

FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT

SCH # 2009091089

SOUTHWEST INDUSTRIAL PARK SPECIFIC PLAN UPDATE AND ANNEXATION

COMMENTS AND RESPONSES

Lead Agency & Project Proponent:

**CITY OF FONTANA
DEPARTMENT OF COMMUNITY DEVELOPMENT – PLANNING DIVISION**

8353 Sierra Avenue

Fontana, CA 92335

Contact: Mr. Shannon Casey, AICP

Senior Planner

909.350.7608

Consultant:

RBF CONSULTING

14725 Alton Parkway

Irvine, CA 92618

Contact: Mr. Kevin Thomas, CEP

Mr. Alan Ashimine

949.472.3505

JANUARY 2012

JN 65-100340



Comments and Responses

Section 11.0

11.1 CEQA REQUIREMENTS

Before approving a project, the California Environmental Quality Act (CEQA) requires the Lead Agency to prepare and certify a Final Environmental Impact Report (EIR).

In accordance with Sections 15120 through 15132 and Section 15161 of the *CEQA Guidelines*, the City of Fontana has prepared an EIR for the SWIP Specific Plan Update and Annexation (SCH No. 2009091089). The Response to Comments section, combined with the Draft EIR and Mitigation Monitoring Program, comprise the Final EIR.

The following is an excerpt from the *CEQA Guidelines*, Section 15132, Contents of Final Environmental Impact Report:

The Final EIR shall consist of:

- (a) The Draft EIR or a version of the draft.
- (b) Comments and recommendations received on the Draft EIR either verbatim or in summary.
- (c) A list of persons, organizations, and public agencies commenting on the Draft EIR.
- (d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process.
- (e) Any other information added by the Lead Agency.

This Comments and Responses section includes all of the above-required components and shall be attached to the Final EIR.

11.2 PUBLIC REVIEW PROCESS – DRAFT EIR

The Draft EIR was circulated for review and comment to the public, agencies, and organizations. The Draft EIR was also circulated to State agencies for review through the State Clearinghouse, Office of Planning and Research. The 45-day public review period ran from October 24, 2011 to December 7, 2011. Comments received during the 45-day public review period from the public and local and State agencies on the Draft EIR have been incorporated into this section.

The Final EIR allows the public and Lead Agency an opportunity to review revisions to the Draft EIR, the responses to comments, and other components of the EIR, such as the Mitigation



Monitoring Program, prior to approval of the project. The Final EIR serves as the environmental document to support a decision on the proposed project.

11.3 FINAL EIR

After completing the Final EIR, and before approving the project, the Lead Agency must make the following three certifications as required by Section 15090 of the *CEQA Guidelines*:

- That the Final EIR has been completed in compliance with CEQA;
- That the Final EIR was presented to the decision-making body of the Lead Agency, and that the decision-making body reviewed and considered the information in the Final EIR prior to approving the project; and
- That the Final EIR reflects the Lead Agency’s independent judgment and analysis.

Additionally, pursuant to Section 15093(b) of the *CEQA Guidelines*, when a Lead Agency approves a project that would result in significant, unavoidable impacts that are disclosed in the Final EIR, the agency must submit in writing its reasons for supporting the approved action. This Statement of Overriding Considerations is supported by substantial information in the record, which includes the Final EIR. Since the proposed project would result in significant, unavoidable impacts, the Lead Agency would be required to adopt a Statement of Overriding Considerations if it approves the proposed project.

These certifications, the Findings of Fact, and the Statement of Overriding Considerations are included in a separate Findings document. Both the Final EIR and the Findings will be submitted to the Lead Agency for consideration of the proposed project.

11.4 WRITTEN COMMENT LETTERS AND RESPONSES

All correspondence from those agencies or individuals commenting on the Draft EIR is reproduced on the following pages. The individual comments on each letter have been consecutively numbered for ease of reference. Following each comment letter are responses to each numbered comment. A response is provided for each comment raising significant environmental issues. Added or modified text is underlined (example), while deleted text will have a strike out (~~example~~) through the text, and is included in a box, as the example below shows.

“Text from EIR” ~~“Text from EIR”~~



Comment Letters

The following 12 written comment letters were received during the 45-day public review period:

1. Native American Heritage Commission, dated October 27, 2011
2. City of Ontario, dated November 1, 2011
3. John Grisafe, dated November 29, 2011
4. Michael James, dated November 29, 2011
5. Local Agency Formation Commission, dated December 5, 2011
6. The Metropolitan Water District of Southern California, dated December 5, 2011
7. Aera, dated December 6, 2011
8. Southern California Edison, dated December 7, 2011
9. Latham & Watkins, LLP, dated December 7, 2011
10. California Department of Fish & Game, dated December 6, 2011
11. South Coast Air Quality Management District, dated December 7, 2011
12. Allied Commercial Real Estate, dated December 6, 2011



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NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
 SACRAMENTO, CA 95814
 (916) 653-6251
 Fax (916) 657-5390
 Web Site www.nahc.ca.gov
 ds_nahc@pacbell.net



October 27, 2011

Ms. Shannon Casey, Project Planner

City of Fontana

8353 Sierra Avenue
 Fontana, CA 92335

Re: SCH#2009091089 CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the "Southwest Industrial Park (SWIP) Specific Plan and Annexation;" located on 3,111-acres in the City of Fontana; San Bernardino County, California

Dear Ms. Casey:

The Native American Heritage Commission (NAHC), the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources pursuant to California Public Resources Code §21070 and affirmed by the Third Appellate Court in the case of EPIC v. Johnson (1985: 170 Cal App. 3rd 604). The court held that the NAHC has jurisdiction and special expertise, as a state agency, over affected Native American resources, impacted by proposed projects including archaeological, places of religious significance to Native Americans and burial sites. The NAHC wishes to comment on the proposed project. This project is subject to consultation pursuant to California Government Code §65352.3, *et seq.*

This letter includes state and federal statutes relating to Native American historic properties of religious and cultural significance to American Indian tribes and interested Native American individuals as 'consulting parties' under both state and federal law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9.

The California Environmental Quality Act (CEQA – CA Public Resources Code 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance.' In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. The NAHC Sacred Lands File (SLF) search resulted as follows: **Native American cultural resources were not identified** within the project area identified. However, the absence of archaeological resources does not preclude their existence. . California Public Resources Code §§5097.94 (a) and 5097.96 authorize the NAHC to establish a Sacred Land Inventory to record Native American sacred sites and burial sites. These records are exempt from the provisions of the California Public Records Act pursuant to. California Government Code §6254 (r). The purpose of this code is to protect such sites from vandalism, theft and destruction.

The NAHC "Sacred Sites," as defined by the Native American Heritage Commission and the California Legislature in California Public Resources Code §§5097.94(a) and 5097.96. Items in the NAHC Sacred Lands Inventory are confidential and exempt from the Public Records Act pursuant to California Government Code §6254 (r).

1.1
(cont)

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries of cultural resources or burial sites once a project is underway. Culturally affiliated tribes and individuals may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We strongly urge that you make contact with the list of Native American Contacts on the attached list of Native American contacts, to see if your proposed project might impact Native American cultural resources and to obtain their recommendations concerning the proposed project. Special reference is made to the *Tribal Consultation* requirements of the California 2006 Senate Bill 1059: enabling legislation to the federal Energy Policy Act of 2005 (P.L. 109-58), mandates consultation with Native American tribes (both federally recognized and non federally recognized) where electrically transmission lines are proposed. This is codified in the California Public Resources Code, Chapter 4.3 and §25330 to Division 15.

Furthermore, pursuant to CA Public Resources Code § 5097.95, the NAHC requests that the Native American consulting parties be provided pertinent project information. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). Pursuant to CA Public Resources Code §5097.95, the NAHC requests that pertinent project information be provided consulting tribal parties. The NAHC recommends *avoidance* as defined by CEQA Guidelines §15370(a) to pursuing a project that would damage or destroy Native American cultural resources and Section 2183.2 that requires documentation, data recovery of cultural resources.

1.2

Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 *et seq*), 36 CFR Part 800.3 (f) (2) & .5, the President's Council on Environmental Quality (CSQ, 42 U.S.C 4371 *et seq.* and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The aforementioned Secretary of the Interior's *Standards* include recommendations for all 'lead agencies' to consider the historic context of proposed projects and to "research" the cultural landscape that might include the 'area of potential effect.'

Confidentiality of "historic properties of religious and cultural significance" should also be considered as protected by California Government Code §6254(r) and may also be protected under Section 304 of the NHPA or at the Secretary of the Interior discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APEs and possibility threatened by proposed project activity.

Furthermore, Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be

1.3

followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery'.

1.3
(cont)

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. Regarding tribal consultation, a relationship built around regular meetings and informal involvement with local tribes will lead to more qualitative consultation tribal input on specific projects.

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,



Dave Singleton
Program Analyst

Cc: State Clearinghouse

Attachment: Native American Contact List

California Native American Contacts
San Bernardino County
October 27, 2011

Morongo Band of Mission Indians
Robert Martin, Chairperson
12700 Pumarra Rroad Cahuilla
Banning , CA 92220 Serrano
(951) 849-8807
(951) 755-5200
(951) 922-8146 Fax

Serrano Nation of Indians
Goldie Walker
P.O. Box 343 Serrano
Patton , CA 92369

(909) 862-9883

Ernest H. Siva
Morongo Band of Mission Indians Tribal Elder
9570 Mias Canyon Road Serrano
Banning , CA 92220 Cahuilla
siva@dishmail.com
(951) 849-4676

SOBOBA BAND OF LUISENO INDIANS
Joseph Ontiveros, Cultural Resource Department
P.O. BOX 487 Luiseno
San Jacinto , CA 92581
jontiveros@soboba-nsn.gov
(951) 663-5279
(951) 654-5544, ext 4137

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH#2009091089; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for the Southwest Industrial Park (SWIP) Specific Plan and Annexation Project; located in the City of Fontana; San Bernardino County, California.



Response No. 1

RESPONSES TO COMMENTS FROM DAVE SINGLETON, PROGRAM ANALYST, NATIVE AMERICAN HERITAGE COMMISSION, DATED OCTOBER 27, 2011.

- 1.1 The comment notes the jurisdiction of the Native American Heritage Commission (NAHC) and CEQA requirements. The comment further confirms the NAHC Sacred Lands File (SLF) search did not identify any Native American cultural resources within the project area and acknowledges that the absence of archaeological resources does not preclude their existence. The comment does not raise new environmental information or directly challenge information provided in the Draft EIR. No further response is necessary.
- 1.2 As indicated in Draft EIR Section 4.4, Cultural Resources, the City initiated consultation with California Native American tribes under SB 18 concurrently with the Notice of Preparation (NOP) process for the project in September 2009. This effort involved consultation with a total of eight tribes, from whom two responses were received (Soboba Band of Luiseño Indians and the Morongo Band of Mission Indians). Generally, the Soboba Band of Luiseño Indians and the Morongo Band of Mission Indians request further consultation as future development proposals are received, and recommend a range of measures occur in the event future cultural investigations find archaeological resources or if unknown resources are discovered during construction. The Soboba Band of Luiseño Indians documents that the site falls into its Tribal Traditional Use Area, and thus is considered highly sensitive to the people of Soboba. The Draft EIR includes mitigation measures to ensure future site-specific development projects consider the requests by the Soboba Band of Luiseño Indians and Morongo Band of Mission Indians.
- 1.3 The Draft EIR includes mitigation measures that identify the appropriate actions in the event archaeological resources are accidentally discovered during construction. Further, the California Health and Safety Code Sections 7050.5-7055 describe the general provisions for human remains. Specifically, Health and Safety Code Section 7050.5 describes the requirements if any human remains are accidentally discovered during excavation of a site. As required by State law, the requirements and procedures set forth in Section 5097.98 of the California Public Resources Code would be implemented, including notification of the County Coroner, notification of the Native American Heritage Commission, and consultation with the individual identified by the Native American Heritage Commission to be the “most likely descendant.” If human remains are found during excavation, excavation must stop in the vicinity of the find and any area that is reasonably suspected to overly adjacent remains until the County coroner has been called out, and the remains have been investigated and appropriate recommendations have been made for the treatment and disposition of the remains.



CITY OF

ONTARIO

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COUNCIL MEMBERS

JAMES R. MILHISER
TREASURER

November 1, 2011

City of Fontana
Mr. Shannon J. Casey, AICP
8353 Sierra Avenue
Fontana, CA 92335

RE: NOA for the DEIR for the proposed Southwest Industrial Park (SWIP)

Dear Mr. Casey,

Thank you for allowing the City of Ontario Planning Department an opportunity to review and comment on the above referenced project.

We have completed our review of the Draft Environmental Impact Report for the SWIP project and have no concerns or comments at this time.

We appreciate being informed of the project and included in the environmental review process.

Sincerely,

Richard C. Ayala
Senior Planner

2.1



Response No. 2

RESPONSES TO COMMENTS FROM RICHARD C. AYALA, SENIOR PLANNER, CITY OF ONTARIO, DATED NOVEMBER 1, 2011.

- 2.1 The City of Ontario confirms receipt of the Draft EIR and notes they do not have any concerns or comments at this time. No further response is necessary.

Planning Commission Meeting

Nov. 29, 2011

Commissioners, Mr. Williams and Staff:

My name is John Grisafe. I live at 10880 Citrus Ave, south of I-10. A couple of weeks ago Mayor Aquinetta held a Town hall meeting and encouraged us to attend Planning Meetings to voice our concerns, or else not complain about changes after they happen. I have copies of when I addressed County and City Meetings over the past 30 years. It used to be we the public had some input on what the Governing agencies did. The past 20 years it seems the trend is to follow the required law of notifying the public, holding a hearing and then following the plan the Staff presents. I have been before the Planning Commissions and the City Council, when Southridge was first proposed, Meetings before we were annexed and at Redevelopment and SWIP meetings. I have felt my presentations have been in vain and the council does what they want. Before we were annexed on Nov 7, 2007, I proposed Citrus Ave be zoned Commercial so the residences could be used as a real estate office or other small businesses, instead the West side is zoned Industrial and Residential Trucking. (This by the way is misleading because much of that zone is ½ acre which by City Code 13.6.2 does not allow truck parking? It only allows parking on one acre parcels.) The East side is zoned Residential, which to me is not compatible with the West side zoning. If you are planning on rezoning the whole SWIP area, I would like you to think about the rezoning of these areas. Our large lots would provide ample parking for small business and provide a nice corridor down Citrus Ave into Southridge. To make that possible, though, you would have to remove the requirement of undergrounding utilities, which is expensive. I noticed the City isn't putting the utilities underground. They are just relocating the poles on the Citrus Avenue widening project because it is too expensive. I think this tells you why business doesn't come to Fontana unless it is a large firm or Developer. I hope if you rezone our area you consider my suggestion. Thank You. John Grisafe.

3.1

909 829 1837 jgrisafe@att.net

+



Response No. 3

RESPONSE TO COMMENTS FROM JOHN GRISAFE, DATED NOVEMBER 29, 2011.

- 3.1 The comment requests the City consider rezoning Citrus Avenue to Commercial to allow the residences to be used as a real estate office or other small businesses and to remove the requirement of undergrounding utilities. This comment directly pertains to the land use districts established by the Specific Plan Update and does not raise new environmental information or directly challenge information provided in the Draft EIR. No further response is required.

Michael James
17664 Hawthorne Ave
Fontana, CA. 92335
Phone: 909-823-7115

COMMENT LETTER 4

November 29, 2011
Page 1 of 5

Re: Comment for; Draft EIR / Freeway Industrial /Commercial District

My name is Mike James and I'm the property owner at 15568 Slover in the new purposed Freeway Industrial Commercial District. I purchased this property bare land in 1979 at the age of 19 years old. Developing what is present, including the curb and gutter. All I thought about was how I was going to pay for this land. Legal Nonconforming was not a word I knew anything about. Honestly, I never thought I would read things like "Gradually phase out nonconforming uses, structures, lots and signs. When I built and developed this rental property into a truck storage yard, I was convinced it would be in my family forever, as is, with no worries.

I'm asking to change some time frames within the nonconforming section in the EIR draft plan. Most of the changes I'm asking are in the "Discontinuation of Use". For example; changing 90 days to 270 days, from my experience 90 days is not enough time to prepare for the unexpected for example; Termination of Lease, Corp. Bankruptcy, Eviction and dealing with City forms and procedures.

4.1

It's my opinion that the whole draft specific plan is going to be a beautiful South Fontana Commercial area. I'm suggesting that some kind of a solid wall/screening be considered on the south side of the 10 freeway to help conceal the view of the rail cars and its easement. As we know the railroad seems to never beautify their easement or track areas. Also, At the Citrus and Slover intersection it should be a primary gateway intersection not a secondary gateway.

4.2

Thank you for time and consideration.



Michael James

Cc: D. Williams, S. Casey.

Mike James ~ Purposed Changes to draft EIR dated November 29, 2011.

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F. Nonconforming Lots, Structures and Uses

1. Nonconformance provisions are established to:

- a. Bring all uses, structures, sites and signs into conformance with the developmental requirements and design guidelines in this Specific Plan;
- b. Limit the occurrences and extent of nonconformance by prohibiting expansion, intensification, reinstatement, alteration, restoration after destruction, and reestablishment after abandonment; and

c. Gradually phase out nonconforming uses, structures, lots and signs.

2. Applicability

- a. Nonconforming uses, structures, signs and lots may be maintained, expanded, altered and/or abated only in accordance with the provisions of this Specific Plan.
- b. Any Designated Historic Landmark, or any property listed on the California Register of Historical Resources or National Register of Historic Places, shall be exempt from the provisions of this Section with respect to the restoration and maintenance of structures, provided that any construction plans are approved through a Certificate of Appropriateness by the Historic Preservation Commission/Planning Commission.
- 3. Nonconforming Uses. A use that lawfully occupied a building or land at the time this Specific Plan became effective, and that does not conform to the use regulations of the land use district in which it is located, is deemed a "legal nonconforming use." A legal nonconforming use may continue, subject to the following:

a. Discontinuation of Use

- i. Loss of legal nonconforming status. If a legal nonconforming use is discontinued for a period of **90** or more days, regardless of the owner's intent, it shall lose its legal nonconforming status and the continued use of the property shall be required to conform to all provisions of this Specific Plan.

(Change 90 days = 3 months to 270 days = 9 months;
It's unrealistic for a 90 day turnaround on
Commercial property for example; Abandonment
/Corp. Bankrupt/Eviction/Clean Up and Re-Lease.)

- ii. Extension of legal nonconforming status. Wherein special circumstances exist, the Director of Community Development may extend the legal nonconforming status of a use, for up to an additional **90**-day period.

(Change both 90 days = 3 months to
180 days = 6 months.)

Furthermore, an additional extension may be granted by the Planning Commission, for up to an additional **90**-day period. The total time period of all time extensions shall not exceed **180** days.

(Change the 180 day = 6 months to
270 days = 9 months.)

- iii. Extension of legal nonconforming use.
(1) An application for a Minor Use Permit shall be filed with the Community Development Department on a City application form,

Mike James ~ Purposed Changes to draft EIR dated November 29, 2011.

(3of5)

together with all required fees, plans, maps, reports, special studies, exhibits, and any other information deemed necessary by the Community Development Department to process the application. The application shall be filed prior to the expiration of the **90**-day period.

(Change 90 days = 3 months to 180 days = 6 months.)

(2) The application shall be reviewed by the Director of Community Development within 30 days following application filing. The Director of Community Development shall notify the applicant, in writing, as to whether the application is complete. If the application is not complete, the Director of Community Development shall specify those parts of the application that are not complete and shall identify the manner by which it can be made complete. If written notification is not provided to the applicant within 30 days following application filing, the application shall be deemed complete.

(3) The Director of Community Development shall investigate the facts bearing on the application and provide the information necessary for action on the application, consistent with this Specific Plan and the General Plan. The applicant shall have made a good faith effort through the submittal of documentation and has diligently pursued compliance with this Specific Plan.

(4) The application shall be reviewed by the Director of Community Development at a duly noticed public hearing, whom shall then approve, modify or deny the application. The decision of the Director of Community Development shall be final and conclusive in the absence of a timely filed appeal to the Planning Commission. An appeal of the Director of Community Development's decision shall be filed within **10**

(Change 10 days to 30 days)

days from the date of the decision. An appeal of the Director of Community Development's decision shall be reviewed by the Planning Commission. The decision of the Planning Commission shall be final and conclusive in the absence of a timely filed appeal to the City Council.

(5) The applicant may appeal the decision of the Planning Commission to the final deciding body, the City Council. The City Council decision shall be final and conclusive. If the application to extend the legal nonconforming use is approved by the City Council, the extension shall be granted **for 90 days from the date of approval.**

(Completely remove "for 90 days from the date of approval".)

(6) If the Director of Community Development or appointed designee has determined that the applicant has failed to show a good faith effort towards continually processing the extension of legal nonconforming use application (i.e., revising plans, withdrawing the application, placing the project on hold, etc.), the legal nonconforming use shall cease within **60** days from application submittal date.

(Change 60 day = 2 months to 180 days = 6 months)

Mike James ~ Purposed Changes to draft EIR dated November 29, 2011.

(4of5)

(7) In granting an extension of the legal nonconforming status, the Director of Community Development may attach reasonable conditions and restrictions to the request, in addition to those required by this Specific Plan, which will ensure that the use:

(Remove all of section 7 from draft.)

- Will not endanger the public health, safety or general welfare;
- Will not injure the value of adjoining or abutting property;
- Will not result in any significant environmental impacts; and
- Will be in harmony with the area in which it is located.

(8) In approving an extension of the legal nonconforming status, the Director of Community Development or Planning Commission shall consider and clearly establish the following findings of fact:

- The non-conforming use has been discontinued within the 90-day period.
- A physical and/or economic hardship has prevented the nonconforming use from being in compliance prior to the expiration of the 90-day period;
- Approving the extension will not adversely affect the health, safety or general welfare.

(Change both 90 days = 3 months to 180 days = 6 months)

b. Change in Ownership, Tenancy or Management. A change in ownership, tenancy, or management of a nonconforming use shall not affect its legal nonconforming status, provided that the use did not discontinue pursuant to Section 3.ai entitled " Loss of legal nonconforming status," or the type of use and/or intensity of use does not change.

c. New Development. New development on any lot or parcel upon which a legal non conforming use exists shall require that all uses on the property conform to the provisions of this Specific Plan.

d. Alterations and Expansion of Use

- i. A nonconforming use shall not be enlarged or extended in such a way as to occupy any part of any structure or property that it did not occupy prior to the creation of the nonconformity.
- ii. A structure fully or partially occupied by any nonconforming use shall not be moved, altered or enlarged, unless required by law, or unless the moving, alteration or enlargement will result in the elimination of the nonconforming use.

e. Intensification of Use. A nonconforming use shall not be intensified in such a way as to increase the discrepancy between existing conditions and the standards set forth in this Specific Plan.

