From: Alisha C. Pember <apember@adamsbroadwell.com>
Sent: Wednesday, February 22, 2023 3:47 PM
To: Phil Dunsmore <pdunsmore@atascadero.org>; Kelly Gleason <kgleason@atascadero.org>
Cc: Richard M. Franco <rfranco@adamsbroadwell.com>
Subject: Comments on Revised MND for Barrel Creek Planned Development Project (PNLN No. DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699)

Good afternoon,

Please find attached **Comments on Revised MND for Barrel Creek Planned Development Project (PNLN No. DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699)** and **Exhibits A-E**.

We are also providing a Dropbox link containing supporting references:
https://www.dropbox.com/scl/fo/hngtybhzjipty368nnub2/h?dl=0&rlkey=9koa85zjzr7fzhupdtnesxwhr

A hard copy of our Comments and Exhibits A-E will be sent out today via overnight delivery.

If you have any questions, please contact Richard Franco.

Thank you.

Alisha Pember

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February 22, 2023

Via Email and Overnight Mail

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Re: Comments on Revised MND for Barrel Creek Planned Development Project (PNLN No. DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699)

Dear Mr. Dunsmore and Ms. Gleason:

We are writing on behalf of Californians Allied for a Responsible Economy ("CARE CA") with respect to the revised Initial Study/Mitigated Negative Declaration ("MND") [1] prepared for the Barrel Creek Planned Development Project (PNLN No. DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699) ("Project"), proposed by Legacy Realty and Development, LLC.

The Project proposes to develop a mixed-use development at the intersection of Del Rio Road and San Ramon Road in the City of Atascadero ("City"), San Luis Obispo County, California. The Project includes a proposal for 48,000 square feet ("sf") of commercial/light industrial space, a 120-room hotel, 40 multi-family apartment units, 5,000 sf of restaurant or brewery space, 16 short-term stay cottages, and a 20-lot single family subdivision. The Project address is 6010, 6020, 6030 Del Rio Rd. and 1505, 1855 San Ramon Rd., Atascadero, CA 93422 on Assessor Parcel Numbers: 049-131-043, 044, 052, 058, and 066.

[1] As used herein, "MND" refers to the revised Initial Study/Mitigated Negative Declaration released by the City on or about February 3, 2023.

On February 3, 2023, the City released its revised MND. On February 7, 2023, CARE CA provided the City with its initial comments on the revised MND.[2] Those comments addressed numerous ways in which the MND fails to comply with the California Environmental Quality Act[3] ("CEQA"), including the lack of a complete, accurate and stable Project description, failure to adequately analyze the Project's potentially significant impacts with respect to air quality, energy, noise and transportation or to support the MND's conclusions with substantial evidence, and failure to perform a proper cumulative impacts analysis. We also explained why the City may not make the necessary findings to support approval of the Project's required entitlements.

CARE CA provides these additional comments following further review of the MND with its experts Matt Hagemann, P.G., C.Hg., and Paul Rosenfeld, PhD[4] and Daniel Smith, P.E.[5] In addition to the issues raised in our February 7, 2023 MND Comments, the SWAPE Comments explain how the MND fails to adequately evaluate the Project's impacts, and provides substantial evidence supporting a fair argument that the Project's construction and operational emissions of toxic air contaminants ("TACs") will cause significant risks of cancer to nearby residents. The Smith Comments further explain why the MND's transportation impacts analysis lacks substantial evidence supporting its conclusions. For these reasons, and the reasons set forth in the February 7, 2023 MND Comments, the MND does not comply with CEQA and the City is required to prepare a legally adequate EIR for the Project.

I. STATEMENT OF INTEREST

CARE CA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental impacts of the Project. The coalition includes Atascadero residents Lucas Falkenstern and Matt Macias and

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[2] See February 7, 2023 letter from Richard M. Franco to City of Atascadero Planning Commission re Agenda Item #3-Barrel Creek Planned Development Project (the "February 7, 2023 MND Comments"). These comments are incorporated herein by reference.
[3] Pub. Resources Code, §§ 21000 et seq.; 14 Cal. Code Regs. ("C.C.R") §§ 15000 et seq. ("CEQA Guidelines").
[4] Mr. Hagemann's and Dr. Rosenfeld's comments are set forth in the February 20, 2023 letter from SWAPE to Richard M. Franco re Comments on the Barrel Creek Planned Development Project ("SWAPE comments"), attached hereto as **Exhibit A.**
[5] Mr. Smith's comments are set forth in the February 21, 2023 letter from Daniel T. Smith to Richard M. Franco re ("Barrel Creek Planned Development IS/MND") Smith Comments"), attached hereto as **Exhibit B.**

Paso Robles resident Frank Ortega, and other individuals who live and work in Atascadero and the surrounding area.

CARE CA advocates for protecting the environment and the health of their communities' workforces. CARE CA seeks to ensure a sustainable construction industry over the long-term by supporting projects that offer genuine economic and employment benefits, and which minimize adverse environmental and other impacts on local communities. CARE CA members live, work, recreate, and raise their families in the City of Atascadero and surrounding communities. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist onsite.

In addition, CARE CA has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making the area less desirable for new businesses and new residents. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

II. THE MND IS INADEQUATE AS A CEQA DOCUMENT AND AN EIR IS REQUIRED

CEQA requires that lead agencies analyze any project with potentially significant environmental impacts in an EIR.[6] "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."[7] 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."[8]

CEQA's purpose and goals must be met through the preparation of an EIR, except in certain limited circumstances.[9] CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the "fair argument" standard. Under that standard, a lead agency "shall" prepare

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[6] See Pub. Resources Code § 21000; CEQA Guidelines § 15002.
[7] *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 (internal citations omitted).
[8] *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.
[9] See Pub. Resources Code § 21100.

an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.[10]

In contrast, a mitigated negative declaration may be prepared only when, after preparing an initial study, a lead agency determines that a project may have a significant effect on the environment, but:

> (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review *would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur*, and (2) there is *no substantial evidence* in light of the whole record before the public agency that the project, as revised, *may* have a significant effect on the environment.[11]

Courts have held that if "no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR."[12] The fair argument standard creates a "low threshold" favoring environmental review through an EIR, rather than through issuance of a negative declaration.[13] An agency's decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.[14]

"Substantial evidence" required to support a fair argument is defined as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions

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[10] Pub. Resources Code §§ 21080(d), 21082.2(d); CEQA Guidelines §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.

[11] Pub. Resources Code § 21064.5 (emphasis added).

[12] See, e.g., *Communities for a Better Environment. v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320.

[13] *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.

[14] *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318; see also *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002 ("If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR and adopt a negative declaration, because it could be 'fairly argued' that the project might have a significant environmental impact").

might also be reached."[15] According to the CEQA Guidelines, when determining whether an EIR is required, the lead agency is required to apply the principles set forth in Section 15064, subdivision (f):

> [I]n marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

With respect to this Project, the MND fails to satisfy the basic purposes of CEQA. The City failed to adequately investigate, analyze, disclose and mitigate the Project's potentially significant impacts. Therefore, the City's conclusions that the Project will have less than significant impacts are unsupported by substantial evidence and an EIR is required.

III. THE MND FAILS TO ADEQUATELY ANALYZE OR MITIGATE THE PROJECT'S POTENTIALLY SIGNIFICANT HEALTH RISKS

A lead agency's significance determinations must be supported by accurate scientific and factual data.[16] An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.[17] A key purpose of the initial study is to provide documentation of the factual basis for the MND's finding that the Project will not have a significant impact on the environment.[18] Indeed, it is an abuse of discretion under CEQA where an agency's decision is not supported by the findings, or the findings are not supported by the evidence.[19] CEQA requires that the initial study disclose data or evidence upon which the study relies. "Mere conclusions simply provide no vehicle for judicial review."[20]

These standards apply to lead agencies' evaluations of public health impacts of a project under CEQA. In *Sierra Club v. County of Fresno*, the California Supreme Court affirmed CEQA's mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the

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[15] CEQA Guidelines § 15384(a).
[16] 14 C.C.R. § 15064(b).
[17] *Kings County Farm Bureau*, 221 Cal.App.3d at 732.
[18] *Citizens Ass'n for Sensible Development v. County of Inyo* (1985) 172 Cal.App.3d 151, 171.
[19] *Id.*; Code of Civil Procedure § 1094.5(b).
[20] *Citizens Ass'n, supra,* 172 Cal.App.3d at 171.

public health impacts from air pollutants that would be generated by a development project.[21] In *Sierra Club*, the Supreme Court held that the EIR for the Friant Ranch Project—a 942-acre master-planned, mixed-use development with 2,500 senior residential units, 250,000 square feet of commercial space, and open space on former agricultural land in north central Fresno County—was deficient as a matter of law in its informational discussion of air quality impacts as they relate to adverse human health effects.[22] As the Court explained, "a sufficient discussion of significant impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact."[23] The Court concluded that the County's EIR was inadequate for failing to disclose the nature and extent of public health impacts caused by the project's air pollution. As the Court explained, the EIR failed to comply with CEQA because after reading the EIR, "the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin."[24] CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.[25]

Furthermore, in *Berkeley Jets*, the Court of Appeal held that a CEQA document must analyze the impacts from human exposure to toxic substances.[26] In that case, the Port of Oakland approved a development plan for the Oakland International Airport.[27] The EIR admitted that the Project would result in an increase in the release of toxic air contaminants ("TACs") and adopted mitigation measures to reduce TAC emissions, but failed to quantify the severity of the Project's impacts on human health.[28] The Court held that mitigation alone was insufficient, and that the Port had a duty to analyze the health risks associated with exposure to TACs.[29] As the CEQA Guidelines explain, "[t]he EIR serves not

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[21] *Sierra Club,* 6 Cal.5th at 518–522.
[22] *Id.* at 507–508, 518–522.
[23] *Id.* at 519, citing *Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 514–515.
[24] *Id.* at 518. CEQA's statutory scheme and legislative intent also include an express mandate that agencies analyze human health impacts and determine whether the "***environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly***." (Public Resources Code § 21083(b)(3) (emphasis added).) Moreover, CEQA directs agencies to "take immediate steps to identify any critical thresholds for the ***health and safety of the people*** of the state and take all coordinated actions necessary to prevent such thresholds being reached." (Public Resources Code § 21000(d) (emphasis added).)
[25] *Sierra Club*, 6 Cal.5th at 518–522.
[26] *Berkeley Jets*, 91 Cal.App.4th at 1369–1371.
[27] *Id.* at 1349–1350.
[28] *Id.* at 1364–1371.
[29] *Id.*

only to protect the environment but also to demonstrate to the public that it is being protected."[30]

Here, the City used the initial study checklist authorized by the CEQA Guidelines in preparing its findings for the MND.[31] Among the City's findings are that the Project will not expose sensitive receptors to substantial pollutant concentrations. Impact findings like this one must be explained to show that there is some evidence supporting the findings.[32] However, the City ignores the California Supreme Court's mandate to evaluate the nature and magnitude of air pollution impacts on public health, as well as guidance from state and local public health agencies to do the same. The MND fails to evaluate potentially significant impacts to nearby sensitive receptors. Indeed, it fails to even identify the nearest sensitive receptors, a crucial omission given that the Project site is currently zoned for residential use and the site is surrounded on three sides by single family residences. The MND contains no discussion, let alone a specific finding, as to the Project's impacts on neighboring sensitive receptors. There is no disclosure or analysis of TACs that will be emitted during Project construction and operations or the impact on nearby sensitive receptors.

As detailed in the SWAPE Comments, the Project will produce diesel particulate matter ("DPM"), a TAC, from construction equipment over a period of at least five years.[33] Project operations are expected to generate 2,751 daily vehicle trips, which would produce additional exhaust emissions and continue to expose nearby sensitive receptors to emissions including DPM.[34] The MND, though, contains no evaluation of Project-generated emissions of TACs or their potential adverse impacts on human health.

The SWAPE Comments cite the Office of Environmental Health Hazard Assessment's ("OEHHA") guidance for conducting health risk assessments in California, which recommends that all short-term projects lasting at least 2 months assess cancer risk- to nearby sensitive receptors.[35] Furthermore, OEHHA recommends that exposures from projects lasting more than six months should be evaluated for the duration of the project.[36] The Project's anticipated construction schedule exceeds both of these thresholds, warranting preparation of a quantified health risk analysis ("HRA") for the entire construction period. The Project's

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[30] 14 C.C.R. § 15003(b).
[31] 14 C.C.R. § 15063(d) and (f), and Appendix G.
[32] 14 C.C.R. § 15063(d)(3).
[33] SWAPE Comments, pg. 1.
[34] *Id.*, pg. 2.
[35] *Id.*
[36] *Id.*

operational phase will likewise exceed these thresholds, and should be evaluated for the entire 30-year residential exposure duration as indicated by OEHHA's guidelines.

In addition, the San Luis Obispo County Air Pollution Control District ("SLOAPCD") recognizes that diesel particulate matter from construction equipment is a TAC.[37] "Depending on the construction site location and proximity to sensitive receptors, a project that generates high levels of construction emissions, including diesel PM, may be required to perform a health risk assessment to evaluate short-term exposures to high pollutant concentrations and, if necessary, to implement mitigations measures."[38] The APCD further recognizes that proximity of sensitive receptors, including residential dwelling units, to a construction site constitutes a special condition and may require a more comprehensive evaluation of diesel particulate matter ("DPM") impacts.[39] "Sensitive receptor locations for a project need to be identified during the CEQA review process and mitigation to minimize toxic diesel PM impacts need to be defined. The types of construction projects that typically require a more comprehensive evaluation include large-scale, long-term projects that occur within 1,000 feet of a sensitive receptor location(s)."[40] This Project will involve construction over 5-8 years, and there are numerous single-family residences well within 1,000 feet of the Project boundaries. Despite the fact that it cites and incorporates the APCD Handbook by reference, the City ignores the requirement to identify sensitive receptors, to perform a "more comprehensive" health risk analysis, or to define mitigation to minimize toxic DPM impacts.

SWAPE performed a preliminary HRA of the Project's construction and operational health risk impacts to existing residential sensitive receptors using the annual PM_{10} exhaust estimate from the MND's CalEEMod output files.[41] This analysis calculated the excess cancer risk to the maximally exposed individual resident near the Project site, using applicable HRA methodology prescribed by OEHHA, as recommended by SLOAPCD.[42] SWAPE found that the excess cancer risk over the course of a residential lifetime (30 years) is approximately 58.1 in one million, exceeding the SLOAPCD threshold of 10 in one million and representing a

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[37] San Luis Obispo Air Pollution Control District CEQA Air Quality Handbook, pg. 2-1, available at https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/CEQA_Handbook_2012_v2%20%28Updated%20MemoTable1-1_July2021%29_LinkedwithMemo.pdf, last accessed on February 7, 2023.
[38] *Id.*
[39] *Id.*, pg. 2-3.
[40] *Id.*
[41] SWAPE Comments, pgs. 4-8.
[42] *Id.*, pg. 5.

potentially significant impact not disclosed or analyzed in the MND.[43] This screening level analysis warrants an EIR with a full health risk analysis that properly evaluates health risk impacts associated with Project construction and operation. If this analysis confirms that the Project would result in significant health risks, all feasible mitigation measures should be adopted to reduce the risk to less than significant levels. SWAPE's comments identifies numerous feasible mitigation measures that are available to reduce emissions.[44] While the MND includes some mitigation measures mainly targeted at reducing dust from construction, it fails to adopt many of the feasible measures recommended by SWAPE to reduce emissions of TACs.

The City therefore must prepare an EIR that properly discloses and analyzes the Project's potentially significant air quality impacts, identifies the nearest sensitive receptors, includes a health risk analysis that fully analyzes potentially significant impacts of the Project's construction and operations on these receptors, and adopts appropriate and feasible mitigation measures.

IV. THE MND FAILS TO PROVIDE SUBSTANTIAL EVIDENCE SUPPORTING ITS TRANSPORTATION IMPACTS ANALYSIS

A. Vehicle Miles Traveled

The MND concludes that the Project will have a less than significant impact on vehicle miles traveled ("VMT"). The MND's impact analysis is based on a Traffic Impact Study ("TIS"), which contains a brief VMT analysis but fails to provide substantial evidence in support of the City's VMT conclusions.

The CEQA Guidelines are explicit regarding the requirements for a CEQA document's analysis of transportation impacts.[45] While a lead agency has discretion to choose the most appropriate methodology to evaluate a Project's VMT and may use models to estimate VMT, "[a]ny assumptions used to estimate vehicle miles traveled and any revisions to model outputs should be documented and explained in the environmental document prepared for the project."[46] This Guideline specifically incorporates the standards set forth in Guidelines section 15151, i.e., the environmental document must contain a sufficient degree of analysis to provide decision makers with information that enables them to make a decision which

[43] *Id.*
[44] *Id.*, pgs. 8-11.
[45] 14 CCR §15064.3.
[46] 14 CCR §15064.3(b)(4).

intelligently takes account of the Project's environmental impacts.[47] As detailed below, the MND for this Project utterly fails to comply with these standards and is therefore invalid as an informational document under CEQA.

We previously pointed out the inherent and unexplained contradictions in the TIS' conclusions: "[t]he project is expected to increase overall regional VMT slightly and reduce residential, office, and retail VMT."[48] We also explained how the City's failure to provide any of the inputs to San Luis Obispo Council of Governments ("SLOCOG") travel demand model preclude the public and decision makers from assessing the accuracy of the MND's VMT analysis.[49]

Mr. Smith's comments further describe the unexplained and unsupported contradictions in the VMT analysis. For example, the TIS' VMT modeling results are summarized in Table 8, which reveals that the Project would *increase* overall regional VMT by 669 miles over a Year 2020 regional baseline, yet the residential, employment-generating and retail components of the Project would *respectively decrease* regional totals by 3,397, 562 and 646 miles (4,605 total).[50] Mr. Smith poses the critical question: "what else is there in the Project that would offset this net VMT decrease of 4605 plus adding another 669 miles VMT?"[51] Because none of the inputs to the SLOCOG model are provided, this outcome remains "contradictory and incomprehensible."[52]

Additionally, Mr. Smith points out that Table 13 of the TIS purports to show that the Project would have a VMT per capita resident of 11.13 miles and VMT per employee of 3.12 miles. The VMT per capita resident for the Project is supposedly only 61.3 percent of the regional average for Year 2020 and only 22.9 percent of the regional VMT per employee.[53] According to Mr. Smith, these VMT levels impliedly assume an "extraordinary level of Project trip internalization and short trip making that is unreflective of the rest of the County."[54] Without access to the Project's inputs to the SLOCOG model, there is no way of knowing whether or not the VMT analysis reasonably and accurately represents the Project's VMT impacts, and the MND's conclusions remain unsupported.

