

March 6, 2018

SB 343

Senate Bill 343 mandates supplemental materials that have been received by the City Clerk's office that relate to an agenda item after the agenda packets have been distributed to the City Council be available to the public.

The attached documents were received in the City Clerk's office after distribution of the March 6, 2018, City Council meeting agenda packet.

Item 6.1



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Via Email and Hand Delivery

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Re: Comments on Zeiss Innovation Center Supplemental Mitigated Negative Declaration/Initial Study, PLPA-2017-00025

Dear Mayor and Honorable Members of the City Council:

This letter is submitted on behalf of Dublin resident Jack Lee Duffy and Laborers International Union of North America, Local Union 304, and its members living in and near the City of Dublin (collectively "LIUNA") regarding the Supplemental Mitigated Negative Declaration/Initial Study ("SMND") prepared for the Zeiss Innovation Center (the "Project") (PLPA-2017-00025).

After reviewing the SMND together with our team of expert consultants, it is evident that the Project meets all of the criteria requiring the preparation of an Environmental Impact Report ("EIR") rather than a Supplemental MND. The SMND relies almost entirely on a prior mitigated negative declaration prepared 17 years ago for a completely different project in 2001, the Cisco Systems Mitigated Negative Declaration ("Cisco MND"), and an EIR that was prepared 25 years ago for the Eastern Dublin Specific Plan in 1994 ("Eastern Dublin EIR"). The fundamental problem with the City's reliance on these prior documents is that they were prepared so long ago that circumstances have changed, and new information has come to light that demonstrate that the Project will, in fact, have significant new or more severe environmental impacts than what was previously analyzed. As a result, the City is required to prepare an EIR, rather than a Supplemental MND.

LIUNA submits the supplemental expert comments of wildlife biologist Shawn Smallwood, Ph.D. Dr. Smallwood's expert comments and resume are attached hereto as Exhibit A. LIUNA submits herewith supplemental comments from air quality expert James Clark, Ph.D. Dr. Clark's comments and resume are attached hereto as Exhibit B. LIUNA also submits supplemental comments from expert transportation analyst Daniel Smith, Jr., P.E., a registered civil and traffic engineer. Mr. Smith's expert comments and resume are attached hereto as Exhibit C. Each of these letters supplement these experts initial comments, submitted with our previous comments to the Planning Commission on February 13, 2018. In addition, the February 13, 2018 comments of toxics expert Heidi Bauer are attached hereto as Exhibit D.

These experts and our own independent review demonstrate that the SMND is inadequate under CEQA. Accordingly, LIUNA requests that the City address the significant environmental impacts described below in an EIR prior to considering approval of the Project.

I. PROJECT DESCRIPTION

Carl Zeiss, Inc. proposes to develop the Zeiss Innovation Center in east Dublin, on the northeast corner of Dublin Boulevard and Arnold Road on 11.36 net acres of land. SMND, p. 1. The Project site is currently vacant. *Id.* Seasonal wetlands make up 1.03 acres of the project site. *Id.* The Project would be developed in two phases. Phase 1 would consist of a three-story, 208,650 gross square feet research and development ("R&D") building and 663 surface parking spaces. SMND, p. 4. Phase 2 would include an additional five-story, 224,440 gross square food R&D building, and a five-story parking garage with 1,229 spaces. *Id.* At build out, the Project would include two low-to-mid-rise research and development ("R&D") buildings, one three stories and one five stories, totaling 433,090 gross, and 1,396 parking spaces. SMND, p. 4. The buildings will be used for research, development and testing, light assembly and dry laboratories, and supporting office spaces. *Id.* The Project will accommodate approximately 1,500 employees upon completion. *Id.*

II. PRIOR CEQA PROJECTS AND DOCUMENTS

A. 1993 East Dublin EIR

Twenty-five years ago, in May of 1993, the Dublin City Council certified an Environmental Impact Report for the Eastern Dublin General Plan Amendment and Specific Plan ("Eastern Dublin EIR"). SMND, p. 2. The Project is located at the extreme western edge of the Eastern Dublin Specific Plan area, the western limit of which is Arnold Road, the Project's western boundary. The EIR as certified included an Addendum to the East Dublin EIR that assessed a reduced development project alternative. *Id.* The City Council approved the General Permit Amendment and Specific Plan for the reduced area alternative. *Id.* According to the SMND, the East Dublin EIR evaluated the potential environmental effects of urbanizing Eastern Dublin over a 20 to 30 year period. *Id.* As part of the certification of the Eastern Dublin EIR, the Dublin City Council adopted a statement of overriding considerations for the following

impacts: cumulative traffic, extension of community facilities, regional air quality, noise, and visual. The East Dublin contains mitigation measures that are to be applied to any development within the project area, which includes the Project.

B. Cisco Systems MND

Fifteen years ago, in 2003, the Dublin City Council certified a Mitigated Negative Declaration for a proposed Cisco Systems project. *Id.* Prior to entitlement, Cisco withdrew their application. *Id.* However, the property owner moved forward with the General Plan and Eastern Dublin Specific Plan amendments for the project site. *Id.* As a result, in 2003, the City Council amended the General Plan and the East Dublin Specific Plan from High Density Residential to Campus Office and adopted the Cisco IS/MND (“Cisco MND”). *Id.* The Cisco MND assumed 430,090 square feet of office and Research and Development space to accommodate 3,000 employees. *Id.*

C. Boulevard – Dublin Crossing Specific Plan¹

In 2013, the Dublin Crossing Specific Plan (now known as “Boulevard”) was approved by the City of Dublin. The Boulevard project calls for the development of approximately 189 acres in Dublin. It is located on a portion of the 2,485-acre Camp Parks Reserve Training Area. The boundary of the Boulevard project is located immediately west of the Project. The location of the two projects can be seen in Figure 1 below. The Boulevard project calls for the construction of 1,995 residential units 200,000 square feet of commercial uses, 30 net-acres of community park, 5-acres of neighborhood parks, and space for a 12-acre elementary school site.

¹ Available at <http://www.dublinca.gov/DocumentCenter/View/5847> (last accessed March 6, 2018). The Dublin Crossing Specific Plan EIR is available at: https://dublinca-my.sharepoint.com/:f/g/personal/danielle_diaz_dublin_ca_gov/Evun47ysMYtlvzTFdZr5Q5wBHyT9Bp-Url2KO_d82R4dxQ?e=U0Md1M



Figure 1: Location of Boulevard (left) and Proposed Zeiss Innovation Center (right)

III. LEGAL STANDARD

Under CEQA, lead agencies normally conduct initial studies to determine if a proposed project may have a significant effect on the environment. 14 CCR § 15063(a). If there is substantial evidence that the project may have a significant effect on the environment, then the agency must prepare and certify an EIR before approving the project. If there is no substantial evidence that a project may cause a significant effect on the environment, then the agency may prepare a negative declaration. 14 CCR § 15371. If the initial study shows that a project may have significant environmental effects, but mitigation measures can be imposed so that no significant effect on the environment would occur, the agency may prepare a mitigated negative declaration. Pub. Res. Code § 21064.5.

Normally, this is the end of the CEQA process. But when changes to a project occur, CEQA comes back into play. When an agency proposes changes to a previously approved project, the agency's environmental review obligation depends on the effect of the proposed changes on the decisionmaking process. *Friends of San Mateo Gardens v. San Mateo* (2017) 1 Cal.5th 937, 944. "An agency that proposes project changes [] must determine whether the previous environmental document retains any relevance in light of the proposed changes and if so, whether major revisions to the previous environmental document are nevertheless required due to the involvement of new, previously unstudied significant environmental impact." *Friends of San Mateo Gardens v. San Mateo* (2017) 1 Cal.5th 937, 944. If the proposed changes render the prior CEQA document completely irrelevant to the decisionmaking process, then the agency must start from the beginning under Public Resources Code section 21151, and conduct an initial

study to determine if the project may have a significant effect on the environment.

If a previous EIR, negative declaration, or mitigated negative declaration retain some relevance to a changed project, a supplemental or subsequent EIR, negative declaration, or mitigated negative declaration are required only if one of the following occurs:

- Substantial changes are proposed in the project that will require major revisions to the prior CEQA document;
- Substantial changes occur in circumstances under which the project is being undertaken that will require major revisions to the previous CEQA document due to the involvement of new significant effects or a substantial increase in the severity of previously identified significant effects; or
- New information of substantial importance to the project that was not known and could not have been known when the prior CEQA document was approved becomes available that shows any of the following:
 - The project will have a significant effect not discussed in the previous EIR or negative declaration;
 - Significant effects previously examined will be substantially more severe than show in the previous EIR;
 - Mitigation measures previously found not to be feasible would in fact be feasible; or
 - Mitigation measures that are considerably different from those analyzed in the prior EIR would substantially reduce one or more significant effect on the environment.

14 CCR § 15162; Pub. Res. Code § 21166.

An agency must prepare an supplemental EIR – and not a supplemental negative declaration or mitigated negative declaration - when there is substantial evidence that changes to a project for which a negative declaration was previously approved might have a significant environmental impact not previously considered in connection with the project as originally approved. *Friends of San Mateo Gardens*, 1 Cal.5th 937, 959.

If, because of new information or changed circumstances a new or more substantial impact was not previously studied, then a further EIR is required if the change “may produce a significant environmental effect.” *Friends of the College of San Mateo Gardens*, 1 Cal.5th at 958. This is determined under the “fair argument” standard, meaning that an EIR is required if there is any substantial evidence that changes in circumstances or new information not previously available demonstrates that the project may have a significant environmental impact.

IV. ANALYSIS

A. Substantial Changes Occurred in the Circumstances Under Which the Project is Being Undertaken that Require Major Revisions to the Eastern Dublin EIR and Cisco MND due to the Involvement of New Significant Effects on Biological Resources.

A project will have a significant impact if it will “[h]ave 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 the CDFW or USFWS.” CEQA Guidelines, Appendix G.

Neither the Eastern Dublin EIR, nor the Cisco MND identified any protected-status species on the Project site, and therefore, the CEQA analyses both found that the previous projects would not have significant biological impacts. SMND, p. 4. As the SMND discloses, circumstances have changed. Since many special-status species and wetlands have now been detected at the Project site, or are likely to occur at the Project site, the biological impact assessments from the Eastern Dublin EIR and the Cisco MND are no longer relevant. As detailed below, the expert comments of Dr. Shawn Smallwood and Scott Cashen constitute substantial evidence that the Project may have significant impacts on biological resources that have not been fully mitigated. As a result, an EIR is required to fully analyze and mitigate these impacts.

Because the changes in circumstances render the prior CEQA documents’ biological impacts analyses completely irrelevant to the decisionmaking process, the City must start from the beginning of the CEQA process under Public Resources Code section 21151, and conduct an Initial Study to determine if the Project may have a significant effect on the environment. Even if the City were to proceed under section 21166, a Supplemental EIR is needed because there is substantial evidence that the Project will have significant and unmitigated biological impacts stemming from changed circumstances. *Mira Monte Homeowners Assn. v. Cty. of Ventura* (1985)165 Cal. App. 3d 357, 359.

Wildlife biologist Dr. Shawn Smallwood, Ph.D., concludes that the Project may have a significant impact on even more species than those identified in the SMND, and that the mitigation measures proposed in the SMND are not sufficient to fully mitigate the Project’s impacts on biological resources. In addition, Dr. Smallwood concludes that the Project may have a significant impact on wildlife movement, and may have significant cumulative impacts. An EIR is required because Dr. Smallwood’s expert comments constitute substantial evidence that the Project may have significant and unmitigated impacts on biological resources.

1. The Project May Have a Significant Impact on Red-Tailed Hawks.

Red-tailed hawks are protected under California Department of Fish and Wildlife Code § 3503.5 (birds of prey). Neither the SMND nor the Biological Resources Assessment mention red-tailed hawks. Yet our expert, Dr. Shawn Smallwood, observed red-tailed hawks at the Project site on each of his two site visits. Smallwood (March 5, 2018), p. 1; Smallwood (Feb. 9, 2018), p. 2. On his March 2, 2018 visit to the Project site, Dr. Smallwood saw three red-tailed hawks, which foraged on the site, and interacted in manners typical of nesting. Dr. Smallwood captured Pictures of two of the red-tailed hawks he observed that day, seen below as Pictures 1 and 2.

The Project would have a significant impact on these red-tailed hawks by, at a minimum, modifying their habitat. This potentially significant impact is completely absent from the SMND. An EIR is required to analyze and mitigate this potentially significant impact.



Picture 1. A red- tailed hawk dives on a prey item on the proposed project site, 2 March 2018. Three red-tailed hawks hunted the site intensely. This particular attack was unsuccessful.

Shawn Smallwood

Picture 2. *An American crow defends its nesting territory against the female member of a nesting pair of red-tailed hawks flying over the proposed project site, 2 March 2018.*



2. The Project May Have a Significant Impact on White-Tailed Kites.

The white-tailed kite is a Fully Protected Species under the California Endangered Species Act. Cal. Fish & Game Code § 3511. The California Endangered Species Act provides that, except as specifically provided, “a fully protected bird may not be taken or possessed at any time.” Cal. Fish & Game Code § 3511.

The SMND and its Biological Resources Assessment concludes that the white-tailed kite’s occurrence at the Project site is “unlikely” because the “Project Area is located in a predominantly developed area, and typical open grassland habitat used for foraging is not present.” Dr. Smallwood’s initial comments from February 9, 2018 noted that, “[t]his assessment is absurd. White-tailed kites are well known for foraging on sites just like this one.” *Id.* Dr. Smallwood’s opinion was substantiated when he visited the Project site for a second time on March 2, 2018. Smallwood (March 5, 2018), p. 1. Dr. Smallwood observed a white-tailed kite fly by the west side of the Project site. *Id.* Because “white-tailed kites are California Fully Protected species, [] their occurrence in the project area warrants the determination of significant project impacts on biological resources.” *Id.* As EIR is required to analyze and mitigate the Project’s potential impact on the Fully Protected white-tailed kite.

3. The Project May Have Significant Impacts on Other Special Status Species.

Dr. Smallwood concludes that the biological analysis conducted as part of the SMND is woefully incomplete and inadequate. According to Dr. Smallwood, the SMND mischaracterizes the species' habitat requirements for numerous species in order to come to determinations of unlikely occurrence or no potential for occurrence of any species other than western burrowing owl and loggerhead shrike. Smallwood, p. 5.

Burrowing Owl. According to the SMND, "the project area is not currently inhabited by Western burrowing owls." SMND, p. 26. As Dr. Smallwood points out, however, "A single site visit can determine presence of burrowing owls, but it cannot be used to determine absence." Smallwood, p. 5. In order to assess the Project's potential impacts to burrowing owls, detection surveys should have been conducted in accordance with California Department of Fish & Wildlife's Burrowing Owl Guidance Document (2012). *Id.* All but five of CDFW's 39 standards for detection were not followed. *Id.* Looking on eBird.org, Dr. Smallwood noted that a burrowing owl was reported as being spotted on the Project site. Smallwood, p. 10, Table 3. In addition, Dr. Smallwood's observation of California ground squirrels on the site means it is possible that burrowing owls find winter refuge there or nest on site. Smallwood (March 5, 2018), p. 2.

Ferruginous hawk. According to the SMND, ferruginous hawk occurrence is "unlikely" because "[t]he Project Area is within a developed area, and lacks the open habitat required by this species for foraging and nesting. The lack of foraging habitat or nesting structures as well as a lack of connectivity with other open grasslands makes the Project Area unlikely to support this species." Dr. Smallwood disagrees. Smallwood, p. 10. According to Dr. Smallwood, Ferruginous hawks will forage where they can. *Id.* "As more of their habitat has been converted to human uses, ferruginous hawks have had to make use of smaller and more isolated patches of habitat." *Id.* at 10-11. He concludes that there is no reason to rule out use of the Project site by ferruginous hawks. *Id.* at 11.

Northern harrier. The SMND concludes that Northern harrier occurrence is "unlikely" because "[m]arsh and grassland habitat suitable for this species is not present within the Project Area." As Dr. Smallwood points out, the site is composed entirely of grassland suitable for the species. *Id.* at 11. Dr. Smallwood "would characterize the site as classic northern harrier habitat." *Id.*

White-tailed kite. The SMND concludes that white-tailed kites occurrence is "unlikely" because the "Project Area is located in a predominantly developed area, and typical open grassland habitat used for foraging is not present." According to Dr. Smallwood, "[t]his assessment is absurd. White-tailed kites are well known for foraging on sites just like this one." *Id.*

California horned lark. The SMND concludes that California horned lark occurrence is “unlikely. According to Dr. Smallwood, the Project site is covered by grassland cover typical of where he has documented horned larks many times. *Id.*

Tricolored blackbird. The SMND concludes that tricolored blackbird occurrence has “no potential” because the “Project Area does not have any suitable habitat such as: marsh or thickets of willow, to support nesting or foraging of this species.” According to Dr. Smallwood, tricolored blackbirds forage on grasslands, such as the Project site. *Id.* at 12.

Bald Eagle. The SMND concludes that Bald eagle occurrence has “no potential” because “There are no rivers, streams, lakes or other waterbodies to provide foraging habitat for this species within the Project Area.” Dr. Smallwood has “many times watched bald eagles foraging over grasslands far from any water body in the Altamont Pass over the last several decades,” and “visits [to the Project site] by juvenile bald eagles would not surprise” Dr. Smallwood. *Id.*

Bell’s Sparrow. The SMND concludes that Bell’s Sparrow occurrence has “no potential” because “[t]he Project Area consists of mainly nonnative grasses. No breeding or foraging habitat exists within the Project Area to support this species.” Dr. Smallwood disagrees that Bell’s Sparrow, or any other species of wildlife in California is incapable of foraging in anything other than native grasslands. Smallwood, p. 13.

Peregrine falcon. The SMND concludes that the Peregrine falcon occurrence has “no potential” because the “Project Area and immediate vicinity do not consist of any wetland, lake, river or other water body necessary to support this species.” According to Dr. Smallwood, this is an overly narrow habitat description. *Id.* “Peregrine falcons also nest on buildings and they forage over grasslands. They have been reported multiple times in the local area on eBird.” *Id.*

Yellow-billed magpie. According to the SMND, yellow-billed magpie occurrence has “no potential” because the “Project Area is located in a predominantly developed area, and typical open grassland habitat used for foraging is not present. The lack of trees this species uses for cover is also absent.” According to Dr. Smallwood, “there is absolutely no reason to reject the notion that the species would make use of the proposed project site. eBird also includes reports of yellow-billed magpie near the project site. WRA’s conclusion is wrong and misleading.” *Id.* at 13.

