

# Merrill Commerce Center Specific Plan Final EIR (SCH No. 2019049079)



Prepared for:

City of Ontario  
303 East "B" Street  
Ontario, CA 91764

Prepared by:



January 2021

**FINAL ENVIRONMENTAL  
IMPACT REPORT**

for the

***Merrill Commerce Center Specific Plan***

State Clearinghouse Number:

2019049079

**January 19, 2021**

**Prepared for:**

City of Ontario  
303 East "B" Street  
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## 1.0 INTRODUCTION

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# **1.0 INTRODUCTION**

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## **1.1 OVERVIEW**

This document, combined with the Draft Environmental Impact Report (DEIR), constitutes the Final EIR for the Merrill Commerce Center Specific Plan Project (Project). The DEIR describes existing environmental conditions relevant to the proposal, evaluates the Project's potential environmental effects, and identifies mitigation measures to reduce or avoid the potentially significant impacts. The DEIR was circulated for a 45-day review period: October 8 through November 23, 2020.

## **1.2 CONTENT AND FORMAT**

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

## **1.3 DRAFT EIR COMMENTORS**

### **1.3.1 Overview**

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

- Governor's Office of Planning and Research, State Clearinghouse
- California Department of Fish and Wildlife
- California Air Resources Board
- South Coast Air Quality Management District

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

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

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

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

City of Ontario  
303 East "B" Street  
Ontario, CA 91764  
Contact Person: Chuck Mercier, Principal Planner

## **1.5 PROJECT SUMMARY**

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

### **1.5.1 Project Location**

The Project is located in the City of Ontario, within San Bernardino County. The Project site<sup>1</sup> is located within the Ontario Ranch (formerly known as New Model Colony, NMC) area of the City. More specifically, the Project site is located along Merrill Avenue, between Grove Avenue and Carpenter Avenue. Eucalyptus Avenue forms the northerly boundary of the Specific Plan area.

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<sup>1</sup> The Project site is defined as the area encompassed by the Merrill Commerce Center Specific Plan (the Specific Plan area). The analysis presented in this Environmental Impact Report (EIR) considers and addresses environmental impacts resulting from development of the Project site proper, and also evaluates impacts that would result from off-site activities or improvements necessary to implement and support the Project.



### **1.5.2 Project Overview**

The Project proposes development and operation of Specific Plan Industrial and Business Park Land Uses on approximately 376.3 acres located in the City of Ontario, within San Bernardino County. The Specific Plan area is apportioned into approximately 292.8 acres of Industrial Land Use; approximately 55.1 acres of Business Park Land Use; and approximately 28.4 acres allocated for Circulation (vehicular and non-vehicular) rights-of-ways, easements, and similar non-building uses.

### **1.5.3 Project Objectives**

The primary goal of the Project is the development of the subject site with a productive mix of business park and industrial uses. Complementary Project Objectives include the following:

- Implement a Specific Plan development supporting business park and industrial uses providing a broad range of long-term employment opportunities.
- Implement business park and industrial uses providing a broad range of additional construction employment opportunities.
- Provide safe and convenient access for trucks in a manner that minimizes any potential disruption to residential areas.
- Provide business park and industrial uses near existing roadways and freeways to reduce traffic congestion and air emissions.
- Facilitate goods movement locally, regionally, nationally, and internationally.
- Provide land uses that are compatible with surrounding land uses and that would not conflict with the policies and environmental constraints identified in the Policy Plan.
- Support the Policy Plan vision for urbanization of the Ontario Ranch area of the City.

- Establish new development that would further the City's near-term and long-range fiscal goals.
- Improve the regional jobs/housing balance.

#### **1.5.4 Discretionary Actions**

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

*CEQA Guidelines* Section 15124 states in pertinent part that if “a public agency must make more than one decision on a project, all its decisions subject to CEQA should be listed...” Requested decisions, or City discretionary actions, necessary to realize the Merrill Commerce Center Specific Plan would include:

- Certification of the Merrill Commerce Center Specific Plan EIR;
- Approval of Policy Plan (General Plan) Amendment (Land Use);
- Adoption of the Merrill Commerce Center Specific Plan;
- Approval of Parcel Maps;
- Adoption of a Development Agreement; and
- Cancellation of the existing Williamson Act Contracts on APN 0218-261-35 (Contract #69-147, initiated in 1973); and APNs 1054-151-02, 1054-161-02, 1054-161-03, 1054-201-02 and 1054-351-02 (Contract #70-167, initiated in 1970).<sup>2</sup>

##### **1.5.4.2 Other Agency Consultation and Permits**

*CEQA Guidelines* Section 15124 also states that environmental documentation should, to the extent known, list other permits or approvals required to implement the Project.

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<sup>2</sup> A notice of non-renewal dated September 14, 2017, and recorded, has initiated the termination process for Contract #70-167.

Anticipated permits and consultation necessary to realize the Project would likely include, but would not be limited to, the following:

- Permitting by/through the Regional Water Quality Control Board (RWQCB) pursuant to requirements of the City's National Pollutant Discharge Elimination System (NPDES) Permit;
- Permitting by/through the South Coast Air Quality Management District (SCAQMD) for certain equipment or land uses that may be implemented within the Project area;
- Consultation with requesting Tribes as provided for under *AB 52, Gatto. Native Americans: California Environmental Quality Act*; and *SB 18, Burton. Traditional tribal cultural places*;
- Review and approval by the City for conformance with the Compatibility Plan for Chino Airport;
- Review and approval by the Federal Aviation Administration (FAA) for potential airspace obstruction(s) if any;
- CWA Section 404 authorization from the Army Corps of Engineers (Corps);
- Clean Water Act (CWA) Section 401 Water Quality Certification;
- California Department of Fish and Wildlife (CDFW) Section 1602 Streambed Alteration Agreement(s);
- CDFW consultation/coordination addressing protected species impact mitigation; and
- Various construction, grading, and encroachment permits from affected agencies allowing implementation of Project facilities including construction/modification of utilities systems and roadways.

## **2.0 REVISIONS AND ERRATA CORRECTIONS**

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## **2.0 REVISIONS AND ERRATA CORRECTIONS**

### **2.1 INTRODUCTION**

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

### **2.2 REVISIONS**

#### **2.2.1 Revisions to Air Quality Mitigation**

In response to comments received from California Air Resources Board (CARB) and South Coast Air Quality Management District (SCAQMD), the following mitigation measures have been revised. Findings and conclusions of the EIR are not affected.

*4.3.2 Construction contractors shall ensure that large off-road diesel fueled construction equipment, including but not limited to excavators, graders, rubber-tired dozers, and similar large pieces of equipment be equipped with CARB Tier 4 Compliant engines. ~~If the operator lacks Tier 4 equipment, and Tier 4 equipment is not available for lease or short-term rental within 50 miles of the project site, Tier 3-Compliant or cleaner off road construction equipment may be utilized.~~ **To ensure that Tier 4 Final construction equipment or better will be used during the Proposed Project's construction, this requirement shall be included in***



applicable bid documents, purchase orders, and contracts. Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities. A copy of each unit's certified tier specification or model year specification and CARB or South Coast AQMD operating permit (if applicable) shall be available upon request at the time of mobilization of each applicable unit of equipment. Additionally, the Applicant shall report to the City, including written construction documents by construction contractor(s), documenting compliance with these requirements, which shall be subject to regular City inspections to ensure compliance.

4.3.8 All diesel trucks accessing the Project shall be compliant with the CARB Truck and Bus Regulation 2010 engine emissions standards. The City encourages Project tenant use of zero-emissions or near-zero emissions on-road heavy-duty trucks, i.e., trucks with engines that meet the CARB enhanced nitrogen oxides (NOx) emissions standard of 0.02 gram per brake horsepower-hour (g/bhp-hr).

Additionally, in response to comments received from CARB, the following mitigation measure is incorporated as new DEIR Mitigation Measure 4.3.9. Findings and conclusions of the EIR are not affected.

4.3.9 All on-site yard trucks/hostlers shall be zero-emissions equipment. This requirement or equivalent language shall be incorporated in all Project facility lease documents. Prior to issuance of a Business License, facility owners or tenants shall provide documentation to the City of Ontario Planning Department and Business License Department verifying signed lease documents incorporating the requirement that all on-site yard trucks/hostlers shall be zero-emissions equipment.

## 2.2.2 Revisions to Biological Resources Mitigation

In response to comments received from the California Department of Fish and Wildlife (CDFW) mitigation addressing potential impacts to the burrowing owl and burrowing owl habitat is revised as follows:

~~4.8.1 A qualified biologist shall conduct a pre-construction presence/absence survey for burrowing owls within 14 days prior to site disturbance. If the species is absent, no additional mitigation is required. If burrowing owl(s) is (are) detected within the Project's disturbance footprint located within the City of Chino Preserve Resource Management Plan (RMP) boundary, the owl(s) are required to be handled as indicated by the RMP:~~

~~Prior to disturbance of occupied burrows (if any), suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within the City of Chino designated relocation area (e.g., the NTS basins). A qualified biologist through coordination with the City shall confirm that the artificial burrows are currently unoccupied and suitable for use by owls.~~

~~Until suitable replacement burrows have been provided/confirmed within the designated relocation area (e.g., the NTS basins), no disturbance shall occur within 50 meters (approximately 160 feet) of occupied burrows during the nonbreeding season (September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31).~~

~~Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.~~

~~If burrowing owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be excluded from the site following the 2012 CDFG Staff Report and Table 4-6 of the RMP.~~

~~Pursuant to mitigation measure B 3(8) of The Preserve EIR, and as noted on Page 4-39 of the RMP, the Project shall pay the required mitigation fee prior to initiation of ground disturbing activities.~~

~~4.8.2 If burrowing owl(s) is (are) detected within the Project's proposed disturbance footprint outside of the RMP boundary:~~

~~Prior to disturbance of the occupied burrows, suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within designated off-site conserved lands to be identified through coordination with CDFW and the City in which the burrowing owl(s) is(are) detected (either the City of Ontario or the City of Chino). A qualified biologist shall confirm that the artificial burrows are currently unoccupied and suitable for use by owls.~~

~~Until suitable replacement burrows have been provided/confirmed within the off-site conserved lands to be identified through coordination with CDFW and the City of Ontario or the City of Chino, no disturbance shall occur within 50 meters (approximately 160 feet) of occupied burrows during the nonbreeding season (September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31).~~

~~Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg-laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.~~

~~If burrowing owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be relocated from the site following the 2012 [CDFW] Staff Report.~~

The following mitigation measures shall apply as the appropriate mechanism to reduce potential Project impacts to burrowing owls to levels that would be less-than-significant:

4.8.1 A qualified biologist shall conduct a pre-construction presence/absence survey for burrowing owls within 14 days prior to site disturbance. If the species is absent, no additional mitigation shall be required.

4.8.2 If burrowing owl(s) is(are) detected within any location within the Project's proposed disturbance footprint:

- Prior to disturbance of the occupied burrows, suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within designated off-site conserved lands to be identified through coordination with CDFW and the City in which the burrowing owl(s) is(are) detected (either the City of Ontario or the City of Chino). A qualified biologist shall confirm that the replacement burrows are currently unoccupied and suitable for use by owls. Suitable replacement burrows are defined as naturally occurring small mammal burrows (such as those of California ground squirrel [Otospermophilus beecheyii]) with a burrow entrance of three inches in diameter or greater; or artificially constructed burrows meeting the specifications as described in the California Department of Fish and Game (CDFG) 1995 Staff Report on Burrowing Owl Mitigation (CDFG 1995) and/or Users Guide to Installation of Artificial Burrows for Burrowing Owls (Johnson et Al. 2010).

- Until suitable replacement burrows as defined above have been provided/confirmed within the off-site conserved lands to be identified

through coordination with CDFW and the City of Ontario or the City of Chino, no disturbance shall occur within 50 meters (approximately 160 feet) of occupied burrows during the nonbreeding season (September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31).

• Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg-laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

• If burrowing owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be excluded from the site following the 2012 CDFG Staff Report.

In response to comments received from CDFW, and out of an abundance of caution, additional mitigation addressing potential impacts to the western pond turtle is incorporated as follows:

4.8.6 Within the breeding season (May-July) prior to the onset of construction activities, a qualified biologist shall conduct pre-construction visual surveys, following U.S. Geological Survey visual survey protocol, for western pond turtles within all areas of any suitable aquatic habitat for this species (retention ponds). If Western pond turtles are observed during the pre-construction survey, the Applicant shall prepare for CDFW review and approval, a translocation plan identifying proposed protocol for trapping and relocating turtles, including identifying potential, appropriate receiver sites to relocate western pond turtles. If no western pond turtles are observed during the pre-construction survey, then construction activities may begin. If construction is delayed or halted for



more than 30 days, another pre-construction survey for western pond turtle shall be conducted. Within seven days of the pre-construction survey, a report of findings from the survey shall be submitted to the CDFW.

During construction, a qualified biological monitor who has been approved by the CDFW to relocate western pond turtles shall be onsite to ensure that no western pond turtles are harmed. If western pond turtles are observed in the construction area at any time during construction, the onsite biological monitor shall be notified and construction in the vicinity of the sighting shall be halted until such a time as a turtle has been removed from the construction zone, and relocated by an approved biologist. If a sighting occurs during construction, the biologist shall prepare a report of the event and submit it to CDFW.

In response to comments received from CDFW, and out of an abundance of caution, additional mitigation addressing potential impacts to tricolored blackbirds is incorporated as follows:

4.8.7 Prior to initiation of ground-disturbing activities, including demolition, a pre-disturbance survey for tricolored blackbirds shall be conducted by a qualified biologist. The survey area shall encompass all habitat within the Project site and a 500-foot buffer supporting suitable foraging opportunities for blackbird species on the date that these activities will initiate.

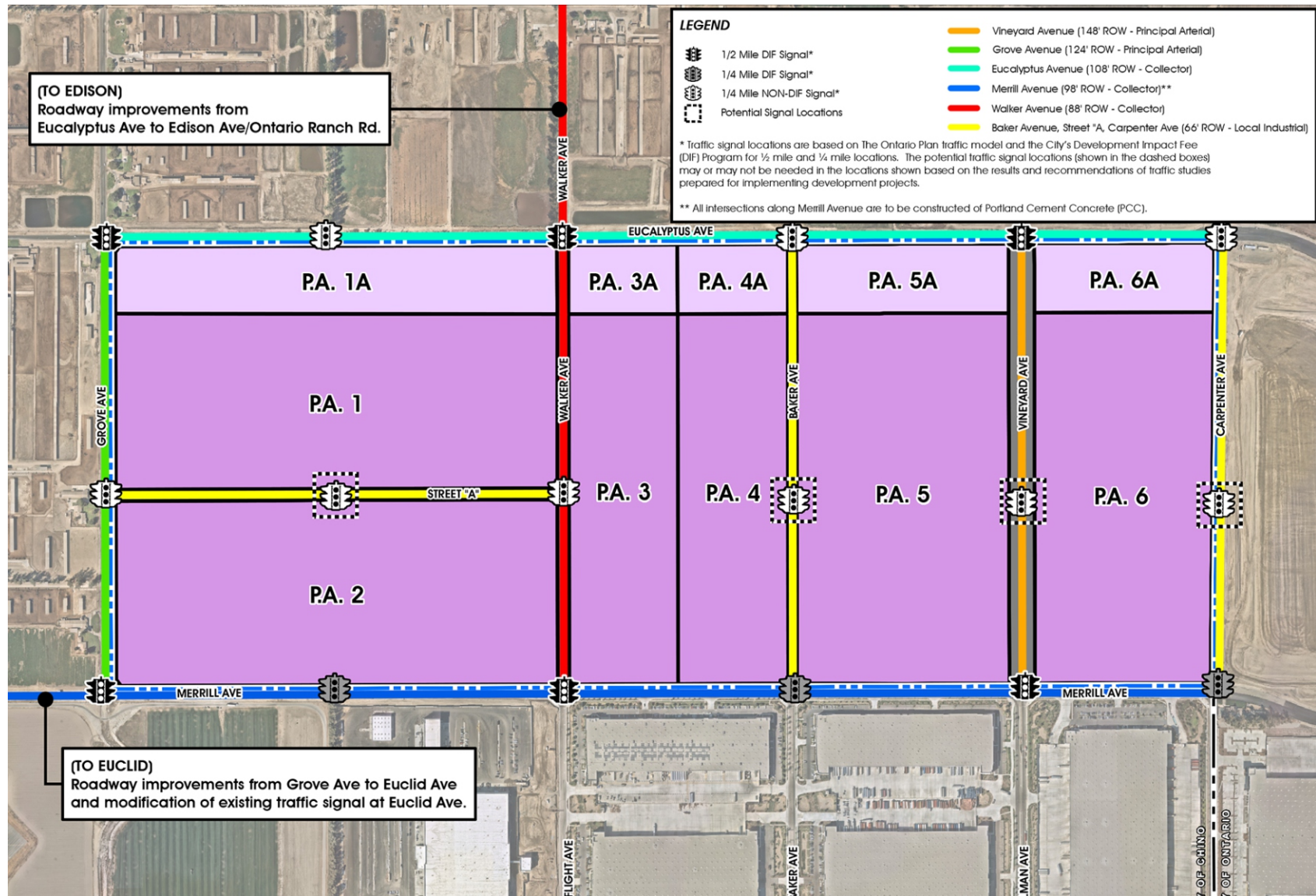
- If tricolored blackbirds are observed foraging, all Project-related construction activities shall avoid that portion of the Project site containing foraging tricolored blackbirds, along with a 500-foot avoidance buffer, until the tricolored blackbirds have concluded their foraging activities and vacated the Project site on their own accord. The qualified biologist shall monitor the movement of the tricolored blackbirds to ensure

that all Project activities occur outside of the active foraging area and associated buffer.

- If tricolored blackbirds are not detected within the Project site during the pre-construction survey, construction activities may commence and no additional actions are needed for areas under continuous disturbance by Project activities.
- The pre-construction survey shall be repeated within portions of the Project site supporting potential blackbird foraging habitat where construction has not commenced and/or where construction activities have paused and elapsed for more than thirty (30) consecutive days, and have not been rendered into a developed condition prior to that time.

### **2.2.3 Revisions to Project Description**

In consultation with the City and in conjunction with formalization of the Project Development Agreement (DA), certain revisions to the Specific Plan Phasing Plan Concept and Infrastructure Plan Concepts have been made. The current (December 2020) operative Infrastructure Concepts and Phasing Plan Concept are presented at the following Figures 2-1 through 2-13. These revisions have no effect on the EIR analyses and are presented here for informational purposes only. As noted in the DEIR, the EIR analyses address the range and types of uses permitted or conditionally permitted under the Specific Plan Industrial and Business Park Land Use designations. Should future development proposals proposed within the Specific Plan area, or supporting infrastructure proposed as part of the Project differ substantially from the development concepts analyzed herein, the Lead Agency would comply with CEQA in consideration of those proposals (DEIR, p. 3-19, et. al). Findings and conclusions of the EIR are not affected.

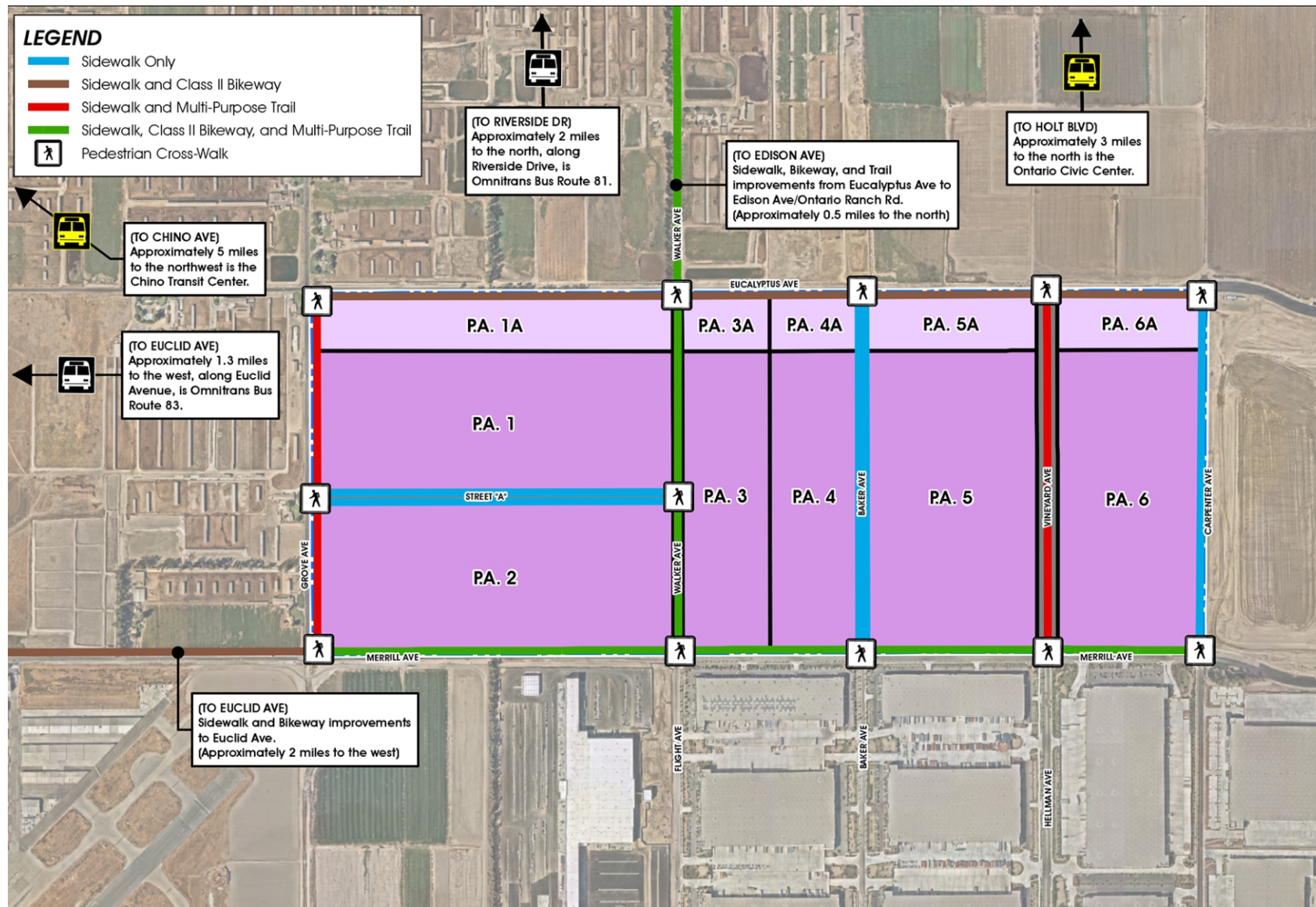


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Source: T&B Planning, Inc.

Figure 2-1  
Circulation Plan



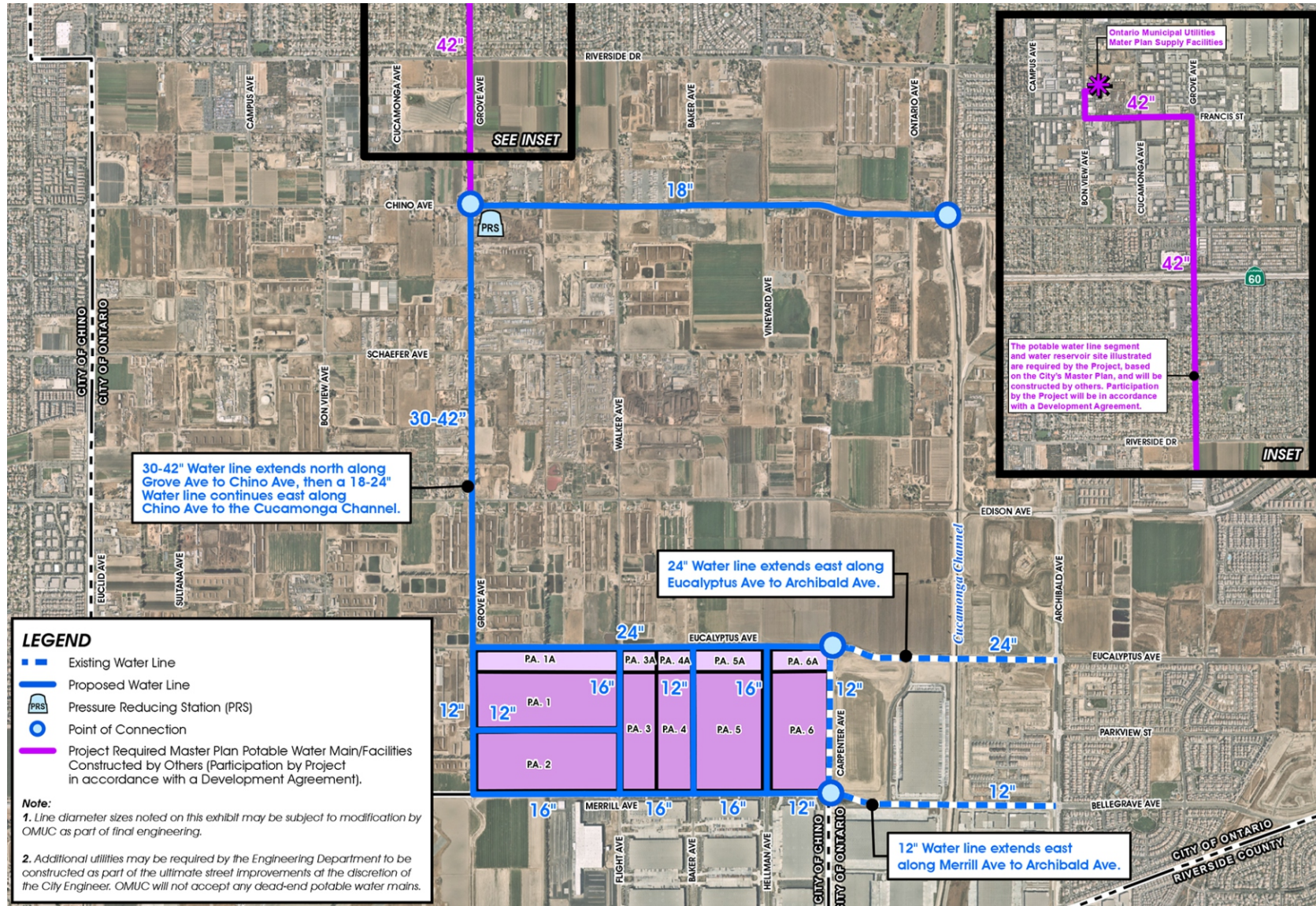


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Source: T&B Planning, Inc.

Figure 2-2  
Circulation Plan





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Source: T&B Planning, Inc.



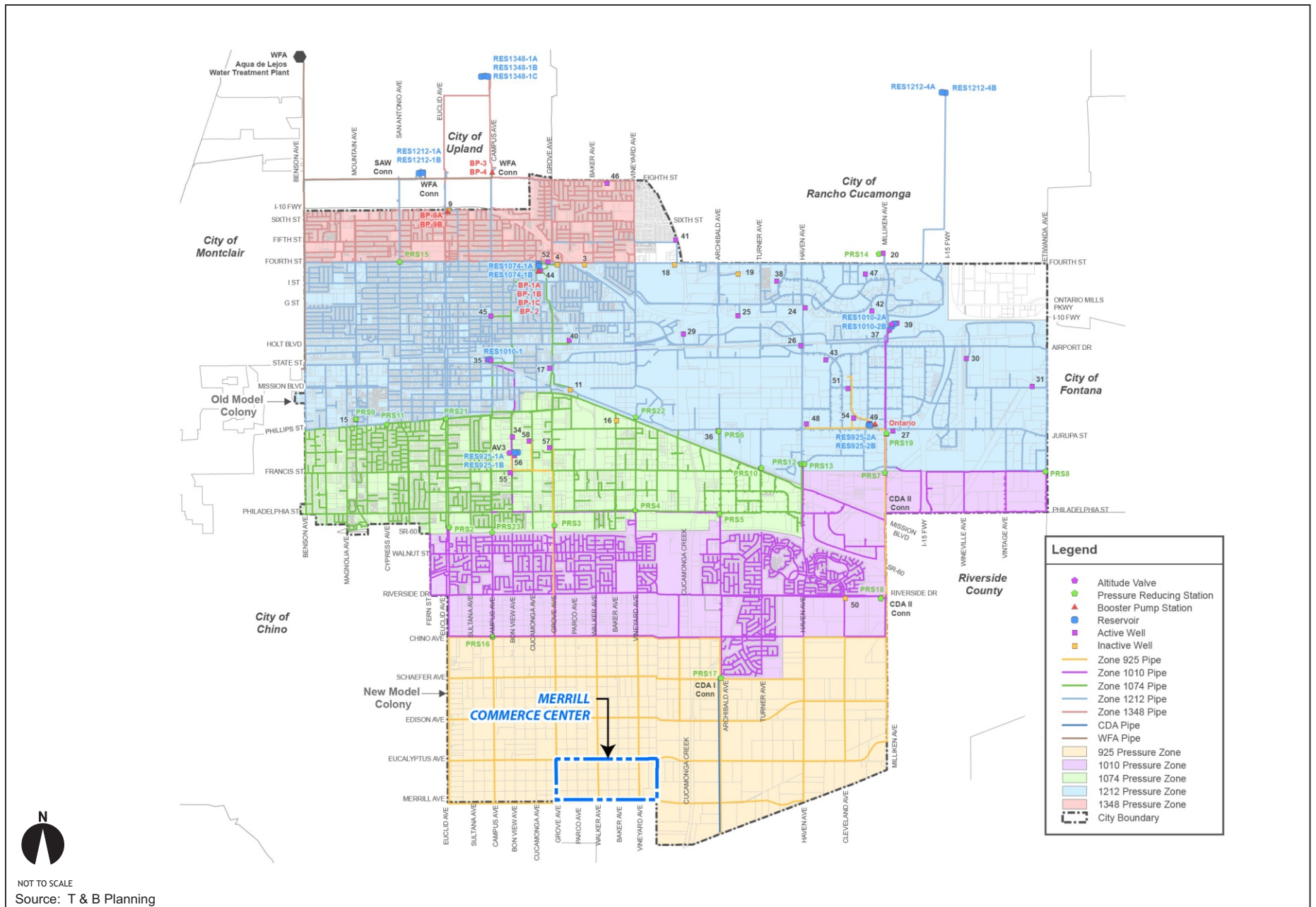
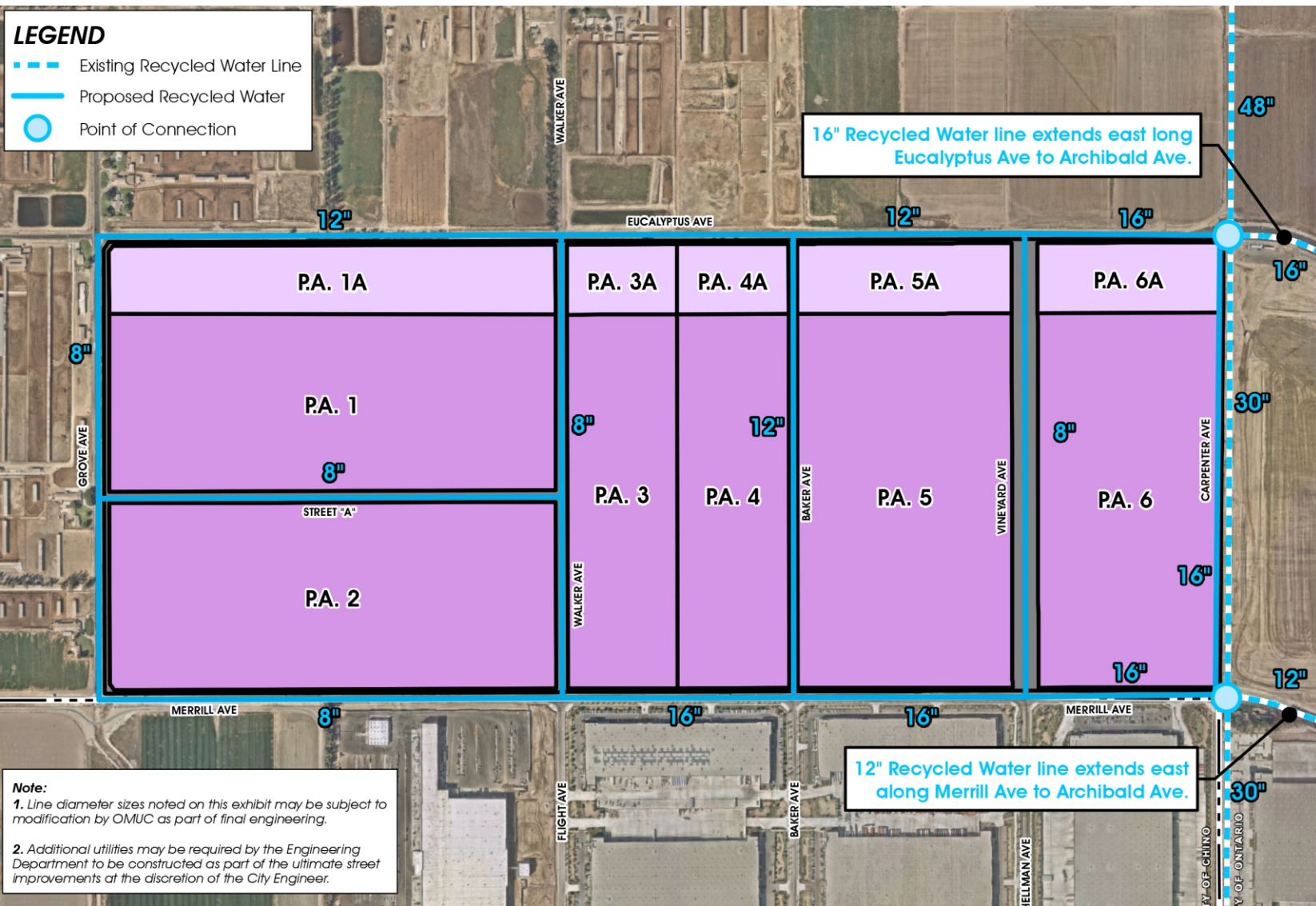


Figure 2-4  
City of Ontario Water Master Plan



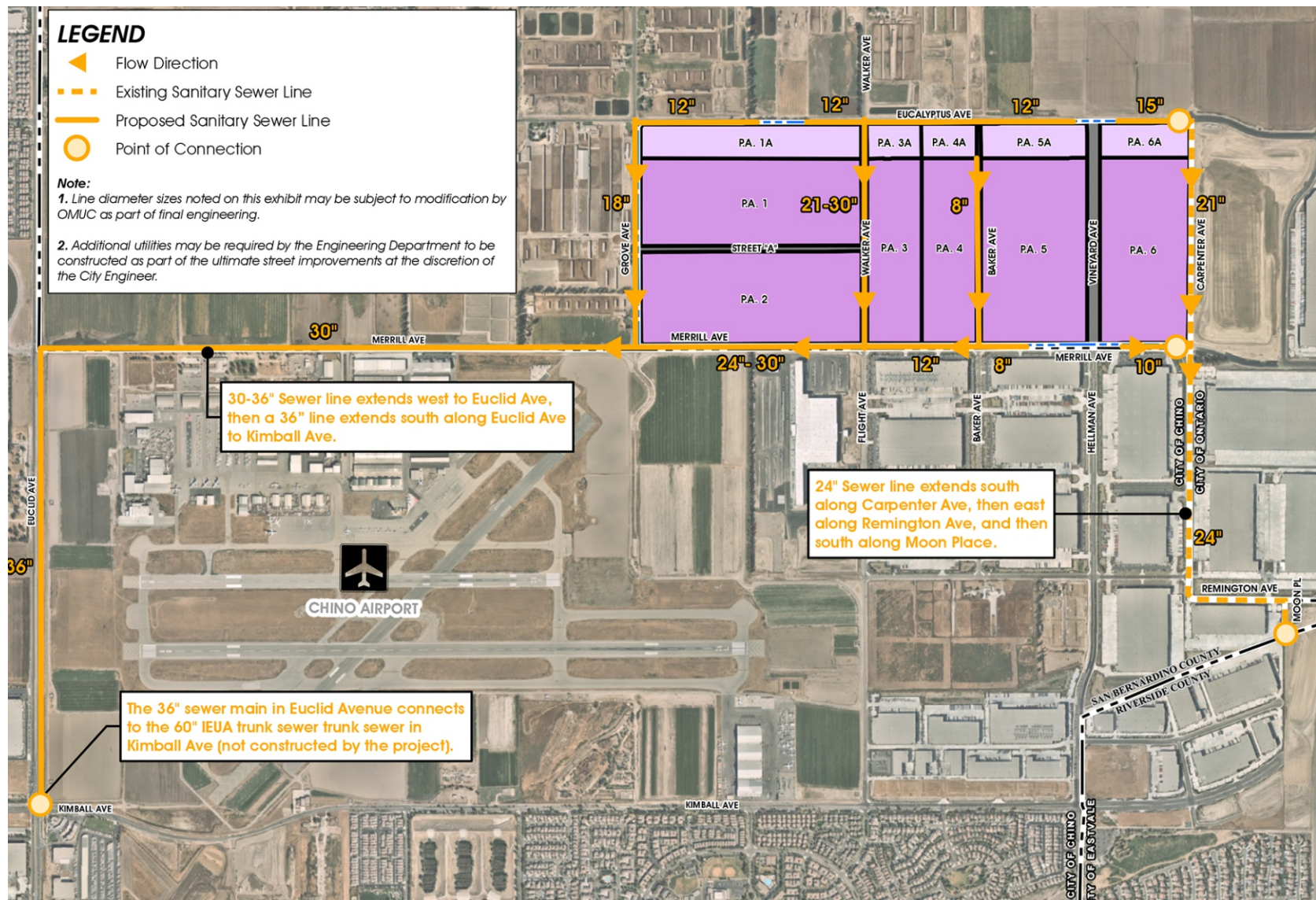
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Source: T&B Planning, Inc.





Figure 2-6  
City of Ontario Future Recycled Water System



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Source: T&B Planning, Inc.



