



February 27, 2020

Freight Staff, California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Concept Paper for the Freight Handbook

Dear ARB Freight Staff:

The Coalition for Clean Air welcomes the opportunity to comment on the Concept Paper for the Freight Handbook published on December 12, 2019. This is a complex issue that will require creative solutions, the dedication of staff, time, and financial resources, and a lot of hard work over a long period of time.

1. CCA supports the inclusion of the three types of land use scenarios. In its *Air Quality and Land Use Handbook* in 2005, ARB limited its recommendations to proposals to locate sensitive receptors near polluting facilities. ARB now proposes to also include recommendations about new and existing facilities, which is an important improvement that we recognize and appreciate.
2. “Buffer zones” is a better term than “transition zones.” It is important to not weaken language just to make the ideas more palatable. We need buffers because exposure to diesel exhaust kills people. Many local governments establish buffer zones for a variety of land uses, such as the siting of schools and adult businesses. In Los Angeles County, adult businesses cannot be located with 250 feet of any agricultural zone. [L.A. County Code §22.62(A)] Surely ARB can see fit to provide recommendations for buffer zones that protect public health more than Los Angeles County does to protect cows from adult businesses.
3. In its 2006 *Goods Movement Plan*, ARB committed to meeting certain air quality emission and risk reduction goals by 2020, including an 85% reduction in diesel-related health risks statewide and a 50% reduction in NOx from the projected 2020 levels in the South Coast Air Basin. We recommend that ARB identify those goals in the *Freight Handbook* and provide an update on how successful the agency has been in meeting them.
4. The concept paper excludes any discussion of enforcement activities that could help reduce existing freight industry environmental and public health impacts and prevent new

ones. CCA recommends that ARB include a discussion of how the agency can use its enforcement authority and how it can work with local government agencies on enforcement issues to address freight industry impacts. Specific ARB enforcement issues that should be in the handbook include anti-idling, in-use rules, and the development and implementation of ARB's heavy-duty vehicle inspection and maintenance program. ARB should also discuss how it can assist local government agencies with enforcement of heavy-duty truck route and parking restrictions.

5. ARB should initiate discussions with community-based organizations and land use decision-makers about developing land use plans and other processes to address existing and avoid new incompatible land use decisions. (See, for example, the land use planning process undertaken by the Environmental Health Coalition for the Barrio Logan community and the enclosed "Our Community Specific Vision Plan" developed by the Del Amo Action Committee.)
6. CCA recommends that ARB create an Office of Local Government Relations and dedicate staff to educating, engaging, assisting, and building relationships with key land use decision-makers. ARB should provide local government agencies with a variety of recommendations and services, including CEQA mitigation measures, model policies and ordinances, potential land use conditions, enforcement assistance, legal support, anti-idling, parking restriction, and truck route signage, and host events to share success stories and put clean technology providers together with project proponents, financing institutions, and land use decision-makers. Proposed CEQA mitigation measures should include the enclosed list for the construction of new warehouses.

ARB should assist local land use decision-makers with Regional Transportation Plans, Sustainable Community Plans, general plans, specific plans, zoning, business licenses, building permits, operating permits, occupancy permits, conditional use permits, parking permits, and traffic restrictions.

7. ARB needs to be clear and consistent in properly identifying the true extent of the problem and how far we need to go to remedy it. ARB should not set arbitrary goals or make unsupported recommendations, such as a 500 foot "transition zone" between freight facilities and sensitive receptors (p. 11) or consideration of distances that result in 85, 90, and 95 percent health risk reduction (p. 13). If the data show unacceptable health risks at 5,000 feet (see, for example, Figure 2 on p. 13), then ARB's position should not be that it is acceptable to site people and facilities that close to one another. We should not give diesel PM any special exemptions from health risk standards or goals that apply to other pollutants. For example, EPA seeks no more than a 1-in-a-million excess cancer risk for clean-up of Superfund sites. Why should those exposed to diesel exhaust be put at a higher risk?
8. Many of the proposed roles for the public in Table 5 (pp. 19-29) involve substantive participation in a wide variety of processes and issues. ARB should not assume that

community members and advocates can engage effectively at all these levels. ARB may be putting an unfair burden on the public, which lacks the time, money, and access to experts (consultants, lawyers, etc.) necessary to engage successfully in these processes and issues. ARB, local governments, and air districts should provide funding to pay community members to participate and to hire experts to advise them about the practices listed in Table 5.