Dr. Smallwood’s expert opinion constitutes substantial evidence that the Project may have a significant impact on each of the species discussed above. An EIR must be prepared to analyze and mitigate these potentially significant impacts.

4. The Project May Have Significant Impacts to Wildlife Movement.

A project will have a significant biological impact if it would “[i]nterfere substantially with the movement of any native resident or migratory fish or wildlife species or with

established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.” CEQA Guidelines, App. G.

As Dr. Smallwood points out, the “Initial Study applies a false CEQA standard to conclude the project will have no significant impact on wildlife movement in the region.” Smallwood (Feb. 9, 2018), p. 13. Dr. Smallwood explains that the false standards was initiated in the Biological Resources Assessment, which states that “Wildlife movement between suitable habitat areas typically occurs via wildlife movement corridors.” SMND, App. A, p. 30. This implies that the only wildlife movement that matters to a CEQA assessment is that which occurs along movement corridors. The SMND then amplifies this false standard by writing “There are no stream courses on or near the project site that could be used as a wildlife migration corridor.” The SMND gives the impression that the only wildlife movement that matters under CEQA is that which occurs along stream courses. As just stated, the CEQA standard is whether a project will “[i]nterfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.” By focusing only on whether the Project will interfere with a migratory wildlife corridor, the SMND’s analysis is incomplete.

5. The Project May Have Significant Impacts on Animals as a Result of Window Collisions.

Window collisions are often characterized as either the second or third largest source of anthropogenic-caused bird mortality, yet the SMND fails to disclose, analyze, or mitigate this potentially significant impact. Dr. Smallwood concludes that the Project will have potential impacts on birds colliding with the Project’s clear glass windows. Smallwood (Feb. 9, 2018), p. 14. “Wildlife will be killed and injured by the windows of the Zeiss Innovation Center.” *Id.* at 27. “If built as proposed, the Zeiss Innovation Center would likely kill hundreds of birds per year for as many years as the buildings stand.” Smallwood (March 5, 2018), p. 4. “Wetlands and trees are depicted just far enough from the glass façades to enable birds alighting from them to gain sufficient speed upon arrival at the windows that they will not survive the ensuing collisions. The building as planned would contribute to an ongoing national catastrophe in bird collision deaths caused by poorly planned incorporation of windows into building designs.” Smallwood (Feb. 9, 2018), p. 14. An EIR is required to fully analyze and mitigate this impact.

This impact is far greater for the Zeiss Project than for the Cisco Project since the Zeiss building, unlike the Cisco building, is constructed with massive transparent glass walls across nearly the entirety of the facade. Compared to the Cisco Project, the proposed Project would introduce substantially more extensive transparent glass siding. Thus, the project has been modified in ways that will vastly increase the severity of the bird-collision impact, rendering the prior analysis inadequate.

In order to mitigate these potential impacts to birds, Dr. Smallwood recommends the following mitigation measures:

- Marking windows

- Managing outdoor landscape vegetation
- Managing indoor landscape vegetation
- Managing nocturnal lighting
- Designing to minimize transparency through two parallel facades
- Designing to minimize views of interior plants
- Landscaping to increase distances between windows and trees and shrubs

Smallwood, p. 21.

Dr. Smallwood also suggests adherence to available guidelines on building design intended to minimize collisions hazards to birds, such as those by the American Bird Conservancy (“ABC”). Smallwood, p. 22. ABC recommends: (1) minimizing use of glass; (2) placing glass behind some type of screening (grilles, shutters, exterior shades); (3) using glass with inherent properties to reduce collisions, such as patterns, window films, decals or tape; and (4) turning off lights during migration seasons. *Id.*

As additional mitigation, Dr. Smallwood recommends requiring funding to wildlife rehabilitation facilities:

Wildlife will be killed and injured by the windows of the Zeiss Innovation Center. The impacts to injured wildlife can be rectified by helping to pay the costs of wildlife rehabilitation facilities, which operate on volunteer support and inadequate budgets.

Smallwood, p. 27. Dr. Smallwood proposes a number of options the City should consider in determining how to appropriately compensate for the Project’s potential biological impacts. *Id.* at p. 28. These and other feasible mitigation measures must be considered in an EIR.

6. The Project May Have Cumulative Impacts on Biological Resources.

CEQA documents, such as the SMND, must discuss cumulative impacts, and mitigate significant cumulative impacts. 14 CCR § 15130(a). This requirement flows from CEQA section 21083, which requires a finding that a project may have a significant effect on the environment if “the possible effects of a project are individually limited but cumulatively considerable. . . . ‘Cumulatively considerable’ means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” A legally adequate cumulative impacts analysis views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand.

While acknowledging new Project-related biological impacts, the SMND fails to analyze the Project’s potentially significant cumulative biological impacts. Instead, the SMND concludes, without evidence, that:

The implementation of the proposed project, with mitigation, would not result in any new cumulative impacts or increase the severity of a previously identified significant cumulative impact as previously analyzed in the Eastern Dublin EIR and Cisco Systems IS/MND, and no other CEQA standards for supplemental review are met.

SMND, p. 86.

The problem with this analysis, as it applies to biological resources, is that the SMND itself acknowledges that the Project's biological impacts are new, so they could not have possibly been analyzed cumulatively in the East Dublin EIR or the Cisco MND.

The question that CEQA requires the City to address - and that the SMND fails to address - is: will the Project's impacts be significant when combined with other past, current, and probable future projects. By failing to provide this basic information, the SMND's cumulative biological impact analysis is not supported by substantial evidence.

Dr. Smallwood also points out that the SMND's cumulative impact analysis is flawed. According to the SMND, an impact is cumulatively considerable only when it has not been fully mitigated. Dr. Smallwood states:

The Initial Study presents a false standard for determining whether a project's impacts will be cumulatively considerable. It implies that a given project impact is cumulatively considerable only when the project impact has not been fully mitigated. The Initial Study further implies that the impact would be cumulatively considerable only if the same impact caused by one or more other projects failed to fully mitigate the impact. In essence, the Initial Study implies that cumulative impacts are really residual impacts left over by inadequate project mitigation.

Smallwood, p. 22.

Dr. Smallwood describes the importance of the Project site to wildlife, given the lack of habitat surrounding the Project site:

A strip mall occurs to the south, large buildings to the east and north, and to the west the field has been graded flat in preparation for some new development. Many of the animals on the proposed project site will have no refuge to which they can escape once ground is broken for the Center. Black-tailed jackrabbits and desert cottontails will be unable to run for cover to the north, south, east or west; they likely end up as road fatalities. Birds on the site will find increasingly less grassland habitat to move into once they have to leave the proposed project site.

Smallwood, p. 3.

Moreover, circumstances for biological species have changed dramatically since the East

Dublin EIR was prepared in 1994. *Id.* at 23. Many of the special-status species observed by Dr. Smallwood on his site visit, or reported by members of the public on eBird.org lacked special status in 1994 “because cumulative impacts increased since then, changing the status of these species.” *Id.* Dr. Smallwood cites the yellow-billed magpie as an example:

The Eastern Dublin Specific Plan EIR could not have anticipated the widespread damage that West Nile Virus caused to yellow-billed magpie, driving the species’ numbers to the brink of extinction. In 1995 yellow-billed magpies were ubiquitous within their geographic range, including in Dublin, but now each and every project that removes more yellow-billed magpie habitat also generates, in combination with West Nile Virus, a cumulative impact on the species.

Id.

7. The Project May Have a Significant Cumulative Impact on Burrowing Owls That Has Not Been Mitigated.

Dr. Smith and Wildlife biologist Scott Cashen agree that the Project may have a significant cumulative impact on burrowing owls. In his February 12, 2018 expert comments, Mr. Cashen notes that the Camp Parks burrowing owl population is rapidly declining. Between 2008 and 2014, 8 to 10 pairs of burrowing owls nested in the Park Reserve Forces Training Area (“PRFTA”) have been lost. Cashen, p. 15. Surveys conducted in that area in 2016 indicate that only one or two pairs of burrowing owls remain. *Id.* As Mr. Cashen explains:

One or two pairs [of burrowing owls] are incapable of sustaining the population, especially given the decline in recruitment (i.e. reproductive success) of burrowing owls at PRFTA. Because the Project site provides potential habitat for burrowing owls in the Camp Parks population, the loss of habitat from the Project site would further jeopardize the persistence of the Camp Parks population. Furthermore, because the Camp Parks population is one of only two breeding populations remaining in Alameda County, the loss of the Camp Parks population would significantly reduce the range of species in the County (and the San Francisco Bay Area)... Thus, there is substantial evidence that the Project could substantially reduce the habitat of a wildlife species; cause a wildlife population to drop below a self-sustaining level; threaten to eliminate an animal community; or reduce the number or restrict the range of a rare or endangered animal.

Cashen, p. 15.

Similarly, Dr. Smallwood’s analysis indicated that 82% of habitat in the area surrounding the Project has already been converted to houses, commercial buildings and roadways. Smallwood (March 5, 2018), p. 7. As a result, he concludes that the Project’s impacts on burrowing owl populations may be significant:

The project site is one of only three or four patches of habitat within a mile that are large

enough to support breeding colony of burrowing owls. Losing it would nearly eliminate the breeding capacity of burrowing owls in the area, thereby qualifying the project's cumulative effects as considerable and highly significant.

Id. These significant cumulative impacts to burrowing owls must be analyzed and mitigated in an EIR.

8. The SMND's Mitigation of Biological Impacts is Incomplete and Improper.

i. Mitigation Measure BIO-4 Constitutes Improperly Deferred Mitigation.

CEQA disallows deferring the formulation of mitigation measures to post-approval studies. 14 CCR § 15126.4(a)(1)(B); *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308-309. An agency may only defer the formulation of mitigation measures when it possesses “‘meaningful information’ reasonably justifying an expectation of compliance.” *Sundstrom* at 308; see also *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028-29 (mitigation measures may be deferred only “for kinds of impacts for which mitigation is known to be feasible”). A lead agency is precluded from making the required CEQA findings unless the record shows that all uncertainties regarding the mitigation of impacts have been resolved; an agency may not rely on mitigation measures of uncertain efficacy or feasibility. *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 727 (finding groundwater purchase agreement inadequate mitigation because there was no evidence that replacement water was available). This approach helps “insure the integrity of the process of decisionmaking by precluding stubborn problems or serious criticism from being swept under the rug.” *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935.

Moreover, “mitigation measure[s] [that do] no more than require a report be prepared and followed” do not provide adequate information for informed decisionmaking under CEQA. *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794; Guidelines § 15126.4(a)(1)(B). By deferring the development of specific mitigation measures, the City has effectively precluded public input into the development of those measures. CEQA prohibits this approach. As explained by the court in *Communities for a Better Env't v. Richmond* (2010) 184 Cal.App.4th 70, 92:

[R]eliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA's goals of full disclosure and informed decisionmaking; and[,] consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment.

Mitigation Measure BIO-4 (“MM BIO-4”) requires, in part, that the Project applicant “obtain agency approval of a wetland mitigation plan that ensures no-net-loss of wetland and waters habitat.” SMND, p. 30. The wetland mitigation plan is required to include:

measures for avoidance, minimization, and compensation for wetland impacts. Avoidance and minimization measures may include the designation of buffers around wetland features to be avoided, or project design measures. Compensation measures shall include the preservation and/or creation of wetland or waters. The final mitigation ratios (the amount of wetlands and waters created or preserved compared to the amount of impacted) shall be determined by the applicable resource agency(s).

Id. It must also include:

- a) Descriptions of the wetland types, and their expected functions and values;
- b) Performance standards and monitoring protocol to ensure the success of the mitigation wetlands over a period to be determined by the resource agencies;
- c) Engineering plans showing the location, size and configuration of wetlands to be created or restored;
- d) An implementation schedule showing that construction or preservation of mitigation areas shall commence prior to or concurrently with the initiation of construction; and
- e) A description of legal protection measures for the preserved wetlands (i.e., dedication of fee title, conservation easement, and/or an endowment held by an approved conservation organization, government agency or mitigation bank).

Id.

MM BIO-4 constitutes just the type of deferred mitigation CEQA prohibits. Here, the SMND defers the preparation of a wetland mitigation plan until after completion of CEQA review, without imposing any substantive standards, without providing for any public review, and subject only to “applicable resource agency(s)” approval.

In addition, there is no evidence that the MM BIO-4 is feasible because there is no evidence that there are sufficient wetlands in the watershed to preserve or create wetlands within the impacted watershed. This is particularly true given that the amount of wetlands and waters created or preserved will not be determined until after the Project is approved. Moreover, interested parties are precluded from commenting on the adequacy of the wetland mitigation plan, even though CEQA requires that they be permitted to do so.

Deferral of mitigation is also impermissible if it removes the CEQA decision-making body from its decision-making role. The City may not delegate the formulation and approval of mitigation measures to address environmental impacts because an agency’s legislative body must ultimately review and vouch for all environmental analysis mandated by CEQA. *Sundstrom v County of Mendocino* (1988) 202 Cal.App.3d 296, 306-308. Thus, the SMND may not rely on programs to be developed and implemented later without approval by the City. Yet that is

precisely what MM BIO-4 does.

Here, the lead agency has improperly delegated its legal responsibility of determining what constitutes adequate mitigation to unnamed “resources agency(s).” MM BIO-4 calls for a wetland mitigation plan that is prepared by the Project Applicant, and approved by “applicable resource agency(s).” The “resource agency(s)” will determine the final mitigation ratios (the amount of wetlands and water created or preserved compared to the amount impacted). *Id.* It is also up to the resource agency as to whether the wetland mitigation plan is sufficient to mitigate the Project’s impacts.

The SMND may not rely on the wetland mitigation plan to be developed, approved, and implemented later without any approval by the City, at some future time after the Project has been approved. Without valid mitigation, the Project’s significant impact on wetlands remains significant.

ii. The Project’s Burrowing Owl Impacts Have Not Been Properly Analyzed or Fully Mitigated.

MM BIO-1 is entitled “Burrowing Owl Survey and Impact Assessment.” SMND, p. 26. The first step of this mitigation measure requires that, prior to obtaining the first site grading, building, or other permit for development activities involving ground disturbances, the Project Applicant shall “Conduct a Burrowing Owl Survey and Impact Assessment.” *Id.* The time for burrowing owl surveys and impact assessments is now, during the CEQA process. This is not mitigation, but rather a deferment of the determination of the Project’s impacts.

MM BIO-1 next requires the implementation of burrowing owl avoidance measures “[i]f direct impacts to owls can be avoided.” SMND, p. 27. No standards are provided for how to determine whether it is possible or not to avoid direct impacts. If it is too expensive, does it mean direct impacts cannot be avoided? If it interferes with the construction schedule, does that mean direct impacts cannot be avoided?

Finally, MM BIO-1 provides that:

If avoidance of burrowing owl or their burrows is not possible and project activities may result in impacts to nesting, occupied, and satellite burrows and/or burrowing owl habitat, the project Applicant shall consult with the CDFW and develop a detailed mitigation plan that shall include replacement of impacted habitat, number of burrows, and burrowing owl at a ratio approved by CDFW. The mitigation plan shall be based on the requirements set forth in Appendix A of the CDFW 2012 Staff Report on Burrowing Owl Mitigation and the plan shall be reviewed and accepted by CDFW and the City prior to the first ground-disturbing activities.

SMND, p. 27.

CEQA does not allow this type of deferred mitigation. This mitigation measure defers the determination of the adequate compensatory mitigation, the acceptable mitigation location and the acceptable mitigation method (habitat acquisition, purchase of credits from a mitigation bank, etc.), site protection methods, performance standards, and monitoring requirements until sometime after the CEQA process is complete. In doing so, the SMND limits the public from being able to comment on the adequacy of the mitigation measure, and is prohibited by CEQA.

iii. The SMND Fails to Mitigate Impacts to Nesting Birds.

According to the Biological Resources Assessment, in order to mitigate impact to nesting birds, “[p]roject activities such as vegetation removal, grading, or initial ground-disturbing activities shall be conducted between September and January 31 (outside of the February 1 to August 31 nesting season) to the extent feasible.” SMND, App. A, p. 34. In addition, in order to mitigate impacts to nesting birds, the BRA requires that, “[i]f active nests of protected species are found within the survey area, a work exclusion zone shall be established around each nest by the qualified biologist. Established exclusion zones shall remain in place until all young in the nest have fledged or the nest otherwise becomes inactive (e.g. due to predation).” SMND, App. A, p. 34.

These two aspects of the mitigation measure, which the City’s own expert claims in the BRA is necessary to reduce the Project’s biological impacts, are absent from the mitigation measure proposed as part of the SMND. Without including the additional aspects of the mitigation measure proposed by the City’s own experts, there is no evidence to support a conclusion that the Project’s impacts on nesting birds.

B. New Information and Changes in Circumstances Require Preparation of an EIR to Analyze and Mitigate the Project’s GHG Impacts.

Neither the Eastern Dublin EIR nor the Cisco MND analyze greenhouse gas (“GHG”) impacts. SMND, p. 41. The SMND similarly contains no analysis of the Project’s GHG emissions or impacts. The SMND claims that “Greenhouse gas emissions and climate change is not required to be analyzed under CEQA standards for supplemental or subsequent EIRs unless it constitutes ‘new information of substantial importance, which was not known and could not have been known at the time the previous EIR was certified as complete.’” *Id.* The SMND then claims that, since the impact of greenhouse gases on climate change was known at the time of the certification of the East Dublin EIR and Cisco MND, no supplemental analysis of GHGs is required, even though the impact was never analyzed in the prior CEQA documents. *Id.* The SMND is wrong.

The need to analyze GHGs at all is a changed circumstance. At the time the East Dublin EIR and the Cisco MND were prepared, GHGs were not part of the CEQA analysis. It was not until the Legislature’s 2006 adoption of the California Global Warming Solutions Act of 2006 (Health & Safety Code § 38500, et seq), three years after the Cisco MND was adopted, that the “Legislature [] expressly acknowledged that greenhouse gases have a significant environmental

effect.” It was not until January 2008, that a White Paper was issued by the California Air Pollution Control Officers Association entitled “CEQA and Climate Change: Evaluating and Addressing Greenhouse Gas Emissions from Projects Subject to the California Environmental Quality Act (Jan. 2008)” discussing “different approaches for making a determination whether a project’s greenhouse gas emissions would be significant or less than significant.”