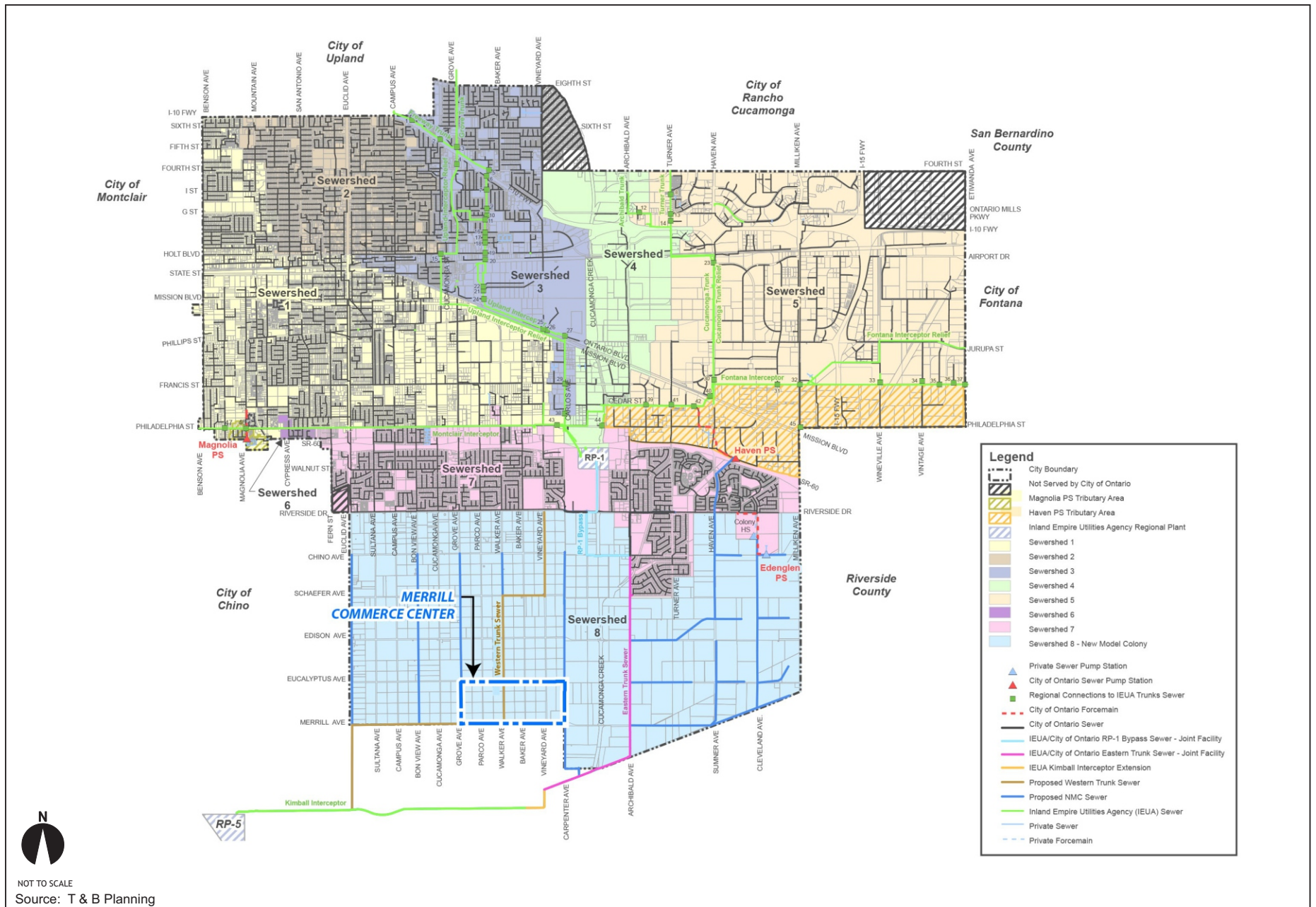
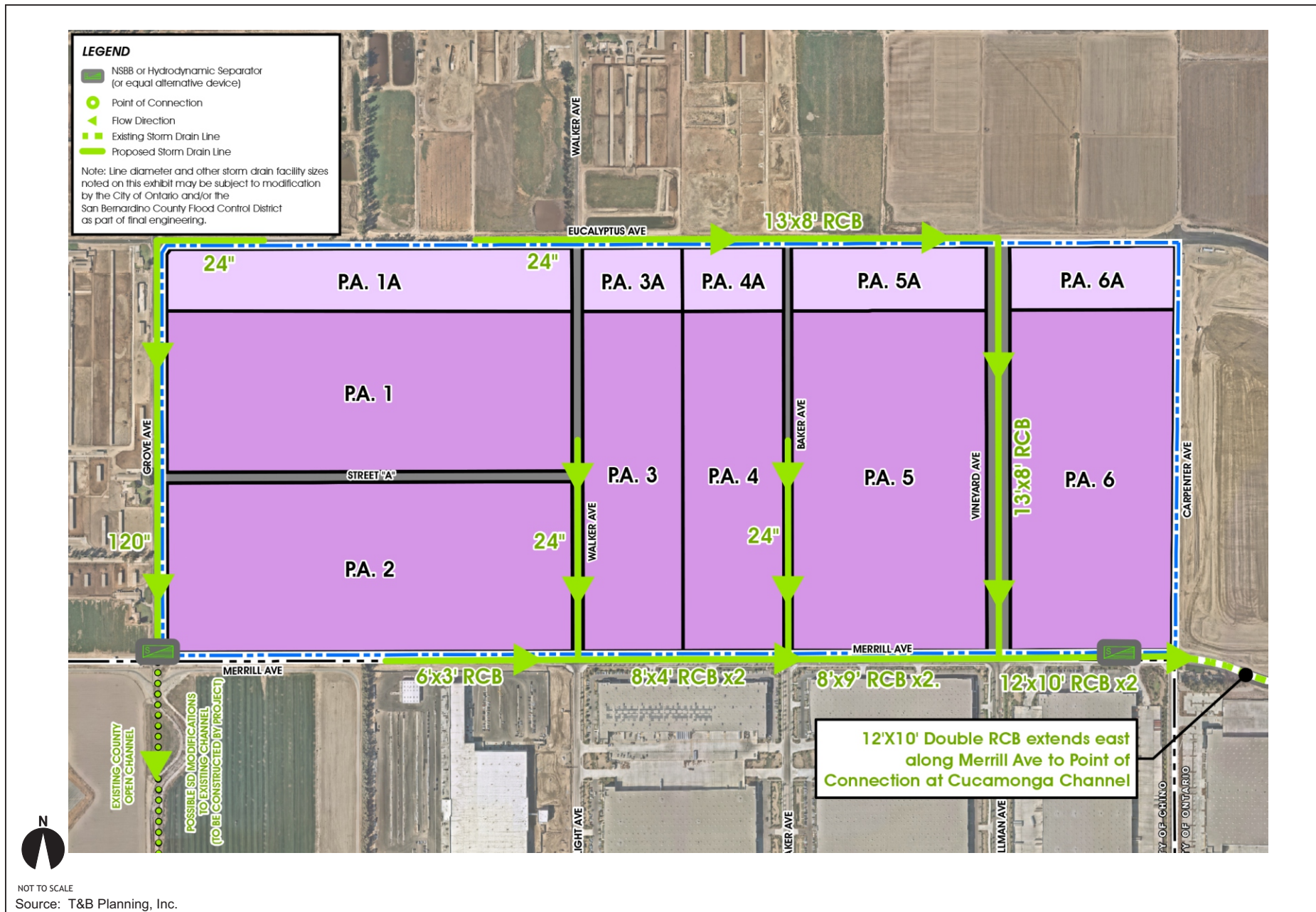
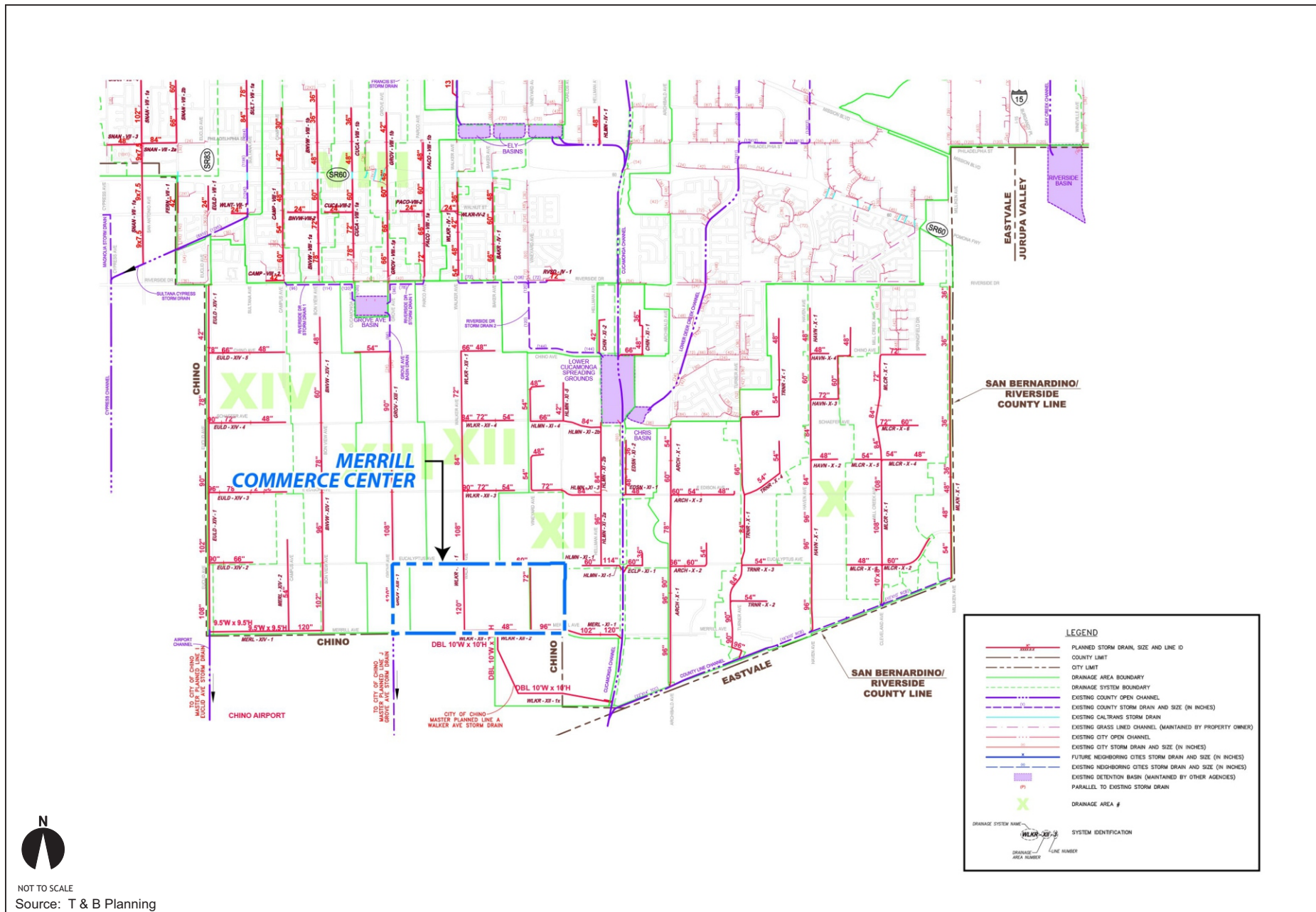
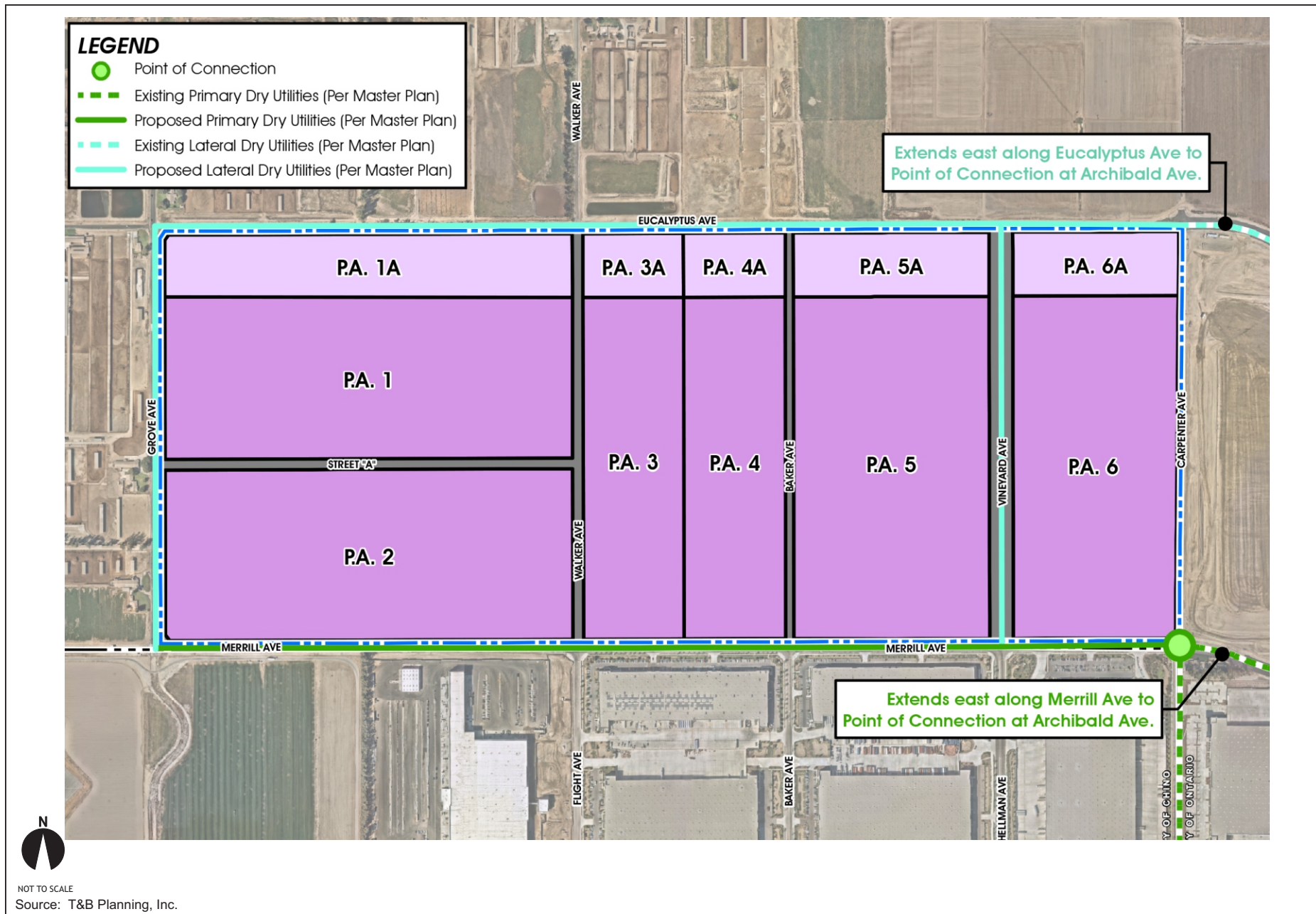


Figure 2-8  
City of Ontario Sewer Master Plan

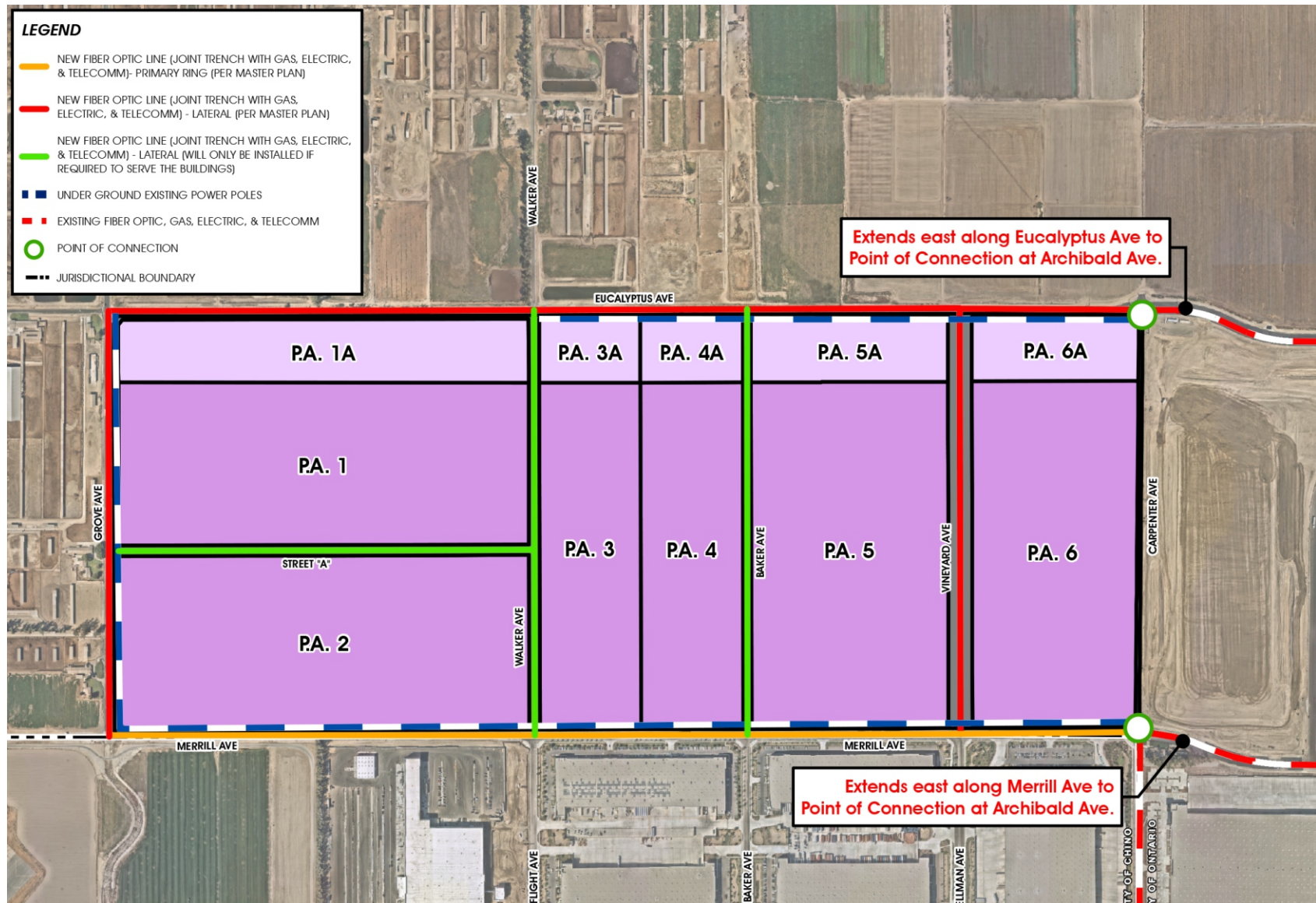




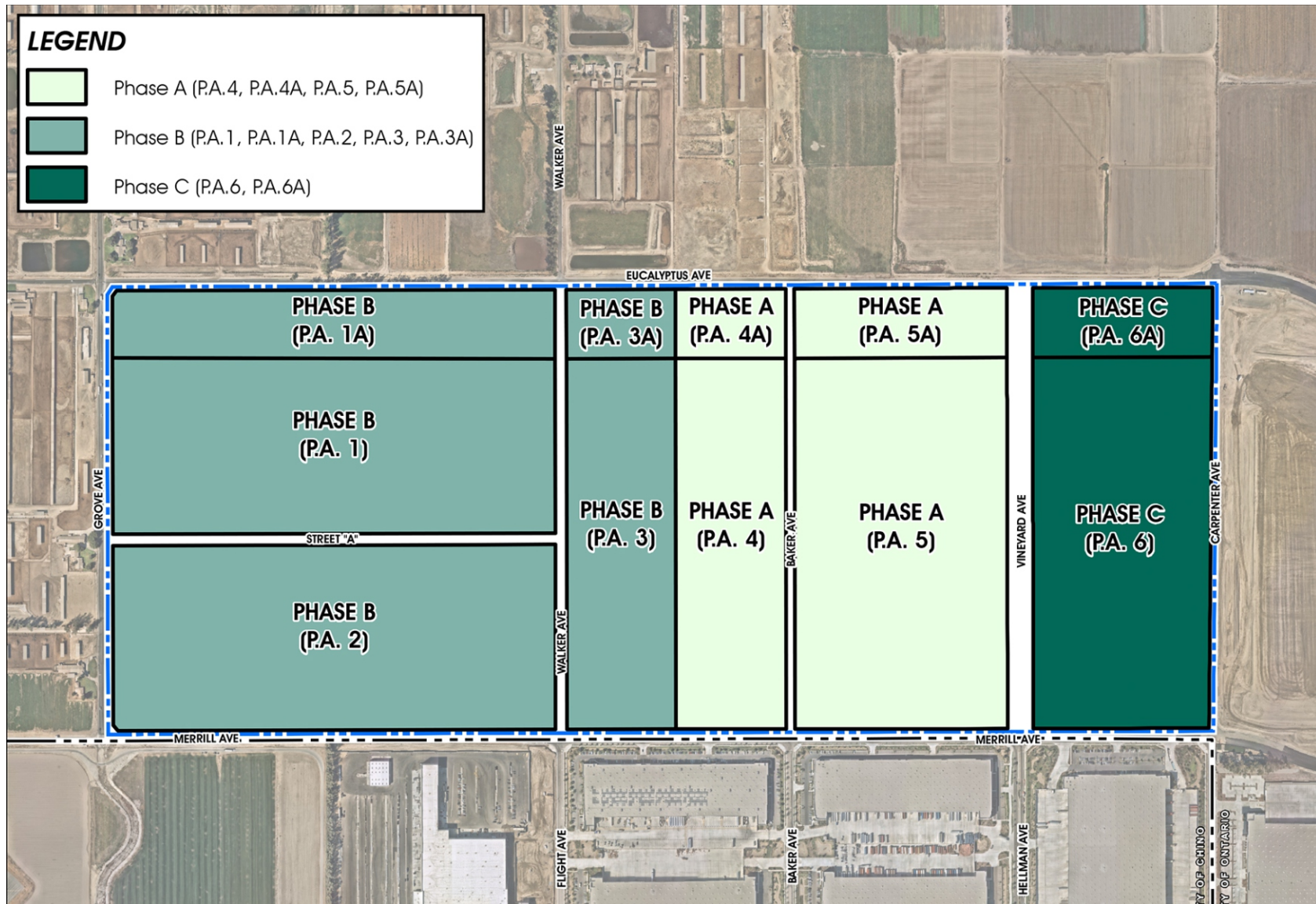








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Source: T&B Planning, Inc.

## **3.0 COMMENTS AND RESPONSES**

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## 3.0 COMMENTS AND RESPONSES

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### 3.1 INTRODUCTION

The following Section presents written comments received pursuant to public review of the DEIR and provides responses to those comments as required by California Code of Regulations, title 14 (hereinafter, “*CEQA Guidelines*”) Sections 15089, 15132, and 15088. Specifically, *CEQA Guidelines* Section 15088, subd. (a) requires that: “[t]he lead agency . . . evaluate comments on environmental issues received from persons who reviewed the draft EIR and . . . prepare a written response. The lead agency shall respond to comments received during the noticed comment period and any extensions and may respond to late comments.” The DEIR was circulated for a 45-day review period: October 8 through November 23, 2020.

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

#### 3.1.1 Comments Received

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

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

**Table 3-1  
DEIR Commentors**

<b>Commentor</b>	<b>Acronym Assigned</b>	<b>Correspondence Date</b>
<b>State Agencies</b>		
State Clearinghouse	SCH	--
California Department of Fish and Wildlife	CDFW	11/20/20
California Air Resources Board	CARB	11/24/20
<b>Regional &amp; County Agencies</b>		
South Coast Air Quality Management District	AQMD	11/20/20



# Merrill Commerce Center Specific Plan Project

## Summary

**SCH Number** 2019049079  
**Lead Agency** Ontario, City of (*City of Ontario*)  
**Document Title** Merrill Commerce Center Specific Plan Project  
**Document Type** EIR - Draft EIR  
**Received** 10/8/2020  
**Project Applicant** Merrill Commerce Center East/West LLC  
**Present Land Use** Zoning: Specific Plan with an Agricultural Overlay// General Plan: Business Park, Office Commercial, & General Commercial

**Document Description** Merrill Commerce Center Specific Plan proposes development and operation of up to 7,014,000 square feet of high-cube fulfillment center warehouse uses and up to 1,441,000 square feet of mixed uses (total of 8,455,000 square feet of development) on approximately 376.3 acres. The Project site is located along Merrill Avenue, between Grove Avenue and Carpenter Avenue. Eucalyptus Avenue forms the northerly boundary.

**Contact Information** Chuck Mercier  
 City of Ontario  
 303 East B Street  
 Ontario, CA 91764  
 Phone : (909) 395-2036  
 cmercier@ontarioca.gov

SCH-1

## Location

**Cities** Ontario  
**Counties** San Bernardino  
**Cross Streets** Merrill Avenue, Grove Avenue  
**Zip** 91764  
**Total Acres** 376.3  
**Airports** 1  
**Schools** 9

## Notice of Completion

**Review Period Start** 10/8/2020  
**Review Period End** 11/23/2020  
**Development Type** Industrial (376.3 Sq. Ft.)  
**Local Action** Specific Plan Site Plan  
**Project Issues** Agricultural Land Air Quality Archaeologic-Historic Biological Resources Drainage/Absorption  
 Flood Plain/Flooding Geologic/Seismic Noise Population/Housing Balance Public Services Toxic/Hazardous  
 Traffic/Circulation Water Quality Land Use Cumulative Effects

## Reviewing Agencies

California Air Resources Board	California Department of Conservation
California Department of Fish and Wildlife, Inland Deserts Region 6	
California Department of Forestry and Fire Protection	California Department of Parks and Recreation
California Department of Transportation, District 8	California Department of Transportation, Division of Aeronautics
California Department of Water Resources	California Governor's Office of Emergency Services
California Highway Patrol	California Native American Heritage Commission
	California Natural Resources Agency
California Regional Water Quality Control Board, Santa Ana Region 8	California State Lands Commission
Department of Toxic Substances Control	Office of Historic Preservation
State Water Resources Control Board, Division of Drinking Water	
State Water Resources Control Board, Division of Water Quality	
State Water Resources Control Board, Division of Water Rights	

## Attachments

## Environmental Document

Alewyn Phase I	PDF	24824 K	Alewyn Phase II (Methane)	PDF	6647 K	AQIA	PDF	23686 K
Biological Report	PDF	347 K	Borba Geotech Study	PDF	7207 K	Borba Phase I	PDF	34349 K
Borba Phase II (Soils and Methane)	PDF	5066 K	Caltrans	PDF	1069 K	CARB	PDF	222 K
Chino	PDF	26 K	Construction HRA	PDF	1228 K	Cultural Resources Study	PDF	23898 K
DOC	PDF	198 K	Energy Consumption Estimates	PDF	447 K			
Exhibits_Appendices 1	PDF	16483 K	Exhibits_Appendices 2	PDF	10830 K			
Exhibits_Appendices 3	PDF	15462 K	FINAL WSA	PDF	18912 K	GHGA	PDF	6857 K
Historical Resource Survey	PDF	17313 K						
Land Conservation (Williamson Act) Contract 70-167 Non-Renewal	PDF	7977 K						
Lanting Phase I	PDF	50303 K	Lanting Phase II (Soils and Methane)	PDF	10787 K			
Liberty (GH Dairy) Phase I	PDF	30620 K	Liberty (GH Dairy) Phase II	PDF	2954 K			
Liberty Geotech Study	PDF	9009 K	Merrill CCSP IS_April2019	PDF	17660 K			
Merrill Commerce Center Specific Plan 09-29-2020	PDF	35447 K						
Merrill Lanting-Alewyn Geotech Studies	PDF	7853 K	MerrillCommerceCtr_DEIR	PDF	97799 K			
Minaberry Geotech Study	PDF	6169 K	Minaberry Phase I	PDF	16128 K			
Minaberry Phase II (Methane)	PDF	3602 K	NAHC	PDF	909 K	NOA	PDF	742 K
Noise Impact Analysis	PDF	26087 K	Operational HRA	PDF	3585 K			
ORB Bio Report	PDF	6935 K	Paleontological Resource Assessment	PDF	5687 K			
Preliminary WQMP	PDF	834 K						
Resolution 2020-071 Adopting Vehicle Miles Traveled Thresholds under CEQA	PDF	2751 K						
Resolution 2020-071 Agenda Report	PDF	15109 K	RWQCB	PDF	80 K	SBPW	PDF	698 K
SCAQMD	PDF	353 K	SCH	PDF	74 K	Summary Form	PDF	80 K
TECH MEMO DRAINAGE	PDF	3432 K	TIA	PDF	37607 K	TIA Appendices	PDF	38899 K
VMT Memo	PDF	1314 K						
NOC	PDF	819 K						

## NOC

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STATE OF CALIFORNIA  
GOVERNOR'S OFFICE OF PLANNING AND RESEARCH  
STATE CLEARINGHOUSE  
SCH No. 2019049079

**Response SCH-1**

State Clearinghouse receipt of the Merrill Commerce Center Specific Plan Project Draft EIR is acknowledged, as is the distribution of the Draft EIR to the listed State Agencies. The State-assigned Clearinghouse reference number (SCH No. 2019049079) and dates of the public review period for the Draft EIR (October 8 through November 23, 2020) are also acknowledged.





State of California – Natural Resources Agency  
**DEPARTMENT OF FISH AND WILDLIFE**  
 Inland Deserts Region  
 3602 Inland Empire Blvd., Suite C-220  
 Ontario, CA 91764  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



November 20, 2020

*Sent via email*

Mr. Chuck Mercier  
 City of Ontario  
 303 E B St  
 Ontario, CA 91764  
[cmercier@ontarioca.gov](mailto:cmercier@ontarioca.gov)

**Subject: Draft Environmental Impact Report for the Merrill Commerce Center Specific Plan Project (SCH 2019049079)**

Dear Mr. Mercier:

The California Department of Fish and Wildlife (CDFW) received the Draft Environmental Impact Report (DEIR) from the City of Ontario (City) for the Merrill Commerce Center Specific Plan Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW-1

## CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW-2

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

CDFW-2  
 cont'd.

## PROJECT DESCRIPTION SUMMARY

The Project proposes the development and operation of up to 7,014,000 square feet of fulfillment center warehouse uses and up to 1,441,000 square feet of business park uses along Merrill Avenue, between Grove Avenue and Carpenter Avenue, in the City of Ontario. Improvements to approximately 113.2 acres of off-site roadway and utility infrastructure will also occur in the Cities of Ontario and Chino, San Bernardino County.

CDFW-3

## PROJECT BACKGROUND

The Project is located within the former 'Dairy Preserve' that was formed in 1968 under the auspices of the California's Williamson Act. In 1988, voters passed Proposition 70, the California, Wildlife, Coastal, and Park Land Conservation Act (Act) to fund bonds for "the acquisition, development, rehabilitation, protection, or restoration of park, wildlife, coastal, and natural lands in California, including lands supporting unique or endangered plants and animals". San Bernardino County was awarded a \$20 million grant under Proposition 70 and has since acquired nine dairy properties, or 366.6 acres, in the early 1990s with approximately 165.3 acres located in the City of Chino and the remaining 201.3 acres within the City of Ontario. The Project is immediately adjacent to, or within, many of these San Bernardino County Proposition 70 dairy parcels (refer to Figure 1).

The annexation of the Dairy Preserve between the Cities of Ontario and Chino have represented a dramatic increase in development and population growth. The City of Ontario prepared a master plan for the Dairy Preserve that spans over a 20-year period and includes the development of 8,200 acres of previous agricultural and dairy lands with 47,000 homes, 16 million square feet of retail, office, medical and residential space, and eight new schools. This master plan was formerly known as the New Model Colony (NMC) and is currently referred to as 'Ontario Ranch'.

CDFW-4

Likewise, the City of Chino annexed the remaining portion of the Dairy Preserve, approximately 7,245 acres, into the City of Chino's Sphere of Influence where it was partitioned into a western and eastern section. The eastern portion, or what is now known as 'the Preserve', includes approximately 5,435 acres (8.15 square miles). For Subarea 2, the City adopted the Preserve – Chino Sphere of Influence – Sub-Area 2 Specific Plan (hereafter, "PSP") and certified the associated EIR (SCH #2000121036, hereafter, "PSP



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EIR”) on March 25, 2003. The PSP established the overall vision and development plan for the specific plan area and acted as a bridge between the City’s General Plan and individual development proposals. An ‘umbrella’ General Plan Amendment, which linked the Specific Plan to the City’s existing General Plan and satisfied the requirement for consistency with the General Plan (Government Code Sections 65301 (b) and 65303), was also prepared.

CDFW-4  
 cont’d.

Portions of the Project are within both the Preserve and the Ontario Ranch (refer to Figure 1).

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project’s significant, or potentially significant, impacts on fish and wildlife (biological) resources.

CDFW-5

### Assessment of Biological Resources

Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. Within the Project DEIR, eleven species were identified as having potential to occur or use the study area based on the literature review and field surveys, including: burrowing owl(s) (*Athene cunicularia*), yellow-headed blackbird(s) (*Xanthocephalus xanthocephalus*), yellow warbler(s) (*Setophaga petechia*), golden eagle(s) (*Aquila chrysaetos*), Swainson’s hawk(s) (*Buteo swainsoni*), white-tailed kite(s) (*Elanus leucurus*), big free-tailed bat(s) (*Nyctinomops macrotis*), pallid bat(s) (*Antrozous pallidus*), western mastiff bat(s) (*Eumops perotis californicus*), western red bat(s) (*Lasiurus blossevillii*), and western yellow bat(s) (*Lasiurus xanthinus*) (DEIR Section 4.8.4.2 Impact Statements Special-Status Wildlife Species).

CDFW-6

CDFW agrees that these special-status wildlife species have the potential to occur within the Project, and suggests that the Project footprint, or the immediate surrounding area, may also support the western pond turtle (*Actinemys marmorata*), a California Species of Special Concern and the tricolored blackbird (*Agelaius tricolor*), a California Threatened Species.

### Western Pond Turtles

Agricultural areas within the Project consist of active dairy operations and row crops. Areas associated with the dairy operations include corrals, pastures, and treatment basins designed to retain all runoff from the associated facilities (DEIR, section 4.8.2.1, Vegetation Communities/Habitat Types). Pond turtles are habitat generalists and can occupy a wide range of aquatic habitats, with a wide variety of aquatic niches in rivers, streams, ponds, vernal pools, and estuaries, as well as, human-impacted environments, such as agricultural ditches and sewage treatment ponds (Holland 1992; Stebbins 2003;

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Germano, 2010) and livestock ponds (Tu, 2019). Thus, the most limiting factor of habitat suitability is the presence of water. CDFW recommends that the following measures be added to the DEIR prior to certification to require focused surveys and mitigation, should western pond turtles be identified onsite.

*4.8.6: Within the breeding season (May-July) prior to the onset of construction activities, a CDFW-approved qualified biologist shall conduct pre-construction trapping surveys, following U.S. Geological Survey trapping protocol, for western pond turtle within all areas of any suitable aquatic habitat for this species (e.g., retention and treatment ponds). If western pond turtles are observed or trapped during the pre-construction survey, the Applicant shall prepare for CDFW review and approval, a translocation plan identifying proposed protocol for trapping and relocating turtles, including identifying potential, appropriate receiver sites to relocate western pond turtles to. If no western pond turtles are observed during the pre-construction survey, then construction activities may begin. If construction is delayed or halted for more than 30 days, another pre-construction survey for western pond turtle shall be conducted. Within seven days of the pre-construction survey, a report of findings from the survey shall be submitted to the CDFW. During construction, a qualified biological monitor who has been approved by the CDFW to relocate western pond turtles shall be onsite to ensure that no western pond turtles are harmed. If western pond turtles are observed in the construction area at any time during construction, the onsite biological monitor shall be notified and construction in the vicinity of the sighting shall be halted until such a time as a turtle has been removed from the construction zone, and relocated by an approved biologist. If a sighting occurs during construction, the biologist shall prepare a report of the event and submit it to CDFW.*

CDFW-7  
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*4.8.7: If western pond turtle are identified, the Applicant shall mitigate impacts to western pond turtle by creating suitable, breeding, and foraging habitat at a minimum 2:1 replacement to impact ratio at a CDFW-approved location within southwest San Bernardino County. Habitat shall be conserved in perpetuity via conveyance of a conservation easement to a CDFW-approved conservation entity and a management fund (endowment) shall be established by the Applicant consisting of an interest-bearing account with the amount of capital necessary to generate sufficient interest and/or income to fund all monitoring, management, and protection of the conservation area(s), including but not limited to, reasonable administrative overhead, biological monitoring, invasive species and trash removal, fencing and signage replacement and repair, law enforcement measures, long-term management reporting (as described below), and other actions designed to maintain and improve the habitat of the conserved land(s), in perpetuity. A Property Analysis Record, or substantially equivalent analysis, shall be conducted to determine the management needs and costs described above, which then will be used to calculate the capital needed for the management of the fund. Except for uses appropriate to a habitat conservation area, the public shall not have access to the mitigation area(s), and no activities shall be permitted within*



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*the site, except maintenance of habitat, including the removal of nonnative plant species, trash, and debris, and the installation of native plant materials.*

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### Tricolored Blackbirds

The Project DEIR documented yellow-headed blackbirds foraging within the Project (Section 4.8.4.2, Impact Statements Special-Status Wildlife Species), but made no observation of tricolored blackbirds. Based on database searches, CDFW identified three separate observations of individual tricolored blackbirds or colonies near the Project, with 2 individuals observed at dairy ponds near Merrill Avenue and Grove Avenue (Ebird; April 26, 2015), 30 individuals at ponds located at Carpenter Avenue (Ebird March 2015); and fluctuating numbers of nesting and foraging tricolored birds at the managed wetlands at Kimball/Bickmore Avenue and surrounding fields, including approximately 500 individuals in 2011, approximately 100 individuals in 2012, and approximately 500 individuals in 2014 and 2016 (California Natural Diversity Data Base [CNDDB]). These known tricolored blackbird occurrences are either within (e.g. Carpenter Avenue), immediately adjacent (e.g. Merrill Avenue and Grove Avenue), or a short distance (< 2 kilometer) from the Project (e.g. Kimball Avenue).

According to the Biological Technical Report for Merrill Commerce Center Specific Plan, (Glenn Lukos Associates, Inc., September 2019), it states "*The Project will remove 375.3 acres of potential raptor foraging habitat through development of the active agriculture. Although the agriculture may provide foraging habitat for raptors, it is not expected to be valuable, as the lands are actively maintained to minimize use by small mammals (prey for raptors)*" (5.10 Cumulative Impacts to Biological Resources).

CDFW-8

Like raptors, tricolored blackbirds forage within agricultural fields. Tricolored blackbirds do not prey on small mammals, but rather, are known to forage for insects primarily in artificial habitats, including crops such as rice, alfalfa, irrigated pastures, and ripening or cut grain fields (e.g., oats, wheat, silage), as well as annual grasslands, cattle feedlots, and dairies (Beedy and Hamilton 1999). In addition, approximately 55 percent of all observed breeding colonies were associated with dairies (Hamilton et al. 1995, pp. 5, 64) and in some colonies, water source, nesting substrate, and foraging area were all available under the management of a single dairy operation. Most tricolored blackbirds forage within 5 kilometers (km) of their colony sites (rarely up to 13 km; Orians 1961, Beedy and Hamilton 1997). Similarly, a study using radio-telemetry documented tricolored blackbirds movements over relatively short distances of 3 to 11 km. These movements may be due to an inability to acquire sufficient resources at one colony site for the entire breeding season, prospecting among colonies to assess availability of nesting and foraging resources or access to mates, and/or the availability of multiple proximate nesting locations allows the species to compensate for early-season nesting failures and variation in habitat and forage conditions over time (Beedy and Hamilton 1997).

Given the Project and the adjacent lands contains suitable foraging and breeding habitat for blackbirds, has been occupied by yellow-headed blackbirds, and is within known

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movement distances from documented tricolored blackbird occurrences, CDFW recommends the Project DEIR include the following measure to require focused surveys and mitigation, should tricolored blackbirds be identified using the Project area for nesting or foraging.

*4.8.8: The Applicant shall conduct surveys for tricolored blackbird across all suitable breeding and foraging habitat with the Project area. If tricolored blackbirds are identified, the Applicant shall avoid and conserve all occupied habitat onsite. If onsite avoidance is infeasible, the Applicant shall apply for an incidental take permit (ITP) with California Department of Fish and Wildlife and shall mitigate for the loss of all habitat through the acquisition, conservation, and management of in-kind habitat at a minimum 3:1 ratio, or as approved by the final ITP. Habitat shall be conserved in perpetuity via conveyance of a conservation easement to a CDFW-approved conservation entity and a management fund (endowment) shall be established by the Applicant consisting of an interest-bearing account with the amount of capital necessary to generate sufficient interest and/or income to fund all monitoring, management, and protection of the conservation area(s), including but not limited to, reasonable administrative overhead, biological monitoring, invasive species and trash removal, fencing and signage replacement and repair, law enforcement measures, long-term management reporting (as described below), and other actions designed to maintain and improve the habitat of the conserved land(s), in perpetuity. A Property Analysis Record, or substantially equivalent analysis, shall be conducted to determine the management needs and costs described above, which then will be used to calculate the capital needed for the management of the fund. Except for uses appropriate to a habitat conservation area, the public shall not have access to the mitigation area(s), and no activities shall be permitted within the site, except maintenance of habitat, including the removal of nonnative plant species, trash, and debris, and the installation of native plant materials.*

CDFW-8  
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## **Analysis of Direct, Indirect, and Cumulative Impacts to Biological Resources**

The Project DEIR should provide a thorough discussion of the direct, indirect, and cumulative impacts expected to adversely affect biological resources as a result of the Project. CDFW suggests the following:

### Bats

Despite the high diversity and sensitivity of bats in the south coast ecoregion, bats have been largely ignored during environmental review of proposed projects and in large planning efforts, including the Ontario Ranch and PSP DEIRs. This is primarily due to the lack of information on the distribution, seasonal habitat associations, and population status of bat fauna. The Project DEIR does include sensitive bat species that may occur (Section 6.4 *Special-Status Bats*) and minimization measures that includes the following:

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*"4.8.4 For large ornamental trees suitable for bat roosting/nursery, exit counts and acoustic surveys shall be performed prior to initial ground disturbance and vegetation removal to determine whether the Project footprint and a 300-foot buffer supports a nursery or roost, and by which species. This survey work will occur between late-spring and late summer and/or in the fall (generally mid-March through late April) to ensure mortality to bats does not occur. For each location confirmed to be occupied by bats, the plan will provide details both in text and graphically where exclusion devices/and or staged tree removal will need to occur, the timing for exclusion work, and the timeline and methodology needed to exclude the bats. The plan will need to be reviewed and approved by CDFW prior to disturbance of the roost (DEIR 4.8.4.2 Impact Statements Wildlife Sensitive Species)".*

While CDFW appreciates the measures to avoid direct take of roosting bats, there are other aspects of bat ecology that should be addressed. Recent research has shown that many tree roosting species will switch roosts every few days (Barclay and Brigham 1996), meaning that multiple roosts of varying temperature regimes may need to be available within appropriate habitat and flight distance of the species for a population to remain viable. Bats also need adequate foraging habitat within the nightly commute distance from a given roost. These distances vary among species (Pierson 1998) and seasonally (Brown and others 1995). Thus, CDFW strongly encourages the City to incorporate the following into measure 4.8.4 prior to certification of the DEIR to require mitigation for the loss of roosting and foraging opportunities for each bat species, and ensure the mitigation is roughly proportional to the level of impacts in accordance with the provisions of CEQA (CEQA Guidelines, §§ 15126.4(a)(4)(B), 15064, 15065, and 16355).

CDFW-9  
 cont'd.

*If surveys determine that roosts supporting special-status bats will be lost as a result of the Project, the Applicant shall mitigate the loss through the perpetual conservation and management of occupied habitat, approved by CDFW, at a minimum 1:1 ratio.*

### Burrowing Owls

For the Project, minimization and avoidance measures for burrowing owls (DEIR, section 4.8.4.2, Impact Statements, Mitigation Measure 4.8.1) include the following:

- If burrowing owl(s) is (are) absent, no additional mitigation is required;
- If burrowing owl(s) is (are) detected within the Project's disturbance footprint located within the City of Chino Preserve RMP [Resources Management Plan] boundary, the owl(s) are required to be handled as indicated by the RMP; and
- If burrowing owl(s) is (are) detected within the Project's proposed disturbance footprint outside of the RMP boundary: Prior to disturbance of the occupied burrows, suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within designated offsite conserved lands to be identified through

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coordination with CDFW and the City in which the burrowing owl(s) is (are) detected (either the City of Ontario or the City of Chino).

Although a portion of the Project occurs within the Ontario Ranch, the Project DEIR does not reference any burrowing owl mitigation measures or the cumulative impact review and conclusion from the Ontario Ranch DEIR.

The Ontario City Council approved a General Plan Amendment and associated Final Environmental Impact Report (EIR) for the Sphere of Influence for the Ontario Ranch (NMC) in January 1998. The NMC Final EIR assessed the impacts on biological resources of the conversion of the NMC from agricultural uses to develop urban and suburban uses. Before mitigation, it was determined that significant impacts would occur to waterfowl and waterfowl habitat; raptors and raptor habitat; and the Delhi Sands Flower-Loving Fly Ontario Recovery Unit. The mitigation measures to reduce impacts to less than significance included:

*EIR Mitigation Measure BR-1 – 2:1 Mitigation Waterfowl Habitat Mitigation*

- Modify the General Plan to require the creation of new waterfowl habitat and specified a mitigation ratio of 2:1 for each acre of such habitat lost. This is off-site mitigation in the Prado Basin.

*EIR Mitigation Measure BR-2 – Waterfowl and Raptor Conservation Area*

- The City of Ontario shall create a Waterfowl and Raptor Conservation Area (WRCA) off-site in the Prado Basin.

CDFW-10  
cont'd.

Subsequent to the adoption of the EIR, a lawsuit was filed against the City of Ontario by the Endangered Habitats League, Inc. and Sierra Club challenging the City's CEQA compliance and approval of the General Plan Amendment. A settlement agreement was reached and agreed to by all parties that set forth revised mitigation measures for potential impacts in the NMC (referred to as Annexation Area 163). Because state law requires that local jurisdictions update their General Plans every 10 years, an Ontario Plan Draft EIR (DEIR SCH # 2008101140) was prepared by the Planning Center (April 2009) and finalized in July 2009. Measures from the settlement agreement were detailed within the Ontario Plan DEIR Section 5 *Environmental Analysis* and included the following:

*DEIR Mitigation Measure 1- Mitigation Fees*

- Prior to issuance of grading permits, Ontario shall impose a \$4,320 per acre Mitigation Fee on proposed developments in Annexation Area 163 that require discretionary approval or permitting from the City.

*DEIR Mitigation Measure 2 – On Site Land Conservation or Owl Relocation*



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- Ontario, in consultation with the Department, will identify through CEQA review, lands occupied by burrowing owl and suitable as long-term habitat. The City will require avoidance of those lands to maintain a viable territory and require long-term maintenance through dedication in fee or grant of easement to the Land Trust. If the site is not viable long-term habitat, the developer shall pay the mitigation fee and make provisions for relocation of the owls.

#### *DEIR Mitigation Measure 3 – Land Conservation*

- All mitigation fees collected shall be used for the above-described purposes and may be used to purchase property, conservation easements, or other land with long-term conservation value for the environmental impacts; enhance/restore lands with such values; maintain and operates these lands; and pay for related administrative costs (not to exceed 10 percent of the total fees).

#### *DEIR Mitigation Measure 4 - Land Easements*

- Land/easements dedicated, conveyed, or purchased to benefit wildlife, waterfowl, raptors/and or burrowing owl must have long-term conservation value for those species and must be managed by the Land Trust. The parcels must be located within the Habitat Area designated as part of the settlement agreement. Unacceptable properties are those that would otherwise be purchased by another entity or group as open space mitigation for environmental impacts.

CDFW-10  
cont'd.

Table 1 and Figure 2 lists past and upcoming projects and the potential fees that were, or will be, collected within the Ontario Ranch.

Although the DEIR does reference PSP-related measures, CDFW has significant concerns regarding the efficacy of these measures at mitigating burrowing owl impacts. Within the City of Chino, mitigation measures identified in the Preserve (PSP DEIR Section 5.4.6 *Mitigation Measures*) to eliminate or reduce potentially significant impacts to burrowing owls included the following:

- 1) All areas below the 566-foot Prado Dam inundation line, except such areas located north of Pine Avenue, will be retained within an open space or agricultural land use designation in order to provide protection for existing wildlife habitat values, as well as to avoid any new impacts.
- 2) A biological assessment of each specific project site will be conducted to characterize the habitat types and the potential for the site to support any sensitive species or habitat.

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- 3) Where a sensitive species has the potential to occur, the level of potential for occurrence as low, moderate, or high will be determined and scientific justification provided for this determination.
- 4) If the potential for occurrence is moderate or high (e.g., the required habitat elements for this species are present and/or there has been a sighting of this species in the vicinity of the project site), focused surveys will be conducted within suitable habitat to determine the presence or absence of the species on the project site.
- 5) Any surveys deemed necessary must be conducted by a biologist qualified to perform the needed survey(s). The City of Chino, or its consultant, will review and approve the personnel and methodology for any such proposed surveys.
- 6) If a sensitive species or habitat is found to occur on a proposed project site or occupies habitat that may be impacted directly or indirectly by the proposed project, this must be called to the City's immediate attention and documented in the biological assessment for the project.
- 7) Mitigation measures to offset any potential impact to sensitive species and habitats must comply with the Resources Management Plan (RMP) and shall be included in the biological assessment.
- 8) All lands set aside for conservation and/or other mitigation measures must be clearly documented in the final biological assessment.

The RMP (Michael Brandman Associates, 2003) was prepared to address the impacts of development of the Preserve through the implementation of land conservation, burrowing owl relocation, and mitigation fees, including:

CDFW-10  
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- 1) Providing the creation, enhancement, expansion and perpetuation of high quality wildlife habitat in a 300-acre Conservation Area to be located generally below the 566-foot inundation line and within the PSP boundaries. The more specific location of the Conservation Area depends on availability of lands for mitigation purposes, and the suitability of land for the enhancements envisioned. If the City is unable, or it is infeasible, to obtain the onsite mitigation agreements from property owners for all, or a portion of the 300-acre Conservation Area, the City of Chino can potentially acquire and enhance, or make other arrangements to secure the right to permanently protect/preserve and enhance, land off-site within the Prado Basin (including Chino Hills), so long as it has similar biological value to land on-site within the areas planned for urban development (generally above the 566-foot elevation line). The Natural Treatment System (NTS) facilities (referred to as Drainage Area "B" in the PSP EIR and RMP) may potentially represent partial regional mitigation for the loss of burrowing owl habitat.
- 2) If burrowing owls are found on an individual development site, development, including the expansion of existing land uses or other land use activities that could disrupt the owls, will be required to follow the CDFW burrowing owl relocation protocol. In addition, unavoidable occupied burrows must be mitigated at a minimum 2:1 ratio, either through the enhancement of existing natural burrows, or through the creation of new artificial burrows. In order to provide supplemental



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mitigation beyond the standard CDFW protocol requirements for relocation of owls, the 300-acre Conservation Area will be made available for the relocation of burrowing owls that would be displaced by development, including the creation of 20 artificial burrows. The feasibility of relocating owls from development sites to the Conservation Area will be reviewed on a case-by-case basis for individual development projects, subject to the evaluation and recommendations of the biological study prepared for a given site.

- 3) A RMP Mitigation Fee (3801000-56640) of \$5,596 per adjusted gross acre for new residential, commercial, office, industrial development, or public facilities will be paid prior to the issuance of grading permits. Refer to Table 2 and Figure 3 that identifies past and future projects, along with the associated mitigation fees from development within the Preserve. The funds collected are to provide for the following:

- Costs associated with obtaining agreements for the 300-acre Conservation Area with landowners in the form of conservation easements or other legally enforceable instruments.
- Costs associated with the design, installation, and maintenance of the various enhancements and improvements, including such appropriate refinements/adjustments as may be identified by the RMP.
- Administration, management and monitoring of the 300-acre Conservation Area and other mitigation measures as appropriate, including adaptive management.