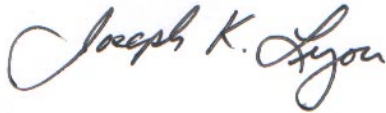
9. CCA recommends that ARB review and include in its list these resource documents:

- Cal/EPA Advisory Committee on Environmental Justice. *Recommendations of the California Environmental Protection Agency Advisory Committee on Environmental Justice to the Cal/EPA Interagency Working Group on Environmental Justice: Final Report* (2003). (See, for example, pp. 22-25.)
- CARB. *Environmental Justice Policies and Action Items* (2003). (See, for example, pp. 10-11.)
- City of Los Angeles Department of Planning. *Notice of Public Hearing, Proposed Zoning Code Amendment, Clean Up Green Up Overlay District, Case: CPC-2015-1462-CA* (2015).
- SCAQMD. *2010 Clean Communities Plan* (2010).
- SCAQMD. *Draft Final Community Emission Reduction Plan for East Los Angeles, Boyle Heights, West Commerce Community* (2019).
- SCAQMD. *Draft Final Community Emission Reduction Plan for San Bernardino, Muscoy Community* (2019).
- SCAQMD. *Draft Final Community Emission Reduction Plan for Wilmington, Carson, West Long Beach Community* (2019).
- Various warehouse and freight industry lawsuit filings, rulings and settlements, including:
 - Coalition for Clean Air, et al., vs. VWR International, et al., United States District Court, Eastern District of California, Case No. 1:12-CV-101569-LJO-BAM, 922 F.Supp.2d 1089 (2013)
 - Coalition for Clean Air, et al., vs. City of Visalia, et al., Superior Court of California, County of Tulare, Case No. VCU 240546
 - Laborers' International Union of North America Local Union No. 220, et al., vs. City of Shafter, et al., Superior Court of California, County of Kern, Case No. BCV-18-102909

- Paulek, et al., vs. City of Moreno Valley, Superior Court of California, County of Riverside, Case No. RIC1510967
- Center for Community Action and Environmental Justice, et al., vs. City of Fontana, et al., Superior Court of California, County of San Bernardino (Petition enclosed.)
- Center for Community Action and Environmental Justice, et al., vs. County of San Bernardino et al., Superior Court of California, County of San Bernardino Case No. CIVDS1827902 (Petition enclosed.)

Thank you for considering our views.

Sincerely,

A handwritten signature in cursive script that reads "Joseph K. Lyou".

Joseph K. Lyou, Ph.D.
President & CEO

VIA ELECTRONIC MAIL

Enclosures: As stated.

cc: Heather Arias
Andre Freeman
Bill Magavern



A Collaborative Partnership

Our Community Vision Plan

Gratitude:

We appreciate the input we have received from community residents and our agency partners during the past 20 months as this draft “Community Vision Plan” was built step by step. This is just the beginning not the end, for without a plan we see no change. We hope our efforts to set this vision into motion will serve well the multi-generation families (many who have been here since the 50’s), our growing children and their children.

This vision would not have been documented without the hard work and endless meetings of the community core group members. We wish to express special thanks and great appreciation to them: Bruce Bansen, DAAC Youth Volunteers, Don and Mary Garstang, Jan Kalani, Margaret Manning, Cynthia Medina, Savannah Medina, Rosa and Mary Vega, and University of Dominguez Hills Interns. Great appreciation is also given to DAAC staff and board members: Cynthia Babich, Florence Gharibian, Jan Kalani and Mallory Graves.

This is a project of the Del Amo Action Committee with initial funding by the Rose Foundation, Center for Health, Environment and Justice and California Environmental Protection Agency.

This Vision is timely and consistent with the Los Angeles County Board of Supervisors adopted motion of December 8, 2015, for Development and Implementation of Equitable Development Tools. “The objective behind this effort was to identify strategies that could foster implementation of the General Plan in a manner that allows County residents at all income levels to benefit from growth and development, encourages the preservation and production of safe and affordable housing, and reduces neighborhood health disparities (collectively defined as “Equitable Development).” *

*Board of Supervisors, Public Hearing, March 23, 2015.