Particularly important, it was not until 2010 that the Bay Area Air Quality Management District (“BAAQMD”) adopted CEQA thresholds of significance for GHG impacts. These air quality thresholds are treated as dispositive in evaluating the significance of a project’s air quality impacts. See, e.g. *Schenck v. County of Sonoma* (2011) 198 Cal.App.4th 949, 960 (County applies BAAQMD’s “published CEQA quantitative criteria” and “threshold level of cumulative significance”). See also *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 110-111 (“A ‘threshold of significance’ for a given environmental effect is simply that level at which the lead agency finds the effects of the project to be significant

BAAQMD has determined that a project may have significant greenhouse gas (GHG) emissions if it will generate more than 1,100 metric tons of carbon dioxide equivalents per year (1,100 MT of CO₂e/yr). BAAQMD CEQA Guidelines (2010), p. 3-2 (attached hereto as Exhibit E). BAAQMD has published a table of project types and sizes that may generate more than 1,100 MT of GHG per year. *Id.* According to the BAAQMD screening table, a general office building with 53,000 square feet of space is large enough that it may have a significant GHG impact. *Id.* The Project is more than eight times the screening level.

In addition, new information of substantial importance about the impact and rate of climate change has become available since the East Dublin EIR and Cisco MND were approved. Even if greenhouse gases had been raised in 2001 in the Cisco Systems MND, new information of substantial importance about the impact and rate of climate change, which was not known and could not have been known when the prior CEQA document was approved, has become available.² For example, the 10 hottest years on record all occurred since 2006, well after the Cisco MND was approved. See, <http://www.climatecentral.org/gallery/graphics/the-10-hottest-global-years-on-record>. Given this new information, and the previous failure to analyze the

² See, for example: <http://www.climatecentral.org/news/antarctic-modeling-pushes-up-sea-level-rise-projections-21776> (Antarctic modeling pushes up seal-level rise projection); <https://insideclimatenews.org/news/26122017/climate-change-science-2017-year-review-evidence-impact-faster-more-extreme> (Climate change is happening faster than predicted, and it’s more extreme); <https://royalsociety.org/~media/policy/Publications/2017/27-11-2017-Climate-change-updates-report.pdf> (Climate updates - What have we learned since the IPCC 5th Assessment Report?); <https://insideclimatenews.org/news/12122017/arctic-report-card-sea-ice-extent-temperature-record-2017-noaa> (Arctic Report Card: Lowest Sea Ice on Record, 2nd Warmest Year); <http://time.com/4745827/antarctica-water-climate-change/> (New Discovery in Antarctica Suggests Ice Sheets Could Disappear Way Faster Than Previously Thought).

Project's GHG impacts,³ an EIR must be prepared to fully analyze and mitigate the Project's potentially significant GHG impacts.

C. Changed Circumstances Have Occurred and New Information is Available Which Requires Preparation of an EIR as a Result of a New or More Serious Significant Air Quality Impacts.

1. The SMND's Health Risk Analysis is Wrong and Fails to Account for a Number of Sensitive Receptors.

Since the release of the Cisco MND, new sensitive receptors have been identified within the zone of influence for the Project. Clark, p. 6. Sensitive receptors include hospitals, schools, daycare facilities, among others, and are places where occupants are more susceptible to the adverse effect of exposure to toxic chemicals, pesticides, and other pollutants. *Id.* Dr. Clark identified two sensitive receptors that were not identified in the SMND. First, the La Petite Academy is a daycare facility located at 3 Sybase Drive, approximately 1,000 feet east of the Project site. *Id.* Second is the James Dougherty Elementary School located at 5301 Hibernia Dr., approximately 1,600 feet north east of the Project site.

In addition, the SMND discloses that “[p]roperties west of the project site are undergoing development as residential uses (Boulevard).” SMND, p. 2. Boulevard was approved nearly a decade after the Cisco MND was approved, and therefore the Cisco MND did not account for cumulative impacts from Boulevard. Dr. James Clark notes that, “[b]ased on the proposed land use within the development plan for the Boulevard Project it is clear that residential, mixed use, and the elementary school project would all be developed within 1,000 feet of the Zeiss Project.” Clark Supplemental Comment, p. 5. The proposed land uses within the Boulevard project, and the location of the Project are shown in Figure 2, below. The conclusion in the SMND that “There are no sensitive receptors (e.g. residential, schools, churches, hospitals) proposed or surrounding the project site. Therefore no impact would occur to sensitive receptors” is false. *Id.*

³ The City's failure to even conduct an analysis of the Project's GHG emissions, let alone mitigate those impacts, is particularly egregious, given the efforts made by the City in recent years to combat greenhouse gases, including with the adoption of a Climate Action Plan and the adoption of the US Mayors' Climate Protection Agreement. *See*, <http://dublinca.gov/1657/Climate-Action-Information> (accessed Feb. 12, 2018)

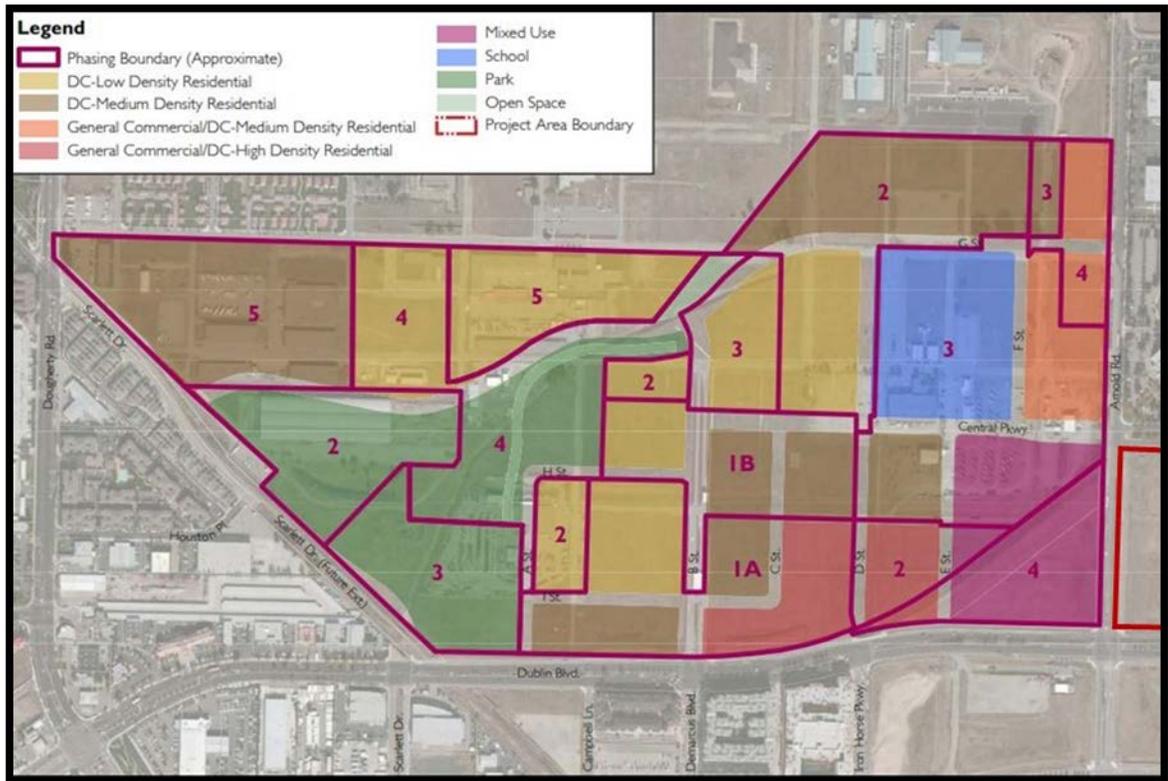


Figure 2: Proposed Land of The Boulevard Project and Location of Zeiss Project

None of these sensitive receptors is mentioned in the SMND or analyzed, but each constitutes a changed circumstance that may result in a significant impact as a result of the Project exposing these sensitive receptors to air pollution. Because these changed circumstances may result in a significant impact, an EIR is required. A Health Risks Assessment must be prepared as part of the EIR to analyze the Project’s potential impacts on these nearby sensitive receptors.

An EIR must be prepared to analyze the air quality impacts from the construction and operation of the Project on the residents and school children that will occupy the Boulevard project. In addition, an EIR must look at the cumulative air quality impacts of the Project and the Boulevard project together. Clark Supplemental Comment, p. 5.

2. The Project Will Have Significant NOx emissions.

Air Quality Expert Dr. James Clark concludes that the Project will have a significant construction-related NOx impact during the first phase of the Project. The SMND claims that the “air quality impacts of the proposed project are within the scope of the project impacts covered by the Cisco MND and the Eastern Dublin EIR.” SMND, p. 20. This conclusion, however, is not supported by any evidence. No analysis was conducted of the Project’s construction or operational emissions. As a result, there is no evidence that the Project’s

emissions would be equal to or less than those of the Cisco project. In contrast, Dr. Clark's expert comments constitute substantial evidence that the Project will have a significant construction-related NOx impact. Clark, p. 5-6. Dr. Clark's comments are attached hereto as Exhibit B. An EIR is required to analyze this impact and propose feasible mitigation measures.

D. An EIR is needed because the Cisco MND and EDSP EIR traffic impact analyses do not retain any relevance due to substantial changes in circumstances.

The traffic conditions in the vicinity of the Project have changed substantially in two ways since the Cisco MND and the EDSP EIR were prepared 15 and 25 years ago. First, the traffic on nearby highways is far greater than was previously analyzed. Second, Boulevard, a major new development being built directly across the street from the Project, was adopted long after the prior CEQA documents were approved. These changed circumstances mean that the Cisco MND and the EDSP EIR are no longer relevant to the Project's potential traffic impact.

1. Increased Traffic Conditions on Highway I-580 is a Changed Circumstance that Render's the Prior CEQA Documents' Traffic Analysis Irrelevant.

Traffic on nearby freeways is much heavier now than it was 25 years ago when the East Dublin EIR was prepared. Smith, p. 3. For example, the East Dublin EIR indicates that the then-existing daily traffic volume on the I-580 between Hacienda and Tassajara interchanges was 135,000 vehicles, and projected that it would reach 184,000 vehicles in 2010, and 189,000 vehicles at full buildout. *Id.* (citing East Dublin EIR, Figure 3.3-E). Yet Caltrans data for this same location from 2016 indicates a traffic volume of 213,000 vehicles.⁴ *Id.* The current traffic volume is 12.7 percent greater than the projected build-out volume in the East Dublin EIR. *Id.* at 4. The vehicle count at this location when the Cisco MND was prepared was also much lower, at only 177,000.

Similarly, the East Dublin EIR indicates that between the Hacienda and Dougherty/Hopyard interchanges, I-580 had an existing daily traffic volume of 135,000, would have a 2010 volume of 191,000, and a build-out volume of 194,000 vehicles. *Id.* Yet Caltrans data from 2016 indicates that the traffic volume at this location was actually 233,000 vehicles per day. *Id.* This is 20.1 percent higher than the traffic projected in the East Dublin EIR. The vehicle count at this location when the Cisco MND was prepared was, again, much lower, at 183,000 vehicles. *Id.*

The massive increase in traffic on the I-580 highway is a substantial change in circumstances. As a result of these changes, the East Dublin EIR and Cisco MND have no relevancy to the Project's potential traffic impacts. As a result, a supplemental EIR, or at the very least, a supplemental MND is required to analyze the Project's potential traffic impacts,

⁴ Data available at www.ca.gov/trafficops/census/.

given these changed circumstances. As discussed below, the SMND does not do this.

2. The Dublin Crossing Specific Plan and Boulevard Development are Changed Circumstances that Render the Prior CEQA Documents' Traffic Analyses Irrelevant.

Approved in 2013, the Dublin Crossing Specific Plan ("DCSP") is "a plan for the orderly development of approximately 189 acres in the City of Dublin." DCSP, p. 1-2. The DCSP's eastern boundary is located directly across the street from the Project, on the other side of Arnold Road. The Dublin Crossing Specific Plan "includes a maximum of up to 1,995 residential units, up to 200,000 square feet of commercial uses, a 30 net-acre community park, neighborhood park land, and a school site. *Id.*

According to its EIR, the DCSP, would generate 24,563 gross daily vehicle trips. DCSP EIR, p. 3-224. Even after applying certain trip reductions, the Dublin Crossing Specific Plan would still generate 22,047 net new daily trips. *Id.* at, p. 3-225. Since the DCSP was proposed and adopted nearly a decade after the Cisco MND was approved, neither it nor the Eastern Dublin EIR taken into account any of the traffic the DCSP will produce. Indeed, in 2013 when the Dublin Crossing Specific Plan was being approved, the land was mostly zoned for "Agriculture."

As Mr. Smith notes in his supplemental comments, submitted herewith, "the EDSP traffic analysis that the Supplemental IS/MND relies on as its cumulative analysis has virtually nothing to do with the traffic environment that is the context for the subject Zeiss Project..." Smith Supp. Comment, p. 2. Because of this, Mr. Smith concludes that "[t]he entire analysis must be redone to reflect a reasonable analysis of the current approved conditions of the Project's surroundings and the likely cumulative conditions." *Id.*

A supplemental EIR is needed to analyze the Project's potentially significant traffic impacts because the previous CEQA documents retain no relevance given the substantially changed traffic circumstances that have occurred since the prior CEQA documents were adopted.

3. The Traffic Consistency Analysis is not an Impact Analysis.

The Traffic Consistency Analysis states that its "purpose" is to "indicate the consistency of the proposed Zeiss Innovation Center (Project) with the traffic assumptions and supporting analysis in the previously certified Eastern Dublin Specific Plan Environmental Impact Report (EIR) and the Cisco Systems Initial Study/Mitigated Negative Declaration (IS/MND)." SMND, App. E, p. 1.

The Traffic Consistency Analysis should not be confused with a traffic impact analysis. The Traffic Consistency Analysis essentially compares the number of vehicle trips generated by the Zeiss Project (2,713) to the number analyzed in the Cisco MND (2,802), determines that the Project will generate fewer trips, and therefore concludes there will be no new or more

significant traffic impacts. SMND, App. E, p. 11.

What is missing from the TCA is an actual analysis of the Project's traffic-related impacts, given the circumstances that exist today. For example, the TCA does not discuss how the traffic conditions today differ from those that existed when the Cisco MND or the Eastern Dublin EIR were prepared. For example, the TCA does not even mention the Dublin Crossing/Boulevard Project that is slated to be built directly across the street from the Project, and will generate more than 22,000 vehicle trips every day. DCSP EIR, p. 3-225. Indeed the TCA does not provide any information on what current or future traffic levels are, or are expected to be, and how those levels compare to 1994 and 2001 levels.

4. The SMND Fails to Analyze the Project's Cumulative Traffic Impacts.

The TCA bases its cumulative analysis almost entirely on the EDSP EIR cumulative traffic analysis. SMND, App. E, p. 28. The TCA states:

The EDSP EIR evaluated buildout of the area, including development on this Project site for cumulative conditions and all the study intersections in this study were found to operate at acceptable operating conditions. Trip generation for the site indicates that the Project will generate substantially less traffic compared to the previous analysis in the EDSP and Cisco Systems IS/MND. It is concluded that based on the previous analysis, the potential cumulative impacts from the Project would be equal or less at the study intersections, except for Park Place/ Central Parkway (Intersection #2) and Park Place/ Dublin Boulevard (Intersection #6), which are analyzed below.

SMND, App. E, p. 28. In other words, for four of the intersections studies, the TCA concludes that the Project will not have a cumulative traffic impact based solely on traffic conditions that existed in 1994. This conclusion appears to also be applied to Intersection 4, which "does not exist yet." *Id.*

Intersection 2 and Intersection 6 were apparently not previously analyzed in the prior CEQA documents. The TCA purports to conduct an actual cumulative traffic analysis for these intersections, but neither the TCA nor the SMND disclose what cumulative conditions were considered. The TCA claims that "[t]raffic operations were evaluated at the study intersection under Cumulative Plus Phase 2 Conditions," but the TCA never discloses what those cumulative conditions are. For example, there is no mention of the Boulevard Project in the TCA, yet that project is directly across the street from the Project, and will create more than 22,000 new daily vehicle trips. It appears that this massive project was not taken into account as part of the "Cumulative (2035) Plus Phase 2 Conditions." Without an explanation of what cumulative conditions were or were not included in the analysis, the TCA's conclusion that "All intersections operate at acceptable LOS under Cumulative (2035) Plus Phase 2 Conditions" is not supported by substantial evidence.

Traffic engineer Dan Smith points out in his supplemental comments (attached hereto as Exhibit B), that had the Boulevard project been taken into account, the “analysis would likely prove consequential.” Smith Supp. Comment, p. 2. Mr. Smith uses the intersection of Arnold Road and Dublin Boulevard as an example:

According to the IS/MND Appendix E, Figure 12, the combination of Existing plus Zeiss build-out traffic at this intersection would involve 2475 total vehicle movements in the AM peak hour and 3284 in the PM peak hour. Per comparison of Dublin Crossing EIR Figures 3.12-6a and 3.12-8a, the Boulevard Project would add 356 vehicle movements to this intersection in the AM peak hour and 822 vehicle movements in the PM peak hour. These traffic increments, had they been considered in the Zeiss Project traffic analysis, would likely have resulted in traffic conditions deteriorating into the unacceptable LOS E range.

Id.

An actual traffic impact analysis is needed for the Project as part of an EIR, including a cumulative impact analysis that takes into account the Boulevard project. The Eastern Dublin EIR and Cisco MND simply have no relevance to the instant Project’s traffic impacts, given the substantial changes that have occurred.

E. Changed Circumstances Have Occurred and New Information is Available Which Requires Preparation of an EIR as a Result of a New or More Significant Hazards Impact.

The Cisco MND has no value to the current analysis of the Project site’s toxic contamination. Toxics expert Heidi Bauer concludes that the Project may have a significant impact from soil and groundwater contamination. Ms. Bauer’s expert comments are attached hereto as Exhibit D.