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[47] 14 CCR §15151.
[48] September 2022 Barrel Creek Transportation Impact Study, pg. 28.
[49] *See* February 7, 2023 MND Comments, pg. 14.
[50] Smith Comments, pgs. 1-2.
[51] *Id.*, pg. 2.
[52] *Id.*
[53] *Id.*
[54] *Id.*

Compounding its failure to document and explain the assumptions used in its VMT analysis, the City refused to provide the relevant traffic demand model inputs despite several requests for this information. On January 11, 2022, we requested that the City provide immediate access pursuant to CEQA to "any and all documents referenced, incorporated by reference, and relied upon" in the Project's MND.[55] While the City produced some responsive documents, it did not produce any documents related to the VMT analysis or the SLOCOG travel demand model. On February 13, 2023, following release of the revised MND, we sent a follow-up letter to the City specifically requesting "all documentation reflecting or setting forth the inputs to the SLOCOG travel demand model used to analyze the Project's VMT impacts, as described in the September 2022 Barrel Creek TIS. In addition, please produce any computation sheets supporting the traffic queueing analysis set forth in the TIS."[56] The City declined to produce the requested information, stating "[w]e do not control SLOCOGS data sets, rather, traffic engineers work with SLOCOG to build their model into their analysis tools."[57] The City provided a weblink to the SLOCOG's modeling homepage, which provides no information specific to this Project. As the lead agency, however, the City is responsible for ensuring that the MND's conclusions are supported by substantial evidence, and is prohibited from relying on hidden studies or documents that are not provided to the public.[58]

The City's refusal to provide the requested modeling data not only violates CEQA by failing to document and explain the assumptions used in its VMT analysis, it deprives the public and the ultimate decision maker (the Atascadero City Council) of the information necessary "to make a decision which intelligently takes account of the Project's environmental impacts."[59] The MND lacks

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[55] **Exhibit C**- January 11, 2023 letter from Sheila M. Sannadan to City of Atascadero re Request for Immediate Access to Documents Referenced in the Initial Study/Mitigated Negative Declaration-Barrel Creek Planned Development Project.

[56] **Exhibit D**- February 13, 2023 letter from Richard M. Franco to City of Atascadero re Further Request for Immediate Access to Public Records Relating to Barrel Creek Planned Development Project.

[57] **Exhibit E**-February 15, 2023 email correspondence from Kelly Gleason, Senior Planner, to Richard M. Franco.

[58] *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal. App. 4th 173, 194 (CEQA does not allow delegation of responsibility to assess environmental impacts to another party subject to approval of staff without the underlying information; CEQA document must reflect independent judgment of lead agency), citing *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307; *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 ("Whatever is required to be considered in an [CEQA document] must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.").

[59] 14 CCR §§ 15064.3 and 15151; *Cal. Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal. App. 4th 957, 986-87 (omission of information necessary for informed discussion of impacts constitutes

substantial evidence supporting its conclusions with respect to VMT, and the City and must prepare an EIR that analyzes these impacts and supports its conclusions with substantial evidence so that the public and decision makers may properly evaluate the Project's transportation impacts.

B. Traffic Queueing Analysis

The MND includes a Level of Service ("LOS") analysis with respect to the Project's traffic impacts that suffers from the same defects as the VMT analysis: it lacks supporting substantial evidence that would allow the public and decisionmakers to evaluate the Project's impacts.

As Mr. Smith explains, the TIS identifies some LOS conditions that would exceed the City's General Plan policy levels when traffic from already-approved projects and this Project are added to existing conditions.[60] The TIS also identifies some hazardous conditions where queues would exceed available storage. Specifically, when Project traffic is added to forecast Year 2035 traffic levels, unsatisfactory LOS is expected to occur at more locations and queue exceedances of available storage are forecast to occur at more locations and with more severity.[61] The MND includes some mitigation measures for these conditions, but provides no calculations or any other evidence that demonstrate the proposed mitigation measures will successfully and sufficiently mitigate these potentially hazardous traffic conditions such to comply with the General Plan.[62]

Because the MND lacks substantial evidence supporting its conclusion that mitigation measures will reduce traffic impacts to less than significant levels, it does not comply with CEQA.[63]

V. CONCLUSION

CEQA requires that an EIR be prepared if there is substantial evidence demonstrating that any aspect of a project, either individually or cumulatively, may cause a significant effect on the environment.[64] As discussed herein and in our

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failure to proceed in manner required by law where it precludes informed decision-making by agency or informed participation by public).

[60] Smith Comments, pg. 2.

[61] *Id.*

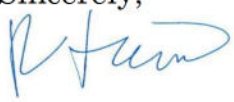
[62] As mentioned above, we specifically requested that the City produce "any computation sheets supporting the traffic queueing analysis set forth in the TIS." *See* Exhibit D. The City has not produced any such documents.

[63] 14 CCR §15070(b).

[64] Pub. Res. Code § 21151; 14 CCR §15063(b)(1).

February 7, 2023 MND Comments, there is substantial evidence supporting a fair argument that the Project would result in significant adverse impacts that were not identified in the MND, and that are not adequately analyzed or mitigated. The MND also fails to contain the basic information and analysis required by CEQA, deficiencies which "cannot be dismissed as harmless or insignificant defects."[65] The City cannot approve the Project until it prepares an EIR that resolves these issues and complies with CEQA.

Sincerely,



Richard M. Franco

Attachments
RMF:acp

[65] *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1220.

EXHIBIT A

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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February 21, 2023

Richard M. Franco
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd #1000
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Subject: Comments on the Barrel Creek Planned Development Project

Dear Mr. Franco,

We have reviewed the February 2022 Initial Study and Mitigated Negative Declaration ("IS/MND") for the Barrel Creek Planned Development Project ("Project") located in the City of Atascadero ("City"). The Project proposes to construct 35,000-SF of commercial space, a 120-room hotel, 40 residential units, and 5,000-SF of restaurant space on the 15.3-acre site.

Our review concludes that the IS/MND fails to adequately evaluate the Project's health risk impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project are underestimated and inadequately addressed. An Environmental Impact Report ("EIR") should be prepared to adequately assess and mitigate the potential health risk impacts that the project may have on the environment.

Diesel Particulate Matter Emissions Inadequately Evaluated

The IS/MND does not mention or evaluate the toxic air contaminant ("TAC") emissions associated with Project construction or operation whatsoever. This is incorrect for four reasons.

First, by failing to prepare a quantified construction and operational health risk analysis ("HRA"), the Project is inconsistent with CEQA's requirement to make "a reasonable effort to substantively connect a project's air quality impacts to likely health consequences." [1] This poses a problem, as according to the IS/MND, construction of the proposed Project would produce DPM emissions through exhaust stacks of construction equipment over a duration of at least 5 years (pp. 9). Furthermore, according to the

[1] "Sierra Club v. County of Fresno." Supreme Court of California, December 2018, a*vailable at:* https://ceqaportal.org/decisions/1907/Sierra%20Club%20v.%20County%20of%20Fresno.pdf.

Transportation Impact Study ("TIS"), included to as Figure 8 to the DEIR, operation of the Project is anticipated to generate 2,751 daily vehicle trips, which would produce additional exhaust emissions and continue to expose nearby, existing sensitive receptors to DPM emissions (p. 14, Table 4). However, the IS/MND fails to evaluate the TAC emissions associated with Project construction and operation or indicate the concentrations at which such pollutants would trigger adverse health effects. Thus, without making a reasonable effort to connect the Project's TAC emissions to the potential health risks posed to nearby receptors, the IS/MND is inconsistent with CEQA's requirement to correlate Project-generated emissions with potential adverse impacts on human health.

Second, the Office of Environmental Health Hazard Assessment ("OEHHA"), the organization responsible for providing guidance on conducting HRAs in California, released its most recent *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments* in February 2015. This guidance document describes the types of projects that warrant the preparation of an HRA. Specifically, OEHHA recommends that all short-term projects lasting at least 2 months assess cancer risks.[2] Furthermore, according to OEHHA:

> "Exposure from projects lasting more than 6 months should be evaluated for the duration of the project. In all cases, for assessing risk to residential receptors, the exposure should be assumed to start in the third trimester to allow for the use of the ASFs (OEHHA, 2009)."[3]

Thus, as the Project's anticipated construction duration exceeds the 2-month and 6-month requirements set forth by OEHHA, construction of the Project meets the threshold warranting a quantified HRA under OEHHA guidance and should be evaluated for the entire construction period. Furthermore, OEHHA recommends that an exposure duration of 30 years should be used to estimate the individual cancer risk at the maximally exposed individual resident ("MEIR").[4] While the IS/MND fails to provide the expected lifetime of the proposed Project, we can reasonably assume that the Project would operate for at least 30 years, if not more. Therefore, operation of the Project also exceeds the 2-month and 6-month requirements set forth by OEHHA and should be evaluated for the entire 30-year residential exposure duration, as indicated by OEHHA guidance. These recommendations reflect the most recent state health risk policies, and as such, an EIR should be prepared to include an analysis of health risk impacts posed to nearby sensitive receptors from Project-generated DPM emissions.

Third, by claiming a less than significant impact without conducting a quantified construction or operational HRA for nearby, existing sensitive receptors, the IS/MND fails to compare the Project's combined excess cancer risk to the applicable San Louis Obispo County Air Pollution Control District ("SLOAPCD") numeric threshold of 10 in one million.[5] Thus, pursuant to CEQA and SLOAPCD guidance,

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[2] "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at:* https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 8-18.
[3] "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at:* https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 8-18.
[4] "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at:* https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 2-4.
[5] "CEQA Air Quality Handbook." SLOCAPCD, April 2012, *available at:* https://www.slocleanair.org/rules-regulations/land-use-ceqa.php. *See also:* https://storage.googleapis.com/slocleanair-

an analysis of the health risk posed to nearby, existing receptors from Project construction and operation should have been conducted.

Fourth, regarding the preparation of an HRA, SLOAPCD guidance states:

> "Sensitive receptor locations for a project need to be identified during the CEQA review process and mitigation to minimize toxic diesel PM impacts need to be defined. The types of construction projects that typically require a more comprehensive evaluation include large-scale, long-term projects that occur within 1,000 feet of a sensitive receptor location(s)."[6]

As discussed above, SLOPACD recommends that any Projects located within 1,000 feet of a sensitive receptor prepare a construction-related HRA. According to Google Earth, there are residential land uses located immediately adjacent to the Project site (see excerpt below).[7]

As such, the Project may expose nearby existing sensitive receptors to DPM emissions during construction. As such, an EIR should be prepared to include an analysis of health risk impacts to nearby residential land uses from Project-generated DPM emissions.

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org/images/cms/upload/files/CEQA_Handbook_2012_v2%20%28Updated%20MemoTable1-1_July2021%29_LinkedwithMemo.pdf, p. 3-7.

[6] "A Guide For Assessing The Air Quality Impacts For Projects Subject To CEQA Review." San Luis Obispo Air Pollution Control District, April 2012, *available at:* https://www.prcity.com/DocumentCenter/View/14604/CEQA-Air-Quality-Handbook---2012-Volume-1-PDF, p. 2-3.

[7] "1820 San Ramon Rd, Atascadero, CA 93422." Google Earth, *available at:* https://earth.google.com/web/search/1820+San+Ramon+Rd,+Atascadero,+CA+93422/@35.51137448,-120.70415686,250.36276974a,848.40730979d,35y,325.81894348h,0t,0r/data=CigiJgokCejv22fdEUFAEWxzaNCOD0FAGU2SxZHwVV3AISsoNqTLWF3A.

Screening-Level Analysis Demonstrates Potentially Significant Health Risk Impact

In order to conduct our screening-level risk assessment we relied upon AERSCREEN, which is a screening level air quality dispersion model.[8] The model replaced SCREEN3, and AERSCREEN is included in the OEHHA and the California Air Pollution Control Officers Associated ("CAPCOA") guidance as the appropriate air dispersion model for Level 2 health risk screening assessments ("HRSAs").[9, 10] A Level 2 HRSA utilizes a limited amount of site-specific information to generate maximum reasonable downwind concentrations of air contaminants to which nearby sensitive receptors may be exposed. If an unacceptable air quality hazard is determined to be possible using AERSCREEN, a more refined modeling approach is required prior to approval of the Project.

We prepared a preliminary HRA of the Project's construction and operational health risk impact to residential sensitive receptors using the annual PM_{10} exhaust estimates from the IS/MND's CalEEMod output files. Consistent with recommendations set forth by OEHHA, we assumed residential exposure begins during the third trimester stage of life.[11] The IS/MND's CalEEMod model indicates that construction activities will generate approximately 169 pounds of DPM over the 991-day construction period.[12] The AERSCREEN model relies on a continuous average emission rate to simulate maximum downward concentrations from point, area, and volume emission sources. To account for the variability in equipment usage and truck trips over Project construction, we calculated an average DPM emission rate by the following equation:

$$Emission\ Rate\ \left(\frac{grams}{second}\right) = \frac{168.6\ lbs}{991\ days} \times \frac{453.6\ grams}{lbs} \times \frac{1\ day}{24\ hours} \times \frac{1\ hour}{3{,}600\ seconds} = \mathbf{0.000893\ g/s}$$

Using this equation, we estimated a construction emission rate of 0.000893 grams per second ("g/s"). Subtracting the 991-day construction period from the total residential duration of 30 years, we assumed that after Project construction, the sensitive receptor would be exposed to the Project's operational DPM for an additional 27.28 years. The IS/MND's operational CalEEMod emissions indicate that operational activities will generate approximately 120 pounds of DPM per year throughout operation. Applying the same equation used to estimate the construction DPM rate, we estimated the following emission rate for Project operation:

$$Emission\ Rate\ \left(\frac{grams}{second}\right) = \frac{120.0\ lbs}{365\ days} \times \frac{453.6\ grams}{lbs} \times \frac{1\ day}{24\ hours} \times \frac{1\ hour}{3{,}600\ seconds} = \mathbf{0.00173\ g/s}$$

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[8] "AERSCREEN Released as the EPA Recommended Screening Model," U.S. EPA, April 2011, *available at:* http://www.epa.gov/ttn/scram/guidance/clarification/20110411_AERSCREEN_Release_Memo.pdf

[9] "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at:* https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf.

[10] "Health Risk Assessments for Proposed Land Use Projects." CAPCOA, July 2009, *available at:* http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA_HRA_LU_Guidelines_8-6-09.pdf.

[11] "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at:* https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 8-18.

[12] See Attachment B for health risk calculations.

Using this equation, we estimated an operational emission rate of 0.00173 g/s. Construction and operation were simulated as a 15.3-acre rectangular area source in AERSCREEN, with approximate dimensions of 352- by 176-meters. A release height of three meters was selected to represent the height of stacks of operational equipment and other heavy-duty vehicles, and an initial vertical dimension of one and a half meters was used to simulate instantaneous plume dispersion upon release. An urban meteorological setting was selected with model-default inputs for wind speed and direction distribution. The population of Atascadero was obtained from U.S. 2020 Census data.[13]

The AERSCREEN model generates maximum reasonable estimates of single-hour DPM concentrations from the Project Site. The United States Environmental Protection Agency ("U.S. EPA") suggests that the annualized average concentration of an air pollutant be estimated by multiplying the single-hour concentration by 10% in screening procedures.[14] As previously discussed, review of Google Earth demonstrates that the nearest sensitive receptor is located immediately adjacent to the Project site. However, review of the AERSCREEN output files demonstrates that the MEIR is located approximately 175 meters from the Project site. Thus, the single-hour concentration estimated by AERSCREEN for Project construction is approximately 0.673 µg/m^3 DPM at approximately 175 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.0673 µg/m^3 for Project construction at the MEIR. For Project operation, the single-hour concentration estimated by AERSCREEN is 1.300 µg/m^3 DPM at approximately 175 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration of 0.1300 µg/m^3 for Project operation at the MEIR.

We calculated the excess cancer risk to the MEIR using applicable HRA methodologies prescribed by OEHHA, as recommended by SLOAPCD.[15] Specifically, guidance from OEHHA and the California Air Resources Board ("CARB") recommends the use of a standard point estimate approach, including high-point estimate (i.e. 95th percentile) breathing rates and age sensitivity factors ("ASF") in order to account for the increased sensitivity to carcinogens during early-in-life exposure and accurately assess risk for susceptible subpopulations such as children. The residential exposure parameters, such as the daily breathing rates ("BR/BW"), exposure duration ("ED"), age sensitivity factors ("ASF"), fraction of time at home ("FAH"), and exposure frequency ("EF") utilized for the various age groups in our screening-level HRA are as follows:

[13] "Atascadero." U.S. Census Bureau, 2020, *available at:* https://datacommons.org/place/geoId/0603064.
[14] "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources Revised." U.S. EPA, October 1992, *available at:* http://www.epa.gov/ttn/scram/guidance/guide/EPA-454R-92-019_OCR.pdf.
[15] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, *available at:* https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 8-5, Table 8.3; see also: "Air Toxic Information for Businesses." SLOAPCD, *available at:* https://www.slocleanair.org/rules-regulations/air-toxics/aq-business.php.

Exposure Assumptions for Residential Individual Cancer Risk						
Age Group	**Breathing Rate** (L/kg-day)[16]	**Age Sensitivity Factor**[17]	**Exposure Duration** (years)	**Fraction of Time at Home**[18]	**Exposure Frequency** (days/year)[19]	**Exposure Time** (hours/day)
3rd Trimester	361	10	0.25	0.85	350	24
Infant (0 - 2)	1090	10	2	0.85	350	24
Child (2 - 16)	572	3	14	0.72	350	24
Adult (16 - 30)	261	1	14	0.73	350	24

For the inhalation pathway, the procedure requires the incorporation of several discrete variates to effectively quantify dose for each age group. Once determined, contaminant dose is multiplied by the cancer potency factor ("CPF") in units of inverse dose expressed in milligrams per kilogram per day ($mg/kg/day^{-1}$) to derive the cancer risk estimate. Therefore, to assess exposures, we utilized the following dose algorithm:

$$Dose_{AIR,\,per\ age\ group} = C_{air} \times EF \times \left[\frac{BR}{BW}\right] \times A \times CF$$

where:

$Dose_{AIR}$ = dose by inhalation (mg/kg/day), per age group
C_{air} = concentration of contaminant in air (µg/m3)
EF = exposure frequency (number of days/365 days)
BR/BW = daily breathing rate normalized to body weight (L/kg/day)
A = inhalation absorption factor (default = 1)
CF = conversion factor (1x10-6, µg to mg, L to m3)

To calculate the overall cancer risk, we used the following equation for each appropriate age group:

$$Cancer\ Risk_{AIR} = Dose_{AIR} \times CPF \times ASF \times FAH \times \frac{ED}{AT}$$

where:

[16] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf.
[17] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 8-5 Table 8.3.
[18] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 8-5, Table 8.4.
[19] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 5-24.