Mike James ~ Purposed Changes to draft EIR dated November 29, 2011.
(5of5)

4. **Nonconforming Structures.** A structure lawfully existing at the time this Specific Plan became effective, any portion of which does not comply with the requirements of the land use district in which it is located, including setbacks, separations, height and design, is deemed a "legal nonconforming structure." A legal nonconforming structure may continue to exist, subject to the following:
- a. **Damage or Destruction**
- i. A legal nonconforming structure that is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity, or the public enemy, or other cause which is beyond the control of the property owner, and which could not otherwise have been prevented by reasonable care and maintenance of the structure, may be reconstructed up to the original size, placement and density, provided that total cost of such reconstruction does not exceed more than 50 percent of the structure's current fair market value. The structure may be restored and the nonconforming use may be resumed, provided that restoration is started within 6 months, unless extended by the Director of Community Development, and diligently pursued.
- ii. In the event that the cost of repairing such damage exceeds 50 percent of the current fair market value of the structure prior to such damage occurring, the structure may be reconstructed up to the original size, placement and density, subject to all of the following:
- The Planning Commission, at a duly noticed public hearing, must find that continuing the nonconforming structure will not result in an annoyance to and/or reduction of any surrounding property; and
 - The extent of damage or partial destruction shall be based upon a comparison of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction with its value at the time the structure was damaged or partially destroyed. Estimates for such purpose shall be made by or reviewed by the Building Official; and
 - The restoration is commenced within six months and diligently pursued to completion;
 - An application for a Nonconforming Structure shall be filed with the Community Development Department on a City application form, together with all required fees, plans, maps, reports, special studies, exhibits, and any other information deemed necessary by the Planning Division to process the application. The application shall be filed prior to the expiration of the 90-day period.
- (Change 90 days = 3 months
to 180 days= 6 months)**
- A structure or development that has been damaged or destroyed by fire, flood, wind, earthquake, or other calamity, or by public enemy, or other cause which is beyond the control of the property owner, and which could not otherwise have been prevented may be reconstructed up to the original size, placement and density, except a multiple family dwelling or



Response No. 4

RESPONSES TO COMMENTS FROM MICHAEL JAMES, DATED NOVEMBER 29, 2011.

- 4.1 The comment requests the City consider changing timelines proposed by the Specific Plan pertaining to the gradual phase out of nonconforming uses, structures, lots, and signs. This comment directly pertains to the Entitlement Procedures established by the Specific Plan Update and does not raise new environmental information or directly challenge information provided in the Draft EIR. No further response is required.

- 4.2 The comment suggests a solid wall/screening be considered on the south side of Interstate 10 to conceal view of rail cars and easement and that the Citrus and Slover intersection should be a primary gateway intersection not a secondary gateway. This comment directly pertains to the Specific Plan Update and does not raise new environmental information or directly challenge information provided in the Draft EIR. No further response is required.

LOCAL AGENCY FORMATION COMMISSION

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Established by the State of California to serve the Citizens, Cities, Special Districts and the County of San Bernardino



December 5, 2011

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Fontana, CA 92335

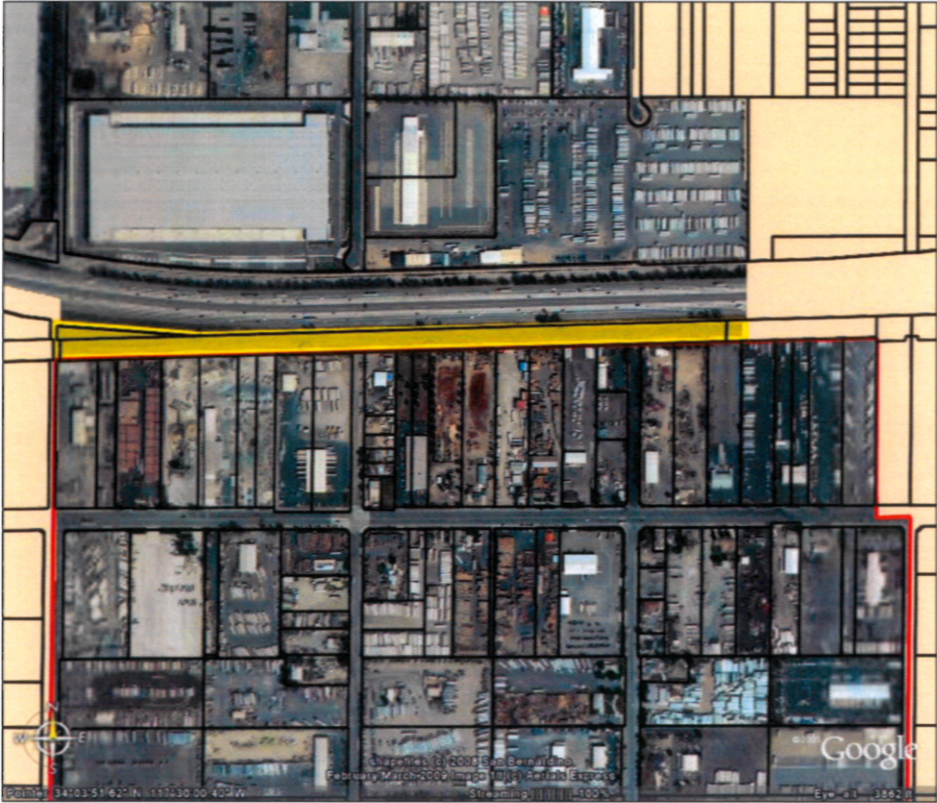
RE: Notice of Availability - Draft Environmental Impact Report for the Proposed Southwest Industrial Park Specific Plan Update and Almond Avenue Annexation

Dear Mr. Casey:

The Local Agency Formation Commission (LAFCO) received a copy of the Notice of Availability of the Draft Environmental Impact Report (EIR) for the Southwest Industrial Park (SWIP) Specific Plan. A copy of this document has also been forwarded to the Commission's Environmental Consultant, Tom Dodson and Associates, who may respond under a separate cover. After reviewing the Draft EIR, LAFCO has the following comments and/or concerns:

Overall Comment Related to the Almond Avenue Annexation

Based on the information and materials provided, it seems that the annexation's northern boundary does not include the southern half of the I-10 Freeway nor does it include the three parcels just south of the freeway right-of-way (see illustration below). Currently, the City's boundary west of Mulberry Avenue runs along the centerline of the I-10 Freeway. Therefore, it would be logical to continue the northern boundary of the proposed Almond Avenue Annexation along the centerline of the freeway. However, if the City is not inclined to take the boundary along the centerline of the freeway, LAFCO would then question leaving the three parcels, Assessor Parcel Number (APN) 0236-011-10, 0236-011-11, and a portion of APN 0236-031-14 located just south of the I-10 Freeway, outside of the annexation boundary.



It should be noted that the potential to increase the overall annexation area must be identified, discussed, and evaluated in the Draft EIR or in a subsequent environmental document since the Draft EIR is evaluating not only the SWIP Specific Plan but also the proposed annexation as well.

5.1
(cont)

Draft EIR:

Sec. S.0 – Executive Summary

S.1 – Project Location

The first sentence of this section, which is also the beginning sentence of the entire document, makes a misleading description related to the annexation area. Although it is identified everywhere else in the document that the annexation area is only a portion of the Specific Plan area (472 acres out of the total 3,111 acres), this sentence suggests that the SWIP Specific Plan area and the Annexation area are one in the same. Either the sentence should be expanded or the reference to the acreage should be removed.

5.2

S.2 – Project Summary

The Land Use Table (Table 2-1) identifies all the land uses assigned within the SWIP Specific Plan, including their corresponding acreages.

5.3

However, because a portion of the area is being annexed at some point in the future, it would be helpful to LAFCO, who will be acting as responsible agency for the pre-zoning of the proposed annexation, that the acreages of the land uses within the annexation area be clearly identified – either within the table itself or on a separate table. This will allow LAFCO to address the pre-zoning for the City’s unincorporated sphere area that is being proposed for annexation, as well as its service needs.

**5.3
(cont)**

Sec. 2.0 – Project Description

2.2 – Project Location

Again, the statement related to the acreage of the annexation area is misleading. Either the sentence is expanded or the reference to the acreage is removed.

5.4

2.3 – Environmental Setting

This section describes each of the nine land use districts that comprise the SWIP Specific Plan. However, it would be helpful to LAFCO, as a responsible agency, if the discussion related to the Slover West Industrial District (SWD), the Jurupa North Research and Development District (JND), and the Residential Trucking District (RTD) are expanded to clearly identify the acreages associated with the annexation area since the SWIP Specific Plan pre-zones the portion within the annexation area.

5.5

2.4 – Project Characteristics

Section 2.4.1 – Land Use Concept

Same comment as S.2 (Project Summary) above regarding the Land Use Table (Table 2-1).

5.6

Section 2.4.2 – Infrastructure Improvements

Wastewater – The document identifies the area as within the sewer service area of the City and the IEUA. This statement is not entirely true. Although the City’s Sewer Master Plan may identify it as within its system, it should be clearly identified that the annexation area is outside of the City’s boundaries and can only be served currently through out-of-agency service agreements. It should also be noted that there exists a number of out-of-agency service agreements for sewer service within the annexation area.

5.7

Sec. 4.0 – Environmental Analysis

4.6 – Land Use and Planning

In evaluating the impacts related to land use, a comparison between the existing County land use designations for the area versus those assigned by the City's General Plan and/or the anticipated land uses proposed in the SWIP Specific Plan, should be address in the Draft EIR.

5.8

4.8 – Public Services, Utilities and Infrastructure

Section 4.8.3 – Existing Environmental Setting

Law Enforcement – The document should identify that the annexation area, currently unincorporated, is currently served by the County Sheriff's Department. The transfer of law enforcement responsibility from the County Sheriff's Department to the City's Police Department upon annexation must be identified and evaluated in the Draft EIR.

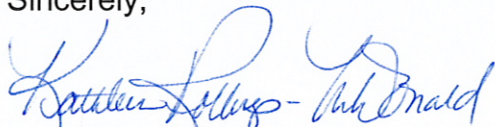
5.9

Wastewater – As identified earlier, it should be clearly identified that the annexation area is currently outside of the City's boundaries and can only be served upon annexation of the area to the City (or through out-of-agency agreements allowed under the provisions outlined in Government Code Section 56133).

5.10

If you have any questions concerning the information outlined above, please do not hesitate to contact me or Samuel Martinez, Assistant Executive Officer, at (909) 383-9900. Please maintain LAFCO on your distribution list to receive further information related to this process. We look forward to working with the City on its future processing of the annexation related to this project.

Sincerely,



KATHLEEN ROLLINGS-McDONALD
Executive Officer

Attachments:

cc: Tom Dodson, Tom Dodson & Associates, LAFCO Environmental Consultant



Response No. 5

RESPONSES TO COMMENTS FROM KATHLEEN ROLLINGS-MCDONALD, LOCAL AGENCY FORMATION COMMISSION, DATED DECEMBER 5, 2011.

- 5.1 The northern boundary of the proposed annexation area, as analyzed in the Draft EIR, does extend to the centerline of Interstate 10 (I-10). A detailed map illustrating the proposed annexation area is provided at the end of Response No. 5.
- 5.2 Pages S-1 and 2-1 of the Draft EIR will be revised in the Final EIR to clarify the annexation area and Specific Plan area, as follows:

S.1 PROJECT LOCATION

The approximately 3,111-acre proposed SWIP Specific Plan Update and Annexation Area project is located within the southwestern portion of the City of Fontana and County of San Bernardino, California. Of the 3,111 total acres, 472 acres are located within the proposed Annexation Area. The project site is located along I-10, east of Interstate 15 (I-15), and north of State Route 60 (SR-60). Fontana is bounded by unincorporated San Bernardino County to the north, Rancho Cucamonga and Ontario to the west, unincorporated Riverside County to the south, and Rialto and unincorporated San Bernardino County to the east.

2.2 PROJECT LOCATION

The approximately 3,111-acre proposed SWIP Specific Plan Update and Annexation Area project is located within the southwestern portion of the City of Fontana and County of San Bernardino, California. The project site is located along I-10, east of Interstate 15 (I-15), and north of State Route 60 (SR-60). Of the 3,111 total acres, 472 acres are located within the proposed Annexation Area. Fontana is bounded by unincorporated San Bernardino County to the north, Rancho Cucamonga and Ontario to the west, unincorporated Riverside County to the south, and Rialto and unincorporated San Bernardino County to the east.

- 5.3 A new table (Table 2-1, Land Use Table – Annexation Area) will be included in the Final EIR within Section S.0 (Executive Summary) and Section 2.0 (Project Description), as follows:



Table 2-1
Land Use Table – Annexation Area

<u>PROPOSED LAND USE DISTRICT</u>	<u>ACREAGE</u>	<u>NEW COMMERCIAL (SF)¹</u>	<u>NEW OFFICE (SF)</u>	<u>NEW INDUSTRIAL (SF)²</u>	<u>NEW DEVELOPMENT (SF)³</u>
<u>Freeway Industrial</u>	<u>65.1</u>	<u>426,086</u>	<u>106,521</u>	<u>532,608</u>	<u>1,065,215</u>
<u>Slover West Industrial</u>	<u>213.2</u>			<u>3,704,127</u>	<u>3,704,127</u>
<u>Jurupa North Research and Development</u>	<u>131.8</u>	<u>520,475</u>	<u>312,285</u>	<u>1,249,141</u>	<u>2,081,901</u>
<u>Residential Trucking</u>	<u>8.3</u>				<u>N/A</u>
<u>Right of Way (Drainage, Power Easement, Railroad, Roads)</u>	<u>53.9</u>				<u>N/A</u>
<u>TOTAL</u>	<u>472.3</u>	<u>946,561</u>	<u>418,806</u>	<u>5,485,876</u>	<u>6,851,243</u>
<u>SF = square feet</u>					
<u>Assumptions: 1. "Commercial" includes service commercial and retail commercial land uses.</u>					
<u>2. "Industrial" includes industrial manufacturing uses, including but not limited to warehousing and flex-tech developments.</u>					
<u>3. New development = commercial + office + industrial.</u>					
<u>Source: Geographic Information Systems data, RBF Consulting, December 2011.</u>					

Tables 2-2 and 2-3 of the Draft EIR have been renumbered in the Final EIR to Table 2-3 and Table 2-4, respectively.

- 5.4 Refer to response to comment 5.2.
- 5.5 Pages 2-4 through 2-7 of the Draft EIR will be revised in the Final EIR to identify the acreages associated with the proposed Annexation Area, as follows:

FREEWAY INDUSTRIAL COMMERCIAL DISTRICT (FID)

The 333.7-acre Freeway Industrial Commercial District is composed of two segments, with the smaller segment occurring north of I-10, and the larger segment south of I-10. Of the 333.7 total acres, 65.1 acres are located within the proposed Annexation Area. The northern segment is located immediately north of I-10, generally between Beech Avenue and Hemlock Avenue. This area has developed primarily with warehousing, distribution, and other truck-related industrial uses. A cluster of single-family residential units exist within the northern portion of the area, north of I-10. Numerous additional single-family residential units exist south of I-10, within the northeastern corner of the project site and along the northern frontage of Slover Avenue. Numerous undeveloped parcels exist within this district. Valley Boulevard provides parallel access to I-10 through the area.



SLOVER WEST INDUSTRIAL DISTRICT (SWD)

The Slover West Industrial District is 289.1 acres in size and is situated south of I-10. Of the 289.1 total acres, 213.2 acres are located within the proposed Annexation Area. It is located south of Slover Avenue, north of Santa Ana Avenue, east of Mulberry Avenue, and west of Cherry Avenue. This district is developed primarily with warehousing, distribution, and other industrial uses. A self-storage facility is situated at the northeastern corner of Mulberry Avenue and Santa Ana Avenue. Several single-family residential units are located sporadically throughout this area, with the majority located northeast of the Calabash Avenue/Santa Ana Avenue intersection. An undeveloped parcel (former agricultural use) is located at the northeastern corner of the district, at the intersection of Slover Avenue and Cherry Avenue.

JURUPA NORTH RESEARCH AND DEVELOPMENT DISTRICT (JND)

The Jurupa North Research and Development District is 515.1 acres in size and is one of the largest districts in the SWIP Specific Plan Update. Of the 515.1 total acres, 131.8 acres are located within the proposed Annexation Area. This district is bounded by the Slover West Industrial, Slover Central Manufacturing/Industrial, and Slover East Industrial Districts to the north, Mulberry Avenue to the west, Jurupa Avenue to the south, and Citrus Avenue to the east. This district can generally be characterized as having a range of smaller warehousing, distribution, industrial, and residential parcels west of Cherry Avenue, with larger warehousing, distribution, industrial, and undeveloped (former agricultural) parcels east of Cherry Avenue. Of all the districts, the JND contains the largest amount of undeveloped parcels, with the majority occurring along the Jurupa Avenue frontage. A number of single-family residential units also exist within the southeastern corner of this district, along Jurupa and Citrus Avenues.

RESIDENTIAL TRUCKING DISTRICT (RTD)

The Residential Trucking District is composed of three isolated existing residential areas, composing a total of 51.7 acres. Of the 51.7 total acres, 8.3 acres are located within the proposed Annexation Area. One area is located within the Slover West Industrial District, and two areas within the Slover East Industrial District. These three areas are developed with single-family residential uses, which are utilized to a great extent for home-based trucking/heavy equipment businesses.

5.6 Refer to response to comment 5.3.



5.7 Page 2-15 of the Draft EIR will be revised in the Final EIR, as follows:

WASTEWATER

The SWIP Specific Plan Update area is within the sewer service area of the City and the IEUA. The City is a member agency of the IEUA, which provides the City with off-site collection, treatment, disposal and reuse of wastewater. The existing City/IEUA wastewater collection system only serves areas within the City's existing incorporated limits. Areas of the SWIP Specific Plan Update area within unincorporated San Bernardino County (to be annexed into the City as part of the project) are currently served by private wastewater systems. Since the proposed annexation area is currently located outside of the City's boundaries, it can only be served through out-of-agency service agreements until annexation of the area to the City occurs. There are currently a number of out-of-agency service agreements for sewer service within the annexation area.

Page 4.8-9 of the Draft EIR will be revised in the Final EIR, as follows:

WASTEWATER

The proposed Specific Plan Update area is within the sewer service area of the City of Fontana and the IEUA. Fontana is a member agency of the IEUA, which provides the City contracting privileges for off-site collection, treatment, disposal and reuse of wastewater. The existing City/IEUA wastewater collection system only serves areas within the City's existing incorporated limits. Areas of the SWIP Specific Plan Update area within unincorporated San Bernardino County (to be annexed into the City as part of the project) are currently served by private wastewater systems. Since the proposed annexation area is currently located outside of the City's boundaries, it can only be served through out-of-agency service agreements until annexation of the area to the City occurs. There are currently a number of out-of-agency service agreements for sewer service within the annexation area.

Previous planning concepts included construction of a treatment plant within the City, which would have required regional sewerage lift station(s) and force main system(s) for serving users within the Specific Plan Update area. However, current planning is now focused on gravity service for most of the project site.



5.8 Sections 4.6.2 and 4.6.5 of the Draft EIR will be revised in the Final EIR to include a discussion of the County's General Plan and a comparison between the existing County land use designations for the proposed annexation area and the land uses proposed in the SWIP Specific Plan, as follows:

Section 4.6.2

County of San Bernardino General Plan

The County of San Bernardino 2007 General Plan (2007 General Plan) guides physical development within the County and consists of the following eight elements:

- Land Use
- Circulation and Infrastructure
- Housing
- Conservation
- Open Space
- Noise
- Safety
- Economic Development

The 2007 General Plan contains goals and policies to guide future development within the County, as well as implementation measures in order to ensure the policies of the plan are carried out. The 2007 General Plan describes the overall planning area, provides an overview of existing conditions, summarizes the issues raised during the preparation of the 2007 General Plan, and identifies the environmental resources and constraints associated with the 2007 General Plan.

The Land Use Element designates the distribution and general location of land uses, such as residential, retail, industrial, open space, recreation, and public areas. The Land Use Element also addresses the permitted density and intensity of the various land use designations as reflected on the County's General Plan Land Use Diagram.

The County of San Bernardino General Plan land use designations and zoning classifications are represented on a single map. There are 18 land use zoning districts that apply only to privately owned lands in the County and not to the lands controlled by other jurisdictions. The General Plan land use designations and zoning classifications for the proposed annexation area include:

- Community Industrial (IC); and
- Regional Industrial (IR).



The purpose of the IC designation is to:

- Identify and establish areas suited to industrial activities;
- Provide opportunities for the concentration of industrial uses to enable efficient use of transportation, circulation, and energy facilities; and
- Protect adjacent land uses from harmful influences, as well as to prevent the intrusion of incompatible uses into industrial areas.

The purpose of the IR designation is to:

- Identify and establish areas suitable for major industrial centers or a single large industrial plant having 200,000 or more square feet of floor area, or more than 500 employees on any shift;
- Provide sites for industrial uses which have severe potential for negative impacts on any uses this would locate relatively close to them; and
- Identify areas intended eventually to be utilized for industrial purposes to support the public need for manufacturing uses and employment opportunities.

Section 4.6.5

COUNTY OF SAN BERNARDINO GENERAL PLAN

Threshold: *Would the project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?*

Impact 4.6-3

*The proposed project would not directly conflict with the policy or regulations of the County's General Plan adopted for the purpose of avoiding or mitigating an environmental effect. **Determination: Less Than Significant Impact.***

As stated, approximately 473 acres of the project area is proposed to be annexed into the City of Fontana from the County of San Bernardino. Parcels within the proposed annexation area are currently designated Regional Industrial (IR) and Community Industrial (IC) on the County's General Plan land use map. The City's General Plan land use map currently designates parcels within the annexation area as General Industrial (I-G), Light Industrial (I-L), and Public Facility (P-PF). Approval of the SWIP Specific Plan Update and Annexation Project would require a General Plan amendment to designate the project area as Light Industrial (I-L), General Industrial (I-G), Public Facilities (P-PF), Residential Estates (R-E), and Regional Mixed Use (RMU) and a zone change so that all areas within the project boundaries are zoned SWIP Specific Plan. Within the proposed



annexation area, parcels would be designated Light Industrial (I-L), Residential Estates (R-E), and Regional Mixed Use (RMU).

