

**MAR 13 2020**

**STATE CLEARINGHOUSE**



**COMMENTS & RESPONSES TO COMMENTS  
FOR THE  
DRAFT ENVIRONMENTAL IMPACT REPORT  
STATE CLEARINGHOUSE No. 2019060214**

**VOLARA TOWNHOMES  
LA HABRA, CALIFORNIA**



**LEAD AGENCY:**

**CITY OF LA HABRA  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
110 EAST LA HABRA BOULEVARD  
LA HABRA, CALIFORNIA 90631**

**REPORT PREPARED BY:**

**BLODGETT BAYLOSIS ENVIRONMENTAL PLANNING  
2211 S. HACIENDA BOULEVARD, SUITE 107  
HACIENDA HEIGHTS, CALIFORNIA 91745**

**MARCH 12, 2020**

LHAB 031



TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
1. Comments and Responses to Comments .....	3
2. Revisions to the EIR by Reference.....	26



## 1. COMMENTS AND RESPONSES TO COMMENTS

A Draft Environmental Impact Report (Draft EIR) was been prepared to analyze the environmental impacts anticipated to result from the approval, construction, and subsequent occupancy of the proposed Volara Townhomes development that is proposed in the City of La Habra, California. The Draft EIR was circulated for a period of 45-days as required under the California Environmental Quality Act (CEQA). The comment period began on January 24, 2020 and concluded on March 9, 2020. The following comment letters were received from the following agencies and entities at the conclusion of the review period:

Letter Dated March 6, 2020

Scott Shelley, Branch Chief, Regional-IGR-Transit-Planning

**Department of Transportation District 12**

1750 E. Fourth Street, Suite 100

Santa Ana, California 92705

Letter Dated March 5, 2020

Lijin Sun, J.D. Program Supervisor, CEQA IGR

**South Coast Air Quality Management District (SCAQMD),**

Planning, Rule Development & Area Sources

21865 Copley Drive,

Diamond Bar, California 91765-4178

Letter Dated March 9, 2020

David A. Mayer, Acting Environmental Program Manager

**State of California Department of Fish and Wildlife, South Coast Region**

3883 Ruffin Road

San Diego, California 92123



## **Response to Comment Letter Dated March 6, 2020**

**Scott Shelley**

**Branch Chief, Regional-IGR-Transit-Planning**

**State of California Department of Transportation District 12**

### **Comment 1**

*Thank you for including the California Department of Transportation (Caltrans) in the review of the Draft Environmental Impact Report (DEIR) for the Volara Townhomes project in the city of La Habra. Caltrans mission is to offer a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability.*

*The proposed Project involves the construction of 58 townhome units on a 2.92-acre site located along the east side of Euclid Street. The units will have a total floor area of 88,522 square feet and a maximum height of 35 feet. A total of 181 parking spaces and 20,672 square feet of open space will be provided. Access will be provided by an existing 35-foot wide driveway located along the east side of Euclid Street.*

*The Project site is located on the east side of Euclid Street in the central portion of the City of La Habra. Electric Avenue is located along the northern boundary of the project site and East Olive Street is to the south. There are a number of major arterial roads that provide access to the project site, including Beach Boulevard (SR 39), located 1.24 mile west of the project site and Imperial Highway (SR 90) located 0.7 miles south of the project site. SR 90 and SR 39 are both owned and operated by Caltrans. Caltrans is a responsible agency and has the following comments.*

### **Response 1**

The comment is noted for the record. No response is required.

### **Comment 2**

*Include a discussion on bicycle, pedestrian, and transit impacts. There are several points of interest nearby that future residents may utilize bicycling, walking, and transit to access, such as parks, La Habra City Hall, schools, and trails. According to the City of La Habra's Bikeway Master Plan (2017), there are several proposed bicycle facilities in the project vicinity, including potential long-term bikeways along the Coyote Creek Channel and La Habra Boulevard, a Class III bike route on 1<sup>st</sup> Avenue, and a Class I bike path along the Union Pacific ROW. Therefore, these potential connections to bicycle facilities should be analyzed and considered in the document. Also consider incorporating these proposed bicycle facilities into project development.*



## Response 2

The proposed project will not preclude the implementation of any of the proposed bikeway improvements mentioned in the above comment. The City approved the La Habra Union Pacific Rail Line Bikeway project will involve the installation of a bikeway and other related improvements within the City of La Habra. The La Habra Union Pacific Rail Line Bikeway, in its entirety, entails the acquisition of 2.80 miles of the Union Pacific railroad right-of-way, and the conversion of the northern portion of the right-of-way and public parks into a Class I bike trail. The Bikeway will be located parallel to the Union Pacific Rail Line right-of-way on its north side.

The Bikeway will commence at the western boundary of the City of La Habra and will terminate at the eastern boundary of the City of La Habra. The proposed Bikeway will be bounded on the south by an unimproved access road for the railroad and on the north primarily by residential, parks, commercial, and industrial uses. The Bikeway will extend into two parks (Terraza Park and Guadalupe Park) and along one park (Portola Park) and will cross nine intersecting roadways (including Beach Boulevard and Harbor Boulevard). The proposed Bikeway will follow the existing Guadalupe Trail bike path, which is an existing Class I bike path that extends from Idaho Street to Walnut Street. The proposed Volara Townhome project will not physically impact this bikeway facility.

The proposed project will also involve the installation of a new sidewalk and parkway landscaping along the Euclid Street frontage.