$Dose_{AIR}$ = dose by inhalation (mg/kg/day), per age group
CPF = cancer potency factor, chemical-specific $(mg/kg/day)^{-1}$
ASF = age sensitivity factor, per age group
FAH = fraction of time at home, per age group (for residential receptors only)
ED = exposure duration (years)
AT = averaging time period over which exposure duration is averaged (always 70 years)

Consistent with the 991-day construction schedule, the annualized average concentration for construction was used for the entire third trimester of pregnancy (0.25 years), the entire infantile stage of life (0 – 2 years), and the first 0.47 years of the child stage of life (2 – 16). The annualized average concentration for operation was used for the remainder of the 30-year exposure period, which makes up the latter 13.53 years of the child stage of life, as well as the entire adult stage of life (16 – 30 years). The results of our calculations are shown in the table below.

The Maximally Exposed Individual at an Existing Residential Receptor

Age Group	**Emissions Source**	**Duration** (years)	**Concentration** (ug/m3)	**Cancer Risk**
3rd Trimester	Construction	0.25	0.0673	7.78E-07
Infant (0 - 2)	Construction	2	0.0673	1.88E-05
	Construction	*0.47*	*0.0673*	*5.82E-07*
	Operation	*13.53*	*0.1300*	*3.28E-05*
Child (2 - 16)	Total	14		3.33E-05
Adult (16 - 30)	Operation	14	0.1300	5.23E-06
Lifetime		**30**		**5.81E-05**

As demonstrated in the table above, the excess cancer risks for the 3rd trimester of pregnancy, infants, children, and adults at the MEIR located approximately 175 meters away, over the course of Project construction and operation, are approximately 0.778, 18.8, 33.3, and 5.23 in one million, respectively. The excess cancer risk over the course of a residential lifetime (30 years) is approximately 58.1 in one million. The infant, child, and lifetime cancer risks exceed the SLOAPCD threshold of 10 in one million, thus resulting in a potentially significant impact not previously addressed or identified by the IS/MND.

Our analysis represents a screening-level HRA, which is known to be conservative and tends to err on the side of health protection. The purpose of the screening-level HRA is to demonstrate the potential link between Project-generated emissions and adverse health risk impacts. According to the U.S. EPA:

> "EPA's Exposure Assessment Guidelines recommend completing exposure assessments iteratively using a tiered approach to 'strike a balance between the costs of adding detail and refinement to an assessment and the benefits associated with that additional refinement' (U.S. EPA, 1992).
>
> In other words, an assessment using basic tools (e.g., simple exposure calculations, default values, rules of thumb, conservative assumptions) can be conducted as the first phase (or tier) of the overall assessment (i.e., a screening-level assessment).
>
> The exposure assessor or risk manager can then determine whether the results of the screening-level assessment warrant further evaluation through refinements of the input data and exposure assumptions or by using more advanced models."

As demonstrated above, screening-level analyses warrant further evaluation in a refined modeling approach. Thus, as our screening-level HRA demonstrates that construction and operation of the Project could result in a potentially significant health risk impact, an EIR should be prepared to include a refined health risk analysis which adequately and accurately evaluates health risk impacts associated with both Project construction and operation. If the refined analysis similarly concludes that the Project would result in a significant health risk impact, then mitigation measures should be incorporated, as described below in the "Feasible Mitigation Measures Available to Reduce Emissions" section.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

Our analysis demonstrates that the Project would result in potentially significant health risk impacts that should be mitigated further. As such, in an effort to reduce the Project's emissions, we identified several mitigation measures that are applicable to the proposed Project. Therefore, to reduce the Project's emissions, we recommend consideration of SCAG's 2020 *RTP/SCS* PEIR's Air Quality Project Level Mitigation Measures ("PMM-AQ-1") as described below: [20]

SCAG RTP/SCS 2020-2045
Air Quality Project Level Mitigation Measures – PMM-AQ-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency:
a) Minimize land disturbance.

[20] "4.0 Mitigation Measures." Connect SoCal Program Environmental Impact Report Addendum #1, September 2020, available at: https://scag.ca.gov/sites/main/files/file-attachments/fpeir_connectsocal_addendum_4_mitigationmeasures.pdf?1606004420, p. 4.0-2 – 4.0-10; 4.0-19 – 4.0-23; See also: "Certified Final Connect SoCal Program Environmental Impact Report." Southern California Association of Governments (SCAG), May 2020, *available at:* https://scag.ca.gov/peir.

b) Suspend grading and earth moving when wind gusts exceed 25 miles per hour unless the soil is wet enough to prevent dust plumes.
c) Cover trucks when hauling dirt.
d) Stabilize the surface of dirt piles if not removed immediately.
e) Limit vehicular paths on unpaved surfaces and stabilize any temporary roads.
f) Minimize unnecessary vehicular and machinery activities.
g) Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway.
h) Revegetate disturbed land, including vehicular paths created during construction to avoid future off-road vehicular activities.
j) Require contractors to assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that could be used an aggregate of 40 or more hours for the construction project. Prepare a plan for approval by the applicable air district demonstrating achievement of the applicable percent reduction for a CARB-approved fleet.
k) Ensure that all construction equipment is properly tuned and maintained.
n) Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators.
o) Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.
p) As appropriate require that portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, obtain CARB Portable Equipment Registration with the state or a local district permit. Arrange appropriate consultations with the CARB or the District to determine registration and permitting requirements prior to equipment operation at the site.
q) Require projects within 500 feet of residences, hospitals, or schools to use Tier 4 equipment for all engines above 50 horsepower (hp) unless the individual project can demonstrate that Tier 4 engines would not be required to mitigate emissions below significance thresholds.
r) Projects located within the South Coast Air Basin should consider applying for South Coast AQMD “SOON” funds which provides funds to applicable fleets for the purchase of commercially available low-emission heavy-duty engines to achieve near-term reduction of NOx emissions from in-use off-road diesel vehicles.
s) Projects located within AB 617 communities should review the applicable Community Emissions Reduction Plan (CERP) for additional mitigation that can be applied to individual projects.
t) Where applicable, projects should provide information about air quality related programs to schools, including the Environmental Justice Community Partnerships (EJCP), Clean Air Ranger Education (CARE), and Why Air Quality Matters programs.
u) Projects should work with local cities and counties to install adequate signage that prohibits truck idling in certain locations (e.g., near schools and sensitive receptors).
y) Projects that will introduce sensitive receptors within 500 feet of freeways and other sources should consider installing high efficiency of enhanced filtration units, such as Minimum Efficiency Reporting Value (MERV) 13 or better. Installation of enhanced filtration units can be verified during occupancy inspection prior to the issuance of an occupancy permit.
z) Develop an ongoing monitoring, inspection, and maintenance program for the MERV filters.
aa) Consult the SCAG Environmental Justice Toolbox for potential measures to address impacts to low-income and/or minority communities.
bb) The following criteria related to diesel emissions shall be implemented on by individual project sponsors as appropriate and feasible:

- Diesel nonroad vehicles on site for more than 10 total days shall have either (1) engines that meet EPA on road emissions standards or (2) emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%
- Diesel generators on site for more than 10 total days shall be equipped with emission control technology verified by EPA or CARB to reduce PM emissions by a minimum of 85%.
- Nonroad diesel engines on site shall be Tier 2 or higher.
- Diesel nonroad construction equipment on site for more than 10 total days shall have either (1) engines meeting EPA Tier 4 nonroad emissions standards or (2) emission control technology verified by EPA or CARB for use with nonroad engines to reduce PM emissions by a minimum of 85% for engines for 50 hp and greater and by a minimum of 20% for engines less than 50 hp.
- Emission control technology shall be operated, maintained, and serviced as recommended by the emission control technology manufacturer.
- Diesel vehicles, construction equipment, and generators on site shall be fueled with ultra-low sulfur diesel fuel (ULSD) or a biodiesel blend approved by the original engine manufacturer with sulfur content of 15 ppm or less.
- The construction contractor shall maintain a list of all diesel vehicles, construction equipment, and generators to be used on site. The list shall include the following:
    i. Contractor and subcontractor name and address, plus contact person responsible for the vehicles or equipment.
    ii. Equipment type, equipment manufacturer, equipment serial number, engine manufacturer, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation.
    iii. For the emission control technology installed: technology type, serial number, make, model, manufacturer, EPA/CARB verification number/level, and installation date and hour-meter reading on installation date.
- The contractor shall establish generator sites and truck-staging zones for vehicles waiting to load or unload material on site. Such zones shall be located where diesel emissions have the least impact on abutters, the general public, and especially sensitive receptors such as hospitals, schools, daycare facilities, elderly housing, and convalescent facilities.
- The contractor shall maintain a monthly report that, for each on road diesel vehicle, nonroad construction equipment, or generator onsite, includes:
    i. Hour-meter readings on arrival on-site, the first and last day of every month, and on off-site date.
    ii. Any problems with the equipment or emission controls.
    iii. Certified copies of fuel deliveries for the time period that identify:
        1. Source of supply
        2. Quantity of fuel
        3. Quantity of fuel, including sulfur content (percent by weight)

cc) Project should exceed Title-24 Building Envelope Energy Efficiency Standards (California Building Standards Code). The following measures can be used to increase energy efficiency:

- Provide pedestrian network improvements, such as interconnected street network, narrower roadways and shorter block lengths, sidewalks, accessibility to transit and transit shelters, traffic calming measures, parks and public spaces, minimize pedestrian barriers.
- Provide traffic calming measures, such as:
    i. Marked crosswalks
    ii. Count-down signal timers
    iii. Curb extensions iv. Speed tables
    iv. Raised crosswalks
    v. Raised intersections
    vi. Median islands
    vii. Tight corner radii
    viii. Roundabouts or mini-circles
    ix. On-street parking

x. Chicanes/chokers
- Create urban non-motorized zones
- Provide bike parking in non-residential and multi-unit residential projects
- Dedicate land for bike trails
- Limit parking supply through:
    i. Elimination (or reduction) of minimum parking requirements
    ii. Creation of maximum parking requirements
    iii. Provision of shared parking
- Require residential area parking permit.
- Provide ride-sharing programs
    i. Designate a certain percentage of parking spacing for ride sharing vehicles
    ii. Designating adequate passenger loading and unloading and waiting areas for ride-sharing vehicles
    iii. Providing a web site or messaging board for coordinating rides
    iv. Permanent transportation management association membership and finding requirement.

These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduce emissions released during Project construction and operation.

Furthermore, as it is policy of the State that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045, we emphasize the applicability of incorporating solar power system into the Project design. Until the feasibility of incorporating on-site renewable energy production is considered, the Project should not be approved.

An EIR should be prepared to include all feasible mitigation measures, as well as include updated air quality and health risk analyses to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds. The EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

Disclaimer

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

Sincerely,

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

Paul E. Rosenfeld, Ph.D.

Attachment A: Health Risk Calculations
Attachment B: AERSCREEN Output Files
Attachment C: Matt Hagemann CV
Attachment D: Paul Rosenfeld CV

Construction

2023 (Commercial)	
Annual Emissions (tons/year)	0.02
Daily Emissions (lbs/day)	0.109589041
Construction Duration (days)	61
Total DPM (lbs)	6.684931507
Total DPM (g)	3032.284932
Start Date	11/1/2023
End Date	1/1/2024
Construction Days	61
2024 (Commercial)	
Annual Emissions (tons/year)	0.08
Daily Emissions (lbs/day)	0.438356164
Construction Duration (days)	366
Total DPM (lbs)	160.4383562
Total DPM (g)	72774.83836
Start Date	1/1/2024
End Date	1/1/2025
Construction Days	366
2025 (Commercial)	
Annual Emissions (tons/year)	0.005
Daily Emissions (lbs/day)	0.02739726
Construction Duration (days)	55
Total DPM (lbs)	1.506849315
Total DPM (g)	683.5068493
Start Date	1/1/2025
End Date	2/25/2025
Construction Days	55
2025 (No Construction)	
Annual Emissions (tons/year)	0
Daily Emissions (lbs/day)	0
Construction Duration (days)	135
Total DPM (lbs)	0
Total DPM (g)	0
Start Date	2/25/2025
End Date	7/10/2025
Construction Days	135
2025 (Residential)	
Annual Emissions (tons/year)	0.03
Daily Emissions (lbs/day)	0.164383562
Construction Duration (days)	175
Total DPM (lbs)	28.76712329
Total DPM (g)	13048.76712
Start Date	7/10/2025
End Date	1/1/2026
Construction Days	175
2025 (Residential)	
Annual Emissions (tons/year)	0.02
Daily Emissions (lbs/day)	0.109589041
Construction Duration (days)	199
Total DPM (lbs)	21.80821918
Total DPM (g)	9892.208219
Start Date	1/1/2026
End Date	7/19/2026
Construction Days	199

Total	
Total DPM (lbs)	168.630137
Total DPM (g)	76490.63014
Emission Rate (g/s)	0.000893348
Release Height (meters)	3
Total Acreage	15.3
Max Horizontal (meters)	351.90
Min Horizontal (meters)	175.95
Initial Vertical Dimension (meters)	1.5
Setting	Urban
Population	29,708
Start Date	11/1/2023
End Date	7/19/2026
Total Construction Days	991
Total Years of Construction	2.72
Total Years of Operation	27.28

Operation

Emission Rate	
Annual Emissions (tons/year)	0.06
Daily Emissions (lbs/day)	0.328767123
Total DPM (lbs)	120.0
Emission Rate (g/s)	0.001726027
Release Height (meters)	3
Total Acreage	15.3
Max Horizontal (meters)	351.90
Min Horizontal (meters)	175.95
Initial Vertical Dimension (meters)	1.5
Setting	Urban
Population	29,708

AERSCREEN 21112 / AERMOD 21112 02/08/23
11:34:30

TITLE: Barrel Creek Atascadero, Construction

********** AREA PARAMETERS **********

SOURCE EMISSION RATE:	0.893E-03	g/s	0.709E-02	lb/hr
AREA EMISSION RATE:	0.144E-07	g/(s-m2)	0.115E-06	lb/(hr-m2)
AREA HEIGHT:	3.00	meters	9.84	feet
AREA SOURCE LONG SIDE:	351.90	meters	1154.53	feet
AREA SOURCE SHORT SIDE:	175.95	meters	577.26	feet
INITIAL VERTICAL DIMENSION:	1.50	meters	4.92	feet
RURAL OR URBAN:	URBAN			
POPULATION:	29708			
INITIAL PROBE DISTANCE =	5000.	meters	16404.	feet

********** BUILDING DOWNWASH PARAMETERS **********

BUILDING DOWNWASH NOT USED FOR NON-POINT SOURCES

********** FLOW SECTOR ANALYSIS **********

25 meter receptor spacing: 1. meters - 5000. meters

MAXIMUM IMPACT RECEPTOR

Zo SECTOR	SURFACE ROUGHNESS	1-HR CONC (ug/m3)	RADIAL (deg)	DIST (m)	TEMPORAL PERIOD
1*	1.000	0.6727	5	175.0	WIN

* = worst case diagonal

********** MAKEMET METEOROLOGY PARAMETERS **********

MIN/MAX TEMPERATURE: 250.0 / 310.0 (K)

MINIMUM WIND SPEED: 0.5 m/s

ANEMOMETER HEIGHT: 10.000 meters

SURFACE CHARACTERISTICS INPUT: AERMET SEASONAL TABLES

DOMINANT SURFACE PROFILE: Urban
DOMINANT CLIMATE TYPE: Average Moisture
DOMINANT SEASON: Winter

ALBEDO: 0.35
BOWEN RATIO: 1.50
ROUGHNESS LENGTH: 1.000 (meters)

SURFACE FRICTION VELOCITY (U*) NOT ADUSTED

METEOROLOGY CONDITIONS USED TO PREDICT OVERALL MAXIMUM IMPACT

YR	MO	DY	JDY	HR
10	01	10	10	01

H0	U*	W*	DT/DZ	ZICNV	ZIMCH	M-O LEN	Z0	BOWEN	ALBEDO	REF WS
-1.30	0.043	-9.000	0.020	-999.	21.	6.0	1.000	1.50	0.35	0.50

HT	REF TA	HT
10.0	310.0	2.0

********** AERSCREEN AUTOMATED DISTANCES **********
OVERALL MAXIMUM CONCENTRATIONS BY DISTANCE

DIST (m)	MAXIMUM 1-HR CONC (ug/m3)	DIST (m)	MAXIMUM 1-HR CONC (ug/m3)
1.00	0.5095	2525.00	0.2210E-01

25.00	0.5389	2550.00	0.2181E-01
50.00	0.5665	2575.00	0.2152E-01
75.00	0.5916	2600.00	0.2124E-01
100.00	0.6144	2625.00	0.2097E-01
125.00	0.6353	2650.00	0.2071E-01
150.00	0.6546	2675.00	0.2045E-01
175.00	0.6727	2700.00	0.2019E-01
200.00	0.6345	2725.00	0.1994E-01
225.00	0.4675	2750.00	0.1970E-01
250.00	0.3974	2775.00	0.1946E-01
275.01	0.3506	2800.01	0.1923E-01
300.00	0.3158	2825.00	0.1900E-01
325.00	0.2897	2850.00	0.1877E-01
350.00	0.2672	2875.00	0.1855E-01
375.00	0.2475	2900.00	0.1834E-01
400.00	0.2301	2925.00	0.1813E-01
425.00	0.2148	2950.00	0.1792E-01
450.00	0.2011	2975.00	0.1772E-01
475.00	0.1888	3000.00	0.1752E-01
500.00	0.1777	3025.00	0.1733E-01
525.00	0.1678	3050.00	0.1714E-01
550.00	0.1586	3075.00	0.1695E-01
575.00	0.1503	3100.00	0.1677E-01
600.00	0.1427	3125.00	0.1659E-01
625.00	0.1358	3150.00	0.1641E-01
650.00	0.1294	3175.00	0.1624E-01
675.00	0.1234	3200.00	0.1607E-01
700.00	0.1180	3225.00	0.1590E-01
725.00	0.1130	3250.00	0.1574E-01
750.00	0.1083	3275.00	0.1581E-01
775.00	0.1039	3300.00	0.1564E-01
800.00	0.9980E-01	3325.00	0.1548E-01
825.00	0.9599E-01	3350.00	0.1532E-01
850.00	0.9240E-01	3375.00	0.1517E-01
875.00	0.8905E-01	3400.00	0.1502E-01
900.00	0.8593E-01	3425.00	0.1487E-01
925.00	0.8300E-01	3450.00	0.1472E-01
950.00	0.8021E-01	3475.00	0.1457E-01
975.00	0.7755E-01	3500.00	0.1443E-01
1000.00	0.7504E-01	3525.00	0.1429E-01
1025.00	0.7268E-01	3550.00	0.1416E-01
1050.00	0.7046E-01	3575.00	0.1402E-01
1075.00	0.6836E-01	3600.00	0.1389E-01
1100.00	0.6637E-01	3625.00	0.1376E-01
1125.00	0.6448E-01	3650.00	0.1363E-01
1150.00	0.6266E-01	3675.00	0.1350E-01
1175.00	0.6093E-01	3700.00	0.1338E-01
1200.00	0.5927E-01	3725.00	0.1325E-01
1225.00	0.5769E-01	3750.00	0.1313E-01
1250.00	0.5618E-01	3775.00	0.1301E-01