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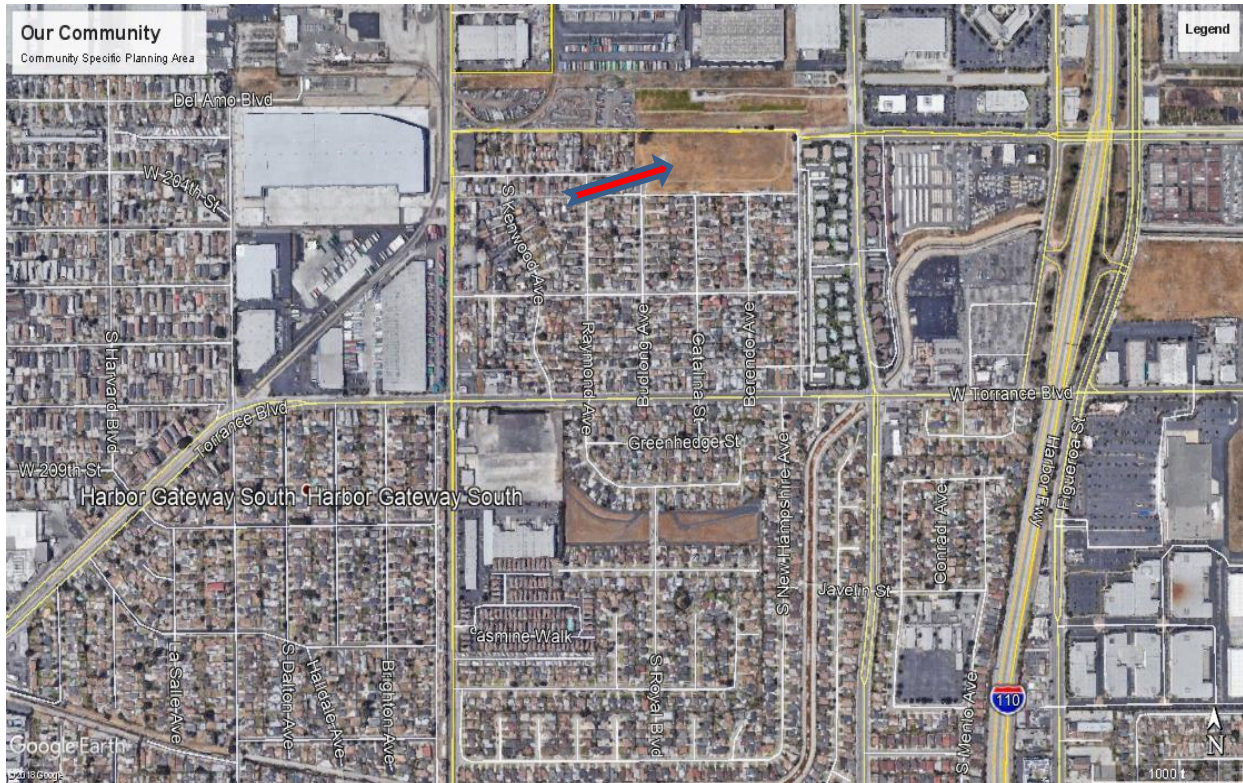
Chapter 1: Introduction

Proposed Community Specific Plan Area for Northern Section West Carson
Area Bounded by: to the North - Del Amo Alley; to the West – Normandie Avenue; to the East -
New Hampshire Avenue (Brody Ave.) and to the South – W. Clarion Drive