## Comment 3

*There is an existing OCTA transit stop directly adjacent to the project site (Route 37). The proximity of the transit stop to the site encourages residents to utilize transit as a form of transportation. Therefore, transit impacts should be analyzed and considered in the document.*

## Response 3

As indicated in the comment letter, a bus stop is located within the project site's Euclid Street frontage. This bus stop is OCTA Stop ID# 4325. The proposed project's construction would not displace this bus stop. According to the OCTA, ridership has fallen over the past several years due to a variety of factors. This decline in ridership has resulted in the elimination of some routes and a reduction in headways for other routes. The proposed project will involve the construction of 58 town home units. The proposed project's projected residential population will be 189 new residents. Even if 10% of the resident population takes advantage of the available public transit, transit patronage will be approximately 18 persons per day. In general, daily transit patron for similar residential development ranges between 2% and 5%.



#### **Comment 4**

*Consider improving Complete Streets infrastructure around the project site and adding appropriate bicycle-, pedestrian-, and transit-oriented safety measures. Caltrans encourages the design of Complete Streets that include high-quality pedestrian, bicycle, and transit facilities that are safe and comfortable for users of all ages and abilities. Complete Streets improvements also promote regional connectivity, improve air quality, reduce congestion, promote improved first-/ last- mile connections, and increase safety for all modes of transportation.*

#### **Response 4**

As indicated previously, a new Class I Bicycle Trail will be constructed within the former railroad right-of-way that extends along the north side of the project site. In addition, a new sidewalk will be constructed along the entire Euclid Street frontage. Finally, no on-street parking will be permitted along Euclid Street in front of the project site which will facilitate a future bike lane on the east side of Euclid Street.

#### **Comment 5**

*The developer and the City will need to coordinate their construction activities with a Caltrans Project Manager in order to avoid any impacts to local area traffic. Please continue to coordinate with Caltrans for any future developments that could potentially impact State transportation facilities. If you have any questions, do not hesitate to contact Julie Lugaro.*

#### **Response 6**

The comment is noted for the record.



STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

Govin Newsom, Governor

**DEPARTMENT OF TRANSPORTATION**

District 12  
1750 EAST FOURTH STREET, SUITE 100  
SANTA ANA, CA 92705  
PHONE (657) 328-6368  
FAX (657) 328-6510  
TTY 711  
www.dot.ca.gov



*Making Conservation  
a California Way of Life.*

March 6, 2020

Chris Schaefer  
City of La Habra  
110 East La Habra Blvd.  
La Habra, CA 90631

File: IGR/CEQA  
12-ORA-2019-01313  
Volera Townhomes  
SR 90 PM 1.766  
SR 39 PM 19.88

Dear Mr. Schaefer,

Thank you for including the California Department of Transportation (Caltrans) in the review of the Draft Environmental Impact Report (DEIR) for the Volara Townhomes project in the city of La Habra. Caltrans mission is to offer a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability.

The proposed Project involves the construction of 58 townhome units on a 2.92-acre site located along the east side of Euclid Street. The units will have a total floor area of 88,522 square feet and a maximum height of 35 feet. A total of 181 parking spaces and 20,672 square feet of open space will be provided. Access will be provided by an existing 35-foot wide driveway located along the east side of Euclid Street.

The Project site is located on the east side of Euclid Street in the central portion of the City of La Habra. Electric Avenue is located along the northern boundary of the project site and East Olive Street is to the south. There are a number of major arterial roads that that provide access to the project site, including Beach Boulevard (SR 39), located 1.24 mile west of the project site and Imperial Highway (SR 90) located 0.7 miles south of the project site. SR 90 and SR 39 are both owned and operated by Caltrans. Caltrans is a responsible agency and has the following comments

**Systems Planning**

1. Include a discussion on bicycle, pedestrian, and transit impacts. There are several points of interest nearby that future residents may utilize bicycling, walking, and transit to access, such as parks, La Habra City Hall, schools, and trails.
  - a. According to the City of La Habra's Bikeway Master Plan (2017), there are several proposed bicycle facilities in the project vicinity, including potential long-term bikeways along the Coyote Creek Channel and La Habra Boulevard, a Class III bike route on 1st Avenue, and a Class I bike path along

*"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"*



City of La Habra  
March 6, 2020  
Page 2

the Union Pacific ROW. Therefore, these potential connections to bicycle facilities should be analyzed and considered in the document. Also consider incorporating these proposed bicycle facilities into project development.

- b. There is an existing OCTA transit stop directly adjacent to the project site (Route 37). The proximity of the transit stop to the site encourages residents to utilize transit as a form of transportation. Therefore, transit impacts should be analyzed and considered in the document.
2. Consider improving Complete Streets infrastructure around the project site and adding appropriate bicycle-, pedestrian-, and transit-oriented safety measures. Caltrans encourages the design of Complete Streets that include high-quality pedestrian, bicycle, and transit facilities that are safe and comfortable for users of all ages and abilities. Complete Streets improvements also promote regional connectivity, improve air quality, reduce congestion, promote improved first-/last-mile connections, and increase safety for all modes of transportation.

#### **Project Management**

1. The developer and the City will need to coordinate their construction activities with a Caltrans Project Manager in order to avoid any impacts to local area traffic.

Please continue to coordinate with Caltrans for any future developments that could potentially impact State transportation facilities. If you have any questions, do not hesitate to contact Julie Lugaro at (657)-328-6368 or [Julie.lugaro@dot.ca.gov](mailto:Julie.lugaro@dot.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott Shelley".