1275.00	0.5474E-01	3800.00	0.1290E-01
1300.00	0.5337E-01	3825.00	0.1278E-01
1325.00	0.5206E-01	3850.00	0.1267E-01
1350.00	0.5081E-01	3875.00	0.1256E-01
1375.00	0.4961E-01	3900.00	0.1245E-01
1400.00	0.4844E-01	3925.00	0.1234E-01
1425.00	0.4732E-01	3950.00	0.1223E-01
1450.00	0.4625E-01	3975.00	0.1213E-01
1475.00	0.4522E-01	4000.00	0.1202E-01
1500.00	0.4423E-01	4025.00	0.1192E-01
1525.00	0.4327E-01	4050.00	0.1182E-01
1550.00	0.4236E-01	4075.00	0.1172E-01
1575.00	0.4147E-01	4100.00	0.1162E-01
1600.00	0.4061E-01	4125.00	0.1153E-01
1625.00	0.3979E-01	4150.00	0.1143E-01
1650.00	0.3899E-01	4175.00	0.1134E-01
1675.00	0.3822E-01	4200.00	0.1125E-01
1700.00	0.3748E-01	4225.00	0.1116E-01
1725.00	0.3676E-01	4250.00	0.1107E-01
1750.00	0.3607E-01	4275.00	0.1098E-01
1775.00	0.3540E-01	4300.00	0.1089E-01
1800.00	0.3474E-01	4325.00	0.1080E-01
1825.00	0.3411E-01	4350.00	0.1072E-01
1850.00	0.3349E-01	4375.00	0.1064E-01
1875.00	0.3290E-01	4400.00	0.1055E-01
1900.00	0.3232E-01	4425.00	0.1047E-01
1925.00	0.3176E-01	4450.00	0.1039E-01
1950.00	0.3122E-01	4475.00	0.1031E-01
1975.00	0.3070E-01	4500.00	0.1023E-01
2000.00	0.3019E-01	4525.00	0.1016E-01
2025.00	0.2969E-01	4550.00	0.1008E-01
2050.00	0.2921E-01	4575.00	0.1001E-01
2075.00	0.2875E-01	4600.00	0.9931E-02
2100.00	0.2829E-01	4625.00	0.9857E-02
2125.00	0.2785E-01	4650.00	0.9785E-02
2150.00	0.2742E-01	4675.00	0.9714E-02
2175.00	0.2700E-01	4700.00	0.9643E-02
2200.00	0.2659E-01	4725.00	0.9573E-02
2225.00	0.2619E-01	4750.00	0.9504E-02
2250.00	0.2581E-01	4775.00	0.9436E-02
2275.00	0.2543E-01	4800.00	0.9369E-02
2300.00	0.2506E-01	4825.00	0.9303E-02
2325.00	0.2470E-01	4850.00	0.9237E-02
2350.00	0.2435E-01	4875.00	0.9173E-02
2375.00	0.2401E-01	4900.00	0.9109E-02
2400.00	0.2367E-01	4924.99	0.9046E-02
2425.00	0.2334E-01	4950.00	0.8983E-02
2450.00	0.2302E-01	4975.00	0.8922E-02
2475.00	0.2271E-01	5000.00	0.8861E-02
2500.00	0.2240E-01		

********** AERSCREEN MAXIMUM IMPACT SUMMARY **********

3-hour, 8-hour, and 24-hour scaled
concentrations are equal to the 1-hour concentration as referenced in
SCREENING PROCEDURES FOR ESTIMATING THE AIR QUALITY
IMPACT OF STATIONARY SOURCES, REVISED (Section 4.5.4)
Report number EPA-454/R-92-019
http://www.epa.gov/scram001/guidance_permit.htm
under Screening Guidance

CALCULATION PROCEDURE	MAXIMUM 1-HOUR CONC (ug/m3)	SCALED 3-HOUR CONC (ug/m3)	SCALED 8-HOUR CONC (ug/m3)	SCALED 24-HOUR CONC (ug/m3)	SCALED ANNUAL CONC (ug/m3)
FLAT TERRAIN	0.6741	0.6741	0.6741	0.6741	N/A
DISTANCE FROM SOURCE	177.00 meters				
IMPACT AT THE AMBIENT BOUNDARY	0.5095	0.5095	0.5095	0.5095	N/A
DISTANCE FROM SOURCE	1.00 meters				

TITLE: Barrel Creek Atascadero, Operations

********** AREA PARAMETERS **********

SOURCE EMISSION RATE:	0.173E-02	g/s	0.137E-01	lb/hr
AREA EMISSION RATE:	0.279E-07	g/(s-m2)	0.221E-06	lb/(hr-m2)
AREA HEIGHT:	3.00	meters	9.84	feet
AREA SOURCE LONG SIDE:	351.90	meters	1154.53	feet
AREA SOURCE SHORT SIDE:	175.95	meters	577.26	feet
INITIAL VERTICAL DIMENSION:	1.50	meters	4.92	feet
RURAL OR URBAN:	URBAN			
POPULATION:	29708			
INITIAL PROBE DISTANCE =	5000.	meters	16404.	feet

********** BUILDING DOWNWASH PARAMETERS **********

BUILDING DOWNWASH NOT USED FOR NON-POINT SOURCES

********** FLOW SECTOR ANALYSIS **********

25 meter receptor spacing: 1. meters - 5000. meters

MAXIMUM IMPACT RECEPTOR

Zo SECTOR	SURFACE ROUGHNESS	1-HR CONC (ug/m3)	RADIAL (deg)	DIST (m)	TEMPORAL PERIOD
1*	1.000	1.300	5	175.0	WIN

* = worst case diagonal

********** MAKEMET METEOROLOGY PARAMETERS **********

MIN/MAX TEMPERATURE: 250.0 / 310.0 (K)

MINIMUM WIND SPEED: 0.5 m/s

ANEMOMETER HEIGHT: 10.000 meters

SURFACE CHARACTERISTICS INPUT: AERMET SEASONAL TABLES

DOMINANT SURFACE PROFILE: Urban
DOMINANT CLIMATE TYPE: Average Moisture
DOMINANT SEASON: Winter

ALBEDO: 0.35
BOWEN RATIO: 1.50
ROUGHNESS LENGTH: 1.000 (meters)

SURFACE FRICTION VELOCITY (U*) NOT ADUSTED

METEOROLOGY CONDITIONS USED TO PREDICT OVERALL MAXIMUM IMPACT

YR	MO	DY	JDY	HR
10	01	10	10	01

H0	U*	W*	DT/DZ	ZICNV	ZIMCH	M-O LEN	Z0	BOWEN	ALBEDO	REF WS
-1.30	0.043	-9.000	0.020	-999.	21.	6.0	1.000	1.50	0.35	0.50

HT	REF TA	HT
10.0	310.0	2.0

********** AERSCREEN AUTOMATED DISTANCES **********
OVERALL MAXIMUM CONCENTRATIONS BY DISTANCE

DIST (m)	MAXIMUM 1-HR CONC (ug/m3)	DIST (m)	MAXIMUM 1-HR CONC (ug/m3)
1.00	0.9845	2525.00	0.4270E-01

25.00	1.041	2550.00	0.4214E-01
50.00	1.095	2575.00	0.4159E-01
75.00	1.143	2600.00	0.4105E-01
100.00	1.187	2625.00	0.4052E-01
125.00	1.227	2650.00	0.4001E-01
150.00	1.265	2675.00	0.3951E-01
175.00	1.300	2700.00	0.3902E-01
200.00	1.226	2725.00	0.3853E-01
225.00	0.9033	2750.00	0.3806E-01
250.00	0.7678	2775.00	0.3760E-01
275.01	0.6775	2800.01	0.3715E-01
300.00	0.6101	2825.00	0.3671E-01
325.00	0.5598	2850.00	0.3627E-01
350.00	0.5162	2875.00	0.3585E-01
375.00	0.4782	2900.00	0.3543E-01
400.00	0.4446	2925.00	0.3503E-01
425.00	0.4150	2950.00	0.3463E-01
450.00	0.3886	2975.00	0.3424E-01
475.00	0.3648	3000.00	0.3385E-01
500.00	0.3434	3025.00	0.3348E-01
525.00	0.3241	3050.00	0.3311E-01
550.00	0.3064	3075.00	0.3275E-01
575.00	0.2905	3100.00	0.3239E-01
600.00	0.2758	3125.00	0.3205E-01
625.00	0.2624	3150.00	0.3170E-01
650.00	0.2499	3175.00	0.3137E-01
675.00	0.2385	3200.00	0.3104E-01
700.00	0.2280	3225.00	0.3072E-01
725.00	0.2183	3250.00	0.3040E-01
750.00	0.2092	3275.00	0.3054E-01
775.00	0.2007	3300.00	0.3022E-01
800.00	0.1928	3325.00	0.2991E-01
825.00	0.1855	3350.00	0.2961E-01
850.00	0.1785	3375.00	0.2931E-01
875.00	0.1721	3400.00	0.2901E-01
900.00	0.1660	3425.00	0.2872E-01
925.00	0.1604	3450.00	0.2844E-01
950.00	0.1550	3475.00	0.2816E-01
975.00	0.1498	3500.00	0.2788E-01
1000.00	0.1450	3525.00	0.2761E-01
1025.00	0.1404	3550.00	0.2735E-01
1050.00	0.1361	3575.00	0.2709E-01
1075.00	0.1321	3600.00	0.2683E-01
1100.00	0.1282	3625.00	0.2658E-01
1125.00	0.1246	3650.00	0.2633E-01
1150.00	0.1211	3675.00	0.2608E-01
1175.00	0.1177	3700.00	0.2584E-01
1200.00	0.1145	3725.00	0.2561E-01
1225.00	0.1115	3750.00	0.2537E-01
1250.00	0.1085	3775.00	0.2514E-01

1275.00	0.1058	3800.00	0.2492E-01
1300.00	0.1031	3825.00	0.2470E-01
1325.00	0.1006	3850.00	0.2448E-01
1350.00	0.9817E-01	3875.00	0.2426E-01
1375.00	0.9585E-01	3900.00	0.2405E-01
1400.00	0.9359E-01	3925.00	0.2384E-01
1425.00	0.9143E-01	3950.00	0.2363E-01
1450.00	0.8935E-01	3975.00	0.2343E-01
1475.00	0.8736E-01	4000.00	0.2323E-01
1500.00	0.8545E-01	4025.00	0.2303E-01
1525.00	0.8361E-01	4050.00	0.2284E-01
1550.00	0.8184E-01	4075.00	0.2265E-01
1575.00	0.8012E-01	4100.00	0.2246E-01
1600.00	0.7846E-01	4125.00	0.2227E-01
1625.00	0.7687E-01	4150.00	0.2209E-01
1650.00	0.7533E-01	4175.00	0.2191E-01
1675.00	0.7385E-01	4200.00	0.2173E-01
1700.00	0.7241E-01	4225.00	0.2155E-01
1725.00	0.7103E-01	4250.00	0.2138E-01
1750.00	0.6970E-01	4275.00	0.2121E-01
1775.00	0.6839E-01	4300.00	0.2104E-01
1800.00	0.6712E-01	4325.00	0.2087E-01
1825.00	0.6590E-01	4350.00	0.2071E-01
1850.00	0.6471E-01	4375.00	0.2055E-01
1875.00	0.6356E-01	4400.00	0.2039E-01
1900.00	0.6245E-01	4425.00	0.2023E-01
1925.00	0.6137E-01	4450.00	0.2008E-01
1950.00	0.6032E-01	4475.00	0.1992E-01
1975.00	0.5931E-01	4500.00	0.1977E-01
2000.00	0.5833E-01	4525.00	0.1962E-01
2025.00	0.5737E-01	4550.00	0.1948E-01
2050.00	0.5644E-01	4575.00	0.1933E-01
2075.00	0.5554E-01	4600.00	0.1919E-01
2100.00	0.5466E-01	4625.00	0.1905E-01
2125.00	0.5381E-01	4650.00	0.1891E-01
2150.00	0.5298E-01	4675.00	0.1877E-01
2175.00	0.5217E-01	4700.00	0.1863E-01
2200.00	0.5138E-01	4725.00	0.1850E-01
2225.00	0.5061E-01	4750.00	0.1836E-01
2250.00	0.4986E-01	4775.00	0.1823E-01
2275.00	0.4913E-01	4800.00	0.1810E-01
2300.00	0.4842E-01	4825.00	0.1797E-01
2325.00	0.4772E-01	4850.00	0.1785E-01
2350.00	0.4704E-01	4875.00	0.1772E-01
2375.00	0.4638E-01	4900.00	0.1760E-01
2400.00	0.4573E-01	4925.00	0.1748E-01
2425.00	0.4509E-01	4950.00	0.1736E-01
2450.00	0.4447E-01	4975.00	0.1724E-01
2475.00	0.4387E-01	5000.00	0.1712E-01
2500.00	0.4328E-01		

********** AERSCREEN MAXIMUM IMPACT SUMMARY **********

3-hour, 8-hour, and 24-hour scaled
concentrations are equal to the 1-hour concentration as referenced in
SCREENING PROCEDURES FOR ESTIMATING THE AIR QUALITY
IMPACT OF STATIONARY SOURCES, REVISED (Section 4.5.4)
Report number EPA-454/R-92-019
http://www.epa.gov/scram001/guidance_permit.htm
under Screening Guidance

CALCULATION PROCEDURE	MAXIMUM 1-HOUR CONC (ug/m3)	SCALED 3-HOUR CONC (ug/m3)	SCALED 8-HOUR CONC (ug/m3)	SCALED 24-HOUR CONC (ug/m3)	SCALED ANNUAL CONC (ug/m3)
FLAT TERRAIN	1.302	1.302	1.302	1.302	N/A
DISTANCE FROM SOURCE	177.00 meters				
IMPACT AT THE AMBIENT BOUNDARY	0.9845	0.9845	0.9845	0.9845	N/A
DISTANCE FROM SOURCE	1.00 meters				

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Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. 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) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2104, 2017;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

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

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt's responsibilities have included:

- Lead analyst and testifying expert in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.

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

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

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.
- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

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

Hydrogeology:

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

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

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

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

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted

public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

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

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

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

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

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

Policy:

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

Activities included the following:

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

principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

Geology:

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

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

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

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

Teaching:

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

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

Matt is currently a part time geology instructor at Golden West College in Huntington Beach, California where he taught from 2010 to 2014 and in 2017.

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, Coloradao.

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

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

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

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

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 repesentatives, 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.

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., Fukanaga, 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.

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 examinations, 2009-2011.

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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Paul Rosenfeld, Ph.D.

Chemical Fate and Transport & Air Dispersion Modeling

Principal Environmental Chemist

Risk Assessment & Remediation Specialist

Education

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

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

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

Professional Experience

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

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

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
UCLA School of Public Health; 2003 to 2006; Adjunct Professor
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
UCLA Institute of the Environment, 2001-2002; Research Associate
Komex H_2O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

Rosenfeld P. E., Spaeth K., Hallman R., Bressler R., Smith, G., (2022) Cancer Risk and Diesel Exhaust Exposure Among Railroad Workers. *Water Air Soil Pollution.* **233,** 171.

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health.* 18:48

Simons, R.A., Seo, Y. **Rosenfeld, P**., (2015) Modeling the Effect of Refinery Emission On Residential Property Value. Journal of Real Estate Research. 27(3):321-342

Chen, J. A, Zapata A. R., Sutherland A. J., Molmen, D.R., Chow, B. S., Wu, L. E., **Rosenfeld, P. E.,** Hesse, R. C., (2012) Sulfur Dioxide and Volatile Organic Compound Exposure To A Community In Texas City Texas Evaluated Using Aermod and Empirical Data. *American Journal of Environmental Science*, 8(6), 622-632.

Rosenfeld, P.E. & Feng, L. (2011). *The Risks of Hazardous Waste.* Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2011). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Agrochemical Industry*, Amsterdam: Elsevier Publishing.

Gonzalez, J., Feng, L., Sutherland, A., Waller, C., Sok, H., Hesse, R., **Rosenfeld, P.** (2010). PCBs and Dioxins/Furans in Attic Dust Collected Near Former PCB Production and Secondary Copper Facilities in Sauget, IL. *Procedia Environmental Sciences*. 113–125.

Feng, L., Wu, C., Tam, L., Sutherland, A.J., Clark, J.J., **Rosenfeld, P.E.** (2010). Dioxin and Furan Blood Lipid and Attic Dust Concentrations in Populations Living Near Four Wood Treatment Facilities in the United States. *Journal of Environmental Health*. 73(6), 34-46.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2010). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Wood and Paper Industries.* Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2009). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Petroleum Industry*. Amsterdam: Elsevier Publishing.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P**. (2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. *WIT Transactions on Ecology and the Environment, Air Pollution,* 123 (17), 319-327.

Tam L. K.., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, 70, 002252-002255.

Tam L. K.., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, 70, 000527-000530.

Hensley, A.R. A. Scott, J. J. J. Clark, **Rosenfeld, P.E.** (2007). Attic Dust and Human Blood Samples Collected near a Former Wood Treatment Facility. *Environmental Research*. 105, 194-197.

Rosenfeld, P.E., J. J. J. Clark, A. R. Hensley, M. Suffet. (2007). The Use of an Odor Wheel Classification for Evaluation of Human Health Risk Criteria for Compost Facilities. *Water Science & Technology* 55(5), 345-357.

Rosenfeld, P. E., M. Suffet. (2007). The Anatomy Of Odour Wheels For Odours Of Drinking Water, Wastewater, Compost And The Urban Environment. *Water Science & Technology* 55(5), 335-344.

Sullivan, P. J. Clark, J.J.J., Agardy, F. J., **Rosenfeld, P.E.** (2007). *Toxic Legacy, Synthetic Toxins in the Food, Water, and Air in American Cities.* Boston Massachusetts: Elsevier Publishing

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash. *Water Science and Technology*. 49(9),171-178.

Rosenfeld P. E., J.J. Clark, I.H. (Mel) Suffet (2004). The Value of An Odor-Quality-Wheel Classification Scheme For The Urban Environment. *Water Environment Federation's Technical Exhibition and Conference (WEFTEC) 2004.* New Orleans, October 2-6, 2004.

Rosenfeld, P.E., and Suffet, I.H. (2004). Understanding Odorants Associated With Compost, Biomass Facilities, and the Land Application of Biosolids. *Water Science and Technology*. 49(9), 193-199.