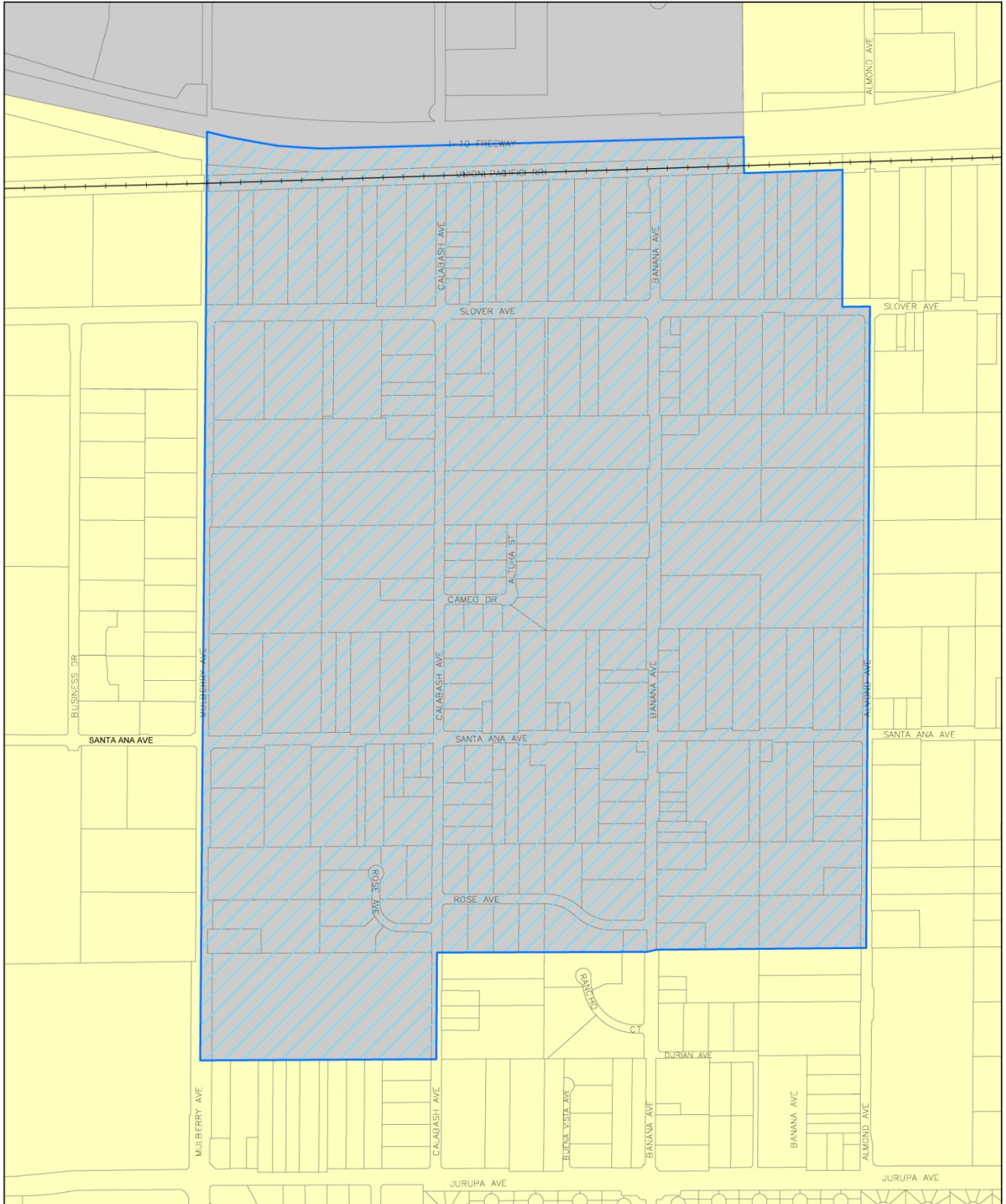
Upon approval of the annexation by the San Bernardino Local Agency Formation Commission (LAFCO), development of the proposed annexation area would be required to be consistent with the SWIP Specific Plan and the *City of Fontana General Plan*, as the area would no longer be under the jurisdiction of the County. The proposed SWIP Specific Plan Land Use Plan identifies parcels within the annexation area as Freeway Industrial/Commercial District (FID), Slover West Industrial District (SWD), Jurupa North Research and Development District (JND), and Residential Trucking District (RTD). Future development proposals would be reviewed by the City to ensure compliance with the SWIP Specific Plan Land Use Plan and that environmental effects are minimized. Impacts would be less than significant.

5.9 Page 4.8-1 of the Draft EIR will be revised in the Final EIR, as follows:

The City of Fontana Police Department provides the primary law enforcement services for the project area, with the exception of the proposed annexation area, which is currently served by the County Sheriff's Department. The Fontana Police Department currently has 180 sworn positions and 90 non-sworn positions. The Fontana Police Department headquarters is located at 17005 Upland Avenue, just east of City Hall. The Police Department also operates the Southridge Contact Station at the southwest corner of Live Oak Avenue and Village Drive at 11500 Live Oak Avenue (within the San Bernardino County Fire Department Station 74). This Contact Station is used by officers for reporting but is not staffed. The Fontana Police Department also operates the Summit Heights (north Fontana) Contact Station and a Contact Station at 17122 Slover Avenue, within the Palm Court Shopping Center.

Draft EIR Section 2.0, Project Description, identifies the growth potential associated with implementation of the proposed project, including the annexation area. The Draft EIR analyzes the potential impacts associated with buildout of the project area. Thus, the analysis of potential impacts to law enforcement services provided in the Draft EIR includes the annexation area and the transfer of law enforcement responsibility to the City's Police Department.

5.10 Refer to response to comment 5.7.



ALMOND AVENUE ANNEXATION AREA:
 POPULATION: 393+/-
 REGISTERED VOTERS: 148
 ACRES: 472+/-
 PARCELS: 213

Legend

- CITY OF FONTANA
- SPHERE OF INFLUENCE
- PROPOSED ANNEXATION AREA
- RAILROADS



SCALE: 1" = 600'



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Manager

December 5, 2011

Via E-Mail and Regular Mail

Mr. Shannon J. Casey
AICP, Senior Planner
8353 Sierra Avenue
Fontana, CA 92335

Dear Mr. Casey:

Notice of Availability of a Draft Environmental Impact Report for the
Southwest Industrial Park (SWIP) Specific Plan Update and Almond Avenue Annexation Project

The Metropolitan Water District of Southern California (Metropolitan) received a copy of the Notice of Availability for the Southwest Industrial Specific Plan Update and Almond Avenue Annexation Project (Project). The city of Fontana is acting as the Lead Agency under the California Environmental Quality Act (CEQA) for this project. The Project proposes to amend and update the existing SWIP Specific Plan to add territory to the existing SWIP Specific Plan area and to update land uses and development. The Plan would add an additional 1,318 acres to the existing 1,793 acres. The proposed project will be located in the city of Fontana and parts of unincorporated San Bernardino County, within San Bernardino County. This letter contains Metropolitan's response to the Public Notice as a potentially-affected public agency.

Our review of the Notice indicates that Metropolitan owns and operates a facility within the boundaries of the proposed project location. Metropolitan's Upper feeder, which is a 140-inch inside-diameter precast concrete pipeline, runs in a north-southerly direction at Poplar Avenue then runs in a northwesterly direction at Poplar and Slover Avenue and is located within the proposed Project area. In addition, the Upper Feeder is located within Fee Property and/or permanent easement. We request that the City evaluate impacts of the proposed Project to Metropolitan's existing facilities that occur within the project's boundaries and propose mitigation measures where appropriate. The enclosed map shows these rights-of-way in relation to the proposed Project.

Metropolitan is concerned with potential impacts to these facilities associated with future excavation, construction, utilities or any redevelopment that may occur as a result of proposed activity under the proposed Project. Development and redevelopment associated with the proposed Project must not restrict any of Metropolitan's day-to-day operations and/or access to its facilities. Metropolitan must be allowed to maintain its rights-of-way and requires unobstructed access to our facilities and properties at all times in order to repair and maintain our system.

6.1

Mr. Shannon J. Casey
Page 2
December 5, 2011

In order to avoid potential conflicts with Metropolitan's rights-of-way, we require that any design plans for any activity in the area of Metropolitan's pipelines or facilities be submitted for our review and written approval. Approval of the Project where it could impact Metropolitan's property should be contingent on Metropolitan's approval of design plans for the Project. Detailed prints of drawings of Metropolitan's pipelines and rights-of-way may be obtained by calling Metropolitan's Substructures Information Line at (213) 217-6564. To assist in preparing plans that are compatible with Metropolitan's facilities, easements, and properties, we have enclosed a copy of the "Guidelines for Developments in the Area of Facilities, Fee Properties, and/or Easements of The Metropolitan Water District of Southern California." Please note that all submitted designs or plans must clearly identify Metropolitan's facilities and rights-of-way.

6.1
(cont)

Additionally, Metropolitan encourages projects within its service area to include water conservation measures. While Metropolitan continues to build new supplies and develop means for more efficient use of current resources, projected population and economic growth will increase demands on the current system. Water conservation, reclaimed water use, and groundwater recharge programs are integral components to regional water supply planning. Metropolitan supports mitigation measures such as using water efficient fixtures, drought-tolerant landscaping, and reclaimed water to offset any increase in water use associated with the proposed project.

6.2

We appreciate the opportunity to provide input to your planning process and we look forward to receiving the Final EIR and future environmental documentation on this Project. If we can be of further assistance, please contact Ms. Brenda S. Marines at (213) 217-7902.

Very truly yours,

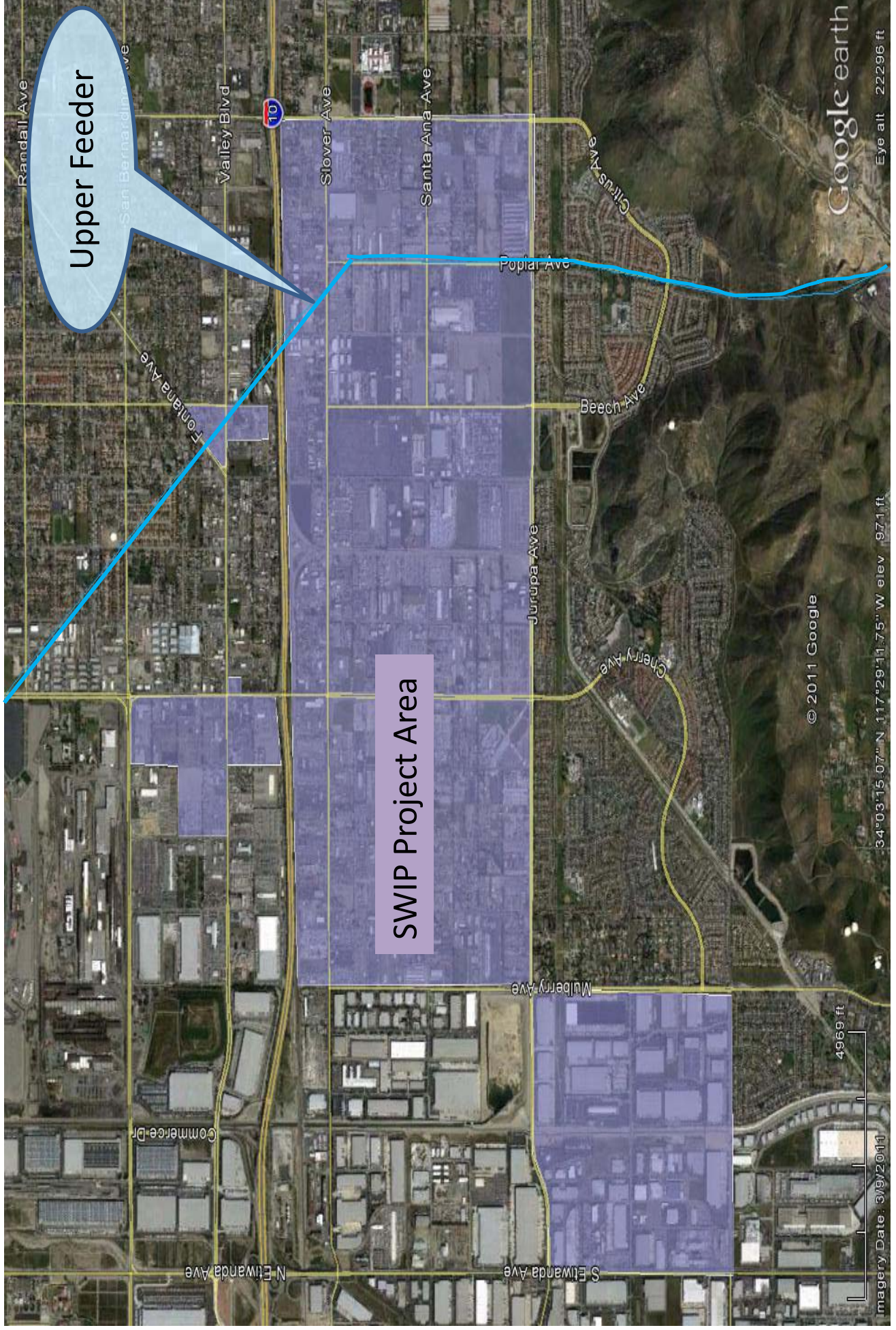


Deirdre West
Manager, Environmental Planning Team

BSM/bsm
(EPT Project No.2011110803)

Enclosures: Map
Guidelines

The Metropolitan Water District of Southern California and the Southwest Industrial Park (SWIP) Specific Plan Update and Almond Avenue Annexation



Metropolitan Water District of Southern California.

Guidelines for Developments in the
Area of Facilities, Fee Properties, and/or Easements
of The Metropolitan Water District of Southern California

1. Introduction

a. The following general guidelines should be followed for the design of proposed facilities and developments in the area of Metropolitan's facilities, fee properties, and/or easements.

b. We require that 3 copies of your tentative and final record maps, grading, paving, street improvement, landscape, storm drain, and utility plans be submitted for our review and written approval as they pertain to Metropolitan's facilities, fee properties and/or easements, prior to the commencement of any construction work.

2. Plans, Parcel and Tract Maps

The following are Metropolitan's requirements for the identification of its facilities, fee properties, and/or easements on your plans, parcel maps and tract maps:

a. Metropolitan's fee properties and/or easements and its pipelines and other facilities must be fully shown and identified as Metropolitan's on all applicable plans.

b. Metropolitan's fee properties and/or easements must be shown and identified as Metropolitan's with the official recording data on all applicable parcel and tract maps.

c. Metropolitan's fee properties and/or easements and existing survey monuments must be dimensionally tied to the parcel or tract boundaries.

d. Metropolitan's records of surveys must be referenced on the parcel and tract maps.

3. Maintenance of Access Along Metropolitan's Rights-of-Way

a. Proposed cut or fill slopes exceeding 10 percent are normally not allowed within Metropolitan's fee properties or easements. This is required to facilitate the use of construction and maintenance equipment, and provide access to its aboveground and belowground facilities.

b. We require that 16-foot-wide commercial-type driveway approaches be constructed on both sides of all streets crossing Metropolitan's rights-of-way. Openings are required in any median island. Access ramps, if necessary, must be at least 16-foot-wide. Grades of ramps are normally not allowed to exceed 10 percent. If the slope of an access ramp must exceed 10 percent due to the topography, the ramp must be paved. We require a 40-foot-long level area on the driveway approach to access ramps where the ramp meets the street. At Metropolitan's fee properties, we may require fences and gates.

c. The terms of Metropolitan's permanent easement deeds normally preclude the building or maintenance of structures of any nature or kind within its easements, to ensure safety and avoid interference with operation and maintenance of Metropolitan's pipelines or other facilities. Metropolitan must have vehicular access along the easements at all times for inspection, patrolling, and for maintenance of the pipelines and other facilities on a routine basis. We require a 20-foot-wide clear zone around all above-ground facilities for this routine access. This clear zone should slope away from our facility on a grade not to exceed 2 percent. We must also have access along the easements with construction equipment. An example of this is shown on Figure 1.

d. The footings of any proposed buildings adjacent to Metropolitan's fee properties and/or easements must not encroach into the fee property or easement or impose additional loading on Metropolitan's pipelines or other facilities therein. A typical situation is shown on Figure 2. Prints of the detail plans of the footings for any building or structure adjacent to the fee property or easement must be submitted for our review and written approval as they pertain to the pipeline or other facilities therein. Also, roof eaves of buildings adjacent to the easement or fee property must not overhang into the fee property or easement area.

e. Metropolitan's pipelines and other facilities, e.g. structures, manholes, equipment, survey monuments, etc. within its fee properties and/or easements must be protected from damage by the easement holder on Metropolitan's property or the property owner where Metropolitan has an easement, at no expense to Metropolitan. If the facility is a cathodic protection station it shall be located prior to any grading or excavation. The exact location, description and way of protection shall be shown on the related plans for the easement area.

4. Easements on Metropolitan's Property

a. We encourage the use of Metropolitan's fee rights-of-way by governmental agencies for public street and utility purposes, provided that such use does not interfere with Metropolitan's use of the property, the entire width of the property is accepted into the agency's public street system and fair market value is paid for such use of the right-of-way.

b. Please contact the Director of Metropolitan's Right of Way and Land Division, telephone (213) 250-6302, concerning easements for landscaping, street, storm drain, sewer, water or other public facilities proposed within Metropolitan's fee properties. A map and legal description of the requested easements must be submitted. Also, written evidence must be submitted that shows the city or county will accept the easement for the specific purposes into its public system. The grant of the easement will be subject to Metropolitan's rights to use its land for water pipelines and related purposes to the same extent as if such grant had not been made. There will be a charge for the easement. Please note that, if entry is required on the property prior to issuance of the easement, an entry permit must be obtained. There will also be a charge for the entry permit.

5. Landscaping

Metropolitan's landscape guidelines for its fee properties and/or easements are as follows:

a. A green belt may be allowed within Metropolitan's fee property or easement.

b. All landscape plans shall show the location and size of Metropolitan's fee property and/or easement and the location and size of Metropolitan's pipeline or other facilities therein.

c. Absolutely no trees will be allowed within 15 feet of the centerline of Metropolitan's existing or future pipelines and facilities.

d. Deep-rooted trees are prohibited within Metropolitan's fee properties and/or easements. Shallow-rooted trees are the only trees allowed. The shallow-rooted trees will not be permitted any closer than 15 feet from the centerline of the pipeline, and such trees shall not be taller than 25 feet with a root spread no greater than 20 feet in diameter at maturity. Shrubs, bushes, vines, and ground cover are permitted, but larger shrubs and bushes should not be planted directly over our pipeline. Turf is acceptable. We require submittal of landscape plans for Metropolitan's prior review and written approval. (See Figure 3).

e. The landscape plans must contain provisions for Metropolitan's vehicular access at all times along its rights-of-way to its pipelines or facilities therein. Gates capable of accepting Metropolitan's locks are required in any fences across its rights-of-way. Also, any walks or drainage facilities across its access route must be constructed to AASHTO H-20 loading standards.

f. Rights to landscape any of Metropolitan's fee properties must be acquired from its Right of Way and Land Division. Appropriate entry permits must be obtained prior to any entry on its property. There will be a charge for any entry permit or easements required.

6. Fencing

Metropolitan requires that perimeter fencing of its fee properties and facilities be constructed of universal chain link, 6 feet in height and topped with 3 strands of barbed wire angled upward and outward at a 45 degree angle or an approved equal for a total fence height of 7 feet. Suitable substitute fencing may be considered by Metropolitan. (Please see Figure 5 for details).

7. Utilities in Metropolitan's Fee Properties and/or Easements or Adjacent to Its Pipeline in Public Streets

Metropolitan's policy for the alinement of utilities permitted within its fee properties and/or easements and street rights-of-way is as follows:

a. Permanent structures, including catch basins, manholes, power poles, telephone riser boxes, etc., shall not be located within its fee properties and/or easements.

b. We request that permanent utility structures within public streets, in which Metropolitan's facilities are constructed under the Metropolitan Water District Act, be placed as far from our pipeline as possible, but not closer than 5 feet from the outside of our pipeline.

c. The installation of utilities over or under Metropolitan's pipeline(s) must be in accordance with the requirements shown on the enclosed prints of Drawings Nos. C-11632 and C-9547. Whenever possible we request a minimum of one foot clearance between Metropolitan's pipe and your facility. Temporary support of Metropolitan's pipe may also be required at undercrossings of its pipe in an open trench. The temporary support plans must be reviewed and approved by Metropolitan.

d. Lateral utility crossings of Metropolitan's pipelines must be as perpendicular to its pipeline alignment as practical. Prior to any excavation our pipeline shall be located manually and any excavation within two feet of our pipeline must be done by hand. This shall be noted on the appropriate drawings.

e. Utilities constructed longitudinally within Metropolitan's rights-of-way must be located outside the theoretical trench prism for uncovering its pipeline and must be located parallel to and as close to its rights-of-way lines as practical.

f. When piping is jacked or installed in jacked casing or tunnel under Metropolitan's pipe, there must be at least two feet of vertical clearance between the bottom of Metropolitan's pipe and the top of the jacked pipe, jacked casing or tunnel. We also require that detail drawings of the shoring for the jacking or tunneling pits be submitted for our review and approval. Provisions must be made to grout any voids around the exterior of the jacked pipe, jacked casing or tunnel. If the piping is installed in a jacked casing or tunnel the annular space between the piping and the jacked casing or tunnel must be filled with grout.

g. Overhead electrical and telephone line requirements:

1) Conductor clearances are to conform to the California State Public Utilities Commission, General Order 95, for Overhead Electrical Line Construction or at a greater clearance if required by Metropolitan. Under no circumstances shall clearance be less than 35 feet.

2) A marker must be attached to the power pole showing the ground clearance and line voltage, to help prevent damage to your facilities during maintenance or other work being done in the area.

3) Line clearance over Metropolitan's fee properties and/or easements shall be shown on the drawing to indicate the lowest point of the line under the most adverse conditions including consideration of sag, wind load, temperature change, and support type. We require that overhead lines be located at least 30 feet laterally away from all above-ground structures on the pipelines.

4) When underground electrical conduits, 120 volts or greater, are installed within Metropolitan's fee property and/or easement, the conduits must be incased in a minimum of three inches of red concrete. Where possible, above ground warning signs must also be placed at the right-of-way lines where the conduits enter and exit the right-of-way.

h. The construction of sewerlines in Metropolitan's fee properties and/or easements must conform to the California Department of Health Services Criteria for the Separation of Water Mains and Sanitary Services and the local City or County Health Code Ordinance as it relates to installation of sewers in the vicinity of pressure waterlines. The construction of sewerlines should also conform to these standards in street rights-of-way.

i. Cross sections shall be provided for all pipeline crossings showing Metropolitan's fee property and/or easement limits and the location of our pipeline(s). The exact locations of the crossing pipelines and their elevations shall be marked on as-built drawings for our information.

j. Potholing of Metropolitan's pipeline is required if the vertical clearance between a utility and Metropolitan's pipeline is indicated on the plan to be one foot or less. If the indicated clearance is between one and two feet, potholing is suggested. Metropolitan will provide a representative to assist others in locating and identifying its pipeline. Two-working days notice is requested.

k. Adequate shoring and bracing is required for the full depth of the trench when the excavation encroaches within the zone shown on Figure 4.

l. The location of utilities within Metropolitan's fee property and/or easement shall be plainly marked to help prevent damage during maintenance or other work done in the area. Detectable tape over buried utilities should be placed a minimum of 12 inches above the utility and shall conform to the following requirements:

1) Water pipeline: A two-inch blue warning tape shall be imprinted with:

"CAUTION BURIED WATER PIPELINE"

2) Gas, oil, or chemical pipeline: A two-inch yellow warning tape shall be imprinted with:

"CAUTION BURIED _____ PIPELINE"

3) Sewer or storm drain pipeline: A two-inch green warning tape shall be imprinted with:

"CAUTION BURIED _____ PIPELINE"

4) Electric, street lighting, or traffic signals conduit: A two-inch red warning tape shall be imprinted with:

"CAUTION BURIED _____ CONDUIT"

5) Telephone, or television conduit: A two-inch orange warning tape shall be imprinted with:

"CAUTION BURIED _____ CONDUIT"

m. Cathodic Protection requirements:

1) If there is a cathodic protection station for Metropolitan's pipeline in the area of the proposed work, it shall be located prior to any grading or excavation. The exact location, description and manner of protection shall be shown on all applicable plans. Please contact Metropolitan's Corrosion Engineering Section, located at Metropolitan's F. E. Weymouth Softening and Filtration Plant, 700 North Moreno Avenue, La Verne, California 91750, telephone (714) 593-7474, for the locations of Metropolitan's cathodic protection stations.