SCOTT SHELLEY  
BRANCH CHIEF, REGIONAL-IGR-TRANSIT PLANNING  
DISTRICT 12

*"Provide a safe, sustainable, integrated and efficient transportation system  
to enhance California's economy and livability"*





**Response to Comment Letter Dated March 5, 2020**  
**Lijin Sun, J.D. Program Supervisor, CEQA IGR**  
**South Coast Air Quality Management District (SCAQMD)**  
**Planning, Rule Development & Area Sources**  
**21865 Copley Drive,**  
**Diamond Bar, CA 91765-4178**

**Comment 1.**

*South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the Lead Agency and should be incorporated into the Final EIR. The Lead Agency proposes to construct 54 residential units totaling 88,522 square feet on a 2.92-acre vacant site (Proposed Project). The Proposed Project is located on the southeast corner of Electric Avenue and Euclid Street in the City of La Habra. Construction of the Proposed Project is expected take place over 12 months<sup>1</sup>. Upon review of Exhibit 3-4: Aerial Photograph in the Draft EIR<sup>2</sup> and aerial photographs, South Coast AQMD staff found that the Proposed Project is located immediately south of the Union Pacific Railroad track and north of existing residential uses.*

**Response 1.**

The comment has been noted for the record.

**Comment 2.**

*In the Air Quality Analysis Section, the Lead Agency quantified the Proposed Project's construction and operational emissions and compared those emissions to South Coast AQMD's recommended regional and localized CEQA air quality significance thresholds. Based on the analysis, the Lead Agency found that the Proposed Project's regional construction and operational air quality impacts would be less than significant. However, the Proposed Project's localized construction emissions for PM<sub>10</sub> at 20.46 pounds per day (lbs/day) and PM<sub>2.5</sub> at 12 lbs/day would exceed South Coast AQMD's localized significance thresholds at 11 lbs/day and 6 lbs/day, respectively. With implementation of watering the Proposed Project site three times per day to control fugitive dust emissions, localized construction emissions from PM<sub>10</sub> and PM<sub>2.5</sub> would be reduced to less than significant at 9.44 lbs/day and 5.94 lbs/day, respectively.*

*While the Proposed Project's mitigated localized PM<sub>10</sub> and PM<sub>2.5</sub> construction emissions did not exceed South Coast AQMD's localized air quality CEQA thresholds, they were slightly below the applicable significance thresholds. Therefore, to further reduce PM<sub>10</sub> and PM<sub>2.5</sub> emissions during construction and to ensure that nearby residents are not adversely affected by emissions from the use of off-road diesel-powered construction equipment, South Coast AQMD staff recommends that the Lead Agency require the use of Tier 4 Final construction equipment.*



## **Response 2.**

The LST thresholds referred to in the comment considered two sources: particulates related to grading and diesel particulate matter (DPM) from the construction equipment's diesel engines. The fugitive dust would be controlled through SCAQMD rules governing airborne fugitive dust during grading. The use of Tier 4 rated construction equipment would only have an impact on DPM. The Draft EIR included a separate analysis of DPM from the construction equipment (refer to Tables 4-5 through 4-11) for each phase of construction. For all of the phases, the quantities of project DPM will be a fraction of the SCAQMD thresholds. Nevertheless, the proposed project will not preclude the use of Tier 4 rated construction equipment.

## **Comment 3.**

*Additionally, upon review of the Air Quality Analysis section, South Coast AQMD staff found that the Lead Agency did not include a discussion on the potential long-term health risks to residents who will live at the Proposed Project in close proximity to an existing railroad track, which is capable of attracting the use of locomotives that emit diesel particulate matter (DPM). To disclose potential health impacts to future residents at the Proposed Project, South Coast AQMD staff recommends that the Lead Agency perform a health risk assessment in the Final EIR and incorporate strategies to reduce exposure to DPM from railroad tracks. Please see the attachment for more information.*

## **Response 3.**

The aforementioned railroad right-of-way is not an operational rail line. This railroad right of way is now part of the proposed La Habra Union Pacific Rail Line Bikeway project that will involve the installation of a bikeway and other related improvements within the City of La Habra. The La Habra Union Pacific Rail Line Bikeway, in its entirety, entails the acquisition of 2.80 miles of the Union Pacific railroad right-of-way, and the conversion of the northern portion of the right-of-way and public parks into a Class I bike trail. The Bikeway will be located parallel to the Union Pacific Rail Line right-of-way on its north side.

## **Comment 4.**

*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. Conclusionary statements unsupported by factual information will not suffice (CEQA Guidelines Section 15088(c)). Conclusionary 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 finding that the recommended additional 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 Margaret Isied, Assistant Air Quality Specialist, at [misied@aqmd.gov](mailto:misied@aqmd.gov) or (909) 396-2543, should you have any questions.*

**Response 4.**

Comments are noted for the record.



SENT VIA E-MAIL AND USPS:

March 5, 2020

[CSchaefer@lahabracal.gov](mailto:CSchaefer@lahabracal.gov)

Chris Schaefer, Senior Planner  
City of La Habra, Community Development Department  
110 East La Habra Boulevard  
La Habra, CA 90631

**Draft Environmental Impact Report (DEIR) for the Proposed  
Volara Townhomes Project (SCH No.: 2019060214)**

South Coast Air Quality Management District (South Coast AQMD) staff appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the Lead Agency and should be incorporated into the Final EIR.