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash, *Water Science and Technology*, 49(9), 171-178.

Rosenfeld, P. E., Grey, M. A., Sellew, P. (2004). Measurement of Biosolids Odor and Odorant Emissions from Windrows, Static Pile and Biofilter. *Water Environment Research*. 76(4), 310-315.

Rosenfeld, P.E., Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office*, Publications Clearinghouse (MS–6), Sacramento, CA Publication #442-02-008.

Rosenfeld, P.E., and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution*. 127(1-4), 173-191.

Rosenfeld, P.E., and Henry C. L., (2000). Wood ash control of odor emissions from biosolids application. *Journal of Environmental Quality.* 29, 1662-1668.

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affect on biosolids odor emissions and microbial activity. *Water Environment Research*. 73(4), 363-367.

Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research*. 131(1-4), 247-262.

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

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

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

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

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

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

Presentations:

Rosenfeld, P.E., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Teaching Experience:

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

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

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

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

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

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

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

Academic Grants Awarded:

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

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

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

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

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

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

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

Deposition and/or Trial Testimony:

In the Superior Court of the State of California, County of San Bernardino
Billy Wildrick, Plaintiff vs. BNSF Railway Company
Case No. CIVDS1711810
Rosenfeld Deposition 10-17-2022

In the State Court of Bibb County, State of Georgia
Richard Hutcherson, Plaintiff vs Norfolk Southern Railway Company
Case No. 10-SCCV-092007
Rosenfeld Deposition 10-6-2022

In the Civil District Court of the Parish of Orleans, State of Louisiana
Millard Clark, Plaintiff vs. Dixie Carriers, Inc. et al.
Case No. 2020-03891
Rosenfeld Deposition 9-15-2022

In The Circuit Court of Livingston County, State of Missouri, Circuit Civil Division
Shirley Ralls, Plaintiff vs. Canadian Pacific Railway and Soo Line Railroad
Case No. 18-LV-CC0020
Rosenfeld Deposition 9-7-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jonny C. Daniels, Plaintiff vs. CSX Transportation Inc.
Case No. 20-CA-5502
Rosenfeld Deposition 9-1-2022

In The Circuit Court of St. Louis County, State of Missouri
Kieth Luke et. al. Plaintiff vs. Monsanto Company et. al.
Case No. 19SL-CC03191
Rosenfeld Deposition 8-25-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jeffery S. Lamotte, Plaintiff vs. CSX Transportation Inc.
Case No. NO. 20-CA-0049
Rosenfeld Deposition 8-22-2022

In State of Minnesota District Court, County of St. Louis Sixth Judicial District
Greg Bean, Plaintiff vs. Soo Line Railroad Company
Case No. 69-DU-CV-21-760
Rosenfeld Deposition 8-17-2022

In United States District Court Western District of Washington at Tacoma, Washington
John D. Fitzgerald Plaintiff vs. BNSF
Case No. 3:21-cv-05288-RJB
Rosenfeld Deposition 8-11-2022

In Circuit Court of the Sixth Judicial Circuit, Macon Illinois
Rocky Bennyhoff Plaintiff vs. Norfolk Southern
Case No. 20-L-56
Rosenfeld Deposition 8-3-2022

In Court of Common Pleas, Hamilton County Ohio
Joe Briggins Plaintiff vs. CSX
Case No. A2004464
Rosenfeld Deposition 6-17-2022

In the Superior Court of the State of California, County of Kern
George LaFazia vs. BNSF Railway Company.
Case No. BCV-19-103087
Rosenfeld Deposition 5-17-2022

In the Circuit Court of Cook County Illinois
Bobby Earles vs. Penn Central et. al.
Case No. 2020-L-000550
Rosenfeld Deposition 4-16-2022

In United States District Court Easter District of Florida
Albert Hartman Plaintiff vs. Illinois Central
Case No. 2:20-cv-1633
Rosenfeld Deposition 4-4-2022

In the Circuit Court of the 4th Judicial Circuit, in and For Duval County, Florida
Barbara Steele vs. CSX Transportation
Case No.16-219-Ca-008796
Rosenfeld Deposition 3-15-2022

In United States District Court Easter District of New York
Romano et al. vs. Northrup Grumman Corporation
Case No. 16-cv-5760
Rosenfeld Deposition 3-10-2022

In the Circuit Court of Cook County Illinois
Linda Benjamin vs. Illinois Central
Case No. No. 2019 L 007599
Rosenfeld Deposition 1-26-2022

In the Circuit Court of Cook County Illinois
Donald Smith vs. Illinois Central
Case No. No. 2019 L 003426
Rosenfeld Deposition 1-24-2022

In the Circuit Court of Cook County Illinois
Jan Holeman vs. BNSF
Case No. 2019 L 000675
Rosenfeld Deposition 1-18-2022

In the State Court of Bibb County State of Georgia
Dwayne B. Garrett vs. Norfolk Southern
Case No. 20-SCCV-091232
Rosenfeld Deposition 11-10-2021

In the Circuit Court of Cook County Illinois
Joseph Ruepke vs. BNSF
Case No. 2019 L 007730
Rosenfeld Deposition 11-5-2021

In the United States District Court For the District of Nebraska
Steven Gillett vs. BNSF
Case No. 4:20-cv-03120
Rosenfeld Deposition 10-28-2021

In the Montana Thirteenth District Court of Yellowstone County
James Eadus vs. Soo Line Railroad and BNSF
Case No. DV 19-1056
Rosenfeld Deposition 10-21-2021

In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al.cvs. Cerro Flow Products, Inc.
Case No. 0i9-L-2295
Rosenfeld Deposition 5-14-2021
Trial October 8-4-2021

In the Circuit Court of Cook County Illinois
Joseph Rafferty vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a AMTRAK,
Case No. 18-L-6845
Rosenfeld Deposition 6-28-2021

In the United States District Court For the Northern District of Illinois
Theresa Romcoe vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail
Case No. 17-cv-8517
Rosenfeld Deposition 5-25-2021

In the Superior Court of the State of Arizona In and For the Cunty of Maricopa
Mary Tryon et al. vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case No. CV20127-094749
Rosenfeld Deposition 5-7-2021

In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al vs. CNA Insurance Company et al.
Case No. 1:17-cv-000508
Rosenfeld Deposition 3-25-2021

In the Superior Court of the State of California, County of San Bernardino
Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021

In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse
Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020

In the Circuit Court of Jackson County, Missouri
Karen Cornwell, Plaintiff, vs. Marathon Petroleum, LP, Defendant.
Case No. 1716-CV10006
Rosenfeld Deposition 8-30-2019

In the United States District Court For The District of New Jersey
Duarte et al, Plaintiffs, vs. United States Metals Refining Company et. al. Defendant.
Case No. 2:17-cv-01624-ES-SCM
Rosenfeld Deposition 6-7-2019

In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS "Conti Perdido" Defendant.
Case No. 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition 5-9-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No. BC615636
Rosenfeld Deposition 1-26-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No. BC646857
Rosenfeld Deposition 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado
Bells et al. Plaintiffs vs. The 3M Company et al., Defendants
Case No. 1:16-cv-02531-RBJ
Rosenfeld Deposition 3-15-2018 and 4-3-2018

In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosciences, LLC, et al., Defendants
Cause No. 1923
Rosenfeld Deposition 11-17-2017

In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintifs vs. Chevron Corporation, et al., Defendants
Cause No. C12-01481
Rosenfeld Deposition 11-20-2017

In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition 8-23-2017

In United States District Court For The Southern District of Mississippi
Guy Manuel vs. The BP Exploration et al., Defendants
Case No. 1:19-cv-00315-RHW
Rosenfeld Deposition 4-22-2020

In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC
Case No. LC102019 (c/w BC582154)
Rosenfeld Deposition 8-16-2017, Trail 8-28-2018

In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., Plaintiffs, vs. Meritor Inc., et al., Defendants
Case No. 4:16-cv-52-DMB-JVM
Rosenfeld Deposition July 2017

In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial March 2017

In The Superior Court of the State of California, County of Alameda
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No. RG14711115
Rosenfeld Deposition September 2015

In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No. LALA002187
Rosenfeld Deposition August 2015

In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action No. 14-C-30000
Rosenfeld Deposition June 2015

In The Iowa District Court for Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No. 4980
Rosenfeld Deposition May 2015

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case No. CACE07030358 (26)
Rosenfeld Deposition December 2014

In the County Court of Dallas County Texas
Lisa Parr et al, Plaintiff, vs. Aruba et al, Defendant.
Case No. cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial April 2014

In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., Plaintiffs, vs. Republic Services, Inc., et al., Defendants
Case No. 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition October 2012

In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., Plaintiffs, vs. International Paper Company, Defendant.
Civil Action No. 2:09-cv-232-WHA-TFM
Rosenfeld Deposition July 2010, June 2011

In the Circuit Court of Jefferson County Alabama
Jaeanette Moss Anthony, et al., Plaintiffs, vs. Drummond Company Inc., et al., Defendants
Civil Action No. CV 2008-2076
Rosenfeld Deposition September 2010

In the United States District Court, Western District Lafayette Division
Ackle et al., Plaintiffs, vs. Citgo Petroleum Corporation, et al., Defendants.
Case No. 2:07CV1052
Rosenfeld Deposition July 2009

EXHIBIT B

SMITH ENGINEERING & MANAGEMENT

February 21, 2023

Mr. Richard Franco
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

Subject: Barrel Creek Planned Development IS/MND P23002

Dear Mr. Franco:

I reviewed the Initial Study / Mitigated Negative Declaration (the "IS/MND") for the Barrel Creek Planned Development Project (the "Project") in the City of Atascadero (the "City"). My review is with respect to transportation and circulation considerations.

My qualifications to perform this review include registration as a Civil and Traffic Engineer in California, over 50 years professional consulting practice in these fields, and both the preparation and review of the traffic and transportation components of numerous environmental documents prepared under the California Environmental Quality Act ("CEQA"). My professional resume is attached hereto.

The IS/MND Presents Contradictory Evidence Regarding Project VMT. The Conclusion That the Project Would Generate VMT At Rates Per Resident and Per Employee That Are More Than 15 Percent Below Regional Baseline Values Is Inadequately Supported.

It is understood that IS/MND utilized the San Luis Obispo Council of Governments ("SLOCOG") Travel Demand Model to analyze Project Vehicle Miles Traveled ("VMT"). The results are summarized in a single page of the IS/MND's Traffic Impact Study appended as "Figure 8". Table 11 from the Traffic Impact Study indicates that the Project would *increase* overall regional VMT by

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669 miles over a Year 2020 regional baseline yet the residential, employment generating and retail components of the Project would *respectively decrease* regional totals by 3397, 562 and 646 miles. A critical question is this: What else is there in the Project that would offset this net VMT decrease of 4605 plus adding another 669 miles VMT? Since none of the inputs to the SLOCOG Model are documented, this outcome remains contradictory and incomprehensible.

Further confounding are results on Table 13 which show that the Project would have a VMT per capita resident of 11.13 miles and VMT per employee of 3.12 miles. The VMT per capita resident for the Project is supposedly only 61.3 percent of the regional average for Year 2020 and only 22.9 percent of the regional VMT per employee[1]. These VMT levels imply assumption of an extraordinary level of Project trip internalization and short trip making that is unreflective of the rest of the County. Without access to the Project's inputs to the SLOCOG model, the public cannot be assured whether or not the VMT analysis presented is a reasonable representation of the Project's VMT impacts.

The IS/MND concludes its discussion of VMT at page 34 of the .pdf with the following statement: "While the City has a jobs-housing imbalance with too much residential and too much commercial resulting in reductions in vehicle miles traveled as part of this project, the continued use of the development will contribute to some added impacts due to travel to and from the site as well as potential impacts from potential future light manufacturing uses." Although the statement is grammatical as a form of words, as a comment on the Project's VMT impacts the statement is incoherent.

The IS/MND and Its Transportation Impact Study Identify Queues that Hazardously Exceed Available Storage Length and Level of Service Conditions that Exceed General Plan Policy Levels. Although Mitigation Measures Are Defined, There Are No Calculations or Summaries of Calculation Results That Demonstrate the Adverse Conditions Will Be Satisfactorily Mitigated.

The Transportation Impact Study identifies some Level of Service ("LOS") conditions that would exceed General Plan policy levels when the traffic from already approved projects and the subject Project are added to existing conditions and also identifies some hazardous conditions where queues would exceed available storage. When the Project traffic is added to forecast Year 2035 traffic levels unsatisfactory LOS is expected to occur at more locations and queue exceedances of available storage are forecast to occur at more locations and with more severity. The Transportation Impact Study identifies mitigation measures for these conditions. However, it provides no calculations or even

[1] Regional 2020 average VMT per capita resident and per employee from SLOCOG Travel Demand Model as reported on Transportation Impact Study Table 11.

summary tables of calculation results that demonstrate the proposed mitigation measures will successfully and sufficiently mitigate the unsatisfactory and potentially hazardous conditions. Such computations should be made public before the IS/MND is certified.

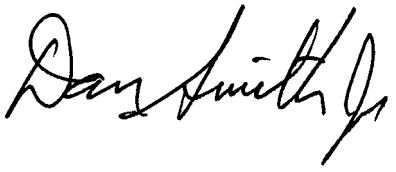
We also direct attention to the serious inconsistency in the Transportation Impact Study's numeric labeling of study intersections, in specific those of Del Rio Road with the northbound and southbound US 101 ramps. On Transportation Impact Study Figure 1, the intersection of Del Rio Road with the 101 Northbound ramps is enumerated Intersection 3 while that with the Southbound ramps is enumerated Intersection 4. However, on Tables 2, 3, 7, 8, 9 and 10 the intersection of Del Rio with the Southbound ramps is referred to as Intersection 3 while that with the Northbound ramps is referred to as Intersection 4. The key question is, are the designation numbers just flipped or is the evaluative content being associated with the wrong intersection. Until this is clarified, the IS/MND is inadequate as an informational document.

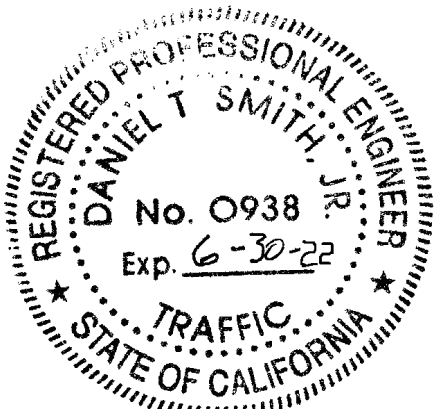
Conclusion

This concludes my current comments on the Barrel Creek Planned Development Project IS/MND. Because of the lacks of supporting documentation discussed above, the IS/MND should not be approved at this time.

Sincerely,

Smith Engineering & Management
A California Corporation





Daniel T. Smith Jr., P.E.
President

SMITH ENGINEERING & MANAGEMENT

DANIEL T. SMITH, Jr.
President

EDUCATION

Bachelor of Science, Engineering and Applied Science, Yale University, 1967
Master of Science, Transportation Planning, University of California, Berkeley, 1968

PROFESSIONAL REGISTRATION

California No. 21913 (Civil) Nevada No. 7969 (Civil) Washington No. 29337 (Civil)
California No. 938 (Traffic) Arizona No. 22131 (Civil)

PROFESSIONAL EXPERIENCE

Smith Engineering & Management, 1993 to present. President.
DKS Associates, 1979 to 1993. Founder, Vice President, Principal Transportation Engineer.
De Leuw, Cather & Company, 1968 to 1979. Senior Transportation Planner.
Personal specialties and project experience include:

Litigation Consulting. Provides consultation, investigations and expert witness testimony in highway design, transit design and traffic engineering matters including condemnations involving transportation access issues; traffic accidents involving highway design or traffic engineering factors; land use and development matters involving access and transportation impacts; parking and other traffic and transportation matters.

Urban Corridor Studies/Alternatives Analysis. Principal-in-charge for State Route (SR) 102 Feasibility Study, a 35-mile freeway alignment study north of Sacramento. Consultant on I-280 Interstate Transfer Concept Program, San Francisco, an AA/EIS for completion of I-280, demolition of Embarcadero freeway, substitute light rail and commuter rail projects. Principal-in-charge, SR 238 corridor freeway/expressway design/environmental study, Hayward (Calif.) Project manager, Sacramento Northeast Area multi-modal transportation corridor study. Transportation planner for I-80N West Terminal Study, and Harbor Drive Traffic Study, Portland, Oregon. Project manager for design of surface segment of Woodward Corridor LRT, Detroit, Michigan. Directed staff on I-80 National Strategic Corridor Study (Sacramento-San Francisco), US 101-Sonoma freeway operations study, SR 92 freeway operations study, I-880 freeway operations study, SR 152 alignment studies, Sacramento RTD light rail systems study, Tasman Corridor LRT AA/EIS, Fremont-Warm Springs BART extension plan/EIR, SRs 70/99 freeway alternatives study, and Richmond Parkway (SR 93) design study.

Area Transportation Plans. Principal-in charge for transportation element of City of Los Angeles General Plan Framework, shaping nations largest city two decades into 21'st century. Project manager for the transportation element of 300-acre Mission Bay development in downtown San Francisco. Mission Bay involves 7 million gsf office/commercial space, 8,500 dwelling units, and community facilities. Transportation features include relocation of commuter rail station; extension of MUNI-Metro LRT; a multi-modal terminal for LRT, commuter rail and local bus; removal of a quarter mile elevated freeway; replacement by new ramps and a boulevard; an internal roadway network overcoming constraints imposed by an internal tidal basin; freeway structures and rail facilities; and concept plans for 20,000 structured parking spaces. Principal-in-charge for circulation plan to accommodate 9 million gsf of office/commercial growth in downtown Bellevue (Wash.). Principal-in-charge for 64 acre, 2 million gsf multi-use complex for FMC adjacent to San Jose International Airport. Project manager for transportation element of Sacramento Capitol Area Plan for the state governmental complex, and for Downtown Sacramento Redevelopment Plan. Project manager for Napa (Calif.) General Plan Circulation Element and Downtown Riverfront Redevelopment Plan, on parking program for downtown Walnut Creek, on downtown transportation plan for San Mateo and redevelopment plan for downtown Mountain View (Calif.), for traffic circulation and safety plans for California cities of Davis, Pleasant Hill and Hayward, and for Salem, Oregon.

Transportation Centers. Project manager for Daly City Intermodal Study which developed a $7 million surface bus terminal, traffic access, parking and pedestrian circulation improvements at the Daly City BART station plus development of functional plans for a new BART station at Colma. Project manager for design of multi-modal terminal (commuter rail, light rail, bus) at Mission Bay, San Francisco. In Santa Clarita Long Range Transit Development Program, responsible for plan to relocate system's existing timed-transfer hub and development of three satellite transfer hubs. Performed airport ground transportation system evaluations for San Francisco International, Oakland International, Sea-Tac International, Oakland International, Los Angeles International, and San Diego Lindberg.