CDFW-10  
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CDFW is extremely concerned that the mitigation measures provided by the Cities are insufficient to offset the loss of burrowing owl habitat because: 1) burrowing owl mitigation below the Prado Dam inundation line may only be available when habitat is not under several feet of water; 2) potential conservation properties may not support burrowing owls (e.g. Chino Hills), be large enough to support the number of owls being displaced (e.g. NTS), or have since been developed (e.g. Miramonte Development), indicating either a lack of interest, or an inability to acquire properties; and 3) mitigation fees that have been collected have yet to be spent to acquire and conserve mitigation properties, resulting in years of lost mitigation and rapidly declining availability of suitable properties to conserve within the City's sphere.

CDFW-11

Further, the City of Chino's continued use of the RMP, and conclusion that the NTS may be used to represent partial regional mitigation for the loss of burrowing owl habitat within the Preserve is troubling and inappropriate as this existing, failed mitigation site has not been viable burrowing owl habitat for years. A Lake and Streambed Alteration Agreement (LSA 1600-2004-0056-R6) was issued in September 2004 for the City of Chino Subarea 2-NTS Project. To mitigate for burrowing owls impacted by the construction of the NTS, Lewis Operating Corporation was to develop a Burrowing Owl Conservation Area, as well as, include a non-wasting endowment account for the long-term management of the preservation site for burrowing owls (LSA, Burrowing Owl Mitigation Measures, Condition

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6. D). Shortly after the construction of the NTS, the burrowing owl population began to decline, with breeding owls not being observed over several years. Because it was speculated that the burrowing owls may have declined from the lack of maintenance of the slopes and artificial burrows, remediation measures occurred in October 2016. A conservation deed was executed for 17.11 acres by Chino Development Corporation and Rivers Lands Conservancy (May 15, 2018) and included 6.5 acres on the slopes (pursuant to the NTS LSA) and 10.61 acres of wetland habitat. Therefore, the NTS is inappropriate given the land has already been committed for conservation; portions of the facility requires maintenance that is incompatible with burrowing owl usage (e.g. water treatment, forebay); and/or no owls have been observed using it in over a decade.

CDFW-11  
 cont'd.

CDFW has significant concerns with the DEIR's approach to mitigating impacts to burrowing owls and urges the City to coordinate with CDFW on the establishment of appropriate measures prior to the certification of the DEIR. At a minimum, CDFW recommends the Project DEIR not include: 1) measures that defer identification of mitigation, including appropriate conservation properties, to future actions; 2) mitigation lands that depend on the payment to, and expenditure by, funds by the Cities; and 3) measures that, to-date, has been ineffective at conserving and maintaining burrowing owl habitat.

Current scientific literature supports the conclusion that mitigation for permanent burrowing owl habitat loss necessitates replacement with an equivalent or greater habitat area for breeding, foraging, wintering, dispersal, presence of burrows, burrow surrogates, presence of fossorial mammal dens, well drained soils, and abundant and available prey within close proximity to the burrow (CDFW, 2012). Projects impacting owls and owl habitat should mitigate all project-specific and cumulative impacts to nesting, foraging, wintering, dispersal, and migration habitat (i.e., breeding and non-breeding season) under CEQA, to below a level of significance. Case-by-case impact analyses for CEQA and any other purpose should consider the full extent of owl habitat use (home range) on and off the project site, as well as demographic connectivity among local and regional populations. As development continues to displace owls, available suitable habitat is needed to support these individuals. This should include permanent conservation of similar vegetation communities (grassland, urban, and agriculture) and be comparable to, or better than, that of the impact area. Suitable mitigation lands should also be based on a comparison of the habitat attributes of the impacted and conserved lands, including but not limited to: type and structure of habitat being impacted or conserved; density of burrowing owls in impacted and conserved habitat; and significance of impacted or conserved habitat to the species range-wide. CDFW strongly suggests that the Cities of Ontario and Chino maintain an interactive mapping and current inventory of burrowing owl occurrences (Refer to Figure 3), ensure adequate land is available and conserved **before** owls are passively relocated, and provide compensation for loss of all aspects of habitat types used (e.g., foraging, wintering, migratory stopovers, and breeding).

CDFW-12

Under Section 15355 of the CEQA Guidelines, cumulative effects refers to "two or more individual effects which, when considered together, are considerable or which compound

CDFW-13



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or increase other environmental impacts". Physical changes caused by a project can contribute incrementally to cumulative effects that are significant, even if individual changes resulting from a project are limited. The Lead Agency must determine whether the cumulative impact is significant, as well as whether an individual effect is "cumulatively considerable." This means "the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects" (Guidelines Section 15064(h)(1)).

Within the Preserve, CDFW estimates that 1,174 acres of suitable burrowing owl habitat has been removed and another 729 acres are proposed for future development. The City of Chino concluded that implementing mitigation measures would reduce, avoid, lessen, or compensate for some, but not all, of the adverse impacts to burrowing owl habitat. Nevertheless, the City Council determined that the remaining unavoidable effects were acceptable and issued a Statement of Overriding Considerations. For the Ontario Ranch, approximately 1,425 acres of 3,562 acres potential owl habitat has already been removed. With the collection of the mitigation fees for the acquisition and management of habitat, the City determined that implementation of the proposed Ontario Plan would not have substantial adverse impacts on sensitive animal species, including the burrowing owl (Ontario Ranch DEIR Chapter 6 Significant Unavoidable Adverse Impacts). In addition to these existing planned developments, and passed developments not mentioned within this letter, the DEIR adds new impacts to an already significant loss of habitat.

CDFW-13  
 cont'd.

Again, CDFW has significant concerns with the DEIR's approach to mitigating direct, indirect, and cumulative impacts to burrowing owls and urges the City to coordinate with CDFW on the establishment of appropriate measures prior to the certification of the DEIR.

#### Foraging Raptors

The Project has the potential to support foraging habitat for the bald eagle, golden eagle, Swainson's hawk, and American peregrine falcon. However, the Project DEIR concluded that, *"these species are not expected to nest within the Study Area, as it is located outside of the known nesting range and/or does not contain suitable nesting habitat. With regard to potential foraging impacts, based on the level of ongoing human disturbance within the Project study area, and the regional availability of foraging habitat in the vicinity of the Project site, such as the Prado Basin, Chino Hills State Park, and the Santa Ana Mountains, the loss of low-quality potential foraging habitat resulting from development of the Project is considered less than-significant"* (Section 4.8.4.2, Impact Statements *Special-Status Wildlife Species*).

CDFW-14

Contrary to this determination, the Ontario Ranch DEIR concluded that the loss of farmland would only become less than significant with the collection of mitigation fees to fund replacement habitat and must have long-term conservation value for raptors. Similarly, the City of Chino concluded that impacts within the Preserve could not be mitigated for the

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cumulative loss of agricultural and open space below a level of significance for the direct loss of raptor foraging and migratory habitat (PSP Statement of Overriding Conditions).

CDFW is concerned that similar projects that have undergone prior environmental review (i.e., Ontario Ranch and PSP) could come to substantially different conclusions regarding the significance of impacts related to the loss of raptor foraging habitat. CDFW believes the loss of these areas for foraging, individually and cumulatively, is significant and should be mitigated. Thus, the Project DEIR should reassess its findings for the continued loss of raptor habitat within the Dairy Preserve, and provide appropriate mitigation in the form of habitat acquisition and preservation. Therefore, CDFW advises the City to integrate into the DEIR the following measure:

CDFW-14  
 cont'd.

*4.8.9 If surveys determine that the Project supports special-status raptors, the Applicant shall mitigate the loss through the perpetual conservation and management of foraging habitat, approved by CDFW, at a minimum 1:1 ratio.*

### **California Endangered Species Act**

CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to the California Endangered Species Act (CESA). CDFW recommends that a CESA Incidental Take Permit (ITP) be obtained if the Project has the potential to result in "take" (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of State-listed CESA species, either through construction or over the life of the project. CESA ITPs are issued to conserve, protect, enhance, and restore State-listed CESA species and their habitats.

CDFW-15

CDFW encourages early consultation, as significant modification to the proposed Project and avoidance, minimization, and mitigation measures may be necessary to obtain a CESA ITP. The California Fish and Game Code requires that CDFW comply with CEQA for issuance of a CESA ITP. CDFW therefore recommends that the DEIR addresses all Project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of CESA.

### **Lake and Streambed Alteration Program**

Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

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Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your Project that would eliminate or reduce harmful impacts to fish and wildlife resources.

CDFW-16  
 cont'd.

CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if necessary, the DEIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). Information can be submitted online or via completion of the CNDDDB field survey form at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

CDFW-17

## FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.).

CDFW-18

## CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR for the Merrill Commerce Center Project Specific Plan Project (SCH No. 2019049079) and recommends that the City address the CDFW's comments prior to certifying the DEIR. If you should have

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any questions pertaining to the comments provided in this letter, please contact Kim Romich, Senior Environmental Scientist, at [Kimberly.Romich@wildlife.ca.gov](mailto:Kimberly.Romich@wildlife.ca.gov).

CDFW-19  
 cont'd

Sincerely,

DocuSigned by:  
  
 8091B1A9242F49C...

Scott Wilson  
 Environmental Program Manager

## Attachments

### Tables

- Table 1. Development that has, or will, occur(red) within the Ontario Ranch and the estimated mitigation fees that has/will be collected
- Table 2. Development that has, or will, occur(red) within the Preserve and the estimated mitigation fees that has/will be collected
- Table 3. Development within the Ontario Ranch and burrowing owls impacted.
- Table 4. Development within the Preserve and burrowing owls impacted.

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### Figures

- Figure 1. Portions of the Project adjacent to proposition 70 agricultural land and within the Ontario Ranch and Preserve
- Figure 2. Development that has, or will, occur(red) within the Ontario Ranch and Preserve.
- Figure 3. Burrowing owl occurrences surrounding the Project

ec: Kim Freeburn, Senior Environmental Scientist, Supervisor  
 Inland Deserts Region  
[kim.freeburn@wildlife.ca.gov](mailto:kim.freeburn@wildlife.ca.gov)

HCPB CEQA Coordinator  
 Habitat Conservation Planning Branch

Office of Planning and Research, State Clearinghouse, Sacramento  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

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## REFERENCES

Biological Technical Report for Merrill Commerce Center Specific Plan, Located in the City of Ontario, San Bernardino County, California with Off-Site Improvements Located in the Cities of Ontario and Chino, San Bernardino County, California (Glenn Lukos Associates, Inc.) September 19, 2019

California Department of Fish and Wildlife. 2012. Staff Report on Burrowing Owl Mitigation. Sacramento, CA, USA.

Tu, Billy. May 2019. Pond Occupancy by Western Pond Turtle in the Diablo Range of Santa Clara County, California.

California Department of Fish and Wildlife  
Inland Deserts Region  
3602 Inland Empire Boulevard, Suite C-220  
Ontario, CA 91764

Letter Dated November 20, 2020

**Comment CDFW-1**

*The California Department of Fish and Wildlife (CDFW) received the Draft Environmental Impact Report (DEIR) from the City of Ontario (City) for the Merrill Commerce Center Specific Plan Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.*

*Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.*

**Response CDFW-1**

CDFW receipt and review of the Merrill Commerce Center Specific Plan Project (Project) Draft EIR (DEIR, EIR) is recognized. The City appreciates CDFW participation in the Project and DEIR review processes. Findings and conclusions of the EIR are not affected.

**Comment CDFW-2**

**CDFW ROLE**

*CDFW is California's Trustee Agency for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Id., § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological*

*expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.*

*CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.*

### **Response CDFW-2**

CDFW's roles as a Trustee Agency and Responsible Agency are recognized. Findings and conclusions of the EIR are not affected.

### **Comment CDFW-3**

#### **PROJECT DESCRIPTION SUMMARY**

*The Project proposes the development and operation of up to 7,014,000 square feet of fulfillment center warehouse uses and up to 1,441,000 square feet of business park uses along Merrill Avenue, between Grove Avenue and Carpenter Avenue, in the City of Ontario. Improvements to approximately 113.2 acres of off-site roadway and utility infrastructure will also occur in the Cities of Ontario and Chino, San Bernardino County.*

### **Response CDFW-3**

CDFW summary of the Project development components is materially correct. CDFW, however, does not recognize the extensive site disturbance and habitat degradation that has occurred due to historic and on-going and dairy activities, as well as current industrial/trucking activities occurring within the site. Relevant DEIR text is excerpted below:

The Project site is extensively disturbed and evidences environmental degradation due to historic and on-going agricultural and trucking uses. Such degradation includes, but is not limited to:

- Animal waste from the long-term dairy farm uses have potentially created methane gas, and soil contamination from nitrates and ammonia.
- Numerous automotive fluids, including several large above ground storage tanks (ASTs) on or near the on-site maintenance shop. These materials are used for maintaining and repairing farm equipment.
- Additional ASTs used for truck and equipment refueling are located on-site.
- A scrap metal area containing drums, ASTs, farming equipment, and vehicles is located on the property.
- Dairy operations use formaldehyde, iodine, and glycerol to wash the cows. The dairies also use muriatic acid and chlorinated alkaline as a cleaning solution. Pesticides are applied to prevent parasite infestations. Wastewater from these processes is discharged to the pastures for irrigation.
- Holding ponds for contaminated runoff from agricultural/dairy farm operations. Discharge from these ponds to surrounding areas; and potential infiltration of contaminated runoff to underlying groundwater.
- General debris observed throughout the property, including vehicle equipment staging areas, used tires, concrete rubble piles, compressors, and generators may have the potential to impact on-site surficial soil.
- Presence of septic systems.

[DEIR, pp. 3-10, 3-11).

Commentor is also referred to DEIR Figures 3.2-2 – 3.2-6, *Site Photographs* (included at FEIR Attachment A for ease of reference). As described and illustrated in the DEIR, the site in its current state does not represent special or valuable habitat. Results and conclusions of the DEIR are not affected.

#### **Comment CDFW-4**

##### **PROJECT BACKGROUND**

*The Project is located within the former ‘Dairy Preserve’ that was formed in 1968 under the auspices of the California’s Williamson Act. In 1988, voters passed Proposition 70, the California, Wildlife, Coastal, and Park Land Conservation Act (Act) to fund bonds for “the acquisition, development, habitation, protection, or restoration of park, wildlife, coastal, and natural lands in California, including lands supporting unique or endangered plants and animals”. San Bernardino County was awarded a \$20 million grant under Proposition 70 and has since acquired nine dairy properties, or 366.6 acres, in the early 1990s with approximately 165.3 acres located in the City of Chino and the remaining 201.3 acres within the City of Ontario. The Project is immediately adjacent to, or within, many of these San Bernardino County Proposition 70 dairy parcels (refer to Figure 1).*

*The annexation of the Dairy Preserve between the Cities of Ontario and Chino have represented a dramatic increase in development and population growth. The City of Ontario prepared a master plan for the Dairy Preserve that spans over a 20-year period and includes the development of 8,200 acres of previous agricultural and dairy lands with 47,000 homes, 16 million square feet of retail, office, medical and residential space, and eight new schools. This master plan was formerly known as the New Model Colony (NMC) and is currently referred to as ‘Ontario Ranch’.*

*Likewise, the City of Chino annexed the remaining portion of the Dairy Preserve, approximately 7,245 acres, into the City of Chino’s Sphere of Influence where it was partitioned into a western and eastern section. The eastern portion, or what is now known as ‘the Preserve’, includes approximately 5,435 acres (8.15 square miles). For Subarea 2, the City adopted the Preserve – Chino Sphere of Influence – Sub-Area 2 Specific Plan (hereafter, “PSP”) and certified the associated EIR (SCH #2000121036, hereafter, “PSP EIR”) on March 25, 2003. The PSP established the overall vision and development plan for the specific plan area and acted as a bridge between the City’s General Plan and individual development proposals. An ‘umbrella’ General Plan Amendment, which linked the Specific Plan to the City’s existing General Plan and satisfied the requirement for consistency with the General Plan (Government Code Sections 65301 (b) and 65303), was also prepared. Portions of the Project are within both the Preserve and the Ontario Ranch.*

#### **Response CDFW-4**

Location of the Project within the former “Dairy Preserve,” annexation actions affecting the Dairy Preserve, and adoption of the PSP as described by CDFW are recognized. Findings and conclusions of the EIR are not affected.

#### **Comment CDFW-5**

#### **COMMENTS AND RECOMMENDATIONS**

*CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project’s significant, or potentially significant, impacts on fish and wildlife (biological) resources.*

#### **Response CDFW-5**

Responses to comments provided by CDFW, and consideration of CDFW recommendations are presented in the following Responses.

#### **Comment CDFW-6**

#### ***Assessment of Biological Resources***

*Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. Within the Project DEIR, eleven species were identified as having potential to occur or use the study area based on the literature review and field surveys, including: burrowing owl(s) (*Athene cunicularia*), yellow-headed blackbird(s) (*Xanthocephalus xanthocephalus*), yellow warbler(s) (*Setophaga petechia*), golden eagle(s) (*Aquila chrysaetos*), Swainson’s hawk(s) (*Buteo swainsoni*), white-tailed kite(s) (*Elanus leucurus*), big free-tailed bat(s) (*Nyctinomops macrotis*), pallid bat(s) (*Antrozous pallidus*), western mastiff bat(s) (*Eumops perotis californicus*), western red bat(s) (*Lasiurus blossevillei*), and western yellow bat(s) (*Lasiurus xanthinus*) (DEIR Section 4.8.4.2 Impact Statements Special-Status Wildlife Species).*



CDFW agrees that these special-status wildlife species have the potential to occur within the Project, and suggests that the Project footprint, or the immediate surrounding area, may also support the western pond turtle (*Actinemys marmorata*), a California Species of Special Concern and the tricolored blackbird (*Agelaius tricolor*), a California Threatened Species.

### **Response CDFW-6**

Please refer to Responses CDFW-7, CDFW-8. Findings and conclusions of the EIR are not affected.

### **Comment CDFW-7**

#### **Western Pond Turtles**

*Agricultural areas within the Project consist of active dairy operations and row crops. Areas associated with the dairy operations include corrals, pastures, and treatment basins designed to retain all runoff from the associated facilities (DEIR, section 4.8.2.1, Vegetation Communities/Habitat Types). Pond turtles are habitat generalists and can occupy a wide range of aquatic habitats, with a wide variety of aquatic niches in rivers, streams, ponds, vernal pools, and estuaries, as well as, human-impacted environments, such as agricultural ditches and sewage treatment ponds (Holland 1992; Stebbins 2003; Germano, 2010) and livestock ponds (Tu, 2019). Thus, the most limiting factor of habitat suitability is the presence of water. CDFW recommends that the following measures be added to the DEIR prior to certification to require focused surveys and mitigation, should western pond turtles be identified onsite.*

*4.8.6: Within the breeding season (May-July) prior to the onset of construction activities, a CDFW-approved qualified biologist shall conduct pre-construction trapping surveys, following U.S. Geological Survey trapping protocol, for western pond turtle within all areas of any suitable aquatic habitat for this species (e.g., retention and treatment ponds). If western pond turtles are observed or trapped during the pre-construction survey, the Applicant shall prepare for CDFW review and approval, a translocation plan identifying proposed protocol for trapping and relocating turtles, including identifying potential, appropriate receiver sites to relocate western pond turtles to. If no western pond turtles are observed during the pre-construction survey, then construction activities may begin. If construction is delayed or halted for more than 30 days,*

*another pre-construction survey for western pond turtle shall be conducted. Within seven days of the pre-construction survey, a report of findings from the survey shall be submitted to the CDFW. During construction, a qualified biological monitor who has been approved by the CDFW to relocate western pond turtles shall be onsite to ensure that no western pond turtles are harmed. If western pond turtles are observed in the construction area at any time during construction, the onsite biological monitor shall be notified and construction in the vicinity of the sighting shall be halted until such a time as a turtle has been removed from the construction zone, and relocated by an approved biologist. If a sighting occurs during construction, the biologist shall prepare a report of the event and submit it to CDFW.*

*4.8.7: If western pond turtle are identified, the Applicant shall mitigate impacts to western pond turtle by creating suitable, breeding, and foraging habitat at a minimum 2:1 replacement to impact ratio at a CDFW-approved location within southwest San Bernardino County. Habitat shall be conserved in perpetuity via conveyance of a conservation easement to a CDFW-approved conservation entity and a management fund (endowment) shall be established by the Applicant consisting of an interest-bearing account with the amount of capital necessary to generate sufficient interest and/or income to fund all monitoring, management, and protection of the conservation area(s), including but not limited to, reasonable administrative overhead, biological monitoring, invasive species and trash removal, fencing and signage replacement and repair, law enforcement measures, long-term management reporting (as described below), and other actions designed to maintain and improve the habitat of the conserved land(s), in perpetuity. A Property Analysis Record, or substantially equivalent analysis, shall be conducted to determine the management needs and costs described above, which then will be used to calculate the capital needed for the management of the fund. Except for uses appropriate to a habitat conservation area, the public shall not have access to the mitigation area(s), and no activities shall be permitted within the site, except maintenance of habitat, including the removal of nonnative plant species, trash, and debris, and the installation of native plant materials.*

### **Response CDFW-7**

All impoundments located within the Project site consist of dairy runoff retention facilities. These facilities function solely to collect livestock waste generated by the existing dairy activities and collect runoff from natural precipitation and operation-

related flushing events. These facilities are highly engineered and are routinely dredged to remove solid waste and sediment, in order to maintain capacity and allow for percolation, as designed. These facilities are designed to contain water for less than 72 hours after each flushing event and lack underwater cover, emergent basking sites, such as downed trees, logs, and large rocks and boulders that the western pond turtle requires as components of suitable live-in and breeding habitats.

The treatment facilities and stock ponds identified (referenced) in literature cited by the CDFW routinely contain water for long durations of time (weeks, months) for much of the year. The waste treatment facilities located within the Project site, as noted, do not support long-term (duration) aquatic habitat.

Therefore, these facilities are not expected to support the western pond turtle. Notwithstanding, in response to CDFW concerns and to avoid potential impacts to the western pond turtle and out of an abundance of caution, the following mitigation measure is incorporated. Please refer also to FEIR Section 4.0, *Mitigation Monitoring Program*. Findings and conclusions of the EIR are not affected.

4.8.6 Within the breeding season (May-July) prior to the onset of construction activities, a qualified biologist shall conduct pre-construction visual surveys, following U.S. Geological Survey visual survey protocol, for western pond turtles within all areas of any suitable aquatic habitat for this species (retention ponds). If Western pond turtles are observed during the pre-construction survey, the Applicant shall prepare for CDFW review and approval, a translocation plan identifying proposed protocol for trapping and relocating turtles, including identifying potential, appropriate receiver sites to relocate western pond turtles. If no western pond turtles are observed during the pre-construction survey, then construction activities may begin. If construction is delayed or halted for more than 30 days, another pre-construction survey for western pond turtle shall be conducted. Within seven days of the pre-construction survey, a report of findings from the survey shall be submitted to the CDFW.

*During construction, a qualified biological monitor who has been approved by the CDFW to relocate western pond turtles shall be onsite to ensure that no western pond turtles are harmed. If western pond turtles are observed in the construction area at any time during construction, the onsite biological monitor shall be notified and construction in the vicinity of the sighting shall be halted until such a time as a turtle has been removed from the construction zone, and relocated by an approved biologist. If a sighting occurs during construction, the biologist shall prepare a report of the event and submit it to CDFW.*

#### **Comment CDFW-8**

##### *Tricolored Blackbirds*

*The Project DEIR documented yellow-headed blackbirds foraging within the Project (Section 4.8.4.2, Impact Statements Special-Status Wildlife Species), but made no observation of tricolored blackbirds. Based on database searches, CDFW identified three separate observations of individual tricolored blackbirds or colonies near the Project, with 2 individuals observed at dairy ponds near Merrill Avenue and Grove Avenue (Ebird; April 26, 2015), 30 individuals at ponds located at Carpenter Avenue (Ebird March 2015); and fluctuating numbers of nesting and foraging tricolored birds at the managed wetlands at Kimball/Bickmore Avenue and surrounding fields, including approximately 500 individuals in 2011, approximately 100 individuals in 2012, and approximately 500 individuals in 2014 and 2016 (California Natural Diversity Data Base [CNDDDB]). These known tricolored blackbird occurrences are either within (e.g. Carpenter Avenue), immediately adjacent (e.g. Merrill Avenue and Grove Avenue), or a short distance (< 2 kilometer) from the Project (e.g. Kimball Avenue).*

*According to the Biological Technical Report for Merrill Commerce Center Specific Plan, (Glenn Lukos Associates, Inc., September 2019), it states “The Project will remove 375.3 acres of potential raptor foraging habitat through development of the active agriculture. Although the agriculture may provide foraging habitat for raptors, it is not expected to be valuable, as the lands are actively maintained to minimize use by small mammals (prey for raptors)” (5.10 Cumulative Impacts to Biological Resources).*



*Like raptors, tricolored blackbirds forage within agricultural fields. Tricolored blackbirds do not prey on small mammals, but rather, are known to forage for insects primarily in artificial habitats, including crops such as rice, alfalfa, irrigated pastures, and ripening or cut grain fields (e.g., oats, wheat, silage), as well as annual grasslands, cattle feedlots, and dairies (Beedy and Hamilton 1999). In addition, approximately 55 percent of all observed breeding colonies were associated with dairies (Hamilton et al. 1995, pp. 5, 64) and in some colonies, water source, nesting substrate, and foraging area were all available under the management of a single dairy operation. Most tricolored blackbirds forage within 5 kilometers (km) of their colony sites (rarely up to 13 km; Orians 1961, Beedy and Hamilton 1997). Similarly, a study using radio-telemetry documented tricolored blackbirds movements over relatively short distances of 3 to 11 km. These movements may be due to an inability to acquire sufficient resources at one colony site for the entire breeding season, prospecting among colonies to assess availability of nesting and foraging resources or access to mates, and/or the availability of multiple proximate nesting locations allows the species to compensate for early-season nesting failures and variation in habitat and forage conditions over time (Beedy and Hamilton 1997).*

*Given the Project and the adjacent lands contains suitable foraging and breeding habitat for blackbirds, has been occupied by yellow-headed blackbirds, and is within known movement distances from documented tricolored blackbird occurrences, CDFW recommends the Project DEIR include the following measure to require focused surveys and mitigation, should tricolored blackbirds be identified using the Project area for nesting or foraging.*

*4.8.8: The Applicant shall conduct surveys for tricolored blackbird across all suitable breeding and foraging habitat with the Project area. If tricolored blackbirds are identified, the Applicant shall avoid and conserve all occupied habitat onsite. If onsite avoidance is infeasible, the Applicant shall apply for an incidental take permit (ITP) with California Department of Fish and Wildlife and shall mitigate for the loss of all habitat through the acquisition, conservation, and management of in-kind habitat at a minimum 3:1 ratio, or as approved by the final ITP. Habitat shall be conserved in perpetuity via conveyance of a conservation easement to a CDFW-approved conservation entity and a management fund (endowment) shall be established by the Applicant consisting of an interest-bearing account with the amount of capital necessary to generate sufficient interest and/or income to fund all monitoring, management, and protection of the conservation area(s), including*

*but not limited to, reasonable administrative overhead, biological monitoring, invasive species and trash removal, fencing and signage replacement and repair, law enforcement measures, long-term management reporting (as described below), and other actions designed to maintain and improve the habitat of the conserved land(s), in perpetuity. A Property Analysis Record, or substantially equivalent analysis, shall be conducted to determine the management needs and costs described above, which then will be used to calculate the capital needed for the management of the fund. Except for uses appropriate to a habitat conservation area, the public shall not have access to the mitigation area(s), and no activities shall be permitted within the site, except maintenance of habitat, including the removal of nonnative plant species, trash, and debris, and the installation of native plant materials.*

### **Response CDFW-8**

As noted at Response CDFW-7, all impoundments located within the Project site consist of dairy runoff retention facilities and are frequently maintained, which prevents the development of marsh habitats consisting of mature stands of cattail (*Typha* spp.), rush (*Schoenoplectus* spp.), or sedge (*Carex* spp.) species, suitable to support nesting habitat for tricolored blackbird.

Tricolored blackbirds were not observed within the Project site over several seasons of field survey efforts and breeding colonies have not been observed or documented within or immediately adjacent to the Project site. However, as the Project site supports foraging habitat for other blackbird species, it is recognized that the Project site may periodically support foraging opportunities for tricolored blackbirds, including those associated with nesting colonies within the region.

Code, § 2080; Cal. Code Regs., tit. 14, § 783.1) defines the term “take” of species listed as Threatened or Endangered under the *California Endangered Species Act* (CESA) by Fish and Game Code section 86 *as hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill*. The loss of foraging habitat for tricolored blackbirds does not constitute “take” pursuant to CESA; therefore, would not result in the need for an ITP or requirement for mitigation for the loss of potential foraging habitat under CESA.

Although not expected to avoid any potential for “incidental take” of tricolored blackbirds, out of an abundance of caution, the following mitigation measure has been incorporated in the EIR. Please refer also to FEIR Section 4.0, *Mitigation Monitoring Program*. Findings and conclusions of the EIR are not affected.

4.8.7 Prior to initiation of ground-disturbing activities, including demolition, a pre-disturbance survey for tricolored blackbirds shall be conducted by a qualified biologist. The survey area shall encompass all habitat within the Project site and a 500-foot buffer supporting suitable foraging opportunities for blackbird species on the date that these activities will initiate.

- If tricolored blackbirds are observed foraging, all Project-related construction activities shall avoid that portion of the Project site containing foraging tricolored blackbirds, along with a 500-foot avoidance buffer, until the tricolored blackbirds have concluded their foraging activities and vacated the Project site on their own accord. The qualified biologist shall monitor the movement of the tricolored blackbirds to ensure that all Project activities occur outside of the active foraging area and associated buffer.
- If tricolored blackbirds are not detected within the Project site during the pre-construction survey, construction activities may commence and no additional actions are needed for areas under continuous disturbance by Project activities.
- The pre-construction survey shall be repeated within portions of the Project site supporting potential blackbird foraging habitat where construction has not commenced and/or where construction activities have paused and elapsed for more than thirty (30) consecutive days, and have not been rendered into a developed condition prior to that time.

## **Comment CDFW-9**

### ***Analysis of Direct, Indirect, and Cumulative Impacts to Biological Resources***

*The Project DEIR should provide a thorough discussion of the direct, indirect, and cumulative impacts expected to adversely affect biological resources as a result of the Project. CDFW suggests the following:*

#### **Bats**

*Despite the high diversity and sensitivity of bats in the south coast ecoregion, bats have been largely ignored during environmental review of proposed projects and in large planning efforts, including the Ontario Ranch and PSP DEIRs. This is primarily due to the lack of information on the distribution, seasonal habitat associations, and population status of bat fauna. The Project DEIR does include sensitive bat species that may occur (Section 6.4 Special-Status Bats) and minimization measures that includes the following:*

*“4.8.4 For large ornamental trees suitable for bat roosting/nursery, exit counts and acoustic surveys shall be performed prior to initial ground disturbance and vegetation removal to determine whether the Project footprint and a 300-foot buffer supports a nursery or roost, and by which species. This survey work will occur between late-spring and late summer and/or in the fall (generally mid-March through late April be developed to ensure mortality to bats does not occur. For each location confirmed to be occupied by bats, the plan will provide details both in text and graphically where exclusion devices/and or staged tree removal will need to occur, the timing for exclusion work, and the timeline and methodology needed to exclude the bats. The plan will need to be reviewed and approved by CDFW prior to disturbance of the roost (DEIR 4.8.4.2 Impact Statements Wildlife Sensitive Species)”.*

*While CDFW appreciates the measures to avoid direct take of roosting bats, there are other aspects of bat ecology that should be addressed. Recent research has shown that many tree roosting species will switch roosts every few days (Barclay and Brigham 1996), meaning that multiple roosts of varying temperature regimes may need to be available within appropriate habitat and flight distance of the species for a population to remain viable. Bats also need adequate foraging habitat within the nightly commute distance from a given roost. These distances vary among species (Pierson 1998) and seasonally (Brown and others 1995). Thus, CDFW strongly encourages the City to incorporate the following into measure 4.8.4 prior to certification of the DEIR to require*



*mitigation for the loss of roosting and foraging opportunities for each bat species, and ensure the mitigation is roughly proportional to the level of impacts in accordance with the provisions of CEQA (CEQA Guidelines, §§ 15126.4(a)(4)(B), 15064, 15065, and 16355).*

*If surveys determine that roosts supporting special-status bats will be lost as a result of the Project, the Applicant shall mitigate the loss through the perpetual conservation and management of occupied habitat, approved by CDFW, at a minimum 1:1 ratio.*

### **Response CDFW-9**

The measure included in the *Biological Technical Report for Merrill Commerce Center Specific Plan* (Glenn Lukos Associates, Inc., September 2019) (Project Biological Resources Assessment) is excerpted below:

For large ornamental trees suitable for bat roosting/nursery, exit counts and acoustic surveys shall be performed prior to initial ground disturbance and vegetation removal to determine whether the Project footprint and a 300-foot buffer supports a nursery or roost, and by which species. This survey work will occur between late-spring and late summer and/or in the fall (generally mid-March through late October).

If the results of the bat survey finds a total of a single roosting individual of a special-status bat species or 25 or more individuals of non-special-status bat species with potential to be present in the Study area (i.e., western Mastiff bat, big free-tailed bat, pallid bat, western red bat, and western yellow bat), a Bat Management Plan shall be developed to ensure mortality to bats does not occur. For each location confirmed to be occupied by bats, the plan will provide details both in text and graphically where exclusion devices/and or staged tree removal will need to occur, the timing for exclusion work, and the timeline and methodology needed to exclude the bats. The plan will need to be reviewed and approved by CDFW prior to disturbance of the roost(s).

This measure, as presented in the Project Biological Resources Assessment, is consistent with measures included in CDFW streambed alteration agreements and final CEQA documentation for projects with comparable impacts to non-listed special-status bat species. The measure acts to ensure that mortality to bats does not occur at a level that may be considered significant under CEQA. CDFW citation to DEIR Mitigation Measure 4.8.4 is unclear and appears to be incorrect. For reference, DEIR Mitigation Measure 4.8.4 is excerpted below:

*4.8.4 For large ornamental trees suitable for bat roosting/nursery, exit counts and acoustic surveys shall be performed prior to initial ground disturbance and vegetation removal to determine whether the Project footprint and a 300-foot buffer supports a nursery or roost, and by which species. This survey work shall occur between late-spring and late summer and/or in the fall (generally mid-March through late October).*

*If the results of the bat survey finds a single roosting individual of a special-status bat species or a total of a 25 or more individuals of non-special-status bat species with potential to be present in the Study area (i.e., western Mastiff bat, big free-tailed bat, pallid bat, western red bat, and western yellow bat), a Bat Management Plan (Plan) shall be developed to ensure mortality to bats does not occur. For each location confirmed to be occupied by bats, the Plan shall provide details both in text and graphically where exclusion devices and/or staged tree removal will need to occur, the timing for exclusion work, and the timeline and methodology needed to exclude the bats. Preliminary Plan components and performance standards are outlined below:*

*To avoid the direct loss of bats that could result from removal of trees that may provide maternity roost habitat (e.g., in cavities or under loose bark), the following steps should be taken:*

*1) If trees and/or structures must be removed or disturbed as part of Project activities, a qualified bat specialist should conduct surveys to identify use of habitat by any bat species. Focused surveys using electronic detection should be used to*

*identify general bat use and any special status bat species using any habitat proposed for removal or disturbance;*

*2) Maternity season lasts from March 1 to September 30. Trees and/or structures should not be removed until the end of the maternity season;*

*3) If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year, it is preferable to push any tree down using heavy machinery rather than felling it with a chainsaw. In order to ensure the optimum warning for any roosting bats that may still be present, the tree should be pushed lightly two to three times, with a pause of approximately 30 seconds between each nudge to allow bats to become active. The tree should then be pushed to the ground slowly and should remain in place overnight and until it is inspected by a bat specialist. Trees that are suspected to be bat roosts should not be sawed up or mulched immediately. A period of at least 24 hours, and preferably 48 hours, should elapse prior to such operations to allow bats to escape. Bats should be allowed to escape prior to demolition of buildings. This may be accomplished by placing one way exclusionary devices into areas where bats are entering a building that allow bats to exit but not enter the building;*

*4) The bat specialist should document all demolition monitoring activities, and prepare a summary report to the Lead Agency upon completion of tree disturbance and/or building demolition activities. CDFW requests copies of any reports prepared related to bat surveys (e.g., monitoring, demolition);*

*5) If confirmed occupied or formerly occupied bat roosting and foraging habitat is destroyed, habitat of comparable size and quality should be preserved and maintained at a nearby suitable undisturbed area. The bat habitat mitigation shall be determined by the bat specialist in consultation with CDFW;*

*6) A monitoring plan shall be prepared and submitted to the Lead Agency. The monitoring plan shall describe proposed mitigation habitat, and include performance standards for the use of replacement roosts by the displaced species, as well as provisions to prevent harassment, predation, and disease of relocated bats; and,*

*7) Annual reports detailing the success of roost replacement and bat relocation should be prepared and submitted to Lead Agency and CDFW for five years*

*following relocation or until performance standards are met, whichever period is longer.*

*The Plan shall be reviewed and approved by CDFW prior to disturbance of any roost(s).*

As indicated above, DEIR Mitigation Measure 4.8.4 includes all operative components of bat impact mitigation presented in the Project Biological Resources Assessment; and then expands and enhances the measure to ensure its effective implementation providing for minimization of impacts to, and protection of special-status bat species. Additionally, CDFW recommendations regarding habitat conservation are reflected at DEIR Mitigation Measure 4.8.4. No additional mitigation is proposed. Findings and conclusions of the EIR are not affected.

#### **Comment CDFW-10**

##### **Burrowing Owls**

*For the Project, minimization and avoidance measures for burrowing owls (DEIR, section 4.8.4.2, Impact Statements, Mitigation Measure 4.8.1) include the following:*

- *If burrowing owl(s) is (are) absent, no additional mitigation is required;*
- *If burrowing owl(s) is (are) detected within the Project's disturbance footprint located within the City of Chino Preserve RMP [Resources Management Plan] boundary, the owl(s) are required to be handled as indicated by the RMP; and*
- *If burrowing owl(s) is (are) detected within the Project's proposed disturbance footprint outside of the RMP boundary: Prior to disturbance of the occupied burrows, suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within designated offsite conserved lands to be identified through coordination with CDFW and the City in which the burrowing owl(s) is (are) detected (either the City of Ontario or the City of Chino).*

*Although a portion of the Project occurs within the Ontario Ranch, the Project DEIR does not reference any burrowing owl mitigation measures or the cumulative impact review and conclusion from the Ontario Ranch DEIR.*



*The Ontario City Council approved a General Plan Amendment and associated Final Environmental Impact Report (EIR) for the Sphere of Influence for the Ontario Ranch (NMC) in January 1998. The NMC Final EIR assessed the impacts on biological resources of the conversion of the NMC from agricultural uses to develop urban and suburban uses. Before mitigation, it was determined that significant impacts would occur to waterfowl and waterfowl habitat; raptors and raptor habitat; and the Delhi Sands Flower-Loving Fly Ontario Recovery Unit. The mitigation measures to reduce impacts to less than significance included:*

*EIR Mitigation Measure BR-1 - 2:1 Mitigation Waterfowl Habitat Mitigation*

- Modify the General Plan to require the creation of new waterfowl habitat and specified a mitigation ratio of 2:1 for each acre of such habitat lost. This is off- site mitigation in the Prado Basin.*

*EIR Mitigation Measure BR-2 - Waterfowl and Raptor Conservation Area*

- The City of Ontario shall create a Waterfowl and Raptor Conservation Area (WRCA) off-site in the Prado Basin.*

*Subsequent to the adoption of the EIR, a lawsuit was filed against the City of Ontario by the Endangered Habitats League, Inc. and Sierra Club challenging the City's CEQA compliance and approval of the General Plan Amendment. A settlement agreement was reached and agreed to by all parties that set forth revised mitigation measures for potential impacts in the NMC (referred to as Annexation Area 163). Because state law requires that local jurisdictions update their General Plans every 10 years, an Ontario Plan Draft EIR (DEIR SCH # 2008101140) was prepared by the Planning Center (April 2009) and finalized in July 2009. Measures from the settlement agreement were detailed within the Ontario Plan DEIR Section 5 Environmental Analysis and included the following:*

*DEIR Mitigation Measure 1 - Mitigation Fees*

- Prior to issuance of grading permits, Ontario shall impose a \$4,320 per acre Mitigation Fee on proposed developments in Annexation Area 163 that require discretionary approval or permitting from the City.*

*DEIR Mitigation Measure 2 - On Site Land Conservation or Owl Relocation*

- *Ontario, in consultation with the Department, will identify through CEQA review, lands occupied by burrowing owl and suitable as long-term habitat. The City will require avoidance of those lands to maintain a viable territory and require long-term maintenance through dedication in fee or grant of easement to the Land Trust. If the site is not viable long-term habitat, the developer shall pay the mitigation fee and make provisions for relocation of the owls.*

*DEIR Mitigation Measure 3 - Land Conservation*

- *All mitigation fees collected shall be used for the above-described purposes and may be used to purchase property, conservation easements, or other land with long-term conservation value for the environmental impacts; enhance/restore lands with such values; maintain and operate these lands; and pay for related administrative costs (not to exceed 10 percent of the total fees).*

*DEIR Mitigation Measure 4 - Land Easements*

- *Land/easements dedicated, conveyed, or purchased to benefit wildlife, waterfowl, raptors/and or burrowing owl must have long-term conservation value for those species and must be managed by the Land Trust. The parcels must be located within the Habitat Area designated as part of the settlement agreement. Unacceptable properties are those that would otherwise be purchased by another entity or group as open space mitigation for environmental impacts.*

*[CDFW Attachment] Table 1 and Figure 2 lists past and upcoming projects and the potential fees that were, or will be, collected within the Ontario Ranch.*

*Although the DEIR does reference PSP-related measures, CDFW has significant concerns regarding the efficacy of these measures at mitigating burrowing owl impacts. Within the City of Chino, mitigation measures identified in the Preserve (PSP DEIR Section 5.4.6 Mitigation Measures) to eliminate or reduce potentially significant impacts to burrowing owls included the following:*

- 1) *All areas below the 566-foot Prado Dam inundation line, except such areas located north of Pine Avenue, will be retained within an open space or agricultural land use designation in order to provide protection for existing wildlife habitat values, as well as to avoid any new impacts.*
- 2) *A biological assessment of each specific project site will be conducted to characterize the habitat types and the potential for the site to support any sensitive species or habitat.*
- 3) *Where a sensitive species has the potential to occur, the level of potential for occurrence as low, moderate, or high will be determined and scientific justification provided for this determination.*
- 4) *If the potential for occurrence is moderate or high (e.g., the required habitat elements for this species are present and/or there has been a sighting of this species in the vicinity of the project site), focused surveys will be conducted within suitable habitat to determine the presence or absence of the species on the project site.*
- 5) *Any surveys deemed necessary must be conducted by a biologist qualified to perform the needed survey(s). The City of Chino, or its consultant, will review and approve the personnel and methodology for any such proposed surveys.*
- 6) *If a sensitive species or habitat is found to occur on a proposed project site or occupies habitat that may be impacted directly or indirectly by the proposed project, this must be called to the City's immediate attention and documented in the biological assessment for the project.*
- 7) *Mitigation measures to offset any potential impact to sensitive species and habitats must comply with the Resources Management Plan (RMP) and shall be included in the biological assessment.*
- 8) *All lands set aside for conservation and/or other mitigation measures must be clearly documented in the final biological assessment.*

*The RMP (Michael Brandman Associates, 2003) was prepared to address the impacts of development of the Preserve through the implementation of land conservation, burrowing owl relocation, and mitigation fees, including:*

- 1) *Providing the creation, enhancement, expansion and perpetuation of high quality wildlife habitat in a 300-acre Conservation Area to be located generally below the 566-foot inundation line and within the PSP boundaries. The more specific location of the*

*Conservation Area depends on availability of lands for mitigation purposes, and the suitability of land for the enhancements envisioned. If the City is unable, or it is infeasible, to obtain the onsite mitigation agreements from property owners for all, or a portion of the 300-acre Conservation Area, the City of Chino can potentially acquire and enhance, or make other arrangements to secure the right to permanently protect/preserve and enhance, land off-site within the Prado Basin (including Chino Hills), so long as it has similar biological value to land on-site within the areas planned for urban development (generally above the 566-foot elevation line). The Natural Treatment System (NTS) facilities (referred to as Drainage Area "B" in the PSP EIR and RMP) may potentially represent partial regional mitigation for the loss of burrowing owl habitat.*

- 2) If burrowing owls are found on an individual development site, development, including the expansion of existing land uses or other land use activities that could disrupt the owls, will be required to follow the CDFW burrowing owl relocation protocol. In addition, unavoidable occupied burrows must be mitigated at a minimum 2:1 ratio, either through the enhancement of existing natural burrows, or through the creation of new artificial burrows. In order to provide supplemental mitigation beyond the standard CDFW protocol requirements for relocation of owls, the 300-acre Conservation Area will be made available for the relocation of burrowing owls that would be displaced by development, including the creation of 20 artificial burrows. The feasibility of relocating owls from development sites to the Conservation Area will be reviewed on a case-by-case basis for individual development projects, subject to the evaluation and recommendations of the biological study prepared for a given site.*
- 3) A RMP Mitigation Fee (3801000-56640) of \$5,596 per adjusted gross acre for new residential, commercial, office, industrial development, or public facilities will be paid prior to the issuance of grading permits. Refer to Table 2 and Figure 3 that identifies past and future projects, along with the associated mitigation fees from development within the Preserve. The funds collected are to provide for the following:*
  - Costs associated with obtaining agreements for the 300-acre Conservation Area with landowners in the form of conservation easements or other legally enforceable instruments.*
  - Costs associated with the design, installation, and maintenance of the various enhancements and improvements, including such appropriate refinements/ adjustments as may be identified by the RMP.*



- *Administration, management and monitoring of the 300-acre Conservation Area and other mitigation measures as appropriate, including adaptive management.*

### **Response CDFW-10**

CDFW concerns regarding potential impacts to the burrowing owl and burrowing owl habitat are recognized. With regard to implementation of, and efficacy of, mitigation measures implemented under the RMP, the City of Ontario does not have plenary control over burrowing owl mitigation measures implemented under the RMP or measures otherwise effected by the City of Chino. The City of Ontario considers the revised DEIR mitigation measures presented below to adequately and appropriately address potential Project impacts to the burrowing owl and would reduce these impacts to levels that would be less-than-significant. The discussion of burrowing owl mitigation presented at DEIR Section 4.8, *Biological Resources* is amended as follows. Other affected DEIR discussions are amended accordingly by reference. Please refer also to burrowing owl mitigation measures presented at FEIR Section 4.0, *Mitigation Monitoring Program*.