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

The Lead Agency proposes to construct 54 residential units totaling 88,522 square feet on a 2.92-acre vacant site (Proposed Project). The Proposed Project is located on the southeast corner of Electric Avenue and Euclid Street in the City of La Habra. Construction of the Proposed Project is expected take place over 12 months<sup>1</sup>. Upon review of Exhibit 3-4: *Aerial Photograph* in the Draft EIR<sup>2</sup> and aerial photographs, South Coast AQMD staff found that the Proposed Project is located immediately south of the Union Pacific Railroad track and north of existing residential uses.

**South Coast AQMD Staff's Summary of the Air Quality Analysis**

In the Air Quality Analysis Section, the Lead Agency quantified the Proposed Project's construction and operational emissions and compared those emissions to South Coast AQMD's recommended regional and localized CEQA air quality significance thresholds. Based on the analysis, the Lead Agency found that the Proposed Project's regional construction and operational air quality impacts would be less than significant<sup>3</sup>. However, the Proposed Project's localized construction emissions for PM10 at 20.46 pounds per day (lbs/day) and PM2.5 at 12 lbs/day would exceed South Coast AQMD's localized significance thresholds at 11 lbs/day and 6 lbs/day, respectively<sup>4</sup>. With implementation of watering the Proposed Project site three times per day to control fugitive dust emissions<sup>5</sup>, localized construction emissions from PM10 and PM2.5 would be reduced to less than significant at 9.44 lbs/day and 5.94 lbs/day, respectively<sup>6</sup>.

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

While the Proposed Project's mitigated localized PM10 and PM2.5 construction emissions did not exceed South Coast AQMD's localized air quality CEQA thresholds, they were slightly below the applicable significance thresholds. Therefore, to further reduce PM10 and PM2.5 emissions during construction and to ensure that nearby residents are not adversely affected by emissions from the use of off-road diesel-powered construction equipment, South Coast AQMD staff recommends that the Lead Agency require the use of Tier 4 Final construction equipment.

<sup>1</sup> Draft EIR, Page 57

<sup>2</sup> *Ibid.* Page 55.

<sup>3</sup> *Ibid.* Page 84.

<sup>4</sup> *Ibid.* Page 88.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*



Chris Schaefer

March 5, 2020

Additionally, upon review of the Air Quality Analysis section, South Coast AQMD staff found that the Lead Agency did not include a discussion on the potential long-term health risks to residents who will live at the Proposed Project in close proximity to an existing railroad track, which is capable of attracting the use of locomotives that emit diesel particulate matter (DPM). To disclose potential health impacts to future residents at the Proposed Project, South Coast AQMD staff recommends that the Lead Agency perform a health risk assessment in the Final EIR and incorporate strategies to reduce exposure to DPM from railroad tracks. Please see the attachment for more information.

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 finding that the recommended additional 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 Margaret Isied, Assistant Air Quality Specialist, at [misied@aqmd.gov](mailto:misied@aqmd.gov) or (909) 396-2543, should you have any questions.

Sincerely,

*Lijin Sun*

Lijin Sun, J.D.  
Program Supervisor, CEQA IGR  
Planning, Rule Development & Area Sources

Attachment  
LS:MI  
ORC200205-03  
Control Number





Chris Schaefer

March 5, 2020

#### ATTACHMENT

1. Recommended Mitigation Measure for Localized Air Quality Impacts from Construction Activities

The Proposed Project's localized PM10 and PM2.5 construction emissions would be mitigated to 9.44 lbs/day and 5.94 lbs/day, which were slightly below South Coast AQMD's localized air quality CEQA significance threshold at 11 lbs/day and 6 lbs/day, respectively. To further reduce those emissions and their impacts on nearby sensitive receptors (e.g., residential uses south of the Proposed Project) during the 12-month construction period, South Coast AQMD staff recommends that the Lead Agency incorporate the following mitigation measure into the Final EIR.

*Tier 4 Construction Equipment or Level 3 Diesel-Particulate Filters*

Require the use of off-road diesel-powered construction equipment that meets or exceeds the California Air Resources Board (CARB) and U.S. Environmental Protection Agency (USEPA) Tier 4 Final off-road emissions standards for equipment rated at 50 horsepower or greater during construction of the Proposed Project. Such equipment will be outfitted with Best Available Control Technology (BACT) devices including a CARB certified Level 3 Diesel Particulate Filter (DPFs). Level 3 DPFs are capable of achieving at least 85 percent reduction in particulate matter emissions<sup>7</sup>. A list of CARB verified DPFs are available on the CARB website<sup>8</sup>.

To ensure that Tier 4 Final construction equipment or better would 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.

In the event that construction equipment cannot meet the Tier 4 Final engine certification, the Project representative or contractor must demonstrate through future study with written findings supported by substantial evidence that is approved by the Lead Agency before using other technologies/strategies. Alternative applicable strategies may include, but would not be limited to, construction equipment with Tier 4 Interim or Tier 3 emission standards and/or reduction in the number and/or horsepower rating of construction equipment.

2. Health Risk Assessment (HRA) from Freeways and Other Sources of Air Pollution

Notwithstanding the court rulings, South Coast AQMD staff recognizes that the Lead Agencies that approve CEQA documents retain the authority to include any additional information they deem relevant to assessing and mitigating the environmental impacts of a project. Because of South Coast AQMD's concern about the potential public health impacts of siting sensitive land uses, such as residential uses, within close proximity to the Union Pacific railroad track, South Coast AQMD staff recommends that the Lead Agency review and consider the following comments when making local planning and land use decisions.