Campus Transportation. Campus transportation planning assignments for UC Davis, UC Berkeley, UC Santa Cruz and UC San Francisco Medical Center campuses; San Francisco State University; University of San Francisco; and the University of Alaska and others. Also developed master plans for institutional campuses including medical centers, headquarters complexes and research & development facilities.

Special Event Facilities. Evaluations and design studies for football/baseball stadiums, indoor sports arenas, horse and motor racing facilities, theme parks, fairgrounds and convention centers, ski complexes and destination resorts throughout western United States.

Parking. Parking programs and facilities for large area plans and individual sites including downtowns, special event facilities, university and institutional campuses and other large site developments; numerous parking feasibility and operations studies for parking structures and surface facilities; also, resident preferential parking .

Transportation System Management & Traffic Restraint. Project manager on FHWA program to develop techniques and guidelines for neighborhood street traffic limitation. Project manager for Berkeley, (Calif.), Neighborhood Traffic Study, pioneered application of traffic restraint techniques in the U.S. Developed residential traffic plans for Menlo Park, Santa Monica, Santa Cruz, Mill Valley, Oakland, Palo Alto, Piedmont, San Mateo County, Pasadena, Santa Ana and others. Participated in development of photo/radar speed enforcement device and experimented with speed humps. Co-author of Institute of Transportation Engineers reference publication on neighborhood traffic control.

Bicycle Facilities. Project manager to develop an FHWA manual for bicycle facility design and planning, on bikeway plans for Del Mar, (Calif.), the UC Davis and the City of Davis. Consultant to bikeway plans for Eugene, Oregon, Washington, D.C., Buffalo, New York, and Skokie, Illinois. Consultant to U.S. Bureau of Reclamation for development of hydraulically efficient, bicycle safe drainage inlets. Consultant on FHWA research on effective retrofits of undercrossing and overcrossing structures for bicyclists, pedestrians, and handicapped.

MEMBERSHIPS

Institute of Transportation Engineers Transportation Research Board

PUBLICATIONS AND AWARDS

Residential Street Design and Traffic Control, with W. Homburger *et al*. Prentice Hall, 1989.

Co-recipient, Progressive Architecture Citation, *Mission Bay Master Plan*, with I.M. Pei WRT Associated, 1984.

Residential Traffic Management, State of the Art Report, U.S. Department of Transportation, 1979.

Improving The Residential Street Environment, with Donald Appleyard et al., U.S. Department of Transportation, 1979.

Strategic Concepts in Residential Neighborhood Traffic Control, International Symposium on Traffic Control Systems, Berkeley, California, 1979.

Planning and Design of Bicycle Facilities: Pitfalls and New Directions, Transportation Research Board, Research Record 570, 1976.

Co-recipient, Progressive Architecture Award, *Livable Urban Streets, San Francisco Bay Area and London*, with Donald Appleyard, 1979.

5311 Lowry Road, Union City, CA 94587 tel: 510.489.9477 fax: 510.489.9478

EXHIBIT C

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1660
FAX: (650) 589-5062
ssannadan@adamsbroadwell.com

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

KEVIN T. CARMICHAEL
CHRISTINA M. CARO
THOMAS A. ENSLOW
KELILAH D. FEDERMAN
RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. RENGIFO

Of Counsel
MARC D. JOSEPH
DANIEL L. CARDOZO

January 11, 2023

VIA EMAIL AND U.S. MAIL

Phil Dunsmore, Community Development Director
City of Atascadero
Community Development Department
6500 Palma Avenue
Atascadero, CA 93422
Email: pdunsmore@atascadero.org

Lara Christensen, City Clerk
City of Atascadero
6500 Palma Avenue
Atascadero, CA 93422
Email: cityclerk@atascadero.org

VIA EMAIL ONLY

Kelly Gleason, Senior Planner
Email: kgleason@atascadero.org

Re: Request for Immediate Access to Documents Referenced in the Initial Study/Mitigated Negative Declaration – Barrel Creek Planned Development Project (PNLN No, DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699)

Dear Mr. Dunsmore, Ms. Christensen, and Ms. Gleason:

We are writing on behalf of Californians Allied for a Responsible Economy to request ***immediate access*** to any and all documents referenced, incorporated by reference, and relied upon in the Initial Study/Mitigated Negative Declaration ("IS/MND") prepared for the Barrel Creek Planned Development Project (PNLN No, DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699) ("Project"), proposed by Legacy Realty and Development, LLC. *This request excludes a copy of the IS/MND and its appendices. This request excludes any documents that are otherwise available on the City of Atascadero website*.[1]

The Project proposes to develop a mixed-use development at the intersection of Del Rio Road and San Ramon Road in the City of Atascadero, San Luis Obispo County, California. The Project includes a proposal for 35,000 square feet (sf) of commercial/light industrial space, a 120-room hotel, 40 multi-family apartment

[1] https://www.atascadero.org/; accessed January 11, 2023.

units, 5,000 sf of restaurant or brewery space, 16 short-term stay cottages, and a 20-lot single family subdivision. The Project address is 6010, 6020, 6030 Del Rio Rd and 1505, 1855 San Ramon Rd Atascadero, CA 93422 on Assessor Parcel Numbers: 049-131-043, 044, 052, 058, and 066.

Our request for ***immediate access*** to all documents referenced in the IS/MND is made pursuant to the California Environmental Quality Act ("CEQA"), which requires that all documents referenced, incorporated by reference, and relied upon in an environmental review document be made available to the public for the entire comment period.[2]

My contact information is:

U.S. Mail
Sheila Sannadan
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080-7037

Email
ssannadan@adamsbroadwell.com

Please call me at (650) 589-1660 if you have any questions. Thank you for your assistance with this matter.

Sincerely,

Sheila M. Sannadan
Legal Assistant

SMS:acp

[2] *See* Pub. Resources Code, § 21092, subd. (b)(1); 14 Cal. Code Regs. § 15072(g)(4).

EXHIBIT D

ADAMS BROADWELL JOSEPH & CARDOZO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
601 GATEWAY BOULEVARD, SUITE 1000
SOUTH SAN FRANCISCO, CA 94080-7037
TEL: (650) 589-1660
FAX: (650) 589-5062
rfranco@adamsbroadwell.com

SACRAMENTO OFFICE
520 CAPITOL MALL, SUITE 350
SACRAMENTO, CA 95814-4721
TEL: (916) 444-6201
FAX: (916) 444-6209

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RICHARD M. FRANCO
ANDREW J. GRAF
TANYA A. GULESSERIAN
RACHAEL E. KOSS
AIDAN P. MARSHALL
TARA C. RENGIFO

Of Counsel
MARC D. JOSEPH
DANIEL L. CARDOZO

February 13, 2023

VIA EMAIL ONLY

Phil Dunsmore, Community Development Director
Kelly Gleason, Senior Planner
City of Atascadero
Community Development Department
6500 Palma Avenue
Atascadero, CA 93422
Email: pdunsmore@atascadero.org; kgleason@atascadero.org

Lara Christensen, City Clerk
City of Atascadero
6500 Palma Avenue
Atascadero, CA 93422
Email: cityclerk@atascadero.org

Re: Further Request for Immediate Access to Public Records Relating to Barrel Creek Planned Development Project (PNLN No. DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699)

Dear Mr. Dunsmore, Ms. Gleason and Ms. Christensen:

I am writing to follow up on our January 11, 2023 requests, on behalf of Californians Allied for a Responsible Economy for ***immediate access*** to all documents referenced, relied upon or incorporated by reference in the Initial Study/Mitigated Negative Declaration ("MND") prepared by the City of Atascadero ("City") for the Barrel Creek Planned Development Project (PNLN No, DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699) ("Project"), proposed by Legacy Realty and Development, LLC.

The California Environmental Quality Act ("CEQA") requires that "all documents referenced in the draft environmental impact report or negative declaration" be available for review and "readily accessible" during the entire comment period.[1] On January 11, 2023, CARE CA submitted requests for immediate access to such documents pursuant to CEQA and California Public Records Act ("PRA"). On January 13, 2023, the City produced some responsive documents. However, the only documents produced by the City were the publicly available Initial Study and MND for this project and a mailing affidavit for the Notice of Public Hearing regarding the January 17, 2023 Planning Commission

[1] PRC §§ 21092(b)(1) (emphasis added); 14 Cal. Code Regs. ("CCR") § 15072(g)(4).

hearing for the Project; the City also provided links to other publicly available documents such as the City's Municipal Code and stormwater management plan, FEMA floodmaps and the San Luis Obispo Council of Governments' ("SLOCOG's") Regional Transportation Plan.

Based on our review of the revised MND posted on February 3, 2023, there are additional documents that the MND purports to rely on for its analysis of the Project's potentially significant environmental impacts, and which have not been produced. For example, the MND includes a September 2022 Transportation Impact Study ("TIS") in support of its transportation impact analysis. The TIS includes a cursory VMT analysis which is purported to be based on the SLOCOG travel demand model. The TIS includes none of the information necessary to evaluate the use of the model; none of the inputs, assumptions, calculations or modeling files are provided. Please produce all documentation reflecting or setting forth the inputs to the SLOCOG travel demand model used to analyze the Project's VMT impacts, as described in the September 2022 Barrel Creek TIS. In addition, please produce any computation sheets supporting the traffic queueing analysis set forth in the TIS.

In addition, the CalEEMod materials attached to the MND with respect to the air quality and greenhouse gas analyses do not include complete output files, including files showing what changes were made to default values used in the modeling. Without those files, the MND's air modeling and analysis cannot be verified. We therefore request that the City produce the output files associated with the CalEEMod modeling used to estimate the Project's air emissions as described in the revised MND. This request includes, but is not limited to, all ".json" files.

Without access to these critical MND reference documents during the public comment period on the MND, CARE CA and other members of the public are precluded from having the meaningful opportunity to comment on the MND as required by CEQA. Without having access to these documents, CARE CA and other members of the public are unable to evaluate the accuracy of the City's impact analysis, or the City's conclusion that VMT and air quality impacts will be insignificant and not require mitigation.

We request ***immediate access*** to review the above documents pursuant to section 6253(a) of the Public Records Act, which requires public records to be "open to inspection at all times during the office hours of the state or local agency" and provides that "every person has a right to inspect any public record." Gov. Code §

6253(a). Therefore, the 10-day response period applicable to a "request for a copy of records" under Section 6253(c) does not apply to this request.

The courts have held that the failure to provide even a few pages of a CEQA document for a portion of the CEQA review period invalidates the entire CEQA process, and that such a failure must be remedied by permitting additional public comment.[2] It is also well settled that an MND may not rely on hidden studies or documents that are not provided to the public.[3] By failing to make all documents referenced in the MND "readily available" during the current comment period, the City is violating the clear procedural mandates of CEQA, to the detriment of CURE CA and other members of the public who wish to meaningfully review and comment on the MND. Accordingly, we request that the City extend the public comment period for at least 20 days after the requested documents are produced.

Sincerely,

Richard M. Franco

RMF:acp

[2] *Ultramar v. South Coast Air Quality Man. Dist.* (1993) 17 Cal.App.4th 689, 699.
[3] *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 ("Whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.").

EXHIBIT E

From:	Kelly Gleason
To:	Richard M. Franco; Phil Dunsmore
Cc:	City Clerk; Sheila M. Sannadan
Subject:	RE: Further Request for Immediate Access to Public Records Relating to Barrel Creek Planned Development Project (PNLN No, DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699)
Date:	Wednesday, February 15, 2023 10:00:44 AM
Attachments:	CalEEMod_export_2023-01-31T19_46_36.100Z.json CalEEMod_export_2023-02-15T17_54_22.152Z.json

Hi Richard,
I have attached the CalEEMod .json files for your review. We do not control SLOCOGS data sets, rather, traffic engineers work with SLOCOG to build their model into their analysis tools. You can find information about SLOCOG's Modeling and RTP methodology at this link:

https://www.slocog.org/programs/special-studies-services-projects/modeling

Please let us know if you have any questions.

Kelly Gleason
Senior Planner | City of Atascadero
6500 Palma Ave | Atascadero, CA 93422
805.470.3446 | kgleason@atascadero.org

*City Hall is offering in-person meetings **by appointment only**. Community Development staff is available by phone and email. We will respond as soon as possible to your request. Thank you for your patience! Please call (805) 461-5000 if you need an appointment.*

From: Richard M. Franco <rfranco@adamsbroadwell.com>
Sent: Wednesday, February 15, 2023 9:10 AM
To: Phil Dunsmore <pdunsmore@atascadero.org>
Cc: Kelly Gleason <kgleason@atascadero.org>; City Clerk <cityclerk@atascadero.org>; Sheila M. Sannadan <ssannadan@adamsbroadwell.com>
Subject: RE: Further Request for Immediate Access to Public Records Relating to Barrel Creek Planned Development Project (PNLN No, DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699)

Mr. Dunsmore,

Thank you for your response, and for your agreement to make available the information we requested. As the requested information consists of files relating to computer modeling (CalEEMod and the SLOCOG travel demand model), I would expect that those materials are available in electronic format. Pursuant to California Gov't Code section 7922.570 (formerly Gov. Code section 6253.9), we request that all responsive information that is in an electronic format be provided electronically. Please have your staff coordinate with my legal assistant Sheila Sannadan, copied here, to provide the information electronically, either via email or a file hosting program. Thank you.

Rick Franco

From: Phil Dunsmore <pdunsmore@atascadero.org>
Sent: Tuesday, February 14, 2023 8:58 AM
To: Alisha C. Pember <apember@adamsbroadwell.com>; Richard M. Franco <rfranco@adamsbroadwell.com>
Cc: Kelly Gleason <kgleason@atascadero.org>; City Clerk <cityclerk@atascadero.org>
Subject: RE: Further Request for Immediate Access to Public Records Relating to Barrel Creek Planned Development Project (PNLN No, DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699)

Alisha, Richard,
In response to your request for immediate access you may request an appointment to view all applicable documents during regular business hours at our Atascadero City Hall, 6500 Palma Ave Atascadero. Please make an appointment to be sure staff is able to assist you. Thank You!

Phil Dunsmore, Community Development Director
CITY OF ATASCADERO
Community Development Dept.
6500 Palma Ave., Atascadero CA 93422
Direct (805) 470-3488 | Office (805) 461-5035
Direct Fax: (805) 470-3489 | Office Fax (805) 461-7612
www.atascadero.org
Dedicated to Atascadero's character and safety by helping people plan and build quality projects
City Hall is once again fully open to the Public. All services are currently active and we are processing permits and performing inspections.

From: Alisha C. Pember <apember@adamsbroadwell.com>
Sent: Monday, February 13, 2023 5:15 PM
To: Phil Dunsmore <pdunsmore@atascadero.org>; Kelly Gleason <kgleason@atascadero.org>; City Clerk <cityclerk@atascadero.org>
Cc: Richard M. Franco <rfranco@adamsbroadwell.com>
Subject: Further Request for Immediate Access to Public Records Relating to Barrel Creek Planned Development Project (PNLN No, DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699)

Good afternoon,

Please find the attached correspondence.

If you have any questions, please contact Richard Franco.

Thank you.

Alisha Pember

Alisha C. Pember
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
(650) 589-1660 voice, Ext. 24
apember@adamsbroadwell.com

ATTENTION:
This email originated from outside the City's network. **Use caution when opening links and attachments.**

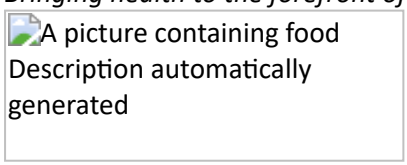
From: Healthy Communities <healthycommunitiesslo@gmail.com>
Sent: Wednesday, February 22, 2023 4:14 PM
To: Annette Manier <amanier@atascadero.org>
Subject: Re: Revised MND for Barrel Creek

Dear Annette,

I am writing to you on behalf of the Healthy Communities Work Group, an advisory group focused on improving health through community design. We have reviewed the **Revised MND for Barrel Creek**. Our letter with comments is attached to this email.

Please reach out if you have any questions.

Sophie Glazebrook
Health Education Specialist
*Member of the **Healthy Communities Working Group**:*
Bringing health to the forefront of community design



heal slo
Healthy Communities

COALITION PARTNERS:

Bike SLO County
Cal Poly State University
Caltrans District 5
City of San Luis Obispo
Community Action Partnership of SLO County
First 5 San Luis Obispo County
Housing Authority of the City of San Luis Obispo
People's Self-Help Housing
Rideshare – Safe Routes to School
Smart Share Housing Solutions
SLO Council of Governments
SLO County Departments:
  Air Pollution Control District
  Public Health
SLO County YIMBY
SLO Legal Assistance Foundation

RESOURCES:

Data Dashboard, SLO Health Counts

Community Health Improvement Plan

Building Healthy Communities: Residential Checklist

Date: February 22nd, 2023

To: Annette Manier, City of Atascadero Community Development Department, 65OO Palma Ave., Atascadero CA 93422

From: The Healthy Communities Work Group

RE: Barrel Creek Planned Development Notice of Intent

Dear Annette Manier,

Thank you for this referral. Please consider proactively including the Healthy Communities Work Group (HCWG) in the design phase of this project for community input on building health elements into the project. HCWG uses the evidence-based Building Healthy Communities Checklist to help guide discussions between local planning and transportation officials, public health officials, community-based organizations, academia and community members as they work to improve health through community design.

HCWG would like to invite staff representatives from the City of Atascadero Community Development Department to present this project at a future meeting. HCWG also welcomes referrals from the City of Atascadero on new and similar mixed-use development projects.

Signed,

Robert E. Jorgensen

Bob Jorgensen, Healthy Communities Work Group Co-Chair

From: Dennis Gehre
Sent: Thursday, March 9, 2023 6:48 PM
To: City Clerk
Subject: Public Hearing Item #1 Barrel Creek Development

My wife and I are 40 year residents of Atascadero.
We are asking the City Counsel members for a yes vote to approve the Barrel Creek project on Del Rio Road.
We feel that this would be a great project for our community at Northern Gate Way to the city of Atascadero.
Thank you to all the Counsel members for reading this email.

Sincerely:
Dennis and Jeannette Gehre

Sent from Mail for Windows

To: Atascadero City Council – Mayor Heather Moreno, Mayor Pro Tem Susan Funk, Council Member Charles Bourbeau, Council Member Mark Dariz, Council Member Heather Newsom

From: Legacy Church (AKA; Atascadero First Assembly of God)

RE: Barrel Creek Project

Dear Council Members,

As a church, we purchased the property with the intent to build a new church and school. That plan is no longer desired by our membership and the church is now focused on benefiting the community of Atascadero and nearby residents.

We, the undersigned, believe that the benefits of this project to the community are beyond what we could have imagined with opportunities for families, couples, and individuals to enjoy relaxing time while experiencing the pleasant environment designed and submitted by the Buyers of the property.