The Project site previously functioned as a US Naval facility (Camp Shoemaker) from the early 1940’s up until about 1949. Of interest to the subject site is two former fuel stations located on the property; one in the northwest portion of the property and one in the southwest of the property. Parcel 15A also contained an inflammable storage building, public works office and shop, transportation shop and barracks, and another unidentified building (Lowney 2000). A former laundry and boiler room was located on the adjacent parcel to the east (Parcel 15B). The Zeiss Innovation Center is being proposed on the former Parcel 15A site. Bauer, p. 1.

Between 1998 and 2000, in response to directives from the Regional Water Quality Control Board and in preparation for the Cisco MND, several soil, soil vapor, and groundwater investigations were conducted. The main areas of concern for the project (Parcel 15A) is the area of the former fuel stations piping and associated leaking underground storage tanks (LUSTs), the upgradient/sidegradient (Parcel 15B) which shows elevated PCE levels likely from the former laundry, the possible contaminated fill from incinerator ash used throughout the property and the presence of an unknown tar-like substance on Parcel 15. Bauer, p. 2.

The SMND contains no new or updated analysis of the contamination below the Project site, instead relying completely on data from prior to 2001. As detailed in the expert comments of toxics expert Heidi Bauer:

The data relied on in the Zeiss IS/MND (Zeiss IS/ MND, 2017) in the Hazards and Hazardous Materials Section is no longer appropriate for use. The latest data collected for this site is 18-20 years old. The site subsurface in the area of the water table is dynamic and contaminant concentrations in the vadose and saturated zones change with the groundwater table fluctuation and also with the direction of groundwater flow.

Bauer, p. 5.

Because the groundwater flow direction is towards the southwest, Contaminant concentrations that were detected above the ESL from the north portion of the site likely migrated southwest and therefore could be found in other portions of the site not previously investigated.” Bauer, p. 5.

“The environmental history of this site, including the unknown impacts from the uninvestigated site soils, combined with the existing elevated concentrations of contaminants above the ESLs in the groundwater can potentially create a significant environmental health threat to worker safety, the public and future employees at the project site.” Bauer, p. 6. Because of the changed circumstances, an EIR is required to analyze and mitigate this potentially significant impact.

F. The Project Requires a Water Supply Assessment.

Under SB 610, projections about water availability must be developed before certain large development projects that will be served by a public water system can be approved. Water Code §§ 10910-10915. The public water system identified as the water provided for a proposed project must prepare a water supply assessment that is then included in an EIR or negative declaration. *Madera Oversight Coalition v. County of Madera* (2011) 199 Cal.App.4th 48, 96. SB 610 applies when a project subject to CEQA meets any of the criteria in Water Code section 10912. These criteria include a business establishment employing more than 1,000 people and a commercial office building employing more than 1,000 people or having more than 250,000 square feet of floor space.

Here, the Project will accommodate 1,500 employees, in buildings totaling 433,090 square feet. SMND, p. 3, 4. The Project will also be served by the Dublin San Ramon Services District, which is a public water system. SMND, p. 80. As a result, a Water Supply Assessment must be prepared and included in the SMND. Water Code §§ 10910-10915; *Madera Oversight Coalition v. County of Madera* (2011) 199 Cal.App.4th 48, 96. This is particularly important in light of the frequent drought conditions that have plagued the area in recent years.

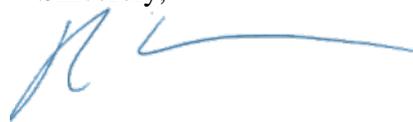
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A Water Supply Assessment was not included in the SMND. As a result, LIUNA is concerned that a WSA has not been prepared for the project, as required by SB 610. If there is no WSA for the Project, one must be prepared and circulated with the SMND.

V. CONCLUSION

For the foregoing reasons, LIUNA believes the SMND is deficient and inadequate. LIUNA urges the City to make the above changes, and recirculate the revised SMND or an EIR to the public for review. Thank you for your attention to these comments.

Sincerely,



Rebecca L. Davis
Lozeau | Drury LLP

EXHIBIT A

Shawn Smallwood, PhD
3108 Finch Street
Davis, CA 95616

Martha Battaglia, Associate Planner
City of Dublin
Community Development Department
100 Civic Plaza
Dublin, CA 94568

5 March 2018

RE: Zeiss Innovation Center

Dear Ms. Battaglia,

I write again to comment on the Initial Study and supplemental mitigated negative declaration prepared for the proposed Zeiss Innovation Center (Kimley-Horn 2017). These comments are additional to those I prepared on 9 February 2018. My qualifications for preparing expert comments were summarized in my 9 February comment letter.

SECOND SITE VISIT

On 2 March 2018, I visited the proposed project site for a second time. I saw most of the same species I saw on 8 February (Table 1), although the behaviors of some species were more indicative of breeding. I observed a pair of killdeer (Figure 1), which demonstrated site tenacity typical of nesting birds; they would not leave upon my close approach. I saw male western meadowlarks flying to prominences and calling, typical of nest territory establishment (Figure 2). I saw three red-tailed hawks, which foraged on site (Figure 3) and interacted in manners typical of nesting. An American crow attacked the red-tailed hawks (one at a time), a risky behavior that is performed in nest defense (Figure 4).

This time I observed ground squirrels across the entirety of the site, though the highest concentration appeared to be located at the northwest corner (Figure 5). Desert cottontails occurred on site, as well (Figure 6). A road-killed desert cottontail laid on the project side of Arnold Blvd.

I observed a white-tailed kite (*Elanus leucurus*) fly by the west side of the proposed project site. This sighting refutes Kimley-Horn's (2017) determination that the occurrence of this species is unlikely. White-tailed kites are California Fully Protected species, and their occurrence in the project area warrants the determination of significant project impacts on biological resources. Another significant effect includes the occurrence of red-tailed hawks, which are protected under California Department of Fish and Wildlife Code 3503.5 (Birds of prey). Additional significant effects include nesting by multiple species of bird protected under the international Migratory Bird Treaty Act and by California Department of Fish and Wildlife Code protecting nests.

Table 1. Species of wildlife I observed from 10:50 to 11:05 hours on 8 February 2018 and 11:19 to 12:53 on 2 March 2018 at the site of the proposed Zeiss Innovation Center, where Site refers to the proposed project site, west side refers to the graded property west of Arnold and immediately west of the site, east side refers to developer property immediately east of the site, and east edge refers to trees and buffer between project site and developed area east of the site.

Species	Scientific name	Visit	Area
Black-tailed jackrabbit	<i>Lepus californicus</i>	Feb 8	West side
Desert cottontail	<i>Syvalagus auduboni</i>	Feb 8, Mar 2	Site
California ground squirrel	<i>Spermophilus beecheyi</i>	Feb 8, Mar 2	Site
Canada goose	<i>Branta canadensis</i>	Feb 8	Site
Killdeer	<i>Charadrius vociferus</i>	Mar 2	South side
California gull	<i>Larus californicus</i>	Feb 8	Site
Turkey vulture	<i>Cathartes aura</i>	Feb 8, Mar 2	Site
Red-tailed hawk	<i>Buteo jamaicensis</i>	Feb 8, Mar 2	Site
White-tailed kite	<i>Elanus leucurus</i>	Mar 2	West of site
American robin	<i>Turdus migratorius</i>	Feb 8	East edge
Cedar waxwing	<i>Bombycilla cedrorum</i>	Feb 8	East edge
Mourning dove	<i>Zenaidura macroura</i>	Feb 8, Mar 2	Site
Rock pigeon	<i>Columba livea</i>	Feb 8, Mar 2	Site
American crow	<i>Corvus brachyrhynchos</i>	Feb 8, Mar 2	Site
California towhee	<i>Pipilo fuscus</i>	Feb 8	Site
White-crowned sparrow	<i>Zonotrichia leucophrys</i>	Feb 8, Mar 2	Site
Red-winged blackbird	<i>Agelaius phoeniceus</i>	Feb 8	Site
Western meadowlark	<i>Sturnella neglecta</i>	Feb 8, Mar 2	Site
American goldfinch	<i>Carduelis tristis</i>	Feb 8, Mar 2	Site
House finch	<i>Carpodacus mexicanus</i>	Feb 8, Mar 2	Site

My site visit was restricted to the outside perimeter, just outside the fence. Without walking onto the site, I was unable to survey effectively for burrowing owls. California ground squirrels occupy the site and on 2nd March I learned that squirrels are more widespread than I observed on 8th February. Because California ground squirrels occupy the site, it is quite possible that burrowing owls find winter refuge there or even nest on site. Detection surveys should be performed according to the CDFW (2012) survey guidelines. So far there is no defensible basis for determining absence of burrowing owls on the site, because detection surveys have yet to be done.

I noticed pools of standing water on the site, so there is potential for vernal pool fairy shrimp to occur on site. One of these pools was where I located a pair of killdeer.

Figure 1. *One of a pair of killdeer tenaciously holding to a likely breeding location on the proposed project site, 2 March 2018.*



Figure 2. *A western meadowlark in breeding plumage calls from the perimeter fence of the proposed project site, 2 March 2018.*



Figure 3. A red-tailed hawk dives on a prey item on the proposed project site, 2 March 2018. Three red-tailed hawks hunted the site intensely. This particular attack was unsuccessful.



Figure 4. An American crow defends its nesting territory against the female member of a nesting pair of red-tailed hawks flying over the proposed project site, 2 March 2018. I observed two crows mobbing red-tailed hawks multiple times.



Figure 5. A California ground squirrel serves as the colony sentinel against a backdrop of newly built townhouses, leaving little remaining connection to open space around the proposed project site, 2 March 2018.



Figure 6. A desert cottontail on the proposed project site, 2 March 2018. Another cottontail lay dead nearby – the victim of auto traffic on Arnold Blvd.



WILDLIFE MOVEMENT

Since my comments of 9 February 2018, development of the property west of the proposed project site has advanced to the point where desert cottontails and other wildlife species can find no cover in the area other than what little cover remains on the proposed project site. Some of the desert cottontails I encountered on the project site ran around in a futile search for refuge (Figure 7), which might help explain the intense foraging over the site by three red-tailed hawks and the frequent flyover by a turkey vulture. I have many times witnessed this situation in which wildlife are forced onto an increasingly isolated patch of habitat as residential, commercial or industrial projects are developed across the surrounding area. If the project goes forward, then the City of Dublin ought to require the capture of desert cottontails and California ground squirrels, and their translocation to suitable habitat nearby.



Figure 7. A desert cottontail runs for cover on the proposed project site, 2 March 2018.

Also, as I commented on 9 February, an impact assessment is needed on the project's impacts on stop-over habitat of migrating birds. Many of the birds currently stopping over on the site to rest during migration will fly through the area post-construction with two new hazards: One hazard consisting of reduced opportunity for finding natural stop-over habitat, and the other hazard introduced by the extensive use of transparent glass on the Zeiss Innovation Center.

WINDOW COLLISIONS

To my 9 February 2018 assessment of likely project impacts caused by window collisions, I must add that these impacts would be much greater for the Zeiss Innovation Center as compared to the previously proposed project on the site, which was the Cisco Systems office complex. The previously proposed project would have included a parking garage and two office buildings. Although the office buildings would have made extensive use of glass as an exterior material, there was no indication that those buildings would have used transparent glass across nearly the entirety of each façade. Compared to the Cisco Systems office complex, the proposed Zeiss Innovation Center would introduce substantially more extensive transparent glass siding. This increased use of transparent glass façade would kill many more birds than the Cisco Systems office complex considered earlier. If built as proposed, the Zeiss Innovation Center would likely kill hundreds of birds per year for as many years as the building stands.

CUMULATIVE IMPACTS

Adding to my comments of 9 February 2018, I wish to add that instead of providing no cumulative effects analysis, the City of Dublin could have at least provided some simple analysis. For example, I applied an indicator approach to get a sense of how much habitat fragmentation has already taken place within the local area. Using Google Earth I extended mile-long (1,602 m) transects to the north, east, south, and west of the project site and I measured the extent of open space and the number of patches of open space along each of the transects (Figure 8). To the north I measured 585 m of open space along 2 patches. To the east I measured 66 m of open space along 1 patch of riparian corridor. To the south I measured 398 m along 2 patches. To the west I measured 133 m along 1 patch of open space. Altogether I measured 18% of the four transects remain in open space within 6 patches. In other words, 82% of habitat in the area has already been converted to houses, commercial buildings and roadways. The project site is one of only three or four patches of habitat within a mile that are large enough to support a breeding colony of burrowing owls. Losing it would nearly eliminate the breeding capacity of burrowing owls in the area, thereby qualifying the project's cumulative effects as considerable and highly significant.

This exercise should be repeated at a regional scale to get a better sense of habitat fragmentation and cumulative effects. Repeating this exercise using 4-mile transect instead of 1-mile transects extending north, south, east, west from the project site, the cumulative transect overlapping open space increases to 18% to 35%. Where open space used to occur contiguously 4 miles in every direction from the project site, now only a third of the area remains in 16 fragments of open space useful to special-status species of wildlife as habitat. The average habitat fragment is a mere 554 m across with an average anthropogenic landscape separation of 1,048 m. The level of habitat fragmentation in the project area is nothing short of catastrophic for dozens of special-status species of wildlife, including burrowing owl. Cumulative impacts must be assessed appropriately, and mitigation formulated.



Figure 8. Indicators approach to assessing habitat fragmentation along 1-mile (red lines) transect extended from the project site to the north, south, east, and west from the proposed project site. The approach measures lengths of transect overlapping open space.

MITIGATION MEASURES

MM Bio-1 Burrowing Owl Survey and Impact Assessment

The CDFW (2012) guidelines on burrowing owl detection surveys need to be implemented. Detection surveys need to be performed using methods that achieve the standards of CDFW (2012). Detection surveys are needed to estimate project impacts, to enhance the efficacy of preconstruction take-avoidance surveys, and to formulate appropriate mitigation. All of this needs to be completed and included in an EIR so that an informed public can meaningfully participate.

MM BIO-3 Protect Birds Covered by the Migratory Bird Treaty Act

The species I observed on site at the beginning of their breeding seasons reinforce my 9 February comment that detection surveys are needed in addition to preconstruction take-avoidance surveys. Killdeer eggs are notoriously camouflaged to resemble the

stony ground upon which they are laid (Figure 9). The nests are most effectively found by first detecting the adult birds and then watching their behavior to pinpoint the nest location. The same is true for multiple other species of ground-nesting birds. It is very difficult to find the nests of these birds, so it would be misleading to give the public the impression that preconstruction surveys would avoid take of any more than one or a few nests. Detection surveys are needed to identify nesting territories of each pair for each species. Only after detection surveys, following available protocols or survey guidelines appropriate for each species, can preconstruction surveys hold any promise of finding and removing nests or chicks in harm's way.

Figure 9. Killdeer nest in Alameda County, 2012. Up close the eggs can be seen, but from a standing position they are very difficult to detect.



MITIGATING WINDOW COLLISIONS

In my 9 February 2018 comment letter, I suggested that window collisions could be partly mitigated by funding a before-after, control-impact (BACI) experimental design to measure the effects of window treatments on avian collisions. This measure would not prevent all collision fatalities on the project site, but it would contribute to scientific knowledge on causal factors and mitigation measures that could be applied to buildings worldwide for years to come. Here I elaborate on the design.

Figure 10 depicts a hypothetical layout of window glass treatments, including the desired transparent windows. It also depicts the fatality monitoring transects around the perimeter of the building and across areas remaining in grassland as a control. The fatality transects would be searched weekly until construction begins, and again weekly for two years post-construction. The fatality monitor would also be tested for carcass detection rates by another biologist periodically placing trial carcasses within the fatality search areas. The fatality searcher would be blind to the trial carcass placements, but would record and remove the placed carcasses upon discovery. These trials would inform of the proportion of fatalities not found due to removal by scavengers or pedestrians intending to clean up, and due to searcher detection error. If after two years

the fatality monitoring detected no increased mortality due to the transparent glass, then Zeiss would replace marked glass with transparent glass if desired.

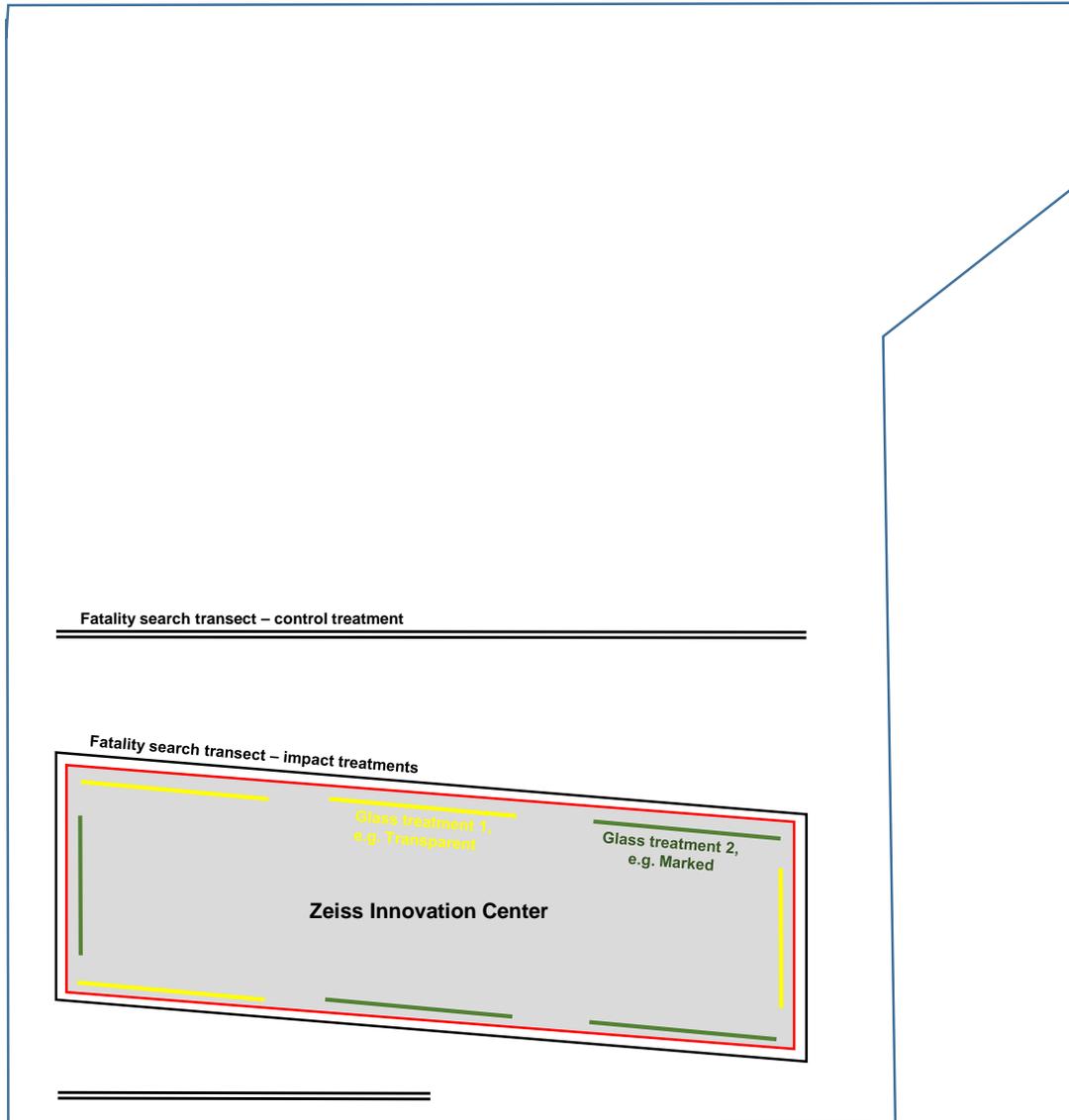


Figure 10. Hypothetical before-after, control-impact experimental design for testing the effects of marked versus the desired transparent glass façades, where yellow lines denote transparent glass and green lines denote marked glass to increase avian safety, and black lines denote fatality transects to be searched before and after the building is constructed. In this design, the north-south effects of the transparent glass would occur at three levels, including the highest transparency on the west side where views from the north would extend through the building to the south, the middle level in the middle where views from the north would occlude at the marked windows on the south side, and lowest at the east end where marked glass would occlude views from north or south.