Sensitive receptors are people that have an increased sensitivity to air pollution or environmental contaminants. Sensitive receptors include schools, daycare centers, nursing homes, elderly care facilities,

<sup>7</sup> CARB. November 16-17, 2004. *Diesel Off-Road Equipment Measure – Workshop*. Page 17. Accessed at: [https://www.arb.ca.gov/msprog/ordiesel/presentations/nov16-04\\_workshop.pdf](https://www.arb.ca.gov/msprog/ordiesel/presentations/nov16-04_workshop.pdf)

<sup>8</sup> *Ibid*. Page 18.



Chris Schaefer

March 5, 2020

hospitals, and residential dwelling units. As stated above, the Proposed Project will include 54 new residential units. Based on a review of Exhibit 3-4: *Aerial Photograph* in the Draft EIR<sup>9</sup> and aerial photographs, South Coast AQMD staff found that the Proposed Project is located immediately south of the Union Pacific Railroad track. Residents who will live at the Proposed Project in close proximity to an existing railroad track will be exposed to diesel particulate matter (DPM) that will be emitted from locomotives. DPM has been identified by the California Air Resources Board as a toxic air contaminant (TAC)<sup>10</sup> based on its carcinogenic effects. To disclose potential health impacts to future residents at the Proposed Project, South Coast AQMD staff recommends that the Lead Agency perform a health risk assessment (HRA) in the Final EIR. This recommended HRA facilitates the purpose and goal of CEQA on information disclosure, fosters informed decision-making and public participation, and provides decision-makers and the public with meaningful and useful information regarding the potential long-term health risks to future residents at the Proposed Project from exposures to locomotives.

3. Guidance Regarding Residences Sited Near Freeways or Other Sources of Air Pollution

South Coast AQMD staff recognizes that there are many factors Lead Agencies must consider when making local planning and land use decisions. To facilitate stronger collaboration between Lead Agencies and South Coast AQMD to reduce community exposure to source-specific and cumulative air pollution impacts, South Coast AQMD adopted the Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning in 2005. This Guidance Document provides suggested policies that local governments can use in their General Plans or through local planning to prevent or reduce potential air pollution impacts and protect public health. This Guidance Document is available on South Coast AQMD's website at: <http://www.aqmd.gov/docs/default-source/planning/air-quality-guidance/complete-guidance-document.pdf>. Additional guidance on siting incompatible land uses (such as placing residential uses near railroad tracks) can be found in the CARB's *Air Quality and Land Use Handbook: A Community Health Perspective*, which is available at: <http://www.arb.ca.gov/ch/handbook.pdf>. CARB's Land Use Handbook is a general reference guide for evaluating and reducing air pollution impacts associated with projects that go through the land use decision-making process. South Coast AQMD staff recommends that the Lead Agency review the guidance documents when making local planning and land use decisions.

4. Health Risk Reduction Strategies

Many strategies are available to reduce exposure, including, but not limited to, building filtration systems with Minimum Efficiency Reporting Value (MERV) 13 or better, or in some cases, MERV 15 or better is recommended; building design, orientation, location; vegetation barriers or landscaping screening, etc. Enhanced filtration units are capable of reducing exposures. Installation of enhanced filtration units can be verified during occupancy inspection prior to the issuance of an occupancy permit.

Enhanced filtration systems have limitations. South Coast AQMD staff recommends that the Lead Agency consider the limitations of the enhanced filtration. For example, in a study that South Coast AQMD conducted to investigate filters<sup>11</sup>, a cost burden is expected to be within the range of \$120 to \$240 per year to replace each filter. The initial start-up cost could substantially increase if an HVAC system needs to be installed. In addition, because the filters would not have any effectiveness unless the HVAC system is running, there may be increased energy costs to the residents. It is typically assumed that the filters operate 100 percent of the time while residents are indoors, and the environmental analysis does not generally account for the times when the residents have their windows or doors open or are in common space areas of the project. In addition, these filters have no ability to filter out any toxic gases from

<sup>9</sup> *Ibid.* Page 55.

<sup>10</sup> California Air Resources Board. August 27, 1998. Resolution 98-35. Accessed at: <http://www.arb.ca.gov/regact/diesltac/diesltac.htm>

<sup>11</sup> This study evaluated filters rated MERV 13 or better. Accessed at: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/aqmdpilotstudyfinalreport.pdf>. Also see 2012 Peer Review Journal article by South Coast AQMD: <http://d7.iqair.com/sites/default/files/pdf/Polidori-et-al-2012.pdf>.



Chris Schaefer

March 5, 2020

vehicle exhaust. Therefore, the presumed effectiveness and feasibility of any filtration units should be carefully evaluated in more detail prior to assuming that they will sufficiently alleviate exposures to toxic emissions.