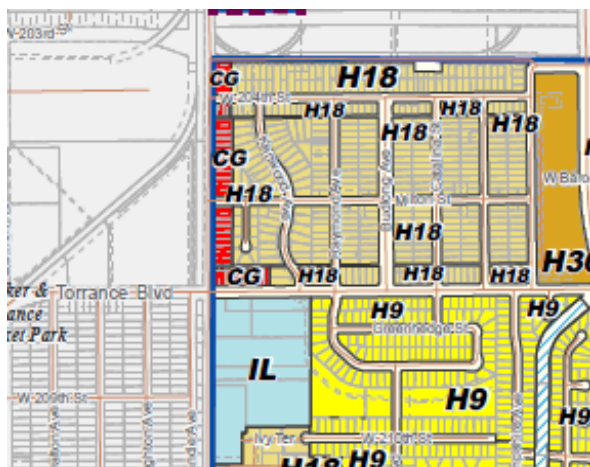


1055 West 204th Street
Torrance, CA 90502
Unincorporated Los Angeles County

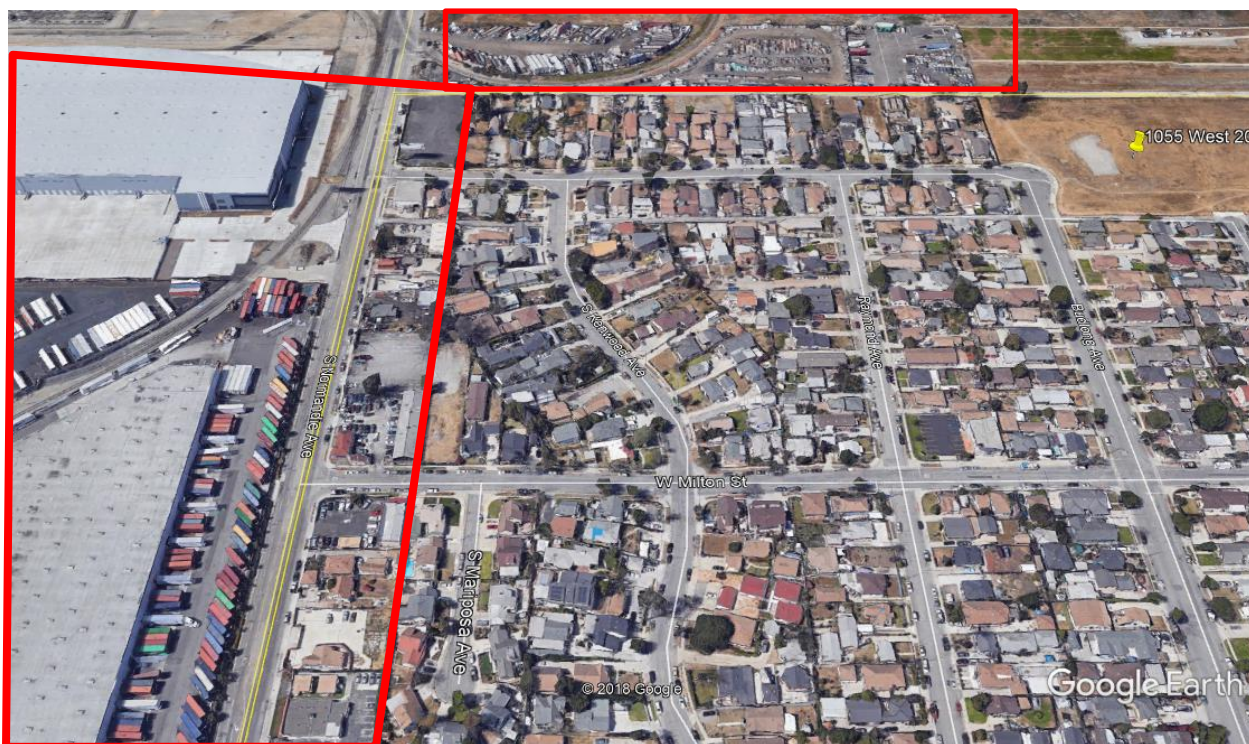


Our Area of Focus

The Del Amo area sits on top of the toxic remains of a World War II industrial complex. We are located in unincorporated Harbor Gateway between the cities of Torrance, West Carson, Gardena and Harbor City. CalEnvrioScreen, a tool used to estimate the pollution burden in communities, ranked our community focus area in the top 20% of most burdened communities in the state. Our focus area has two federal superfund sites (Del Amo and Montrose); one state designated superfund site, Armco Land Reclamation Site (Royal Blvd.); Jones Chemical, a chlorine transfer station; the Torrance/Mobil refinery; Dow Chemical Plastics Manufacturing Plant; 405 and 110 freeways; several landfills; and has several cancer causing chemicals such as benzene, TCE, DDT and others in the air, soil and groundwater beneath our homes.