This monitoring would also inform of the wildlife injury rate. This rate could serve as the basis for the other mitigation measure I recommended on 9 February 2018, which was contributing funds to wildlife rehabilitation facilities.

Another appropriate mitigation approach would be to skip the BACI experimental design and instead universally implement the building design standards recommended by Orff et al. (2007), San Francisco Planning Department (2011), and Sheppard and Phillips (2015).

Thank you for your attention,



Shawn Smallwood, Ph.D.

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Curriculum Vitae

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Born May 3, 1963 in
Sacramento, California.
Married, father of two.

Ecologist

Expertise

- Finding solutions to controversial problems related to wildlife interactions with human industry, infrastructure, and activities;
- Wildlife monitoring and field study using GPS, thermal imaging, behavior surveys;
- Using systems analysis and experimental design principles to identify meaningful ecological patterns that inform management decisions.

Education

Ph.D. Ecology, University of California, Davis. September 1990.
M.S. Ecology, University of California, Davis. June 1987.
B.S. Anthropology, University of California, Davis. June 1985.
Corcoran High School, Corcoran, California. June 1981.

Experience

- 477 professional publications, including:
 - 81 peer reviewed publications
 - 24 in non-reviewed proceedings
 - 370 reports, declarations, posters and book reviews
 - 8 in mass media outlets
 - 87 public presentations of research results at meetings
 - Reviewed many professional papers and reports
 - Testified in 4 court cases.

Editing for scientific journals: Guest Editor, *Wildlife Society Bulletin*, 2012-2013, of invited papers representing international views on the impacts of wind energy on wildlife and how to mitigate the impacts. Associate Editor, *Journal of Wildlife Management*, March 2004 to 30 June 2007. Editorial Board Member, *Environmental Management*, 10/1999 to 8/2004. Associate Editor, *Biological Conservation*, 9/1994 to 9/1995.

Member, Alameda County Scientific Review Committee (SRC), August 2006 to April 2011. The

five-member committee investigated causes of bird and bat collisions in the Altamont Pass Wind Resource Area, and recommended mitigation and monitoring measures. The SRC reviewed the science underlying the Alameda County Avian Protection Program, and advised the County on how to reduce wildlife fatalities.

Consulting Ecologist, 2004-2007, California Energy Commission (CEC). Provided consulting services as needed to the CEC on renewable energy impacts, monitoring and research, and produced several reports. Also collaborated with Lawrence-Livermore National Lab on research to understand and reduce wind turbine impacts on wildlife.

Consulting Ecologist, 1999-2013, U.S. Navy. Performed endangered species surveys, hazardous waste site monitoring, and habitat restoration for the endangered San Joaquin kangaroo rat, California tiger salamander, California red-legged frog, California clapper rail, western burrowing owl, salt marsh harvest mouse, and other species at Naval Air Station Lemoore; Naval Weapons Station, Seal Beach, Detachment Concord; Naval Security Group Activity, Skaggs Island; National Radio Transmitter Facility, Dixon; and, Naval Outlying Landing Field Imperial Beach.

Fulbright Research Fellow, Indonesia, 1988. Tested use of new sampling methods for numerical monitoring of Sumatran tiger and six other species of endemic felids, and evaluated methods used by other researchers.

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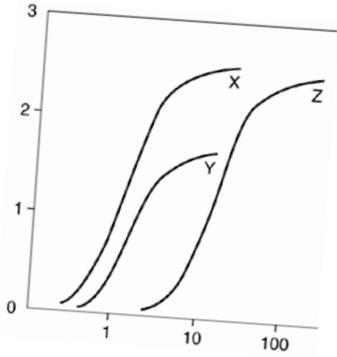
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EXHIBIT B



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March 5, 2018

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Attn: Ms. Rebecca L. Davis

Subject: Supplemental Comment Letter on Proposed Zeiss Innovation Center, Research Center Initial Study/Mitigated Negative Declaration

Dear Ms. Davis:

At the request of Lozeau Drury LLP (Lozeau), Clark and Associates (Clark) has reviewed additional materials related to the above referenced project, including the Initial Study/Supplemental Mitigated Negative Declaration (MND) for the Zeiss Innovation Center from the City of Dublin Community Development Department, dated December 8th, 2017 proposed by Kimley Horn (“Applicant”).

As previously noted by Clark (February, 2018), it is clear that the IS/MND was issued prematurely without considering the serious flaws in the Proponent’s analysis of the project. In addition to the serious flaws identified previously by Clark, the failure of the proponent to adequately describe the cumulative impact of the project on currently entitled developments in the community and the potential for the project to adversely affect sensitive receptors within the surrounding community require that the proponent to re-evaluate the impacts of the project and present them in a revised IS/MND.

Clark’s review of the materials in no way constitutes a validation of the conclusions or materials contained within the plan. If we do not comment on a specific item this does not constitute acceptance of the item.

Project Description

According to the December 2017 IS/MND Declaration from Kimley Horn¹, Carl Zeiss, Inc. (Zeiss) has applied for a Planned Development Zoning with a related Stage 1 and Stage 2 Development Plan and a Site Development Review (SDR) Permit for the Zeiss Innovation Center (the proposed project).

The proposed project would be developed in two phases. Phase 1 would consist of a three story 208,650 gross square feet (GSF) Research and Development (R&D) building with an entry plaza and 663 surface parking spaces. Phase 2 would consist of an additional five-story, 224,440 GSF R&D building with 167 surface parking spaces, and a five story, 1,229-space parking garage.

At build-out, the proposed project would include two low-to-mid-rise (three-story and five story) R&D buildings totaling 433,090 GSF and used for research, development and testing, light assembly and dry laboratories, and supporting office spaces. Other internal uses would include conference rooms, an employee cafeteria, and a demonstration center/showroom on the ground floor. Parking would include one parking garage with 1,229 spaces and 167 surface parking spaces, for a total of 1,396 spaces. Other miscellaneous exterior features would include a utilities enclosure, trash/recycling enclosure, nitrogen pad enclosure, bike storage enclosure, loading areas and landscaping. The project site is proposed to accommodate approximately 1,500 employees at building out.

The project site was also the subject of a previous IS/MND for the proposed Cisco Systems project in 2003. Cisco withdrew their application prior to entitlement; however, the property owner (Alameda County Surplus Property Authority) decided to move forward with the General Plan and Eastern Dublin Specific Plan (ESDP) amendments for the project site. In 2003, the City Council amended the General Plan and EDSP from High Density Residential to Campus Office and adopted the Cisco IS/MND which assumed 430,090 square feet of office and R&D space to accommodate 3,000 employees.

¹ Kimley Horn. 2017. Public Review Draft Zeiss Innovation Center Supplemental Mitigated Negative Declaration/Initial Study. Dublin, California. Prepared by Kimley Horn. Dated December 8, 2017. Pg. 1-1

According to the City, because the Cisco Systems IS/MND was prepared in 2001, updates to biological resources, cultural (historic) resources and transportation/traffic were included in the IS/Supplemental MND to confirm previous findings. It was concluded that biological resources are the only environmental issue where a potential new significant impact could occur. This new significant impact has been analyzed and mitigation proposed as described in the IS/Supplemental MND.

The City's assumption regarding the findings of the previous IS/SMND are suspect at best and contain a serious disregard for the CEQA analysis process.

- 1. It is my opinion, that the intial study and supplemental mitigated negative declaration (IS/SMND) failed to accurately describe the surrounding community and failed to identify currently entitled projects.**

CEQA requires that an environmental review document must contain an accurate description of the entire project. This is because an accurate and complete project description is necessary to perform an adequate evaluation of the potential environmental effects of a proposed project. In contrast, an inaccurate or incomplete project description renders the analysis of environmental impacts inherently unreliable.

The IS/SMND fails to accurately describe the conditions at the Site and in the surrounding community. In 2013, the Dublin Crossing (now known as the Boulevard) Specific Plan was entitled by the City of Dublin. The Boulevard project calls for the development of approximately 189 acres in the City of Dublin. The project area is located on a portion of the 2,485-acre Camp Parks Reserve Forces Training Area (Camp Parks) in the center of Dublin. The boundary of Camp Parks is located immediately to the west of the proposed Zeiss project.



Figure 1: Location of Boulevard and Zeiss Projects

The proposed Boulevard project calls for the construction of 1,995 residential units, up to 200,000 square feet of commercial uses; 30 net-acres of community park; 5-acres of neighborhood parks; and space for a 12-acre elementary school site.

- 2. It is my opinion, that the intial study and supplemental mitigated negative declaration (IS/SMND) failed to accurately assess whether the project would adveserely impact sensitive receptors in the community.**

According to the CEQA guidance², “Sensitive receptors are facilities that house or attract children, the elderly, people with illnesses or others who are especially sensitive to the effects of air

² BAAQMD. 1999. BAAQMD CEQA GUIDELINES Assessing the Air Quality Impacts of Projects and Plans.

pollutants. Hospitals, schools, convalescent facilities, and residential areas are examples of sensitive receptors.”

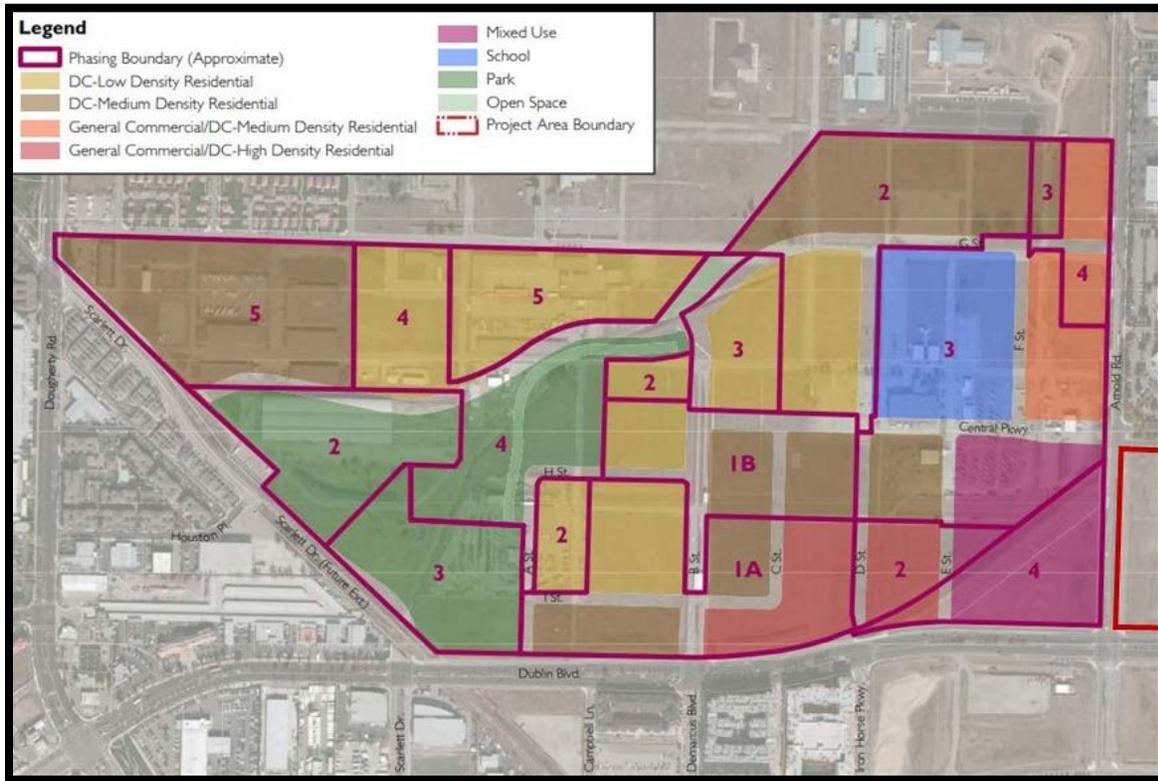


Figure 2: Proposed Land of The Boulevard Project and Location of Zeiss Project

Based upon the proposed land use within the development plan for the Boulevard Project it is clear that residential, mixed use, and the elementary school project would all be developed within 1,000 feet of the Zeiss Project.

The conclusion of the IS/SMND³, that “There are no sensitive receptors (e.g. residential, schools, churches, hospitals) proposed or surrounding the project site. Therefore, no impact would occur to sensitive receptors.” is false. The proponent must re-evaluate the project to determine the actual air quality impacts from the construction of the Zeiss project on the Boulevard project, as well as the operational impacts of the Zeiss project on the Boulevard project. To assess those impacts the

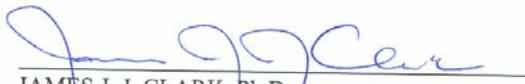
³ Kimley Horn. 2017. Zeiss Innovation Center. Supplemental Mitigated Negative Declaration/Initial Study. Hayward, California. Dated December, 2017. Pg. 21

proponents must perform a baseline health risk assessment (BHRA) of the construction and operational emissions to provide the necessary information to determine whether significant impacts will occur from the Project in the community. Following the completion of the BHRA, the proponents must submit revised supplemental IS/MND.

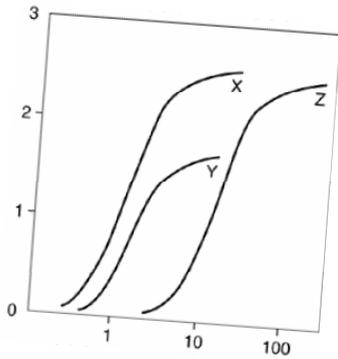
Conclusion

The facts identified and referenced in this comment letter lead me to reasonably conclude that Proponent has failed to adequately describe the project and the current environmental conditions; identify sensitive receptors in the area; that would the Project will result in significant adverse impacts that were not identified in the IS/MND and that are not adequately mitigated. Many of the IS/MND's conclusions that environmental impacts are not significant or less than significant with mitigation are unsupported or contradicted by the evidence. As a result, several analyses presented in the IS/MND, including impacts on air quality, fail to identify or disclose the magnitude of significant adverse impacts. To protect air quality and public health the Proponent must prepare a revised supplemental IS/MND for the Project.

Sincerely,



JAMES J. J. CLARK, Ph.D.



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James J. J. Clark, Ph.D.

Principal Toxicologist

Toxicology/Exposure Assessment Modeling

Risk Assessment/Analysis/Dispersion Modeling

Education:

Ph.D., Environmental Health Science, University of California, 1995

M.S., Environmental Health Science, University of California, 1993

B.S., Biophysical and Biochemical Sciences, University of Houston, 1987

Professional Experience:

Dr. Clark is a well recognized toxicologist, air modeler, and health scientist. He has 20 years of experience in researching the effects of environmental contaminants on human health including environmental fate and transport modeling (SCREEN3, AEROMOD, ISCST3, Johnson-Ettinger Vapor Intrusion Modeling); exposure assessment modeling (partitioning of contaminants in the environment as well as PBPK modeling); conducting and managing human health risk assessments for regulatory compliance and risk-based clean-up levels; and toxicological and medical literature research.

Significant projects performed by Dr. Clark include the following:

LITIGATION SUPPORT

Case: James Harold Caygle, et al, v. Drummond Company, Inc. Circuit Court for the Tenth Judicial Circuit, Jefferson County, Alabama. Civil Action. CV-2009

Client: Environmental Litigation Group, Birmingham, Alabama

Dr. Clark performed an air quality assessment of emissions from a coke factory located in Tarrant, Alabama. The assessment reviewed include a comprehensive review of air quality standards, measured concentrations of pollutants from factory, an inspection of the facility and detailed assessment of the impacts on the community. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Rose Roper V. Nissan North America, et al. Superior Court of the State Of California for the County Of Los Angeles – Central Civil West. Civil Action. NC041739

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to multiple chemicals, including benzene, who later developed a respiratory distress. A review of the individual's medical and occupational history was performed to prepare an exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to respiratory irritants. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: O'Neil V. Sherwin Williams, et al. United States District Court Central District of California

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to petroleum distillates who later developed a bladder cancer. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Summary judgment for defendants.

Case: Moore V., Shell Oil Company, et al. Superior Court of the State Of California for the County Of Los Angeles

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to chemicals while benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Raymond Saltonstall V. Fuller O'Brien, KILZ, and Zinsser, et al. United States District Court Central District of California

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Richard Boyer and Elizabeth Boyer, husband and wife, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-7G.

Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: JoAnne R. Cook, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-9R

Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of an individual exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Patrick Allen And Susan Allen, husband and wife, and Andrew Allen, a minor, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-W

Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Michael Fahey, Susan Fahey V. Atlantic Richfield Company, et al. United States District Court Central District of California Civil Action Number CV-06 7109 JCL.

Client: Rose, Klein, Marias, LLP, Long Beach, California

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Settlement in favor of plaintiff.