Because of the limitations, to ensure that enhanced filters are enforceable throughout the lifetime of the Proposed Project and effective in reducing exposures to DPM emissions, South Coast AQMD staff recommends that the Lead Agency make the installation of enhanced filtration units a project design feature, mitigation measure, or condition of approval, and provide additional details regarding the ongoing, regular maintenance, and monitoring of filters in the Final EIR. To facilitate a good-faith effort at full disclosure and provide useful information to future residents living at the Proposed Project, at a minimum, the Final EIR should include the following information:

- a) Disclose potential health impacts to residents from living in close proximity to railroad track and the reduced effectiveness of air filtration systems when windows are open and/or when residents are outdoor;
- b) Identify the responsible implementing and enforcement agency, such as the Lead Agency and/or the Home Owners Association (HOA)<sup>12</sup> to ensure that enhanced filtration units are installed on-site at the Proposed Project before a permit of occupancy is issued;
- c) Identify the responsible implementing and enforcement agency such as the Lead Agency's building and safety inspection unit to ensure that enhanced filtration units are inspected and maintained regularly;
- d) Disclose the potential increase in energy costs for running the HVAC system with enhanced filtration units;
- e) Provide information to residents living at the Proposed Project and the HOA of the Proposed Project on where enhanced filtration units can be purchased;
- f) Provide recommended schedules (e.g., every year or every six months) for replacing the enhanced filtration units to residents living at the Proposed Project;
- g) Identify the responsible entity (e.g. residents and/or the HOA) for ensuring enhanced filtration units are replaced on time, if appropriate and feasible (if the building operator/residents are responsible for the periodic and regular purchase and replacement of the enhanced filtration units, the Lead Agency should include this information in the disclosure form);
- h) Identify, provide, and disclose ongoing cost-sharing strategies, if any, for replacing the enhanced filtration units;
- i) Set City-wide or project-specific criteria for assessing progress in installing and replacing the enhanced filtration units; and
- j) Develop a City-wide or project-specific process for evaluating the effectiveness of the enhanced filtration units.

---

<sup>12</sup> Draft EIR. Page 56.





**Response to Comment Letter Dated March 9, 2020**

**David A. Mayer, Acting Environmental Program Manager**

**State of California Department of Fish and Wildlife, South Coast Region**

**3883 Ruffin Road**

**San Diego, CA 92123**

**Comment 1.**

*The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from the City of La Habra for the 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.*

*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.*

*Proponent: City of La Habra*

*Objective: The Project will construct 58 townhome units and 181 parking spaces on a 2.92-acre site. Primary Project activities include demolition, vegetation removal, site preparation, grading, construction, paving, and landscaping.*

*Location: The Project is located on a 2.92-acre site along the east side of Euclid Street in the City of La Habra, within a predominantly residential area. The Project site is bounded to the north by a Union Pacific railroad right-of way, to the east by industrial uses, to the west by Euclid Avenue, and to the south by Coyote Creek, a concrete-lined flood control channel. There are over 20 mature trees and shrubs on the Project site which have the potential to provide habitat for nesting and/or migratory birds. These trees and shrubs are non-native and ornamental species used for landscaping.*

*Timeframe: The Project will take approximately 12 months to complete.*



*Location: The Project is located on a 2.92-acre site along the east side of Euclid Street in the City of La Habra, within a predominantly residential area. The Project site is bounded to the north by a Union Pacific railroad right-of way, to the east by industrial uses, to the west by Euclid Avenue, and to the south by Coyote Creek, a concrete-lined flood control channel. There are over 20 mature trees and shrubs on the Project site which have the potential to provide habitat for nesting and/or migratory birds. These trees and shrubs on are non-native and ornamental species used for landscaping.*

*Timeframe: The Project will take approximately 12 months to complete.*

**Response 1.**

The comment has been noted for the record.

**Comment 2.**

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

*I. Mitigation Measure or Alternative and Related Impact Shortcoming*

*Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?*

*Mitigation Measure No. 4 Pre-Construction Surveys for Nesting Birds*

*Issue: Mitigation Measure No. 4 is insufficient to reduce potential impacts to migrating or nesting birds below significant due to the proposed timing of preconstruction surveys.*

*Specific impact: Mitigation Measure No. 4 describes pre-construction surveys for nesting birds, should clearing and/or construction activities occur during the raptor or migratory bird nesting season (February 15 through August 15). Mitigation Measure No. 4 indicates that surveys will be conducted within 14 days prior to construction activities; however, that timeframe is inadequate to identify nesting bird presence in the Project area. A two-week timeframe allows the possibility for birds to locate onsite and potentially establish nests. Pre-construction surveys should be conducted as close to the time of potential disruption as possible, no more than 3 days from the start of construction.*

*Why impact would occur: There are over 20 mature trees and shrubs on site that will be removed during the construction phase of the Project, which have potential to harbor migratory and nesting birds.*



*Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming).*

*To reduce impacts to less than significant: If Project activities cannot occur outside of the bird nesting season, CDFW recommends that nesting bird surveys be conducted no more than 3 days prior to construction-related activities including clearing of vegetation, grubbing, or grading. If active nests or breeding behavior are observed within the Project area during the survey, a buffer zone of 300-500 feet should be established around the nest and a qualified biologist should be onsite to monitor activity daily during vegetation clearing and grading.*

*As written, Mitigation Measure No. 4 prescribes nesting bird surveys to be conducted within 14 days prior to construction activities during breeding season. To avoid or minimize impacts to nesting birds, CDFW recommends that Mitigation Measure No. 4 be amended as follows:*