Current Los Angeles County
General Plan Designation for
Community Specific Planning Area



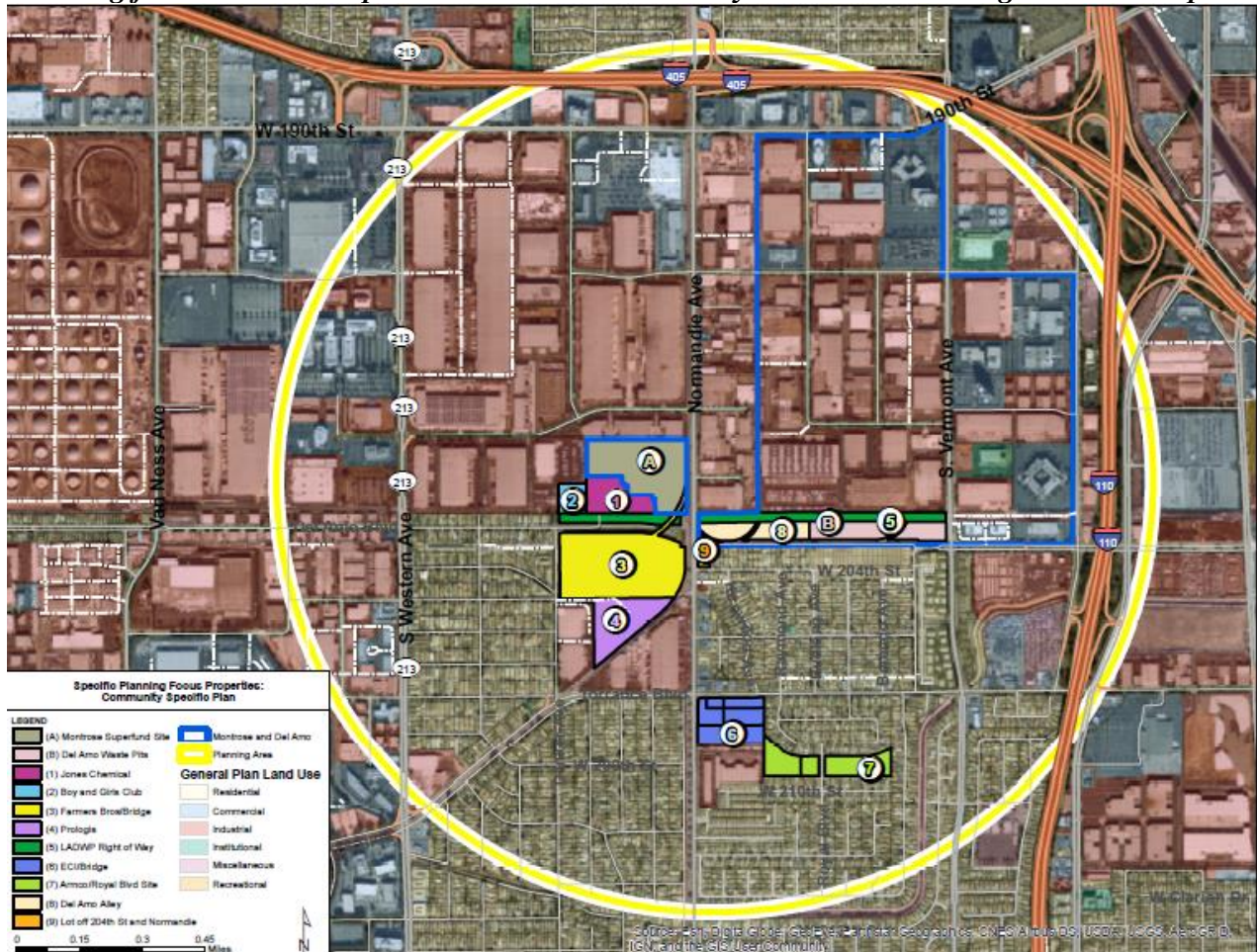
The Red Zone Mixed Uses vs: Community Health