2) If an induced-current cathodic protection system is to be installed on any pipeline crossing Metropolitan's pipeline, please contact Mr. Wayne E. Risner at (714) 593-7474 or (213) 250-5085. He will review the proposed system and determine if any conflicts will arise with the existing cathodic protection systems installed by Metropolitan.

3) Within Metropolitan's rights-of-way, pipelines and carrier pipes (casings) shall be coated with an approved protective coating to conform to Metropolitan's requirements, and shall be maintained in a neat and orderly condition as directed by Metropolitan. The application and monitoring of cathodic protection on the pipeline and casing shall conform to Title 49 of the Code of Federal Regulations, Part 195.

4) If a steel carrier pipe (casing) is used:

(a) Cathodic protection shall be provided by use of a sacrificial magnesium anode (a sketch showing the cathodic protection details can be provided for the designers information).

(b) The steel carrier pipe shall be protected with a coal tar enamel coating inside and out in accordance with AWWA C203 specification.

n. All trenches shall be excavated to comply with the CAL/OSHA Construction Safety Orders, Article 6, beginning with Sections 1539 through 1547. Trench backfill shall be placed in 8-inch lifts and shall be compacted to 95 percent relative compaction (ASTM D698) across roadways and through protective dikes. Trench backfill elsewhere will be compacted to 90 percent relative compaction (ASTM D698).

o. Control cables connected with the operation of Metropolitan's system are buried within streets, its fee properties and/or easements. The locations and elevations of these cables shall be shown on the drawings. The drawings shall note that prior to any excavation in the area, the control cables shall be located and measures shall be taken by the contractor to protect the cables in place.

p. Metropolitan is a member of Underground Service Alert (USA). The contractor (excavator) shall contact USA at 1-800-422-4133 (Southern California) at least 48 hours prior to starting any excavation work. The contractor will be liable for any damage to Metropolitan's facilities as a result of the construction.

8. Paramount Right

Facilities constructed within Metropolitan's fee properties and/or easements shall be subject to the paramount right of Metropolitan to use its fee properties and/or easements for the purpose for which they were acquired. If at any time Metropolitan or its assigns should, in the exercise of their rights, find it necessary to remove any of the facilities from the fee properties and/or easements, such removal and replacement shall be at the expense of the owner of the facility.

9. Modification of Metropolitan's Facilities

When a manhole or other of Metropolitan's facilities must be modified to accommodate your construction or reconstruction, Metropolitan will modify the facilities with its forces. This should be noted on the construction plans. The estimated cost to perform this modification will be given to you and we will require a deposit for this amount before the work is performed. Once the deposit is received, we will schedule the work. Our forces will coordinate the work with your contractor. Our final billing will be based on actual cost incurred, and will include materials, construction, engineering plan review, inspection, and administrative overhead charges calculated in accordance with Metropolitan's standard accounting practices. If the cost is less than the deposit, a refund will be made; however, if the cost exceeds the deposit, an invoice will be forwarded for payment of the additional amount.

10. Drainage

a. Residential or commercial development typically increases and concentrates the peak storm water runoff as well as the total yearly storm runoff from an area, thereby increasing the requirements for storm drain facilities downstream of the development. Also, throughout the year water from landscape irrigation, car washing, and other outdoor domestic water uses flows into the storm drainage system resulting in weed abatement, insect infestation, obstructed access and other problems. Therefore, it is Metropolitan's usual practice not to approve plans that show discharge of drainage from developments onto its fee properties and/or easements.

b. If water must be carried across or discharged onto Metropolitan's fee properties and/or easements, Metropolitan will insist that plans for development provide that it be carried by closed conduit or lined open channel approved in writing by Metropolitan. Also the drainage facilities must be maintained by others, e.g., city, county, homeowners association, etc. If the development proposes changes to existing drainage features, then the developer shall make provisions to provide for replacement and these changes must be approved by Metropolitan in writing.

11. Construction Coordination

During construction, Metropolitan's field representative will make periodic inspections. We request that a stipulation be added to the plans or specifications for notification of Mr. _____ of Metropolitan's Operations Services Branch, telephone (213) 250-_____, at least two working days prior to any work in the vicinity of our facilities.

12. Pipeline Loading Restrictions

a. Metropolitan's pipelines and conduits vary in structural strength, and some are not adequate for AASHTO H-20 loading. Therefore, specific loads over the specific sections of pipe or conduit must be reviewed and approved by Metropolitan. However, Metropolitan's pipelines are typically adequate for AASHTO H-20 loading provided that the cover over the pipeline is not less than four feet or the cover is not substantially increased. If the temporary cover over the pipeline during construction is between three and four feet, equipment must be restricted to that which

imposes loads no greater than AASHTO H-10. If the cover is between two and three feet, equipment must be restricted to that of a Caterpillar D-4 tract-type tractor. If the cover is less than two feet, only hand equipment may be used. Also, if the contractor plans to use any equipment over Metropolitan's pipeline which will impose loads greater than AASHTO H-20, it will be necessary to submit the specifications of such equipment for our review and approval at least one week prior to its use. More restrictive requirements may apply to the loading guideline over the San Diego Pipelines 1 and 2, portions of the Orange County Feeder, and the Colorado River Aqueduct. Please contact us for loading restrictions on all of Metropolitan's pipelines and conduits.

b. The existing cover over the pipeline shall be maintained unless Metropolitan determines that proposed changes do not pose a hazard to the integrity of the pipeline or an impediment to its maintenance.

13. Blasting

a. At least 20 days prior to the start of any drilling for rock excavation blasting, or any blasting, in the vicinity of Metropolitan's facilities, a two-part preliminary conceptual plan shall be submitted to Metropolitan as follows:

b. Part 1 of the conceptual plan shall include a complete summary of proposed transportation, handling, storage, and use of explosions.

c. Part 2 shall include the proposed general concept for blasting, including controlled blasting techniques and controls of noise, fly rock, airblast, and ground vibration.

14. CEQA Requirements

a. When Environmental Documents Have Not Been Prepared

1) Regulations implementing the California Environmental Quality Act (CEQA) require that Metropolitan have an opportunity to consult with the agency or consultants preparing any environmental documentation. We are required to review and consider the environmental effects of the project as shown in the Negative Declaration or Environmental Impact Report (EIR) prepared for your project before committing Metropolitan to approve your request.

2) In order to ensure compliance with the regulations implementing CEQA where Metropolitan is not the Lead Agency, the following minimum procedures to ensure compliance with the Act have been established:

a) Metropolitan shall be timely advised of any determination that a Categorical Exemption applies to the project. The Lead Agency is to advise Metropolitan that it and other agencies participating in the project have complied with the requirements of CEQA prior to Metropolitan's participation.

b) Metropolitan is to be consulted during the preparation of the Negative Declaration or EIR.

c) Metropolitan is to review and submit any necessary comments on the Negative Declaration or draft EIR.

d) Metropolitan is to be indemnified for any costs or liability arising out of any violation of any laws or regulations including but not limited to the California Environmental Quality Act and its implementing regulations.

b. When Environmental Documents Have Been Prepared

If environmental documents have been prepared for your project, please furnish us a copy for our review and files in a timely manner so that we may have sufficient time to review and comment. The following steps must also be accomplished:

1) The Lead Agency is to advise Metropolitan that it and other agencies participating in the project have complied with the requirements of CEQA prior to Metropolitan's participation.

2) You must agree to indemnify Metropolitan, its officers, engineers, and agents for any costs or liability arising out of any violation of any laws or regulations including but not limited to the California Environmental Quality Act and its implementing regulations.

15. Metropolitan's Plan-Review Cost

a. An engineering review of your proposed facilities and developments and the preparation of a letter response

giving Metropolitan's comments, requirements and/or approval that will require 8 man-hours or less of effort is typically performed at no cost to the developer, unless a facility must be modified where Metropolitan has superior rights. If an engineering review and letter response requires more than 8 man-hours of effort by Metropolitan to determine if the proposed facility or development is compatible with its facilities, or if modifications to Metropolitan's manhole(s) or other facilities will be required, then all of Metropolitan's costs associated with the project must be paid by the developer, unless the developer has superior rights.

b. A deposit of funds will be required from the developer before Metropolitan can begin its detailed engineering plan review that will exceed 8 hours. The amount of the required deposit will be determined after a cursory review of the plans for the proposed development.

c. Metropolitan's final billing will be based on actual cost incurred, and will include engineering plan review, inspection, materials, construction, and administrative overhead charges calculated in accordance with Metropolitan's standard accounting practices. If the cost is less than the deposit, a refund will be made; however, if the cost exceeds the deposit, an invoice will be forwarded for payment of the additional amount. Additional deposits may be required if the cost of Metropolitan's review exceeds the amount of the initial deposit.

16. Caution

We advise you that Metropolitan's plan reviews and responses are based upon information available to Metropolitan which was prepared by or on behalf of Metropolitan for general record purposes only. Such information may not be sufficiently detailed or accurate for your purposes. No warranty of any kind, either express or implied, is attached to the information therein conveyed as to its accuracy, and no inference should be drawn from Metropolitan's failure to comment on any aspect of your project. You are therefore cautioned to make such surveys and other field investigations as you may deem prudent to assure yourself that any plans for your project are correct.

17. Additional Information

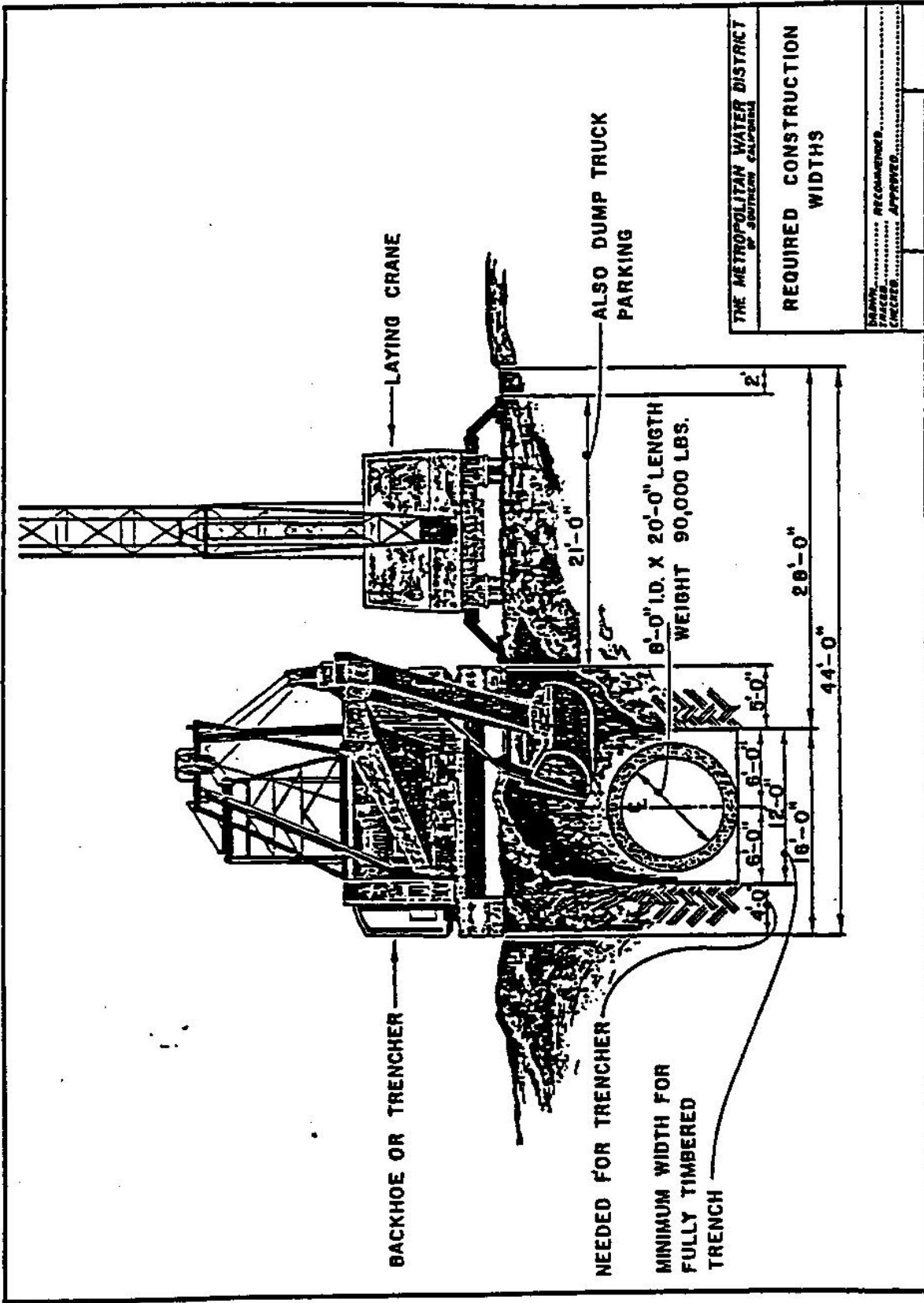
Should you require additional information, please contact:

Civil Engineering Substructures Section
Metropolitan Water District
of Southern California
P.O. Box 54153
Los Angeles, California 90054-0153
(213) 217-6000

JEH/MRW/lk

Rev. January 22, 1989

Encl.



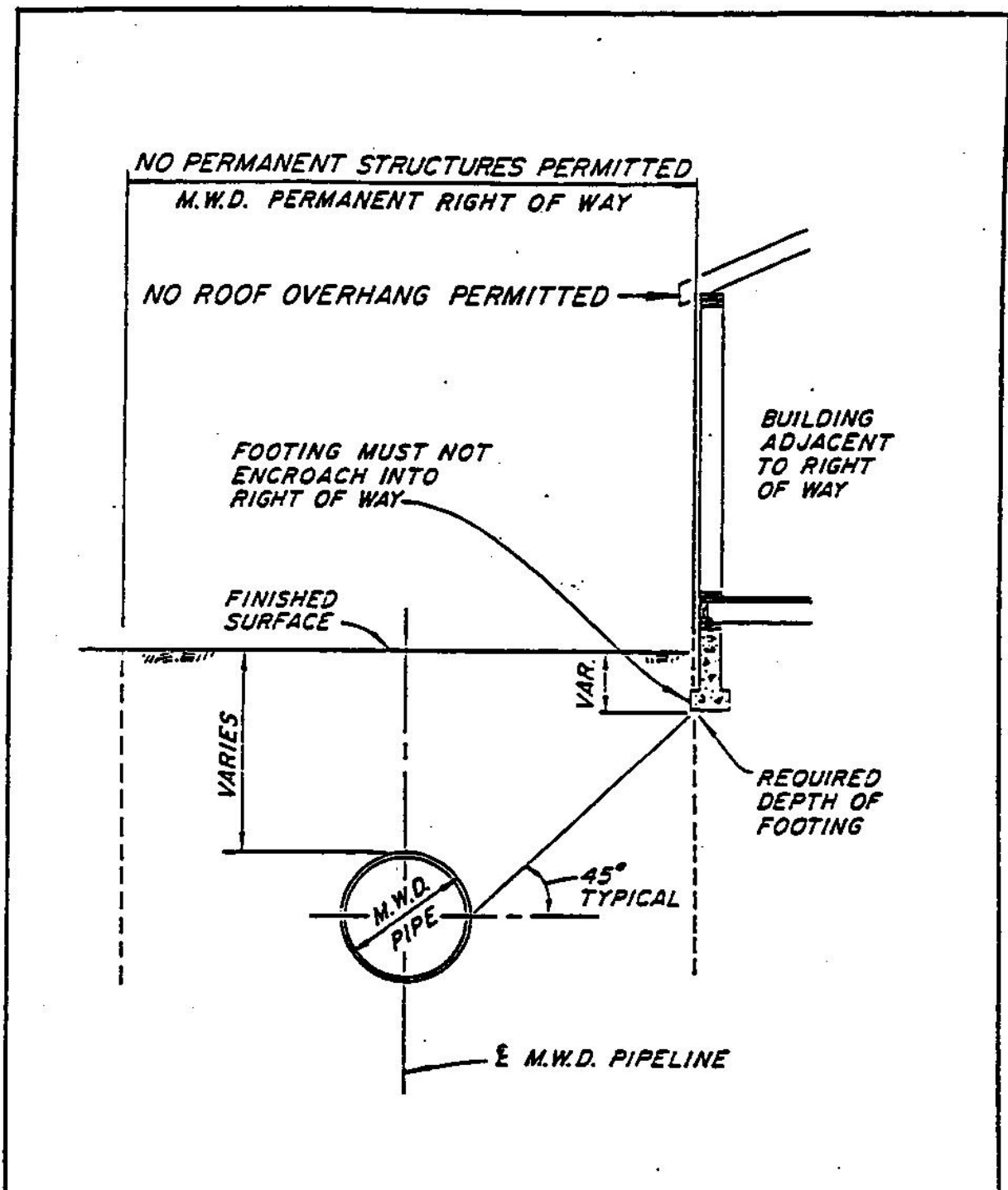
THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

REQUIRED CONSTRUCTION
WIDTHS

DRAWN BY: RECOMMENDED
CHECKED BY: APPROVED

FIGURE 1

FORM NO. 20 9 (REV. 11-77) P. 07-0714



NOTE: M.W.D. PIPELINE SIZE, DEPTH, LOCATION AND WIDTH OF PERMANENT RIGHT OF WAY VARIES.