*Mitigation Measure No. 4: If clearing and/or construction activities would occur during the raptor or migratory bird nesting season (February 15 to August 15), the Applicant and/or its contractor shall retain a qualified biologist to conduct preconstruction surveys for nesting birds no more than 3 days before the construction activities commence. A copy of the report must be provided to the Director of Community Development for review and approval prior to the start of any work on the project site. The qualified biologist shall survey the construction zone to determine whether the activities taking place have the potential to disturb or otherwise harm nesting birds. Surveys shall be repeated if project activities are suspended or delayed for more than 15 days during nesting season. If active nest(s) are identified during the preconstruction survey, the biologist shall establish a 300-foot no-activity setback for migratory bird nests and a 500-foot setback for raptor nests and/or sensitive species. No ground disturbance should occur within the no-activity setback until the nest is deemed inactive by a qualified biologist. The biologist must be approved by the Community Development Director prior to the issuance of any type of permit for the project. Per CEQA Guidelines Section 21081.6(a)(1), the Department has provided the City of La Habra with a suggested mitigation measure and recommendations (Comment #1).*

## **Response 2.**

The Final EIR, specifically Mitigation Measure Number 4 will be revised pursuant to the CDFW recommendation. The amended mitigation measure will read as follows:



“Mitigation Measure No. 4: If clearing and/or construction activities would occur during the raptor or migratory bird nesting season (February 15 to August 15), the Applicant and/or its contractor shall retain a qualified biologist to conduct preconstruction surveys for nesting birds no more than 3 days before the construction activities commence. A copy of the report must be provided to the Director of Community Development for review and approval prior to the start of any work on the project site. The qualified biologist shall survey the construction zone to determine whether the activities taking place have the potential to disturb or otherwise harm nesting birds. Surveys shall be repeated if project activities are suspended or delayed for more than 15 days during nesting season. If active nest(s) are identified during the preconstruction survey, the biologist shall establish a 300-foot no-activity setback for migratory bird nests and a 500-foot setback for raptor nests and/or sensitive species. No ground disturbance should occur within the no-activity setback until the nest is deemed inactive by a qualified biologist. The biologist must be approved by the Community Development Director prior to the issuance of any type of permit for the project. Per CEQA Guidelines Section 21081.6(a)(1), the Department has provided the City of La Habra with a suggested mitigation measure and recommendations.”

**Comment 3.**

*CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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 (CNDDB).*

*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 3.**

The comment is noted for the record. The City, in its capacity as Lead Agency for the project, intends to pay the requisite fee at the time the NOD is filed.

**Comment 4.**

*CDFW appreciates the opportunity to comment on the DEIR to assist the City of La Habra in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Jessie Lane, Environmental Scientist at (858) 636-3159.*



**Response 5.**

The comment is noted for the record.



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
South Coast Region  
3883 Ruffin Road  
San Diego, CA 92123  
(858) 467-4201  
www.wildlife.ca.gov

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



March 9, 2020

Chris Schaefer  
City of La Habra  
110 East La Habra Blvd  
La Habra, CA 90631

**Subject: Comments on the Draft Environmental Impact Report for the Volara Townhomes Project (SCH #2019060214)**

Dear Mr. Schaefer:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from the City of La Habra for the Project pursuant to 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 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.

#### PROJECT DESCRIPTION SUMMARY

**Proponent:** City of La Habra

**Objective:** The Project will construct 58 townhome units and 181 parking spaces on a 2.92-acre site. Primary Project activities include demolition, vegetation removal, site preparation, grading, construction, paving, and landscaping.

<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.

*Conserving California's Wildlife Since 1870*





Chris Schaefer  
City of La Habra  
March 9, 2020  
Page 2 of 4

**Location:** The Project is located on a 2.92-acre site along the east side of Euclid Street in the City of La Habra, within a predominantly residential area. The Project site is bounded to the north by a Union Pacific railroad right-of way, to the east by industrial uses, to the west by Euclid Avenue, and to the south by Coyote Creek, a concrete-lined flood control channel. There are over 20 mature trees and shrubs on the Project site which have the potential to provide habitat for nesting and/or migratory birds. These trees and shrubs are non-native and ornamental species used for landscaping.

**Timeframe:** The Project will take approximately 12 months to complete.

#### COMMENTS AND RECOMMENDATIONS

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

##### I. Mitigation Measure or Alternative and Related Impact Shortcoming

**Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?**

**COMMENT #1:** Mitigation Measure No. 4 Pre-Construction Surveys for Nesting Birds

##### Section 7.4

**Issue:** Mitigation Measure No. 4 is insufficient to reduce potential impacts to migrating or nesting birds below significant due to the proposed timing of preconstruction surveys.

**Specific impact:** Mitigation Measure No. 4 describes pre-construction surveys for nesting birds, should clearing and/or construction activities occur during the raptor or migratory bird nesting season (February 15 through August 15). Mitigation Measure No. 4 indicates that surveys will be conducted within 14 days prior to construction activities; however, that timeframe is inadequate to identify nesting bird presence in the Project area. A two-week timeframe allows the possibility for birds to locate onsite and potentially establish nests. Pre-construction surveys should be conducted as close to the time of potential disruption as possible, no more than 3 days from the start of construction.

**Why impact would occur:** There are over 20 mature trees and shrubs on site that will be removed during the construction phase of the Project, which have potential to harbor migratory and nesting birds.



Chris Schaefer  
City of La Habra  
March 9, 2020  
Page 3 of 4

**Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)**

**MITIGATION MEASURE #1:**

**To reduce impacts to less than significant:** If Project activities cannot occur outside of the bird nesting season, CDFW recommends that nesting bird surveys be conducted no more than 3 days prior to construction-related activities including clearing of vegetation, grubbing, or grading. If active nests or breeding behavior are observed within the Project area during the survey, a buffer zone of 300-500 feet should be established around the nest and a qualified biologist should be onsite to monitor activity daily during vegetation clearing and grading.