~~4.8.1 A qualified biologist shall conduct a pre-construction presence/absence survey for burrowing owls within 14 days prior to site disturbance. If the species is absent, no additional mitigation is required. If burrowing owl(s) is (are) detected within the Project's disturbance footprint located within the City of Chino Preserve Resource Management Plan (RMP) boundary, the owl(s) are required to be handled as indicated by the RMP:~~

~~Prior to disturbance of occupied burrows (if any), suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within the City of Chino designated relocation area (e.g., the NTS basins). A qualified biologist through coordination with the City shall confirm that the artificial burrows are currently unoccupied and suitable for use by owls.~~

~~Until suitable replacement burrows have been provided/confirmed within the designated relocation area (e.g., the NTS basins), no disturbance shall occur within 50 meters (approximately 160 feet) of occupied burrows during the nonbreeding~~

~~season (September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31).~~

~~Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg-laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.~~

~~If burrowing owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be excluded from the site following the 2012 CDFG Staff Report and Table 4-6 of the RMP.~~

~~Pursuant to mitigation measure B-3(8) of The Preserve EIR, and as noted on Page 4-39 of the RMP, the Project shall pay the required mitigation fee prior to initiation of ground disturbing activities.~~

~~4.8.2 If burrowing owl(s) is (are) detected within the Project's proposed disturbance footprint outside of the RMP boundary:~~

~~Prior to disturbance of the occupied burrows, suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within designated off site conserved lands to be identified through coordination with CDFW and the City in which the burrowing owl(s) is(are) detected (either the City of Ontario or the City of Chino). A qualified biologist shall confirm that the artificial burrows are currently unoccupied and suitable for use by owls.~~

~~Until suitable replacement burrows have been provided/confirmed within the off site conserved lands to be identified through coordination with CDFW and the City of Ontario or the City of Chino, no disturbance shall occur within 50 meters (approximately 160 feet) of occupied burrows during the nonbreeding season~~

~~(September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31).~~

~~Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg-laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.~~

~~If burrowing owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be relocated from the site following the 2012 [CDFW] Staff Report.~~

The following mitigation measures shall apply as the appropriate mechanism to reduce potential Project impacts to burrowing owls to levels that would be less-than-significant:

4.8.1 A qualified biologist shall conduct a pre-construction presence/absence survey for burrowing owls within 14 days prior to site disturbance. If the species is absent, no additional mitigation shall be required.

4.8.2 If burrowing owl(s) is(are) detected within any location within the Project's proposed disturbance footprint:

- Prior to disturbance of the occupied burrows, suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within designated off-site conserved lands to be identified through coordination with CDFW and the City in which the burrowing owl(s) is(are) detected (either the City of Ontario or the City of Chino). A qualified biologist shall confirm that the replacement burrows are currently unoccupied and suitable for use by owls. Suitable replacement burrows are defined as naturally occurring small mammal burrows (such as those of California ground squirrel

[*Otospermophilus beecheyii*]) with a burrow entrance of three inches in diameter or greater; or artificially constructed burrows meeting the specifications as described in the California Department of Fish and Game (CDFG) 1995 Staff Report on Burrowing Owl Mitigation (CDFG 1995) and/or Users Guide to Installation of Artificial Burrows for Burrowing Owls (Johnson et Al. 2010).

• Until suitable replacement burrows as defined above have been provided/confirmed within the off-site conserved lands to be identified through coordination with CDFW and the City of Ontario or the City of Chino, no disturbance shall occur within 50 meters (approximately 160 feet) of occupied burrows during the nonbreeding season (September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31).

• Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg-laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

• If burrowing owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be excluded from the site following the 2012 CDFG Staff Report.

The Lead Agency considers the above discussions and revised mitigation measures to adequately and appropriately address CDFW concerns regarding potential impacts to the burrowing owl and burrowing owl habitat. The above measures would reduce potential impacts to the burrowing owl and burrowing owl habitat to levels that would be less-than-significant. Findings and conclusions of the EIR are not affected.



**Comment CDFW-11**

*CDFW is extremely concerned that the mitigation measures provided by the Cities are insufficient to offset the loss of burrowing owl habitat because: 1) burrowing owl mitigation below the Prado Dam inundation line may only be available when habitat is not under several feet of water; 2) potential conservation properties may not support burrowing owls (e.g. Chino Hills), be large enough to support the number of owls being displaced (e.g. NTS), or have since been developed (e.g. Miramonte Development), indicating either a lack of interest, or an inability to acquire properties; and 3) mitigation fees that have been collected have yet to be spent to acquire and conserve mitigation properties, resulting in years of lost mitigation and rapidly declining availability of suitable properties to conserve within the City's sphere.*

*Further, the City of Chino's continued use of the RMP, and conclusion that the NTS may be used to represent partial regional mitigation for the loss of burrowing owl habitat within the Preserve is troubling and inappropriate as this existing, failed mitigation site has not been viable burrowing owl habitat for years. A Lake and Streambed Alteration Agreement (LSA 1600-2004-0056-R6) was issued in September 2004 for the City of Chino Subarea 2-NTS Project. To mitigate for burrowing owls impacted by the construction of the NTS, Lewis Operating Corporation was to develop a Burrowing Owl Conservation Area, as well as, include a non-wasting endowment account for the long-term management of the preservation site for burrowing owls (LSA, Burrowing Owl Mitigation Measures, Condition 6. D). Shortly after the construction of the NTS, the burrowing owl population began to decline, with breeding owls not being observed over several years. Because it was speculated that the burrowing owls may have declined from the lack of maintenance of the slopes and artificial burrows, remediation measures occurred in October 2016. A conservation deed was executed for 17.11 acres by Chino Development Corporation and Rivers Lands Conservancy (May 15, 2018) and included 6.5 acres on the slopes (pursuant to the NTS LSA) and 10.61 acres of wetland habitat. Therefore, the NTS is inappropriate given the land has already been committed for conservation; portions of the facility requires maintenance that is incompatible with burrowing owl usage (e.g. water treatment, forebay); and/or no owls have been observed using it in over a decade.*

### **Response CDFW-11**

CDFW concerns regarding potential impacts to the burrowing owl and burrowing owl habitat are recognized. With regard to implementation of and efficacy of mitigation measures implemented under the RMP, the City of Ontario does not have plenary control over burrowing owl mitigation measures implemented under the RMP or measures otherwise effected by the City of Chino. The City of Ontario considers the revised DEIR discussions and revised mitigation measures presented at Response CDFW-10 to adequately and appropriately address potential Project impacts to the burrowing owl and would reduce these impacts to levels that would be less-than-significant. Please refer also to Response CDFW-10. Findings and conclusions of the EIR are not affected.

### **Comment CDFW-12**

*CDFW has significant concerns with the DEIR's approach to mitigating impacts to burrowing owls and urges the City to coordinate with CDFW on the establishment of appropriate measures prior to the certification of the DEIR. At a minimum, CDFW recommends the Project DEIR not include: 1) measures that defer identification of mitigation, including appropriate conservation properties, to future actions; 2) mitigation lands that depend on the payment to, and expenditure by, funds by the Cities; and 3) measures that, to-date, has been ineffective at conserving and maintaining burrowing owl habitat.*

*Current scientific literature supports the conclusion that mitigation for permanent burrowing owl habitat loss necessitates replacement with an equivalent or greater habitat area for breeding, foraging, wintering, dispersal, presence of burrows, burrow surrogates, presence of fossorial mammal dens, well drained soils, and abundant and available prey within close proximity to the burrow (CDFW, 2012). Projects impacting owls and owl habitat should mitigate all project-specific and cumulative impacts to nesting, foraging, wintering, dispersal, and migration habitat (i.e., breeding and non-breeding season) under CEQA, to below a level of significance. Case-by-case impact analyses for CEQA and any other purpose should consider the full extent of owl habitat use (home range) on and off the project site, as well as demographic connectivity among local and regional populations. As development continues to displace owls, available suitable habitat is needed to support these individuals. This should include permanent conservation of similar vegetation communities (grassland, urban, and agriculture) and be comparable to, or better than,*

*that of the impact area. Suitable mitigation lands should also be based on a comparison of the habitat attributes of the impacted and conserved lands, including but not limited to: type and structure of habitat being impacted or conserved; density of burrowing owls in impacted and conserved habitat; and significance of impacted or conserved habitat to the species range-wide. CDFW strongly suggests that the Cities of Ontario and Chino maintain an interactive mapping and current inventory of burrowing owl occurrences (Refer to Figure 3), ensure adequate land is available and conserved **before** owls are passively relocated, and provide compensation for loss of all aspects of habitat types used (e.g., foraging, wintering, migratory stopovers, and breeding).*

### **Response CDFW-12**

CDFW concerns regarding potential impacts to the burrowing owl and burrowing owl habitat are recognized. With regard to implementation of and efficacy of mitigation measures implemented under the RMP, the City of Ontario does not have plenary control over burrowing owl mitigation measures implemented under the RMP or measures otherwise effected by the City of Chino. The City of Ontario considers the revised DEIR discussions and revised mitigation measures presented at Response CDFW-10 to adequately and appropriately address potential Project impacts to the burrowing owl and would reduce these impacts to levels that would be less-than-significant. The City will coordinate with CDFW as the Project designs are finalized and permitting by/through CDFW is initiated. Please refer also to Response CDFW-10. Findings and conclusions of the EIR are not affected.

### **Comment CDFW-13**

*Under [Section 15355](#) of the CEQA Guidelines, cumulative effects refers to “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts”. Physical changes caused by a project can contribute incrementally to cumulative effects that are significant, even if individual changes resulting from a project are limited. The Lead Agency must determine whether the cumulative impact is significant, as well as whether an individual effect is “cumulatively considerable.” This means “the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects” (Guidelines [Section 15064\(h\)\(1\)](#)).*

*Within the Preserve, CDFW estimates that 1,174 acres of suitable burrowing owl habitat has been removed and another 729 acres are proposed for future development. The City of Chino concluded that implementing mitigation measures would reduce, avoid, lessen, or compensate for some, but not all, of the adverse impacts to burrowing owl habitat. Nevertheless, the City Council determined that the remaining unavoidable effects were acceptable and issued a Statement of Overriding Considerations. For the Ontario Ranch, approximately 1,425 acres of 3,562 acres potential owl habitat has already been removed. With the collection of the mitigation fees for the acquisition and management of habitat, the City determined that implementation of the proposed Ontario Plan would not have substantial adverse impacts on sensitive animal species, including the burrowing owl (Ontario Ranch DEIR Chapter 6 Significant Unavoidable Adverse Impacts). In addition to these existing planned developments, and passed developments not mentioned within this letter, the DEIR adds new impacts to an already significant loss of habitat.*

*Again, CDFW has significant concerns with the DEIR's approach to mitigating direct, indirect, and cumulative impacts to burrowing owls and urges the City to coordinate with CDFW on the establishment of appropriate measures prior to the certification of the DEIR.*

### **Response CDFW-13**

CDFW concerns regarding potential impacts to the burrowing owl and burrowing owl habitat are recognized. With regard to implementation of and efficacy of mitigation measures implemented under the RMP, the City of Ontario does not have plenary control over burrowing owl mitigation measures implemented under the RMP or measures otherwise effected by the City of Chino. The City of Ontario considers the revised DEIR discussions and revised mitigation measures presented at Response CDFW-10 to adequately and appropriately address potential Project impacts to the burrowing owl and would reduce these impacts to levels that would be less-than-significant. Please refer also to Response CDFW-10. Findings and conclusions of the EIR are not affected.



## **Comment CDFW-14**

### **Foraging Raptors**

*The Project has the potential to support foraging habitat for the bald eagle, golden eagle, Swainson's hawk, and American peregrine falcon. However, the Project DEIR concluded that, "these species are not expected to nest within the Study Area, as it is located outside of the known nesting range and/or does not contain suitable nesting habitat. With regard to potential foraging impacts, based on the level of ongoing human disturbance within the Project study area, and the regional availability of foraging habitat in the vicinity of the Project site, such as the Prado Basin, Chino Hills State Park, and the Santa Ana Mountains, the loss of low-quality potential foraging habitat resulting from development of the Project is considered less than-significant" (Section 4.8.4.2, Impact Statements Special-Status Wildlife Species).*

*Contrary to this determination, the Ontario Ranch DEIR concluded that the loss of farmland would only become less than significant with the collection of mitigation fees to fund replacement habitat and must have long-term conservation value for raptors. Similarly, the City of Chino concluded that impacts within the Preserve could not be mitigated for the cumulative loss of agricultural and open space below a level of significance for the direct loss of raptor foraging and migratory habitat (PSP Statement of Overriding Conditions).*

*CDFW is concerned that similar projects that have undergone prior environmental review (i.e., Ontario Ranch and PSP) could come to substantially different conclusions regarding the significance of impacts related to the loss of raptor foraging habitat. CDFW believes the loss of these areas for foraging, individually and cumulatively, is significant and should be mitigated. Thus, the Project DEIR should reassess its findings for the continued loss of raptor habitat within the Dairy Preserve, and provide appropriate mitigation in the form of habitat acquisition and preservation. Therefore, CDFW advises the City to integrate into the DEIR the following measure:*

*4.8.9 If surveys determine that the Project supports special-status raptors, the Applicant shall mitigate the loss through the perpetual conservation and management of foraging habitat, approved by CDFW, at a minimum 1:1 ratio.*

#### **Response CDFW-14**

Common disturbance-tolerant raptor species, such as red-tailed hawk and American kestrel, forage within the active dairy facilities and associated support facilities at a lower level than would be true of natural open space which is not subject to ongoing dairy and maintenance operations. Prey, such as California ground squirrels and other small rodents, occur within the Project site in limited numbers, as active rodent control programs are implemented as part of ongoing dairy maintenance operations. These rodent control programs include the physical removal of burrow locations and the utilization of rodenticides.

Based on the ongoing dairy operations, the physical removal of burrows, the utilization of rodenticides, and ongoing maintenance within facilities, the habitat would be considered low quality foraging habitat for raptors.

Based on the decades-long high level of disturbance, including rodent control programs within the Project site and surrounding properties, the loss of very low quality of raptor foraging habitat is considered less-than-significant at the Project level. Considering the low quality of raptor foraging habitat within the Project site, as stated above, and because, cumulative impacts for the Project are addressed through payment of the \$4,320 per acre Mitigation Fee for all portions of the Project site located within the NMC, as required by the NMC, no further mitigation would be required. Findings and conclusions of the EIR are not affected.

#### **Comment CDFW-15**

##### ***California Endangered Species Act***

*CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to the California Endangered Species Act (CESA). CDFW recommends that a CESA Incidental Take Permit (ITP) be obtained if the Project has the potential to result in "take" (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of State-listed CESA species, either through construction or over*

*the life of the project. CESA ITPs are issued to conserve, protect, enhance, and restore State-listed CESA species and their habitats.*

*CDFW encourages early consultation, as significant modification to the proposed Project and avoidance, minimization, and mitigation measures may be necessary to obtain a CESA ITP. The California Fish and Game Code requires that CDFW comply with CEQA for issuance of a CESA ITP. CDFW therefore recommends that the DEIR addresses all Project impacts to listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of CESA.*

### **Response CDFW-15**

CDFW conservation responsibilities and authority are acknowledged. California Endangered Species Act (CESA) Incidental Take Permit (ITP) requirements are acknowledged. The DEIR addresses all potential impacts to CESA species and their habitats. Mitigation measures incorporated in the EIR including additional/revised mitigation measures discussed herein reduce potential impacts to CESA species and their habitats to levels that would be less-than-significant. Findings and conclusions of the EIR are not affected.

### **Comment CDFW-16**

#### ***Lake and Streambed Alteration Program***

*Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.*

*Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and*

*Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your Project that would eliminate or reduce harmful impacts to fish and wildlife resources.*

*CDFW's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if necessary, the DEIR should fully identify the potential impacts to the lake, stream, or riparian resources, and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to <https://www.wildlife.ca.gov/Conservation/LSA/Forms>.*

#### **Response CDFW-16**

Fish and Game Code Section 1602 requirements and responsibilities are acknowledged at DEIR Section 4.8, *Biological Resources*, as excerpted below:

##### ***CDFW Jurisdiction***

As with impacts to Corps and Regional Board jurisdiction, affected drainages are heavily impacted flood control facilities. Although the drainages proposed for impacts are heavily denuded flood control facilities that are subject to ongoing maintenance and do not support jurisdictional wetlands or riparian vegetation communities, impacts to 4.15 acres of streambed is potentially significant under CEQA due to the potential for this quantity of loss of surface streambeds to affect the hydrology supporting downstream wetland and/or riparian resources (Project Biological Resources Report, p. 39). As such, a CDFW Section 1602 Streambed Alteration Agreement would be required; please refer to Mitigation Measure 4.8.5 . . . (DEIR, p. 4.8-19).

The Lead Agency and Applicant will consult with CDFW as early as practical regarding potential Section 1602/LSA requirements. Findings and conclusions of the EIR are not affected.

**Comment CDFW-17**

**ENVIRONMENTAL DATA**

*CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). Information can be submitted online or via completion of the CNDDDB field survey form at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.*

**Response CDFW-17**

Biological resources database reporting requirements are acknowledged. Consistent with Pub. Resources Code, § 21003, subd. (e) requirements, any special status species and natural communities detected during Project surveys will be reported to the CNDDDB.

**Comment CDFW-18**

**FILING FEES**

*The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.).*

**Response CDFW-18**

CDFW NOD filing fees requirements are acknowledged. The Applicant will pay fees as required under Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.



### **Comment CDFW-19**

#### **CONCLUSION**

CDFW appreciates the opportunity to comment on the DEIR for the Merrill Commerce Center Project Specific Plan Project (SCH No. 2019049079) and recommends that the City address the CDFW's comments prior to certifying the DEIR. If you should have any questions pertaining to the comments provided in this letter, please contact Kim Romich, Senior Environmental Scientist, at [Kimberly.Romich@wildlife.ca.gov](mailto:Kimberly.Romich@wildlife.ca.gov).

### **Response CDFW-19**

The City appreciates CDFW participation in the Project and DEIR review processes. CDFW comments and concerns are addressed in the Responses provided herein. CDFW contact information is acknowledged. Findings and conclusions of the EIR are not affected.

### **Comment CDFW-20**

#### *Attachments*

#### Tables

- Table 1. *Development that has, or will, occur(red) within the Ontario Ranch and the estimated mitigation fees that has/will be collected*
- Table 2. *Development that has, or will, occur(red) within the Preserve and the estimated mitigation fees that has/will be collected*
- Table 3. *Development within the Ontario Ranch and burrowing owls impacted. Table 4. Development within the Preserve and burrowing owls impacted.*

#### Figures

- Figure 1. *Portions of the Project adjacent to proposition 70 agricultural land and within the Ontario Ranch and Preserve*
- Figure 2. *Development that has, or will, occur(red) within the Ontario Ranch and Preserve.*
- Figure 3. *Burrowing owl occurrences surrounding the Project*

**Response CDFW-20**

Attachments provided by CDFW are included at FEIR Attachment B. Responses related to CDFW attachments and CDFW attachment citations are provided herein. Findings and conclusions of the EIR are not affected.



Gavin Newsom, Governor  
 Jared Blumenfeld, CalEPA Secretary  
 Mary D. Nichols, Chair

November 24, 2020

Chuck Mercier  
 Senior Planner  
 City of Ontario - Planning Division  
 303 East "B" Street  
 Ontario, California 91764  
 Submitted via email: [cmMercier@ontarioca.gov](mailto:cmMercier@ontarioca.gov)

Dear Chuck Mercier:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Merrill Commerce Center Specific Plan Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2019049079. The Project would allow for the construction and operation of up to 7,014,000 square feet of high-cube fulfillment center warehouse space, and up to 1,441,000 square feet of business park space (for a total of 8,455,000 square feet of development) on approximately 376 acres of land. Once in operation, the Project would introduce 19,806 daily vehicle trips, including 3,520 daily heavy-duty truck trips, along local roadways. The Project is located within the City of Ontario (City), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.

CARB-1

CARB submitted a comment letter, which is attached to this letter, on the Notice of Preparation (NOP) for the DEIR released in April 2019. CARB's comments, dated November 4, 2020, highlighted the need for preparing a health risk assessment (HRA) for the Project and encouraged the City and applicant to implement all existing and emerging zero-emission technologies to minimize exposure to diesel particulate matter (diesel PM) and nitrogen oxides (NO<sub>x</sub>) emissions for all neighboring communities, and to minimize the greenhouse gases that contribute to climate change. Due to the Project's proximity to residences already disproportionately burdened by multiple sources of pollution, CARB's comments expressed concerns with the potential cumulative health risks associated with the construction and operation of the Project.

CARB-2

#### **I. The Health Risk Assessment Used Inappropriate Assumptions When Modeling the Project's Health Risk Impacts**

Chapter 3 (Project Description) of the DEIR states that approximately 701,400 square feet of the proposed warehouse building space would be used for cold storage. Warehouses containing cold storage are serviced by trucks with transport refrigeration

CARB-3

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Page 2

units (TRU) to transport frozen goods to and from the facility.<sup>1</sup> Based on CARB's research, TRUs on trucks and trailers can emit large quantities of diesel exhaust while operating within a facility. Residences and other sensitive receptors (e.g., daycare facilities, senior care facilities, and schools) located near the Project would be exposed to diesel exhaust emissions that would result in significant cancer risk. CARB has reviewed the Project's HRA and has concerns regarding the assumptions used to estimate the Project's health impacts.

The HRA assumed all heavy-duty trucks with TRUs visiting the Project site would not idle longer than 15 minutes. Data obtained by CARB indicates that trucks with TRUs can operate for as long as two hours per visit, which is well above the 15-minute duration assumed in the HRA. Unless the applicant and City restrict on-site TRU idling to less than 15 minutes, the Project's HRA should be revised.

The HRA assumed 242 of the Project's 3,520 total daily heavy-duty truck traffic (approximately 15 percent) would consist of trucks equipped with TRUs. It is unclear in the HRA how this estimate was derived. Due to the large size of the proposed warehouse development, CARB is concerned that the number of TRUs visiting the Project site may be underestimated in the HRA. CARB urges the City and applicant to provide substantial evidence to support this assumption.

CARB-3  
cont'd.

The HRA states that diesel PM emissions from on and off-site TRU activities were accounted for in the Project's air dispersion modeling. To estimate the emissions from Project-related TRUs, the HRA assumed 60 percent of the TRUs accessing the Project site would have a power rating of 34 horsepower (hp) and the other 40 percent would have a power rating of 23 hp. Based on this mix, the City calculated the average idling emission factor of Project-related TRUs to be 0.62 grams per brake horsepower-hour (g/bhp-hr). Table 2-2 through Table 2-4 of the HRA summarizes the combined diesel PM emission rates from on and off-site heavy-duty trucks and TRUs for 2022, 2025, and 2026, respectively. However, the footnote of each table states the assumed time each TRU will be within the Project site, but does not provide the assumed time each TRU will operate off-site. Therefore, it is unclear how the 0.62 g/bhp-hr TRU-emission factor was used to calculate the diesel PM emission rates presented in the tables. Due to the lack of clarity, CARB urges the City and applicant to revise the HRA to include specific details of the assumptions used to calculate the cancer risk impacts, supported by substantial evidence.

## II. Recommend Mitigation Measures

The DEIR includes a list of eight mitigation measures (4.3.1 through 4.3.8) to reduce the Project's significant impact on air quality. These mitigation measures include: requiring

CARB-4

<sup>1</sup> TRUs are refrigeration systems powered by integral diesel engines that protect perishable goods during transport in an insulated truck and trailer vans, rail cars, and domestic shipping containers.



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Page 3

the use of low-VOC paints and large off-road equipment that are equipped with Tier 4 engines, or Tier 3 or cleaner engines where Tier 4 equipment is not available during Project construction; restricting truck idling durations to five minutes; requiring the truck driver to shut down their engines when not in use; installing automotive and truck electric vehicle charging stations; and installing electric hookups for on-site TRUs. Although these mitigation measures would reduce the Project's air pollutant emissions, the DEIR concludes that the Project's impact on air quality would remain significant after mitigation. Even where impacts will remain significant and unavoidable after mitigation, CEQA requires that all feasible mitigation measures be incorporated (see California Public Resources Code § 21081; 14 CCR § 15126.2(b)). To meet this requirement, CARB urges the City and applicant to add the emission reduction measures listed below in the Final Environmental Impact Report (FEIR).

- In construction contracts, include language that requires all off-road diesel powered equipment used during Project construction to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In place of Tier 4 engines, off-road equipment can incorporate retrofits that achieve emission reductions that equal or exceed that of a Tier 4 engine.
- Include contractual language in tenant lease agreements that requires all TRUs entering the Project site be plug-in capable.
- Include contractual language in tenant lease agreements that requires all service equipment (e.g., yard hostlers, yard equipment, forklifts, and pallet jacks) used within the Project site to be zero-emission. This equipment is widely available.
- Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the Project site to be model year 2014 or later, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2030.

CARB-4  
cont'd.

### III. Conclusion

CARB is concerned about the potential public health impacts should the City approve the Project. As discussed above, it is unclear in the DEIR if diesel PM emissions from heavy-duty trucks with TRUs were evaluated in Project's cancer risk impacts. The cancer risk impacts presented in the HRA should be based on realistic on-site idling time for TRUs. The HRA should also assume a conservative percentage of the trucks visiting the Project site are equipped with TRUs and report the findings in the FEIR. Lastly, the revised HRA analysis presented in the FEIR should include all feasible mitigation measures listed under Section II to reduce the Project's significant and unavoidable impact on air quality.

CARB-5



Chuck Mercier  
November 24, 2020  
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Given the breadth and scope of projects subject to CEQA review throughout California that have air quality and greenhouse gas impacts coupled with CARB's limited staff resources to substantively respond to all issues associated with a project, CARB must prioritize its substantive comments here based on staff time, resources, and its assessment of impacts. CARB's deliberate decision to substantively comment on some issues does not constitute an admission or concession that it substantively agrees with the lead agency's findings and conclusions on any issues on which CARB does not substantively submit comments.

CARB-5  
cont'd.

CARB appreciates the opportunity to comment on the DEIR for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist, at [stanley.armstrong@arb.ca.gov](mailto:stanley.armstrong@arb.ca.gov).

Sincerely,



Richard Boyd  
Assistant Division Chief  
Transportation and Toxics Division

Attachment

cc: See next page.

Chuck Mercier  
November 24, 2020  
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cc: State Clearinghouse  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

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## ATTACHMENT A

May 13, 2019

Mr. Richard Ayala  
Senior Planner  
City of Ontario  
Planning Department  
303 East "B" Street  
Ontario, California 91764

Dear Mr. Ayala:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Notice of Preparation (NOP) for the Merrill Commerce Center Specific Plan (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2019049079. The Project consists of the construction and operation of up to 7,014,000 square feet of high-cube fulfillment center warehouse space, and up to 1,441,000 square feet of business park space (for a total of 8,455,000 square feet of development) on approximately 376 acres of land in the City of Ontario (City). The City is the lead agency for California Environmental Quality Act (CEQA) purposes. Implementation of the Project would require a change to the existing land use designation from "Business Park/Office Commercial/General Commercial" to "Business Park/Industrial."

CARB staff is concerned about the air pollution impacts that would result should the City approve the Project, and the land use change from "Business Park/Office Commercial/General Commercial" to "Business Park/Industrial," to build two large warehouses. Freight facilities, such as warehouse and distribution facilities, can result in high daily volumes of heavy-duty diesel truck traffic and operation of onsite equipment (e.g., forklifts, yard tractors) that emit toxic diesel emissions, and contribute to regional air pollution and global climate change.

Residences are located north, west, and east of the Project site, with the closest residences situated approximately 160 feet east of the Project's eastern boundary. The community is surrounded by existing toxic diesel emission sources, which include warehouses and the Chino Airport. Due to the Project's proximity to residences already disproportionately burdened by multiple sources of pollution, CARB staff is concerned with the potential cumulative health risks associated with the construction and operation of the Project.

CARB-6



Mr. Richard Ayala  
May 13, 2019  
Page 2

The State of California has placed additional emphasis on protecting local communities from the harmful effects of air pollution through the passage of Assembly Bill 617 (AB 617) (Garcia, Chapter 136, Statutes of 2017). AB 617 is a significant piece of air quality legislation that highlights the need for further emission reductions in communities with high exposure burdens, like those in which the Project is located. Diesel emissions generated during the construction and operation of the Project would negatively impact the community, which is already disproportionately impacted by air pollution from existing freight facilities.

The California Environmental Protection Agency (CalEPA) defines a disadvantaged community as a community that scores within the top 25 percent of the census tracts, as analyzed by the California Communities Environmental Health Screening Tool Version 3.0 (CalEnviroScreen). CalEnviroScreen uses a screening methodology to help identify California communities currently disproportionately burdened by multiple sources of pollution. The census tract containing the Project is within the top 1 percent for Pollution Burden.<sup>1</sup> Therefore, CARB urges the City to ensure that the Project and land use change do not adversely impact neighboring disadvantaged communities.

The NOP does not state whether the proposed warehouses would include cold storage. The operation of cold storage warehouses would include trucks with transport refrigeration units (TRU) that emit significantly higher levels of toxic diesel emissions, oxides of nitrogen (NO<sub>x</sub>), and greenhouse gases than trucks without TRUs. Since it is unclear whether the Project would include cold storage warehouse space, any modeling done in support of the air quality analysis of the DEIR and associated health risk assessment (HRA) should assume that a conservative percentage of the truck and trailer fleet that would be serving the Project are equipped with TRUs.

In addition to the health risk associated with operations, construction health risks should be included in the air quality section of the DEIR and the Project's HRA. Construction of the Project would result in short-term diesel emissions from the use of both on-road and off-road diesel equipment. The Office of Environmental Health Hazard Assessment's (OEHHA) guidance (2015 Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments),<sup>2</sup> recommends assessing cancer risks for construction projects lasting longer than two months. Since construction would very likely occur over a period lasting longer than two months, the HRA prepared for the Project should include health risks for existing residences near the Project site during construction.

CARB-6  
cont'd.

<sup>1</sup> Pollution Burden represents the potential exposures to pollutants and the adverse environmental conditions caused by pollution.

<sup>2</sup> Office of Environmental Health Hazard Assessment (OEHHA). Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments. February 2015. Accessed at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>



Mr. Richard Ayala  
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Page 3

The HRA prepared in support of the Project should be based on the latest OEHHA guidance and the South Coast Air Quality Management District's CEQA Air Quality Handbook.<sup>3</sup> To reduce the exposure of toxic diesel emissions in disadvantaged communities already disproportionately impacted by air pollution, the final design of the Project should include all existing and emerging zero-emission technologies to minimize NO<sub>x</sub> and diesel emission exposure to all neighboring communities, as well as the greenhouse gases that contribute to climate change. CARB encourages the City and applicant to implement the measures listed in Attachment A of this comment letter to reduce the Project's construction and operational air pollution emissions.

The HRA should evaluate and present the existing baseline (current conditions), future baseline (full build-out year, without the Project), and future year with the Project. The health risks modeled under both the existing and the future baselines should reflect all applicable federal, state, and local rules and regulations. By evaluating health risks using both baselines, the public and City planners will have a complete understanding of the potential health impacts that would result from the Project.

CARB-6  
cont'd.

CARB appreciates the opportunity to comment on the NOP for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. Please include CARB on your State Clearinghouse list of selected State agencies that will receive the DEIR as part of the comment period. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist, at (916) 440-8242 or via email at stanley.armstrong@arb.ca.gov.

Sincerely,



Richard Boyd, Chief  
Risk Reduction Branch  
Transportation and Toxics Division

Attachment

cc: See next page.

---

<sup>3</sup> SCAQMD's 1993 Handbook can be found at <http://www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook>

Mr. Richard Ayala  
May 13, 2019  
Page 4

cc: State Clearinghouse  
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## ATTACHMENT A

### Recommended Air Pollution Emission Reduction Measures for Warehouses and Distribution Centers

California Air Resources Board (CARB) staff recommends developers and government planners use all existing and emerging zero to near-zero emission technologies during project construction and operation to minimize public exposure to air pollution. Below are some measures, currently recommend by CARB staff, specific to warehouse and distribution center projects. These recommendations are subject to change as new zero-emission technologies become available.

#### Recommended Construction Measures

1. Ensure the cleanest possible construction practices and equipment are used. This includes eliminating the idling of diesel-powered equipment and providing the necessary infrastructure (e.g., electrical hookups) to support zero and near-zero equipment and tools.
2. Implement, and plan accordingly for, the necessary infrastructure to support the zero and near-zero emission technology vehicles and equipment that will be operating onsite. Necessary infrastructure may include the physical (e.g., needed footprint), energy, and fueling infrastructure for construction equipment, onsite vehicles and equipment, and medium-heavy and heavy-heavy duty trucks.
3. In construction contracts, include language that requires all off-road diesel-powered equipment used during construction to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In place of Tier 4 engines, off-road equipment can incorporate retrofits such that emission reductions achieved equal or exceed that of a Tier 4 engine.
4. In construction contracts, include language that requires all off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers,) used during project construction be battery powered.
5. In construction contracts, include language that requires all heavy-duty trucks entering the construction site, during the grading and building construction phases be model year 2014 or later. All heavy-duty haul trucks should also meet CARB's lowest optional low-NO<sub>x</sub> standard starting in the year 2022.<sup>1</sup>

<sup>1</sup> In 2013, CARB adopted optional low-NO<sub>x</sub> emission standards for on-road heavy-duty engines. CARB staff encourages engine manufacturers to introduce new technologies to reduce NO<sub>x</sub> emissions below the current mandatory on-road heavy-duty diesel engine emission standards for model years 2010 and later. CARB's optional low-NO<sub>x</sub> emission standard is available at <https://www.arb.ca.gov/msprog/onroad/optionnox/optionnox.htm>.

6. In construction contracts, include language that requires all construction equipment and fleets to be in compliance with all current air quality regulations. CARB staff is available to assist in implementing this recommendation.

### **Recommended Operation Measures**

1. Include contractual language in tenant lease agreements that requires tenants to use the cleanest technologies available, and to provide the necessary infrastructure to support zero-emission vehicles and equipment that will be operating onsite.
2. Include contractual language in tenant lease agreements that requires all loading/unloading docks and trailer spaces be equipped with electrical hookups for trucks with transport refrigeration units (TRU) or auxiliary power units. This requirement will eliminate the amount of time that a TRU powered by a fossil-fueled internal combustion engine can operate at the project site. Use of zero-emission all-electric plug-in TRUs, hydrogen fuel cell transport refrigeration and cryogenic transport refrigeration are encouraged and can also be included lease agreements.<sup>2</sup>
3. Include contractual language in tenant lease agreements that requires all service equipment (e.g., yard hostlers, yard equipment, forklifts, and pallet jacks) used within the project site to be electric or powered by compressed natural gas.
4. Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering the project site to be model year 2014 or later.
5. Starting in the year 2022, include contractual language in tenant lease agreements that requires all trucks entering the project site to meet CARB's lowest optional low-NO<sub>x</sub> standard.

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<sup>2</sup> CARB's Technology Assessment for Transport Refrigerators provides information on the current and projected development of TRUs, including current and anticipated costs. The assessment is available at [https://www.arb.ca.gov/msprog/tech/techreport/tru\\_07292015.pdf](https://www.arb.ca.gov/msprog/tech/techreport/tru_07292015.pdf).



6. Include contractual language in tenant lease agreements that require the tenant be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation,<sup>3</sup> Periodic Smoke Inspection Program (PSIP),<sup>4</sup> and the Statewide Truck and Bus Regulation.<sup>5</sup>
7. Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than five minutes while onsite.
8. Include contractual language in tenant lease agreements that limits onsite TRU diesel engine runtime to no longer than 15 minutes. If no cold storage operations are planned, include contractual language and permit conditions that prohibit cold storage operations unless a health risk assessment is conducted and the health impacts mitigated.
9. Include rooftop solar panels for each proposed warehouse to the extent feasible, with a capacity that matches the maximum allowed for distributed solar connections to the grid.

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<sup>3</sup> In December 2008, CARB adopted a regulation to reduce greenhouse gas emissions by improving the fuel efficiency of heavy-duty tractors that pull 53-foot or longer box-type trailers. The regulation applies primarily to owners of 53-foot or longer box-type trailers, including both dry-van and refrigerated-van trailers, and owners of the heavy-duty tractors that pull them on California highways. CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation is available at <https://www.arb.ca.gov/cc/hdghg/hdghg.htm>.

<sup>4</sup> The PSIP program requires that diesel and bus fleet owners conduct annual smoke opacity inspections of their vehicles and repair those with excessive smoke emissions to ensure compliance. CARB's PSIP program is available at <https://www.arb.ca.gov/enf/hdvp/hdvp.htm>.

<sup>5</sup> The regulation requires newer heavier trucks and buses must meet PM filter requirements beginning January 1, 2012. Lighter and older heavier trucks replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent. CARB's Statewide Truck and Bus Regulation is available at <https://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm>.



California Air Resources Board  
1001 I Street  
Sacramento, CA 95812

Letter Dated November 24, 2020

**Comment CARB-1**

*Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Merrill Commerce Center Specific Plan Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2019049079. The Project would allow for the construction and operation of up to 7,014,000 square feet of high-cube fulfillment center warehouse space, and up to 1,441,000 square feet of business park space (for a total of 8,455,000 square feet of development) on approximately 376 acres of land. Once in operation, the Project would introduce 19,806 daily vehicle trips, including 3,520 daily heavy-duty truck trips, along local roadways. The Project is located within the City of Ontario (City), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.*

**Response CARB-1**

The City of Ontario (City) appreciates the California Air Resources Board participation in the CEQA review process for the Merrill Commerce Center Specific Plan Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2019049079. The Project description as summarized by the commentor is materially correct. Findings and conclusions of the EIR are not affected.

**Comment CARB-2**

*CARB submitted a comment letter, which is attached to this letter, on the Notice of Preparation (NOP) for the DEIR released in April 2019. CARB's comments, dated November 4, 2020, highlighted the need for preparing a health risk assessment (HRA) for the Project and encouraged the City and applicant to implement all existing and emerging zero-emission technologies to minimize exposure to diesel particulate matter (diesel PM) and nitrogen oxides (NOx) emissions for all neighboring communities, and to minimize the greenhouse gases that contribute to climate change. Due to the Project's proximity to residences already disproportionately burdened by*

*multiple sources of pollution, CARB's comments expressed concerns with the potential cumulative health risks associated with the construction and operation of the Project.*

## **Response CARB-2**

CARB's NOP comment letter is provided at DEIR Appendix A, *Initial Study, NOP, and NOP Responses*. CARB's NOP comments and response to CARB's NOP comments are summarized at DEIR Table 1.7-1, *List of NOP Respondents and Summary of NOP Comments*. Consistent with CARB NOP comments, Health Risk Assessments (construction and operational) have been prepared for the Project. The HRAs are presented at DEIR Appendix C, *Air Quality Analysis*. HRA analyses and conclusions are summarized at DEIR Section 4.3, *Air Quality*. As substantiated in the HRAs and the DEIR, the Project would not cause or result in potentially significant health impacts (DEIR, pp. 4.3-67 – 4.3-82, et al.).

Project operational-source Diesel Particulate Matter (DPM) and NO<sub>x</sub> emissions are minimized through application of the DEIR Mitigation Measures (DEIR Mitigation Measures 4.3.3 through 4.3.8). Additional/enhanced measures addressing NO<sub>x</sub> emissions (see amended Mitigation Measure 4.3.8 below) have been incorporated.

*4.3.8 All diesel trucks accessing the Project shall be compliant with the CARB Truck and Bus Regulation 2010 engine emissions standards. The City encourages Project tenant use of zero-emissions or near-zero emissions on-road heavy-duty trucks, i.e., trucks with engines that meet the CARB enhanced nitrogen oxides (NO<sub>x</sub>) emissions standard of 0.02 gram per brake horsepower-hour (g/bhp-hr).*

In addition to emissions reduction achieved via Mitigation Measures 4.3.3 through 4.3.8, Transportation Demand Management (TDM) measures implemented as mitigation for transportation VMT impacts (DEIR Mitigation Measures 4.2.1 through 4.2.4) would act to generally reduce vehicle-source emissions. The efficacy of TDMs and any resulting emissions reductions would be dependent on as yet unknown building tenants and final

site plan designs. Accordingly, potential emissions reductions resulting from implementation of TDMs are not quantified within the DEIR analyses.

The efficacy of mitigation enhancements proposed by CARB and any resulting emissions reductions cannot be quantified employing CalEEMod. Accordingly, NO<sub>x</sub> impacts and related impact determinations are conservatively assumed to substantively replicate the DEIR analysis. Even with application of the above-noted measures, Project operational-source NO<sub>x</sub> emissions would exceed applicable SCAQMD thresholds, and Project operational-source NO<sub>x</sub> emissions would result in cumulatively considerable net increases of criteria pollutants (PM<sub>10</sub>, PM<sub>2.5</sub>, Ozone)<sup>1</sup> for which the Project region is non-attainment. This would remain a significant and unavoidable impact. Findings and conclusions of the DEIR are not affected.

The mitigation measures noted above would also act to generally reduce vehicular-source GHG emissions. However, even with application of mitigation, including enhanced measures noted herein, GHG emissions impacts are conservatively assumed to substantively replicate the DEIR analysis. GHG emissions impacts would remain significant and unavoidable. Findings and conclusions of the DEIR are not affected.

With regard to commentor concerns regarding air pollutant health impacts, as substantiated in the DEIR, the Project construction-source and operational-source air pollutant emissions would not result in potentially significant health impacts, at the Project level or cumulatively (see: DEIR at pp. 4.3-53 – 4.3-82, p. 5-14; Project HRA, DEIR Appendix D). Please refer also to AQMD Responses provided herein. Findings and conclusions of the DEIR are not affected.

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<sup>1</sup> NO<sub>x</sub> is a precursor to PM<sub>10</sub>/PM<sub>2.5</sub> and Ozone.

### **Comment CARB-3**

#### ***1. The Health Risk Assessment Used Inappropriate Assumptions When Modeling the Project's Health Risk Impacts***

*Chapter 3 (Project Description) of the DEIR states that approximately 701,400 square feet of the proposed warehouse building space would be used for cold storage. Warehouses containing cold storage are serviced by trucks with transport refrigeration units (TRU) to transport frozen goods to and from the facility. Based on CARB's research, TRUs on trucks and trailers can emit large quantities of diesel exhaust while operating within a facility. Residences and other sensitive receptors (e.g., daycare facilities, senior care facilities, and schools) located near the Project would be exposed to diesel exhaust emissions that would result in significant cancer risk. CARB has reviewed the Project's HRA and has concerns regarding the assumptions used to estimate the Project's health impacts.*

*The HRA assumed all heavy-duty trucks with TRUs visiting the Project site would not idle longer than 15 minutes. Data obtained by CARB indicates that trucks with TRUs can operate for as long as two hours per visit, which is well above the 15-minute duration assumed in the HRA.*

*Unless the applicant and City restrict on-site TRU idling to less than 15 minutes, the Project's HRA should be revised. The HRA assumed 242 of the Project's 3,520 total daily heavy-duty truck traffic (approximately 15 percent) would consist of trucks equipped with TRUs. It is unclear in the HRA how this estimate was derived. Due to the large size of the proposed warehouse development, CARB is concerned that the number of TRUs visiting the Project site may be underestimated in the HRA. CARB urges the City and applicant to provide substantial evidence to support this assumption.*

*The HRA states that diesel PM emissions from on and off-site TRU activities were accounted for in the Project's air dispersion modeling. To estimate the emissions from Project-related TRUs, the HRA assumed 60 percent of the TRUs accessing the Project site would have a power rating of 34 horsepower (hp) and the other 40 percent would have a power rating of 23 hp. Based on this mix, the City calculated the average idling emission factor of Project-related TRUs to be 0.62 grams per brake horsepower-hour (g/bhp-hr). Table 2-2 through Table 2-4 of the HRA summarizes the combined diesel PM emission rates from on and off-site heavy-duty trucks and TRUs for 2022,*

2025, and 2026, respectively. However, the footnote of each table states the assumed time each TRU will be within the Project site, but does not provide the assumed time each TRU will operate off-site. Therefore, it is unclear how the 0.62 g/bhp-hr TRU-emission factor was used to calculate the diesel PM emission rates presented in the tables. Due to the lack of clarity, CARB urges the City and applicant to revise the HRA to include specific details of the assumptions used to calculate the cancer risk impacts, supported by substantial evidence.