Introduction

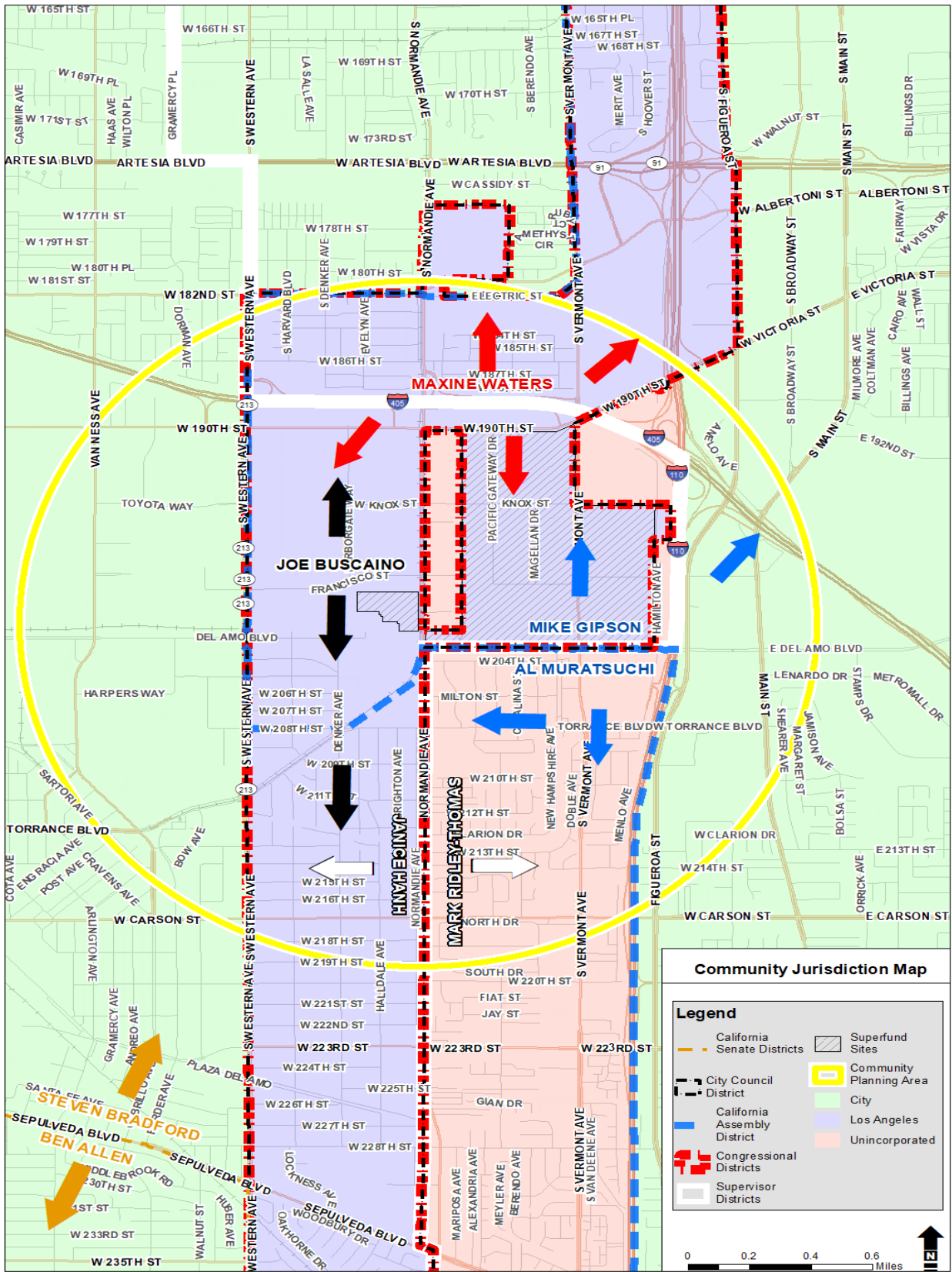
A “vision plan” is a long-term vision for a community.

We realize that we must face head on the continuing challenge of land use decisions that result in the co-location of polluting industries directly embedded in low income communities of color. The families here live our lives, rear our children, and suffer the anxieties that come from feeling powerless to change our pollution burden in a way that will truly protect our future. That is why we have set the goal to break the cycle of harm caused to our community by proactively changing problematic land use decisions, holding government regulators accountable for environmental laws and regulations, and giving our community the tools we need to impact our circumstances and the decisions that affect our lives. Incompatible land use decisions continue to plague this area, at this very moment developers race to increase our air pollution burden with more warehouses; more deadly diesel emissions. We are bringing stakeholders together to understand how community-based land use planning helps redirect the focuses onto community health as a primary goal. Community needs assessments of this type will help us to build a vision and take proactive meaningful action to make our community a healthier, safer place for families today and tomorrow.

Moving forward with our partners and core community leaders we have begun to build a plan.