In addition, the City of Atascadero will receive a **monumental** increase of property taxes once the sale and project are completed. This will provide for better roads and support services to the residents of Atascadero such as police/fire response funding.

We support the project and urge your approval.

NAME: Jane Sumner

NAME: Bruce E Manuelson

NAME: C Manuelson

NAME: C Manuelson

NAME: Patrick Wey

NAME: Danielle Cutler

NAME: Ciara Herzig

NAME: Mackenzie Ramsey

NAME: Nathan Charnley

NAME: Stephen J. Powell

NAME: Kristen Krus-e

NAME: Mark Sobowitz - Mark Sobowitz

NAME: Jim Wirtz - Jim Wirtz

NAME: Kelsey Wirtz - Kelsey Wirtz

NAME: Mike Dickey Mike Dickey

NAME: Mike Dickey JR Mike Dickey JR

NAME: [illegible]

NAME: [illegible]

NAME: [illegible]

NAME: Joni Little

NAME: [illegible]

NAME: [illegible]

NAME: [illegible]

NAME: Jeannie C Decker

NAME: Maria E Fuentes

NAME: Matilda Jimenez

NAME: GABINO GUERRERO

NAME: Robin L Castaldo-Whitford

NAME: Terry J Moore Terry Moore

NAME: Kim Noyes

NAME: Gerald Burgess

NAME: Chelsea Hagen

NAME: STEVE WOODS Steve Woods

NAME: [illegible]

NAME: [illegible]

NAME: [illegible]

NAME: [illegible]

NAME: Tyrone Mcleod - Tyrone Mcleod

NAME:

NAME:

To: Atascadero City Council – Mayor Heather Moreno, Mayor Pro Tem Susan Funk, Council Member Charles Bourbeau, Council Member Mark Dariz, Council Member Heather Newsom

From: Legacy Church (AKA; Atascadero First Assembly of God)

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We support the project and urge your approval.

NAME: Charles Meador

NAME: Dawn Pangburn

NAME: Laurel Netz

NAME: James Netz

NAME: Chuck Terhune

NAME: Jessica Twaddle

NAME: Jerald G Lipsey Jr.

NAME: Faith Creel

NAME:

NAME: Kevin Chaffin

NAME: Tammy Chaffin

NAME: Kim Cabrera

NAME: Nancy Bentley

NAME: Pat Kelley

NAME: Patti J Sa

NAME: Garrett Kam

NAME: Kristen Jared

NAME: K Mustalish

NAME: Kirkley Peterson

NAME: Daniel Heck

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To: Atascadero City Council – Mayor Heather Moreno, Mayor Pro Tem Susan Funk, Council Member Charles Bourbeau, Council Member Mark Dariz, Council Member Heather Newsom

From: Legacy Church (AKA; Atascadero First Assembly of God)

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We support the project and urge your approval.

NAME: KYLE REAVE
NAME: Beth J Peterson
NAME: Diana Willis
NAME: Liliana Willis
NAME: Dan Willis
NAME: ~~Lori~~ Amanda Piper
NAME: Kevin Piper
NAME: Tiffany Riojas
NAME: Jason Riojas
NAME: Vonda Reeder
NAME: Rita Keefer

NAME: _____

NAME: Debora Dawson Debora A. Dawson

NAME: Shari Ray Shari Ray

NAME: TINA KELLY Tina R. Kelly

NAME: Josh Lewis

NAME: Angelina Gutierrez

NAME: _____

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To: Atascadero City Council – Mayor Heather Moreno, Mayor Pro Tem Susan Funk, Council Member Charles Bourbeau, Council Member Mark Dariz, Council Member Heather Newsom

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We support the project and urge your approval.

NAME: Diane Curley

NAME:

NAME:

NAME:

NAME:

NAME:

NAME:

NAME: Daniel Demsey

NAME: Robert Gutierrez

NAME:

NAME:

To: Atascadero City Council – Mayor Heather Moreno, Mayor Pro Tem Susan Funk, Council Member Charles Bourbeau, Council Member Mark Dariz, Council Member Heather Newsom

From: Legacy Church (AKA; Atascadero First Assembly of God)

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We support the project and urge your approval.

NAME: Chad Langford

NAME: Amber Langford

NAME:

NAME: DUSTIN P. LEWIS

NAME:

NAME:

NAME: Christina Olivo

NAME:

NAME: Edmund Wife

NAME: Juana Moore

NAME:

Dillon James

From: Deena Pangborn [redacted]
Sent: Tuesday, March 14, 2023 10:17 AM
To: City Clerk
Subject: Barrell Creek Project - Agenda Mar. 14, 2023 Item # B1

Dear Council Members,

As a community member I look forward to the Barrell Creek Project being approved and able to move forward to completion. It is a very attractive project and will be a compliment to other sites in that part of town. This project will not only benefit the residents of Atascadero with local shopping and recreational opportunities but will also be a draw for visitors to our area. In turn the city will derive long term income to provide for many services.

As a member of Legacy church (AKA Atascadero First Assembly of God) I am very aware of the desire of the members to continue serving our community in greater ways than we have the ability to do at this point. We have no desire to build big as was a possible plan in years past but rather invest big and provide resources for the good of the people in our area.

I support this project and ask for your approval.

Deena Pangborn

Dillon James

From: Lorrie J. LeLe <ljlele@adamsbroadwell.com>
Sent: Tuesday, March 14, 2023 10:39 AM
To: City Council; City Clerk; Phil Dunsmore; Kelly Gleason
Cc: Richard M. Franco
Subject: COMMENTS: Agenda Item B.1. Barrel Creek Planned Development Project (6457)
Attachments: 6457-008j - Barrel Creek CC Comments (3-14-23).pdf

On behalf of Californians Allied for a Responsible Economy, we submit the attached comments for the Barrel Creek Planned Development Project.

If you have any questions, please direct them to Richard Franco – rfranco@adamsbroadwell.com

Thank you,

Lorrie LeLe
Legal Assistant
Adams Broadwell Joseph & Cardozo
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March 14, 2023

Via Email and Overnight Mail

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Re: Agenda Item B.1. Barrel Creek Planned Development Project (PNLN No. DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699)

Dear Mayor Moreno, Mayor Pro Tem Funk, Honorable Councilmembers, Mr. Dunsmore and Ms. Gleason:

We are writing on behalf of Californians Allied for a Responsible Economy ("CARE CA") with respect to Agenda Item B.1., the Barrel Creek Planned Development Project (PNLN No. DEV21-0066; Environmental Document No. 2022-0005; SCH No. 2022120699) ("Project"), proposed by Legacy Realty and Development, LLC.

The Project proposes to develop a mixed-use development at the intersection of Del Rio Road and San Ramon Road in the City of Atascadero ("City"), San Luis Obispo County, California. The Project includes a proposal for 48,000 square feet ("sf") of commercial/light industrial space, a 120-room hotel, 40 multi-family apartment units, 5,000 sf of restaurant or brewery space, 16 short-term stay

cottages, and a 20-lot single family subdivision. The Project address is 6010, 6020, 6030 Del Rio Rd. and 1505, 1855 San Ramon Rd., Atascadero, CA 93422 on Assessor Parcel Numbers: 049-131-043, 044, 052, 058, and 066.

On December 29, 2022, the City released its Mitigated Negative Declaration ("MND") for the Project and on February 3, 2023, the City released its revised MND. On February 7, 2023, CARE CA provided the City with preliminary comments on the revised MND.[1] Those comments addressed numerous ways in which the MND fails to comply with the California Environmental Quality Act[2] ("CEQA"), including the lack of a complete, accurate and stable Project description, failure to adequately analyze the Project's potentially significant impacts with respect to air quality, energy, noise and transportation or to support the MND's conclusions with substantial evidence, and failure to perform a proper cumulative impacts analysis. We also explained why the City may not make the necessary findings to support approval of the Project's required entitlements.

On February 22, 2023, CARE CA submitted additional comments, which included expert comments from Matt Hagemann, P.G., C.Hg. and Paul Rosenfeld, PhD (the "SWAPE Comments"), and Daniel Smith, P.E. (the "Smith Comments").[3] In addition to the issues raised in our February 7, 2023 MND Comments, the SWAPE Comments explain how the MND fails to adequately evaluate the Project's impacts, and provide substantial evidence supporting a fair argument that the Project's construction and operational emissions of toxic air contaminants ("TACs") will cause significant cancer risks to nearby residents. The Smith Comments further explain why the MND's transportation impacts analysis lacks substantial evidence supporting its conclusions.

The City has failed to respond to our comments or to resolve any of the issues raised. The staff report fails to even address any of the defects in the MND identified in our comments. Because these issues have not been addressed and remain unresolved, this letter will reiterate and summarize the issues raised in our

[1] See February 7, 2023 letter from Richard M. Franco to City of Atascadero Planning Commission re Agenda Item #3-Barrel Creek Planned Development Project (the "February 7, 2023 MND Comments"). These comments are incorporated herein by reference.
[2] Pub. Resources Code, §§ 21000 et seq.; 14 Cal. Code Regs. ("C.C.R.") §§ 15000 et seq. ("CEQA Guidelines").
[3] See February 22, 2023 letter from Richard M. Franco to City of Atascadero re Comments on Revised MND for the Barrel Creek Planned Development Project (the "February 22, 2023 MND Comments"). These comments are incorporated herein by reference.

February 7 and February 22 MND Comments. For these reasons, the City Council may not approve the Project until the City prepares and circulates an Environmental Impact Report ("EIR") that discloses, analyzes, and mitigates all potentially significant impacts from the Project.

I. STATEMENT OF INTEREST

CARE CA is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental impacts of the Project. The coalition includes Atascadero residents Lucas Falkenstern and Matt Macias and Paso Robles resident Frank Ortega, and other individuals who live and work in Atascadero and the surrounding area.

CARE CA advocates for protecting the environment and the health of their communities' workforces. CARE CA seeks to ensure a sustainable construction industry over the long-term by supporting projects that offer genuine economic and employment benefits, and which minimize adverse environmental and other impacts on local communities. CARE CA members live, work, recreate, and raise their families in the City of Atascadero and surrounding communities. Accordingly, they would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist onsite.

In addition, CARE CA has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making the area less desirable for new businesses and new residents. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

II. THE MND IS INADEQUATE AS A CEQA DOCUMENT AND AN EIR IS REQUIRED

CEQA requires that lead agencies analyze any project with potentially significant environmental impacts in an EIR.[4] "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."[5] 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."[6]

CEQA's purpose and goals must be met through the preparation of an EIR, except in certain limited circumstances.[7] CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the "fair argument" standard. Under that standard, a lead agency "shall" prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment.[8]

In contrast, a mitigated negative declaration may be prepared only when, after preparing an initial study, a lead agency determines that a project may have a significant effect on the environment, but:

> (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review *would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur*, and (2) there is *no substantial evidence* in light of the whole record before the public agency that the project, as revised, *may* have a significant effect on the environment.[9]

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[4] See Pub. Resources Code § 21000; 14 C.C.R. § 15002.
[5] *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564 (internal citations omitted).
[6] *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810.
[7] See Pub. Resources Code § 21100.
[8] Pub. Resources Code §§ 21080(d), 21082.2(d); 14 C.C.R. §§ 15002(k)(3), 15064(f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1601-1602.
[9] Pub. Resources Code § 21064.5 (emphasis added).

Courts have held that if "no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR."[10] The fair argument standard creates a "low threshold" favoring environmental review through an EIR, rather than through issuance of a negative declaration.[11] An agency's decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.[12]

"Substantial evidence" required to support a fair argument is defined as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached."[13] According to the CEQA Guidelines, when determining whether an EIR is required, the lead agency is required to apply the principles set forth in Section 15064, subdivision (f):

> [I]n marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: *If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.*[14]

With respect to this Project, the MND fails to satisfy the basic purposes of CEQA. The City failed to adequately investigate, analyze, disclose, and mitigate the Project's potentially significant impacts. Specifically, the MND does not comply with CEQA for at least the following reasons: (1) there is substantial evidence supporting a fair argument that the Project will have significant public health impacts; (2) the MND lacks substantial evidence supporting its findings that the Project will not have significant transportation, noise, or energy impacts; and (3) the MND lacks a proper cumulative impacts analysis. Because the City's conclusions that the Project will have less than significant impacts are unsupported by substantial evidence, an EIR is required.

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[10] See, e.g., *Communities for a Better Environment. v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320.
[11] *Citizens Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748, 754.
[12] *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th, 1307, 1318; see also *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1002 ("If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR and adopt a negative declaration, because it could be 'fairly argued' that the project might have a significant environmental impact").
[13] 14 C.C.R. § 15384(a).
[14] 14 C.C.R. § 15064(f) (emphasis added).

III. SUBSTANTIAL EVIDENCE SUPPORTS A FAIR ARGUMENT THAT THE PROJECT MAY HAVE SIGNIFICANT PUBLIC HEALTH RISKS

A lead agency's significance determinations must be supported by accurate scientific and factual data.[15] An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.[16] A key purpose of the initial study is to provide documentation of the factual basis for the MND's finding that the Project will not have a significant impact on the environment.[17] Indeed, it is an abuse of discretion under CEQA where an agency's decision is not supported by the findings, or the findings are not supported by the evidence.[18] CEQA requires that the initial study disclose data or evidence upon which the study relies. "Mere conclusions simply provide no vehicle for judicial review."[19]

As the California Supreme Court has made clear, these standards apply to lead agencies' evaluations of public health impacts of a project under CEQA.[20] In addition, California's Office of Environmental Health Hazard Assessment ("OEHHA") has issued guidance for conducting health risk assessments in California, which recommends that all projects lasting at least 2 months assess cancer risk to nearby sensitive receptors, and that exposures from projects lasting more than six months should be evaluated for the duration of the project.[21] Similarly, the San Luis Obispo County Air Pollution Control District ("SLOAPCD") recognizes that diesel particulate matter from construction equipment is a TAC.[22] "Depending on the construction site location and proximity to sensitive receptors, a project that generates high levels of construction emissions, including diesel PM, may be required to perform a health risk assessment to evaluate short-term exposures to high pollutant concentrations and, if necessary, to implement

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[15] 14 C.C.R. § 15064(b).
[16] *Kings County Farm Bureau*, 221 Cal.App.3d at 732.
[17] *Citizens Ass'n for Sensible Development v. County of Inyo* (1985) 172 Cal.App.3d 151, 171.
[18] *Id.*; Code of Civil Procedure § 1094.5(b).
[19] *Citizens Ass'n, supra,* 172 Cal.App.3d at 171.
[20] *Sierra Club v. County of Fresno,* (2018) 6 Cal.5th 502, 518–522; *see also, Berkeley Jets* (2001) 91 Cal.App.4th 1344, 1369-1371.
[21] See February 22, 2023 MND Comments, Exhibit A (SWAPE Comments), pg. 2.
[22] San Luis Obispo Air Pollution Control District CEQA Air Quality Handbook, pg. 2-1, available at https://storage.googleapis.com/slocleanair-org/images/cms/upload/files/CEQA_Handbook_2012_v2%20%28Updated%20MemoTable1-1_July2021%29_LinkedwithMemo.pdf, last accessed on February 7, 2023.

mitigations measures."[23] The SLOAPCD further recognizes that proximity of sensitive receptors, including residential dwelling units, to a construction site constitutes a special condition and may require a more comprehensive evaluation of diesel particulate matter ("DPM") impacts.[24]

Here, the City's finding that the Project will not expose sensitive receptors to substantial pollutant concentrations completely ignores the Supreme Court's mandate and the guidance from state and local public health requiring evaluation of the Project's public health impacts. Impact findings like this one must be explained to show that there is some evidence supporting the findings.[25] The MND fails to evaluate potentially significant impacts to nearby sensitive receptors; indeed, it fails to even identify the nearest sensitive receptors, a crucial omission given that the Project site is currently zoned for residential use and the site is surrounded on three sides by single family residences, including several within 1000 feet of the Project site. The MND contains no discussion, let alone a specific finding, as to the Project's impacts on neighboring sensitive receptors. There is no disclosure or analysis of TACs that will be emitted during Project construction and operations or the impact on nearby sensitive receptors. This is a clear cut violation of CEQA.

Moreover, CARE CA's expert consultants performed a preliminary health risk analysis ("HRA") of the Project's construction and operational health risk impacts to existing residential sensitive receptors using the annual PM_{10} exhaust estimate from the MND's CalEEMod output files.[26] This analysis calculated the excess cancer risk to the maximally exposed individual resident near the Project site, using applicable methodology prescribed by OEHHA, as recommended by SLOAPCD.[27] This analysis shows that the excess cancer risk over the course of a residential lifetime (30 years) is approximately 58.1 in one million, exceeding the SLOAPCD threshold of 10 in one million and representing a potentially significant impact not disclosed or analyzed in the MND.[28] This screening level analysis warrants an EIR with a full health risk analysis that properly evaluates health risk impacts associated with Project construction and operation. If this analysis confirms that the Project would result in significant health risks, all feasible mitigation measures should be adopted to reduce the risk to less than significant levels. SWAPE's comments identifies numerous feasible mitigation measures that

[23] *Id.*
[24] *Id.*, pg. 2-3.
[25] 14 C.C.R. § 15063(d)(3).
[26] February 22, 2023 MND Comments Exhibit A (SWAPE Comments), pgs. 4-8.
[27] *Id.*, pg. 5.
[28] *Id.*

are available to reduce emissions.[29] While the MND includes some mitigation measures mainly targeted at reducing dust from construction, it fails to adopt many of the feasible measures recommended by SWAPE to reduce emissions of TACs.

The City therefore must prepare an EIR that properly discloses and analyzes the Project's potentially significant air quality impacts, identifies the nearest sensitive receptors, includes a health risk analysis that fully analyzes potentially significant impacts of the Project's construction and operations on these receptors, and adopts appropriate and feasible mitigation measures.

IV. THE MND FAILS TO PROVIDE SUBSTANTIAL EVIDENCE SUPPORTING ITS TRANSPORTATION, NOISE, AND ENERGY IMPACTS ANALYSIS

A. Transportation Impacts

The MND concludes that the Project will have a less than significant impact on vehicle miles traveled ("VMT"). The MND's impact analysis is based on a Traffic Impact Study ("TIS"), which contains a brief VMT analysis but fails to provide substantial evidence in support of the City's VMT conclusions.

The CEQA Guidelines are explicit regarding the requirements for a CEQA document's analysis of transportation impacts.[30] While a lead agency has discretion to choose the most appropriate methodology to evaluate a Project's VMT and may use models to estimate VMT, "[a]ny assumptions used to estimate vehicle miles traveled and any revisions to model outputs should be documented and explained in the environmental document prepared for the project."[31] This Guideline specifically incorporates the standards set forth in Guidelines section 15151, i.e., the environmental document must contain a sufficient degree of analysis to provide decision makers with information that enables them to make a decision which intelligently takes account of the Project's environmental impacts.[32] As explained below, the MND for this Project utterly fails to comply with these standards and is therefore invalid as an informational document under CEQA.