### **Response CARB-3**

Commentor correctly recognizes that the DEIR analyses reflect 15-minutes of on-site idling for heavy-duty trucks with TRUs. The 15-minute idling period utilized in the Project's analysis is appropriate – and conservative – as CARB's anti-idling rules prohibit idling for more than 5 minutes. Further, DEIR Mitigation Measure 4.3.3 requires adherence to CARB's anti-idling rule of 5 minutes. Additionally, DEIR Mitigation Measure 4.3.7 requires loading docks for trailers with TRUs to be outfitted with electrical hook-ups that can be used to power TRUs during loading/unloading activities. This minimizes pollutant emissions from on-site TRU operations.

As noted in the DEIR, and discussed in detail at DEIR Appendix D, *Merrill Commerce Center Specific Plan Mobile Source Health Risk Assessment* (Urban Crossroads, Inc.) January 12, 2020 (Project HRA) the potential of refrigerated Project facilities uses is assumed for Planning Area (PA) 1, PA2, PA3, PA4, PA5, and PA6. Trucks accessing these PAs are assumed to also have transport refrigeration units (DEIR, pp. 4.3-68; Project HRA, p. 14, et.al).

The 242 total daily one-way or 484 total daily two-way truck trips with TRUs is consistent with the total truck trips assigned to the High-Cube Cold Storage Warehouse portion of the Project (Phase A - PA4/PA5 and Phase B – PA1-3/PA6) based on the *Merrill Commerce Center Specific Plan Traffic Impact Analysis* (Urban Crossroads, Inc.) June 30, 2020 (Project TIA, DEIR Appendix C). As summarized at Project TIA Table 4-2, the High-Cube Cold Storage Warehouse uses would generate a total of 484 total daily two-way or 242 total daily one-way truck trips. As such, the modeling in the HRA is correct and consistent with the assumptions for the High-Cube Cold Storage Warehouse use.



The assumptions employed in the DEIR and the Project HRA are consistent with the industry standard for warehouse distribution facilities. The average horsepower rating of 34 horsepower (HP) reflected in the HRA is a reasonable estimate and consistent with CARB's regulatory requirements for TRUs. In fact, based on CARB-published data, the majority of TRUs are already greater than 25 HP and, as such, the assumption used in the DEIR analysis was appropriate. Lastly, it is appropriate to consider emissions from the TRUs as it relates to on-site usage – since any associated potential health impacts are predominantly a function of concentrated on-site idling and travel activity. Note further that transient emissions of off-site heavy-duty truck travel and potential health effects are reflected in the Project HRA and are determined to be less-than-significant (Project HRA, pp. 20 – 22). Based on the foregoing, no revisions to the DEIR or its supporting Air Quality Impact Analyses, including the Project HRA, are warranted. Findings and conclusions of the DEIR are not affected.

#### **Comment CARB-4**

##### ***II. Recommend Mitigation Measures***

*The DEIR includes a list of eight mitigation measures (4.3.1 through 4.3.8) to reduce the Project's significant impact on air quality. These mitigation measures include: requiring the use of low-VOC paints and large off-road equipment that are equipped with Tier 4 engines, or Tier 3 or cleaner engines where Tier 4 equipment is not available during Project construction; restricting truck idling durations to five minutes; requiring the truck driver to shut down their engines when not in use; installing automotive and truck electric vehicle charging stations; and installing electric hookups for on-site TRUs.*

*Although these mitigation measures would reduce the Project's air pollutant emissions, the DEIR concludes that the Project's impact on air quality would remain significant after mitigation. Even where impacts will remain significant and unavoidable after mitigation, CEQA requires that all feasible mitigation measures be incorporated (see California Public Resources Code § 21081; 14 CCR § 15126.2(b)). To meet this requirement, CARB urges the City and applicant to add the emission reduction measures listed below in the Final Environmental Impact Report (FEIR).*

- *In construction contracts, include language that requires all off-road diesel powered equipment used during Project construction to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In place of Tier 4 engines, off-road equipment can incorporate retrofits that achieve emission reductions that equal or exceed that of a Tier 4 engine.*
- *Include contractual language in tenant lease agreements that requires all TRUs entering the Project site be plug-in capable.*
- *Include contractual language in tenant lease agreements that requires all service equipment (e.g., yard hostlers, yard equipment, forklifts, and pallet jacks) used within the Project site to be zero-emission. This equipment is widely available.*
- *Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the Project site to be model year 2014 or later, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2030.*

#### **Response CARB-4**

CARB's summary of the Project air quality mitigation measures is materially correct. Consideration of CARB's recommended additional air quality impact mitigation measures is presented below.

- **CARB Recommend Measure:** *In construction contracts, include language that requires all off-road diesel powered equipment used during Project construction to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In place of Tier 4 engines, off-road equipment can incorporate retrofits that achieve emission reductions that equal or exceed that of a Tier 4 engine.*

**Remarks:** All Project construction-source air quality impacts would be less-than-significant as mitigated pursuant to DEIR Mitigation Measures 4.3.1, 4.3.2 (DEIR, pp. 4.3-31 - 4.3-34). No additional mitigation is required for construction-source impacts. Notwithstanding, pursuant to comments received and aligned with the commentor's recommendations, Mitigation Measure 4.3.2 has been revised as follows:

4.3.2 Construction contractors shall ensure that large off-road diesel fueled construction equipment, including but not limited to excavators, graders, rubber-tired dozers, and similar large pieces of equipment be equipped with CARB Tier 4 Compliant engines. ~~If the operator lacks Tier 4 equipment, and Tier 4 equipment is not available for lease or short term rental within 50 miles of the project site, Tier 3 Compliant or cleaner off road construction equipment may be utilized.~~ To ensure that Tier 4 Final construction equipment or better will be used during the Proposed Project's construction, this requirement shall be included in applicable bid documents, purchase orders, and contracts. Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities. A copy of each unit's certified tier specification or model year specification and CARB or South Coast AQMD operating permit (if applicable) shall be available upon request at the time of mobilization of each applicable unit of equipment. Additionally, the Applicant shall report to the City, including written construction documents by construction contractor(s), documenting compliance with these requirements, which shall be subject to regular City inspections to ensure compliance.

Findings and conclusions of the DEIR are not affected.

- **CARB Recommend Measure:** *Include contractual language in tenant lease agreements that requires all TRUs entering the Project site be plug-in capable.*

**Remarks:** DEIR Mitigation Measures 4.3.6, 4.3.7 provide for installation of on-site infrastructure that would support use of plug-in electric Trailer Refrigeration Units (e-TRUs). These measures facilitate and encourage use of e-TRUs generally. However, the Project tenants are unknown at this time, as is their potential access to, or use of e-TRUs. Further, it is unknown whether TRUs accessing the Project would be owned and operated by the prospective tenants, or would be owned and operated by third parties. Requiring

as yet-unknown tenants or third parties to commit to exclusive use of plug-in e-TRUs is not enforceable.

Findings and conclusion of the DEIR are not affected.

- **CARB Recommended Measure:** *Include contractual language in tenant lease agreements that requires all service equipment (e.g., yard hostlers, yard equipment, forklifts, and pallet jacks) used within the Project site to be zero-emission. This equipment is widely available.*

**Remarks:** CARB's recommended measure is incorporated as new DEIR Mitigation Measure 4.3.9, below:

**4.3.9 All on-site yard trucks/hostlers shall be zero-emissions equipment.**  
**This requirement or equivalent language shall be incorporated in all Project facility lease documents. Prior to issuance of a Business License, facility owners or tenants shall provide documentation to the City of Ontario Planning Department and Business License Department verifying signed lease documents incorporating the requirement that all on-site yard trucks/hostlers shall be zero-emissions equipment.**

Findings and conclusions of the DEIR are not affected.

- **CARB Recommended Measure:** *Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the Project site to be model year 2014 or later, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2030.*

**Remarks:** Requiring use of zero-emissions (ZEV) heavy-duty trucks and/or near zero-emissions (NZEV) heavy-duty trucks for the Project uses is not feasible in the near-term. In this regard, ZEV and NZEV are emerging technologies, with limited or no practical applications yet available to the Project or its prospective tenants. On a commercial scale, these types of vehicles do not currently exist. Moreover, areawide infrastructure (electric power charging stations, alternative fuel sources and fueling facilities) necessary to

support practical use of ZEV and NZEV heavy-duty trucks is limited or non-existent. Further, if imposed in the near-term, requirements that only ZEV/NZEV heavy-duty trucks be allowed at the site, and the fact that these types of heavy-duty trucks are for all practical purposes not available.

With regard to requiring use of model year 2014 or later heavy-duty trucks, it is unknown whether heavy-duty trucks accessing the Project site would be owned and operated by the prospective tenants, or would be owned and operated by third parties. Requiring as yet-unknown tenants or third parties to commit to exclusive use of model year 2014 or newer heavy-duty trucks is not enforceable. Similarly, it is considered infeasible to preclude access to the Project site by other than model year 2014 or newer heavy-duty trucks

As suggested, enhanced mitigation has been incorporated acting to reduce heavy-duty truck emissions. Please refer to Response CARB-2 and amended Mitigation Measure 4.3.8. Findings and conclusions of the DEIR are not affected.

#### **Comment CARB-5**

##### ***III. Conclusion***

*CARB is concerned about the potential public health impacts should the City approve the Project. As discussed above, it is unclear in the DEIR if diesel PM emissions from heavy-duty trucks with TRUs were evaluated in Project's cancer risk impacts. The cancer risk impacts presented in the HRA should be based on realistic on-site idling time for TRUs. The HRA should also assume a conservative percentage of the trucks visiting the Project site are equipped with TRUs and report the findings in the FEIR. Lastly, the revised HRA analysis presented in the FEIR should include all feasible mitigation measures listed under Section II to reduce the Project's significant and unavoidable impact on air quality.*

*Given the breadth and scope of projects subject to CEQA review throughout California that have air quality and greenhouse gas impacts coupled with CARB's limited staff resources to substantively respond to all issues associated with a project, CARB must prioritize its substantive comments here based on staff time, resources, and its assessment of impacts. CARB's deliberate*



*decision to substantively comment on some issues does not constitute an admission or concession that it substantively agrees with the lead agency's findings and conclusions on any issues on which CARB does not substantively submit comments.*

*CARB appreciates the opportunity to comment on the DEIR for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist, at [stanley.armstrong@arb.ca.gov](mailto:stanley.armstrong@arb.ca.gov).*

### **Response CARB-5**

As summarized herein and substantiated in detail in the DEIR and supporting technical air quality analyses, Project air pollutant emissions would not result in or cause potentially significant health impacts. As discussed herein, and substantiated in detail in the DEIR and supporting technical air quality analyses, effects of DPM emissions were evaluated as part of the Project HRA. As discussed herein, and substantiated in detail in the DEIR and supporting technical air quality analyses, cancer risks have been based on realistic idling times. As discussed herein, and substantiated in detail in the DEIR and supporting technical air quality analyses, the percentage of the trucks visiting the Project site are equipped with TRUs establishes a conservative likely maximum impact scenario. As discussed herein, feasible measures suggested by CARB have been incorporated. Please refer also to Responses CARB-1 through CARB-4.

CARB's comment protocols are acknowledged. Commentor contact information is noted. Findings and conclusions of the DEIR are not affected.

### **Comment CARB-6**

*See Comment Letter "Attachment A" (California Air Resources Board May 13, 2019 NOP Response Letter)*

### **Response CARB-6**

Responses to CARB's exhibit documents are reflected in the discussions presented herein. Findings and conclusions of the DEIR are not affected.



# South Coast Air Quality Management District

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AQMD, Page 1 of 9

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November 20, 2020

## **Draft Environmental Impact Report (Draft EIR) for Proposed Merrill Commerce Center Specific Plan (Proposed Project) (SCH No.: 2019049079)**

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments include recommended revisions to the air quality impact analysis, air dispersion modeling, health risk assessment, mitigation measures, and South Coast AQMD Rule 403(e) that the Lead Agency should include in the Final EIR.

AQMD-1

### South Coast AQMD Staff's Summary of Project Description

The Lead Agency proposes to demolish 54,887 square feet of existing residential structures and construct 6,312,600 square feet of high-cube fulfillment warehouses, 701,400 square feet of high-cube cold storage warehouses, and 1,441,000 square feet of business park uses on 376 acres (Proposed Project). The Proposed Project is located on the southwest corner of Eucalyptus Avenue and Carpenter Avenue in the City of Ontario. Construction is anticipated to start in 2020 and will occur in three phases<sup>1</sup>. Phase A will become operational in 2022 while Phases B and C will be under construction<sup>2</sup>. At full buildout in 2026, the Proposed Project will generate 19,806 average daily vehicular trips, 3,520 of which would be heavy-duty diesel trucks<sup>3</sup>. The nearest sensitive receptors (i.e. residential uses) are located 94 feet east of the Proposed Project<sup>4</sup>.

AQMD-2

### South Coast AQMD Staff's Comments

Based on a review of the Draft EIR and supporting technical appendices, South Coast AQMD staff has six main comments. A summary of these comments is provided as follows with additional details provided in the attachment.

AQMD-3

1. CEQA Air Quality Analysis for Regional Construction Air Quality Impacts: In the Draft EIR, the Lead Agency discussed a need to excavate and dispose contaminated soil at the Proposed Project but did not quantify emissions from soil removal and hauling activities. The Lead Agency should quantify those emissions in the Final EIR.
2. Air Dispersion Modeling Parameter: The air dispersion modeling performed in the Draft EIR did not use a uniform Cartesian grid and instead placed 21 discrete receptors within

AQMD-4

AQMD-5

<sup>1</sup> Draft EIR. Chapter 3. Project Description. Page 3-19.

<sup>2</sup> *Ibid.*

<sup>3</sup> Draft EIR. Section 4.2 Transportation. Page 4.2-10.

<sup>4</sup> Draft EIR. Section 4.3 Air Quality. Page 4.3-56

Charles Mercier

November 20, 2020

the modeling domain. The Lead Agency should provide additional information to justify this modeling parameter in the Draft EIR.

AQMD-5  
(cont'd)

3. Mobile Source Health Risk Assessment (HRA): In the Draft EIR, the Lead Agency used the 80<sup>th</sup> percentile daily breathing rates for age bins 2 to 16 years and 16 to 30 years to calculate cancer risk for these two age bins. Since operation of the Proposed Project involves 3,520 daily truck trips, and the nearest sensitive receptors are located within 100 feet of the Proposed Project, South Coast AQMD staff recommends the use of the 95<sup>th</sup> percentile daily breathing rate to calculate the Proposed Project's cancer risk in the Final EIR.

AQMD-6

4. Recommended Revisions to Existing Mitigation Measure (MM) 4.3.2: In the Draft EIR, the Lead Agency assumed the use of Tier 4 construction equipment to quantify the Proposed Project's mitigated regional construction emissions; however, MM 4.3.2 allows for the use of Tier 3 construction equipment. The Proposed Project's construction emissions that can be mitigated by MM 4.3.2 may have been overestimated. The Lead Agency should strengthen MM 4.3.2 to require the use of Tier 4 construction equipment without a step-down to allow the use of Tier 3 construction equipment or re-calculate the Proposed Project's mitigated construction emissions based on the use of Tier 3 construction equipment in the Final EIR.

AQMD-7

5. Additional Recommended Mitigation Measures: In the Draft EIR, the Lead Agency requires the use of trucks that comply with the state's Truck and Bus Regulation. Since the Proposed Project involves the use of 3,520 daily truck trips during operation, and to further reduce the Proposed Project's significant operational NOx emissions, the Lead Agency should require or, at a minimum, incentivize the use of zero-emissions or near-zero emissions heavy-duty trucks in the Final EIR.

AQMD-8

6. South Coast AQMD Rule 403(e): The Proposed Project is a large operation of approximately 376 acres and is subject to the requirements of South Coast AQMD Rule 403(e) – Additional Requirements for Large Operations. The Lead Agency should discuss Rule 403(e) in the Final EIR.

AQMD-9

### Conclusion

Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), South Coast AQMD staff requests that the Lead Agency provide South Coast AQMD staff with written responses to all comments contained herein prior to the certification of the Final EIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and to the public who are interested in the Proposed Project. Further, if the Lead Agency makes the findings that the recommended revisions to the existing mitigation measure 4.3.2 and additional recommended air quality mitigation measures are not feasible, the Lead Agency should describe the specific reasons supported by substantial evidence for rejecting them in the Final EIR (CEQA Guidelines Section 15091).

AQMD-10



Charles Mercier

November 20, 2020

South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Alina Mullins, Air Quality Specialist, at [amullins@aqmd.gov](mailto:amullins@aqmd.gov), should you have any questions or wish to discuss the comments.

AQMD-10  
(cont'd)

Sincerely,

*Lijin Sun*

Lijin Sun, J.D.

Program Supervisor, CEQA IGR

Planning, Rule Development &amp; Area Sources

Attachment

LS:AM

SBC201008-05

Control Number

## ATTACHMENT

**South Coast AQMD Staff's Summary of the Air Quality Analysis and Health Risk Assessment**

In the Air Quality Analysis Section of the Draft EIR, the Lead Agency quantified the Proposed Project's regional construction emissions and found that the Proposed Project's regional construction air quality impacts from VOC and NO<sub>x</sub> emissions would be significant at 108 pounds per day (lbs/day) and 148 lbs/day<sup>5</sup>, respectively. The Lead Agency is committed to implementing Mitigation Measure (MM) 4.3.1 and MM 4.3.2. MM 4.3.1 requires the use of super compliant low VOC paints with no more than 10 grams per liter of VOC<sup>6</sup>. MM 4.3.2 requires that large, off-road construction equipment meet Tier 4 engine standards, unless Tier 4 equipment is not available within 50 miles of the Proposed Project, in which case Tier 3 equipment can be used instead<sup>7</sup>. With implementation of MM 4.3.1 and MM 4.3.2, the Proposed Project's regional construction air quality impacts from VOC and NO<sub>x</sub> emissions would be reduced to less than significant at 29 lbs/day and 81 lbs/day, respectively<sup>8</sup>.

The Lead Agency quantified the Proposed Project's regional operational emissions and found that the Proposed Project's regional operational air quality impacts from VOC, NO<sub>x</sub>, CO, PM<sub>10</sub>, and PM<sub>2.5</sub> emissions would be significant<sup>9</sup>. The Lead Agency is committed to implementing MMs 4.3.3 through 4.3.8. MMs 4.3.3 through 4.3.8 require posting of anti-idling signage, provision of information on funding opportunities for clean trucks, installation of electric vehicle (EV) charging stations, future EV truck charging infrastructure, and electrical hookups for transportation refrigeration units (TRUs), and use of clean trucks that comply with the state's Truck and Bus Regulation<sup>10</sup>. The Lead Agency found that the Proposed Project's operational air quality impacts would remain significant and unavoidable after mitigation<sup>11</sup>. The Lead Agency also analyzed the Proposed Project's air quality impacts from overlapping construction and operational activities, combined the emissions to be compared to South Coast AQMD's CEQA significance thresholds for operation<sup>12</sup>, and found that the Proposed Project would result in significant and unavoidable air quality impacts from VOC, NO<sub>x</sub>, CO, PM<sub>10</sub>, and PM<sub>2.5</sub> emissions even after implementing MMs 4.3.3 through MM 4.3.8<sup>13</sup>.

The Lead Agency analyzed the Proposed Project's localized air quality impacts and found them to be less than significant<sup>14</sup>. The Lead Agency also calculated the Proposed Project's cancer risks from construction and operational activities in the Draft EIR. At the maximum exposed individual receptor, the Proposed Project's construction activities would result in a cancer risk of 2.92 in one million<sup>15</sup>, and the Proposed Project's operational activities would result in a cancer

<sup>5</sup> *Ibid.* Page 4.3-42

<sup>6</sup> *Ibid.* Page 4.3-43

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.* Page 4.3-44.

<sup>9</sup> *Ibid.* Pages 4.3-45 to 4.3-47.

<sup>10</sup> *Ibid.* Pages 4.3-49 to 4.3-50.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.* Pages 4.3-51 to 4.3-52.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.* Pages 4.3-54 to 4.3-64.

<sup>15</sup> *Ibid.* Appendix D: Air Quality. "Merrill Commerce Center Specific Plan Construction Health Risk Assessment Memorandum". Page 13.

AQMD-11



risk of 9.34 in one million<sup>16</sup>. Therefore, the Lead Agency found that the Proposed Project's cancer risks would not exceed South Coast AQMD's CEQA significance threshold of 10 in one million for cancer risk<sup>17</sup>.

AQMD-11  
(cont'd)

South Coast AQMD staff's detailed comments on the CEQA air quality impacts analysis, air dispersion modeling, health risk assessment, mitigation measures, and South Coast AQMD Rule 403(e) are provided as follows.

AQMD-12

#### 1. **CEQA Air Quality Analysis for Regional Construction Air Quality Impacts**

Based on a review of the Air Quality Section of the Draft EIR, South Coast AQMD staff found that the Lead Agency quantified the Proposed Project's regional construction emissions from demolition and building activities but did not quantify emissions from soil removal and hauling activities. Since "[n]o unusual grading conditions are present and substantial import or export of earth materials is not expected", the regional construction air quality impact analysis did not quantify emissions from any type of soil export or import at this time<sup>18</sup>.

In the Hazards and Hazardous Materials Section of the Draft EIR, the Lead Agency explained that based on historical site usage (i.e. agriculture and dairy farming), the Proposed Project site may have soil contamination<sup>19</sup>. According to Mitigation Measure (MM) 4.6.1, the Proposed Project will be required to develop a Soil Management Plan (SMP), which will include soil excavation, handling, monitoring, and disposal protocols<sup>20</sup>.

Soil removal and hauling activities will likely involve the use of heavy-duty, diesel-fueled trucks and generate mobile source emissions. The Lead Agency should use good faith, best efforts to provide information on the scope, types, and duration of any reasonably foreseeable soil removal and hauling activities. Therefore, South Coast AQMD staff recommends that the Lead Agency quantify emissions from removing and hauling contaminated soil and include those emissions in the Proposed Project's regional construction emissions profile to be compared to South Coast AQMD's regional air quality CEQA significance thresholds for construction to determine the level of significance in the Final EIR. If those emissions are not included in the Final EIR, the Lead Agency should provide reasons for not including them supported by substantial evidence in the record. If the reason for not including them in the Final EIR is because soil removal and disposal measures in the SMP have not been fully developed or approved prior to the certification of the Final EIR, the Lead Agency should commit to evaluating the air quality impacts from soil removal and hauling activities through a CEQA process when the measures become known and prior to allowing the commencement of any soil removal and hauling activities at the Proposed Project.

AQMD-13

<sup>16</sup> Draft EIR. Appendix D: Air Quality. "Merrill Commerce Center Specific Plan Mobile Source Health Risk Assessment". Page 2.

<sup>17</sup> South Coast AQMD's CEQA significance threshold of 10 in one million for cancer risk is based on the most current methodology recommended by the California Office of Environmental Health Hazard assessment.

<sup>18</sup> Draft EIR. Executive Summary. Page 1-6.

<sup>19</sup> *Ibid.* Section 4.6 Hazards and Hazardous Materials. Pages 4.6-5 to 4.6-12.

<sup>20</sup> *Ibid.* Page 4.6-55.

## 2. Air Dispersion Modeling Parameter

To analyze the Proposed Project's localized air quality impacts during operation, the Lead Agency performed project-specific air dispersion modeling in the Draft EIR. South Coast AQMD staff recommends that the Lead Agency revise the modeling parameters based on the following comment.

### *Receptor Grid*

- a) Upon review of the air dispersion modeling files, South Coast AQMD staff found that the Lead Agency did not use a uniform Cartesian grid and instead placed 21 discrete receptors within the modeling domain. This placement may not have identified the maximum impacted receptors. Therefore, South Coast AQMD staff recommends that the Lead Agency use a uniform Cartesian grid with a spacing of 100 meters or less for all distances less than 1,000 feet or provide additional information to demonstrate that the maximum off-site concentrations are identified with placement of discrete receptors in the Final EIR.

AQMD-14

## 3. Mobile Source Health Risk Assessment (HRA)

The Proposed Project includes operation of 7,014,000 square feet of warehouses, which are expected to generate 3,520 daily truck trips. Surrounding sensitive receptors to the Proposed Project would be exposed to diesel particulate matter (DPM) from the transportation and idling of trucks visiting the Proposed Project. DPM is a toxic air contaminant and a carcinogen. The Lead Agency performed a mobile source HRA to determine if operation of the Proposed Project would result in a significant incremental increase in potential cancer risk to surrounding sensitive receptors (i.e., residential units within 94 feet of the Proposed Project). As stated above, operation of the Proposed Project would result in a cancer risk of 9.34 in one million.

The Proposed Project's operational health risk impacts may have been underestimated in the Draft EIR. The Lead Agency used the 80<sup>th</sup> percentile daily breathing rates for age bins 2 to 16 years and 16 to 30 years<sup>21</sup>. When there are different daily breathing rates for the same age bin, the most conservative daily breathing rates such as the 95<sup>th</sup> percentile daily breathing rate may be used to calculate cancer risk to nearby sensitive receptors. Therefore, South Coast AQMD staff recommends that the Lead Agency revise the mobile source HRA to re-calculate the Proposed Project's cancer risk based on the 95<sup>th</sup> percentile daily breathing rates or provide additional information that the use of 80<sup>th</sup> percentile daily breathing rate is more appropriate for the age bins 2 to 16 years and 16 to 30 years in the Final EIR.

AQMD-15

## 4. Recommended Revisions to Existing Mitigation Measure (MM) 4.3.2

In the Draft EIR, the Lead Agency is committed to using Tier 4 construction equipment unless Tier 4 construction equipment is not available within 50 miles of the Proposed Project in which case the use of Tier 4 construction equipment can be exempt and Tier 3 construction equipment can be used instead<sup>22</sup>. According to the CalEEMod output files for the Proposed Project, the Lead Agency calculated the Proposed Project's mitigated construction emissions based on the

AQMD-16

<sup>21</sup> Draft EIR. Appendix D: Air Quality. "Merrill Commerce Center Specific Plan Mobile Source Health Risk Assessment: Appendix 2.2 Risk Calculations". PDF Pages 3956 to 3960.

<sup>22</sup> Draft EIR. Section 4.3 Air Quality. Page 4.3-43.



use of Tier 4 Final construction equipment with no exemption provision. This is not appropriate. The Lead Agency likely over-estimated the Proposed Project's construction NOx emissions that can be mitigated by relying on emission reductions from Tier 4 Final construction equipment when the Proposed Project can be exempt from being required to use such equipment. Therefore, South Coast AQMD staff recommends that the Lead Agency remove the exemption provision from MM 4.3.2 to strengthen the mitigation requirement for off-road construction equipment as follows. Alternatively, the Lead Agency may re-calculate the Proposed Project's mitigated construction emissions based on the use of Tier 3 construction equipment in the Final EIR to be consistent with the exemption provision in MM 4.3.2.

#### *Mitigation Measure 4.3.2*

Construction contractors shall ensure that large off-road diesel fueled construction equipment, including but not limited to excavators, graders, rubber-tired dozers, and similar large pieces of equipment be equipped with CARB Tier 4 Final Compliant engines. ~~If the operator lacks Tier 4 equipment, and Tier 4 equipment is not available for lease or short term rental within 50 miles of the project site, Tier 3 Compliant or cleaner off road construction equipment may be utilized.~~ To ensure that Tier 4 Final construction equipment or better will be used during the Proposed Project's construction, South Coast AQMD staff recommends that the Lead Agency include this requirement in applicable bid documents, purchase orders, and contracts. Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities. A copy of each unit's certified tier specification or model year specification and CARB or South Coast AQMD operating permit (if applicable) shall be available upon request at the time of mobilization of each applicable unit of equipment. Additionally, the Lead Agency should require periodic reporting and provision of written construction documents by construction contractor(s) to ensure compliance and conduct regular inspections to the maximum extent feasible to ensure compliance.

AQMD-16  
(cont'd)

#### **5. Additional Recommended Mitigation Measures**

CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized to minimize or eliminate any significant adverse air quality impacts. Since the Proposed Project will result in significant and unavoidable emissions, particularly from NOx emissions at 870 lbs/day after mitigation, and to further reduce the Proposed Project's operational air quality impacts, South Coast AQMD staff recommends that the Lead Agency require the use of cleaner trucks and incorporate the following additional operational mitigation measures in the Final EIR.

- a) Require the use of zero-emissions (ZE) or near-zero emissions (NZE) trucks during operation, such as trucks with natural gas engines that meet the CARB's adopted optional NOx emission standard of 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. Include environmental analyses to evaluate and identify sufficient electricity and supportive infrastructures in the Energy and Utilities and Service Systems Sections in the Final EIR, where appropriate. Include the use of cleaner trucks as a requirement in applicable bid documents, purchase orders, contracts, and sale or leasing agreements. To monitor and ensure that cleaner trucks are used at the Proposed Project, the Lead Agency should require that operators maintain records of all trucks and equipment associated with

AQMD-17

the Proposed Project's operation and make these records available to the Lead Agency upon request. Alternatively, the Lead Agency should require periodic reporting and provision of written records by warehouse owners or operators and conduct regular inspections of the records to the maximum extent feasible and practicable.

Technology is transforming the transportation sector at a rapid pace. Cleaner trucks such as ZE or NZE trucks are increasingly more feasible and commercially available as technology advances. Given the state's clean truck rules and regulations aiming to accelerate the utilization and market penetration of ZE and NZE trucks such as the Advanced Clean Trucks Rule<sup>23</sup> and the Heavy-Duty Low NOx Omnibus Regulation<sup>24</sup>, ZE and NZE trucks will become increasingly more available to use.

If using ZE or NZE trucks as a mitigation measure to reduce the Proposed Project's operational air quality impacts is not feasible at the time that the Final EIR is certified or the Proposed Project is approved, cleaner trucks could become feasible in a reasonable period of time within the operational lifetime of the Proposed Project, which starts in 2026 (CEQA Guidelines Section 15364). Therefore, the Lead Agency should require a phase-in schedule to incentive the use of these cleaner operating trucks to reduce any significant adverse air quality impacts and develop a process with performance standards to deploy the lowest emission technologies and incentivize the use of ZE or NZE heavy-duty trucks during operation (CEQA Guidelines Section 15126.4(a)). The Lead Agency can and should develop the performance standards as follows or any other comparable standards in the Final EIR. South Coast AQMD staff is available to discuss the availability of current and upcoming truck technologies and incentive programs with the Lead Agency.

AQMD-17  
(cont'd)

- Develop a minimum amount of ZE or NZE heavy-duty trucks that the Proposed Project must use during each year of the operation to ensure adequate progress. Include this requirement in the Proposed Project's tenant selection and operation management bid documents and business agreement.
- Establish a tenant/truck operator(s) selection policy that prefers tenant/truck operator(s) who can supply the use of ZE or NZE heavy-duty trucks at the Proposed Project. Include this policy in the bid documents and business agreement.
- Develop a target-focused and performance-based process and timeline to review the feasibility of implementing the use of ZE or NZE heavy-duty trucks during operation. Include this process and timeline in the Proposed Project's tenant selection and operation management bid documents and business agreement.

<sup>23</sup> CARB. June 25, 2020. *Advanced Clean Trucks Rule*. Accessed at: <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-trucks>.

<sup>24</sup> CARB has recently passed a variety of new regulations that require new, cleaner heavy-duty truck technology to be sold and used in state. For example, on August 27, 2020, CARB approved the Heavy-Duty Low NOx Omnibus Regulation, which will require all trucks to meet the adopted emission standard of 0.05 g/hp-hr starting with engine model year 2024. Accessed at: <https://ww2.arb.ca.gov/rulemaking/2020/hdomnibuslownox>.



- Develop a project-specific process and criteria for periodically assessing progress in implementing the use of ZE or NZE heavy-duty trucks during operation. Include this process and criteria in the Proposed Project's tenant selection and operation management bid documents and business agreement.
- b) Limit the daily number of truck trips allowed at the Proposed Project to the level that was used to analyze the Proposed Project's air quality and health risk impacts in the Final EIR (e.g., 3,520 daily truck trips during operation). If it is reasonably foreseeable before the Final EIR is certified that the Proposed Project would generate more than 3,520 daily truck trips, the Lead Agency should take into account additional daily truck trips and re-evaluate the Proposed Project's air quality and health risk impacts (CEQA Guidelines Section 15088.5). If information becomes available, after the Proposed Project is approved, suggesting that the Proposed Project will generate more than 3,520 daily truck trips during operation, the Lead Agency should evaluate if a Subsequent EIR is required under CEQA Guidelines Section 15162.

AQMD-17  
(cont'd)

Design considerations for the Proposed Project that the Lead Agency should consider to further reduce air quality and health risk impacts include the following:

- c) Design the Proposed Project such that truck entrances and exits are not facing sensitive receptors and trucks will not traversing through sensitive land uses to enter or leave the Proposed Project site.
- d) Design the Proposed Project to ensure that truck traffic within the Proposed Project site is located as far away as feasible from sensitive receptors.
- e) Restrict overnight parking in sensitive land uses by providing overnight parking within the Proposed Project site.

AQMD-18

#### 6. South Coast AQMD Rule 403(e)

Since the Proposed Project is a large operation of approximately 376 acres<sup>25</sup> (50-acre sites or more of disturbed surface area; or daily earth-moving operations of 3,850 cubic yards or more on three days in any year) in the South Coast Air Basin, the Lead Agency is required to comply with Rule 403(e) – Additional Requirements for Large Operations<sup>26</sup>. Additional requirements may include, but are not limited to, Large Operation Notification (Form 403 N), appropriate signage, additional dust control measures, and employment of a dust control supervisor that has successfully completed the Dust Control in the South Coast Air Basin training class<sup>27</sup>. Therefore, the Lead Agency should include a discussion to demonstrate specific compliance with South Coast AQMD Rule 403(e) in the Final EIR. Compliance with South Coast Rule 403(e) will further reduce regional and localized emissions from particulate matters during construction.

AQMD-19

<sup>25</sup> Draft EIR. Executive Summary. Page 1-1.

<sup>26</sup> South Coast AQMD. Rule 403. Last amended June 3, 2005. Accessed at: <http://www.aqmd.gov/docs/default-source/rule-book/rule-iv/rule-403.pdf>.

<sup>27</sup> South Coast AQMD Compliance and Enforcement Staff's contact information for Rule 403(e) Large Operations is (909) 396-2608 or by e-mail at [dustcontrol@aqmd.gov](mailto:dustcontrol@aqmd.gov).



South Coast Air Quality Management District  
28165 Copley Drive  
Diamond Bar, CA 91765

Letter Dated November 20, 2020

**Comment AQMD-1**

*South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments include recommended revisions to the air quality impact analysis, air dispersion modeling, health risk assessment, mitigation measures, and South Coast AQMD Rule 403(e) that the Lead Agency should include in the Final EIR.*

**Response AQMD-1**

Comments provided by the AQMD are recognized. Responses to comments provided by AQMD regarding the DEIR air quality impact analysis, air dispersion modeling, health risk assessment, mitigation measures; and AQMD Rule 403(e) are provided herein. Findings and conclusions of the EIR are not affected.

**Comment AQMD-2**

**South Coast AQMD Staff's Summary of Project Description**

*The Lead Agency proposes to demolish 54,887 square feet of existing residential structures and construct 6,312,600 square feet of high-cube fulfillment warehouses, 701,400 square feet of high-cube cold storage warehouses, and 1,441,000 square feet of business park uses on 376 acres (Proposed Project). The Proposed Project is located on the southwest corner of Eucalyptus Avenue and Carpenter Avenue in the City of Ontario. Construction is anticipated to start in 2020 and will occur in three phases. Phase A will become operational in 2022 while Phases B and C will be under construction. At full buildout in 2026, the Proposed Project will generate 19,806 average daily vehicular trips, 3,520 of which would be heavy-duty diesel trucks. The nearest sensitive receptors (i.e. residential uses) are located 94 feet east of the Proposed Project.*

## **Response AQMD-2**

AQMD's summary description of the Project is materially correct. Findings and conclusions of the EIR are not affected.

## **Comment AQMD-3**

### **South Coast AQMD Staff's Comments**

*Based on a review of the Draft EIR and supporting technical appendices, South Coast AQMD staff has six main comments. A summary of these comments is provided as follows with additional details provided in the attachment.*

## **Response AQMD-3**

Responses to comments provided by AQMD are provided herein. Findings and conclusions of the EIR are not affected.

## **Comment AQMD-4**

1. *CEQA Air Quality Analysis for Regional Construction Air Quality Impacts: In the Draft EIR, the Lead Agency discussed a need to excavate and dispose contaminated soil at the Proposed Project but did not quantify emissions from soil removal and hauling activities. The Lead Agency should quantify those emissions in the Final EIR.*

## **Response AQMD-4**

To clarify, there is the potential for disposal of contaminated soils, not a demonstrated requirement to excavate and dispose substantial amounts of contaminated soils. Contaminated soils are, in large part are anticipated to be treated and used on-site. In this regard, the DEIR notes that contaminated soils can be treated and used on-site *or* disposed of off-site. Please refer to the discussion at DEIR p. 4.6-26, excerpted in pertinent part below:

Based on testing results, contaminated soils *can be treated on-site (by blending/diluting with clean soil) or* [emphasis added] disposed of off-site, as follows:

- 1) Non-hazardous: The soil must pass the State and Federal regulatory thresholds. In that case, the soil may be disposed of as non-hazardous at a Class III landfill or, as discussed above, a treatment or recycling facility.
- 2) Cal-haz/Non-RCRA: In this case, the soil fails the State regulatory thresholds but passes the Federal requirements. Therefore, the soil may be disposed of as non- RCRA at a Class I hazardous landfill or at an out-of-state non-hazardous landfill.
- 3) RCRA-hazardous: In this case, the soil fails both the State and Federal regulatory thresholds. Therefore, the soil will have to be disposed of as Federal, RCRA hazardous at a Class I landfill.

The DEIR Air Quality Impact Analysis (AQIA, DEIR Appendix D) also recognizes that there is potential that organic material and contaminated soil that is not suitable for construction activity would need to be exported off-site. The quantity of potential material not suitable for construction is unknown at this time. Notwithstanding, the construction scenario(s) evaluated in the DEIR establish reasonable maximum development activities that could occur. Any potential emissions resulting from transport of material not suitable for construction activity would be substantially less than or equal to the maximum daily emissions that would occur under the assumed construction scenario(s). Moreover, since any required soil export would occur independent of, and prior to other construction activities, it is unlikely that any emissions generated by soil transport would discernibly contribute to construction-source emissions generally.

Even if hauling activities would occur concurrent with other construction activities, the additional emissions would not result in any new significant impacts. For analytical purposes of this FEIR, it is estimated that up to 500 cubic yards (cy) of contaminated soil could be exported per day. Emissions generated by soil export activities are summarized below at Table AQMD-1.<sup>2</sup> As shown, soil export activities would not result in any significant air quality impacts and would in fact result in far fewer construction-source

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<sup>2</sup> Soil export emissions modeling outputs are presented at FEIR Attachment C.

emissions than are identified in the DEIR (see DEIR at Table 4.3-8, *Maximum Daily Construction-source Emissions – Mitigated*).

Lastly, even if soil export and other peak construction activities emissions overlap is assumed (which is unlikely) the applicable thresholds would not be exceeded, as shown at Table AQMD-2.

**Table AQMD-1**  
**Maximum Daily Soil Export Emissions**

Phase	Emissions (lbs/day)					
	VOC	NO <sub>x</sub>	CO	SO <sub>x</sub>	PM <sub>10</sub>	PM <sub>2.5</sub>
Summer						
Soil Export	0.39	15.27	2.25	0.05	1.18	0.35
Winter						
Soil Export	0.40	15.35	2.58	0.05	1.18	0.35
<b>Maximum Daily Emissions</b>	<b>0.40</b>	<b>15.35</b>	<b>2.58</b>	<b>0.05</b>	<b>1.18</b>	<b>0.35</b>
SCAQMD Regional Threshold	75	100	550	150	150	55
<b>Threshold Exceeded?</b>	No	No	No	No	No	No

Source: Urban Crossroads, Inc., November 2020

**Table AQMD-2**  
**Maximum Daily Soil Export Emissions + Maximum Daily Construction-Source Emissions**

Phase	Emissions (lbs/day)					
	VOC	NO <sub>x</sub>	CO	SO <sub>x</sub>	PM <sub>10</sub>	PM <sub>2.5</sub>
Peak Soil Export Emissions	0.40	15.35	2.58	0.05	1.18	0.35
DEIR Peak Construction Emissions	29.52	81.46	202.02	0.68	40.99	11.96
<b>Maximum Daily Emissions (Soil Export Emissions + Construction-Source Emission)</b>	<b>29.92</b>	<b>96.81</b>	<b>204.60</b>	<b>0.73</b>	<b>42.17</b>	<b>12.31</b>
SCAQMD Regional Threshold	75	100	550	150	150	55
<b>Threshold Exceeded?</b>	No	No	No	No	No	No

Source: Urban Crossroads, Inc., November 2020



Quantification of potential emissions attributable to soil export activities as presented here substantiates that these emissions would not exceed applicable SCAQMD thresholds and would therefore be less-than-significant. Findings and conclusions of the EIR are not affected.

**Comment AQMD-5**

2. *Air Dispersion Modeling Parameter: The air dispersion modeling performed in the Draft EIR did not use a uniform Cartesian grid and instead placed 21 discrete receptors within the modeling domain. The Lead Agency should provide additional information to justify this modeling parameter in the Draft EIR.*

**Response AQMD-5**

The DEIR discussions and underlying technical HRA technical analysis uses individual discrete receptors placed geospatially<sup>3</sup> at existing residences, businesses, and schools. These geospatial locations represent the real-world orientations of residential, business, or school receptors that could be exposed to Project-source emissions, and the likely maximum impacts that would occur at these locations. Since the maximum residential, worker, and school exposures have already been identified and evaluated, it is unnecessary to include a 100-meter grid of receptors since this would not yield any new meaningful information, or different results.

Cartesian receptor grids are typically used to compute the concentration of pollutants over a larger geographical region, usually in the vicinity of a particular facility, for the purpose of creating concentration contours (or “zone of impact”) whose purpose is to illustrate the dispersion pattern and downwind extent of a concentration and associated risk value within a given geographical region. Cartesian grids are typically drawn using uniform spacing between receptor locations (e.g., a receptor is placed in a static grid format every X feet or meters whether an impacted use exists at that location or not). For example, if a facility or project resulted in an exceedance of the applicable risk threshold at a nearby modeled receptor, it would be useful to have a Cartesian grid and

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<sup>3</sup> Geospatial: Of or relating to the relative position of things on the earth’s surface.

corresponding contour to determine the downwind extent of where the risk levels fall below acceptable limits.

In contrast, discrete receptors, as modeled in the DEIR, represent real world locations where an individual would reside or could remain for long-term exposures. Use of the 21 discrete receptors within the modeling area as presented in the DEIR and HRA is appropriate for purposes of CEQA since it more accurately represents emissions concentrations and associated impacts that would occur at each impacted receptor.

Using a uniform Cartesian grid receptor methodology as suggested by the commentor is therefore not necessary and would not correspond to the actual receptor locations identified in the DEIR. In this respect, employing a Cartesian grid receptor methodology would be less accurate and not representative of emissions concentrations that would be received. No revisions to the HRA are required. Findings and conclusions of the EIR are not affected.

#### **Comment AQMD-6**

3. *Mobile Source Health Risk Assessment (HRA): In the Draft EIR, the Lead Agency used the 80<sup>th</sup> percentile daily breathing rates for age bins 2 to 16 years and 16 to 30 years to calculate cancer risk for these two age bins. Since operation of the Proposed Project involves 3,520 daily truck trips, and the nearest sensitive receptors are located within 100 feet of the Proposed Project, South Coast AQMD staff recommends the use of the 95<sup>th</sup> percentile daily breathing rate to calculate the Proposed Project's cancer risk in the Final EIR.*

#### **Response AQMD-6**

The 80<sup>th</sup> percentile breathing rates are appropriate and applicable for CEQA determinations, as this represents a likely maximum impact scenario. This is because the 80<sup>th</sup> percentile represents an elevated breathing rate that is 80 percent higher than is experienced by the average population. Further, the HRA calculation assumes that an individual is at the 80<sup>th</sup> percentile elevated breathing rate for the entire multi-year exposure duration.

The California Air Resources Board (CARB) has also recommended the use of the 80th percentile value as the minimum value for risk management decisions at residential receptors. CARB states that this will continue to give health protective estimates. See also: (<https://www.arb.ca.gov/toxics/harp/rmpolicyfaq.htm>).

Use of the 95<sup>th</sup> percentile breathing rate as recommended by the commentor is not required. CEQA does not require such absolute worst-case analyses (CEQA Guidelines Sections 15144, 15145). Note further that the U.S. EPA analytic protocols indicate 95<sup>th</sup> percentile values may be unrealistically high and not representative of the average person (Exposure Factors Handbook: 2011 Edition [EPA], p. 6-3). On this basis, the Lead Agency considers the DEIR and Project HRA to be adequate and complete – comprising a good faith effort at full disclosure of the Project potential health risk impacts. Findings and conclusions of the EIR are not affected.

