation such that heat transfer and thermal bridging is minimized;</i></li> <li><i>• Limit air leakage through the structure and/or within the heating and cooling distribution system;</i></li> <li><i>• Use of energy-efficient space heating and cooling equipment;</i></li> <li><i>• Installation of electrical hook-ups at loading dock areas;</i></li> <li><i>• Installation of dual-paned or other energy efficient windows;</i></li> <li><i>• Use of interior and exterior energy efficient lighting that exceeds then incumbent California Title 24 Energy Efficiency performance standards;</i></li> <li><i>• Installation of automatic devices to turn off lights where they are not needed;</i></li> <li><i>• Application of a paint and surface color palette that emphasizes light and off-white colors that reflect heat away</i></li> </ul>				

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El Monte Walmart Project  
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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p><i>from buildings;</i></p> <ul style="list-style-type: none"> <li>• <i>Design of buildings with “cool roofs” using products certified by the Cool Roof Rating Council, and/or exposed roof surfaces using light and off-white colors;</i></li> <li>• <i>Installation of ENERGY STAR-qualified energy-efficient appliances, heating and cooling systems, office equipment, and/or lighting products.</i></li> </ul>				
<p>4.3.5 <i>Enhanced Water Conservation Required: Prior to the issuance of building permits, the Project Applicant shall prepare a Water Conservation Strategy demonstrating a minimum 30% reduction in outdoor water usage when compared to baseline water demand (total expected water demand without implementation of the Water Conservation Strategy). Verification of decreased outdoor water usage shall be documented in CalGreen Code Compliance Worksheets provided by the Applicant, and reviewed and approved by the City prior to the issuance of building permits.</i></p>	<p>Prior to issuance of building permits.</p>	<p>Applicant.</p>	<p>City of El Monte.</p>	<p>At issuance of building permits.</p>
<p><i>The Project shall also implement the following:</i></p> <ul style="list-style-type: none"> <li>• <i>Landscaping palette emphasizing drought tolerant plants;</i></li> <li>• <i>Use of water-efficient irrigation techniques;</i></li> <li>• <i>U.S. Environmental Protection Agency (EPA) Certified</i></li> </ul>				

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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/Reporting Entity	Monitoring/Reporting Frequency
<p><i>WaterSense labeled or equivalent faucets, high-efficiency toilets (HETs), and water-conserving shower heads.</i></p>				
<b>Noise</b>				
<p><i>4.4.1 Prior to approval of grading plans and/or issuance of building permits, plans shall include a note indicating that noise-generating Project construction activities shall not occur between the hours of 7 p.m. and 6 a.m. Monday through Friday, or between the hours of 7 p.m. and 8 a.m. on Saturday or Sunday. The Project construction supervisor shall ensure compliance with these limitations on construction hours, and the City shall conduct periodic inspections at its discretion.</i></p>	<p><i>Prior to approval of grading plans and/or issuance of building permits.</i></p>	<p>Applicant.</p>	<p>City of El Monte.</p>	<p>Ongoing throughout construction activity.</p>
<p><i>4.4.2 During all Project site construction, the construction contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufacturers' standards. The construction contractor shall place all stationary construction equipment so that emitted noise is directed away from the noise sensitive receptors nearest the Project site.</i></p>	<p>Throughout construction.</p>	<p>Construction contractor.</p>	<p>City of El Monte.</p>	<p>Ongoing throughout construction activity.</p>

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<b>Mitigation Measures</b>	<b>Mitigation Timing</b>	<b>Implementation Entity</b>	<b>Monitoring/Reporting Entity</b>	<b>Monitoring/Reporting Frequency</b>
4.4.3 <i>The construction contractor shall locate equipment staging in areas that will create the greatest distance between construction-related noise sources and noise sensitive receptors nearest the Project site during all project construction.</i>	Throughout construction.	Construction contractor.	City of El Monte.	Ongoing throughout construction activity.
4.4.4 <i>The construction contractor shall limit haul truck deliveries to the same hours specified for construction equipment (between the hours of 7 p.m. and 6 a.m. Monday through Friday, or between the hours of 7 p.m. and 8 a.m. on Saturday or Sunday). Haul routes shall not pass sensitive land uses or residential dwellings.</i>	Throughout construction.	Construction contractor.	City of El Monte.	Ongoing throughout construction activity.