Case: Constance Acevedo, et al., V. California Spray-Chemical Company, et al., Superior Court of the State Of California, County Of Santa Cruz. Case No. CV 146344

Dr. Clark performed a comprehensive exposure assessment of community members exposed to toxic metals from a former lead arsenate manufacturing facility. The former manufacturing site had undergone a DTSC mandated removal action/remediation for the presence of the toxic metals at the site. Opinions were presented regarding the elevated levels of arsenic and lead (in attic dust and soils) found throughout the community and the potential for harm to the plaintiffs in question.

Case Result: Settlement in favor of defendant.

Case: Michael Nawrocki V. The Coastal Corporation, Kurk Fuel Company, Pautler Oil Service, State of New York Supreme Court, County of Erie, Index Number I2001-11247

Client: Richard G. Berger Attorney At Law, Buffalo, New York

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the

known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

Case Result: Judgement in favor of defendant.

SELECTED AIR MODELING RESEARCH/PROJECTS

Client – Confidential

Dr. Clark performed a comprehensive evaluation of criteria pollutants, air toxins, and particulate matter emissions from a carbon black production facility to determine the impacts on the surrounding communities. The results of the dispersion model will be used to estimate acute and chronic exposure concentrations to multiple contaminants and will be incorporated into a comprehensive risk evaluation.

Client – Confidential

Dr. Clark performed a comprehensive evaluation of air toxins and particulate matter emissions from a railroad tie manufacturing facility to determine the impacts on the surrounding communities. The results of the dispersion model have been used to estimate acute and chronic exposure concentrations to multiple contaminants and have been incorporated into a comprehensive risk evaluation.

Client – Los Angeles Alliance for a New Economy (LAANE), Los Angeles, California

Dr. Clark is advising the LAANE on air quality issues related to current flight operations at the Los Angeles International Airport (LAX) operated by the Los Angeles World Airport (LAWA) Authority. He is working with the LAANE and LAX staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

Client – City of Santa Monica, Santa Monica, California

Dr. Clark is advising the City of Santa Monica on air quality issues related to current flight operations at the facility. He is working with the City staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

Client: Omnitrans, San Bernardino, California

Dr. Clark managed a public health survey of three communities near transit fueling facilities in San Bernardino and Montclair California in compliance with California Senate Bill 1927. The survey included an epidemiological survey of the effected communities, emission surveys of local businesses, dispersion modeling to determine potential emission concentrations within the communities, and a comprehensive risk assessment of each community. The results of the study were presented to the Governor as mandated by Senate Bill 1927.

Client: Confidential, San Francisco, California

Summarized cancer types associated with exposure to metals and smoking. Researched the specific types of cancers associated with exposure to metals and smoking. Provided causation analysis of the association between cancer types and exposure for use by non-public health professionals.

Client: Confidential, Minneapolis, Minnesota

Prepared human health risk assessment of workers exposed to VOCs from neighboring petroleum storage/transport facility. Reviewed the systems in place for distribution of petroleum hydrocarbons to identify chemicals of concern (COCs), prepared comprehensive toxicological summaries of COCs, and quantified potential risks from carcinogens and non-carcinogens to receptors at or adjacent to site. This evaluation was used in the support of litigation.

Client – United Kingdom Environmental Agency

Dr. Clark is part of team that performed comprehensive evaluation of soil vapor intrusion of VOCs from former landfill adjacent residences for the United Kingdom's Environment

Agency. The evaluation included collection of liquid and soil vapor samples at site, modeling of vapor migration using the Johnson Ettinger Vapor Intrusion model, and calculation of site-specific health based vapor thresholds for chlorinated solvents, aromatic hydrocarbons, and semi-volatile organic compounds. The evaluation also included a detailed evaluation of the use, chemical characteristics, fate and transport, and toxicology of chemicals of concern (COC). The results of the evaluation have been used as a briefing tool for public health professionals.

EMERGING/PERSISTENT CONTAMINANT RESEARCH/PROJECTS

Client: Ameren Services, St. Louis, Missouri

Managed the preparation of a comprehensive human health risk assessment of workers and residents at or near an NPL site in Missouri. The former operations at the Property included the servicing and repair of electrical transformers, which resulted in soils and groundwater beneath the Property and adjacent land becoming impacted with PCB and chlorinated solvent compounds. The results were submitted to U.S. EPA for evaluation and will be used in the final ROD.

Client: City of Santa Clarita, Santa Clarita, California

Dr. Clark is managing the oversight of the characterization, remediation and development activities of a former 1,000 acre munitions manufacturing facility for the City of Santa Clarita. The site is impacted with a number of contaminants including perchlorate, unexploded ordinance, and volatile organic compounds (VOCs). The site is currently under a number of regulatory consent orders, including an Imminent and Substantial Endangerment Order. Dr. Clark is assisting the impacted municipality with the development of remediation strategies, interaction with the responsible parties and stakeholders, as well as interfacing with the regulatory agency responsible for oversight of the site cleanup.

Client: Confidential, Los Angeles, California

Prepared comprehensive evaluation of perchlorate in environment. Dr. Clark evaluated the production, use, chemical characteristics, fate and transport, toxicology, and remediation of perchlorate. Perchlorates form the basis of solid rocket fuels and have recently been detected in water supplies in the United States. The results of this research

were presented to the USEPA, National GroundWater, and ultimately published in a recent book entitled *Perchlorate in the Environment*.

Client – Confidential, Los Angeles, California

Dr. Clark is performing a comprehensive review of the potential for pharmaceuticals and their by-products to impact groundwater and surface water supplies. This evaluation will include a review if available data on the history of pharmaceutical production in the United States; the chemical characteristics of various pharmaceuticals; environmental fate and transport; uptake by xenobiotics; the potential effects of pharmaceuticals on water treatment systems; and the potential threat to public health. The results of the evaluation may be used as a briefing tool for non-public health professionals.

PUBLIC HEALTH/TOXICOLOGY

Client: Brayton Purcell, Novato, California

Dr. Clark performed a toxicological assessment of residents exposed to methyl-tertiary butyl ether (MTBE) from leaking underground storage tanks (LUSTs) adjacent to the subject property. The symptomology of residents and guests of the subject property were evaluated against the known outcomes in published literature to exposure to MTBE. The study found that residents had been exposed to MTBE in their drinking water; that concentrations of MTBE detected at the site were above regulatory guidelines; and, that the symptoms and outcomes expressed by residents and guests were consistent with symptoms and outcomes documented in published literature.

Client: Confidential, San Francisco, California

Identified and analyzed fifty years of epidemiological literature on workplace exposures to heavy metals. This research resulted in a summary of the types of cancer and non-cancer diseases associated with occupational exposure to chromium as well as the mortality and morbidity rates.

Client: Confidential, San Francisco, California

Summarized major public health research in United States. Identified major public health research efforts within United States over last twenty years. Results were used as a briefing tool for non-public health professionals.

Client: Confidential, San Francisco, California

Quantified the potential multi-pathway dose received by humans from a pesticide applied indoors. Part of team that developed exposure model and evaluated exposure concentrations in a comprehensive report on the plausible range of doses received by a specific person. This evaluation was used in the support of litigation.

Client: Covanta Energy, Westwood, California

Evaluated health risk from metals in biosolids applied as soil amendment on agricultural lands. The biosolids were created at a forest waste cogeneration facility using 96% whole tree wood chips and 4 percent green waste. Mass loading calculations were used to estimate Cr(VI) concentrations in agricultural soils based on a maximum loading rate of 40 tons of biomass per acre of agricultural soil. The results of the study were used by the Regulatory agency to determine that the application of biosolids did not constitute a health risk to workers applying the biosolids or to residences near the agricultural lands.

Client – United Kingdom Environmental Agency

Oversaw a comprehensive toxicological evaluation of methyl-*tertiary* butyl ether (MtBE) for the United Kingdom's Environment Agency. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MtBE. The results of the evaluation have been used as a briefing tool for public health professionals.

Client – Confidential, Los Angeles, California

Prepared comprehensive evaluation of *tertiary* butyl alcohol (TBA) in municipal drinking water system. TBA is the primary breakdown product of MtBE, and is suspected to be the primary cause of MtBE toxicity. This evaluation will include available information on the production, use, chemical characteristics, fate and transport in the environment, absorption, distribution, routes of detoxification, metabolites, carcinogenic potential, and remediation of TBA. The results of the evaluation were used as a briefing tool for non-public health professionals.

Client – Confidential, Los Angeles, California

Prepared comprehensive evaluation of methyl *tertiary* butyl ether (MTBE) in municipal drinking water system. MTBE is a chemical added to gasoline to increase the octane

rating and to meet Federally mandated emission criteria. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MTBE. The results of the evaluation have been used as a briefing tool for non-public health professionals.

Client – Ministry of Environment, Lands & Parks, British Columbia

Dr. Clark assisted in the development of water quality guidelines for methyl tertiary-butyl ether (MTBE) to protect water uses in British Columbia (BC). The water uses to be considered includes freshwater and marine life, wildlife, industrial, and agricultural (e.g., irrigation and livestock watering) water uses. Guidelines from other jurisdictions for the protection of drinking water, recreation and aesthetics were to be identified.

Client: Confidential, Los Angeles, California

Prepared physiologically based pharmacokinetic (PBPK) assessment of lead risk of receptors at middle school built over former industrial facility. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

Client: Kaiser Venture Incorporated, Fontana, California

Prepared PBPK assessment of lead risk of receptors at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

RISK ASSESSMENTS/REMEDIAL INVESTIGATIONS

Client: Confidential, Atlanta, Georgia

Researched potential exposure and health risks to community members potentially exposed to creosote, polycyclic aromatic hydrocarbons, pentachlorophenol, and dioxin compounds used at a former wood treatment facility. Prepared a comprehensive toxicological summary of the chemicals of concern, including the chemical characteristics, absorption, distribution, and carcinogenic potential. Prepared risk characterization of the carcinogenic and non-carcinogenic chemicals based on the exposure assessment to quantify the potential risk to members of the surrounding community. This evaluation was used to help settle class-action tort.

Client: Confidential, Escondido, California

Prepared comprehensive Preliminary Endangerment Assessment (PEA) of dense non-aqueous liquid phase hydrocarbon (chlorinated solvents) contamination at a former printed circuit board manufacturing facility. This evaluation was used for litigation support and may be used as the basis for reaching closure of the site with the lead regulatory agency.

Client: Confidential, San Francisco, California

Summarized epidemiological evidence for connective tissue and autoimmune diseases for product liability litigation. Identified epidemiological research efforts on the health effects of medical prostheses. This research was used in a meta-analysis of the health effects and as a briefing tool for non-public health professionals.

Client: Confidential, Bogotá, Columbia

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of a 13.7 hectares plastic manufacturing facility in Bogotá, Colombia. The risk assessment was used as the basis for the remedial goals and closure of the site.

Client: Confidential, Los Angeles, California

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally cadmium) and VOCs from soil and soil vapor at 12-acre former crude oilfield and municipal landfill. The site is currently used as a middle school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and was used as the basis for regulatory closure of site.

Client: Confidential, Los Angeles, California

Managed remedial investigation (RI) of heavy metals and volatile organic chemicals (VOCs) for a 15-acre former manufacturing facility. The RI investigation of the site included over 800 different sampling locations and the collection of soil, soil gas, and groundwater samples. The site is currently used as a year round school housing approximately 3,000 children. The Remedial Investigation was performed in a manner

that did not interrupt school activities and met the time restrictions placed on the project by the overseeing regulatory agency. The RI Report identified the off-site source of metals that impacted groundwater beneath the site and the sources of VOCs in soil gas and groundwater. The RI included a numerical model of vapor intrusion into the buildings at the site from the vadose zone to determine exposure concentrations and an air dispersion model of VOCs from the proposed soil vapor treatment system. The Feasibility Study for the Site is currently being drafted and may be used as the basis for granting closure of the site by DTSC.

Client: Confidential, Los Angeles, California

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally lead), VOCs, SVOCs, and PCBs from soil, soil vapor, and groundwater at 15-acre former manufacturing facility. The site is currently used as a year round school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and will be basis for regulatory closure of site.

Client: Confidential, Los Angeles, California

Prepared comprehensive evaluation of VOC vapor intrusion into classrooms of middle school that was former 15-acre industrial facility. Using the Johnson-Ettinger Vapor Intrusion model, the evaluation determined acceptable soil gas concentrations at the site that did not pose health threat to students, staff, and residents. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

Client –Dominguez Energy, Carson, California

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of 6-acre portion of a 500-acre oil and natural gas production facility in Carson, California. The risk assessment was used as the basis for closure of the site.

Kaiser Ventures Incorporated, Fontana, California

Prepared health risk assessment of semi-volatile organic chemicals and metals for a fifty-year old wastewater treatment facility used at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

ANR Freight - Los Angeles, California

Prepared a comprehensive Preliminary Endangerment Assessment (PEA) of petroleum hydrocarbon and metal contamination of a former freight depot. This evaluation was as the basis for reaching closure of the site with lead regulatory agency.

Kaiser Ventures Incorporated, Fontana, California

Prepared comprehensive health risk assessment of semi-volatile organic chemicals and metals for 23-acre parcel of a 1,100-acre former steel mill. The health risk assessment was used to determine clean up goals and as the basis for granting closure of the site by lead regulatory agency. Air dispersion modeling using ISCST3 was performed to determine downwind exposure point concentrations at sensitive receptors within a 1 kilometer radius of the site. The results of the health risk assessment were presented at a public meeting sponsored by the Department of Toxic Substances Control (DTSC) in the community potentially affected by the site.

Unocal Corporation - Los Angeles, California

Prepared comprehensive assessment of petroleum hydrocarbons and metals for a former petroleum service station located next to sensitive population center (elementary school). The assessment used a probabilistic approach to estimate risks to the community and was used as the basis for granting closure of the site by lead regulatory agency.

Client: Confidential, Los Angeles, California

Managed oversight of remedial investigation most contaminated heavy metal site in California. Lead concentrations in soil excess of 68,000,000 parts per billion (ppb) have been measured at the site. This State Superfund Site was a former hard chrome plating operation that operated for approximately 40-years.

Client: Confidential, San Francisco, California

Coordinator of regional monitoring program to determine background concentrations of metals in air. Acted as liaison with SCAQMD and CARB to perform co-location sampling and comparison of accepted regulatory method with ASTM methodology.

Client: Confidential, San Francisco, California

Analyzed historical air monitoring data for South Coast Air Basin in Southern California and potential health risks related to ambient concentrations of carcinogenic metals and volatile organic compounds. Identified and reviewed the available literature and calculated risks from toxins in South Coast Air Basin.

IT Corporation, North Carolina

Prepared comprehensive evaluation of potential exposure of workers to air-borne VOCs at hazardous waste storage facility under SUPERFUND cleanup decree. Assessment used in developing health based clean-up levels.

Professional Associations

American Public Health Association (APHA)

Association for Environmental Health and Sciences (AEHS)

American Chemical Society (ACS)

California Redevelopment Association (CRA)

International Society of Environmental Forensics (ISEF)

Society of Environmental Toxicology and Chemistry (SETAC)

Publications and Presentations:

Books and Book Chapters

Sullivan, P., **J.J. J. Clark**, F.J. Agardy, and P.E. Rosenfeld. (2007). *Synthetic Toxins In The Food, Water and Air of American Cities*. Elsevier, Inc. Burlington, MA.

Sullivan, P. and **J.J. J. Clark**. 2006. *Choosing Safer Foods, A Guide To Minimizing Synthetic Chemicals In Your Diet*. Elsevier, Inc. Burlington, MA.

Sullivan, P., Agardy, F.J., and **J.J.J. Clark**. 2005. *The Environmental Science of Drinking Water*. Elsevier, Inc. Burlington, MA.

Sullivan, P.J., Agardy, F.J., **Clark, J.J.J.** 2002. *America's Threatened Drinking Water: Hazards and Solutions*. Trafford Publishing, Victoria B.C.

Clark, J.J.J. 2001. "TBA: Chemical Properties, Production & Use, Fate and Transport, Toxicology, Detection in Groundwater, and Regulatory Standards" in *Oxygenates in the Environment*. Art Diaz, Ed.. Oxford University Press: New York.

Clark, J.J.J. 2000. "Toxicology of Perchlorate" in *Perchlorate in the Environment*. Edward Urbansky, Ed. Kluwer/Plenum: New York.

Clark, J.J.J. 1995. Probabilistic Forecasting of Volatile Organic Compound Concentrations At The Soil Surface From Contaminated Groundwater. UMI.

Baker, J.; **Clark, J.J.J.**; Stanford, J.T. 1994. Ex Situ Remediation of Diesel Contaminated Railroad Sand by Soil Washing. Principles and Practices for Diesel Contaminated Soils, Volume III. P.T. Kostecki, E.J. Calabrese, and C.P.L. Barkan, eds. Amherst Scientific Publishers, Amherst, MA. pp 89-96.

Journal and Proceeding Articles

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EXHIBIT C



March 5, 2018

Ms. Rebecca Davis
Lozeau Drury
410 12th Street, Suite 250
Oakland, CA 94607

Subject: Zeiss Innovation Center Project Supplemental IS/MND
P18006

Dear Ms. Davis:

This is a supplement to my letter of comment on the Zeiss Innovation Center Project Supplemental IS/MND dated February 12, 2018. My qualifications to perform this review were thoroughly documented in my letter of February 12 and my professional resume was attached.

Findings of my supplemental review are summarized below.

The IS/MND's traffic analysis relies on the EIR for the East Dublin Specific Plan and General Plan Amendment (the "EDSP") for that project for its cumulative condition traffic analysis. That environmental document was certified by the City of Dublin in 1994, 24 years ago. The proposed Zeiss Project is located at the extreme western area of at East Dublin Specific area Plan, the western limit of which is Arnold Road, the subject Project's western boundary. Immediately to the west of the EDSP and Zeiss Project western limits is the area of a large project now known as "The Boulevard" but formerly entitled "Dublin Crossing". This approved project will construct up to 1995 residential dwelling units and up to 200,000 square feet of commercial space. At the time the EDSP EIR was prepared, the site now known as "the Boulevard" project was part of Camp Parks, an active United States Army Base. Because the Camp Parks base was active and there were no yet adopted reuse plans for its development adopted,

the EDSP assumed that the military use would continue. In addition, the EDSP assumed that most of the Zeiss site would be residential in use. The Cisco Systems IS/MND for the Zeiss Project site, that the subject IS/MND also relies on, also never considered anything but a continued Army use of the Camp Parks site.