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

REQUIREMENTS FOR BUILDINGS AND FOOTINGS ADJACENT TO M.W.D. RIGHT OF WAY

DESIGN	RECOMMENDED
TRACES	APPROVED
CHECKED	APPROVED

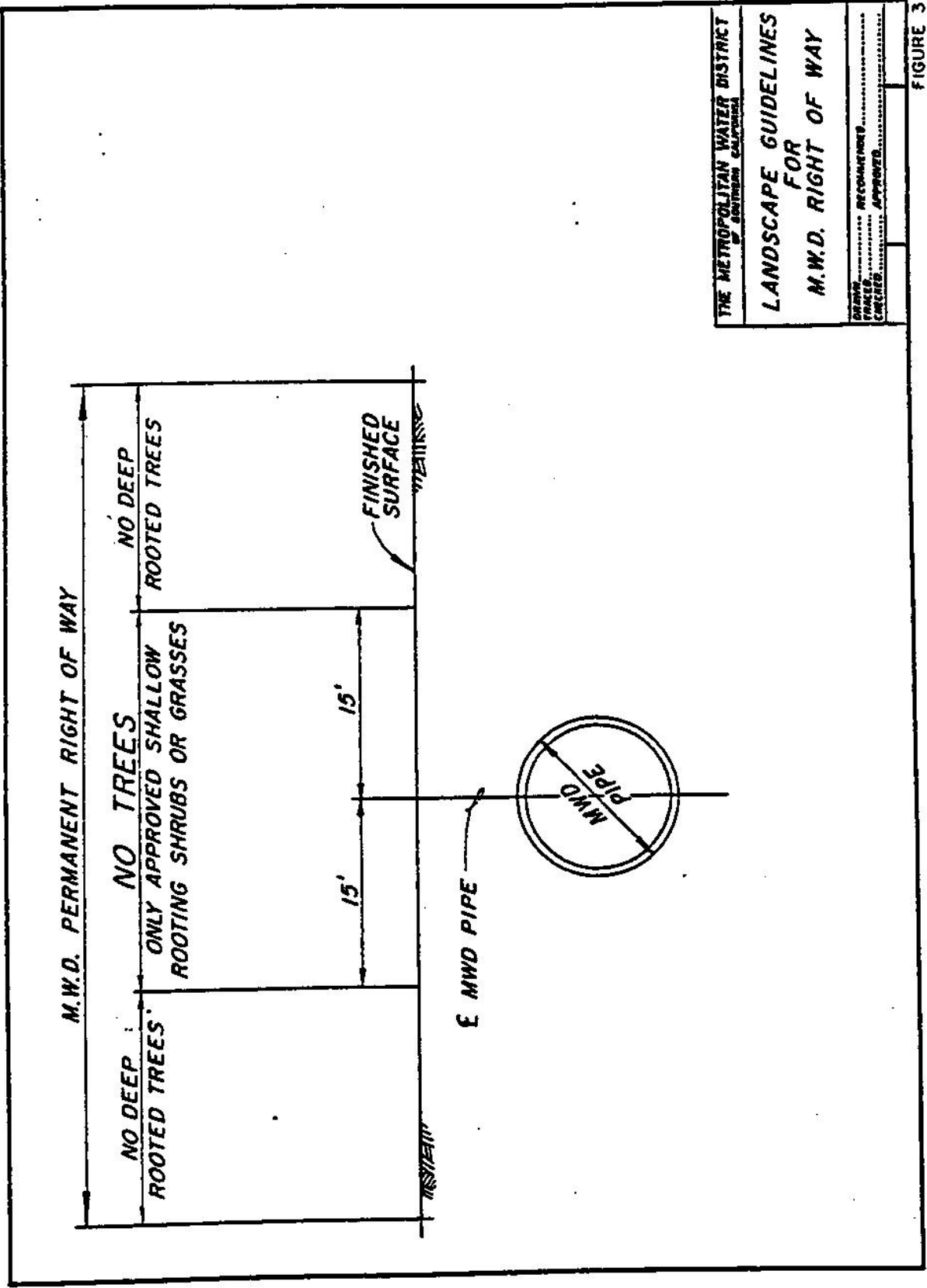
FIGURE 2

THE METROPOLITAN WATER DISTRICT
OF DENVER, COLORADO

**LANDSCAPE GUIDELINES
FOR
M.W.D. RIGHT OF WAY**

DESIGN RECOMMENDED
CHECKED APPROVED

FIGURE 3



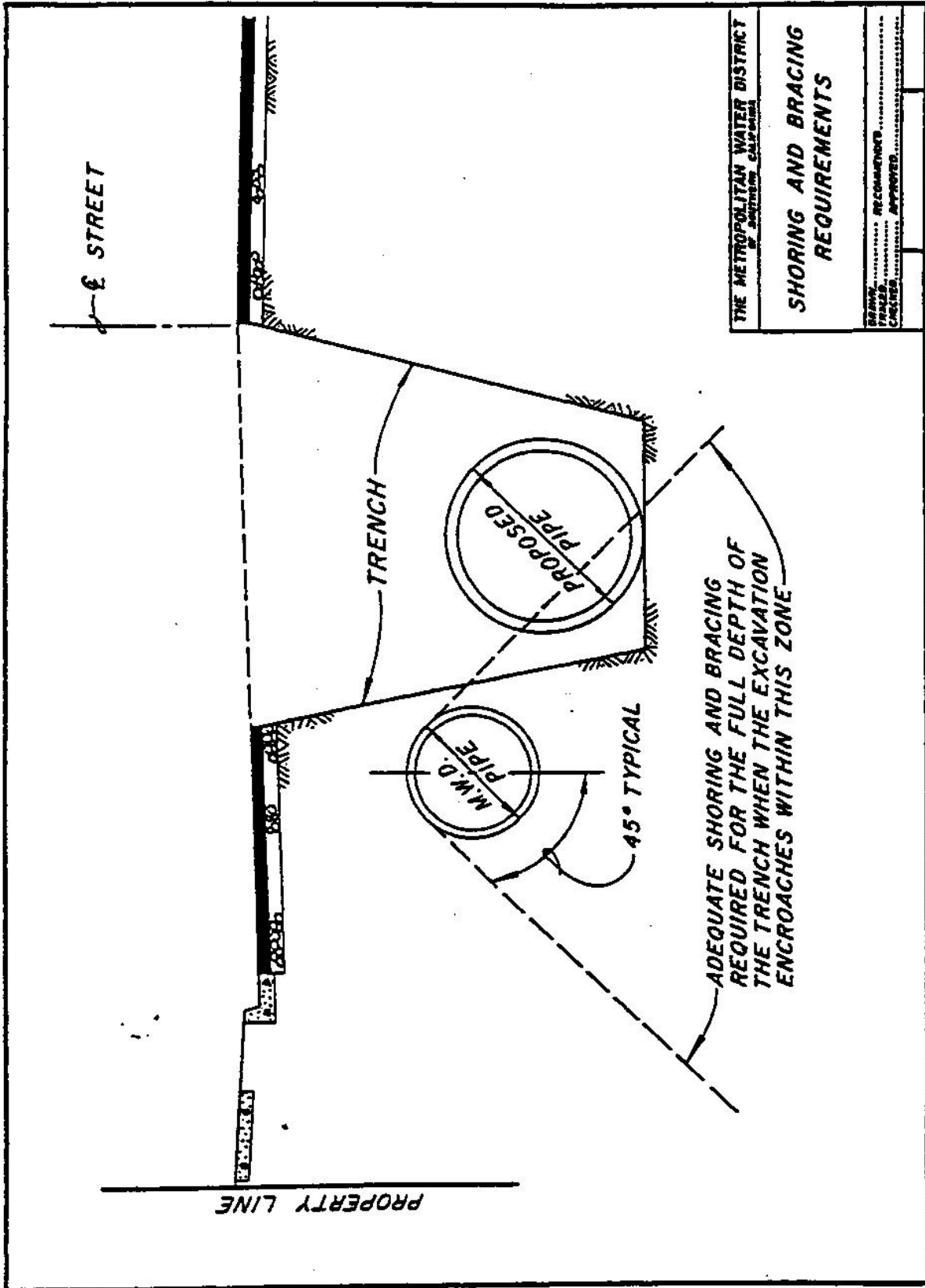
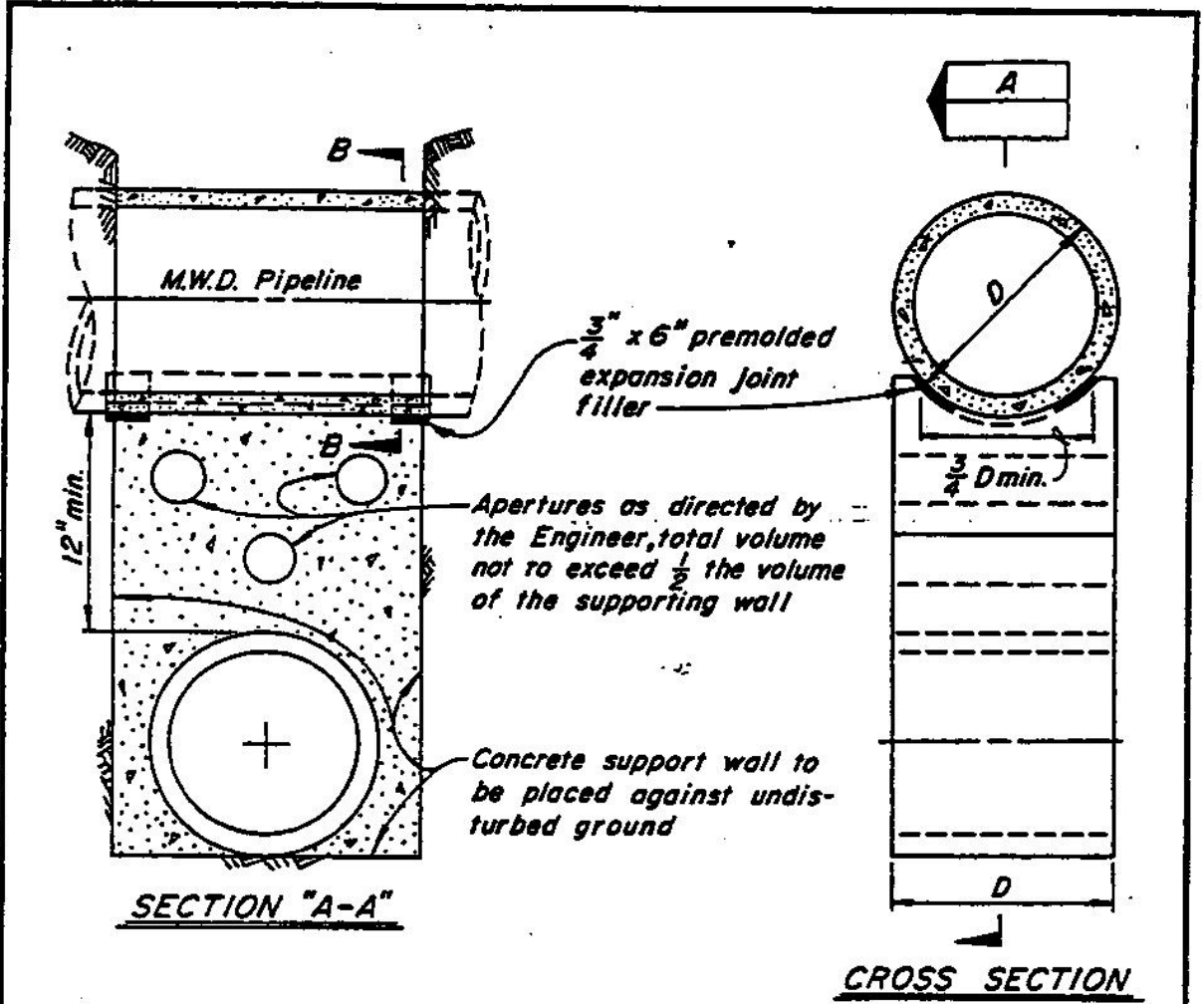


FIGURE 4



1. Supporting wall shall have a firm bearing on the subgrade and against the side of the excavation.
2. Premolded expansion joint filler per ASTM D-1751-73 to be used in support for steel pipe only.
3. If trench width is 4 feet or greater, measured along centerline of M.W.D. pipe, concrete support must be constructed.
4. If trench width is less than 4 feet, clean sand backfill, compacted to 90% density in accordance with the provisions of ASTM Standard D-1557-70 may be used in lieu of the concrete support wall.

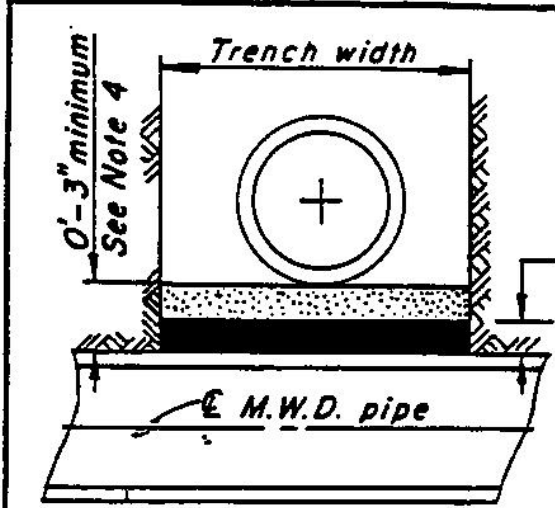
THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

TYPICAL SUPPORT FOR
M.W.D. PIPELINE

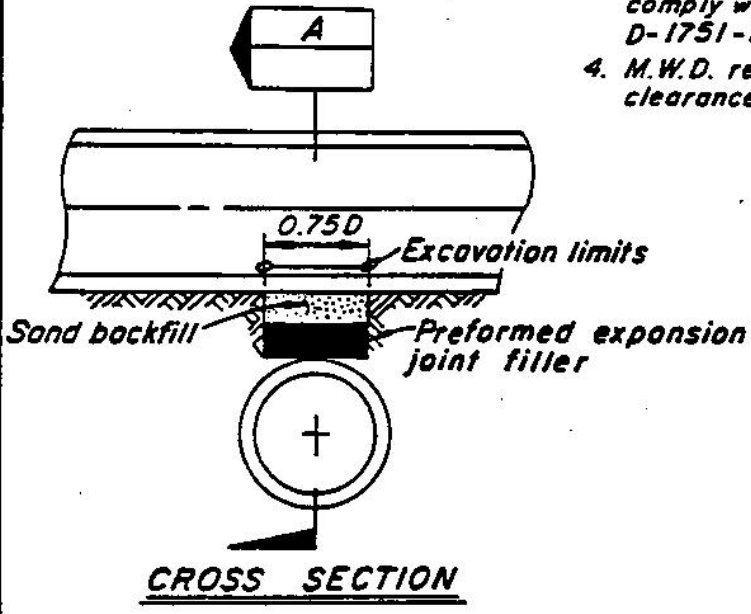
DRAWN _____ RECOMMENDED _____
TRACED _____ CHECKED _____
APPROVED _____

C-9547

FILED IN 18110001 ON 11/10/07



SECTION A



3" Preformed expansion joint filler

NOTES

1. This method to be used where the utility line is 24" or greater in diameter and the clearance between the utility line and M.W.D. pipe is 12" or less.
2. Special protection may be required if the utility line diameter is greater than M.W.D. pipe or if the cover over the utility line to the street surface is minimal and there is 12" or less clearance between M.W.D. pipe and the utility line.
3. Preformed expansion joint filler to comply with ASTM designation D-1751-73.
4. M.W.D. requests 12" minimum clearance whenever possible.

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

**TYPICAL EXPANSION JOINT
FILLER PROTECTION FOR
OVERTOPPING OF
M.W.D. PIPELINE**

DESIGNER: _____ RECOMMENDED: _____
 CHECKED: _____ APPROVED: _____

C-11632



Response No. 6

RESPONSES TO COMMENTS FROM DEIRDRE WEST, MANAGER, ENVIRONMENTAL PLANNING TEAM, THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, DATED DECEMBER 5, 2011.

- 6.1 The proposed SWIP Specific Plan Update and Annexation Project does not propose site-specific development projects at this time. There is the potential that future development and/or redevelopment activities would involve properties and/or infrastructure within proximity to Metropolitan’s facilities. Future development projects would be reviewed by the City on a project-by-project basis to assess potential impacts associated with the proposal. The City and/or project applicants would coordinate with Metropolitan to ensure that proposed projects within the vicinity of Metropolitan facilities would not result in potentially significant impacts and follow (as applicable) the *Guidelines for Developments in the Area of Facilities, Fee Properties, and/or Easements of the Metropolitan Water District of Southern California*, as attached to the commenter’s letter dated December 5, 2011. Additional mitigation measure 4.8-7f will be included in the Final EIR, as follows:

4.8-7f Prior to issuance of grading permits, future development and/or redevelopment activities within proximity to Metropolitan’s pipelines or facilities shall submit design plans to Metropolitan for review and written approval, in accordance with the *Guidelines for Developments in the Area of Facilities, Fee Properties, and/or Easements of the Metropolitan Water District of Southern California*, as applicable.

- 6.2 One of the objectives of the proposed SWIP Specific Plan is to establish methods and strategies for the conservation of resources, including water use and drought tolerant landscaping. The SWIP Specific Plan includes landscape standards for drought-tolerant landscape materials and the use of drip irrigation systems where feasible for water conservation. Additionally, the SWIP Specific Plan provides development incentives for projects that seek green building certification by a third-party entity (e.g., LEED, etc.).

COMMENT LETTER 7

From: mayordave [mailto:mayordave@myway.com]

Sent: Tuesday, December 06, 2011 9:41 PM

To: Shannon Casey

Subject: Comments on the Southwest Industrial Park Redevelopment Project Area and Specific Plan (E.I.R.)

Shannon, here are my comments on 1. Development Incentives 2. Temportay Use Permits
3.Truck and Trailer Parking.

1. Development Incentives.

a. Lots of 97500 Sq.ft. should get a 10% F.A.R. incentive and a 20% parking reduction as long as adequacy of proposed parking

7.1

can be demonstrated and approved by the director of community development .

b.Lots of 195000 sq.ft. should get a 20%F.A.R. incentive and a 40% parking reduction as long as adequacy of proposed parking can be

7.2

demonstrated and approved by the director of community development.

c.Clarification lots of 97500 sq.ft and 195.000 sq.ft and larger should be granted the development incentives if no consolidation is required.

7.3

2. Temperary use Permitts

a.Temperary use permitts for trailer storage or any aporved use demaed aproriot by the community development director for 2 to 4 year as

7.4

long as no building development is required.

3.Truck and Trailer parking.

a. Lots of 1ac.and larger should be allowed to park 2 trucks per ac. as long as the lots are with in the Southwest Industrial Redevelopment Project

7.5

Aera.



Response No. 7

RESPONSES TO COMMENTS FROM AERA, DATED DECEMBER 6, 2011.

- 7.1 This comment pertains to the Development Incentives established by the Specific Plan Update and does not raise new environmental information or directly challenge information provided in the Draft EIR. No further response is required.
- 7.2 This comment pertains to the Development Incentives established by the Specific Plan Update and does not raise new environmental information or directly challenge information provided in the Draft EIR. No further response is required.
- 7.3 This comment pertains to the Development Incentives established by the Specific Plan Update and does not raise new environmental information or directly challenge information provided in the Draft EIR. No further response is required.
- 7.4 This comment pertains to the Temporary Use Permits established by the Specific Plan Update and does not raise new environmental information or directly challenge information provided in the Draft EIR. No further response is required.
- 7.5 This comment pertains to Truck and Trailer Parking established by the Specific Plan Update and does not raise new environmental information or directly challenge information provided in the Draft EIR. No further response is required.

December 7, 2011

Mr. Shannon J. Casey, AICP
Senior Planner
City of Fontana
8353 Sierra Avenue
Fontana CA 92335

RE: Notice of Availability – Draft Environmental Impact Report (EIR) for the proposed Southwest Industrial Park (SWIP) Specific Plan Update and Almond Avenue Annexation

Dear Mr. Casey:

Southern California Edison (SCE) appreciates the opportunity to provide comment on the above referenced project. SCE Company right-of-ways and fee-owned properties are purchased for the exclusive use of SCE to operate and maintain its present and future facilities. Any proposed use will be reviewed on a case-by-case basis by SCE's Operating Department. Approvals or denials will be in writing based upon review of the maps provided and compatibility with SCE right-of-way constraints and rights. In the event the project impacts SCE facilities or its land related rights, please forward six (6) sets of plans depicting SCE's facilities and associated land rights to the following location:

Real Properties Department
Southern California Edison Company
2131 Walnut Grove Avenue
G.O.3 – Second Floor
Rosemead, CA 91770

Please be advised if development plans result in the need to build new or relocate existing SCE electrical facilities that operate at or above 50 kV, the SCE construction may have environmental consequences subject to CEQA review as required by the California Public Utilities Commission (CPUC). If those environmental consequences are identified and addressed by the local agency in the CEQA process for the larger project, SCE may not be required to pursue a later, separate, mandatory CEQA review through the CPUC's General Order 131-D (GO 131-D) process. If the SCE facilities are not adequately addressed in the CEQA review for the larger project, and the new facilities could result in significant

8.1

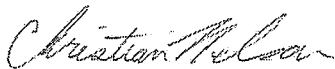
environmental impacts, the required additional CEQA review at the CPUC could delay approval of the SCE power line portion of the project for two years or longer.

In addition, it is essential the project developer review and/or discuss with SCE what measures can be taken to assure optimal conservation measures within this project's boundaries that will contribute to the overall energy savings goals of SCE and California. As an example, developers have the opportunity to participate in the "Savings By Design" program, a statewide nonresidential new construction and renovation/remodel energy efficiency program, funded by utilities customers through the Public Purpose Programs surcharge. The Savings By Design program offers design assistance and financial incentives to improve the energy efficiency of a project. Energy efficiency recommendations may improve the energy performance of a project beyond Title 24 (or other baseline) requirements. The program is voluntary, and the developer would be under no obligation to modify their construction design based on resulting recommendations. Please note that financial incentives are available only if an agreement is completed, eligibility is established by the utility, the project meets program/performance requirements and the energy efficiency strategies are installed and verified. For program details and contact information, go to www.savingsbydesign.com.

8.2

Once again, we appreciate the opportunity to comment on the project. If you have any questions regarding this letter, do not hesitate to contact me at (909) 930-8495.

Sincerely,



Christian Nelson
Local Public Affairs Region Manager
Southern California Edison Company



Response No. 8

RESPONSES TO COMMENTS FROM CHRISTIAN NELSON, LOCAL PUBLIC AFFAIRS REGION MANAGER, SOUTHERN CALIFORNIA EDISON, DATED DECEMBER 7, 2011.

- 8.1 The comment notes that SCE would review any proposed use of SCE right-of-ways on a case-by-case basis. Further, if development plans involve the need to build new or relocate existing SCE electrical facilities that operate at or above 50 kV, construction may have environmental consequences subject to CEQA. If additional CEQA analysis to address SCE facilities is required, the review could delay approval of the SCE power line portion of the project for two years or longer. The comment is noted, and no further response is necessary.

- 8.2 The comment recommends project developers review and/or discuss with SCE measures that can be taken to assure optimal conservation measure to contribute to the overall energy savings goals of SCE and California. The comment is noted, and no further response is necessary.

355 South Grand Avenue
Los Angeles, California 90071-1560
Tel: +1.213.485.1234 Fax: +1.213.891.8763
www.lw.com

LATHAM & WATKINS LLP

FIRM / AFFILIATE OFFICES
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Houston Silicon Valley
London Singapore
Los Angeles Tokyo
Madrid Washington, D.C.
Milan

December 7, 2011

VIA EMAIL

Mr. Shannon J. Casey, AICP
Senior Planner
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

Re: Draft Environmental Impact Report for Proposed Southwest Industrial Park Specific Plan Update and City of Fontana Almond Avenue Annexation

Dear Mr. Casey:

We are writing on behalf of our client, FedEx Freight West (“FXFW”), that operates a Logistics and Distribution Facility located at 11153 Mulberry Avenue known as FXFW’s Fontana Service Facility that is currently located in unincorporated San Bernardino County and within the City’s proposed Almond Avenue Annexation area. We have reviewed the Draft Southwest Industrial Park (“SWIP”) Specific Plan Update and Draft Environmental Impact Report (“EIR”) and are submitting this letter to express FXFW’s concerns regarding the draft documents.

I. DRAFT SWIP SPECIFIC PLAN UPDATE

Logistics and Distribution Facilities as a Permitted Use

FXFW greatly appreciates that the City is proposing to include Logistics and Distribution Facilities as a permitted use in the proposed Jurupa North Research and Development (“JND”) District of the expanded SWIP Specific Plan area.¹ We understand that the proposed regulations for the JND District are contained in Chapter 7.0 of the Draft SWIP Specific Plan. Although Table 7-2 in Chapter 7.0 suggests that Logistics and Distribution Facilities would be a “Use Permitted by Right” in the JND District, Section 7-3.C and Table 7-12 of Chapter 7.0 refer to processing procedures in Fontana Municipal Code that appear to suggest that expansion of the Fontana Service Facility would not be by right, but instead would be subject to a discretionary

9.1

¹ Exhibit 1-3 – Land Use Map, pg. 1-6, and Table 7-2 – Allowable Land Use and Permit Requirements, pg. 7-7, October 2011 Draft SWIP Specific Plan.

review process.² We ask for clarification regarding the City's proposed procedures should FXFW wish to expand the Fontana Service Facility in the future onto a five-acre parcel it owns immediately adjacent and north of the existing facility. We are concerned that requiring a discretionary process for any expansion of operations could subject the facility to onerous conditions and mitigation measures thereby negating any grandfathering provisions in the SWIP Specific Plan. FXFW is also pleased with many of the specific development regulations contained in Chapter 7.0 for the JND District appear generally consistent with the existing Fontana Service Facility

9.1
(cont)

II. DRAFT EIR

Proposed Mitigation Measures

While the propose development regulations in Draft SWIP Specific Plan generally appear acceptable, FXFW is very concerned with some of the mitigation measures recommended in the Draft EIR, which if imposed, could seriously jeopardize FXFW's ability to operate the Fontana Service Facility in the future. The following measures are of gravest concern.

Measure 4.2-21: "New warehouse facilities or distribution centers that generate a minimum of 100 truck trips per day, or 40 truck trips with transport refrigeration units (TRUs) per day, or TRU operations exceeding 300 hours per week shall not be located closer than 1,000 feet from any existing or proposed sensitive land use such as residential, a hospital, medical offices, day care facilities, and/or fire stations (pursuant to the recommendations set forth in the CARB Air Quality and Land Use Handbook)." (emphasis added)

As the map attached to this letter illustrates, if the 1,000-foot radius is calculated based upon the entire Fontana Service Facility property, the facility is within 1,000 feet of some of the homes fronting Jurupa Road. Even if the 1,000-foot radius is calculated from the property line of the potential five-acre expansion area, the parcel would be within 1,000 feet of the residential use already surrounded by the existing facility and within 1,000 feet of four parcels with residences to the east of the five-acre parcel (those residences front on Rose Avenue just east of Calabash Avenue). FXFW is concerned that this measure could potentially prohibit any expansion of the Fontana Service Facility. We ask that the City clarify how it intends to implement this measure relative to FXFW's Fontana Service Facility.

9.2

Measure 4.2-5a: "Prior to the issuance of building permits, future development projects shall demonstrate the incorporation of project design features that achieve a minimum of 28.5 percent reduction in GHG emissions from business as usual conditions[.]" Operating a Logistics and Distribution Facility by definition involves extensive truck operations. FXFW is concerned that this could potentially create an insurmountable barrier to any future expansion of the Fontana Service Facility.

9.3

² Administrative Site Plan Review by the Director of Community Development for industrial buildings under 100,000 square feet or "Design Review" by the Fontana Planning Commission for industrial buildings 100,000 square feet or larger pursuant to Fontana Municipal Code Sections 30-113 and 30-104, respectively.

LATHAM & WATKINS^{LLP}

Measure 4.9-1d: “Mulberry Avenue between Slover Avenue and Jurupa Avenue - Consistent with the City of Fontana Circulation Master Plan, widen the study roadway segment from a 2-lane undivided roadway segment to a 4- lane undivided roadway segment.” Please clarify how this measure would be implemented relative to the existing Fontana Service Facility and potential expansion onto the five-acre parcel immediately adjacent and to the north of the existing facility.