#### **Comment AQMD-7**

4. *Recommended Revisions to Existing Mitigation Measure (MM) 4.3.2: In the Draft EIR, the Lead Agency assumed the use of Tier 4 construction equipment to quantify the Proposed Project's mitigated regional construction emissions; however, MM 4.3.2 allows for the use of Tier 3 construction equipment. The Proposed Project's construction emissions that can be mitigated by MM 4.3.2 may have been overestimated. The Lead Agency should strengthen MM 4.3.2 to require the use of Tier 4 construction equipment without a step-down to allow the use of Tier 3 construction equipment or re-calculate the Proposed Project's mitigated construction emissions based on the use of Tier 3 construction equipment in the Final EIR.*

#### **Response AQMD-7**

Mitigation Measure 4.3.2 has been amended as suggested by AQMD (see below). Findings and conclusions of the DEIR are not affected. Please refer also to Response AQMD-16.

*4.3.2 Construction contractors shall ensure that large off-road diesel fueled construction equipment, including but not limited to excavators, graders, rubber-*

tired dozers, and similar large pieces of equipment be equipped with CARB Tier 4 Compliant engines. ~~If the operator lacks Tier 4 equipment, and Tier 4 equipment is not available for lease or short-term rental within 50 miles of the project site, Tier 3 Compliant or cleaner off road construction equipment may be utilized.~~ To ensure that Tier 4 Final construction equipment or better will be used during the Proposed Project's construction, this requirement shall be included in applicable bid documents, purchase orders, and contracts. Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities. A copy of each unit's certified tier specification or model year specification and CARB or South Coast AQMD operating permit (if applicable) shall be available upon request at the time of mobilization of each applicable unit of equipment. Additionally, the Applicant shall report to the City, including written construction documents by construction contractor(s), documenting compliance with these requirements, which shall be subject to regular City inspections to ensure compliance.

Findings and conclusions of the EIR are not affected.

#### **Comment AQMD-8**

5. Additional Recommended Mitigation Measures: In the Draft EIR, the Lead Agency requires the use of trucks that comply with the state's Truck and Bus Regulation. Since the Proposed Project involves the use of 3,520 daily truck trips during operation, and to further reduce the Proposed Project's significant operational NOx emissions, the Lead Agency should require or, at a minimum, incentivize the use of zero-emissions or near-zero emissions heavy-duty trucks in the Final EIR.

#### **Response AQMD-8**

Requiring use of zero-emissions (ZEV) heavy-duty trucks and/or near zero-emissions (NZEV) heavy-duty trucks for the Project uses is not feasible in the near-term. In this regard, ZEV and NZEV are emerging technologies, with limited or no practical

applications yet available to the Project or its prospective tenants. On a commercial scale, these types of vehicles do not currently exist. Moreover, areawide infrastructure (electric power charging stations, alternative fuel sources and fueling facilities) necessary to support practical use of ZEV and NZEV heavy-duty trucks is limited or non-existent.

Additionally, it is unknown whether heavy-duty trucks accessing the Project site would be owned and operated by the prospective tenants, or would be owned and operated by third parties. Requiring as yet-unknown tenants or third parties to commit to exclusive use of zero-emissions or near- zero emissions heavy-duty trucks is not considered enforceable. Similarly, it is considered infeasible to preclude access to the Project site by conventionally-powered (diesel) heavy-duty trucks, or require that all heavy-duty trucks accessing the Project site be ZEVs or NZEVs.

Moreover, use of ZEV/NZEV heavy-duty trucks for the Project would not demonstrably reduce Basin-wide NOx emissions. That is, just because this measure would prohibit conventionally-powered heavy-duty trucks access to the Project site, by no means would the measure preclude their operation elsewhere within the Basin. The measure would in effect direct heavy-duty diesel-powered trucks and associated emissions to numerous other available warehouses at other Basin locales, with no net reduction in Basin-wide NOx emissions.

DEIR Mitigation Measure 4.3.8 (below) is amended to facilitate use of ZEV/NZEV heavy-duty trucks by the Project tenants, and monitor truck types and truck volumes accessing the Project site. Findings and conclusions of the DEIR are not affected. Please refer also to Response AQMD-17.

*4.3.8 All diesel trucks accessing the Project shall be compliant with the CARB Truck and Bus Regulation 2010 engine emissions standards. The City encourages Project tenant use of zero-emissions or near-zero emissions on-road heavy-duty trucks, i.e., trucks with engines that meet the CARB enhanced nitrogen oxides (NOx) emissions standard of 0.02 gram per brake horsepower-hour (g/bhp-hr).*



**Comment AQMD-9**

6. South Coast AQMD Rule 403(e): The Proposed Project is a large operation of approximately 376 acres and is subject to the requirements of South Coast AQMD Rule 403(e) – Additional Requirements for Large Operations. The Lead Agency should discuss Rule 403(e) in the Final EIR.

**Response AQMD-9**

As requested by SCAQMD, Rule 403(e) is discussed herein. Please refer to Response AQMD-19. Findings and conclusions of the DEIR are not affected.

**Comment AQMD-10**

**Conclusion**

*Pursuant to California Public Resources Code Section 21092.5(a) and CEQA Guidelines Section 15088(b), South Coast AQMD staff requests that the Lead Agency provide South Coast AQMD staff with written responses to all comments contained herein prior to the certification of the Final EIR. In addition, issues raised in the comments should be addressed in detail giving reasons why specific comments and suggestions are not accepted. There should be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusory statements do not facilitate the purpose and goal of CEQA on public disclosure and are not meaningful, informative, or useful to decision makers and to the public who are interested in the Proposed Project. Further, if the Lead Agency makes the findings that the recommended revisions to the existing mitigation measure 4.3.2 and additional recommended air quality mitigation measures are not feasible, the Lead Agency should describe the specific reasons supported by substantial evidence for rejecting them in the Final EIR (CEQA Guidelines Section 15091).*

*South Coast AQMD staff is available to work with the Lead Agency to address any air quality questions that may arise from this comment letter. Please contact Alina Mullins, Air Quality Specialist, at [amullins@aqmd.gov](mailto:amullins@aqmd.gov), should you have any questions or wish to discuss the comments.*

## **Response AQMD-10**

Good faith reasoned responses to all AQMD comments are provided herein. All responses conform to CEQA Guidelines Section 15088 and CEQA Guidelines Section 15091 requirements and standards. Contact information provided by the commentor is noted. Findings and conclusions of the EIR are not affected.

## **Comment AQMD-11**

### **South Coast AQMD Staff's Summary of the Air Quality Analysis and Health Risk Assessment**

*In the Air Quality Analysis Section of the Draft EIR, the Lead Agency quantified the Proposed Project's regional construction emissions and found that the Proposed Project's regional construction air quality impacts from VOC and NOx emissions would be significant at 108 pounds per day (lbs/day) and 148 lbs/day, respectively. The Lead Agency is committed to implementing Mitigation Measure (MM) 4.3.1 and MM 4.3.2. MM 4.3.1 requires the use of super compliant low VOC paints with no more than 10 grams per liter of VOC. MM 4.3.2 requires that large, off-road construction equipment meet Tier 4 engine standards, unless Tier 4 equipment is not available within 50 miles of the Proposed Project, in which case Tier 3 equipment can be used instead. With implementation of MM 4.3.1 and MM 4.3.2, the Proposed Project's regional construction air quality impacts from VOC and NOx emissions would be reduced to less than significant at 29 lbs/day and 81 lbs/day, respectively.*

*The Lead Agency quantified the Proposed Project's regional operational emissions and found that the Proposed Project's regional operational air quality impacts from VOC, NOx, CO, PM10, and PM2.5 emissions would be significant. The Lead Agency is committed to implementing MMs 4.3.3 through 4.3.8. MMs 4.3.3 through 4.3.8 require posting of anti-idling signage, provision of information on funding opportunities for clean trucks, installation of electric vehicle (EV) charging stations, future EV truck charging infrastructure, and electrical hookups for transportation refrigeration units (TRUs), and use of clean trucks that comply with the state's Truck and Bus Regulation. The Lead Agency found that the Proposed Project's operational air quality impacts would remain significant and unavoidable after mitigation. The Lead Agency also analyzed the Proposed Project's air quality impacts from overlapping construction and operational activities, combined the emissions to be compared to South Coast AQMD's CEQA significance*

*thresholds for operation, and found that the Proposed Project would result in significant and unavoidable air quality impacts from VOC, NO<sub>x</sub>, CO, PM<sub>10</sub>, and PM<sub>2.5</sub> emissions even after implementing MMs 4.3.3 through MM 4.3.8.*

*The Lead Agency analyzed the Proposed Project's localized air quality impacts and found them to be less than significant. The Lead Agency also calculated the Proposed Project's cancer risks from construction and operational activities in the Draft EIR. At the maximum exposed individual receptor, the Proposed Project's construction activities would result in a cancer risk of 2.92 in one million, and the Proposed Project's operational activities would result in a cancer risk of 9.34 in one million. Therefore, the Lead Agency found that the Proposed Project's cancer risks would not exceed South Coast AQMD's CEQA significance threshold of 10 in one million for cancer risk.*

#### **Response AQMD-11**

Commentor's summary of Project air quality impacts and proposed mitigation measures is materially correct. Findings and conclusions of the EIR are not affected.

#### **Comment AQMD-12**

*South Coast AQMD staff's detailed comments on the CEQA air quality impacts analysis, air dispersion modeling, health risk assessment, mitigation measures, and South Coast AQMD Rule 403(e) are provided as follows.*

#### **Response AQMD-12**

Responses to AQMD staff's detailed comments follows. Findings and conclusions of the EIR are not affected.

#### **Comment AQMD-13**

##### **1. CEQA Air Quality Analysis for Regional Construction Air Quality Impacts**

*Based on a review of the Air Quality Section of the Draft EIR, South Coast AQMD staff found that the Lead Agency quantified the Proposed Project's regional construction emissions from demolition and building activities but did not quantify emissions from soil removal and hauling activities. Since "[n]o unusual grading conditions are present and substantial import or export of*

*earth materials is not expected”, the regional construction air quality impact analysis did not quantify emissions from any type of soil export or import at this time.*

*In the Hazards and Hazardous Materials Section of the Draft EIR, the Lead Agency explained that based on historical site usage (i.e. agriculture and dairy farming), the Proposed Project site may have soil contamination. According to Mitigation Measure (MM) 4.6.1, the Proposed Project will be required to develop a Soil Management Plan (SMP), which will include soil excavation, handling, monitoring, and disposal protocols<sup>20</sup>.*

*Soil removal and hauling activities will likely involve the use of heavy-duty, diesel-fueled trucks and generate mobile source emissions. The Lead Agency should use good faith, best efforts to provide information on the scope, types, and duration of any reasonably foreseeable soil removal and hauling activities. Therefore, South Coast AQMD staff recommends that the Lead Agency quantify emissions from removing and hauling contaminated soil and include those emissions in the Proposed Project’s regional construction emissions profile to be compared to South Coast AQMD’s regional air quality CEQA significance thresholds for construction to determine the level of significance in the Final EIR. If those emissions are not included in the Final EIR, the Lead Agency should provide reasons for not including them supported by substantial evidence in the record. If the reason for not including them in the Final EIR is because soil removal and disposal measures in the SMP have not been fully developed or approved prior to the certification of the Final EIR, the Lead Agency should commit to evaluating the air quality impacts from soil removal and hauling activities through a CEQA process when the measures become known and prior to allowing the commencement of any soil removal and hauling activities at the Proposed Project.*

### **Response AQMD-13**

To clarify, there is the potential for disposal of contaminated soils, not a demonstrated requirement to excavate and dispose substantial amounts of contaminated soils. Contaminated soils are, in large part, anticipated to be treated and used on-site. In this regard, the DEIR notes that contaminated soils can be treated and used on-site or disposed of off-site. Please refer to the discussion at DEIR p. 4.6-26, excerpted in pertinent part below:

Based on testing results, contaminated soils *can be treated on-site (by blending/diluting with clean soil) or* [emphasis added] disposed of off-site, as follows:

- 1) Non-hazardous: The soil must pass the State and Federal regulatory thresholds. In that case, the soil may be disposed of as non-hazardous at a Class III landfill or, as discussed above, a treatment or recycling facility.
- 2) Cal-haz/Non-RCRA: In this case, the soil fails the State regulatory thresholds but passes the Federal requirements. Therefore, the soil may be disposed of as non-RCRA at a Class I hazardous landfill or at an out-of-state non-hazardous landfill.
- 3) RCRA-hazardous: In this case, the soil fails both the State and Federal regulatory thresholds. Therefore, the soil will have to be disposed of as Federal, RCRA hazardous at a Class I landfill.

The DEIR Air Quality Impact Analysis (AQIA, DEIR Appendix D) also recognizes that there is potential that organic material and contaminated soil that is not suitable for construction activity would need to be exported off-site. The quantity of potential material not suitable for construction is unknown at this time. Notwithstanding, the construction scenario(s) evaluated in the DEIR establish reasonable maximum development activities that could occur. Any potential emissions resulting from transport of material not suitable for construction activity would be substantially less than or equal to the maximum daily emissions that would occur under the assumed construction scenario(s). Moreover, since any required soil export would occur independent of, and prior to other construction activities, it is unlikely that any emissions generated by soil transport would discernibly contribute to construction-source emissions generally.

Even if hauling activities would occur concurrent with other construction activities, the additional emissions would not result in any new significant impacts. For analytical purposes of this FEIR, it is estimated that up to 500 cubic yards (cy) of contaminated soil could be exported per day. Emissions generated by soil export activities are summarized



below at Table AQMD-1.<sup>4</sup> As shown, soil export activities would not result in any significant air quality impacts and would in fact result in far fewer construction-source emissions than are identified in the DEIR (see DEIR at Table 4.3-8, *Maximum Daily Construction-source Emissions – Mitigated*).

Lastly, even if soil export and other peak construction activities emissions overlap is assumed (which is unlikely) the applicable thresholds would not be exceeded, as shown at Table AQMD-2.

**Table AQMD-1**  
**Maximum Daily Soil Export Emissions**

Phase	Emissions (lbs/day)					
	VOC	NO <sub>x</sub>	CO	SO <sub>x</sub>	PM <sub>10</sub>	PM <sub>2.5</sub>
Summer						
Soil Export	0.39	15.27	2.25	0.05	1.18	0.35
Winter						
Soil Export	0.40	15.35	2.58	0.05	1.18	0.35
<b>Maximum Daily Emissions</b>	<b>0.40</b>	<b>15.35</b>	<b>2.58</b>	<b>0.05</b>	<b>1.18</b>	<b>0.35</b>
SCAQMD Regional Threshold	75	100	550	150	150	55
<b>Threshold Exceeded?</b>	No	No	No	No	No	No

Source: Urban Crossroads, Inc., November 2020

**Table AQMD-2**  
**Maximum Daily Soil Export Emissions + Maximum Daily Construction-Source Emissions**

Phase	Emissions (lbs/day)					
	VOC	NO <sub>x</sub>	CO	SO <sub>x</sub>	PM <sub>10</sub>	PM <sub>2.5</sub>
Peak Soil Export Emissions	0.40	15.35	2.58	0.05	1.18	0.35
DEIR Peak Construction Emissions	29.52	81.46	202.02	0.68	40.99	11.96
<b>Maximum Daily Emissions (Soil Export Emissions + Construction-Source Emission)</b>	<b>29.92</b>	<b>96.81</b>	<b>204.60</b>	<b>0.73</b>	<b>42.17</b>	<b>12.31</b>
SCAQMD Regional Threshold	75	100	550	150	150	55
<b>Threshold Exceeded?</b>	No	No	No	No	No	No

Source: Urban Crossroads, Inc., November 2020

<sup>4</sup> Soil export emissions modeling outputs are presented at FEIR Attachment C.

Quantification of potential emissions attributable to soil export activities as presented here substantiates that these emissions would not exceed applicable SCAQMD thresholds and would therefore be less-than-significant. Findings and conclusions of the EIR are not affected. See also Response AQMD-4.

#### **Comment AQMD-14**

##### **1. Air Dispersion Modeling Parameter**

*To analyze the Proposed Project's localized air quality impacts during operation, the Lead Agency performed project-specific air dispersion modeling in the Draft EIR. South Coast AQMD staff recommends that the Lead Agency revise the modeling parameters based on the following comment.*

##### *Receptor Grid*

- a) Upon review of the air dispersion modeling files, South Coast AQMD staff found that the Lead Agency did not use a uniform Cartesian grid and instead placed 21 discrete receptors within the modeling domain. This placement may not have identified the maximum impacted receptors. Therefore, South Coast AQMD staff recommends that the Lead Agency use a uniform Cartesian grid with a spacing of 100 meters or less for all distances less than 1,000 feet or provide additional information to demonstrate that the maximum off-site concentrations are identified with placement of discrete receptors in the Final EIR.*

#### **Response AQMD-14**

The DEIR discussions and underlying technical HRA technical analysis uses individual discrete receptors placed geospatially<sup>5</sup> at existing residences, businesses, and schools. These geospatial locations represent the real-world orientations of residential, business, or school receptors that could be exposed to Project-source emissions, and the likely maximum impacts that would occur at these locations. Since the maximum residential, worker, and school exposures have already been identified and evaluated, it is

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<sup>5</sup> Geospatial: Of or relating to the relative position of things on the earth's surface.

unnecessary to include a 100-meter grid of receptors since this would not yield any new meaningful information, or different results.

Cartesian receptor grids are typically used to compute the concentration of pollutants over a larger geographical region, usually in the vicinity of a particular facility, for the purpose of creating concentration contours (or “zone of impact”) whose purpose is to illustrate the dispersion pattern and downwind extent of a concentration and associated risk value within a given geographical region. Cartesian grids are typically drawn using uniform spacing between receptor locations (e.g., a receptor is placed in a static grid format every X feet or meters whether an impacted use exists at that location or not). For example, if a facility or project resulted in an exceedance of the applicable risk threshold at a nearby modeled receptor, it would be useful to have a Cartesian grid and corresponding contour to determine the downwind extent of where the risk levels fall below acceptable limits.

In contrast, discrete receptors, as modeled in the DEIR, represent real world locations where an individual would reside or could remain for long-term exposures. Use of the 21 discrete receptors within the modeling area as presented in the DEIR and HRA is appropriate for purposes of CEQA since it more accurately represents emissions concentrations and associated impacts that would occur at each impacted receptor.

Using a uniform Cartesian grid receptor methodology as suggested by the commentor is therefore not necessary and would not correspond to the actual receptor locations identified in the DEIR. In this respect, employing a Cartesian grid receptor methodology would be less accurate and not representative of emissions concentrations that would be received. No revisions to the HRA are required. Findings and conclusions of the EIR are not affected.

See also Response AQMD-5.

## **Comment AQMD-15**

### **1. Mobile Source Health Risk Assessment (HRA)**

*The Proposed Project includes operation of 7,014,000 square feet of warehouses, which are expected to generate 3,520 daily truck trips. Surrounding sensitive receptors to the Proposed Project would be exposed to diesel particulate matter (DPM) from the transportation and idling of trucks visiting the Proposed Project. DPM is a toxic air contaminant and a carcinogen. The Lead Agency performed a mobile source HRA to determine if operation of the Proposed Project would result in a significant incremental increase in potential cancer risk to surrounding sensitive receptors (i.e., residential units within 94 feet of the Proposed Project). As stated above, operation of the Proposed Project would result in a cancer risk of 9.34 in one million.*

*The Proposed Project's operational health risk impacts may have been underestimated in the Draft EIR. The Lead Agency used the 80<sup>th</sup> percentile daily breathing rates for age bins 2 to 16 years and 16 to 30 years. When there are different daily breathing rates for the same age bin, the most conservative daily breathing rates such as the 95<sup>th</sup> percentile daily breathing rate may be used to calculate cancer risk to nearby sensitive receptors. Therefore, South Coast AQMD staff recommends that the Lead Agency revise the mobile source HRA to re-calculate the Proposed Project's cancer risk based on the 95<sup>th</sup> percentile daily breathing rates or provide additional information that the use of 80<sup>th</sup> percentile daily breathing rate is more appropriate for the age bins 2 to 16 years and 16 to 30 years in the Final EIR.*

## **Response AQMD-15**

The 80<sup>th</sup> percentile breathing rates are appropriate and applicable for CEQA determinations, as this represents a likely maximum impact scenario. This is because the 80<sup>th</sup> percentile represents an elevated breathing rate that is 80 percent higher than is experienced by the average population. Further, the HRA calculation assumes that an individual is at the 80<sup>th</sup> percentile elevated breathing rate for the entire multi-year exposure duration.

Additionally, CARB, has also previously recommended the use of the 80<sup>th</sup> percentile value as the minimum value for risk management decisions at residential receptors.

CARB states that this will continue to give health protective estimates. See also: (<https://www.arb.ca.gov/toxics/harp/rmpolicyfaq.htm>).

Use of the 95<sup>th</sup> percentile breathing rate as recommended by the commentor is not required. CEQA does not require such absolute worst-case analyses (CEQA Guidelines Sections 15144, 15145). Note further that the U.S. EPA analytic protocols indicate 95<sup>th</sup> percentile values may be unrealistically high and not representative of the average person (Exposure Factors Handbook: 2011 Edition [EPA], p. 6-3). On this basis, the Lead Agency considers the DEIR and Project HRA to be adequate and complete – comprising a good faith effort at full disclosure of the Project potential health risk impacts. Findings and conclusions of the EIR are not affected. See also Response AQMD-6.

#### **Comment AQMD-16**

##### **1. Recommended Revisions to Existing Mitigation Measure (MM) 4.3.2**

*In the Draft EIR, the Lead Agency is committed to using Tier 4 construction equipment unless Tier 4 construction equipment is not available within 50 miles of the Proposed Project in which case the use of Tier 4 construction equipment can be exempt and Tier 3 construction equipment can be used instead<sup>22</sup>. According to the CalEEMod output files for the Proposed Project, the Lead Agency calculated the Proposed Project's mitigated construction emissions based on the use of Tier 4 Final construction equipment with no exemption provision. This is not appropriate. The Lead Agency likely over-estimated the Proposed Project's construction NOx emissions that can be mitigated by relying on emission reductions from Tier 4 Final construction equipment when the Proposed Project can be exempt from being required to use such equipment. Therefore, South Coast AQMD staff recommends that the Lead Agency remove the exemption provision from MM 4.3.2 to strengthen the mitigation requirement for off-road construction equipment as follows. Alternatively, the Lead Agency may re-calculate the Proposed Project's mitigated construction emissions based on the use of Tier 3 construction equipment in the Final EIR to be consistent with the exemption provision in MM 4.3.2.*

#### **Mitigation Measure 4.3.2**

*Construction contractors shall ensure that large off-road diesel fueled construction equipment, including but not limited to excavators, graders, rubber-tired dozers, and similar large pieces of*



*equipment be equipped with CARB Tier 4 Final Compliant engines. ~~If the operator lacks Tier 4 equipment, and Tier 4 equipment is not available for lease or short term rental within 50 miles of the project site, Tier 3 Compliant or cleaner off-road construction equipment may be utilized.~~ To ensure that Tier 4 Final construction equipment or better will be used during the Proposed Project's construction, South Coast AQMD staff recommends that the Lead Agency include this requirement in applicable bid documents, purchase orders, and contracts. Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities. A copy of each unit's certified tier specification or model year specification and CARB or South Coast AQMD operating permit (if applicable) shall be available upon request at the time of mobilization of each applicable unit of equipment. Additionally, the Lead Agency should require periodic reporting and provision of written construction documents by construction contractor(s) to ensure compliance and conduct regular inspections to the maximum extent feasible to ensure compliance.*

#### **Response AQMD-16**

Mitigation Measure 4.3.2 has been amended as suggested by AQMD (see below).

4.3.2 Construction contractors shall ensure that large off-road diesel fueled construction equipment, including but not limited to excavators, graders, rubber-tired dozers, and similar large pieces of equipment be equipped with CARB Tier 4 Compliant engines. ~~If the operator lacks Tier 4 equipment, and Tier 4 equipment is not available for lease or short term rental within 50 miles of the project site, Tier 3 Compliant or cleaner off-road construction equipment may be utilized.~~ To ensure that Tier 4 Final construction equipment or better will be used during the Proposed Project's construction, this requirement shall be included in applicable bid documents, purchase orders, and contracts. Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities. A copy of each unit's certified tier specification or model year specification and CARB or South Coast AQMD operating permit (if applicable) shall be available upon request at the time of mobilization of each applicable unit of equipment. Additionally, the

*Applicant shall report to the City, including written construction documents by construction contractor(s), documenting compliance with these requirements, which shall be subject to regular City inspections to ensure compliance.*

Findings and conclusions of the EIR are not affected. See also Response AQMD-7.

### **Comment AQMD-17**

#### **1. Additional Recommended Mitigation Measures**

*CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized to minimize or eliminate any significant adverse air quality impacts. Since the Proposed Project will result in significant and unavoidable emissions, particularly from NO<sub>x</sub> emissions at 870 lbs/day after mitigation, and to further reduce the Proposed Project's operational air quality impacts, South Coast AQMD staff recommends that the Lead Agency require the use of cleaner trucks and incorporate the following additional operational mitigation measures in the Final EIR.*

- a) Require the use of zero-emissions (ZE) or near-zero emissions (NZE) trucks during operation, such as trucks with natural gas engines that meet the CARB's adopted optional NO<sub>x</sub> emission standard of 0.02 grams per brake horsepower-hour (g/bhp-hr), if and when feasible. Include environmental analyses to evaluate and identify sufficient electricity and supportive infrastructures in the Energy and Utilities and Service Systems Sections in the Final EIR, where appropriate. Include the use of cleaner trucks as a requirement in applicable bid documents, purchase orders, contracts, and sale or leasing agreements. To monitor and ensure that cleaner trucks are used at the Proposed Project, the Lead Agency should require that operators maintain records of all trucks and equipment associated with the Proposed Project's operation and make these records available to the Lead Agency upon request. Alternatively, the Lead Agency should require periodic reporting and provision of written records by warehouse owners or operators and conduct regular inspections of the records to the maximum extent feasible and practicable.*

*Technology is transforming the transportation sector at a rapid pace. Cleaner trucks such as ZE or NZE trucks are increasingly more feasible and commercially available as technology advances. Given the state's clean truck rules and regulations aiming to accelerate the utilization and market penetration of ZE and NZE trucks such as the Advanced Clean Trucks Rule and the Heavy-Duty Low NOx Omnibus Regulation, ZE and NZE trucks will become increasingly more available to use.*

*If using ZE or NZE trucks as a mitigation measure to reduce the Proposed Project's operational air quality impacts is not feasible at the time that the Final EIR is certified or the Proposed Project is approved, cleaner trucks could become feasible in a reasonable period of time within the operational lifetime of the Proposed Project, which starts in 2026 (CEQA Guidelines Section 15364). Therefore, the Lead Agency should require a phase-in schedule to incentive the use of these cleaner operating trucks to reduce any significant adverse air quality impacts and develop a process with performance standards to deploy the lowest emission technologies and incentivize the use of ZE or NZE heavy-duty trucks during operation (CEQA Guidelines Section 15126.4(a)). The Lead Agency can and should develop the performance standards as follows or any other comparable standards in the Final EIR. South Coast AQMD staff is available to discuss the availability of current and upcoming truck technologies and incentive programs with the Lead Agency.*

- *Develop a minimum amount of ZE or NZE heavy-duty trucks that the Proposed Project must use during each year of the operation to ensure adequate progress. Include this requirement in the Proposed Project's tenant selection and operation management bid documents and business agreement.*
- *Establish a tenant/truck operator(s) selection policy that prefers tenant/truck operator(s) who can supply the use of ZE or NZE heavy-duty trucks at the Proposed Project. Include this policy in the bid documents and business agreement.*
- *Develop a target-focused and performance-based process and timeline to review the feasibility of implementing the use of ZE or NZE heavy-duty trucks during operation. Include this process and timeline in the Proposed Project's tenant selection and operation management bid documents and business agreement.*
- *Develop a project-specific process and criteria for periodically assessing progress in implementing the use of ZE or NZE heavy-duty trucks during operation. Include this*

*process and criteria in the Proposed Project's tenant selection and operation management bid documents and business agreement.*

- b) Limit the daily number of truck trips allowed at the Proposed Project to the level that was used to analyze the Proposed Project's air quality and health risk impacts in the Final EIR (e.g., 3,520 daily truck trips during operation). If it is reasonably foreseeable before the Final EIR is certified that the Proposed Project would generate more than 3,520 daily truck trips, the Lead Agency should take into account additional daily truck trips and re-evaluate the Proposed Project's air quality and health risk impacts (CEQA Guidelines Section 15088.5). If information becomes available, after the Proposed Project is approved, suggesting that the Proposed Project will generate more than 3,520 daily truck trips during operation, the Lead Agency should evaluate if a Subsequent EIR is required under CEQA Guidelines Section 15162.*

#### **Response AQMD-17**

Requiring use of zero-emissions (ZEV) heavy-duty trucks and/or near zero-emissions (NZEV) heavy-duty trucks for the Project uses is not feasible in the near-term. In this regard, ZEV and NZEV are emerging technologies, with limited or no practical applications yet available to the Project or its prospective tenants. On a commercial scale, these types of vehicles do not currently exist. Moreover, areawide infrastructure (electric power charging stations, alternative fuel sources and fueling facilities) necessary to support practical use of ZEV and NZEV heavy-duty trucks is limited or non-existent. Further, if imposed in the near-term, requirements that only ZEV/NZEV heavy-duty trucks be allowed at the site, and the fact that these types of heavy-duty trucks are for all practical purposes not available, would substantially diminish the pool of potential Project tenants, effectively negating feasibility of the Project.

Additionally, it is unknown whether heavy-duty trucks accessing the Project site would be owned and operated by the prospective tenants, or would be owned and operated by third parties. Requiring as yet-unknown tenants to commit to exclusive use of zero-emissions or near-zero emissions heavy-duty trucks is not enforceable. Similarly, it is considered infeasible to preclude access to the Project site by conventionally-powered

(diesel) heavy-duty trucks, or require that all heavy-duty trucks accessing the Project site be ZEVs or NZEVs.

Moreover, use of ZEV/NZEV heavy-duty trucks for the Project would not demonstrably reduce Basin-wide NOx emissions. That is, just because this measure would prohibit conventionally-powered (diesel) heavy-duty trucks access to the Project site, by no means would the measure preclude their operation elsewhere within the Basin. The measure would in effect direct heavy-duty diesel-powered trucks and associated emissions to numerous other warehouses at other Basin locales, with no net reduction in Basin-wide NOx emissions.

DEIR Mitigation Measure 4.3.8 (below) is amended to facilitate use of ZEV/NZEV heavy-duty trucks by the Project tenants, and monitor truck types and truck volumes accessing the Project site. Findings and conclusions of the DEIR are not affected.

*4.3.8 All diesel trucks accessing the Project shall be compliant with the CARB Truck and Bus Regulation 2010 engine emissions standards. **The City encourages Project tenant use of zero-emissions or near-zero emissions on-road heavy-duty trucks, i.e., trucks with engines that meet the CARB enhanced nitrogen oxides (NOx) emissions standard of 0.02 gram per brake horsepower-hour (g/bhp-hr).***

In addition to emissions reduction achieved via Measures 4.3.3 through 4.3.8, Transportation Demand Management (TDM) measures implemented as mitigation for transportation VMT impacts would act to generally reduce vehicle-source emissions. The efficacy of TDMs and any resulting emissions reductions would be dependent on as yet unknown building tenants and final site plan designs. Accordingly, potential emissions reductions resulting from implementation of TDMs are not quantified within the DEIR analyses.

The efficacy of mitigation enhancements proposed by AQMD and any resulting emissions reductions cannot be quantified employing CalEEMod. Accordingly, NOx



impacts and impact determinations are conservatively assumed to substantively replicate the DEIR analysis. Even with application of the above-noted measures, Project operational-source NO<sub>x</sub> emissions would exceed applicable SCAQMD thresholds, and Project operational-source NO<sub>x</sub> emissions would result in cumulatively considerable net increases of criteria pollutants (PM<sub>10</sub>, PM<sub>2.5</sub>, Ozone)<sup>6</sup> for which the Project region is non-attainment. This would remain a significant and unavoidable impact. Findings and conclusions of the DEIR are not affected. See also Response AQMD-8.

### **Comment AQMD-18**

*Design considerations for the Proposed Project that the Lead Agency should consider to further reduce air quality and health risk impacts include the following:*

- a) Design the Proposed Project such that truck entrances and exits are not facing sensitive receptors and trucks will not traversing through sensitive land uses to enter or leave the Proposed Project site.*
- b) Design the Proposed Project to ensure that truck traffic within the Proposed Project site is located as far away as feasible from sensitive receptors.*
- c) Restrict overnight parking in sensitive land uses by providing overnight parking within the Proposed Project site.*

### **Response AQMD-18**

As approved by the City, the final Project designs and Project Conditions of Approval will:

- Minimize or avoid truck entrances and exits at locations proximate to sensitive receptors.
- Minimize the potential for internal truck traffic and truck emissions to affect sensitive receptors.
- Restrict any overnight parking to designated areas within the Project site.

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<sup>6</sup> NO<sub>x</sub> is a precursor to PM<sub>10</sub>/PM<sub>2.5</sub> and Ozone.

## **Comment AQMD-19**

### **1. South Coast AQMD Rule 403(e)**

*Since the Proposed Project is a large operation of approximately 376 acres (50-acre sites or more of disturbed surface area; or daily earth-moving operations of 3,850 cubic yards or more on three days in any year) in the South Coast Air Basin, the Lead Agency is required to comply with Rule 403(e) – Additional Requirements for Large Operations<sup>26</sup>. Additional requirements may include, but are not limited to, Large Operation Notification (Form 403 N), appropriate signage, additional dust control measures, and employment of a dust control supervisor that has successfully completed the Dust Control in the South Coast Air Basin training class<sup>2</sup>. Therefore, the Lead Agency should include a discussion to demonstrate specific compliance with South Coast AQMD Rule 403(e) in the Final EIR. Compliance with South Coast Rule 403(e) will further reduce regional and localized emissions from particulate matters during construction.*

## **Response AQMD-19**

The Project is required to comply with all applicable SCAQMD Rules including, but not limited to, Rule 403(e). Rule 403(e) is presented below. Rule 403 in total can be accessed at: <https://www.aqmd.gov/home/rules-compliance/compliance/rule-403-dust-control-information>.

### **RULE 403. FUGITIVE DUST**

#### **(e) Additional Requirements for Large Operations**

**(1)** Any person who conducts or authorizes the conducting of a large operation subject to this Rule shall implement the applicable actions specified in Table 2 of this Rule at all times and shall implement the applicable actions specified in Table 3 of this Rule when the applicable performance standards cannot be met through use of Table 2 actions; and shall:

**(A)** submit a fully executed Large Operation Notification (Form 403 N) to the Executive Officer within 7 days of qualifying as a large operation;

**(B)** include, as part of the notification, the name(s), address(es), and phone number(s) of the person(s) responsible for the submittal, and a

description of the operation(s), including a map depicting the location of the site;

(C) maintain daily records to document the specific dust control actions taken, maintain such records for a period of not less than three years; and make such records available to the Executive Officer upon request;

(D) install and maintain project signage with project contact signage that meets the minimum standards of the Rule 403 Implementation Handbook, prior to initiating any earthmoving activities;

(E) identify a dust control supervisor that:

(i) is employed by or contracted with the property owner or developer;

(ii) is on the site or available on-site within 30 minutes during working hours;

(iii) has the authority to expeditiously employ sufficient dust mitigation measures to ensure compliance with all Rule requirements;

(iv) has completed the AQMD Fugitive Dust Control Class and has been issued a valid Certificate of Completion for the class; and

(F) notify the Executive Officer in writing within 30 days after the site no longer qualifies as a large operation as defined by paragraph (c)(18).

(2) Any Large Operation Notification submitted to the Executive Officer or AQMD-approved dust control plan shall be valid for a period of one year from the date of written acceptance by the Executive Officer. Any Large Operation Notification accepted pursuant to paragraph (e)(1), excluding those submitted by aggregate-related plants and cement manufacturing facilities must be resubmitted annually by the person who conducts or authorizes the conducting of a large operation, at least 30 days prior to the expiration date, or the submittal shall no longer be valid as of the expiration date. If all fugitive dust sources and corresponding control measures or special circumstances remain identical to those identified in the previously accepted submittal or in an AQMD-approved dust control plan, the resubmittal may be a simple statement of no-change (Form 403NC).

Findings and conclusions of the EIR are not affected.

## **4.0 MITIGATION MONITORING PROGRAM**

## 4.0 MITIGATION MONITORING PROGRAM

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### 4.1 INTRODUCTION

To ensure that the mitigation measures contained in this EIR are properly implemented, a mitigation monitoring program has been developed pursuant to state law. This Mitigation Monitoring Program (MMP) identifies measures incorporated in the Project which reduce its potential environmental effects; the entities responsible for implementation and monitoring of mitigation measures; and timing for implementation of mitigation measures. As described in *CEQA Guidelines* §15097, this MMP employs both reporting on, and monitoring of, Project mitigation measures.

The objectives of the MMP are to:

- Assign responsibility for, and further proper implementation of mitigation measures;
- Assign responsibility for, and provide for monitoring and reporting of compliance with mitigation measures;
- Provide the mechanism to identify areas of noncompliance and need for enforcement action before irreversible environmental damage occurs.

Mitigation monitoring and reporting procedures incorporated in the Project are presented in the following Section 4.2. Specific mitigation measures incorporated in the Project, mitigation timing, and implementation and reporting/monitoring responsibilities are presented within this Section in Table 4.2-1.



## 4.2 MITIGATION MONITORING AND REPORTING

### **Mitigation Monitoring and Responsibilities**

As the Lead Agency, the City of Ontario is responsible for ensuring full compliance with the mitigation measures adopted for the Project. The City shall monitor and report on all mitigation activities. Mitigation measures shall be implemented at different stages of development throughout the Project area. In this regard, the responsibilities for implementation have been assigned to the Lead and Responsible Agencies, Applicant or successor(s) in interest, Contractors, On-Site Monitors, or combinations thereof.

If during the course of Project implementation, any of the mitigation measures identified herein cannot be successfully implemented, the City shall be immediately informed, and the City shall then inform any affected responsible agencies. The City, in conjunction with any affected responsible agencies, shall then determine if modification to the Project is required and/or whether alternative mitigation is appropriate.

**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
<b>4.2 Transportation</b>					
<b>4.2.1</b>	The following language or similar shall be incorporated in all Project contract, construction, and property sale/lease documents: "Owners/tenants shall, to the extent practical, allow for and encourage Telecommuting and Alternative Work Schedules."	Requisite language shall be verified prior to issuance of development permit(s); prior to sale/lease execution(s) as applicable.	Applicant or successor(s) in interest, Developer(s), Owner(s), Lessor(s) as applicable.	City of Ontario: Planning Department, Building Department, Business License Department as applicable.	
<b>4.2.2</b>	The following language or similar shall be incorporated in all Project contract, construction, and property sale/lease documents: "Owners/tenants shall, to the extent practical, allow for and encourage ride-sharing programs."	Requisite language shall be verified prior to issuance of development permit(s); prior to sale/lease execution(s) as applicable.	Applicant or successor(s) in interest, Developer(s), Owner(s), Lessor(s) as applicable.	City of Ontario: Planning Department, Building Department, Business License Department as applicable.	
<b>4.2.3</b>	The Applicant or successor(s) in interest shall record a covenant of a Transportation Demand Management (TDM) program for each Project building/occupancy with 250 or more employees. The form of the covenant shall be approved by the City Attorney's Office. The covenant shall be recorded prior to issuance of Certificate of Occupancy for the subject building(s).	Recorded TDM covenant shall be verified prior to issuance of Certificate(s) of Occupancy.	Applicant or successor(s) in interest.	City of Ontario: Planning Department, Building Department.	
<b>4.2.4</b>	<p>Prior to issuance of a Certificate of Occupancy for each building/occupancy providing for 250 or more employees, each owner/tenant shall develop a use/occupant-specific TDM program. The TDM program shall be submitted to the City Planning Department and City Building Department as part of tenant improvements plan(s) documentation. At a minimum, the TDM program shall:</p> <ul style="list-style-type: none"> <li>Identify physical improvements (if any) to be implemented as part of the TDM program. The City Planning/Building Department shall verify completion of physical TDM improvements as part of the Certificate of Occupancy process.</li> <li>Identify TDM program operational strategies to be implemented. These TDM strategies may include but would not be limited to the following:</li> </ul>	Required TDM program shall be submitted to and reviewed and approved by the City Planning Department and City Building Department as part of tenant improvements plan(s) documentation.	Owner(s)/tenants as applicable.	City of Ontario: Planning Department, Building Department.	

**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
	<ul style="list-style-type: none"> <li>○ On-site services such as food, retail, and other services to be provided.</li> <li>○ Ridesharing. Develop a commuter listing of all employee members for the purpose of providing a “matching” of employees with other employees who live in the same geographic areas and who could rideshare.</li> <li>○ Vanpooling. Develop a commuter listing of all employees for the purpose of matching numbers of employees who live in geographic proximity to one another and could comprise a vanpool or participate in the existing vanpool programs.</li> <li>○ Guaranteed Ride Home Program. Develop and implement a program to provide employees who rideshare, or use transit or other means of commuting to work, with a prearranged ride home in a taxi, rental car, shuttle, or other vehicle, in the event of emergencies during the work shift.</li> <li>○ Target Reduction of Longest Commute Trip. Provide incentives for ridesharing and other alternative transportation modes to put highest priority on reduction of longest employee commute trips.</li> <li>○ Implement staggered work shifts to the extent practical.</li> <li>○ Implement telecommute programs to the extent practical.</li> <li>• Establish a TDM coordinator position. The position of TDM coordinator may be fulfilled by the building owner/lessee, an employee, or third party provider. The TDM coordinator shall: <ul style="list-style-type: none"> <li>○ Identify proposed TDM measures to be implemented and provide a list of implemented measures to the City Planning Department.</li> </ul> </li> </ul>				

**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit.  
Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
	<ul style="list-style-type: none"> <li>Inform employees of commute options and shall, as applicable, arrange rideshare or vanpool programs.</li> <li>Develop and implement a TDM monitoring program. The TDM monitoring program shall identify trip generation, trip origin(s), average vehicle ridership, and provide an estimate of VMT/employee. The results of the survey shall be submitted annually to the City Planning Department.</li> </ul> <p>Based on the results of the TDM monitoring program, provide TDM modification recommendations to the City and affected owners/tenants. Additional/alternative VMT reduction measures that would act to reduce Project VMT levels and that are mutually agreed to by the City and owners/tenants shall be implemented.</p>				
<b>4.3 Air Quality</b>					
<b>4.3.1</b>	The Project shall utilize “Super-Compliant” low VOC paints which have been reformulated to exceed the regulatory VOC limits put forth by SCAQMD’s Rule 1113. Super-Compliant low VOC paints shall be no more than 10g/L of VOC. Alternatively, the Applicant or successor(s) in interest may utilize tilt-up concrete buildings that do not require the use of architectural coatings.	Language specifying required use of “Super-Compliant” low VOC paints shall be verified prior to issuance of development permit(s).	Contractor(s)/ developer(s).	City of Ontario: Planning Department, Building Department.	
<b>4.3.2</b>	4.3.2 Construction contractors shall ensure that large off-road diesel fueled construction equipment, including but not limited to excavators, graders, rubber-tired dozers, and similar large pieces of equipment be equipped with CARB Tier 4 Compliant engines. <del>If the operator lacks Tier 4 equipment, and Tier 4 equipment is not available for lease or short term rental within 50 miles of the project site, Tier 3 Compliant or cleaner off road construction equipment may be utilized. To ensure that Tier 4 Final construction equipment or better will be used during the Proposed</del>	Language specifying required use of Tier 4 Final construction equipment or better shall be verified prior to issuance of development permit(s).	Contractor(s)/ developer(s).	City of Ontario: Planning Department, Building Department.	

**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit.  
Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
	<u>Project's construction, this requirement shall be included in applicable bid documents, purchase orders, and contracts. Successful contractor(s) must demonstrate the ability to supply the compliant construction equipment for use prior to any ground disturbing and construction activities. A copy of each unit's certified tier specification or model year specification and CARB or South Coast AQMD operating permit (if applicable) shall be available upon request at the time of mobilization of each applicable unit of equipment. Additionally, the Applicant shall report to the City, including written construction documents by construction contractor(s), documenting compliance with these requirements, which shall be subject to regular City inspections to ensure compliance.</u>				
4.3.3	Legible, durable, weather-proof signs shall be placed at truck access gates, loading docks, and truck parking areas that identify applicable California Air Resources Board (CARB) anti-idling regulations. At a minimum, each sign shall include: 1) instructions for truck drivers to shut off engines when not in use; 2) instructions for drivers of diesel trucks to restrict idling to no more than five (5) minutes once the vehicle is stopped, the transmission is set to "neutral" or "park," and the parking brake is engaged; and 3) telephone numbers of the building facilities manager and the CARB to report violations. Prior to the issuance of an occupancy permit, the City shall conduct a site inspection to ensure that the signs are in place.	Site inspection(s) verifying required signage shall be conducted periodically throughout Project development activities.	Contractor(s)/ developers(s)	City of Ontario: Building Department.	
4.3.4	Prior to tenant occupancy, the Project Applicant or successor(s) in interest shall provide documentation to the City demonstrating that occupants/tenants of the Project site have been provided documentation on funding opportunities, such as the Carl Moyer Program, that provide	Verification that notice of available funding opportunities/incentives has been provided shall be verified prior to issuance of Certificate(s) of Occupancy.	Applicant or successor(s) in interest.	City of Ontario: Building Department, Planning Department.	