As written, Mitigation Measure No. 4 prescribes nesting bird surveys to be conducted within 14 days prior to construction activities during breeding season. To avoid or minimize impacts to nesting birds, CDFW recommends that Mitigation Measure No. 4 be amended as follows:

*Mitigation Measure No. 4: If clearing and/or construction activities would occur during the raptor or migratory bird nesting season (February 15 to August 15), the Applicant and/or its contractor shall retain a qualified biologist to conduct preconstruction surveys for nesting birds no more than 3 days before the construction activities commence. A copy of the report must be provided to the Director of Community Development for review and approval prior to the start of any work on the project site. The qualified biologist shall survey the construction zone to determine whether the activities taking place have the potential to disturb or otherwise harm nesting birds. Surveys shall be repeated if project activities are suspended or delayed for more than 15 days during nesting season. If active nest(s) are identified during the preconstruction survey, the biologist shall establish a 300-foot no-activity setback for migratory bird nests and a 500-foot setback for raptor nests and/or sensitive species. No ground disturbance should occur within the no-activity setback until the nest is deemed inactive by a qualified biologist. The biologist must be approved by the Community Development Director prior to the issuance of any type of permit for the project.*

Per CEQA Guidelines Section 21081.6(a)(1), the Department has provided the City of La Habra with a suggested mitigation measure and recommendations (Comment #1).

**ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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





Chris Schaefer  
City of La Habra  
March 9, 2020  
Page 4 of 4

Database (CNDDDB). The CNDDDB field survey form can be found at the following link: [http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB\\_FieldSurveyForm.pdf](http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf). 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: [http://www.dfg.ca.gov/biogeodata/cnddb/plants\\_and\\_animals.asp](http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp).

#### 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.)

#### CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the City of La Habra in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jessie Lane, Environmental Scientist at (858) 636-3159 or [Jessie.Lane@wildlife.ca.gov](mailto:Jessie.Lane@wildlife.ca.gov).

Sincerely,

A handwritten signature in blue ink that reads "David A. Mayer".

David A. Mayer  
Acting Environmental Program Manager  
South Coast Region

cc: Office of Planning and Research, State Clearinghouse, Sacramento

#### REFERENCES

City of La Habra. 2020. Volara Townhomes: Draft Environmental Impact Report. SCH# 2019060214.



## 2. REVISIONS TO THE IS/MND BY REFERENCE

This section indicates those revisions that were requested by those individuals and agencies that commented on the Draft EIR that was circulation for public review. First the Agency or individual is identified along with the written comment(s) requesting the revision. The specific change or revision that prepared in response to the comment is then identified immediately below the comment. The changes and/or revisions outlined in this section will be made part of the administrative record as part of the project's approval and the certification of the EIR and adoption of the final Mitigation Monitoring and Reporting Program.

### Requested Revision

*As written, Mitigation Measure No. 4 prescribes nesting bird surveys to be conducted within 14 days prior to construction activities during breeding season. To avoid or minimize impacts to nesting birds , CDFW recommends that Mitigation Measure No. 4 be amended as follows:*

*Mitigation Measure No. 4: If clearing and/or construction activities would occur during the raptor or migratory bird nesting season (February 15 to August 15), the Applicant and/or its contractor shall retain a qualified biologist to conduct preconstruction surveys for nesting birds no more than 3 days before the construction activities commence. A copy of the report must be provided to the Director of Community Development for review and approval prior to the start of any work on the project site. The qualified biologist shall survey the construction zone to determine whether the activities taking place have the potential to disturb or otherwise harm nesting birds. Surveys shall be repeated if project activities are suspended or delayed for more than 15 days during nesting season. If active nest(s) are identified during the preconstruction survey, the biologist shall establish a 300-foot no-activity setback for migratory bird nests and a 500-foot setback for raptor nests and/or sensitive species. No ground disturbance should occur within the no-activity setback until the nest is deemed inactive by a qualified biologist. The biologist must be approved by the Community Development Director prior to the issuance of any type of permit for the project. Per CEQA Guidelines Section 21081.6(a)(1), the Department has provided the City of La Habra with a suggested mitigation measure and recommendations (Comment #1).*

### Revision by Reference

The Final EIR, specifically Mitigation Measure Number 4 will be revised pursuant to eh CDFW recommendation. The amended mitigation measure will read as follows:



“Mitigation Measure No. 4: If clearing and/or construction activities would occur during the raptor or migratory bird nesting season (February 15 to August 15), the Applicant and/or its contractor shall retain a qualified biologist to conduct preconstruction surveys for nesting birds no more than 3 days before the construction activities commence. A copy of the report must be provided to the Director of Community Development for review and approval prior to the start of any work on the project site. The qualified biologist shall survey the construction zone to determine whether the activities taking place have the potential to disturb or otherwise harm nesting birds. Surveys shall be repeated if project activities are suspended or delayed for more than 15 days during nesting season.

If active nest(s) are identified during the preconstruction survey, the biologist shall establish a 300-foot no-activity setback for migratory bird nests and a 500-foot setback for raptor nests and/or sensitive species. No ground disturbance should occur within the no-activity setback until the nest is deemed inactive by a qualified biologist. The biologist must be approved by the Community Development Director prior to the issuance of any type of permit for the project. Per CEQA Guidelines Section 21081.6(a)(1), the Department has provided the City of La Habra with a suggested mitigation measure and recommendations.”