9.4

Measures 4.3-1a – 4.3-1h: We understand that these measures are intended to protect sensitive species. However, FXFW’s five-acre parcel is currently an undeveloped lot with some trees, shrubs, and ground cover vegetation, so the possibility exists that measures intended to protect sensitive species might require additional onerous permitting requirements if any of those species are found on the parcel.

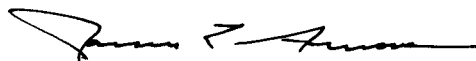
9.5

In addition, to the above mitigation measures of specific critical concern, FXFW requests clarification regarding the funding provisions partially described in the Draft EIR for the numerous street and roadway widening and circulation improvements proposed as those provisions would be applied to any expansion of the Fontana Service Facility.

9.6

These are very serious concerns and we think that they must be addressed or risk endangering the continuation and future success of a long-standing businesses in the City, which would itself be a significant adverse environmental impact that would in our view render the EIR inadequate as currently written.

Very truly yours,



James L. Arnone
of LATHAM & WATKINS LLP

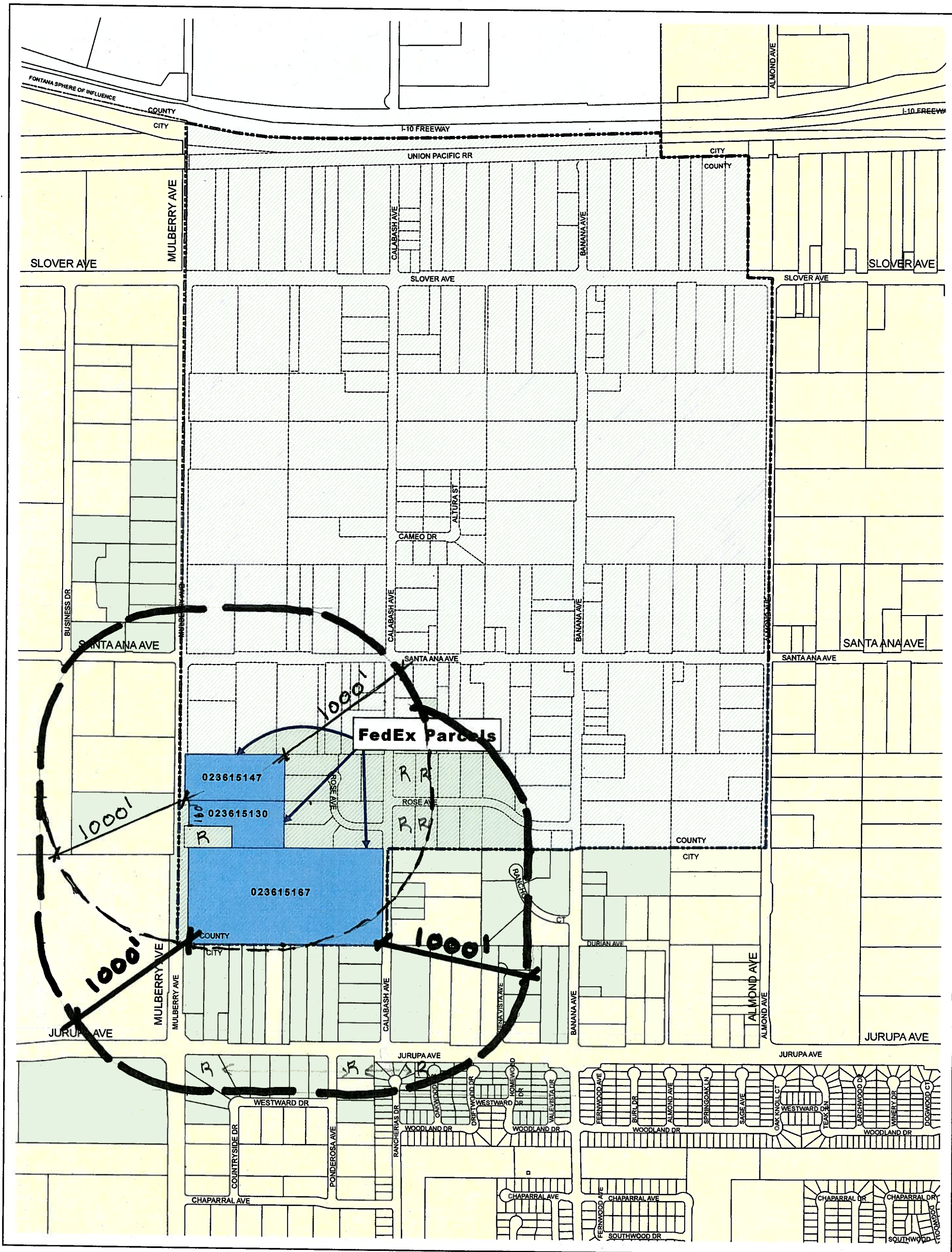
Attachment

cc: James Gresham, Esq.
Mr. Richard Goldaber
Mr. John Hinckley
Mr. Edward Smith
Mr. David F. Thompson

CITY OF FONTANA ANNEXATION NO. 173

ALMOND AVENUE ANNEXATION

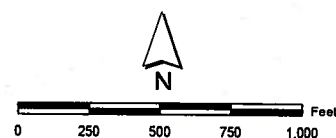
(Almond Avenue to Mulberry Avenue)



CITY OF FONTANA
Annexation Program / GIS-GSanchez
January 28, 2010
Almond Avenue Annex.mxd

- PROPOSED ANNEXATION AREA
- CITY OF FONTANA
- SPHERE OF INFLUENCE

ALMOND AVENUE ANNEXATION AREA:
POPULATION: 393+/-
REGISTERED VOTERS: 148
ACRES: 472+/-
PARCELS: 212





Response No. 9

RESPONSES TO COMMENTS FROM JAMES L. ARNONE, LATHAM & WATKINS LLP, DATED DECEMBER 7, 2011.

- 9.1 All new development projects within the City are reviewed for conformance to the City's General Plan, applicable Specific Plan or Community Plan, and Development Code. The City's Municipal Code identifies the procedures and review process for new development projects. As noted in the SWIP Specific Plan, permit and enforcement procedures are provided in the City of Fontana Municipal Code Chapter 30 and shall apply, unless otherwise noted. Therefore, if the proposed annexation is approved, any new development, including expansion of FFW's Fontana Service Facility, would be reviewed to determine the approval procedures applicable to the specific development being proposed.
- 9.2 Upon receipt of a development application within the SWIP Specific Plan Update and Annexation Area, the City would review the proposed project to determine consistency to the City's General Plan, SWIP Specific Plan, and Development Code. Individual development projects would be reviewed on a project-by-project basis to determine the level of environmental review necessary for the specific project, including the implementation and applicability of mitigation measures identified within the SWIP Specific Plan Update and Annexation EIR. Mitigation measure 4.2-21 in the Draft EIR will be revised in the Final EIR to respond to facilities proposed to be located within 1,000 feet from any existing or proposed sensitive land use.

4.2-21 New warehouse facilities or distribution centers that generate a minimum of 100 truck trips per day, or 40 truck trips with transport refrigeration units (TRUs) per day, or TRU operations exceeding ~~300~~ 200 hours per week shall not be located closer than 1,000 feet from any existing or proposed sensitive land use such as residential, a hospital, medical offices, day care facilities, and/or fire stations (pursuant to the recommendations set forth in the CARB *Air Quality and Land Use Handbook*), unless the increase in health risk for such sensitive receptors due to an individual project is shown to be less than the South Coast Air Quality Management District's thresholds of significance (Maximum Incremental Cancer Risk > 10 in 1 million; Cancer Burden > 0.5 excess cancer cases [in areas > 1 in 1 million]; and Chronic & Acute Hazard Index > 1.0 [project increment]). With regard to expansions/modifications of existing warehouse facilities or distribution centers, this mitigation measure shall be applied to the resulting incremental net increase in truck trips or TRU operations, and any resulting net increase in health risk impacts, as compared to those existing at the time an expansion/modification project is proposed.

- 9.3 Mitigation measure 4.2-5a is in compliance with AB 32, which requires that California's GHG emissions limit be reduced to 1990 levels by 2020. Future development projects



within the SWIP Specific Plan Update and Annexation Area would be reviewed on a project-by-project basis to determine the project’s consistency with the General Plan goals and policies and SWIP Specific Plan Update principles and objectives. Additionally, individual development projects would be reviewed to determine the environmental review necessary for the project and the implementation of mitigation measures applicable to the proposed development. Future development projects would be required to demonstrate the incorporation of project design features that achieve the minimum GHG reduction target set forth by Assembly Bill 32.

Mitigation measure 4.2-5a in the Draft EIR will be revised in the Final EIR, as follows:

4.2-5a Prior to the issuance of building permits, future development projects shall demonstrate the incorporation of project design features that achieve a minimum of 28.5 percent reduction in GHG emissions from non-mobile sources as compared to business as usual conditions. With regard to expansions/modifications of existing facilities, this mitigation measure shall be applied to the resulting incremental net increase in enclosed floor area. Future projects shall include, but not be limited to, the following list of potential design features (which include measures for reducing GHG emissions related to Transportation and Motor Vehicles).

Energy Efficiency

- Design buildings to be energy efficient and exceed Title 24 requirements by at least 5 percent.
- Install efficient lighting and lighting control systems. Site and design building to take advantage of daylight.
- Use trees, landscaping and sun screens on west and south exterior building walls to reduce energy use.
- Install light colored “cool” roofs and cool pavements.
- Provide information on energy management services for large energy users.
- Install energy efficient heating and cooling systems, appliances and equipment, and control systems (e.g., minimum of Energy Star rated equipment).
- Implement design features to increase the efficiency of the building envelope (i.e., the barrier between conditioned and unconditioned spaces).
- Install light emitting diodes (LEDs) for traffic, street and other outdoor lighting.
- Limit the hours of operation of outdoor lighting.

Renewable Energy

- Install solar panels on carports and over parking areas. Ensure buildings are designed to have “solar ready” roofs.
- Use combined heat and power in appropriate applications.



Water Conservation and Efficiency

- Create water-efficient landscapes with a preference for a xeriscape landscape palette.
- Install water-efficient irrigation systems and devices, such as soil moisture based irrigation controls.
- Design buildings to be water-efficient. Install water-efficient fixtures and appliances (e.g., EPA WaterSense labeled products).
- Restrict watering methods (e.g., prohibit systems that apply water to nonvegetated surfaces) and control runoff.
- Restrict the use of water for cleaning outdoor surfaces and vehicles.
- Implement low-impact development practices that maintain the existing hydrologic character of the site to manage storm water and protect the environment. (Retaining storm water runoff on-site can drastically reduce the need for energy-intensive imported water at the site).
- Devise a comprehensive water conservation strategy appropriate for the project and location. The strategy may include many of the specific items listed above, plus other innovative measures that are appropriate to the specific project.
- Provide education about water conservation and available programs and incentives.

Solid Waste Measures

- Reuse and recycle construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard).
- Provide interior and exterior storage areas for recyclables and green waste and adequate recycling containers located in public areas.
- Provide education and publicity about reducing waste and available recycling services.

Transportation and Motor Vehicles

- Limit idling time for commercial vehicles, including delivery and construction vehicles.
- Promote ride sharing programs (e.g., by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading and waiting areas for ride sharing vehicles, and providing a web site or message board for coordinating rides).
- Create local “light vehicle” networks, such as neighborhood electric vehicle (NEV) systems.
- Provide the necessary facilities and infrastructure to encourage the use of low or zero-emission vehicles (e.g., electric vehicle charging facilities and conveniently located alternative fueling stations).



- Promote “least polluting” ways to connect people and goods to their destinations.
- Incorporate bicycle lanes and routes into street systems, new subdivisions, and large developments.
- Incorporate bicycle-friendly intersections into street design.
- For commercial projects, provide adequate bicycle parking near building entrances to promote cyclist safety, security, and convenience. For large employers, provide facilities that encourage bicycle commuting (e.g., locked bicycle storage or covered or indoor bicycle parking).
- Create bicycle lanes and walking paths directed to the location of schools, parks and other destination points.

9.4 Mitigation measure 4.9-1d is consistent with the City of Fontana General Plan EIR mitigation measure TC-2. Typically, at the time an entitlement application is filed, dedication of right-of-way would be required to accommodate the needed roadway expansion.

9.5 Upon receipt of a development application within the SWIP Specific Plan Update and Annexation Area, the City would review the proposed project to determine consistency to the City’s General Plan, SWIP Specific Plan, and Development Code. Individual development projects would be reviewed on a project-by-project basis to determine the level of environmental review necessary for the specific project, including the implementation and applicability of mitigation measures identified within the SWIP Specific Plan Update and Annexation EIR. The City would determine whether preparation of a Biological Assessment would be required on a project-by-project basis.

It should also be noted that, although measures protecting biological resources are provided as mitigation within the EIR, the protection of special-status plants and animals is mandated by Federal and State regulations. If special status plant or animal species and/or habitats are identified within a project site, project applicants would be required to coordinate with the U.S. Fish and Wildlife Service and/or California Department of Fish and Game to determine what, if any, permits or clearances are required prior to development.

9.6 As noted within Section 4.9, *Traffic and Circulation*, of the Draft Program EIR, transportation improvements identified as mitigation for project impacts may be funded through a combination of sources such as the *7-Year CIP*, developer mitigation as shown by future site-specific traffic studies, and funding by adjacent jurisdictions. The following potential funding sources are identified with an understanding that additional sources are likely:

- Developer mitigation as determined by project-specific traffic studies tied to future development within the Specific Plan area;

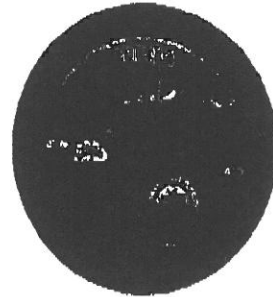


- The City's Circulation Development Fees Program, designated for use on roadways which have been identified in the Measure I Nexus Study. Specifically, the City would collect \$8.605 per square-foot of commercial development, \$6.962 per square-foot of office development, and \$3.509 per square-foot of industrial development. These development fees would be utilized to incrementally fund transportation improvements based on the pace and nature of development that occurs in the Specific Plan Update area.
- Redevelopment Funding; and
- Transportation Grant Funding.

The City also receives Measure I funds available through SANBAG, collected through a County-wide half-cent sales tax to facilitate regional and local improvements. Since 1997, Measure I has funded over \$18 million in transportation improvements within the City, including new roadways, widenings, signalizations, and intersection improvements similar to those included as mitigation measures within this Program EIR.

As noted above, upon receipt of a development application within the SWIP Specific Plan Update and Annexation Area, the City would review the proposed project to determine the level of environmental review necessary for the specific project and whether a traffic study would be required. The traffic study would analyze project trip generation and impacts upon local roadways and establish the project applicant's responsibility for funding and implementation. Until a site-specific development proposal and associated traffic study is completed, it would be speculative to forecast the funding responsibilities for improvements for any project within the Specific Plan and Annexation area.

COMMENT LETTER 10



FAX COVER SHEET

Department of Fish and Game
Inland Desert Region (Region 6)
Habitat Conservation
3602 Inland Empire Blvd., Suite C220
Ontario, CA 91764
(909) 484-0459
(909) 481-2945 - FAX

TO: Shannon Casey

DATE: 12-6

Fax Number: 909-358-7676

No. of Pages being faxed: _____

From: CDFG

COMMENTS: letter re sw industrial brk
Sch 2009091089



California Natural Resources Agency
DEPARTMENT OF FISH AND GAME

EDMUND G. BROWN JR., Governor

Charlton H. Bonham, Director



<http://www.dfg.ca.gov>
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-200
Ontario, CA 91764
(909) 484-0167

Ms. Shannon Casey
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

Re: Draft Environmental Impact Report (EIR) for the Southwest Industrial Park
Specific Plan Update and Annexation -- SCH No. 2009091089

Dear Ms. Casey:

The Department of Fish and Game (Department) appreciates this opportunity to comment on the Draft Environmental Impact Report (EIR) for the Southwest Industrial Park Specific Plan (SP) Update and Annexation. The Department is responding as a Trustee Agency for fish and wildlife resources [Fish and Game Code sections 711.7 and 1802 and the California Environmental Quality Act Guidelines (CEQA) section 15386] and as a Responsible Agency regarding any discretionary actions (CEQA Guidelines section 15381), such as a Lake and Streambed Alteration Agreement (Section 1600 *et seq.*) or a California Endangered Species Incidental Take Permit (Fish and Game Code Sections 2080 and 2080.1).

For this project the Department will be acting as a Trustee and Responsible Agency. As per Section 15096 of the California Environmental Quality Act statute, as a Responsible Agency the Department is obligated to focus its comments on any shortcomings in the CEQA document, the appropriateness of the CEQA document utilized, and additional alternatives or mitigation measures which the CEQA document should include.

The project consists of 1,318 acres, the majority of which is proposed for industrial, manufacturing, office and commercial. The project area is developed with areas of open space or undeveloped land. The project is located in the City of Fontana south of the Interstate 10 (I-10), with Mulberry Ave on the west, Citrus Avenue on the East I-10 to the north and Jurupa Ave. to the south.

The Southwest Industrial Park Specific Plan (SP) was created in 1983 with the intent of establishing Industrial uses south of the I-10. The SP has been amended 14 times. This project is essentially an update of the previous SP.

Impacts to Species

A biological assessment was conducted, along with a California Natural Diversity Database (CNDDB). The biological assessment identified that the following species of special concern may be found in the project area: burrowing owl, northwestern San Diego pocket mouse, western mastiff bat, western yellow bat and San Diego desert woodrat. The federally-listed as endangered Delhi Sands flower-loving fly may also be found in the project area. Portions

10.1

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of the site are included within the Jurupa Recovery Unit. The Fontana General Plan also indicates that habitat for the San Bernardino kangaroo rat and Coastal California gnatcatcher have the potential to be found in the project area. The biology portion of the DEIR also states that raptor nests may be found in Eucalyptus windrows and that raptors may use areas of the project site for foraging.

The Department advises that any biological habitat assessments or walkovers be conducted within a year of distribution of the CEQA document. Please provide a thorough assessment of rare plants and rare natural communities, following the Department's November 2009 guidance for Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. The guidance document can be found at the following link:

http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/Protocols_for_Surveying_and_Evaluating_Impacts.pdf

Habitat assessments that identify the possibility of listed, threatened or endangered plants or animals should also provide the results of any focus surveys in the CEQA document. CEQA documents that rely on future surveys or regulatory compliance (with the exception of pre-construction surveys for burrowing owl or bird nests) as mitigation may not satisfy the Department's obligations under CEQA and may require future supplemental documents processed via CEQA.

Proposed Mitigation

The biological section of the DEIR includes eight (8) mitigation measures. These are: provision of biological assessments prior to issuance of grading permits; conduct land disturbance outside the avian nesting season; evaluate trees to be removed for the presence of roosting bats; encourage the preservation of natural habitat; mitigate for the removal of any natural habitat; provide evidence of compliance with any required State or Federal permits, and, consult with wildlife agencies on impacts to listed species.

Department Concerns

The project is an EIR Specific Plan for 3,111 acres in a developed area that has scattered areas of open space. The Specific Plan (SP) requires that further environmental analysis will be required for future projects within the 3,111 acres. The DEIR SP does not include site specific biological information because the Lead Agency is not proposing specific projects at this time.

The Department is concerned that the potential cumulative impacts of the SP will not be adequately addressed on a project-by-project basis. It is also difficult for the Department to track what projects in the SP have been approved, what impacts have occurred (i.e., loss of natural habitat, foraging bird habitat, etc.) and what mitigation measures are required for the particular projects. The Department suggests that the Lead Agency develop and submit to the Department and include in the Final EIR a method for tracking projects that are approved and their respective impacts and mitigation measures.

10.1
(cont)

10.2

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For these reasons the Department suggests the following measures be implemented and included in each project that is approved:

1. The Lead Agency develop and submit to the Department a methodology for tracking projects that are approved and their respective impacts and mitigation measures:
 - a. A map showing projects that have been approved in the SP area;
 - b. A table showing the approved projects, the type of habitat (i.e., grasslands, ruderal, sage scrub, riparian, critical habitat), amount of each habitat type, and the amount of impact to respective habitats;
 - c. The mitigation measures for each approved project and whether the mitigation is on-site, off-site or monetary payment and the location of off-site mitigation;
 - d. An assessment of how the mitigation measures in place provide for cumulative impacts;
2. If CESA or Federal Endangered Species Act permits are required, the conditions of the permit should be included with the CEQA document for that particular project;
3. An accounting of project impacts on riparian resources and the mitigation measures to offset those impacts;
4. Subsequent projects that involve the Jurupa Recovery Unit for the Delhi Sands flower-loving fly should include focused surveys, an impact analysis and mitigation measures. Mitigation should be provided for the loss of Delhi Sands habitat.

Because this SP does not include specific impact analyses or mitigation measures, the Final EIR should include a proposed method as described above. DFG staff will be available to consult with the City on this requirement.

California Endangered Species Incidental Take Permit

The criteria defining the requirements for a CESA ITP are found in Title 14 CCR, Sections 783.4(a) and (b). These require that the take is incidental to an otherwise lawful activity, the impacts of the take are minimized and fully mitigated, the measures to minimize and fully mitigate impacts are roughly proportional to the impact on the species, maintain the applicant's objectives to the greatest degree possible, and are capable of successful implementation. This section also requires that adequate funding is provided to implement the mitigation measures and that issuance of an ITP will not jeopardize the continued existence of a State-listed species.

If these requirements regarding State or Federally-listed species are not satisfied prior to approval of the CEQA document for a particular project within the SP area, then a subsequent CEQA document must be prepared so that it can be reviewed by the public and comply with the Department's duties as a Responsible Agency under CEQA.

10.2
(cont)

10.3

DEIR for the Southwest Industrial Park Specific Plan EIR
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If the project involves the take of a Federal threatened or endangered species the project applicant will have to consult with the United States Fish and Wildlife Service (Service). If the impacts and mitigation from the Service are not included in the CEQA document for a particular SP project, a subsequent CEQA document will have to be prepared and reviewed by the Department.

10.3
(cont)

Streambed Alteration Agreements and CEQA

A jurisdictional delineation was not conducted for the DEIR. Therefore, if the project contains jurisdictional waters the Department cannot make a determination as to whether the impacts to jurisdictional waters and mitigation for those impacts are adequate. Jurisdictional delineations should be included in the CEQA document for a particular SP project.

If the CEQA documents do not fully identify potential impacts to lakes, streams, and associated resources and provide adequate avoidance, mitigation, monitoring, funding sources, a habitat management plan and reporting commitments, additional CEQA documentation will be required prior to execution (signing) of the Agreement. In order to avoid delays or repetition of the CEQA process, potential impacts to a stream or lake, as well as avoidance and mitigation measures need to be discussed within this CEQA document.