**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit.  
Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
	<i>incentives for using cleaner-than-required engines and equipment.</i>				
<b>4.3.5</b>	<i>The minimum number of automobile electric vehicle (EV) charging stations required by the California Code of Regulations (CCR) Title 24 shall be provided. As agreed to by the Applicant or successor(s) in interest and Lead Agency, final designs of Project buildings shall include electrical infrastructure sufficiently sized to accommodate the potential installation of additional auto and truck EV charging stations.</i>	Construction plans and as built facilities shall include required EV charging electrical infrastructure. Plan requirements shall be verified prior to issuance of development permit(s). Constructed EV charging electrical infrastructure shall be verified prior to issuance of Certificate(s) of Occupancy.	Contractor(s)/ developer(s).	City of Ontario: Planning Department, Building Department.	
<b>4.3.6</b>	<i>As agreed to by the Applicant or successor(s) in interest and Lead Agency, final Project designs shall provide for installation of conduit in tractor trailer parking areas for the purpose of accommodating potential installation of EV truck charging stations.</i>	Construction plans and as built facilities shall include required EV charging electrical infrastructure. Plan requirements shall be verified prior to issuance of development permit(s). Constructed EV charging electrical infrastructure shall be verified prior to issuance of Certificate(s) of Occupancy.	Contractor(s)/ developer(s).	City of Ontario: Planning Department, Building Department.	
<b>4.3.7</b>	<i>Where transport refrigeration units (TRUs) are in use, electrical hookups shall be installed in order to allow TRUs to use electric standby capabilities.</i>	Construction plans and as built facilities shall include required TRU electrical hookups. Plan requirements shall be verified prior to issuance of development permit(s). Constructed EV charging electrical infrastructure shall be verified prior to issuance of Certificate(s) of Occupancy.	Contractor(s)/ developer(s).	City of Ontario: Planning Department, Building Department.	
<b>4.3.8</b>	<i>4.3.8 All diesel trucks accessing the Project shall be compliant with the CARB Truck and Bus Regulation 2010 engine emissions standards. <u>The City encourages Project tenant use of zero-emissions or near-zero emissions on-road heavy-duty trucks, i.e., trucks with engines that meet the CARB enhanced nitrogen oxides (NOx) emissions standard of 0.02 gram per brake horsepower-hour (g/bhp-hr).</u></i>	Tenant record keeping of heavy-duty truck access shall be on-going over the life of the Project.	Tenants.	City of Ontario: Planning Department.	

**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
<u>4.3.9</u>	<u>All on-site yard trucks/hostlers shall be zero-emissions equipment. This requirement or equivalent language shall be incorporated in all Project facility lease documents. Prior to issuance of a Business License, facility owners or tenants shall provide documentation to the City of Ontario Planning Department and Business License Department verifying signed lease documents incorporating the requirement that all on-site yard trucks/hostlers shall be zero-emissions equipment.</u>	Language specifying required use of zero-emissions equipment shall be verified prior to issuance of Business License(s).	Owner(s), lessors.	City of Ontario: Planning Department, Business License Department.	
<b>4.4 Greenhouse Gas Emissions</b>					
<b>4.4.1</b>	Project development proposals with building permit applications on file with the City prior to approval and adoption of updates to the December 16, 2014 CAP shall implement Screening Table Measures that achieve at least 100 points per the Screening Tables. The City shall verify that Screening Table Measures achieving the 100-point performance standard are incorporated in development plans prior to the issuance of building permit(s) and/or site plans (as applicable). The City shall verify implementation of the selected Screening Table Measures prior to the issuance of Certificate(s) of Occupancy. At the discretion of the City, measures that provide GHG reductions equivalent to GHG emissions reductions achieved via the Screening Table Measures may be implemented. Multiple development proposals may, at the discretion of the City, be allowed to collectively demonstrate achievement of at least 100 points per the Screening Tables.	Verification of CAP Screening Table Measures achieving the CAP 100-point performance standard shall be verified prior to the issuance of building permit(s) and/or site plans (as applicable). Implemented Screening Table Measures shall be verified prior to issuance of Certificate(s) of Occupancy.	Contractor(s)/ developer(s).	City of Ontario: Planning Department, Building Department.	
<b>4.4.2</b>	Project development proposals with building permit applications on file with the City subsequent to approval and adoption of updates to the December 16, 2014 CAP shall comply with performance standards and GHG emissions reduction targets of the incumbent CAP. The City shall verify incorporation of measures that would achieve performance standards and GHG emissions reduction	Verification of incumbent CAP performance standards shall be verified prior to the issuance of building permit(s) and/or site plans (as applicable). Implemented incumbent CAP provisions shall be verified prior to issuance of Certificate(s) of Occupancy.	Contractor(s)/ developer(s).	City of Ontario: Planning Department, Building Department.	

**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
	targets of the incumbent CAP prior to the issuance of building permit(s) and/or site plans (as applicable). The City shall verify implementation of applicable CAP provisions prior to the issuance of Certificate(s) of Occupancy. Multiple development proposals may, at the discretion of the City, be allowed to collectively demonstrate consistency with applicable provisions of the incumbent CAP.				
<b>4.5 Noise</b>					
<b>4.5.1</b>	Provide a minimum 150-foot buffer distance between large construction equipment (e.g. dozers, graders, scrapers, etc.) and receiver locations R3, R4, R7 and R8, if residences at these locations are occupied and actively used at the time Project demolition and/or grading activities occur.	Site inspection(s) verifying construction equipment staging locations shall be on-going throughout Project development.	Contractor(s)/ developer(s).	City of Ontario: Building Department.	
<b>4.5.2</b>	<p>If a 150-foot buffer is not achievable, install temporary noise control barriers that provide a minimum noise level attenuation of 10.0 dBA when Project demolition or grading activities occur within 150 feet of existing residential structures, or other off-site sensitive land uses that are occupied and actively utilized. General noise control barrier design parameters are presented below, though any solution(s) providing the required 5.0 dBA noise attenuation is/are acceptable.</p> <ul style="list-style-type: none"> <li>The noise control barrier should present a generally solid face from top to bottom. Unnecessary openings should not be made.</li> <li>The noise control barrier shall be maintained and any damage in the barrier or openings between the barrier and the ground shall be promptly repaired.</li> <li>The noise control barrier(s) and associated elements shall be removed and affected portion(s) of the site restored at the conclusion of grading/demolition activities.</li> </ul>	Site inspection(s) verifying installation of temporary noise control barriers shall be on-going throughout Project development.	Contractor(s)/ developer(s).	City of Ontario: Building Department.	
<b>4.5.3</b>	Alternatively, the Applicant or successor(s) in interest may employ construction equipment and construction techniques	Site inspection(s) verifying implementation of and effectiveness of	Contractor(s)/ developer(s).	City of Ontario: Building Department.	

**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
	that would demonstrably ensure that noise levels at potentially affected sensitive receptors would not exceed 65 dBA. A combination of noise-receptor separation, noise barriers and use of noise reducing construction equipment and construction techniques may be employed provided that noise levels at potentially affected receptors does not exceed 65 dBA.	combined construction-source noise reduction measure shall be on-going throughout Project development.			
4.5.4	Off-site infrastructure improvement plans and construction documents shall include a note indicating that noise-generating Project construction activities shall only occur between the hours of 7:00 a.m. to 6:00 p.m. any weekday, or on Saturday or Sunday from 9:00 a.m. to 6:00 p.m. (City of Ontario Municipal Code, Section 5-29.09).	Language specifying construction hours restrictions shall be verified prior to issuance of development permit(s).	Contractor(s)/ developers.	City of Ontario: Planning Department, Building Department.	
4.5.5	Construction contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufacturers' standards. Construction contractors shall place all stationary construction equipment so that emitted noise is directed away from the nearest noise sensitive receivers.	Site inspection(s) verifying proper operation and maintenance of construction equipment and appropriate construction equipment staging locations/orientations shall be on-going throughout Project development.	Contractor(s)/ developer(s).	City of Ontario: Building Department.	
4.5.6	Construction contractors shall locate equipment staging in areas that shall create the greatest distance between construction-related noise sources and noise-sensitive receivers.	Site inspection(s) verifying appropriate construction equipment staging locations/orientations shall be on-going throughout Project development.	Contractor(s)/ developer(s).	City of Ontario: Building Department.	
4.5.7	Construction contractors shall limit haul truck deliveries to the same hours specified for construction equipment (between the hours of 7:00 a.m. to 6:00 p.m. any weekday, or on Saturday or Sunday from 9:00 a.m. to 6:00 p.m.). Contractors shall design delivery routes to minimize the exposure of sensitive land uses or residential dwellings to delivery truck-related noise.	Site inspections verifying compliance with haul-truck hours and routing restrictions shall be on-going throughout Project development.	Contractor(s)/ developer(s).	City of Ontario: Building Department.	
4.5.8	Cold storage loading dock activities and distribution/warehouse facilities shall be designed so that truck bays and loading docks are a minimum of 300 feet away from the property line of sensitive receivers, measured from the dock building door. This distance may be reduced if	Required loading dock distribution/warehouse facilities designs and orientations shall be verified prior to issuance of development permits. Implemented	Contractor(s)/ developer(s).	City of Ontario: Planning Department, Building Department.	

**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
	<i>the site design includes berms or other similar features to appropriately shield and buffer the sensitive receivers from the active truck operations areas.</i>	designs shall be verified prior to issuance of Certificate(s) of Occupancy.			
<b>4.5.9</b>	<i>Cold storage loading dock activities and distribution/warehouse facilities shall be designed to provide adequate on-site parking for commercial trucks and passenger vehicles and on-site queuing for trucks that is away from sensitive receivers. The general queuing and spill-over of trucks onto surrounding public streets shall be prevented. Commercial trucks shall not be parked in the public road right-of-way or nearby residential areas.</i>	Required loading dock distribution/warehouse facilities designs and orientations shall be verified prior to issuance of development permits. Implemented designs shall be verified prior to issuance of Certificate(s) of Occupancy.	Contractor(s)/ developer(s).	City of Ontario: Planning Department, Building Department.	
<b>4.5.10</b>	<i>All Project PA systems shall be oriented to direct sound away from sensitive receivers. PA volumes shall be set such that received noise levels are not readily audible past the property line.</i>	Required PA systems designs and orientations shall be verified prior to issuance of development permits. Implemented designs shall be verified prior to issuance of Certificate(s) of Occupancy.	Contractor(s)/ developer(s).	City of Ontario: Planning Department, Building Department.	
<b>4.5.11</b>	<i>Individual development proposals within the Project site shall demonstrate to the satisfaction of the Lead Agency that noise impacts generated by such proposals would not exceed or be substantially different than noise impacts considered and addressed in the Project Noise Impact Analysis.</i>	Development-specific noise impact consistency analysis shall be submitted to, and reviewed and approved by the City prior issuance of development permit application(s).	Contractor(s)/ developer(s).	City of Ontario: Planning Department, Building Department.	
<b>4.6 Hazards/Hazardous Materials</b>					
<b>4.6.1</b>	<i>Soil Management Plan(s) Required. Prior to commencement of site disturbance activities, the Applicant or successor(s) in interest shall retain a qualified professional to prepare a Soil Management Plan. The Soil Management Plan shall address the Specific Plan Area proper as well as areas potentially affected by construction of off-site infrastructure. The Soil Management Plan shall include a Health and Safety Plan (HASP), soil excavation monitoring protocols, and measures to monitor and control vapors and dust. The Applicant or successor(s) in interest shall submit the Soil Management Plan to the California Department of Toxic Substances (DTSC) for review and approval. The City shall</i>	Soil Management Plan(s) shall be submitted to, and reviewed and approved by the City prior to issuance of grading permits.	Applicant or successor(s) in interest.	City of Ontario: Planning Department, Building Department.  California Department of Toxic Substances (DTSC).	



**Table 4.2-1: Mitigation Monitoring Program**

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	not authorize any activity at the Project site that has the potential to disturb soil until DTSC has approved the Soil Management Plan and all necessary permits have been obtained. Should contaminated soils be encountered as part of Project development, the protocols identified within the Soil Management Plan(s) shall be followed in regard to monitoring, handling, disposal, and reporting of management activities to the California Department of Toxic Substance Control, Regional Water Quality Control Board, and/or South Coast Air Quality Management District (including copies of all daily field logs containing SCAQMD Rule 1166 monitoring results), as required. Copies of all submitted reports and responses from responsible agencies shall be provided to the City of Ontario.				
<b>4.6.2</b>	On-Site Environmental Manager Required. The Applicant or successor(s) in interest shall retain a qualified Environmental Manager who shall be on-site during all site disturbance activities. The Environmental Manager shall ensure implementation of the Soil Management Plan required under Mitigation Measure 4.6.1. The Environmental Manager shall also be responsible for monitoring of site disturbance activities to include identification of potentially contaminated media. The Environmental Manager shall have the responsibility and authority to halt on-site activities should any contaminated media or potentially contaminated media be encountered during site disturbing activities. Any contaminated media or potentially contaminated media identified by the Environmental Manager shall be excavated, handled, inventoried, stockpiled, and disposed of in accordance with the approved Soil Management Plan and consistent with all applicable provisions of local, state, and federal laws and regulations.	Environmental Manager shall be retained prior to issuance of development permits. Environmental Manager shall be present on-site during all site disturbance activities.	Applicant or successor(s) in interest, Environmental Manager, contractor(s), developer(s).	City of Ontario: Planning Department, Building Department.	
<b>4.6.3</b>	Consistent with the City of Ontario requirements, prior to the issuance of building permits, all lots in potential methane areas shall be tested for the presence of methane and its	To the satisfaction of the City, testing for methane presence shall be completed prior to issuance of building permits.	Contractor(s)/ developer(s).	City of Ontario: Planning Department, Building Department.	

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	concentration 30 days after building pads are graded and created. Measures set forth by the Ontario Methane Design Guidelines shall be implemented to the satisfaction of the City Building Department.				
4.6.4	Prior to the issuance of grading permits, a subsurface investigation shall be completed to assess the presence or absence of soil contaminants due to the sites past agricultural use, and current dairy farming uses.	To the satisfaction of the City, testing for soils contaminants shall be completed prior to issuance of grading permits.	Contractor(s)/ developer(s).	City of Ontario: Planning Department, Building Department.	
4.6.5	Prior to the issuance of grading permits, the Project Applicant or successor(s) in interest shall demonstrate to the satisfaction of the City that Soil Management Plan(s) have been developed for the site and areas potentially affected by construction of off-site infrastructure. Grading plans shall include a copy of the Soil Management Plan(s).	Soil Management Plan(s) shall be submitted to, and reviewed and approved by the City prior to issuance of grading permits.	Applicant or successor(s) in interest.	City of Ontario: Planning Department, Building Department.	
4.6.6	Prior to the issuance of grading permits, any existing debris shall be removed. All debris, including soils that evidence surficial staining, shall be disposed of off-site, consistent with the protocols of the Soil Management Plan(s).	Site debris shall be removed consistent with the approved Soil Management Plan(s) protocols prior to issuance of grading permits.	Contractor(s)/ developer(s).	City of Ontario: Planning Department, Building Department.	
4.6.7	Prior to any relocation, demolition, or destructive renovation activities involving the on-site structures, the Applicant or successor(s) in interest shall submit documentation to the City that ACMs and LBP issues are not applicable to Project. Negative ACM/LBP findings shall be documented in Site/Structure Survey Report (Report) prepared by the Environmental Manager or qualified assignee. The Report shall be submitted to and approved by the City prior to the issuance of applicable relocation, demolition, renovation and/or site disturbing permit(s). If results of the Report indicate presence of ACMs and/or LBP, an action plan shall be implemented in accordance with all appropriate regulatory agency guidelines to abate any issues. Please refer to Mitigation Measure 4.6.8.	Site/Structure Survey Report (Report) documenting absence of ACMs and LBP issues shall be submitted to, and reviewed and approved by the City prior to issuance of any permits for any relocation, demolition, or destructive renovation activities involving on-site structures.  If the Report identifies presence of ACMs and/or LBP, an Action Plan addressing ACM/LBP issues shall be implemented as required under Mitigation Measure 4.6.8.	Applicant or successor(s) in interest	City of Ontario: Planning Department, Building Department.	
4.6.8	Any confirmed and suspected ACMs or LBP shall be handled and disposed of by licensed contractors in accordance with all appropriate regulatory agency guidelines. Abatement, containment and disposal of any	See Remarks at Mitigation Measure 4.6.7.	Contractor(s), developer(s).	City of Ontario: Planning Department, Building Department.	

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	ACMs encountered shall comply with SCAQMD Rule 1403. The removal and disposal of lead-based paint material shall be implemented in accordance with California Code of Regulations, Title 8 Section 1532.1, the Code of Federal Regulations (Title 40, Part 745, and Title 29, Part 1926), the EPA's Lead Renovation, Repair and Painting Program Rules and Residential Lead-Based Paint Disclosure Program, and sections 402/404 and 403, and Title IV of the Toxic Substances Control Act (TSCA).				
4.6.9	<p>For the duration of off-site Project ground-disturbing activities:</p> <ul style="list-style-type: none"> <li>Stained or odorous soil encountered during ground-disturbing activities shall be removed, stockpiled, and transported for disposal in accordance with local, state, and federal regulations. Soil samples shall be collected from the resulting excavation(s) to verify complete removal of any impacted soil.</li> <li>During soils/debris removal operations, a Project Environmental Professional (Environmental Professional) shall be retained and shall be available to identify and address other issues that may arise in the course Project development. As determined necessary by the Environmental Professional, additional measures shall be employed to minimize effects of any encountered hazards. Documentation of the measures employed and resulting conditions after their application shall be documented and submitted to the Lead Agency.</li> <li>Contractors and the Environmental Professional shall maintain ongoing observation and assessment of areas of possible contamination. Such areas would include but not be limited to: the presence of unexpected underground facilities, buried debris, stained soil or odorous soils. Should such materials be encountered, the Environmental Professional in</li> </ul>	Soil Management Plan(s) measures shall be on-going during off-site ground-disturbing activities.	Contractor(s), developer(s), Environmental Professional.	City of Ontario: Planning Department, Building Department.	

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	<i>consultation with the Lead Agency shall determine the scope of investigation, analysis, and remediation warranted.</i>				
<b>4.6.10</b>	<i>Prior to Final Project Plan approvals (including but not limited to: Site Plans, Building Plans, Landscape Plans, Utility Plans, and Roadway Plans), the Applicant or successor(s) in interest shall document compliance with applicable provisions of the City of Ontario Chino Airport Compatibility Plan and correlating provisions of the Merrill Commerce Center Specific Plan. Overflight Deed Notices shall be provided for any properties identified in the Compatibility Plan as subject routine aircraft overflight(s).</i>	Documented consistency with applicable provisions of the City of Ontario Chino Airport Compatibility Plan and correlating provisions of the Merrill Commerce Center Specific Plan. shall be submitted to, and reviewed and approved by the City, prior to Final Project Plan Approvals (Site Plans, Building Plans, Landscape Plans, Utility Plans, and Roadway Plans). Overflight Deed Notices shall be submitted to, and reviewed and approved by the City, prior to Final Project Plan Approvals (Site Plans, Building Plans, Landscape Plans, Utility Plans, and Roadway Plans)	Applicant or successor(s) in interest	City of Ontario: Planning Department, Building Department.	
<b>4.8 Biological Resources</b>					
<b>4.8.1</b>	<del><i>A qualified biologist shall conduct a pre-construction presence/absence survey for burrowing owls within 14 days prior to site disturbance. If the species is absent, no additional mitigation is required. If burrowing owl(s) is (are) detected within the Project's disturbance footprint located within the City of Chino Preserve Resource Management Plan (RMP) boundary, the owl(s) are required to be handled as indicated by the RMP: Prior to disturbance of occupied burrows (if any), suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within the City of Chino designated relocation area (e.g., the NTS basins). A qualified biologist through coordination with the City shall confirm that the artificial burrows are currently unoccupied and suitable for use by owls. Until suitable replacement burrows have been provided/confirmed within the designated relocation area</i></del>				

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	<p><i>(e.g., the NTS basins), no disturbance shall occur within 50 meters (approximately 160 feet) of occupied burrows during the nonbreeding season (September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31). Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.</i></p> <p><i>If burrowing owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be excluded from the site following the 2012 CDFG Staff Report and Table 4-6 of the RMP.</i></p> <p><i>Pursuant to mitigation measure B-3(8) of The Preserve EIR, and as noted on Page 4-39 of the RMP, the Project shall pay the required mitigation fee prior to initiation of ground disturbing activities.</i></p>				
<b>4.8.2</b>	<p><i>If burrowing owl(s) is (are) detected within the Project's proposed disturbance footprint outside of the RMP boundary:</i></p> <p><i>Prior to disturbance of the occupied burrows, suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within designated off-site conserved lands to be identified through coordination with CDFW and the City in which the burrowing owl(s) is(are) detected (either the City of Ontario or the City of Chino). A qualified biologist shall confirm that the artificial burrows are currently unoccupied and suitable for use by owls.</i></p> <p><i>Until suitable replacement burrows have been provided/confirmed within the off-site conserved lands to be identified through coordination with CDFW and the City of Ontario or the City of Chino, no disturbance shall occur within 50 meters (approximately 160 feet) of occupied</i></p>				



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	<p><i>burrows during the nonbreeding season (September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31).</i></p> <p><i>Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.</i></p> <p><i>If burrowing owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be relocated from the site following the 2012 [CDFW] Staff Report.</i></p>				
<b>The following mitigation measures shall apply as the appropriate mechanism to reduce potential Project impacts to burrowing owls to levels that would be less-than-significant:</b>					
<b>4.8.1</b>	<u><i>A qualified biologist shall conduct a pre-construction presence/absence survey for burrowing owls within 14 days prior to site disturbance. If the species is absent, no additional mitigation shall be required.</i></u>	Pre-construction presence/absence surveys for burrowing owls shall be completed within 14 days prior to site disturbing activities. The surveys shall be submitted to, and reviewed and approved by the City prior to site disturbing activities.	Applicant or successor(s) in interest, Project Biologist.	City of Ontario: Planning Department, Building Department.	
<b>4.8.2</b>	<p><u><i>If burrowing owl(s) is(are) detected within any location within the Project's proposed disturbance footprint:</i></u></p> <ul style="list-style-type: none"> <li><u><i>Prior to disturbance of the occupied burrows, suitable and unoccupied replacement burrows shall be provided at a ratio of 2:1 within designated off-site conserved lands to be identified through coordination with CDFW and the City in which the burrowing owl(s) is(are) detected (either the City of Ontario or the City of Chino). A qualified biologist shall confirm that the replacement burrows are currently unoccupied and suitable for use by owls.</i></u></li> </ul>	Burrowing owl mitigation (if any required) shall be on-going throughout site disturbing activities.	Applicant or successor(s) in interest, Project Biologist.	<p>City of Ontario: Planning Department, Building Department.</p> <p>California Department of Fish and Wildlife.</p>	

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	<p><u>Suitable replacement burrows are defined as naturally occurring small mammal burrows (such as those of California ground squirrel [Otospermophilus beecheyii]) with a burrow entrance of three inches in diameter or greater; or artificially constructed burrows meeting the specifications as described in the California Department of Fish and Game (CDFG) 1995 Staff Report on Burrowing Owl Mitigation (CDFG 1995) and/or Users Guide to Installation of Artificial Burrows for Burrowing Owls (Johnson et Al. 2010).</u></p> <p><u>• Until suitable replacement burrows as defined above have been provided/confirmed within the off-site conserved lands to be identified through coordination with CDFW and the City of Ontario or the City of Chino, no disturbance shall occur within 50 meters (approximately 160 feet) of occupied burrows during the nonbreeding season (September 1 through January 31) or within 75 meters (approximately 250 feet) during the breeding season (February 1 through August 31).</u></p> <p><u>• Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg-laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.</u></p>				
	<p><u>• If burrowing owls are present at the time that the occupied burrows are to be disturbed, then the owls shall be excluded from the site following the 2012 CDFG Staff Report.</u></p>				
4.8.3	Vegetation clearing should be conducted outside of the nesting season (February 1 through August 31) to avoid	If site disturbance is proposed within the timeframe February 1 – August 31, a	Contractor(s), developer(s), Project Biologist.	City of Ontario:	

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	<i>impacts to nesting birds, including raptors. If avoidance of the nesting season is not feasible, then a qualified biologist shall conduct a nesting bird survey within three days prior to any disturbance of the site, including diskings, demolition activities, and grading. If active nests are identified, the biologist shall establish suitable buffers around the nests (generally a minimum of 200 feet up to 500 feet for raptors and a minimum of 50 feet up to 300 feet for passerine species, with specific buffer widths to be determined by a qualified biologist), and the buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests.</i>	nesting bird survey shall be completed within three days of the proposed site disturbing activities. The survey shall be submitted to, and reviewed and approved by the City prior to site disturbing activities.  If survey results are negative, no further action is required.  If active nests are encountered, MM 4.8.3 protection/buffer/monitoring measures shall be implemented for the duration of activities in the vicinity of potentially affected nests.		Planning Department, Building Department.	
<b>4.8.4</b>	<i>For large ornamental trees suitable for bat roosting/nursery, exit counts and acoustic surveys shall be performed prior to initial ground disturbance and vegetation removal to determine whether the Project footprint and a 300-foot buffer supports a nursery or roost, and by which species. This survey work shall occur between late-spring and late summer and/or in the fall (generally mid-March through late October).</i>  <i>If the results of the bat survey finds a single roosting individual of a special-status bat species or a total of a 25 or more individuals of non-special-status bat species with potential to be present in the Study area (i.e., western Mastiff bat, big free-tailed bat, pallid bat, western red bat, and western yellow bat), a Bat Management Plan (Plan) shall be developed to ensure mortality to bats does not occur.</i>  <i>For each location confirmed to be occupied by bats, the Plan shall provide details both in text and graphically where exclusion devices and/or staged tree removal will need to occur, the timing for exclusion work, and the timeline and</i>	For large ornamental trees suitable for bat roosting/nursery, MM 4.8.4 Bat Survey requirements shall be completed prior to initiation ground disturbance and vegetation removal within 300-feet of the subject tree(s). The Bat Survey shall be submitted to, and reviewed and approved by the City prior to initiation ground disturbance and vegetation removal within 300-feet of the subject tree(s).  If survey results are negative, no further action is required.  If survey results are positive, a Bat Management Plan shall be developed and implemented per MM 4.8.4 requirements and protocols.	Applicant or successor(s) in interest, Project Biologist.	City of Ontario: Planning Department, Building Department  California Department of Fish and Wildlife.	

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	<p>methodology needed to exclude the bats. Preliminary Plan components and performance standards are outlined below: To avoid the direct loss of bats that could result from removal of trees that may provide maternity roost habitat (e.g., in cavities or under loose bark), the following steps should be taken:</p> <p>1) If trees and/or structures must be removed or disturbed as part of Project activities, a qualified bat specialist should conduct surveys to identify use of habitat by any bat species. Focused surveys using electronic detection should be used to identify general bat use and any special status bat species using any habitat proposed for removal or disturbance;</p> <p>2) Maternity season lasts from March 1 to September 30. Trees and/or structures should not be removed until the end of the maternity season;</p> <p>3) If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year, it is preferable to push any tree down using heavy machinery rather than felling it with a chainsaw. In order to ensure the optimum warning for any roosting bats that may still be present, the tree should be pushed lightly two to three times, with a pause of approximately 30 seconds between each nudge to allow bats to become active. The tree should then be pushed to the ground slowly and should remain in place overnight and until it is inspected by a bat specialist. Trees that are suspected to be bat roosts should not be sawed up or mulched immediately. A period of at least 24 hours, and preferably 48 hours, should elapse prior to such operations to allow bats to escape. Bats should be allowed to escape prior to demolition of buildings. This may be accomplished by placing one way exclusionary devices into areas where bats are entering a building that allow bats to exit but not enter the building;</p>				

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	<p>4) The bat specialist should document all demolition monitoring activities, and prepare a summary report to the Lead Agency upon completion of tree disturbance and/or building demolition activities. CDFW requests copies of any reports prepared related to bat surveys (e.g., monitoring, demolition);</p> <p>5) If confirmed occupied or formerly occupied bat roosting and foraging habitat is destroyed, habitat of comparable size and quality should be preserved and maintained at a nearby suitable undisturbed area. The bat habitat mitigation shall be determined by the bat specialist in consultation with CDFW;</p> <p>6) A monitoring plan should be prepared and submitted to the Lead Agency. The monitoring plan should describe proposed mitigation habitat, and include performance standards for the use of replacement roosts by the displaced species, as well as provisions to prevent harassment, predation, and disease of relocated bats; and,</p> <p>7) Annual reports detailing the success of roost replacement and bat relocation should be prepared and submitted to Lead Agency and CDFW for five years following relocation or until performance standards are met, whichever period is longer.</p> <p>The Plan shall be reviewed and approved by CDFW prior to disturbance of any roost(s).</p>				
4.8.5	Prior to the issuance of any grading permits and prior to any physical disturbance of any possible jurisdictional areas, the Project Applicant or successor(s) in interest shall purchase credits from an approved mitigation bank/in-lieu fee program at a minimum of a 1:1 ratio, for a minimum of 4.15 acres (inclusive of the 2.14 acres of non-wetland Waters of	Jurisdictional Areas impact mitigation per MM 4.8.5 shall be completed prior to issuance any grading permits and prior to any physical disturbance of any possible jurisdictional areas.	Applicant or successor(s) in interest, Project Biologist.	City of Ontario: Planning Department, Building Department  California Department of Fish and Wildlife.	



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	<p>the US) of mitigation credits, or a number of mitigation credits equal to Project impacts based on final Project design during aquatic permitting.</p> <p>If an approved mitigation bank/in-lieu fee program cannot be identified to mitigate the loss of Corps, Regional Board, and CDFW jurisdiction, the Project Applicant or successor(s) in interest shall enhance, re-establish, or establish Corps, Regional Board, and CDFW jurisdictional areas on off-site conserved lands at a minimum of a 1:1 ratio, for a minimum of 4.15 acres (inclusive of the 2.14 acres of non-wetland Waters of the US) of enhancement, re-establishment, or establishment, or a number acres equal to Project impacts based on final Project design during aquatic permitting. Conservation and compensation shall conform to Conservation and Mitigation Banking Guidelines (CDFW) July 2019, to include applicable interagency (e.g., Corps, Regional Board, and USFWS) measures. See also: <a href="https://wildlife.ca.gov/Conservation/Planning/Banking/Guidelines">https://wildlife.ca.gov/Conservation/Planning/Banking/Guidelines</a>.</p> <p>Compensatory mitigation shall be coordinated with CWA 401 and 404 permitting and CDFW 1602 Streambed Alteration Agreement acquisition to ensure efficiency and efficacy of the mitigation effort.</p>				
<b>4.8.6</b>	<p><u>Within the breeding season (May-July) prior to the onset of construction activities, a qualified biologist shall conduct pre-construction visual surveys, following U.S. Geological Survey visual survey protocol, for western pond turtles within all areas of any suitable aquatic habitat for this species (retention ponds). If Western pond turtles are observed during the pre-construction survey, the Applicant shall prepare for CDFW review and approval, a translocation plan identifying proposed protocol for trapping and</u></p>	<p>Pre-construction visual surveys for western pond turtles shall be completed within the breeding season (May-July) prior to the onset of construction activities.</p> <p>If survey results are negative, no further action is required.</p>	Applicant or successor(s) in interest, Project Biologist.	<p>City of Ontario: Planning Department, Building Department.</p> <p>California Department of Fish and Wildlife.</p>	

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	<p><u>relocating turtles, including identifying potential appropriate receiver sites to relocate western pond turtles. If no western pond turtles are observed during the pre-construction survey, then construction activities may begin. If construction is delayed or halted for more than 30 days, another pre-construction survey for western pond turtle shall be conducted. Within seven days of the pre-construction survey, a report of findings from the survey shall be submitted to the CDFW.</u></p> <p><u>During construction, a qualified biological monitor who has been approved by the CDFW to relocate western pond turtles shall be onsite to ensure that no western pond turtles are harmed. If western pond turtles are observed in the construction area at any time during construction, the onsite biological monitor shall be notified and construction in the vicinity of the sighting shall be halted until such a time as a turtle has been removed from the construction zone, and relocated by an approved biologist. If a sighting occurs during construction, the biologist shall prepare a report of the event and submit it to CDFW.</u></p>	If survey results are positive, MM 4.8.6 measures shall be implemented for the duration of activities in the vicinity of potentially affected western pond turtles.			
<u>4.8.7</u>	<p><u>Prior to initiation of ground-disturbing activities, including demolition, a pre-disturbance survey for tricolored blackbirds shall be conducted by a qualified biologist. The survey area shall encompass all habitat within the Project site and a 500-foot buffer supporting suitable foraging opportunities for blackbird species on the date that these activities will initiate.</u></p> <ul style="list-style-type: none"> <li><u>If tricolored blackbirds are observed foraging, all Project-related construction activities shall avoid that portion of the Project site containing foraging</u></li> </ul>	<p>Pre-construction presence/absence surveys for tricolored blackbirds shall be completed prior to site disturbing activities. The surveys shall be submitted to, and reviewed and approved by the City prior to site disturbing activities.</p> <p>If survey results are negative, no further action is required.</p>	Applicant or successor(s) in interest, Project Biologist.	City of Ontario: Planning Department, Building Department.	

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**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
	<p><u>tricolored blackbirds, along with a 500-foot avoidance buffer, until the tricolored blackbirds have concluded their foraging activities and vacated the Project site on their own accord. The qualified biologist shall monitor the movement of the tricolored blackbirds to ensure that all Project activities occur outside of the active foraging area and associated buffer.</u></p> <ul style="list-style-type: none"> <li><u>If tricolored blackbirds are not detected within the Project site during the pre-construction survey, construction activities may commence and no additional actions are needed for areas under continuous disturbance by Project activities.</u></li> <li><u>The pre-construction survey shall be repeated within portions of the Project site supporting potential blackbird foraging habitat where construction has not commenced and/or where construction activities have paused and elapsed for more than thirty (30) consecutive days, and have not been rendered into a developed condition prior to that time.</u></li> </ul>	If survey results are positive, MM 4.8.7 protection/buffer/monitoring measures shall be implemented for the duration of activities in the vicinity of potentially affected tricolored blackbirds.			
<b>4.9 Geology and Soils</b>					
<b>4.9.1</b>	Design and development of the Project shall comply with Recommendations and Grading Specifications identified within Project Geotechnical Studies, to include preparation of and conformance with design-level geotechnical studies for individual development proposals within the Project site. Where the Project Geotechnical Studies and design-level geotechnical studies are silent, requirements of the California Building Code as adopted and implemented by the City shall prevail.	Compliance with Geotechnical Study Recommendations and Grading Specifications shall be verified prior to issuance of grading permits/building permits as applicable. Implemented Geotechnical Study Recommendations and Grading Specifications shall be verified prior to Final Grading Certification, issuance of Certificate(s) of Occupancy as applicable.	Contractor(s), developers.	City of Ontario: Planning Department, Building Department.	

**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
<b>4.10 Cultural/Tribal Resources</b>					
<b>4.10.1</b>	<p>Historical Resources mitigation for potential impacts to residences and/or dairy properties at: 8731 Eucalyptus Avenue; 8831 Eucalyptus Avenue; 8888 Eucalyptus Avenue; 14651 S. Grove Avenue; and 8643 Eucalyptus Avenue shall be provided consistent with City requirements, to include:</p> <ul style="list-style-type: none"> <li>• Payment of mitigation fees;</li> <li>• Provisions of as-built drawings and Historic American Buildings Survey (HABS) photo documentation; and</li> <li>• Development of Historic Context Reports for significant persons in the dairy farm industry, such as the Borba family.</li> </ul> <p>(See DEIR Section 4.10 for further mitigation details).</p>	<p>Mitigation per MM 4.10.1 shall be completed prior to demolition of residences and/or dairy property facilities at: 8731 Eucalyptus Avenue; 8831 Eucalyptus Avenue; 8888 Eucalyptus Avenue; 14651 S. Grove Avenue; and 8643 Eucalyptus Avenue.</p>	<p>Applicant or successor(s) in interest.</p>	<p>City of Ontario: Planning Department, Building Department.</p>	
<b>4.10.2</b>	<p>Archaeological, Historical, and Tribal Cultural Resources: Prior to the issuance of the first grading permit, the Applicant or successor(s) in interest shall provide a letter to the City of Ontario Building Department, or designee, from a qualified professional archeologist meeting the Secretary of Interior's Professional Qualifications for Archaeology as defined at 36 CFR Part 61, Appendix A stating that the archeologist has been retained to provide on-call services in the event archeological resources are discovered. The archeologist shall be present at the pre-grading conference to establish procedures for archeological resource surveillance. In the event a previously unrecorded archaeological deposit is encountered during construction, all activity within 50 feet of the area of discovery shall cease and the City shall be immediately notified. The archeologist shall be contacted to flag the area in the field and determine if the archaeological deposits meet the CEQA definition of historical (State CEQA Guidelines 15064.5(a)), unique archaeological</p>	<p>Retainment of qualified professional archeologist (Project Archaeologist) shall be verified prior to the issuance of the first grading permit.</p> <p>Mitigation per MM 4.10.2 for potential impacts to archaeological, historical, and tribal cultural resources shall be on-going for the duration of site disturbing activities.</p>	<p>Applicant or successor(s) in interest, contractor(s), developer(s), Project Archaeologist.</p>	<p>City of Ontario: Planning Department, Building Department.</p>	

**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit.  
Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
	resource (Public Resources Code 21083.2(g)), or Tribal Cultural Resource (Public Resources Code 21074 (a)). If the find is considered a "resource" the archaeologist shall pursue either protection in place or recovery, salvage and treatment of the deposits. A qualified archaeologist and a Native American Monitor of Gabrieleño Ancestry shall evaluate all archaeological resources unearthed by Project construction activities. If the resources are Native American in origin, they shall have the opportunity to consult with the City and/or Project developer on appropriate treatment and curation of these resources. If unique archaeological resources, or Tribal Cultural Resources cannot be preserved in place or left in an undisturbed state, recovery, salvage and treatment shall be required at the Applicant or successor(s) in interest's expense. Recovery, salvage and treatment protocols shall be developed in accordance with applicable provisions of Public Resource Code Section 21083.2 and State CEQA Guidelines 15064.5 and 15126.4. All recovered and salvaged resources shall be prepared to the point of identification and permanent preservation by the archaeologist. Resources shall be identified and curated into an established accredited professional repository. The archaeologist shall have a repository agreement in hand prior to initiating recovery of the resource. Excavation as a treatment option shall be restricted to those parts of the unique archaeological resource, or Tribal Cultural Resource that would be damaged or destroyed by the Project.				
4.10.3	<p>Native American Monitoring. Prior to commencement of any excavation activities, the Applicant or successor(s) in interest shall retain a Native American Monitor of Gabrieleño Ancestry to:</p> <ul style="list-style-type: none"> <li>Conduct a Native American Indian Sensitivity Training for construction personnel. The training session shall include a handout and focus on how to identify Tribal Cultural Resources/Native American resources</li> </ul>	<p>Retainment of Native American Monitor shall be verified prior to the issuance of the first grading permit.</p> <p>Mitigation per MM 4.10.3 for potential impacts to tribal cultural resources shall be on-going for the duration of site disturbing activities.</p>	Applicant or successor(s) in interest, contractor(s), developer(s), Native American Monitor.	City of Ontario: Planning Department, Building Department.	



**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
	<p>encountered during earthmoving activities and the procedures followed if resources are discovered, the duties of the Native American Monitor of Gabrieleño Ancestry, and the general steps the Monitor would follow in conducting a salvage investigation.</p> <ul style="list-style-type: none"> <li>Monitor all project-related, ground-disturbing construction activities (e.g., pavement removal, auguring, boring, grading, excavation, potholing, trenching, and grubbing) of previously undisturbed native soils to a maximum depth of 30 feet below ground surface. At their discretion and expense, a Native American Monitor of Gabrieleño Ancestry can be present during the removal of dairy manure to native soil.</li> </ul>				
<b>4.10.4</b>	<p>Native American Human Remains Prior to the start of ground disturbing activities, the project developer shall designate a location within the footprint of the Project site for the respectful reburial of Native American human remains and/or ceremonial objects. All human skeletal material discoveries shall be reported immediately to the County Coroner. The Native American Monitor shall immediately divert work a minimum of 50 feet from the discovery site and place an exclusion zone around the burial. The Native American Monitor shall notify the construction manager who shall contact the San Bernardino County Coroner. Pursuant to California Health and Safety Code, Section 7050.5, all construction activity shall be diverted while the San Bernardino County Coroner determines if the remains are Native American. If the San Bernardino County Coroner determines the remains represent a historic non-Native American burial, the burial shall be treated in the same manner of respect with agreement of the San Bernardino County Coroner. Reburial shall be in an appropriate setting. If the San Bernardino County Coroner determines the remains to be modern, the San Bernardino County Coroner shall take custody of the remains.</p>				

**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit.  
Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
	<p>If Native American, the San Bernardino County Coroner shall notify the Native American Heritage Commission (NAHC) as mandated by state law who will then appoint a Most Likely Descendent. The discovery shall be confidential and secure to prevent further disturbance. In the case where discovered human remains cannot be documented and recovered on the same day, the remains shall be covered with muslin cloth and a steel plate that can be moved by heavy equipment placed over the excavation opening to protect the remains. If this type of steel plate is not available, a 24-hour guard shall be posted outside working hours. The Native American Tribe of Gabrieleño Ancestry shall make every effort to recommend diverting the Project and keep the remains in situ and protected. If the Project cannot be diverted, it may be determined that burials will be removed. If data recovery is approved by the Tribe, documentation shall be taken, which includes at a minimum, detailed descriptive notes and sketches. Additional types of documentation shall be approved by the Tribe for data recovery purposes. No scientific study or the utilization of any invasive diagnostics shall be allowed to any Native American human remains. Cremations shall either be removed in bulk or means necessary to ensure complete recovery of all material. If the discovery of human remains includes four (4) or more burials, the location is considered a cemetery and a separate treatment plan shall be created. The Project developer shall consult with the Tribe regarding avoidance of all cemetery sites. Each occurrence of human remains and associated funerary objects shall be stored using opaque cloth bags. All human remains, funerary objects, sacred objects and objects of cultural patrimony shall be removed to a secure container onsite if possible. These items shall be retained and reburied within six months of recovery. The site of reburial/repatriation shall be on the Project site, but at a location agreed upon between the Tribe and the</p>				

**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
	developer and protected in perpetuity. There shall be no publicity regarding any cultural materials recovered. Once complete, a final report of all activities shall be submitted to the NAHC.				
<b>4.10.5</b>	Prior to commencement of any excavation activities, the Applicant or successor(s) in interest shall retain a Paleontological Resources Monitor (if qualified, the Project Archaeologist can also serve as the Project Paleontological Resources Monitor). Paleontological monitoring shall be conducted during all grading and trenching operations. Monitoring shall be conducted intermittently during initial cuts until the Quaternary deposits are encountered. Once Quaternary deposits are identified, paleontological monitoring shall be conducted on a full-time basis.	Retainment of Paleontological Resources Monitor shall be verified prior to the issuance of the first grading permit.  Mitigation per MM 4.10.5 for potential impacts to paleontological resources shall be on-going for the duration of site disturbing activities.	Applicant or successor(s) in interest, contractor(s), developer(s), Paleontological Resources Monitor.	City of Ontario: Planning Department, Building Department.	
<b>4.10.6</b>	Paleontological monitors shall be equipped to salvage fossils as they are unearthed to avoid construction delays and to remove samples of sediment that are likely to contain the remains of small fossil invertebrates and vertebrates. The monitor shall be empowered to temporarily halt or divert equipment to allow for the removal of abundant or large specimens in a timely manner. Monitoring may be reduced if the potentially fossiliferous units are not present in the subsurface, or if they are present, are determined upon exposure and examination by qualified paleontological personnel to have low potential to contain fossil resources.	Mitigation per MM 4.10.6 for potential impacts to paleontological resources shall be on-going for the duration of site disturbing activities.	Applicant or successor(s) in interest, contractor(s), developer(s), Paleontological Resources Monitor.	City of Ontario: Planning Department, Building Department.	
<b>4.10.7</b>	Recovered specimens shall be prepared of to a point of identification and permanent preservation, including screen-washing sediments to recover small invertebrates and vertebrates if indicated by the results of test sampling.	Mitigation per MM 4.10.7 for potential impacts to paleontological resources shall be on-going for the duration of Project development or as otherwise mutually agreed to by the applicant and Lead Agency.	Applicant or successor(s) in interest, Paleontological Resources Monitor.	City of Ontario: Planning Department, Building Department.	
<b>4.10.8</b>	All recovered fossils shall be deposited in an accredited institution (university or museum) that maintains collections of paleontological materials. All costs of the paleontological monitoring and mitigation program,	Mitigation per MM 4.10.8 for potential impacts to paleontological resources shall be on-going for the duration of Project development or as otherwise	Applicant or successor(s) in interest, Paleontological Resources Monitor.	City of Ontario: Planning Department, Building Department.	