**Cultural Resources**

4.5.1 <i>To ensure avoidance of adverse impacts to potentially significant historic or prehistoric archaeological resources, the Project site shall be monitored during the initial grading and over-excavation phases of construction. The monitoring shall be conducted by a professional archaeological consultant meeting Secretary of Interior’s Standards and Guidelines for Archaeological and Historic Preservation [Code of Federal Regulations, 36 CFR Part 61]. The monitor shall have the authority to halt any activities impacting potentially significant resources until a program for addressing the resource(s) is developed and</i>	Prior to issuance of grading permits.	Applicant.	City of El Monte.	City to verify before issuance of grading permits.
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<b>Mitigation Measures</b>	<b>Mitigation Timing</b>	<b>Implementation Entity</b>	<b>Monitoring/ Reporting Entity</b>	<b>Monitoring/Reporting Frequency</b>
<p><i>implemented. At the conclusion of the initial phase of earthwork, the monitor shall prepare and submit a report explaining the results of the monitoring and if necessary, providing specific justification for any further monitoring. The City shall have the sole discretion to require any continued onsite monitoring.</i></p> <p>4.5.2 <i>If significant Native American cultural resources are discovered for which a Treatment Plan must be prepared, the developer or archaeologist shall contact all appropriate Native American tribal representatives, as identified by the Native American Heritage Commission. If requested by the Tribe(s), the City, the developer, or the Project archaeologist shall, in good faith, consult on the discovery and its disposition (e.g., avoidance, preservation, return of artifacts to tribe, etc.). A report of findings shall also be prepared by a qualified archaeologist, and shall include an itemized inventory of any specimens recovered. The report and confirmation of curation of any recovered resources from an accredited museum repository shall signify completion of the program to mitigate impacts to archaeological/historic resources. If disturbed resources are required to be collected and preserved, the Applicant shall be required to participate financially up to the limits imposed by Public Resources Code Section 21083.2.</i></p>	<p>Prior to issuance of first Certificate of Occupancy.</p>	<p>Applicant.</p>	<p>City of El Monte.</p>	<p>Before issuance of first Certificate of Occupancy.</p>

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Mitigation Measures	Mitigation Timing	Implementation Entity	Monitoring/ Reporting Entity	Monitoring/Reporting Frequency
4.5.3 <i>Should soils containing as-yet-unidentified paleontological resources be encountered in the course of Project development, construction activities will be halted, allowing for identification, cataloguing, and as applicable, protection and preservation of resources by a qualified paleontologist. A qualified paleontologist is defined as an individual with an M.S. or a Ph. D. in paleontology or geology who is familiar with paleontological procedures and techniques. A paleontological monitor may be retained to perform the on-site monitoring in place of the qualified paleontologist. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and who is working under the supervision of a qualified paleontologist.</i>	Throughout grading and excavation activities.	Applicant.	City of El Monte.	Ongoing throughout grading and excavation activities.
<b><u>Hazards/Hazardous Materials</u></b>				
4.6.1 <i>Prior to the issuance of grading permits, the Project Applicant shall demonstrate to the satisfaction of the City Building Official that grading plans include a copy of the Soil Management Plan (Soil Management Plan, Pacific Trade Center, Former St. Gobain Property, 4000 North Arden Drive, El Monte, CA 91731, prepared by HMC in January 2009, included in Draft EIR Appendix F) which includes maps showing areas of known impact and areas where impacted soil was previously removed.</i>	Prior to issuance of grading permits.	Applicant	City of El Monte.	At issuance of grading permits.