The Department opposes the elimination of drainages, lakes and their associated habitats. The Department recommends avoiding the stream and riparian habitat to the greatest extent possible. Any unavoidable impacts need to be compensated with the creation and/or restoration of in-kind habitat either on-site or off-site at a minimum 3:1 replacement-to-impact ratio, depending on the impacts and proposed mitigation. Additional mitigation requirements through the Department's Streambed Alteration Agreement process may be required depending on the quality of habitat impacted, proposed mitigation, project design, and other factors.

10.4

We recommend submitting a notification early on, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Streambed Alteration Agreement notification package please go to the Department's website at <http://www.dfg.ca.gov/habcon/1600/forms.html>.

The following information will be required for the processing of a Streambed Alteration Agreement and the Department recommends incorporating this information to avoid subsequent CEQA documentation and project delays:

- 1) Delineation of lakes, streams, and associated habitat that will be temporarily and/or permanently impacted by the proposed project (include an estimate of impact to each habitat type);
- 2) Discussion of avoidance measures to reduce project impacts; and,
- 3) Discussion of potential mitigation measures required to reduce the project impacts to a level of insignificance.

Section 15370 of the CEQA guidelines includes a definition of mitigation. In the absence of specific mitigation measures in the CEQA documents, the Department believes that it cannot fulfill its obligations as a Trustee and Responsible Agency for fish and wildlife

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resources. Permit negotiations conducted after and outside of the CEQA process deprive the public of its rights to know what project impacts are and how they are being mitigated contrary to CEQA Section 15002. Also, because mitigation to offset the impacts was not identified in the CEQA document, the Department does not believe that the Lead Agency can make the determination that impacts to jurisdictional drainages and/or riparian habitat are "less than significant" without knowing what the specific impacts and mitigation measures are that will reduce those impacts.

10.4
(cont)

Thank you for this opportunity to comment. Please contact Robin Maloney-Rames, Environmental Scientist, at (909) 980-3818, if you have any questions regarding this letter.

Sincerely,



Jeff Grandt
Senior Environmental Scientist



Response No. 10

RESPONSES TO COMMENTS FROM JEFF BRANDT, SENIOR ENVIRONMENTAL SCIENTIST, CALIFORNIA DEPARTMENT OF FISH AND GAME, DATED DECEMBER 6, 2011.

10.1 As indicated in Draft EIR Section 2.0, Project Description and Section 4.3, Biological Resources, the SWIP Specific Plan Update and Annexation does not propose site-specific development at this time. A Biological Constraints Analysis, including a search of the California Natural Diversity Database, was conducted for the project area to determine the potential presence of sensitive species and plants within the project area. However, identification of site-specific impacts is not possible, as meaningful project information is not available at this time. Development within the project area is anticipated to occur in phases over several years based on market demand with a projected buildout year of 2030. Future development activities would be reviewed on a project-by-project basis as they are proposed to determine any potential impacts associated with the proposed activities, including the potential presence of biological resources. Draft EIR mitigation measure 4.3-1a has been revised to require that a biological assessment be prepared in conjunction with a project-level CEQA analysis in order to adequately assess potential impacts associated with the specific development proposal. Coordination with the U.S. Fish and Wildlife Service and/or California Department of Fish and Game would be required to determine what, if any, permits or clearances are required prior to development. Mitigation Measure 4.3-1a has been further revised to require that assessments of rare plants and rare natural communities be conducted according to CDFG's November 2009 guidance for Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. For those projects located in the Delhi Sands flower-loving fly Recovery Unit, the Biological Assessment must include focused surveys. The Biological Assessment must prescribe which actions are necessary to mitigate the impacts identified for a particular project. Such actions would include either avoidance of a sensitive resource, transplantation, capture and release/relocation, on- or off-site preservation, or payment of in-lieu fees that will be used to purchase off-site replacement habitat. In instances where transplantation/relocation, off-site preservation, or fee payment is selected, habitat mitigation ratios will be a minimum of 1:1, unless a greater ratio is required by a state or federal wildlife agency. The requirements of the biological assessment shall be a condition of approval of the individual development project.

Mitigation measure 4.3-1a in the Draft EIR will be revised in the Final EIR, as follows:

4.3-1a	The City of Fontana Planning Division shall require that all future project applicants prepare a Biological Assessment <u>in conjunction with a project-level CEQA analysis</u> prior to the issuance of grading permits . The Biological Assessment shall include a vegetation map of the proposed project area, analysis of the impacts associated with plant and animal species and habitats, and conduct habitat evaluations for burrowing owl, Delhi Sands flower-loving
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fly, San Diego pocket mouse, western mastiff bat, western yellow bat, and San Diego desert woodrat. If any of these species are determined to be present, then coordination with the U.S. Fish and Wildlife Service and/or California Department of Fish and Game shall be conducted to determine what, if any, permits or clearances are required prior to development.

Each project-level Biological Assessment shall include an analysis of potential impacts to rare plants and rare natural communities in accordance with the California Department of Fish and Game's November 2009 guidance for Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. For those projects located in the Delhi Sands flower-loving fly Recovery Unit, the project-level Biological Assessment shall include focused surveys. The Biological Assessment shall prescribe actions necessary to mitigate the impacts identified for a particular project. Such actions shall include either avoidance of a sensitive resource, transplantation, capture and release/relocation, on- or off-site preservation, or payment of in-lieu fees that shall be used to purchase off-site replacement habitat. In instances where transplantation/relocation, off-site preservation, or fee payment is selected, habitat mitigation ratios shall be a minimum of 1:1, unless a greater ratio is required by a state or federal wildlife agency. The requirements of the Biological Assessment shall be a condition of approval of the individual development project.

- 10.2 As indicated in Draft EIR Section 4.3, Biological Resources, implementation of the listed mitigation measures would ensure that the project would not make a cumulatively considerable contribution to cumulative biological resource impacts. In order to ensure that the mitigation measures are implemented, the City would be required to adopt a Mitigation Monitoring and Reporting Program in accordance with State *CEQA Guidelines* Section 15097, and would be responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program. The Mitigation Monitoring and Reporting Program would track adopted mitigation measures and their implementation on a project-by-project basis. With the implementation of the required mitigation measures and these implementation procedures, significant cumulative impacts would be avoided.
- 10.3 The comment references the California Endangered Species Incidental Take Permit requirements and the potential for additional environmental review. The mitigation included in the Draft EIR (Mitigation Measure 4.3-1a) already requires the procurement of all required Incidental Take Permits, and has been revised to ensure compliance with their conditions of approval on development projects enforceable by the City.
- 10.4 As indicated in Draft EIR Section 2.0, Project Description and Section 4.3, Biological Resources, the SWIP Specific Plan Update and Annexation does not propose site-specific development at this time. The Draft EIR acknowledges the potential for jurisdictional waters to be impacted as future development projects occur. However, identification of



site-specific impacts is not possible, as meaningful project information is not available at this time. Draft EIR mitigation measure 4.4-4a requires that the project applicant of future development proposals that could potentially affect jurisdictional drainages or wetlands (to be determined by the City of Fontana Planning Division) prepare a jurisdictional delineation to determine the extent of jurisdictional area, if any, as part of the regulatory permitting process. Future development projects that would potentially impact jurisdictional drainages or wetlands would be required to coordinate with the appropriate regulatory agencies to obtain the necessary permits. All necessary mitigation requirements must be fulfilled as conditions of approval of the project. Mitigation Measure 4.3-1a's required biological assessment must include a drainage/wetlands delineation component, and necessary actions to mitigate impacts to such resources are part of the conditions of approval that individual development projects will be required to fulfill.



South Coast
Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4182
(909) 396-2000 • www.aqmd.gov

COMMENT LETTER 11

E-Mailed: December 7, 2011
scasey@fontana.org

December 7, 2011

Shannon J. Casey
Senior Planner
8353 Sierra Avenue
Fontana, CA 92335

**Review of the Draft Environmental Impact Report (Draft EIR)
for the Proposed Southwest Industrial Park Specific Plan Update Project**

The South Coast Air Quality Management District (AQMD) appreciates the opportunity to comment on the above-mentioned document. The following comments are meant as guidance for the lead agency and should be incorporated into the Final Environmental Impact Report (Final EIR) as appropriate.

The AQMD staff is concerned about the potential cumulative health risk impacts to sensitive land uses (i.e., residential units, schools, and day care centers) from new industrial land uses identified in the proposed project. Therefore, the lead agency should revise the Draft EIR to address the project's potential cumulative health risk impacts. Further, the AQMD staff recommends that additional mitigation measures be considered to minimize the project's significant air quality impacts pursuant to Section 15126.4 of the California Environmental Quality Act (CEQA) Guidelines. Details regarding these comments are attached to this letter.

Pursuant to Public Resources Code Section 21092.5, AQMD staff requests that the lead agency provide the AQMD with written responses to all comments contained herein prior to the adoption of the final EIR. Further, staff is available to work with the lead agency

11.1

to address these issues and any other questions that may arise. Please contact Dan Garcia, Air Quality Specialist CEQA Section, at (909) 396-3304, if you have any questions regarding the enclosed comments.

11.1
(cont)

Sincerely,



Ian MacMillan

Program Supervisor, CEQA Inter-Governmental Review
Planning, Rule Development & Area Sources

Attachment

IM:DG

SBC111020-01
Control Number

Potential Cumulative Health Risk Impacts to Sensitive Land Uses

1. The AQMD staff is concerned about the potential cumulative health risk impacts to sensitive land uses from industrial sources in the proposed project. Specifically, the AQMD staff is concerned about the proposed land use plan (Exhibit 2-3) that depicts a variety of new industrial uses placed adjacent to sensitive land uses (i.e., residential units, schools and daycare centers) between Interstate 10 and Jurupa Avenue. The lead agency provides discussion on the potential impacts to sensitive land uses from industrial emissions sources and mitigation on pages 4.2-28 through 4.2-32 of the Draft EIR, but does not adequately address the potential cumulative impacts from future industrial emissions sources.

Based on the lead agency's discussion for cumulative impacts on page 4.2-56 of the Draft EIR the project will have significant cumulative impacts from criteria pollutants during operation. However, this determination does not account for cumulative health risk impacts from toxic air pollutants emitted by the potentially significant volume of industrial uses identified in the proposed project. As a result, the AQMD staff is concerned about the potential cumulative health risk impacts from facility and area-wide emissions that will likely result from the proposed new industrial uses. Therefore, the lead agency should revise the Draft EIR to further analyze and address the project's potential cumulative health risk impacts and, if applicable, include additional mitigation measures to reduce significant impacts to the extent feasible.

Mitigation Measures for Construction Air Quality Impacts

2. Given that the lead agency concluded that the proposed project will have significant construction related air quality impacts, the AQMD staff recommends that the lead agency provide additional mitigation pursuant to CEQA Guidelines §15126.4. Specifically, AQMD staff recommends that the lead agency minimize or eliminate significant adverse air quality impacts by adding the mitigation measures provided below.
 - Provide temporary traffic controls such as a flag person, during all phases of construction to maintain smooth traffic flow,
 - Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site,
 - Reroute construction trucks away from congested streets or sensitive receptor areas,
 - Appoint a construction relations officer to act as a community liaison concerning on-site construction activity including resolution of issues related to PM10 generation,
 - Improve traffic flow by signal synchronization, and ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications,
 - Use coatings and solvents with a VOC content lower than that required under AQMD Rule 1113,

11.2**11.3**

- Construct or build with materials that do not require painting,
- Require the use of pre-painted construction materials,
- Require the use of 2010 and newer diesel haul trucks (e.g., material delivery trucks and soil import/export). If the lead agency determines that 2010 model year or newer diesel trucks cannot be obtained the lead agency shall use trucks that meet EPA 2007 model year NOx and PM emissions requirements,
- During project construction, all internal combustion engines/construction equipment operating on the project site shall meet EPA-Certified Tier 2 emissions standards, or higher according to the following:
 - ✓ Project Start, to December 31, 2011: All offroad diesel-powered construction equipment greater than 50 hp shall meet Tier 2 offroad emissions standards. In addition, all construction equipment shall be outfitted with the BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 2 or Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.
 - ✓ January 1, 2012, to December 31, 2014: All offroad diesel-powered construction equipment greater than 50 hp shall meet Tier 3 offroad emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.
 - ✓ Post-January 1, 2015: All offroad diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.
 - ✓ A copy of each unit's certified tier specification, BACT documentation, and CARB or SCAQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.
 - ✓ Encourage construction contractors to apply for AQMD "SOON" funds. Incentives could be provided for those construction contractors who apply for AQMD "SOON" funds. The "SOON" program provides funds to accelerate clean up of off-road diesel vehicles, such as heavy duty construction equipment. More information on this program can be found at the following website: <http://www.aqmd.gov/tao/Implementation/SOONProgram.htm>

11.3
(cont)

For additional measures to reduce off-road construction equipment, refer to the mitigation measure tables located at the following website:

www.aqmd.gov/ceqa/handbook/mitigation/MM_intro.html.

11.3
(cont)

Mitigation Measures for Operational Air Quality Impacts

3. The lead agency's operational air quality analysis demonstrates significant air quality impacts from all criteria pollutant emissions (i.e., NO_x, SO_x, CO, VOC, PM₁₀ and PM_{2.5}). These impacts are primarily from mobile source emissions related to vehicle trips associated with the proposed project. However, the lead agency does not adequately address this large source of emissions. Specifically, the lead agency only requires a list of nominal non-quantifiable mitigation measures that are deferred to project level analyses. Therefore, the lead agency should reduce the project's significant air quality impacts by reviewing and incorporating additional transportation mitigation measures, such as those from the greenhouse gas quantification report published by the California Air Pollution Control Officer's Association in the Final EIR¹.

11.4

Additional Mitigation Measures for Industrial and Warehouse Land Uses

4. Given that the proposed project includes the placement of new industrial uses in close proximity to sensitive land uses the AQMD staff recommends that the lead agency consider adding the following mitigation measures to further reduce air quality impacts from the operation phase of the project, if feasible:
 - Provide a more aggressive phase-in of cleaner heavy duty trucks (such as 2010 model year) than currently required by CARB regulations for projects in this area with existing air quality concerns,
 - Design warehouse/distribution center entrances and exits such that trucks are not traversing past neighbors or other sensitive receptors,
 - Design warehouse/distribution centers such that any check-in point for trucks is well inside the facility property to ensure that there are no trucks queuing outside of the facility,
 - Develop, adopt and enforce truck routes both in an out of city and in and out of facilities,
 - Establish area(s) within facilities for repair needs,
 - Have truck routes clearly marked with trailblazer signs, so that trucks will not enter residential areas,
 - Identify or develop secure locations outside of residential neighborhoods where truckers that live in the community can park their truck, such as a Park & Ride,
 - Provide food options, fueling, truck repair and or convenience stores on-site to minimize the need for trucks to traverse through residential neighborhoods,
 - Improve traffic flow by signal synchronization,

11.5

¹ California Air Pollution Control Officer's Association. August 2010. Quantifying Greenhouse Gas Mitigation Measures. Accessed at: <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf>

- Require or provide incentives for particulate traps that meet CARB certified level 3 requirements, and
- Electrify service equipment at facilities.

11.5
(cont)

Response No. 11

RESPONSES TO COMMENTS FROM IAN MACMILLAN, PROGRAM SUPERVISOR, CEQA INTER-GOVERNMENTAL REVIEW PLANNING, RULE DEVELOPMENT & AREA SOURCES, SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT, DATED DECEMBER 7, 2011.

11.1 This cover letter summarizes the SCAQMD's detailed comments on the Draft EIR. Refer to Responses 11.2 through 11.5.

11.2 This comment pertains to cumulative health risk impacts. The commenter is concerned about the proximity of sensitive land uses to industrial uses that could potentially be developed within the Specific Plan Area, and the potential cumulative health risk impacts from toxic air pollutants associated with industrial uses. As stated on Page 4.2-30 of the Draft EIR, the Multiple Air Toxics Exposure Study III (MATES III) attributes approximately six percent of carcinogenic risk from air toxics in the SCAB to stationary sources. Project implementation could facilitate the construction of new industrial uses which could generate new stationary sources of emissions. Future industrial uses would be dispersed throughout the Specific Plan area and would not be concentrated near any one area of sensitive uses. The Draft EIR requires the implementation of Mitigation Measures 4.2-2a through 4.2-2k to reduce stationary source impacts.

As stated on Page 4.2-31 of the Draft EIR, the CARB *Air Quality and Land Use Handbook* (April 2005), recommends avoiding siting new sensitive land uses within 500 feet of a freeway or within 1,000 feet of a distribution center. The Western Riverside Council of Governments *Good Neighbor Guidelines for Siting New and/or Modified Warehouse/Distribution Facilities* (September 2005), also provides similar recommendations to reduce impacts from toxic air contaminants. The proposed project does not include new residential uses or other new sensitive land uses. However, implementation of the proposed project could locate industrial uses within 500 feet of existing sensitive uses. Therefore, Mitigation Measure 4.2-2l would be required to ensure that new industrial uses, including distribution centers (which require design review or discretionary action), would not be located within 1,000 of existing sensitive receptors. With implementation of Mitigation Measure 4.2-2l, project impacts from both cancer and non-cancer impacts from air toxics would be less than significant.

11.3 This comment pertains to construction air quality impacts. The commenter recommends additional mitigation measures for construction air quality impacts. Mitigation Measures 4.2-1a through 4.2-1f pertain to construction air quality impacts. However, the following modifications have been added to the mitigation measures on Pages 4.2-26 and 4.2-27 of Section 4.2, *Air Quality and Climate Change*, of the Draft EIR:

4.2-1a All construction equipment shall be maintained in good operation condition so as to reduce emissions. The construction contractor shall ensure that all construction equipment is being properly serviced and maintained as per the manufacturer's specification. Maintenance records shall be available at the construction site for City verification. [GPEIR MM AQ-1] The following additional measures, as determined applicable by the City Engineer, shall be included as conditions of the Grading Permit issuance:

- Provide temporary traffic controls such as a flag person, during all phases of construction to maintain smooth traffic flow.
- Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site.
- Reroute construction trucks away from congested streets or sensitive receptor areas.
- Appoint a construction relations officer to act as a community liaison concerning on-site construction activity including resolution of issues related to PM₁₀ generation.
- Improve traffic flow by signal synchronization, and ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications.
- Require the use of 2010 and newer diesel haul trucks (e.g., material delivery trucks and soil import/export). If the lead agency determines that 2010 model year or newer diesel trucks cannot be obtained the lead agency shall use trucks that meet EPA 2007 model year NO_x and PM emissions requirements.
- During project construction, all internal combustion engines/construction equipment operating on the project site shall meet EPA-Certified Tier 3 emissions standards, or higher according to the following:
 - January 1, 2012, to December 31, 2014: All offroad diesel-powered construction equipment greater than 50 hp shall meet Tier 3 offroad emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.
 - Post-January 1, 2015: All offroad diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available. In addition, all

construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.

- A copy of each unit's certified tier specification, BACT documentation, and CARB or SCAQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.

4.2-1c All paints and coatings shall meet or exceed performance standards noted in SCAQMD Rule 1113. [GPEIR MM AQ-3] Specifically, the following measures shall be implemented, as feasible:

- Use coatings and solvents with a VOC content lower than that required under AQMD Rule 1113.
- Construct or build with materials that do not require painting.
- Require the use of pre-painted construction materials.

11.4 This comment pertains to operational air quality impacts. The commenter states that additional transportation-related mitigation measures should be incorporated into the Draft EIR to further reduce mobile source emissions. Currently, Mitigation Measures 4.2-2a through 4.4-2g of the Draft EIR require future projects within the project area to provide incentives for mass transit, include paths to bus shelters, designate preferential parking for vanpools, provide on-site food service, and post transit schedules. Additionally, Mitigation Measure 4.2-5a provides several transportation-related measures to reduce greenhouse gas emissions. Implementation of these measures into future development projects would also result in reduced criteria pollutant emissions. Transportation-related measures required by Mitigation Measure 4.2-5a include promoting ride sharing programs, creating local light vehicle networks, providing infrastructure for low or zero-emission vehicles, promoting least polluting ways to connect people and goods to their destinations, incorporating bicycle lanes and routes, incorporating bicycle-friends intersections, providing adequate bicycle parking, and creating bicycle lanes and walking paths directed to schools, parks, and other destination points. The transportation-related measures required by Mitigation Measure 4.2-5a are also consistent with the measures suggested by the California Air Pollution Control Officer's Association. Therefore, implementation of Mitigation Measure 4.2-5a would further reduce mobile source emissions associated with future development within the project area and no further mitigation is feasible.

11.5 The commenter is concerned that the project would result in the placement of new industrial uses close to sensitive land uses. Therefore, the commenter recommends



additional mitigation measures to further reduce air quality impacts from project operations. Mitigation Measure 4.2-2l of the Draft EIR requires new industrial uses (which require design review or discretionary action) to adhere to the recommendations set forth in the *CARB Air Quality and Land Use Handbook* regarding transportation-related emissions associated with the new industrial uses that would be developed as a result of project implementation. Additionally, Mitigation Measures 4.2-2a through 4.2-2k include additional measures that would reduce stationary and mobile source operational emissions to the extent feasible. Therefore, no additional measures are feasible at this program-level of environmental review.



December 6th, 2011

City of Fontana Planning Commission & Staff
8353 Sierra Avenue
Fontana, CA 92335

RE: SOUTHWEST INDUSTRIAL PARK (SWIP) SPECIFIC PLAN COMMENTS & RECOMMENDATIONS

As a lifelong Southern California resident local business man with interests in the City of Fontana I want to commend your vision and commitment to carry out this SWIP approval. I would like to go on record that I support the SWIP specific plan and recommend that the Planning Commission and City Council Approve the Plan. I have a couple of recommendations that will help further promote development within the SWIP South Fontana boundary.

- 1. No Assemblage required to receive development incentives. Base the incentives on the total lot size being developed.
 - a. 2+ Acre site – 55% floor area ratio (FAR) and 20% reduction in parking and landscaping requirement
 - b. 4+ Acre Site – 60% floor area ratio (FAR) and 30% reduction in parking and landscaping requirement
- 2. It would be beneficial to implement a Temporary Use permit on undeveloped land that will enable current owners to lease their property in the short term (two years or less) so that they may continue to make mortgage and property tax payments to endure the downturn in this economy.

12.1

12.2

The above mentioned enhancements to the current incentives will help our firm market and sell more real estate to developers which will reshape the future of Fontana in a positive way. It will help to create jobs and build the economy of Fontana quicker than neighboring cities that are not willing to adapt with the local market conditions.

Once again I want to thank you for your hard work on this project and your consideration of my recommendations. Should you have any questions please do not hesitate to call me.

Sincerely,

Tony M. Guglielmo, CCIM
Allied Commercial Real Estate, Inc.
Broker/Owner
Direct Phone: 909.456.6133
Email: tony@alliedcre.com





Response No. 12

RESPONSES TO COMMENTS FROM TONY M. GUGLIELMO, CCIM, ALLIED COMMERCIAL REAL ESTATE, INC., DATED DECEMBER 6, 2011.

- 12.1 This comment pertains to the Development Incentives established by the Specific Plan Update and does not raise new environmental information or directly challenge information provided in the Draft EIR. No further response is required.