**Table 4.2-1: Mitigation Monitoring Program**

**General Note:** To facilitate coordination and effective implementation of mitigation measures, the mitigation measures provided herein shall appear on all grading plans, construction specifications, and bid documents. Incorporation of required notations shall be verified by the City prior to issuance of first development permit. Implementation Entities shall comply with listed mitigation requirements.

Section / MM No.	Mitigation Measure	Mitigation Timing/Remarks	Implementation Entity	Monitoring/ Reporting Entity	Date of Completion/ Initials
	including any one-time charges by the receiving institution, shall be the responsibility of the developer(s).	mutually agreed to by the applicant and Lead Agency.			
4.10.9	At the conclusion of monitoring activities at a given location, the paleontological monitor shall prepare a Final Mitigation and Monitoring Report (Final Report). The Report shall identify findings and significance of findings, including lists of all fossils recovered and necessary maps and graphics to accurately record their original location(s). A letter documenting receipt and acceptance of all fossil collections by the receiving institution shall be included in the Final Report. The Final Report, when submitted to and accepted by the Lead Agency (City of Ontario), shall signify satisfactory completion of mitigation of potential impacts to paleontological resources.	Final Mitigation and Monitoring Report per MM 4.10.9 shall be completed and submitted to the City within 60 days of completion of grading, excavation and ground-disturbing activities at affected locations.	Paleontological Resources Monitor.	City of Ontario: Planning Department, Building Department.	

# ATTACHMENT A

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View of truck service building and office.



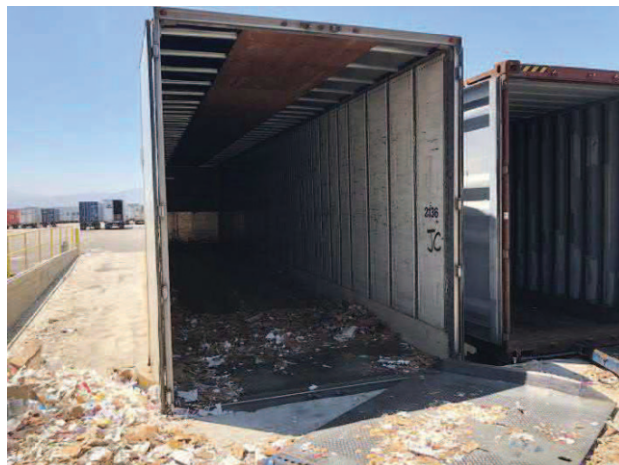
View of truck washing area.



View of three-chamber clarifier in truck washing area.



View of paper product storage by shelter.



View of paper product loading area by shelter.



View of unpaved truck parking area.

Source: Partner Engineering and Science, Inc.; AECOM; Applied Planning, Inc.





View of former dairy structure.



View of fenced cattle pasture.



View of stormwater drainage swale.



View of wastewater leachfield.



View of wastewater lagoon.



View of 35-gallon drum of iodine and associated leaking.

Source: Partner Engineering and Science, Inc.; AECOM; Applied Planning, Inc.





View of scrap storage  
(vehicles, scrap wash water treatment drums).



View of scrap storage.



View of scrap storage.



View of beef ranch area.



View of pallet company.



View of manure piles (mixed with clean sand).

Source: Partner Engineering and Science, Inc.; AECOM; Applied Planning, Inc.



View of a typical calf corral.



View of the milk bottle and other milking equipment cleaning area located in the calf milk barn.



View of maintenance shop.



View of 10,000-gallon and three 1,000-gallon diesel ASTs for fueling.



View of fuel pump for the 10,000-gallon diesel AST with staining around the base.



View of typical feed silos.

Source: Partner Engineering and Science, Inc.; AECOM; Applied Planning, Inc.





View of scrap metal storage.



View of old equipment located in the scrap metal yard.



View of several empty 55-gallon drums.



View of vehicle/equipment staging for parts.



View of the interior of an abandoned milk barn.



View of the detention ponds.

Source: Partner Engineering and Science, Inc.; AECOM; Applied Planning, Inc.



# ATTACHMENT B

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**TABLE 1. DEVELOPMENT THAT HAS, OR WILL, OCCUR(RED) WITHIN THE ONTARIO RANCH AND THE ESTIMATED MITIGATION FEES THAT HAS/WILL BE COLLECTED**

DEVELOPMENT	YEAR DEVELOPED	ESTIMATED MITIGATION FEE PAID TO DATE (\$)	CEQA ANTICIPATED TOTAL ACREAGE IMPACTED (AC) SQ FT (SF)	ESTIMATED TOTAL MITIGATION FEE (\$)
Edenglen	2007 - W portion (~86 ac) 2016/17 - SE Corner (~32 ac) <b>Total 118 ac</b>	2007 371,520 2016/17 138,240 <b>Total: 509,760</b>	160 ac 217,520 s.f. commercial 550,000 s.f. business park	<b>691,200</b>
Countyside	2016 NW portion (~9 acres) 2018 NE portion (~7 acres) <b>Total: 16 ac</b>	2016: 38,880 2018: 30,240 <b>Total: 69,120</b>	178 ac	<b>752,940</b>
Rich Haven	N/A <b>Total: 0 ac</b>	<b>0</b>	510 ac 1,553 single family units 2,703 multi-family units 889,200 s.f. commercial	<b>2,157,300</b>
West Haven	2014 - SW portion (~29 ac)	2014: <b>125,280</b>	199 ac 753 single family units 87,000 s.f. commercial	<b>841,770</b>
The Avenue	2014 - E portion (149 ac); 2018 - Central E (110 ac); 2019 - Central E (37 ac) <b>Total: 296 ac</b>	2014: 643,680 2018: 475,200 2019: 159,840 <b>Total: 1,278,720</b>	569 ac 2,606 residential units 250,000 s f of retail space	<b>2,406,870</b>
Parkside	N/A <b>Total: 0 ac</b>	<b>0</b>	250 ac 115,000 s.f. commercial	<b>1,057,500</b>
Grand Park	2017 - Middle E portion (~44 ac)	2017: <b>190,080</b>	320 ac	<b>1,353,600</b>
The Lakes	N/A <b>Total: 0 ac</b>	<b>0</b>	N/A	<b>N/A</b>
Esperanza	2018 - S portion (~128 ac)	2018: <b>552,960</b>	233 ac	<b>1,006,560</b>
Subarea 29	2013 - SW portion (~91 ac); 2016 - Middle W Section (~49 ac); 2017 - N portion in (~210 ac); 2020 - SE corner (~61 ac) <b>Total: 411 ac</b>	2013: 393,120 2016: 211,680 2017: 907,200 2020: 263,520 <b>Total: 1,775,520</b>	539 ac 2,392 single family units 87,000 s.f. commercial	<b>1,080,000</b>
Subarea 29 Amendment	N/A <b>Total: 0 ac</b>	<b>0</b>	25 ac	<b>112,320</b>
Armstrong Ranch	N/A <b>Total: 0 ac</b>	<b>0</b>	199 ac	<b>859,680</b>
Colony Commerce Center	2018/19 - Entire parcel # 13 (~114 ac) 2019/20 - Entire parcel #14 (~90 ac)	2018/19: 492,480 2019/20: 388,800 <b>Total: 881,280</b>	123 ac 2,951,146 s.f. industrial	<b>531,360</b>

West Ontario Commerce Center	2018 /19 - Entire parcel (135 ac)	2018 /19: <b>\$583,200</b>	135 ac	<b>583,200</b>
N/A	2016 - Entire parcel (44 acres)	2016: <b>168,480</b>	44 ac	<b>190,080</b>

**TABLE 2. DEVELOPMENT THAT HAS, OR WILL, OCCUR(RED) WITHIN THE PRESERVE AND THE ESTIMATED MITIGATION FEES THAT HAS/WILL BE COLLECTED**

DEVELOPMENT	YEAR DEVELOPED	ACRES	TOTAL ESTIMATED MITIGATION FEE (\$)
Falloncrest	Unknown	125	699,500
Mayhew Right of Way Project	Unknown	17	95,132
Edgewater (Rancho Miramonte)	Unknown	273	1,527,708
Watson Industrial Phase III	Unknown	49	274,204
Bouma Property Tentative Tract Map 20008	Unknown	21	117,516
Euclid Commerce Center	Unknown	5	27,980
Chino Parcel Delivery Facility	Unknown	74	414,104
Altitude Business Centre	Unknown	73	408,508
TT 18858	Unknown	19	106,324
Arrieta at the Preserve (Tract 17612)	2007	11	61,566
Watson Chino East Phase I	2016	80	447,680
Watson Industrial Phase II	2016	83	464,468
Kimball Bickmore Basins	2004	34	190,264
Amelia at the Preserve (Stark Property)	2016	19	106,324
Kimball Business Park	2017	74	414,104
Harvest	2017	73	408,508
Flores Retail Site, Block 4 Development	2017	346	1,936,216
Palisades at the Preserve (Westra Property)	2014	20	106,324
Secret Garden at the Preserve (Wassenaar Property)	2004	16	95,132
KB Homes			
Sonata at the Preserve (Tracts 17610 and 17611)	2007	17	414,104
Homecoming at the Preserve	2013	52	699,500

Birchwood and Greenbiar	2012	35	1,527,708
Laurel Lane at the Preserve	2017	6	274,204
Enchanted Forest at the Preserve	2006	9	408,508
Shady Lane at the Preserve	2007	13	117,516
Mulberry Cottage at the Preserve	2008	25	1,936,216
Agave at the Preserve	2006	18	27,980
Teetherwinds at the Preserve	2007	80	414,104
Sea Country Cottages at the Preserve	2007	17	408,508
Jasmine Park and Willow Lane at the Preserve	2007	22	106,324
Candlewood at the Preserve	2010	10	61,566
Garden Glen at the Preserve	2004	7	447,680
Ten Bloom Road at the Preserve	2005	11	464,468
Iris at the Preserve	2004	8	190,264
Canterbury Grove	2004	16	67,152
Unknown	2006	14	89,536
Unknown	2007	40	95,132
Unknown	2016	10	290,992
Unknown	2007	8	195,860
Unknown	2008	13	33,576
Unknown	2007	13	50,364

TABLE 3. DEVELOPMENT WITHIN THE ONTARIO RANCH AND BURROWING OWLS IMPACTED.

DEVELOPMENT			ENVIRONMENTAL DOCUMENTS																	
			CEQA				Biological Survey				CNDDDB/BIOS			EBird			TOTAL ESTIMATE OWL #s			
MAP ID	DEVELOPMENT	ACRES	ENVIRONMENTAL DOCUMENT	DATE	ENVIRONMENTAL DOCUMENT BURROWING OWL FINDINGS	BURROWING OWL AVOIDANCE/ MITIGATION REQUIREMENT	SPECIFIC BUOW SURVEY	SURVEYOR/ SURVEY YEAR	BURROWING OWL SURVEY RESULTS	REPORT RECEIVED	MAP SYMBOL	SURVEY YEAR	BURROWING OWL SURVEY RESULTS	MAP SYMBOL/ SOURCE	SURVEY YEAR	BURROWING OWL SURVEY RESULTS	Ebird MAP SYMBOL/ SOURCE	Adults	Juveniles	
1	Edenglen	160	Specific Plan Final EIR (2004051108)	July 2005	Recon survey – Suitable habitat	Mitigation fees; precon surveys; passive relocation	Unknown	Unknown	Unknown	Unknown	Unknown	March 2011	2 owls at burrow	★ 1	Unknown	Unknown	Unknown	2	0	
2	Countryside	178	Specific Plan Final EIR (2004071001	March 2006	Unknown	Mitigation fees; consult with CDFW personnel for offsite mitigation areas, whether land purchased by fee or under conservation easement, passive relocation	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	0	0	
3	Rich Haven	510	Draft EIR State 2006-051081	July 2007	Burrowing owl survey included in CEQA	Mitigation fees; Focused surveys; precon surveys;; Develop a mitigation plan to compensate for the loss of burrowing owl occupied habitat.	Focused biological surveys	Bonterra August 2005 and Nov 2005	5 burrows were found on site. 6 adult and 4 juvenile owls were observed.	No	Unknown	2010	Up to 15 detectons of owls, 5 occupied burrows, & 1 pair with 2 young	★ 2	Unknown	Unknown	Unknown	14	2	
4	West Haven	199	Specific Plan Final EIR (2004071095)	2005	Unknown	Mitigation fees	Unknown	Unknown	Unknown	Unknown	Unknown	July 2011	9 detections of owls; 2 nest sites recorded during construction monitoring Dec 2010 - July 2011	★ 3	Sep 2014	Unknown	Unknown	4	0	
5	The Avenue	569	SEIR	Oct 2008	Unknown	Precon surveys; mitigation fee	Unknown	Unknown	Unknown	Unknown	Unknown	C-2006 thru 201  D - June 2005	C- Breeding colony with 4 pairs and numerous juveniles	★ 4 ★ 5	Sept 2014  April 2011	7 - A burrow with 2 adults and 2 juveniles. Other with 1 adult and 1 juvenile	▲ 1 ▲ 2	8	3	



													D 4 Owls with nesting burrow and 2 other active owls							
6	Parkside	250	EIR Specific Plan (2004011008)	July 2006	Habitat assessment included - presence of foraging habitat and previous records of presence	Mitigation fees; precon surveys; passive relocation	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	0	0
7	Grand Park	320	EIR (2012061057)	Aug 2013	Habitat assessment included - Suitable habitat occurs and owls have been recorded as occurring adj to the site. Owls have been observed during by AMEC in 2003, 2006, and 2007.	Focused surveys; Mitigation fees	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	April 2011	1 owl	▲ <sub>3</sub>	1	0
8	The Lakes	UNKNO WN	UNKNOWN	UNKNO WN	UNKNOWN	UNKNOWN	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	April 2012 2013	2 owls	▲ <sub>4</sub>	2	0
9	Esperanza	233	FEIR (2002061047)	Dec 2006	Habitat Assessment included Owls were recorded (L&L Environmental 2001), but were not recorded 2002, 2003, or 2005 surveys	Mitigation fees; precon surveys; passive relocation	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	0	0
10	Subarea 29	539	Subarea 29 (Hettinga) Specific Plan (2004011009)	June 2006	Habitat Assessment included - No burrows were observed on site, but this species may forage on site and nest in adjacent areas.	Precon survey; Mitigation fees	Unknown	Unknown	Unknown	Unknown	Unknown	F – June 2006  G – June 2006	2 adults  Male observed repeatedly on different days; judging by the season and behavior, a female was assumed in the burrow	★ <sub>6</sub>  ★ <sub>7</sub>	Unknown	Unknown	Unknown	4	0	



TABLE 4. DEVELOPMENT WITHIN THE PRESERVE AND BURROWING OWLS IMPACTED.

DEVELOPMENT			ENVIRONMENTAL DOCUMENTS																	TOTAL ESTIMATE BURROWING OWL #s	
			CEQA				Biological Surveys						CNDDDB/BIOS			EBird					
MAP ID	DEVELOPMENT	ACRES	ENVIRONMENTAL DOCUMENT	DATE	ENVIRONMENTAL DOCUMENT BURROWING OWL FINDINGS	BURROWING OWL AVOIDANCE/ MITIGATION REQUIREMENT	SPECIFIC BUOW SURVEY	SURVEYOR/ SURVEY YEAR	BURROWING OWL SURVEY RESULTS	REPORT RECEIVED (CITY/GLA June 2018)	BURROWING OWL OCCURENCES	MAP SYMBOL	SURVEY YEAR	BURROWING OWL SURVEY RESULTS	MAP SYMBOL/ SOURCE	SURVEY YEAR	BURROWING OWL OCCURENCES	MAP SYMBOL/ SOURCE	Adults		
1	Falloncrest	125	Falloncrest EIR [Biological Assessment]	Oct 2013	BUOW present	Mitigation Fee; Passive relocation	Focused Surveys, Updated Survey	2011 2013	2013 - 2 pairs	Yes  (City Website)	Pair Pair	● 1 ● 2	6/2006	Pair 2 Adults	★ 2 ★ 3	Unknown	Unknown	Unknown	4		
2	Mayhew Right of Way Project	17	Unknown	Unknown	Unknown	Unknown	Pre-Con	Jason Berkley/ 2017	None	Yes	Unknown	Unknown	Unknown	Pair with 7 Juveniles	★ 4	July 2004_	2 Owls	▲ 1	2		
4	Watson Industrial Phase III	49	Watson Industrial Park EIR [Biological Resources]	March 2015	Suitable habitat	Preconstruction Survey; Passive Relocation	Pre-Con	2017	None	Yes  (GLA Sent)	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	0		
191 acres Subtotal																			6		
Notes: No development has occurred (as of when this table was created). Various burrowing owl survey reports have been submitted. Each development should have a biological assessment, along with updated focused burrowing owl breeding surveys, and preconstruction burrowing owl surveys. The focused breeding /preconstruction burrowing owl surveys should be conducted by a qualified biologist with results submitted to the City of Chino (CEQA Lead) and CDFW (CEQA Trustee and Responsible Agency) before the commencement of project related activities.																					
5	Bouma Property Tentative Tract Map 20008	21	Preserve Chino Sphere of Influence – Subarea 2 Final EIR Addendum [Biological Assessment]	Sept 2017	2 occupied burrows and another with sign	Mitigation Fee; Passive relocation	Unknown	Unknown	Unknown	No	I- Single J- Single K-Single	● 9 ● 10 ● 11	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	3		
6	Euclid Commerce Center	5	Euclid Commerce Center EIR [Habitat Assessment]	Feb 2017	Suitable habitat	PreconSurvey; Passive relocation	Unknown	Unknown	Unknown	No	Unknown	Unknown	Unknown	Unknown	Unknown	March 2012	1 Owl	▲ 2	1		

7	Chino Parcel Delivery Facility	74	Chino Parcel Facility Initial Study	Sept 2017	Potential to contain species identified as a candidate, sensitive or special status species.	The results of a biological resources assessment(s) shall be disclosed and evaluated in the required EIR.	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	0
8	Altitude Business Centre	73	Altitude Business Center Initial Study	May 2017	Potential to contain spp identified as candidate, sensitive or special status.	The results of a biological resources assessment(s) shall be disclosed and evaluated in the required EIR.	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	0
9	TT 18858	19	Preserve Chino Sphere of Influence – Subarea 2 Final EIR Addendum  [Helix - General Resource Assessment]	June 2017	Does not meet the minimum habitat requirements BUOW. The adjacent property has low potential to be used by BUOW.	BUOW precon survey only needed	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	0
538 acres Subtotal																			4

[illegible]

			Subarea 2 Final EIR [Habitat Assessment]		due to a general lack of suitable habitat because of the disturbed nature of the site.															
17	Flores Retail Site, Block 4 Development	346	Preserve Chino Sphere of Influence – Subarea 2 Final EIR [Habitat Assessment]	April 2016		Precon Survey; Passive relocation	Pre-Con	2017	None	No	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	0	
694 acres Subtotal																			18	
Notes: Development has occurred. Various burrowing owl survey reports have been submitted. Each development should have a biological assessment, focused burrowing owl breeding surveys, and preconstruction burrowing owl surveys and all should be submitted to CDFW (CEQA Trustee and Responsible Agency).																				
1	Palisades at the Preserve (Westra Property)	20	Unknown	Unknown	Unknown	Unknown	Pre-Con	Helix 2013	May 2013- Pair	Yes	Pair	●20	May 2006	Pair	★ 12	Unknown	Unknown	Unknown	2	
2	Secret Garden at the Preserve (Wassenaar Property)  KB Homes	16	Unknown	Unknown	Unknown	Passive Relocation	Focused Surveys/ Exclusion	2003	1-2 pairs. Max 12 owls. 7 owls at time of exclusion. 10 occupied burrows. 20 artificial burrows total created at Bettencourt & Vander Sys prop that became the Chino NTS basins	No	Pair Pair	●21 ●22	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	4	
3	Sonata at the Preserve (Tracts 17610 and 17611)	17	Unknown	Unknown	Unknown	Unknown	Site Visit/ Exclusion	2010	2 pairs initially detected. Owl seen at time of exclusion. 3 occupied burrows	No	-Pair Pair	●23 ●24	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	4	
4	Homecoming at the Preserve	52	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	No	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	
5	Birchwood and Greenbiar	35	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	No	UNKNOWN	UNKNOWN	UNKNOWN N	UNKNOWN	UNKNOWN N	UNKNOWN N	UNKNOWN N	UNKNOWN N	UNKNOWN N	
6	Laurel Lane at the Preserve	6	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	No	UNKNOWN	UNKNOWN	UNKNOWN N	UNKNOWN	UNKNOWN N	UNKNOWN N	UNKNOWN N	UNKNOWN N	UNKNOWN N	
7	Enchanted Forest at the Preserve	9	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	No	UNKNOWN	UNKNOWN	UNKNOWN N	UNKNOWN	UNKNOWN N	UNKNOWN N	UNKNOWN N	UNKNOWN N	UNKNOWN N	
8	Shady Lane at the Preserve	13	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	No	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	
9	Mulberry Cottage at the Preserve	25	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	No	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	
10	Agave at the Preserve	18	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	No	Unknown	Unknown	Unknown	Unknown	Unknown	April 2008	2 Pairs	▲	4	





FIGURE 1. PORTIONS OF THE PROJECT WITHIN THE ONTARIO RANCH AND PRESERVE



FIGURE 2. DEVELOPMENT THAT HAS, OR WILL, OCCUR(RED) WITHIN THE ONTARIO RANCH AND PRESERVE.

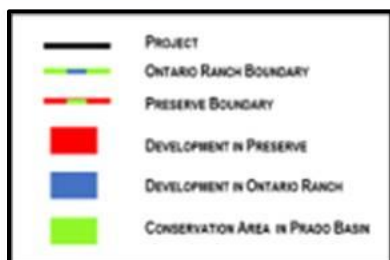
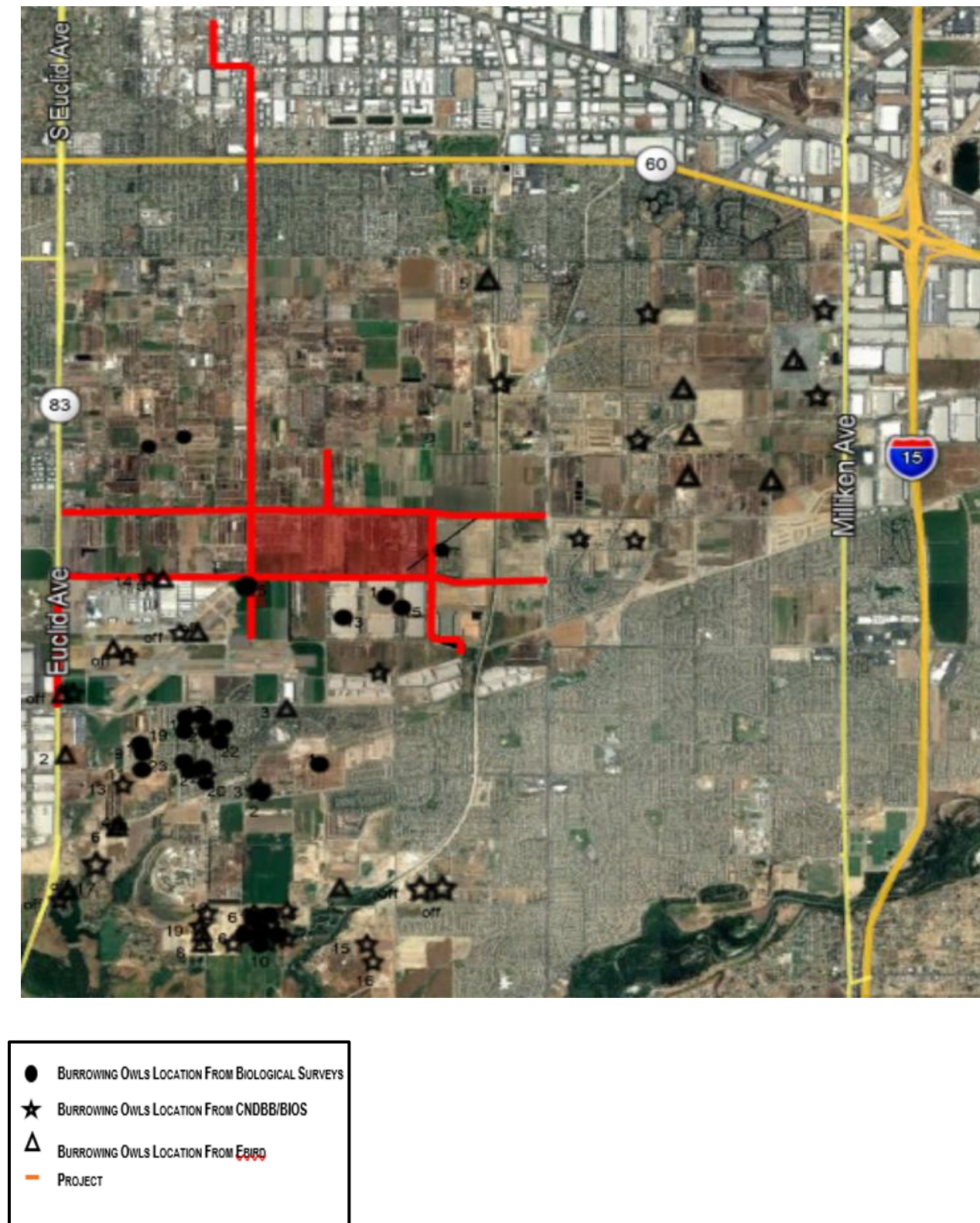




FIGURE 3. BURROWING OWL OCCURRENCES SURROUNDING THE PROJECT



# ATTACHMENT C

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## 12004 Soil Export - San Bernardino-South Coast County, Summer

## 12004 Soil Export

### San Bernardino-South Coast County, Summer

## 1.0 Project Characteristics

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### 1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
User Defined Industrial	1.00	User Defined Unit	0.00	0.00	0

### 1.2 Other Project Characteristics

<b>Urbanization</b>	Urban	<b>Wind Speed (m/s)</b>	2.2	<b>Precipitation Freq (Days)</b>	32
<b>Climate Zone</b>	10			<b>Operational Year</b>	2022
<b>Utility Company</b>	Southern California Edison				
<b>CO2 Intensity (lb/MWhr)</b>	702.44	<b>CH4 Intensity (lb/MWhr)</b>	0.029	<b>N2O Intensity (lb/MWhr)</b>	0.006

### 1.3 User Entered Comments & Non-Default Data

Project Characteristics -

Land Use -

Construction Phase - Hauling

Off-road Equipment - Hauling

Grading -

Trips and VMT -

## 12004 Soil Export - San Bernardino-South Coast County, Summer

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	0.00	1.00
tblConstructionPhase	PhaseEndDate	11/30/2020	12/1/2020
tblGrading	MaterialExported	0.00	500.00
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	1.00	0.00
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	1.00	0.00
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	2.00	0.00
tblTripsAndVMT	HaulingTripNumber	63.00	62.00

## 2.0 Emissions Summary

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## 12004 Soil Export - San Bernardino-South Coast County, Summer

## 2.1 Overall Construction (Maximum Daily Emission)

### Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2020	0.3852	15.2730	2.2538	0.0486	1.1416	0.0455	1.1871	0.3061	0.0435	0.3496	0.0000	5,162.790 2	5,162.790 2	0.2786	0.0000	5,169.755 6
Maximum	0.3852	15.2730	2.2538	0.0486	1.1416	0.0455	1.1871	0.3061	0.0435	0.3496	0.0000	5,162.790 2	5,162.790 2	0.2786	0.0000	5,169.755 6

### Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2020	0.3852	15.2730	2.2538	0.0486	1.1416	0.0455	1.1871	0.3061	0.0435	0.3496	0.0000	5,162.7902	5,162.7902	0.2786	0.0000	5,169.7556
Maximum	0.3852	15.2730	2.2538	0.0486	1.1416	0.0455	1.1871	0.3061	0.0435	0.3496	0.0000	5,162.7902	5,162.7902	0.2786	0.0000	5,169.7556

[illegible]

## 12004 Soil Export - San Bernardino-South Coast County, Summer

**2.2 Overall Operational****Unmitigated Operational**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	1.0000e-005	0.0000	1.0000e-004	0.0000		0.0000	0.0000		0.0000	0.0000		2.2000e-004	2.2000e-004	0.0000		2.3000e-004
Energy	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Mobile	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
<b>Total</b>	<b>1.0000e-005</b>	<b>0.0000</b>	<b>1.0000e-004</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>		<b>2.2000e-004</b>	<b>2.2000e-004</b>	<b>0.0000</b>	<b>0.0000</b>	<b>2.3000e-004</b>

**Mitigated Operational**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	1.0000e-005	0.0000	1.0000e-004	0.0000		0.0000	0.0000		0.0000	0.0000		2.2000e-004	2.2000e-004	0.0000		2.3000e-004
Energy	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Mobile	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
<b>Total</b>	<b>1.0000e-005</b>	<b>0.0000</b>	<b>1.0000e-004</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>		<b>2.2000e-004</b>	<b>2.2000e-004</b>	<b>0.0000</b>	<b>0.0000</b>	<b>2.3000e-004</b>

## 12004 Soil Export - San Bernardino-South Coast County, Summer

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

**3.0 Construction Detail****Construction Phase**

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Grading	Grading	12/1/2020	12/1/2020	5	1	

**Acres of Grading (Site Preparation Phase): 0****Acres of Grading (Grading Phase): 0****Acres of Paving: 0****Residential Indoor: 0; Residential Outdoor: 0; Non-Residential Indoor: 0; Non-Residential Outdoor: 0; Striped Parking Area: 0 (Architectural Coating – sqft)****OffRoad Equipment**

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Grading	Concrete/Industrial Saws	0	8.00	81	0.73
Grading	Rubber Tired Dozers	0	1.00	247	0.40
Grading	Tractors/Loaders/Backhoes	0	6.00	97	0.37

**Trips and VMT**

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Grading	0	0.00	0.00	62.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT



## 12004 Soil Export - San Bernardino-South Coast County, Summer

**3.1 Mitigation Measures Construction****3.2 Grading - 2020****Unmitigated Construction On-Site**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					0.0565	0.0000	0.0565	8.5600e-003	0.0000	8.5600e-003			0.0000			0.0000
Off-Road	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
<b>Total</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0565</b>	<b>0.0000</b>	<b>0.0565</b>	<b>8.5600e-003</b>	<b>0.0000</b>	<b>8.5600e-003</b>		<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>

**Unmitigated Construction Off-Site**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.3852	15.2730	2.2538	0.0486	1.0851	0.0455	1.1306	0.2975	0.0435	0.3410		5,162.7902	5,162.7902	0.2786		5,169.7556
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
<b>Total</b>	<b>0.3852</b>	<b>15.2730</b>	<b>2.2538</b>	<b>0.0486</b>	<b>1.0851</b>	<b>0.0455</b>	<b>1.1306</b>	<b>0.2975</b>	<b>0.0435</b>	<b>0.3410</b>		<b>5,162.7902</b>	<b>5,162.7902</b>	<b>0.2786</b>		<b>5,169.7556</b>

## 12004 Soil Export - San Bernardino-South Coast County, Summer

**3.2 Grading - 2020****Mitigated Construction On-Site**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					0.0565	0.0000	0.0565	8.5600e-003	0.0000	8.5600e-003			0.0000			0.0000
Off-Road	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000
<b>Total</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0565</b>	<b>0.0000</b>	<b>0.0565</b>	<b>8.5600e-003</b>	<b>0.0000</b>	<b>8.5600e-003</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>

**Mitigated Construction Off-Site**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.3852	15.2730	2.2538	0.0486	1.0851	0.0455	1.1306	0.2975	0.0435	0.3410		5,162.7902	5,162.7902	0.2786		5,169.7556
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
<b>Total</b>	<b>0.3852</b>	<b>15.2730</b>	<b>2.2538</b>	<b>0.0486</b>	<b>1.0851</b>	<b>0.0455</b>	<b>1.1306</b>	<b>0.2975</b>	<b>0.0435</b>	<b>0.3410</b>		<b>5,162.7902</b>	<b>5,162.7902</b>	<b>0.2786</b>		<b>5,169.7556</b>

**4.0 Operational Detail - Mobile**

## 12004 Soil Export - San Bernardino-South Coast County, Summer

**4.1 Mitigation Measures Mobile**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Unmitigated	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000

**4.2 Trip Summary Information**

Land Use	Average Daily Trip Rate			Unmitigated	Mitigated
	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
User Defined Industrial	0.00	0.00	0.00		
Total	0.00	0.00	0.00		

**4.3 Trip Type Information**

Land Use	Miles			Trip %			Trip Purpose %		
	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
User Defined Industrial	16.60	8.40	6.90	0.00	0.00	0.00	0	0	0

**4.4 Fleet Mix**

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
User Defined Industrial	0.553113	0.036408	0.180286	0.116335	0.016165	0.005101	0.018218	0.063797	0.001357	0.001565	0.005903	0.000808	0.000944

## 12004 Soil Export - San Bernardino-South Coast County, Summer

**5.0 Energy Detail**

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Historical Energy Use: N

**5.1 Mitigation Measures Energy**

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	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
NaturalGas Mitigated	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
NaturalGas Unmitigated	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000

## 12004 Soil Export - San Bernardino-South Coast County, Summer

**5.2 Energy by Land Use - NaturalGas****Unmitigated**

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
User Defined Industrial	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
<b>Total</b>		<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>

**Mitigated**

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
User Defined Industrial	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
<b>Total</b>		<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>

**6.0 Area Detail****6.1 Mitigation Measures Area**



## 12004 Soil Export - San Bernardino-South Coast County, Summer

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	1.0000e-005	0.0000	1.0000e-004	0.0000		0.0000	0.0000		0.0000	0.0000		2.2000e-004	2.2000e-004	0.0000		2.3000e-004
Unmitigated	1.0000e-005	0.0000	1.0000e-004	0.0000		0.0000	0.0000		0.0000	0.0000		2.2000e-004	2.2000e-004	0.0000		2.3000e-004

## 6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Landscaping	1.0000e-005	0.0000	1.0000e-004	0.0000		0.0000	0.0000		0.0000	0.0000		2.2000e-004	2.2000e-004	0.0000		2.3000e-004
<b>Total</b>	<b>1.0000e-005</b>	<b>0.0000</b>	<b>1.0000e-004</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>2.2000e-004</b>	<b>2.2000e-004</b>	<b>0.0000</b>		<b>2.3000e-004</b>

## 12004 Soil Export - San Bernardino-South Coast County, Summer

**6.2 Area by SubCategory****Mitigated**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Landscaping	1.0000e-005	0.0000	1.0000e-004	0.0000		0.0000	0.0000		0.0000	0.0000		2.2000e-004	2.2000e-004	0.0000		2.3000e-004
<b>Total</b>	<b>1.0000e-005</b>	<b>0.0000</b>	<b>1.0000e-004</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>2.2000e-004</b>	<b>2.2000e-004</b>	<b>0.0000</b>		<b>2.3000e-004</b>

**7.0 Water Detail****7.1 Mitigation Measures Water****8.0 Waste Detail****8.1 Mitigation Measures Waste****9.0 Operational Offroad**

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type
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**10.0 Stationary Equipment****Fire Pumps and Emergency Generators**

## 12004 Soil Export - San Bernardino-South Coast County, Summer

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
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**Boilers**

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type
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**User Defined Equipment**

Equipment Type	Number
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**11.0 Vegetation**

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## 12004 Soil Export - San Bernardino-South Coast County, Winter

**12004 Soil Export**  
**San Bernardino-South Coast County, Winter****1.0 Project Characteristics**

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**1.1 Land Usage**

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
User Defined Industrial	1.00	User Defined Unit	0.00	0.00	0

**1.2 Other Project Characteristics**

Urbanization	Urban	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	32
Climate Zone	10			Operational Year	2022
Utility Company	Southern California Edison				
CO2 Intensity (lb/MWhr)	702.44	CH4 Intensity (lb/MWhr)	0.029	N2O Intensity (lb/MWhr)	0.006

**1.3 User Entered Comments & Non-Default Data**

Project Characteristics -

Land Use -

Construction Phase - Hauling

Off-road Equipment - Hauling

Grading -

Trips and VMT -

## 12004 Soil Export - San Bernardino-South Coast County, Winter

Table Name	Column Name	Default Value	New Value
tblConstructionPhase	NumDays	0.00	1.00
tblConstructionPhase	PhaseEndDate	11/30/2020	12/1/2020
tblGrading	MaterialExported	0.00	500.00
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	1.00	0.00
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	1.00	0.00
tblOffRoadEquipment	OffRoadEquipmentUnitAmount	2.00	0.00
tblTripsAndVMT	HaulingTripNumber	63.00	62.00

## 2.0 Emissions Summary

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## 12004 Soil Export - San Bernardino-South Coast County, Winter

## 2.1 Overall Construction (Maximum Daily Emission)

### Unmitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2020	0.4026	15.3541	2.5786	0.0474	1.1416	0.0461	1.1877	0.3061	0.0441	0.3502	0.0000	5,028.1736	5,028.1736	0.3023	0.0000	5,035.7321
Maximum	0.4026	15.3541	2.5786	0.0474	1.1416	0.0461	1.1877	0.3061	0.0441	0.3502	0.0000	5,028.1736	5,028.1736	0.3023	0.0000	5,035.7321

### Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	lb/day										lb/day					
2020	0.4026	15.3541	2.5786	0.0474	1.1416	0.0461	1.1877	0.3061	0.0441	0.3502	0.0000	5,028.1736	5,028.1736	0.3023	0.0000	5,035.7321
Maximum	0.4026	15.3541	2.5786	0.0474	1.1416	0.0461	1.1877	0.3061	0.0441	0.3502	0.0000	5,028.1736	5,028.1736	0.3023	0.0000	5,035.7321

[illegible]

## 12004 Soil Export - San Bernardino-South Coast County, Winter

**2.2 Overall Operational****Unmitigated Operational**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	1.0000e-005	0.0000	1.0000e-004	0.0000		0.0000	0.0000		0.0000	0.0000		2.2000e-004	2.2000e-004	0.0000		2.3000e-004
Energy	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Mobile	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
<b>Total</b>	<b>1.0000e-005</b>	<b>0.0000</b>	<b>1.0000e-004</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>		<b>2.2000e-004</b>	<b>2.2000e-004</b>	<b>0.0000</b>	<b>0.0000</b>	<b>2.3000e-004</b>

**Mitigated Operational**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Area	1.0000e-005	0.0000	1.0000e-004	0.0000		0.0000	0.0000		0.0000	0.0000		2.2000e-004	2.2000e-004	0.0000		2.3000e-004
Energy	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
Mobile	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
<b>Total</b>	<b>1.0000e-005</b>	<b>0.0000</b>	<b>1.0000e-004</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>		<b>2.2000e-004</b>	<b>2.2000e-004</b>	<b>0.0000</b>	<b>0.0000</b>	<b>2.3000e-004</b>

## 12004 Soil Export - San Bernardino-South Coast County, Winter

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

**3.0 Construction Detail****Construction Phase**

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Grading	Grading	12/1/2020	12/1/2020	5	1	

**Acres of Grading (Site Preparation Phase): 0****Acres of Grading (Grading Phase): 0****Acres of Paving: 0****Residential Indoor: 0; Residential Outdoor: 0; Non-Residential Indoor: 0; Non-Residential Outdoor: 0; Striped Parking Area: 0 (Architectural Coating – sqft)****OffRoad Equipment**

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Grading	Concrete/Industrial Saws	0	8.00	81	0.73
Grading	Rubber Tired Dozers	0	1.00	247	0.40
Grading	Tractors/Loaders/Backhoes	0	6.00	97	0.37

**Trips and VMT**

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Grading	0	0.00	0.00	62.00	14.70	6.90	20.00	LD_Mix	HDT_Mix	HHDT

## 12004 Soil Export - San Bernardino-South Coast County, Winter

**3.1 Mitigation Measures Construction****3.2 Grading - 2020****Unmitigated Construction On-Site**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					0.0565	0.0000	0.0565	8.5600e-003	0.0000	8.5600e-003			0.0000			0.0000
Off-Road	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
<b>Total</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0565</b>	<b>0.0000</b>	<b>0.0565</b>	<b>8.5600e-003</b>	<b>0.0000</b>	<b>8.5600e-003</b>		<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>

**Unmitigated Construction Off-Site**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.4026	15.3541	2.5786	0.0474	1.0851	0.0461	1.1312	0.2975	0.0441	0.3416		5,028.1736	5,028.1736	0.3023		5,035.7321
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
<b>Total</b>	<b>0.4026</b>	<b>15.3541</b>	<b>2.5786</b>	<b>0.0474</b>	<b>1.0851</b>	<b>0.0461</b>	<b>1.1312</b>	<b>0.2975</b>	<b>0.0441</b>	<b>0.3416</b>		<b>5,028.1736</b>	<b>5,028.1736</b>	<b>0.3023</b>		<b>5,035.7321</b>

## 12004 Soil Export - San Bernardino-South Coast County, Winter

**3.2 Grading - 2020****Mitigated Construction On-Site**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Fugitive Dust					0.0565	0.0000	0.0565	8.5600e-003	0.0000	8.5600e-003			0.0000			0.0000
Off-Road	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000
<b>Total</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0565</b>	<b>0.0000</b>	<b>0.0565</b>	<b>8.5600e-003</b>	<b>0.0000</b>	<b>8.5600e-003</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>

**Mitigated Construction Off-Site**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Hauling	0.4026	15.3541	2.5786	0.0474	1.0851	0.0461	1.1312	0.2975	0.0441	0.3416		5,028.1736	5,028.1736	0.3023		5,035.7321
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Worker	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
<b>Total</b>	<b>0.4026</b>	<b>15.3541</b>	<b>2.5786</b>	<b>0.0474</b>	<b>1.0851</b>	<b>0.0461</b>	<b>1.1312</b>	<b>0.2975</b>	<b>0.0441</b>	<b>0.3416</b>		<b>5,028.1736</b>	<b>5,028.1736</b>	<b>0.3023</b>		<b>5,035.7321</b>

**4.0 Operational Detail - Mobile**

## 12004 Soil Export - San Bernardino-South Coast County, Winter

**4.1 Mitigation Measures Mobile**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000
Unmitigated	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000	0.0000		0.0000

**4.2 Trip Summary Information**

Land Use	Average Daily Trip Rate			Unmitigated	Mitigated
	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
User Defined Industrial	0.00	0.00	0.00		
Total	0.00	0.00	0.00		

**4.3 Trip Type Information**

Land Use	Miles			Trip %			Trip Purpose %		
	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
User Defined Industrial	16.60	8.40	6.90	0.00	0.00	0.00	0	0	0

**4.4 Fleet Mix**

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
User Defined Industrial	0.553113	0.036408	0.180286	0.116335	0.016165	0.005101	0.018218	0.063797	0.001357	0.001565	0.005903	0.000808	0.000944



## 12004 Soil Export - San Bernardino-South Coast County, Winter

**5.0 Energy Detail**

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Historical Energy Use: N

**5.1 Mitigation Measures Energy**

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	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
NaturalGas Mitigated	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
NaturalGas Unmitigated	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000

## 12004 Soil Export - San Bernardino-South Coast County, Winter

**5.2 Energy by Land Use - NaturalGas****Unmitigated**

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
User Defined Industrial	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
<b>Total</b>		<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>

**Mitigated**

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	lb/day										lb/day					
User Defined Industrial	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000
<b>Total</b>		<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>

**6.0 Area Detail****6.1 Mitigation Measures Area**

## 12004 Soil Export - San Bernardino-South Coast County, Winter

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	lb/day										lb/day					
Mitigated	1.0000e-005	0.0000	1.0000e-004	0.0000		0.0000	0.0000		0.0000	0.0000		2.2000e-004	2.2000e-004	0.0000		2.3000e-004
Unmitigated	1.0000e-005	0.0000	1.0000e-004	0.0000		0.0000	0.0000		0.0000	0.0000		2.2000e-004	2.2000e-004	0.0000		2.3000e-004

## 6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Landscaping	1.0000e-005	0.0000	1.0000e-004	0.0000		0.0000	0.0000		0.0000	0.0000		2.2000e-004	2.2000e-004	0.0000		2.3000e-004
<b>Total</b>	<b>1.0000e-005</b>	<b>0.0000</b>	<b>1.0000e-004</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>2.2000e-004</b>	<b>2.2000e-004</b>	<b>0.0000</b>		<b>2.3000e-004</b>

## 12004 Soil Export - San Bernardino-South Coast County, Winter

**6.2 Area by SubCategory****Mitigated**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	lb/day										lb/day					
Architectural Coating	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Consumer Products	0.0000					0.0000	0.0000		0.0000	0.0000			0.0000			0.0000
Landscaping	1.0000e-005	0.0000	1.0000e-004	0.0000		0.0000	0.0000		0.0000	0.0000		2.2000e-004	2.2000e-004	0.0000		2.3000e-004
<b>Total</b>	<b>1.0000e-005</b>	<b>0.0000</b>	<b>1.0000e-004</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>0.0000</b>	<b>0.0000</b>		<b>2.2000e-004</b>	<b>2.2000e-004</b>	<b>0.0000</b>		<b>2.3000e-004</b>

**7.0 Water Detail****7.1 Mitigation Measures Water****8.0 Waste Detail****8.1 Mitigation Measures Waste****9.0 Operational Offroad**

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type
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**10.0 Stationary Equipment****Fire Pumps and Emergency Generators**

## 12004 Soil Export - San Bernardino-South Coast County, Winter

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
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**Boilers**

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type
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**User Defined Equipment**

Equipment Type	Number
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**11.0 Vegetation**

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