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	<b>Mitigation Measures</b>	<b>Mitigation Timing</b>	<b>Implementation Entity</b>	<b>Monitoring/ Reporting Entity</b>	<b>Monitoring/Reporting Frequency</b>
4.6.2	<i>Should any areas of unknown soil impacts be encountered, the contractor will be required to discontinue work in the suspect area unless otherwise directed by a qualified Soil Management Plan Field Coordinator or Program Manager. Any suspect impacted soil, groundwater, or other materials such as debris from the suspect area shall be kept within the same general area where it is found and not moved to other parts of the Site. Resumption of grading in any suspect area shall not continue without the approval of the Soil Management Plan Field Coordinator or Program Manager.</i>	Throughout construction.	Construction Contractor.	City of El Monte.	Ongoing throughout construction.
4.6.3	<i>Should contaminated soils be encountered as part of Project development, the protocols identified within the Soil Management Plan shall be followed in regard to monitoring, handling, disposal, and reporting of management activities to the California Department of Toxic Substance Control, Los Angeles Regional Water Quality Control Board, and/or South Coast Air Quality Management District (including copies of all daily field logs containing SCAQMD Rule 1166 monitoring results), as required. Copies of all submitted reports and responses from responsible agencies shall be provided to the City of El Monte.</i>	Throughout construction.	Applicant.	City of El Monte.	Ongoing throughout construction.

**Table 4.2-1  
El Monte Walmart Project  
Mitigation Monitoring Plan**

**General Note:** *To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.*

<b>Mitigation Measures</b>	<b>Mitigation Timing</b>	<b>Implementation Entity</b>	<b>Monitoring/Reporting Entity</b>	<b>Monitoring/Reporting Frequency</b>
4.6.4 <i>Prior to the issuance of building permits, the Soil Management Plan Program Manager shall coordinate with the parties responsible for the existing groundwater monitoring wells within the Project site and demonstrate, to the satisfaction of the City of El Monte, that agreements for the proper abandonment of these wells are in place.</i>	Prior to issuance of building permits.	Applicant.	City of El Monte.	Before issuance of building permits.
<b><u>Hydrology and Water Quality</u></b>				
4.7.1 <i>The City of El Monte requires a Notification of Intent (NOI) and compliance with all applicable general permits. Each discharger associated with construction activity, or other discharger described in any general stormwater permit addressing such discharges as may be adopted by the United States Environmental Protection Agency, the State Water Resources Control Board (SWRCB), or the Los Angeles Regional Water Quality Control Board, shall provide Notice of Intent, comply with, and undertake all other activities required by any general stormwater permit applicable to such discharges (Article X Stormwater Management Division 3. Discharge Regulations and Requirements Section.18-495. Reduction of pollutants in stormwater).</i>	Prior to issuance of grading permits.	Applicant.	City of El Monte.	Before issuance of grading permits.
4.7.2 <i>The Project Applicant shall obtain environmental clearance from the City of El Monte prior to receiving any grading or building permits. The County of Los Angeles Municipal Stormwater (MS4) Permit does not allow the</i>	Prior to issuance of grading or building permits.	Applicant.	City of El Monte.	Before issuance of grading or building permits.

**Table 4.2-1  
El Monte Walmart Project  
Mitigation Monitoring Plan**

**General Note:** *To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.*

<b>Mitigation Measures</b>	<b>Mitigation Timing</b>	<b>Implementation Entity</b>	<b>Monitoring/ Reporting Entity</b>	<b>Monitoring/Reporting Frequency</b>
<i>City of El Monte to issue permits until such time as the Project has obtained environmental clearance.</i>				
4.7.3 <i>As required by the SWRCB and in compliance with the City of El Monte requirements for environmental clearance, the Project developer shall file a NOI with the State of California to comply with the requirements of the National Pollution Discharge Elimination System General Construction Permit. Before issuance of a grading permit, the Project Applicant shall prepare a Construction a Stormwater Pollution Prevention Plan (SWPPP), in compliance with the applicable ordinances and regulations of the City of El Monte, the Los Angeles County Flood Control District, and the SWRCB. The Construction SWPPP shall incorporate Best Management Practices (BMPs) for control of pollutants in stormwater runoff during construction-related activities, which will be designed to address the following: water erosion control, sediment control, offsite tracking control, wind erosion control, non-stormwater management control, and waste management and materials pollution control.</i>	Prior to issuance of grading permits.	Applicant.	City of El Monte.	At issuance of grading permits.
4.7.4 <i>The Project Applicant shall develop a Project-specific LID Plan in compliance with the City-required LID Plan and Municipal Stormwater Permit.</i>	Prior to issuance of grading permits.	Applicant.	City of El Monte.	Before issuance of grading permits.