What all this means is that the EDSP traffic analysis that the Subject IS/MND relies on as its cumulative analysis has virtually nothing to do with the traffic environment that is the context for the subject Zeiss Project, or for that matter for its near term analyses. The traffic counts to support the IS/MND's traffic analysis of the project were, with one exception, taken on June 1, 2016.¹ This is a time at which The Boulevard development would have been reasonably certain given that on November 5, 2013 the Dublin City Council certified its EIR, approved its Specific Plan and corresponding General Plan amendments, changes to the Zoning Ordinance and Zoning Map and approved the Development Agreement for it as well as having adopted minor changes to the Specific Plan and CEQA findings related thereto on June 2, 2015. For the near term, the IS/MND and its Appendix E traffic study analyzes the consequences of the Zeiss Phase One development and its full build-out (completion of Zeiss Phase Two) solely with respect to its impacts on existing traffic. There has been no attempt to analyze the Zeiss Project under traffic conditions that would likely exist at the time of full build-out of the Zeiss Project (that is, Existing + The Boulevard + full Zeiss Project traffic). Such an analysis would likely prove consequential.

For example, consider the intersection of Arnold Road and Dublin Boulevard. According to the IS/MND Appendix E, Figure 12, the combination of Existing plus Zeiss build-out traffic at this intersection would involve 2475 total vehicle movements in the AM peak hour and 3284 in the PM peak hour. Per comparison of Dublin Crossing EIR Figures 3.12-6a and 3.12-8a, the Boulevard Project would add 356 vehicle movements to this intersection in the AM peak hour and 822 vehicle movements in the PM peak hour. These traffic increments, had they been considered in the Zeiss Project traffic analysis, would likely have resulted in traffic conditions deteriorating into the unacceptable LOS E range.

Because of this large and consequential omission, the entire analysis must be redone to reflect a reasonable analysis of the current approved conditions of the Project's surroundings and the likely cumulative conditions.

Conclusion

Fundamentally, the Zeiss Supplemental IS/MND falls far short of the good faith effort to disclose impact that CEQA demands and must be redone to reflect

¹ See IS/MND Appendix E, page 17.

Ms. Rebecca Davis
March 5, 2018
Page 3

current and planned development conditions, not just those that were reasonably certain in the 1992 - 1994 era. This concludes my supplemental comments on the Zeiss Innovation Center Project IS/MND. For the reasons stated above, the traffic analysis is inadequate and an extensively revised traffic analysis must be performed. Because there is fair argument that the Project would, more likely than not, cause significant traffic impacts, a full EIR on it is required.

Sincerely,

Smith Engineering & Management
A California Corporation



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



SMITH ENGINEERING & MANAGEMENT

DANIEL T. SMITH, Jr. **President**

EDUCATION

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

PROFESSIONAL REGISTRATION

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

PROFESSIONAL EXPERIENCE

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

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

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

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

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

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

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

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

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

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

MEMBERSHIPS

Institute of Transportation Engineers Transportation Research Board

PUBLICATIONS AND AWARDS

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

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

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

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

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

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

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

EXHIBIT D



Heidi M. Bauer, PG
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February 12, 2018

Rebecca L. Davis, Associate Attorney
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Subject: Review of Hazards and Hazardous Materials sections of the May 2017 Recirculated Initial Study/Mitigated Negative Declaration (MND/IS) plus Technical Appendices- Ferrante Apartments Project (NV-2015-0490-MND)

Dear Ms. Davis,

Please find the following review of the documents prepared for the Carl Zeiss project located on the northeast corner of Dublin Blvd and Arnold Drive. This review pertains only to the Hazards and Hazard Materials concerns of the Zeiss Innovation Center IS/MND and the Cisco Initial Study. The documents reviewed are the 2018 Zeiss Innovation Center Supplemental Initial Study/Mitigated Negative Declaration, the 2001 Cisco Initial Study, and the Lowney Associates 2000 Phase I Environmental Site Assessment Subsurface investigations.

Site Background

The site is 11.36 net acres of land (APN: 9860014-010-00) located on the corner of Dublin Blvd and Arnold Road. The site is currently vacant. The site functioned as a US Naval facility (Camp Shoemaker) from the early 1940's up until about 1949. Of interest to the subject site is two former fuel stations located on the property; one in the northwest portion of the property and one in the southwest of the property. Parcel 15A also contained an inflammable storage building, public works office and shop, transportation shop and barracks, and another unidentified building (Lowney 2000). A former laundry and boiler room was located on the adjacent parcel to the east (Parcel 15B). The Zeiss Innovation Center is being proposed on the former Parcel 15A site.



Previous soil, soil vapor and groundwater investigations

Several soil, soil vapor, and groundwater investigations were conducted between 1998 to 2000 in response to directives from the Regional Water Quality Control Board and also in preparation for the pending CISCO project which ultimately did not go forward. The main areas of concern for the project (Parcel 15A) is the area of the former fuel stations piping and associated leaking underground storage tanks (LUSTs), the upgradient/sidegradient (Parcel 15B) which shows elevated PCE levels likely from the former laundry, the possible contaminated fill from incinerator ash used throughout the property and the presence of an unknown tar-like substance on Parcel 15. The site investigations are summarized below:

In June 1998 a soil and ground water investigation was conducted on Parcel 16 only which is located directly to the south of the subject site (Parcel 15A). According to the Phase I and Phase II Environmental Site Assessment Subsurface investigations (Lowney, 2000) groundwater was encountered at approximately 5 feet in the southeast corner of the lot. Laboratory analysis detected 120,000 ppb of TEPH [Total Extractable Petroleum Hydrocarbons] in the off-site sample from the southeast corner of Parcel 16B and up to 100 ppb of PCE and 4.2 ppb of TCE in two borings along the northern boundary of Parcel 16A. As stated in the report the presumed source for the PCE and TCE was Parcel 15B. This was likely from the former laundry located on this property.

In June 1999 a Residual Volatile Organic Compounds Investigation was conducted on Parcel 15 and 15A. A 16-point, passive soil gas survey was performed to characterize the distribution of volatile organic compounds (VOCs) on the site. According to the Lowney ESA (Lowney, 2000) "up to 0.29 ppm of PCE (at six locations) and 1.53 ppm of chloroform (at three locations) were detected in the soil gas samples. One deep boring (approximately 96.5 feet) was drilled off-site of Parcel 15 near Dublin Boulevard. Ground water was encountered at 18 feet in the boring. Laboratory analysis of the ground water from the deep boring detected 3.5 ppb of PCE. Three shallow (approximately 24- to 30-foot) borings also were drilled on Parcel 15. The borings were converted to temporary monitoring wells and sampled for VOCs. Laboratory analyses of the ground water samples detected 50 ppb to 180 ppb of PCE in two borings located near the south side of the off-site former laundry and boiler room on Parcel 15B."

In March 2000 a Phase I and Phase II Environmental Site Assessment (ESA) Subsurface Investigation (Lowney 2000) was conducted for Parcel 15. The Lowney ESA report concluded that "shallow ground water beneath the southern portion of Parcel 15 was impacted by PCE at concentrations up to 440 ppb. The highest concentration in the ground water samples was located near the former laundry/boiler room on Parcel 15. One soil boring on the southern portion of Parcel 15B, just north of

the laundry/boiler room building, contained 5,600 ppm of TEPH.” Also noted in the report was elevated chemicals of concern from the fill material which warranted the recommendation of a soil management plan to prevent worker exposure. Also noted was a tar-like substance in the former northern service station area which was estimated to be approximately ½ inch thick (Lowney 2000).

In May 2000 two underground storage tanks (one 10,000-gallon and one 1,000-gallon) were removed from the eastern (off-site) portion of Parcel 15 as reported in the Lowney report (Lowney 2000). Based on the site maps in the Lowney 2000 ESA it appears that the USTs were located on the west side of the property, not the east side.

In November 2000 sampling was documented in the Lowney ESA report titled *Phase I Environmental Site Assessment and Soil and Ground Water Quality Evaluation*. The report details the following sampling and assessment data:

- Soil Vapor Sampling: ten soil vapor probes were pushed to a depth of approximately 5 feet at each service station on Parcel 15A. Passive soil vapor samples were collected which indicated organic volatile compounds in three areas.
- Soil Sampling: fifteen near-surface (surface to 1/2-foot depth) soil samples were collected from locations selected at former structures and open field areas on Parcels 15A, 16A, and F. Seven were located on Parcel 15A.
- Test Pit Sampling: eighty-one samples from selected test pits on each of the three parcels were sampled and analyzed for arsenic, lead, purgeable and extractable fuel hydrocarbons and asbestos. Twenty-four samples were analyzed for CAM 17 metals. Additional testing including PCB's and dioxins. The average sample depth was 3.1 feet and the median depth was 2.5 ft.
- Groundwater Sampling: groundwater was reported at depths ranging from 15 to 18 feet bgs. According to the Lowney ESA (Lowney 2000) “groundwater impacted by petroleum hydrocarbons was encountered at the two former service stations on Parcel 15A. Up to 15,000 ppb of TPHg and 3,300 ppb of TPHd were detected in the area of the former Building 468B service station on Parcel 15A. Up to 290 ppb of TPHd was detected in the area of the former Building 468A service station on Parcel 15A.” Benzene, toluene, ethylbenzene and xylenes (BTEX) was detected up to 39 ppb on Parcel 15A and PCE was detected up to 24 ppb on Parcel 15A, 440 ppb on Parcel 15B to the east and 120 ppb off-site just to the south of Parcel 15.

The Carl Zeiss Innovation Center Initial Study/Mitigated Negative Declaration (Zeiss IS/MND, 2018) has not undergone a complete and thorough review because its findings are based on inadequate, incomplete and antiquated data used in the 2001 Cisco Initial Study (Cisco, 2001).

The Supplemental IS/MND (Zeiss IS/MND, 2018) for the Zeiss project states “Because the Cisco Systems IS/MND was prepared in 2001, updates to biological resources, cultural (historic) resources and transportation/traffic are included in this IS/Supplemental MND to confirm previous findings. It was concluded that biological resources are the only environmental issue where a potential new significant impact could occur.” Based on this City staff has chosen to rely on the IS/MND prepared for a different project (Cisco) in 2001; 17 years ago. While the proposed use may be similar subsurface, geochemical data can change considerably over the course of 18 to 20 years and this could be a substantial change from what was known in 1998-2000. The only mitigation measure proposed to deal with the existing environmental concerns is Mitigation Measure 3 which requires all asbestos wrapped piping be removed and heavy petroleum hydrocarbons be removed to “the extent required by the appropriate regulatory agencies” (Zeiss, 2018 IS/MND). Furthermore, the original IS/MND for the Cisco project relied on an incomplete data set and had that project moved forward these insufficiencies may have surfaced. A review of this data is bringing to light, possibly for the first time, that important subsurface data is missing from the investigation. The original IS/MND for the Cisco (Cisco, 2001) project used data presented in the March 2000 Phase I and Phase II Environmental Site Assessment (ESA) Subsurface investigations (Lowney, 2000) which is missing important subsurface data and analysis. It is possible this report and data was not thoroughly analyzed at the time because Cisco withdrew their application. The Lowney ESA and therefore the Cisco Initial Study are inadequate and/or incomplete for the following reasons:

1) The soil samples were collected from depths too shallow to be useful. The two leaking underground storage tanks (LUSTs) removed from the property were 10,000 gallon and 1,000 gallon in capacity. A typical 10,000 gallon UST has a diameter of 8 feet and a typical 1,000 gallon UST has a diameter of 5 feet. These tanks are buried at least two feet below grade putting the bottom of the 10,000 gallon LUST at a minimum of 10 feet below ground surface (bgs) and the 1,000 gallon LUST at a minimum of 7 feet bgs. The soil samples were collected from depths no greater than 6-inches and the test pit samples were collected from depths averaging 3.1 feet bgs or a median depth of 2.5 feet bgs. Since contents in the LUSTs and their piping are subject to gravitational forces in the subsurface these samples should have been collected from locations below the bottom and laterally outward of the excavations; not above. Only seven soil borings were advanced at the site and this quantity is insufficient to determine impacts from any piping or UST leaks. Soil samples collected from depths above 7 ft bgs for the 1,000 gallon LUST and 10 feet bgs for the 10,000 gallon LUST tell us nothing about what may be in the soil column from the LUST release area to the saturated zone.

2) The results of the groundwater samples are not discussed in the Lowney report (Lowney 2000). The Lowney report documents that groundwater samples were collected on Parcel 15 but the results are not discussed in the Conclusion section of the report. The data collected and documented on Figure 10 of the Lowney ESA indicated TPHg (Total Petroleum Hydrocarbons as gasoline) up to 15,000 ppb and TPHd (Total Petroleum Hydrocarbons as diesel) up to 3,300 ppb. Benzene, toluene, ethylbenzene and xylenes (BTEX) was found up to 39 ppb; it is not clear from the report if this is a cumulative result of BTEX chemicals or the if this is the highest individual compound of the BTEX results. Concentrations of tetrachloroethylene (PCE) were detected in groundwater samples on Parcel 15 up to 120 ppb. The Environmental Screening Levels (ESLs) published by the San Francisco Bay Regional Water Quality Control Board (SFB-RWQCB) have an ESL for TPHg and TPHd of 100 ug/l (ppb) whereas the concentrations on-site were found at 15,000 ppb for TPHg and 3,300 for TPHd. The on-site PCE concentrations were found up to 120 ppb and the ESL of PCE is 3 ppb and the ESL for benzene is 1 ppb, toluene is 40 ppb, ethylbenzene is 13 ppb and xylenes is 20 ppb. The concentration found on-site was 39 ppb which if the BTEX result was for any of the analytes with the exception of toluene that too would be an exceedance. The current level of groundwater depth or groundwater contaminant levels are unknown and therefore the risks from them are also not known.

3) The data relied on in the Zeiss IS/MND (Zeiss IS/ MND, 2017) in the Hazards and Hazardous Materials Section is no longer appropriate for use. The latest data collected for this site is 18-20 years old. The site subsurface in the area of the water table is dynamic and contaminant concentrations in the vadose and saturated zones change with the groundwater table fluctuation and also with the direction of groundwater flow. The groundwater flow direction is towards the southwest as documented in the Lowney report (Lowney, 2000). Contaminant concentrations that were detected above the ESL from the north portion of the site likely migrated southwest and therefore could be found in other portions of the site not previously investigated. Furthermore, samples were not collected from the upgradient portion of the site or upgradient areas on the adjacent northeast site and therefore if elevated contaminant concentrations did exist in these areas they may have migrated onto the subject site within the past 20 years and without current data the risks to the public and workers cannot be ascertained.

4) Relying on environmental assessment data from the year 2000 (Lowney 2000) leaves out the potential for impacts from surrounding use since that time. The Phase I Environmental Site Assessments performed by Lowney and others from 1998 to 2000 looked at the potential impacts from surrounding uses and contaminated sites at that time. A significant contribution to the groundwater now located on the subject property could have occurred within this time. As stated in the Lowney 2000 ESA: "Several facilities in the vicinity, however, were reported as hazardous materials users; if leaks or spills occur at these facilities, contamination could impact the site, depending upon the

effectives of cleanup efforts.” According to the RWQCB Geotracker (Geotracker, 2018) database regarding a site that is located upgradient of the subject site in “March 2013, a failure occurred with a pump seal and diesel underground tank's day tank, which caused the contents of the day tank to release onto the concrete pad and spread downhill approximately 80 feet. Ten drums of diesel impacted absorbent and soil was generated; however, no documentation exists to demonstrate that the release has been sufficiently abated.” This instance, updated in 2016, is just one of many environmental occurrences that could have happened in the area of the site that may have an impact. Without an investigation into the current status of environmental impacts on the property the environmental risk cannot be thoroughly reviewed.

The Carl Zeiss IS/MND does not adequately protect workers or the public from potential impacts from contaminated soil and soil vapor.

Based on the fact that soil samples were not collected from appropriate depths as mentioned above contaminant concentrations in the subsurface soils beneath 2-3 feet bgs and 5 feet for soil vapors are not known. Since it is possible that exposures to soil beneath these depths is likely from the construction work additional investigation as to the risks to workers and the public should be determined. In addition, the Lowney ESA (Lowney, 2000) recommended a soil management plan for handling significantly impacted soil if encountered during grading activities and this is not included nor mentioned in any of the Carl Zeiss Innovation Center IS/MND mitigation measures.

The level of environmental risk from this site should be assessed in an Environmental Impact Report (EIR) not in an MND/IS.

The environmental history of this site, including the unknown impacts from the uninvestigated site soils, combined with the existing elevated concentrations of contaminants above the ESLs in the groundwater can potentially create a significant environmental health threat to worker safety, the public and future employees at the project site. Furthermore, data for which for the project MND/IS declaration was based, is not current and is incomplete in its evaluation of subsurface contaminants. The determination for an MND should be that no (mitigated) environmental risk exists, however as shown above, the record shows 1) a clear lack of soil data, 2) a potential source for contaminated groundwater, 3) known contaminants from fill without any plan for soil management and 4) the unknown impacts from environmental conditions which may have occurred in the past 18-20 years. For these reasons the impacts to the environment and the public have the potential to be significant and therefore an MND/IS is not appropriate for this project. A full EIR is recommended to adequately and thoroughly review the risks from this project.

CONCLUSION

The MND/IS fails to adequately evaluate the risks from this project on worker safety, the public, and future occupants. There is substantial evidence in the record that environmental hazards still remain in the subsurface that can have a significant impact on the environment and community. Evidence presented in the project file indicates that existing potential hazards from subsurface impacts were not properly investigated and the risks from these remain unknown. The one mitigation proposed in the MND/IS to remove the known soil contamination but because there is a substantial area that has not be adequately assessed the mitigations do not reduce the risks to below significant.

A Negative Declaration or a Mitigated Negative Declaration is appropriate for a project when there is no substantial evidence that the project or any of its aspects could result in significant adverse impacts or that mitigations proposed can reduce those impacts to below significant. Since sufficient evidence exists, as outlined above, showing that this project could result in significant environmental impacts and the mitigations proposed are inadequate in addressing these impacts, the use of an MND/IS is not appropriate for this project and a full EIR is warranted. In addition, because the site geochemical data, fluctuating with the site hydrogeology and contaminant flow, could have changed significantly from the initial Cisco IS/MND a new study with current data for this site is warranted in order to afford the public and the decision-makers a complete and thorough review of this project.