[29] *Id.*, pgs. 8-11.
[30] 14 C.C.R. §15064.3.
[31] 14 C.C.R. §15064.3(b)(4).
[32] 14 C.C.R. §15151.

As we and our experts have previously commented, the TIS conclusions with respect to VMT are contradictory: "[t]he project is expected to increase overall regional VMT slightly and reduce residential, office, and retail VMT."[33] Mr. Smith's comments further describe the unexplained and unsupported contradictions in the VMT analysis. For example, the TIS' VMT modeling results are summarized in Table 8, which reveals that the Project would *increase* overall regional VMT by 669 miles over a Year 2020 regional baseline, yet the residential, employment-generating and retail components of the Project would *respectively decrease* regional totals by 3,397, 562 and 646 miles (4,605 total).[34] Mr. Smith poses the critical question: "what else is there in the Project that would offset this net VMT decrease of 4605 plus adding another 669 miles VMT?"[35] Because none of the inputs to the SLOCOG model are provided, this outcome remains "contradictory and incomprehensible."[36]

Compounding its failure to document and explain the assumptions used in its VMT analysis, the City refused to provide the relevant traffic demand model inputs despite several requests for this information.[37] As the lead agency, however, the City is responsible for ensuring that the MND's conclusions are supported by substantial evidence, and is prohibited from relying on hidden studies or documents that are not provided to the public.[38]

We have previously explained how the City's failure to provide any of the inputs to San Luis Obispo Council of Governments ("SLOCOG") travel demand model preclude the public and decision makers from assessing the accuracy of the MND's VMT analysis.[39] The City's refusal to provide the requested modeling data not only violates CEQA by failing to document and explain the assumptions used in

[33] September 2022 Barrel Creek Transportation Impact Study, pg. 28.
[34] February 22, 2023 MND Comments Exhibit B (Smith Comments), pgs. 1-2.
[35] *Id.*, pg. 2.
[36] *Id.*
[37] *See* February 22, 2023 MND Comments, pg. 11.
[38] *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal. App. 4th 173, 194 (CEQA does not allow delegation of responsibility to assess environmental impacts to another party subject to approval of staff without the underlying information; CEQA document must reflect independent judgment of lead agency), citing *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307; *Santiago County Water District v. County of Orange* (1981) 118 Cal.App.3rd 818, 831 ("Whatever is required to be considered in an [CEQA document] must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.").
[39] *See* February 7, 2023 MND Comments, pg. 14.

its VMT analysis, it deprives the public and the ultimate decision maker (this City Council) of the information necessary "to make a decision which intelligently takes account of the Project's environmental impacts."[40] The MND lacks substantial evidence supporting its conclusions with respect to VMT, and the City and must prepare an EIR that analyzes these impacts and supports its conclusions with substantial evidence so that the public and decision makers may properly evaluate the Project's transportation impacts.

The MND also includes a Level of Service ("LOS") analysis with respect to the Project's traffic impacts that suffers from the same defects as the VMT analysis: it lacks supporting substantial evidence that would allow the public and decisionmakers to evaluate the MND's conclusions regarding the Project's impacts.

As Mr. Smith explains, the TIS identifies some LOS conditions that would exceed the City's General Plan policy levels when traffic from already-approved projects and this Project are added to existing conditions.[41] The TIS also identifies some hazardous conditions where traffic queues would exceed available storage. Specifically, when Project traffic is added to forecast Year 2035 traffic levels, unsatisfactory LOS is expected to occur at more locations and queue exceedances of available storage are forecast to occur at more locations and with more severity.[42] The MND includes some mitigation measures for these conditions, but provides no calculations or any other evidence that demonstrate the proposed mitigation measures will successfully and sufficiently mitigate these potentially hazardous traffic conditions so as to comply with the General Plan.[43]

Because the MND lacks substantial evidence supporting its conclusion that mitigation measures will reduce traffic impacts to less than significant levels, it does not comply with CEQA.[44]

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[40] 14 CCR §§ 15064.3 and 15151; *Cal. Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal. App. 4th 957, 986-87 (omission of information necessary for informed discussion of impacts constitutes failure to proceed in manner required by law where it precludes informed decision-making by agency or informed participation by public).

[41] February 22, 2023 MND Comments Exhibit B (Smith Comments), pg. 2.

[42] *Id.*

[43] As set forth in the February 22, 2023 MND Comments, we specifically requested that the City produce "any computation sheets supporting the traffic queueing analysis set forth in the TIS." *See* February 22, 2023 MND Comments Exhibit D. The City has not produced any such documents.

[44] 14 C.C.R. §15070(b).

B. Noise Impacts

The Project site is currently undeveloped and is surrounded by private residences. In addition to new residential development, the Project is expected to include a new hotel, retail, restaurant, brewery, artisan manufacturing, offices and entertainment uses.[45] The commercial areas are designed to encourage restaurants and similar outdoor uses, and will include a raised patio with outdoor spaces for restaurant and other eating and drinking establishments.[46]

The MND concludes that the Project's noise impacts will be less significant with mitigation, but this conclusion is devoid of any analysis or evidentiary support. The MND asserts that due to the design of the project, "the project design **self-mitigates potential noise impacts** to surrounding neighborhoods [emphasis added]."[47] As to construction noise, the MND states that "[w]hile construction of the site **will result in an increase** in temporary ambient noise levels, the long-term occupancy of the sites **are not expected to increase ambient levels** above those specified in the General Plan [emphasis added]."[48] The MND includes a single construction noise mitigation measure limiting Saturday construction to 9am to 7pm and prohibiting Sunday construction.[49]

There is no substantial evidence—indeed, no evidence at all—supporting the City's conclusion that Project noise impacts will be less than significant.

First, the MND includes no baseline noise measurements to establish the existing ambient noise levels at the Project site. Without characterizing existing ambient noise levels in the Project area, it is impossible to determine the significance of the Project's noise impacts.

Second, there is no effort to quantify expected noise levels from construction or operations, or to identify sensitive receptors (i.e., existing neighbors) who might be impacted by noise from the Project.

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[45] MND, pg. 28.
[46] City of Atascadero Staff Report for January 17, 2023 Planning Commission hearing, pg. 11.
[47] MND, pg. 28.
[48] *Id.*
[49] *Id.*

Third, the MND provides no support for the remarkable assertion that the Project's design will "self-mitigate" noise impacts to surrounding neighbors. Moreover, it fails to specify the relevant ambient noise levels from the City's General Plan and simply concludes that Project operations "are not expected to increase ambient noise levels" above the unspecified General Plan standards. There is no explanation of how the MND's single construction mitigation measure will reduce construction noise to less than significant levels.

Finally, the MND lacks any mention of potential impacts of the Project's restaurant, brewery and outdoor entertainment uses on the new residents in the Project's residential developments.

In short, there is absolutely no basis or evidentiary support for the MND's conclusion that the Project's noise impacts will be less than significant with mitigation. Speculation and unsubstantiated opinion or narrative do not constitute substantial evidence.[50] The Project's noise impacts must be fully analyzed in an EIR that identifies enforceable mitigation measures to reduce impacts to a less than significant level.

C. Energy Impacts

The MND concludes that the Project will have a less than significant impact as to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation. The entire analysis on this point is as follows: "The proposed project is located on a mostly vacant opportunity site within the urban services line and adjacent to Highway 101 which will provide key services, jobs, lodging, and entertainment opportunities for existing residents and work to correct the City's jobs/housing/commercial imbalance. None of the proposed uses are expected to result in wasteful energy use and all buildings and operations will be required to meet current California energy code requirements, thus, no mitigation is required."[51] The MND's energy analysis makes no mention whatsoever of the Project's energy use over the 5-8 years of construction, and its conclusion with respect to operational energy use is a bare conclusion, without any analysis or evidentiary support.

[50] 14 C.C.R. §15384(a).
[51] MND, pg. 16.

CEQA Guidelines Appendix F explains that the potentially significant energy implications of a project should be evaluated in an EIR and should consider (a) The project's energy requirements and its energy use efficiencies by amount and fuel type for each stage of the project including construction, operation, maintenance and/or removal. If appropriate, the energy intensiveness of materials may be discussed; (b) The effects of the project on local and regional energy supplies and on requirements for additional capacity; (c) The effects of the project on peak and base period demands for electricity and other forms of energy; (d) The degree to which the project complies with existing energy standards; (e) The effects of the project on energy resources; and (f) The project's projected transportation energy use requirements and its overall use of efficient transportation alternatives.[52] A CEQA document is "fatally defective" when it fails to include the energy analysis required by CEQA, including a detailed statement setting forth the mitigation measures proposed to reduce wasteful, inefficient, and unnecessary consumption of energy.[53] Recent cases interpreting Appendix F hold that, to comply with CEQA, the lead agency must not only describe a project's energy impacts in an EIR, it must also quantify them.[54] This is consistent with longstanding precedent holding that unsupported conclusions are entitled to no judicial deference.[55]

The MND lacks the energy impact analysis required by CEQA and its findings are not supported by substantial evidence. An EIR must be prepared to disclose, analyze, and mitigate the Project's energy impacts.

V. THE MND LACKS A PROPER CUMULATIVE IMPACTS ANALYSIS

The City is required by CEQA to perform an analysis of the Project's cumulative impacts.[56] The MND includes a finding that the Project's cumulative

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[52] CEQA Guidelines, Appendix F (Energy Conservation), Section II.
[53] *People v. County of Kern* (1976) 62 Cal.App.3d 761, 774.
[54] *Ukiah Citizens for Safety First v. City of Ukiah* ("*Ukiah Citizens*") (2016) 248 Cal.App.4th 256, 264-65 (energy impact analysis requires clarification and technical information regarding project-related energy usage and conservation features); *Spring Valley Lake Association v. City of Victorville* ("*Spring Valley*") (2016) 248 Cal.App.4th 91, 103 (EIR must show factual basis of its assumptions that both energy use and greenhouse gas emissions will be reduced); *California Clean Energy Committee v. City of Woodland* ("*CCEC*") (2014) 225 Cal.App.4th 173, 210 ("CEQA EIR requirements are not satisfied by saying an environmental impact is something less than some previously unknown amount").
[55] *Comtys. for a Better Env't v. City of Richmond* ("*CBE v. Richmond*") (2010) 184 Cal.App.4th 70, 85; *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515 (EIR must provide reader with analytic bridge between ultimate findings and the facts in the record).
[56] Pub. Resources Code § 21083(b)(2); 14 C.C.R. §§ 15130 and 15064(h).

impacts will be less than significant[57] but fails to conduct any analysis or support the finding with evidence.

In its LOS discussion in the Transportation Impact analysis, the MND identifies "multiple other approved development projects" near the Project site that were considered in traffic modeling for the Project. These projects include a Taco Bell, a gas station, retail pad, sit-down restaurant, Tiny Hotel (22 units), Emerald Ridge (208 dwelling units), Del Rio Ridge (42 dwelling units), the Edge (unidentified 15,000 sq. ft. project) and Del Rio Marketplace (203,700 sq. ft.).[58] The MND recognizes that "[m]ajor commercial development is planned for the ease [sic] side of the 101 freeway at del Rio Road and this project will provided added residential and tourist serving uses in addition to providing light industrial spaces for local artisans."[59]

The MND completely fails to assess the potentially significant cumulative impacts of this "major commercial development"—or any of the multiple other approved development projects cited above—with respect to impact areas including air quality, public services, population and housing and utilities. There is no explanation whatsoever for the conclusion that the Project's cumulative impacts will be less than significant. The MND is woefully inadequate in its analysis of any of the Project's potentially significant cumulative impacts, and the City must prepare an EIR that properly evaluates and mitigates such impacts.

VI. THE CITY MAY NOT APPROVE THE PROJECT'S ENTITLEMENTS

The Project requires that the City approve several entitlements, including a General Plan amendment, a Zoning Map Amendment, a Conditional Use Permit ("CUP"), and a Vesting Tentative Tract Map ("VTTM"). The City Council is being asked to approve each of these entitlements. The Council should not issue these approvals because each of the entitlements requires findings that are not supported by the record.

A. General Plan Amendment

In order to recommend approval of the General Plan Amendment, the City Council must make each of the following findings: that the proposed amendment (1) is in the public interest; (2) is in conformance with the adopted General Plan

[57] MND, pg. 41.
[58] MND, pg. 33.
[59] MND, pg. 42.

Goals, Policies and Programs and the overall intent of the General Plan; (3) is compatible with existing development, neighborhoods and the environment; and (4) will not create any new significant and unavoidable impacts to traffic, infrastructure or public services.[60] Given the City's failure to supply evidence supporting the MND's analyses of the Project's potential impacts on noise, transportation, energy, and public health from construction emissions, the City Council lacks substantial evidence to find that the Project is in the public interest, that it is compatible with existing development, neighborhoods and environment and that it will not create any new significant and unavoidable impacts to traffic, infrastructure or public services.

Moreover, the City Council may not find that the Project is in conformance with the General Plan's goals, policies, and programs. For example, General Plan Policy 10.3 is to "support regional efforts to maintain clean air."[61] As discussed, the MND completely ignores the SLOAPCD's requirements to identify sensitive receptors, to perform a health risk analysis, or to define mitigation to minimize toxic DPM impacts. And the MND lacks any discussion of the potentially significant cumulative air quality impacts of multiple other developments in the Project vicinity.

Similarly, the General Plan's Safety and Noise Element includes Goal SFN 6 ("Protect citizens from harmful and annoying effects of exposure to excessive noise") and SFN 8 ("Preserve tranquility of residential areas by preventing the encroachment of noise producing uses.")[62] As discussed above, the MND contains no technical analysis of either the ambient noise at any of the residences neighboring the Project site, nor any assessment of predicted noise from Project construction or operations. The MND's conclusory and unsupported statements that the Project's design will "self-mitigate" noise impacts to neighbors and that Project operations "are not expected to increase ambient noise levels" above unspecified General Plan standards simply provide no basis for the City Council to make the required findings.

Finally, the City Council lacks substantial evidence to make the required finding that the Project "will not create any new significant and unavoidable impacts to traffic." As discussed, the MND lacks support for its conclusion that the

[60] City of Atascadero General Plan, pg. II-51.
[61] *Id.*, pg. II-37.
[62] *Id.*, pg. IV-30.

Project will not have a significant impact on VMT, and fails to document or explain how the traffic mitigation measures will adequately mitigation the Project's potentially hazardous traffic conditions.

For the foregoing reasons, the City Council may not make the findings required to recommend approval of the General Plan Amendment.

B. Zoning Map Amendment

Approval of the Zoning Map Amendment requires findings that the amendment is consistent with the General Plan, and will not result in significant environmental impacts. The City Council cannot make the finding of consistency with the General Plan for the reasons set forth above. It is readily apparent from the above discussion of the MND's deficiencies with respect to air quality, public health, noise, transportation, and cumulative impacts that the City Council may not make the required finding that the Project will not result in significant environmental impacts.

C. Conditional Use Permit and Vesting Tentative Tract Map

Approval of a CUP for the Project requires a finding of consistency with the General Plan, as well as a finding that the project will not be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the Project.[63] Approval of the Project's proposed VTTM also requires a finding of consistency with the General Plan, as well as a finding that the development will not cause serious health problems.

The City Council cannot make the required findings of consistency with the General Plan for the reasons set forth above. A finding of no detriment to public health, safety, or welfare or that the Project will not cause serious health problems is unsupported for all of the same reasons. The City Council therefore cannot make the required findings to approve the Project's CUP or VTTM.

[63] See, e.g., City of Atascadero Staff Report for February 7, 2023 Planning Commission hearing, pgs. 84-85.

VII. CONCLUSION

CEQA requires that an EIR be prepared if there is substantial evidence demonstrating that any aspect of a project, either individually or cumulatively, may cause a significant effect on the environment.[64] As discussed herein and in our February 7, 2023 and February 22, 2023 MND Comments, there is substantial evidence supporting a fair argument that the Project would result in significant adverse impacts that were not identified in the MND, and that are not adequately analyzed or mitigated. The MND also fails to contain the basic information and analysis required by CEQA, deficiencies which "cannot be dismissed as harmless or insignificant defects."[65] These defects preclude the City Council from certifying the Project's MND or approving the Project's entitlements. The City cannot approve the Project until it prepares an EIR that resolves these issues and complies with CEQA.

Sincerely,

Richard M. Franco

RMF:ljl

[64] Pub. Resources Code § 21151; 14 CCR §15063(b)(1).
[65] *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1220.

Dillon James

From: Janet Rucci [redacted]
Sent: Tuesday, March 14, 2023 11:59 AM
To: City Clerk
Subject: Opposition to Agenda item B, Barrel Creek DEV21-0066

City Council Hearing, 3/14/23
Agenda item B
Barrel Creek (DEV21-0066)

Hello,
My name is Janet Rucci, and I am writing in opposition to the current Barrel Creek development proposal. I was born and raised in a rural setting on the west side of Atascadero. Though I have lived elsewhere, I had always planned to return to Atascadero to retire. As a Garcia Road property owner, whose property is roughly 1000 feet from the proposed development, I am now rethinking my plan, despite the fact that the City has already approved my plans to build a single family home on my property.

I fear that the light and noise pollution from a proposed 60-foot tall hotel and neighboring apartment complex and housing will destroy the rural tranquility I seek in my retirement home, not to mention the additional traffic that will spill onto quiet residential roads in the vicinity. As I understand it, the City has already declined to improve the narrow Del Rio bridge (west of 101) in order to accommodate additional traffic to and from this development to Del Rio and Monterey Roads. The traffic study appears to have made conclusions based on inadequate information, such as the duration of the study, along with time of day that traffic would be most impacted.

The Mitigated Negative Declaration (MND) for this project cites likely “significant environmental impact” to this area, despite mitigation measures in some categories. In addition, the plan to tie into the City's existing sewage system seems inadequate. In a recent meeting, the City’s own Water Treatment authority described the existing system as already near capacity. Water and landscape run off from this proposed development has also not been adequately addressed in the proposed plans or MND.

As the gateway from the tourist-driven wine country, and the entrance to Atascadero and the west side, we deserve a better-crafted plan that is more in tune with the charm of nearby vineyards and culinary aesthetic, and, which considers the property values of west side residents and their rural lifestyles.

With this in mind, I am opposed to this development as currently structured. This includes the proposed hotel height, the addition of a “trailer” park with fire pits, the additional dense housing apartments, and the music amphitheater. If this area is developed, I would prefer to see the entire project scaled down to address the traffic, noise, infrastructure (sewage and run off), including scaled down signage to better match the sensibilities of this gateway to the desirable wine country.

Sincerely,

Janet Rucci