- 12.2 This comment pertains to Temporary Use permits on undeveloped lands and does not raise new environmental information or directly challenge information provided in the Draft EIR. No further response is required.



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11.5 PUBLIC TESTIMONY RECEIVED AT PLANNING COMMISSION COMMENT HEARING ON NOVEMBER 29, 2011

The City of Fontana Planning Commission conducted a hearing on November 29, 2011 to solicit comments related to environmental analysis provided in the Program EIR. At the comment hearing, the following four members of the public provided testimony:

- Mr. Michael James;
- Mr. John Grisafe;
- Mr. David Eshleman; and
- Mr. Andres L. Soto.

The majority of public input received at the comment hearing was related to land use policies provided within the Specific Plan Update and was not related to the environmental analysis within the Program EIR. Specifically, primary comments consisted of: 1) the phase-out period associated with non-conforming legal uses within the Specific Plan Update area; 2) appropriate zoning classifications for areas along Citrus Avenue; and 3) lot consolidation and density bonuses. Since these comments did not pertain to environmental analysis provided within the Program EIR, no response is required.

One comment received during the hearing (from Mr. Andres Soto) pertained to the CEQA process for the proposed project. Mr. Soto enquired about the Statement of Overriding Considerations for the project and the potential benefits of the project that may outweigh the significant impacts identified within the Program EIR. In response (and as indicated at the hearing by City staff), the Statement of Overriding Considerations has not yet been prepared for the project. However, one of the project benefits that would be considered as outweighing the significant impacts are the economic benefits associated with the proposed project.

11.6 ERRATA FOR THE FINAL EIR

The Final EIR will be a revised document that incorporates all of the changes made to the Draft EIR following the public review period. Added or modified text is double underlined (example), while deleted text is struck out (~~example~~).

Page S-1 of the Draft EIR will be revised in the Final EIR, as follows:

S.1 PROJECT LOCATION

The approximately 3,111-acre proposed SWIP Specific Plan Update and Annexation Area project is located within the southwestern portion of the City of Fontana and County of San Bernardino, California. Of the 3,111 total acres, 472 acres are located within the proposed Annexation Area. The project site is located along I-10, east of Interstate 15 (I-15), and



north of State Route 60 (SR-60). Fontana is bounded by unincorporated San Bernardino County to the north, Rancho Cucamonga and Ontario to the west, unincorporated Riverside County to the south, and Rialto and unincorporated San Bernardino County to the east.

Page 2-1 of the Draft EIR will be revised in the Final EIR, as follows:

2.2 PROJECT LOCATION

The approximately 3,111-acre proposed SWIP Specific Plan Update and Annexation Area project is located within the southwestern portion of the City of Fontana and County of San Bernardino, California. The project site is located along I-10, east of Interstate 15 (I-15), and north of State Route 60 (SR-60). Of the 3,111 total acres, 472 acres are located within the proposed Annexation Area. Fontana is bounded by unincorporated San Bernardino County to the north, Rancho Cucamonga and Ontario to the west, unincorporated Riverside County to the south, and Rialto and unincorporated San Bernardino County to the east.

A new table (Table 2-1, Land Use Table – Annexation Area) will be included in the Final EIR within Section S.0 (Executive Summary) and Section 2.0 (Project Description), as follows:

Table 2-1
Land Use Table – Annexation Area

<u>PROPOSED LAND USE DISTRICT</u>	<u>ACREAGE</u>	<u>NEW COMMERCIAL (SF)¹</u>	<u>NEW OFFICE (SF)</u>	<u>NEW INDUSTRIAL (SF)²</u>	<u>NEW DEVELOPMENT (SF)³</u>
<u>Freeway Industrial</u>	<u>65.1</u>	<u>426,086</u>	<u>106,521</u>	<u>532,608</u>	<u>1,065,215</u>
<u>Slover West Industrial</u>	<u>213.2</u>			<u>3,704,127</u>	<u>3,704,127</u>
<u>Jurupa North Research and Development</u>	<u>131.8</u>	<u>520,475</u>	<u>312,285</u>	<u>1,249,141</u>	<u>2,081,901</u>
<u>Residential Trucking</u>	<u>8.3</u>				<u>N/A</u>
<u>Right of Way (Drainage, Power Easement, Railroad, Roads)</u>	<u>53.9</u>				<u>N/A</u>
<u>TOTAL</u>	<u>472.3</u>	<u>946,561</u>	<u>418,806</u>	<u>5,485,876</u>	<u>6,851,243</u>

SF = square feet

- Assumptions:
1. "Commercial" includes service commercial and retail commercial land uses.
 2. "Industrial" includes industrial manufacturing uses, including but not limited to warehousing and flex-tech developments.
 3. New development = commercial + office + industrial.

Source: Geographic Information Systems data, RBF Consulting, December 2011.



Tables 2-2 and 2-3 of the Draft EIR will be renumbered in the Final EIR to Table 2-3 and Table 2-4, respectively.

Pages 2-4 through 2-7 of the Draft EIR will be revised in the Final EIR to identify the acreages associated with the proposed Annexation Area, as follows:

FREEWAY INDUSTRIAL COMMERCIAL DISTRICT (FID)

The 333.7-acre Freeway Industrial Commercial District is composed of two segments, with the smaller segment occurring north of I-10, and the larger segment south of I-10. Of the 333.7 total acres, 65.1 acres are located within the proposed Annexation Area. The northern segment is located immediately north of I-10, generally between Beech Avenue and Hemlock Avenue. This area has developed primarily with warehousing, distribution, and other truck-related industrial uses. A cluster of single-family residential units exist within the northern portion of the area, north of I-10. Numerous additional single-family residential units exist south of I-10, within the northeastern corner of the project site and along the northern frontage of Slover Avenue. Numerous undeveloped parcels exist within this district. Valley Boulevard provides parallel access to I-10 through the area.

SLOVER WEST INDUSTRIAL DISTRICT (SWD)

The Slover West Industrial District is 289.1 acres in size and is situated south of I-10. Of the 289.1 total acres, 213.2 acres are located within the proposed Annexation Area. It is located south of Slover Avenue, north of Santa Ana Avenue, east of Mulberry Avenue, and west of Cherry Avenue. This district is developed primarily with warehousing, distribution, and other industrial uses. A self-storage facility is situated at the northeastern corner of Mulberry Avenue and Santa Ana Avenue. Several single-family residential units are located sporadically throughout this area, with the majority located northeast of the Calabash Avenue/Santa Ana Avenue intersection. An undeveloped parcel (former agricultural use) is located at the northeastern corner of the district, at the intersection of Slover Avenue and Cherry Avenue.

JURUPA NORTH RESEARCH AND DEVELOPMENT DISTRICT (JND)

The Jurupa North Research and Development District is 515.1 acres in size and is one of the largest districts in the SWIP Specific Plan Update. Of the 515.1 total acres, 131.8 acres are located within the proposed Annexation Area. This district is bounded by the Slover West Industrial, Slover Central Manufacturing/Industrial, and Slover East Industrial Districts to the north, Mulberry Avenue to the west, Jurupa Avenue to the south, and Citrus Avenue to the east. This district can generally be characterized as having a range of smaller warehousing, distribution, industrial, and residential parcels west of Cherry Avenue, with larger warehousing, distribution, industrial, and undeveloped (former agricultural) parcels east of Cherry Avenue. Of all the districts, the JND contains the largest amount of undeveloped parcels, with the majority occurring along the Jurupa



Avenue frontage. A number of single-family residential units also exist within the southeastern corner of this district, along Jurupa and Citrus Avenues.

RESIDENTIAL TRUCKING DISTRICT (RTD)

The Residential Trucking District is composed of three isolated existing residential areas, composing a total of 51.7 acres. Of the 51.7 total acres, 8.3 acres are located within the proposed Annexation Area. One area is located within the Slover West Industrial District, and two areas within the Slover East Industrial District. These three areas are developed with single-family residential uses, which are utilized to a great extent for home-based trucking/heavy equipment businesses.

Page 2-15 of the Draft EIR will be revised in the Final EIR, as follows:

WASTEWATER

The SWIP Specific Plan Update area is within the sewer service area of the City and the IEUA. The City is a member agency of the IEUA, which provides the City with off-site collection, treatment, disposal and reuse of wastewater. The existing City/IEUA wastewater collection system only serves areas within the City’s existing incorporated limits. Areas of the SWIP Specific Plan Update area within unincorporated San Bernardino County (to be annexed into the City as part of the project) are currently served by private wastewater systems. Since the proposed annexation area is currently located outside of the City’s boundaries, it can only be served through out-of-agency service agreements until annexation of the area to the City occurs. There are currently a number of out-of-agency service agreements for sewer service within the annexation area.

All references to mitigation measures 4.2-1a and 4.2-1c in the Draft EIR will be revised in the Final EIR, as follows:

- 4.2-1a All construction equipment shall be maintained in good operation condition so as to reduce emissions. The construction contractor shall ensure that all construction equipment is being properly serviced and maintained as per the manufacturer’s specification. Maintenance records shall be available at the construction site for City verification. [GPEIR MM AQ-1] 4.2-1a The following additional measures, as determined applicable by the City Engineer, shall be included as conditions of the Grading Permit issuance:
- Provide temporary traffic controls such as a flag person, during all phases of construction to maintain smooth traffic flow.



- Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site.
- Reroute construction trucks away from congested streets or sensitive receptor areas.
- Appoint a construction relations officer to act as a community liaison concerning on-site construction activity including resolution of issues related to PM₁₀ generation.
- Improve traffic flow by signal synchronization, and ensure that all vehicles and equipment will be properly tuned and maintained according to manufacturers' specifications.
- Require the use of 2010 and newer diesel haul trucks (e.g., material delivery trucks and soil import/export). If the lead agency determines that 2010 model year or newer diesel trucks cannot be obtained the lead agency shall use trucks that meet EPA 2007 model year NO_x and PM emissions requirements.
- During project construction, all internal combustion engines/construction equipment operating on the project site shall meet EPA-Certified Tier 3 emissions standards, or higher according to the following:
 - January 1, 2012, to December 31, 2014: All offroad diesel-powered construction equipment greater than 50 hp shall meet Tier 3 offroad emissions standards. In addition, all construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.
 - Post-January 1, 2015: All offroad diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.
 - A copy of each unit's certified tier specification, BACT documentation, and CARB or SCAQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.



4.2-1c All paints and coatings shall meet or exceed performance standards noted in SCAQMD Rule 1113. [GPEIR MM AQ-3] Specifically, the following measures shall be implemented, as feasible:

- Use coatings and solvents with a VOC content lower than that required under AQMD Rule 1113.
- Construct or build with materials that do not require painting.
- Require the use of pre-painted construction materials.

All references to mitigation measure 4.2-2l in the Draft EIR will be revised in the Final EIR, as follows:

4.2-2l New warehouse facilities or distribution centers that generate a minimum of 100 truck trips per day, or 40 truck trips with transport refrigeration units (TRUs) per day, or TRU operations exceeding ~~300~~ 200 hours per week shall not be located closer than 1,000 feet from any existing or proposed sensitive land use such as residential, a hospital, medical offices, day care facilities, and/or fire stations (pursuant to the recommendations set forth in the CARB *Air Quality and Land Use Handbook*), unless the increase in health risk for such sensitive receptors due to an individual project is shown to be less than the South Coast Air Quality Management District's thresholds of significance (Maximum Incremental Cancer Risk > 10 in 1 million; Cancer Burden > 0.5 excess cancer cases [in areas > 1 in 1 million]; and Chronic & Acute Hazard Index ≥ 1.0 [project increment]). With regard to expansions/modifications of existing warehouse facilities or distribution centers, this mitigation measure shall be applied to the resulting incremental net increase in truck trips or TRU operations, and any resulting net increase in health risk impacts, as compared to those existing at the time an expansion/modification project is proposed.

All references to mitigation measure 4.2-5a in the Draft EIR will be revised in the Final EIR, as follows:

4.2-5a Prior to the issuance of building permits, future development projects shall demonstrate the incorporation of project design features that achieve a minimum ~~of~~ 28.5 percent reduction in GHG emissions from non-mobile sources as compared to business as usual conditions. With regard to expansions/modifications of existing facilities, this mitigation measure shall be applied to the resulting incremental net increase in enclosed floor area. Future projects shall include, but not be limited to, the following list of potential

design features (which include measures for reducing GHG emissions related to Transportation and Motor Vehicles).

Energy Efficiency

- Design buildings to be energy efficient and exceed Title 24 requirements by at least 5 percent.
- Install efficient lighting and lighting control systems. Site and design building to take advantage of daylight.
- Use trees, landscaping and sun screens on west and south exterior building walls to reduce energy use.
- Install light colored “cool” roofs and cool pavements.
- Provide information on energy management services for large energy users.
- Install energy efficient heating and cooling systems, appliances and equipment, and control systems (e.g., minimum of Energy Star rated equipment).
- Implement design features to increase the efficiency of the building envelope (i.e., the barrier between conditioned and unconditioned spaces).
- Install light emitting diodes (LEDs) for traffic, street and other outdoor lighting.
- Limit the hours of operation of outdoor lighting.

Renewable Energy

- Install solar panels on carports and over parking areas. Ensure buildings are designed to have “solar ready” roofs.
- Use combined heat and power in appropriate applications.

Water Conservation and Efficiency

- Create water-efficient landscapes with a preference for a xeriscape landscape palette.
- Install water-efficient irrigation systems and devices, such as soil moisture based irrigation controls.
- Design buildings to be water-efficient. Install water-efficient fixtures and appliances (e.g., EPA WaterSense labeled products).
- Restrict watering methods (e.g., prohibit systems that apply water to nonvegetated surfaces) and control runoff.
- Restrict the use of water for cleaning outdoor surfaces and vehicles.
- Implement low-impact development practices that maintain the existing hydrologic character of the site to manage storm water and protect the

environment. (Retaining storm water runoff on-site can drastically reduce the need for energy-intensive imported water at the site).

- Devise a comprehensive water conservation strategy appropriate for the project and location. The strategy may include many of the specific items listed above, plus other innovative measures that are appropriate to the specific project.
- Provide education about water conservation and available programs and incentives.

Solid Waste Measures

- Reuse and recycle construction and demolition waste (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard).
- Provide interior and exterior storage areas for recyclables and green waste and adequate recycling containers located in public areas.
- Provide education and publicity about reducing waste and available recycling services.

Transportation and Motor Vehicles

- Limit idling time for commercial vehicles, including delivery and construction vehicles.
- Promote ride sharing programs (e.g., by designating a certain percentage of parking spaces for ride sharing vehicles, designating adequate passenger loading and unloading and waiting areas for ride sharing vehicles, and providing a web site or message board for coordinating rides).
- Create local “light vehicle” networks, such as neighborhood electric vehicle (NEV) systems.
- Provide the necessary facilities and infrastructure to encourage the use of low or zero-emission vehicles (e.g., electric vehicle charging facilities and conveniently located alternative fueling stations).
- Promote “least polluting” ways to connect people and goods to their destinations.
- Incorporate bicycle lanes and routes into street systems, new subdivisions, and large developments.
- Incorporate bicycle-friendly intersections into street design.
- For commercial projects, provide adequate bicycle parking near building entrances to promote cyclist safety, security, and convenience. For large employers, provide facilities that encourage bicycle commuting (e.g., locked bicycle storage or covered or indoor bicycle parking).
- Create bicycle lanes and walking paths directed to the location of schools, parks and other destination points.



All references to mitigation measure 4.3-1a in the Draft EIR will be revised in the Final EIR, as follows:

4.3-1a The City of Fontana Planning Division shall require that all future project applicants prepare a Biological Assessment in conjunction with a project-level CEQA analysis ~~prior to the issuance of grading permits~~. The Biological Assessment shall include a vegetation map of the proposed project area, analysis of the impacts associated with plant and animal species and habitats, and conduct habitat evaluations for burrowing owl, Delhi Sands flower-loving fly, San Diego pocket mouse, western mastiff bat, western yellow bat, and San Diego desert woodrat. If any of these species are determined to be present, then coordination with the U.S. Fish and Wildlife Service and/or California Department of Fish and Game shall be conducted to determine what, if any, permits or clearances are required prior to development.

Each project-level Biological Assessment shall include an analysis of potential impacts to rare plants and rare natural communities in accordance with the California Department of Fish and Game's November 2009 guidance for Protocols for Surveying and Evaluating Impacts to Special Status Native Plan Populations and Natural Communities. For those projects located in the Delhi Sands flower-loving fly Recovery Unit, the project-level Biological Assessment shall include focused surveys. The Biological Assessment shall prescribe actions necessary to mitigate the impacts identified for a particular project. Such actions shall include either avoidance of a sensitive resource, transplantation, capture and release/relocation, on- or off-site preservation, or payment of in-lieu fees that shall be used to purchase off-site replacement habitat. In instances where transplantation/relocation, off-site preservation, or fee payment is selected, habitat mitigation ratios shall be a minimum of 1:1, unless a greater ratio is required by a state or federal wildlife agency. The requirements of the Biological Assessment shall be a condition of approval of the individual development project.

Sections 4.6.2 and 4.6.5 of the Draft EIR will be revised in the Final EIR to include a discussion of the County's General Plan and a comparison between the existing County land use designations for the proposed annexation area and the land uses proposed in the SWIP Specific Plan, as follows:

Section 4.6.2

County of San Bernardino General Plan

The County of San Bernardino 2007 General Plan (2007 General Plan) guides physical development within the County and consists of the following eight elements:

- Land Use
- Circulation and Infrastructure
- Housing
- Conservation
- Open Space
- Noise
- Safety
- Economic Development

The 2007 General Plan contains goals and policies to guide future development within the County, as well as implementation measures in order to ensure the policies of the plan are carried out. The 2007 General Plan describes the overall planning area, provides an overview of existing conditions, summarizes the issues raised during the preparation of the 2007 General Plan, and identifies the environmental resources and constraints associated with the 2007 General Plan.

The Land Use Element designates the distribution and general location of land uses, such as residential, retail, industrial, open space, recreation, and public areas. The Land Use Element also addresses the permitted density and intensity of the various land use designations as reflected on the County's General Plan Land Use Diagram.

The County of San Bernardino General Plan land use designations and zoning classifications are represented on a single map. There are 18 land use zoning districts that apply only to privately owned lands in the County and not to the lands controlled by other jurisdictions. The General Plan land use designations and zoning classifications for the proposed annexation area include:

- Community Industrial (IC); and
- Regional Industrial (IR).

The purpose of the IC designation is to:

- Identify and establish areas suited to industrial activities;
- Provide opportunities for the concentration of industrial uses to enable efficient use of transportation, circulation, and energy facilities; and
- Protect adjacent land uses from harmful influences, as well as to prevent the intrusion of incompatible uses into industrial areas.

The purpose of the IR designation is to:

- Identify and establish areas suitable for major industrial centers or a single large industrial plant having 200,000 or more square feet of floor area, or more than 500 employees on any shift;



- Provide sites for industrial uses which have severe potential for negative impacts on any uses this would locate relatively close to them; and
- Identify areas intended eventually to be utilized for industrial purposes to support the public need for manufacturing uses and employment opportunities.

Section 4.6.5

COUNTY OF SAN BERNARDINO GENERAL PLAN

Threshold: Would the project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

Impact 4.6-3

The proposed project would not directly conflict with the policy or regulations of the County's General Plan adopted for the purpose of avoiding or mitigating an environmental effect. **Determination: Less Than Significant Impact.**

As stated, approximately 473 acres of the project area is proposed to be annexed into the City of Fontana from the County of San Bernardino. Parcels within the proposed annexation area are currently designated Regional Industrial (IR) and Community Industrial (IC) on the County's General Plan land use map. The City's General Plan land use map currently designates parcels within the annexation area as General Industrial (I-G), Light Industrial (I-L), and Public Facility (P-PF). Approval of the SWIP Specific Plan Update and Annexation Project would require a General Plan amendment to designate the project area as Light Industrial (I-L), General Industrial (I-G), Public Facilities (P-PF), Residential Estates (R-E), and Regional Mixed Use (RMU) and a zone change so that all areas within the project boundaries are zoned SWIP Specific Plan. Within the proposed annexation area, parcels would be designated Light Industrial (I-L), Residential Estates (R-E), and Regional Mixed Use (RMU).

Upon approval of the annexation by the San Bernardino Local Agency Formation Commission (LAFCO), development of the proposed annexation area would be required to be consistent with the SWIP Specific Plan and the *City of Fontana General Plan*, as the area would no longer be under the jurisdiction of the County. The proposed SWIP Specific Plan Land Use Plan identifies parcels within the annexation area as Freeway Industrial/Commercial District (FID), Slover West Industrial District (SWD), Jurupa North Research and Development District (JND), and Residential Trucking District (RTD). Future development proposals would be reviewed by the City to ensure compliance with the SWIP Specific Plan Land Use Plan and that environmental effects are minimized. Impacts would be less than significant.



Page 4.8-1 of the Draft EIR will be revised in the Final EIR, as follows:

The City of Fontana Police Department provides the primary law enforcement services for the project area, with the exception of the proposed annexation area, which is currently served by the County Sheriff's Department. The Fontana Police Department currently has 180 sworn positions and 90 non-sworn positions. The Fontana Police Department headquarters is located at 17005 Upland Avenue, just east of City Hall. The Police Department also operates the Southridge Contact Station at the southwest corner of Live Oak Avenue and Village Drive at 11500 Live Oak Avenue (within the San Bernardino County Fire Department Station 74). This Contact Station is used by officers for reporting but is not staffed. The Fontana Police Department also operates the Summit Heights (north Fontana) Contact Station and a Contact Station at 17122 Slover Avenue, within the Palm Court Shopping Center.

Page 4.8-9 of the Draft EIR will be revised in the Final EIR, as follows:

WASTEWATER

The proposed Specific Plan Update area is within the sewer service area of the City of Fontana and the IEUA. Fontana is a member agency of the IEUA, which provides the City contracting privileges for off-site collection, treatment, disposal and reuse of wastewater. The existing City/IEUA wastewater collection system only serves areas within the City's existing incorporated limits. Areas of the SWIP Specific Plan Update area within unincorporated San Bernardino County (to be annexed into the City as part of the project) are currently served by private wastewater systems. Since the proposed annexation area is currently located outside of the City's boundaries, it can only be served through out-of-agency service agreements until annexation of the area to the City occurs. There are currently a number of out-of-agency service agreements for sewer service within the annexation area.

Previous planning concepts included construction of a treatment plant within the City, which would have required regional sewerage lift station(s) and force main system(s) for serving users within the Specific Plan Update area. However, current planning is now focused on gravity service for most of the project site.

Page 4.8-24 of the Draft EIR will be revised in the Final EIR to include mitigation measure 4.8-7f, as follows:

4.8-7f Prior to issuance of grading permits, future development and/or redevelopment activities within proximity to Metropolitan's pipelines or facilities shall submit design plans to Metropolitan for review and written approval, in accordance with the Guidelines for Developments in the Area of Facilities, Fee Properties, and/or



Easements of the Metropolitan Water District of Southern California, as applicable.

Executive Summary Table S.5 of the Draft EIR will be revised in the Final EIR to incorporate mitigation measure 4.8-7f.



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