Sincerely,

A handwritten signature in black ink that reads "Heidi M. Bauer". The signature is written in a cursive style with a large, sweeping "H" and "B".

Heidi Bauer, PG 7050
Senior Project Hydrogeologist

References

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PROFILE

Professional Geologist (CA) and QSP for stormwater. Effective manager and communicator for environmental investigations and reports. Effective and efficient professional for CEQA/NEPA project reviews and third-party peer reviews. Effective leader for hazmat clean-ups, indoor air quality investigations and employee health and safety programs and oversight.

EXPERIENCE

Senior Project Geologist

Air & Water Sciences, Petaluma, California

January 2004 – present

Currently manages environmental projects, environment project oversight, and third-party review. Includes review, analysis, interpretation and comment/advise on groundwater and soil contaminated sites. Performs file reviews for contaminated sites and prepares summary reports. Researches and comments on environmental impacts from subsurface contamination including groundwater, soil and soil vapor, including review of subsurface contaminant transport, groundwater flow, soil stratigraphy and hydrogeologic data to determine risk and remediation goals. Provides review, opinion and comments for CEQA/NEPA projects and other projects reviewing environmental review. Project management includes report and plan preparation, proposal development, estimating, data collection, analysis interpretation, and reporting. Coordinates and interacts with regulatory agencies on compliance issues. Reviews and provides updates/presentations on regulatory/compliance standards and requirements. Performs peer reviews and environmental damage claim assessments for insurance carriers. Also performs indoor air quality investigations and reporting, including, mold, VOCs, particulates, asbestos and lead. Serves as collateral health and safety officer and prepares health and safety-related plans.

Senior Project Geologist

Miller Brooks Environmental, Oakland, California

June 2002 to January 2004

Managed the implementation and direction of environmental investigations and LUST programs for multi-site, small to large, petroleum distribution and marketing companies. Worked and met with regulators and prepared local, state and federally required reports and documents. Managed compliance testing and discharge reporting requirements. Performed peer reviews, property development investigations, and damage claim evaluations for insurance companies. Performed function as company Health and Safety Officer and prepared health and safety plans and risk assessment reports for projects.

Senior Project Geologist

Clearwater Group, Inc., Oakland, California

September 1997 to August 2001

Supervised 10 – 15 managers, scientists, and technicians and served as operations manager of satellite office. Directed program implementation for multi-site clients with LUST sites. Collected and analyzed data and prepared and implemented plans and permits including, but not limited to, workplans, proposals, sampling plans, RAPs and CAPs, RNA plans, feasibility studies, pilot tests, health and safety plans, NPDES and air quality permits. Conducted environmental research, support and reporting for environmental litigation cases, damage claim evaluations and property development. Served as representative for environmental and property development issues at hearings and meetings. Served as Corporate Health & Safety Officer and managed safety compliance issues, reporting and conducted appropriate training.

Project Geologist

Walden Associates Inc., Oyster Bay, New York

January 1996 – July 1997

Responsible for environmental investigative work to assess the nature and extent of contaminant releases from LUST sites or hazardous material releases. Conducted and coordinated assessments and remedial projects. Prepared workplans, corrective action plans, reports and permitting documents. Served as Corporate Health and Safety Officer and conducted all trainings, reporting and compliance management.

Environmental Coordinator

Department of Environmental Health & Safety, State of New York, Stony Brook, New York

January 1993 to January 1996

Responsible for compliance with all applicable federal, state and local hazardous waste regulations and storm water and NPDES discharge reporting. Worked with facilities maintenance on facility inspections, storage, transportation oversight and

disposal/discharge of hazardous and regulated waste. Collateral duties included confined space safety, industrial hygiene sampling, indoor air quality investigation, hazard communication program, chemical hygiene program implementation and compliance inspections.

ADDITIONAL PART-TIME EMPLOYMENT

Lieutenant/Chemical Safety Division Officer

June 1996 to June 2002

US Coast Guard Reserve, Pacific Strike Team, Novato, California and Fort Wadsworth, NY

Directly supervised 15 response technicians and scientists. Directed hazardous materials response operations in area of responsibility. Worked on environmental investigations for EPA Superfund sites and oversaw direct-push (Geoprobe) work. Conducted unit training on safety and monitoring and Geoprobe. Served as Chemical Division Safety Officer.

Environmental Management Assistant

August 1993 to December 1993

Marine Science Research Center, Stony Brook, New York

Conducted groundwater sampling, data collection and interpretation for municipal solid waste landfill sites. Conducted research project on the environmental and public health effects of improper lead waste disposal. Conducted research project on the disposal routes and environmental consequences of medical waste disposal on local beaches.

Environmental Intern

June 1993 to August 1993

Atlantic States Legal Foundation, Syracuse, New York

Conducted research project and report on waste discharges (TRIs) from steel mills to the Great Lakes basin in accordance with the Emergency Planning and Community Right to Know Act (EPCRA).

Environmental Health & Safety Intern

January 1992 to December 1993

Department of Environmental Health & Safety, State of New York, Stony Brook, New York

Worked under Environmental Health and Safety Manager and Industrial Hygiene Manager and performed environmental surveys and inspections. Responded to and remediated chemical spills. Assisted with Hazcom/Community Right-to-Know program.

Environmental Intern

January 1990 to December 1992

New York Public Interest Research Group

Performed research, outreach and public education on waste-to-energy plants. Also performed research and public education in support of the 5-cent bottle return program for Suffolk County.

ACADEMIC BACKGROUND

- *Bachelor of Science* – Major in Environmental Geology (Minor in Marine Science), State University of New York at Stony Brook – December 1993
- *Master of Professional Studies*– Environmental/Waste Management – State University of New York at Stony Brook – May 1997

REGISTRATIONS, CERTIFICATES, & PUBLICATIONS

Current State of California Professional Geologist (PG) #7050
Qualified Storm Water Pollution Prevention Practitioner (QSP)
Asbestos Building Inspector and Site Supervisor/Contractor
Confined Space Entry & Rescue – I and II
Hazardous Materials Response – Operations level
Hazardous Materials Response – Technician level
Hazardous Materials Response – Supervisor level

USCG DOT Pollution Investigation Qualification
Lead Sampling Technician
USCG DOT Hazardous Materials Response Qual.
40-hour Hazwoper training and instructor
Indoor Air Quality Investigation

EXHIBIT E



3. SCREENING CRITERIA

The screening criteria identified in this section are **not thresholds of significance**. The Air District developed screening criteria to provide lead agencies and project applicants with a conservative indication of whether the proposed project could result in potentially significant air quality impacts. If all of the screening criteria are met by a proposed project, then the lead agency or applicant would not need to perform a detailed air quality assessment of their project's air pollutant emissions. These screening levels are generally representative of new development on greenfield sites without any form of mitigation measures taken into consideration. In addition, the screening criteria in this section do not account for project design features, attributes, or local development requirements that could also result in lower emissions. For projects that are mixed-use, infill, and/or proximate to transit service and local services, emissions would be less than the greenfield type project that these screening criteria are based on.

If a project includes emissions from stationary source engines (e.g., back-up generators) and industrial sources subject to Air District Rules and Regulations, the screening criteria should not be used. The project's stationary source emissions should be analyzed separately from the land use-related indirect mobile- and area-source emissions. Stationary-source emissions are not included in the screening estimates given below and, for criteria pollutants, must be added to the indirect mobile- and area-source emissions generated by the land use development and compared to the appropriate Thresholds of Significance. Greenhouse gas emissions from permitted stationary sources should not be combined with operational emissions, but compared to a separate stationary source greenhouse gas threshold.

3.1. OPERATIONAL-RELATED IMPACTS

3.1.1. Criteria Air Pollutants and Precursors

The screening criteria developed for criteria pollutants and precursors were derived using the default assumptions used by the Urban Land Use Emissions Model (URBEMIS). If the project has sources of emissions not evaluated in the URBEMIS program the screening criteria should not be used. If the project meets the screening criteria in Table 3-1, the project would not result in the generation of operational-related criteria air pollutants and/or precursors that exceed the *Thresholds of Significance* shown in Table 2-2. Operation of the proposed project would therefore result in a less-than-significant cumulative impact to air quality from criteria air pollutant and precursor emissions.

3.1.2. Greenhouse Gases

The screening criteria developed for greenhouse gases were derived using the default emission assumptions in URBEMIS and using off-model GHG estimates for indirect emissions from electrical generation, solid waste and water conveyance. If the project has other significant sources of GHG emissions not accounted for in the methodology described above, then the screening criteria should not be used. Projects below the applicable screening criteria shown in Table 3-1 would not exceed the 1,100 MT of CO₂e/yr GHG threshold of significance for projects other than permitted stationary sources.

If a project, including stationary sources, is located in a community with an adopted qualified GHG Reduction Strategy, the project may be considered less than significant if it is consistent with the GHG Reduction Strategy. A project must demonstrate its consistency by identifying and implementing all applicable feasible measures and policies from the GHG Reduction Strategy into the project.



Land Use Type	Operational Criteria Pollutant Screening Size	Operational GHG Screening Size	Construction-Related Screening Size
Single-family	325 du (NOX)	56 du	114 du (ROG)
Apartment, low-rise	451 du (ROG)	78 du	240 du (ROG)
Apartment, mid-rise	494 du (ROG)	87 du	240 du (ROG)
Apartment, high-rise	510 du (ROG)	91 du	249 du (ROG)
Condo/townhouse, general	451 du (ROG)	78 du	240 du (ROG)
Condo/townhouse, high-rise	511 du (ROG)	92 du	252 du (ROG)
Mobile home park	450 du (ROG)	82 du	114 du (ROG)
Retirement community	487 du (ROG)	94 du	114 du (ROG)
Congregate care facility	657 du (ROG)	143 du	240 du (ROG)
Day-care center	53 ksf (NOX)	11 ksf	277 ksf (ROG)
Elementary school	271 ksf (NOX)	44 ksf	277 ksf (ROG)
Elementary school	2747 students (ROG)	-	3904 students (ROG)
Junior high school	285 ksf (NOX)	-	277 ksf (ROG)
Junior high school	2460 students (NOX)	46 ksf	3261 students (ROG)
High school	311 ksf (NOX)	49 ksf	277 ksf (ROG)
High school	2390 students (NOX)	-	3012 students (ROG)
Junior college (2 years)	152 ksf (NOX)	28 ksf	277 ksf (ROG)
Junior college (2 years)	2865 students (ROG)	-	3012 students (ROG)
University/college (4 years)	1760 students (NOX)	320 students	3012 students (ROG)
Library	78 ksf (NOX)	15 ksf	277 ksf (ROG)
Place of worship	439 ksf (NOX)	61 ksf	277 ksf (ROG)
City park	2613 acres (ROG)	600 acres	67 acres (PM10)
Racquet club	291 ksf (NOX)	46 ksf	277 ksf (ROG)
Racquetball/health	128 ksf (NOX)	24 ksf	277 ksf (ROG)
Quality restaurant	47 ksf (NOX)	9 ksf	277 ksf (ROG)
High turnover restaurant	33 ksf (NOX)	7 ksf	277 ksf (ROG)
Fast food rest. w/ drive thru	6 ksf (NOX)	1 ksf	277 ksf (ROG)
Fast food rest. w/o drive thru	8 ksf (NOX)	1 ksf	277 ksf (ROG)
Hotel	489 rooms (NOX)	83 rooms	554 rooms (ROG)
Motel	688 rooms (NOX)	106 rooms	554 rooms (ROG)
Free-standing discount store	76 ksf (NOX)	15 ksf	277 ksf (ROG)
Free-standing discount superstore	87 ksf (NOX)	17 ksf	277 ksf (ROG)
Discount club	102 ksf (NOX)	20 ksf	277 ksf (ROG)
Regional shopping center	99 ksf (NOX)	19 ksf	277 ksf (ROG)
Electronic Superstore	95 ksf (NOX)	18 ksf	277 ksf (ROG)
Home improvement superstore	142 ksf (NOX)	26 ksf	277 ksf (ROG)
Strip mall	99 ksf (NOX)	19 ksf	277 ksf (ROG)
Hardware/paint store	83 ksf (NOX)	16 ksf	277 ksf (ROG)
Supermarket	42 ksf (NOX)	8 ksf	277 ksf (ROG)
Convenience market (24 hour)	5 ksf (NOX)	1 ksf	277 ksf (ROG)
Convenience market with gas pumps	4 ksf (NOX)	1 ksf	277 ksf (ROG)
Bank (with drive-through)	17 ksf (NOX)	3 ksf	277 ksf (ROG)
General office building	346 ksf (NOX)	53 ksf	277 ksf (ROG)



**Table 3-1
Operational-Related Criteria Air Pollutant and Precursor Screening Level Sizes**

Land Use Type	Operational Criteria Pollutant Screening Size	Operational GHG Screening Size	Construction-Related Screening Size
Office park	323 ksf (NOX)	50 ksf	277 ksf (ROG)
Government office building	61 ksf (NOX)	12 ksf	277 ksf (ROG)
Government (civic center)	149 ksf (NOX)	27 ksf	277 ksf (ROG)
Pharmacy/drugstore w/ drive through	49 ksf (NOX)	10 ksf	277 ksf (ROG)
Pharmacy/drugstore w/o drive through	48 ksf (NOX)	10 ksf	277 ksf (ROG)
Medical office building	117 ksf (NOX)	22 ksf	277 ksf (ROG)
Hospital	226 ksf (NOX)	39 ksf	277 ksf (ROG)
Hospital	334 beds (NOX)	84 ksf	337 beds (ROG)
Warehouse	864 ksf (NOX)	64 ksf	259 ksf (NOX)
General light industry	541 ksf (NOX)	121 ksf	259 ksf (NOX)
General light industry	72 acres (NOX)	-	11 acres (NOX)
General light industry	1249 employees (NOX)	-	540 employees (NOX)
General heavy industry	1899 ksf (ROG)	-	259 ksf (NOX)
General heavy industry	281 acres (ROG)	-	11 acres (NOX)
Industrial park	553 ksf (NOX)	65 ksf	259 ksf (NOX)
Industrial park	61 acres (NOX)	-	11 acres (NOX)
Industrial park	1154 employees (NOX)	-	577 employees (NOX)
Manufacturing	992 ksf (NOX)	89 ksf	259 ksf (NOX)

Notes: du = dwelling units; ksf = thousand square feet; NO_x = oxides of nitrogen; ROG = reactive organic gases. Screening levels include indirect and area source emissions. Emissions from engines (e.g., back-up generators) and industrial sources subject to Air District Rules and Regulations embedded in the land uses are not included in the screening estimates and must be added to the above land uses. Refer to Appendix D for support documentation. Source: Modeled by EDAW 2009.

3.2. COMMUNITY RISK AND HAZARD IMPACTS

Please refer to Chapter 5 for discussion of screening criteria for local community risk and hazard impacts.

3.3. CARBON MONOXIDE IMPACTS

This preliminary screening methodology provides the Lead Agency with a conservative indication of whether the implementation of the proposed project would result in CO emissions that exceed the *Thresholds of Significance* shown in Table 2-3.

The proposed project would result in a less-than-significant impact to localized CO concentrations if the following screening criteria is met:

1. Project is consistent with an applicable congestion management program established by the county congestion management agency for designated roads or highways, regional transportation plan, and local congestion management agency plans.



2. The project traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour.
3. The project traffic would not increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnel, parking garage, bridge underpass, natural or urban street canyon, below-grade roadway).

3.4. ODOR IMPACTS

Table 3-3 presents odor screening distances recommended by BAAQMD for a variety of land uses. Projects that would site a new odor source or a new receptor farther than the applicable screening distance shown in Table 3-3 from an existing receptor or odor source, respectively, would not likely result in a significant odor impact. The odor screening distances in Table 3-3 should not be used as absolute screening criteria, rather as information to consider along with the odor parameters and complaint history. Refer to *Chapter 7 Assessing and Mitigating Odor Impacts* for comprehensive guidance on significance determination.

Land Use/Type of Operation	Project Screening Distance
Wastewater Treatment Plant	2 miles
Wastewater Pumping Facilities	1 mile
Sanitary Landfill	2 miles
Transfer Station	1 mile
Composting Facility	1 mile
Petroleum Refinery	2 miles
Asphalt Batch Plant	2 miles
Chemical Manufacturing	2 miles
Fiberglass Manufacturing	1 mile
Painting/Coating Operations	1 mile
Rendering Plant	2 miles
Coffee Roaster	1 mile
Food Processing Facility	1 mile
Confined Animal Facility/Feed Lot/Dairy	1 mile
Green Waste and Recycling Operations	1 mile
Metal Smelting Plants	2 miles

Refer to Appendix D for support documentation.

Facilities that are regulated by CalRecycle (e.g. landfill, composting, etc.) are required to have Odor Impact Minimization Plans (OIMP) in place and have procedures that establish fence line odor detection thresholds. The Air District recognizes a Lead Agency's discretion under CEQA to use established odor detection thresholds as thresholds of significance for CEQA review for CalRecycle regulated facilities with an adopted OIMP.



3.5. CONSTRUCTION-RELATED IMPACTS

3.5.1. Criteria Air Pollutants and Precursors

This preliminary screening provides the Lead Agency with a conservative indication of whether the proposed project would result in the generation of construction-related criteria air pollutants and/or precursors that exceed the *Thresholds of Significance* shown in Table 2-4.

If all of the following *Screening Criteria* are met, the construction of the proposed project would result in a less-than-significant impact from criteria air pollutant and precursor emissions.

1. The project is below the applicable screening level size shown in Table 3-1; and
2. All *Basic Construction Mitigation Measures* would be included in the project design and implemented during construction; and
3. Construction-related activities would not include any of the following:
 - a. Demolition;
 - b. Simultaneous occurrence of more than two construction phases (e.g., paving and building construction would occur simultaneously);
 - c. Simultaneous construction of more than one land use type (e.g., project would develop residential and commercial uses on the same site) (not applicable to high density infill development);
 - d. Extensive site preparation (i.e., greater than default assumptions used by the Urban Land Use Emissions Model [URBEMIS] for grading, cut/fill, or earth movement); or
 - e. Extensive material transport (e.g., greater than 10,000 cubic yards of soil import/export) requiring a considerable amount of haul truck activity.

3.5.2. Community Risk and Hazards

Chapter 5, *Assessing and Mitigating Local Community Risk and Hazard Impacts*, contains information on screening criteria for local risk and hazards.

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