Geographic Area of Focus
Unincorporated Los Angeles County, California



Political Boundaries: Multi-Jurisdictional Areas

Chapter 2: Creating the Plan



A. Stakeholder Interviews

The Del Amo Action Committee has taken the lead to reach out to a wide swath of partners. Since our area of focus includes both City and County of Los Angeles areas our outreach was two-fold. We conducted one on one interviews during the last quarter of 2017 and the first quarter of 2018. We organized and convened two stakeholders meetings in 2018, on June 26th and November 5th, to educate and understand the state of area planning. We wanted to make sure we would have the participation of outside stakeholders who would work with community members to help us preserve our community and collaborate on ways to correct our incompatible land use planning.

Stakeholder groups represented elected officials including the Los Angeles County Board of Supervisors Janice Hahn and Mark Ridley-Thomas, United States Environmental Protection Agency, California Environmental Protection Agency, California Air Resources Board, Department of Toxic Substances Control, Department of City Planning, County Department of Regional Planning, County Department of Public Health, County Sustainability Office, Californian Safe Schools and Coalition for Clean Air.



Del Amo Action Committee Stakeholders Meeting April 19, 2019 held at The California Endowment

B. Existing Conditions Analysis

In 2010 we conducted our first groundtruthing effort. We identified many health hazards.

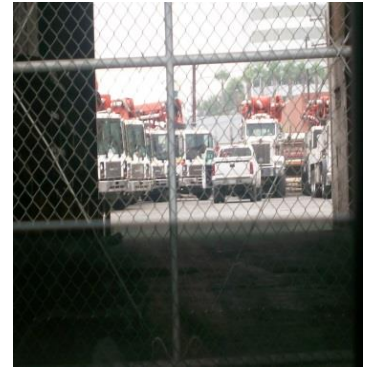


The Whole 2010 DAAC Youth Team

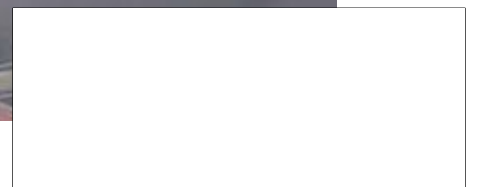


We recently revisited those locations in the fall of 2018 and it seems nothing has changed. The only changes that have been made have not solved the landuse problems they have made them worse. Recently, we have seen an influx of trucks occupying every possible open space and then a recently built giant warehouse (Bridge) right across from our community with another one being planned by the same developer.

Trucks, Trucks, and now more Trucks



**American Poly Styrene
Unincorporated
Los Angeles County
2010 Groundtruthing**



August 10, 2010 we took part in a Toxic Tour for EPA and the then new administrator, Jared Blumenfeld. Many of these youth leaders are over 21 years old now



. Our safe park is under construction this year.

C. Public Workshops

Park Groundbreaking and Healthfair, November 17, 2018





After 16 years of demanding our park be built on an abundance of precaution, Los Angeles County Supervisor Mark Ridley Thomas and Cynthia Babich of the Del Amo Action Committee take in the moment. Wishing Tree Park was achieved by the collaborative efforts of good people.



We presented the 1st draft of our community specific plan and request for core group land use planning members to join us as we develop a health community plan with Wishing Tree Park as our nucleus.

Community Outreach Door to Door

We developed an initial bilingual visioning packet that included areas of concern and our hopes for a successful land use planning effort. We reached out to 450 homes with a contact success rate of 82%. We also presented the same materials used in our door to door effort at a Community Health Fair held on November 10th by the County. Our next round of outreach this summer will include over 400 homes additional homes to the south of Torrance Blvd.



Del Amo Action Committee Staff, Volunteer Coordinators and Youth Leaders work side by side to keep the community informed and engaged in efforts to improve our community.



Outreach teams heading out for an early morning shift.



Community Landuse Core Group

During this outreach we identified and formed a core group of community members committed to working with the larger community and stakeholders to create a vision for our community into the future. We have been working together and meeting on a bi-monthly basis since January 2019. The group has been working hard to learn about planning and begin the initial task of describing the needs of our community and the opportunity to work in collaboration with many stakeholders as we begin creating a healthy neighborhood plan. They have been the master architects of this vision quest.

Identifying the Problem and the Vision: Core Groups Initial Issues Identified

Top Concerns

Industrial and
Residential
Mixed Use
Problems

Chemicals &
Pollution
Trucks &
Warehouses

Homelessness

Population:
Trash
Crime
Traffic

Infrastructure:
Taxes out don't
= Services In
Noise

Health

No healthy
Stores, parks or
walking paths

Better effective
usage of the
ports

Community
Awareness

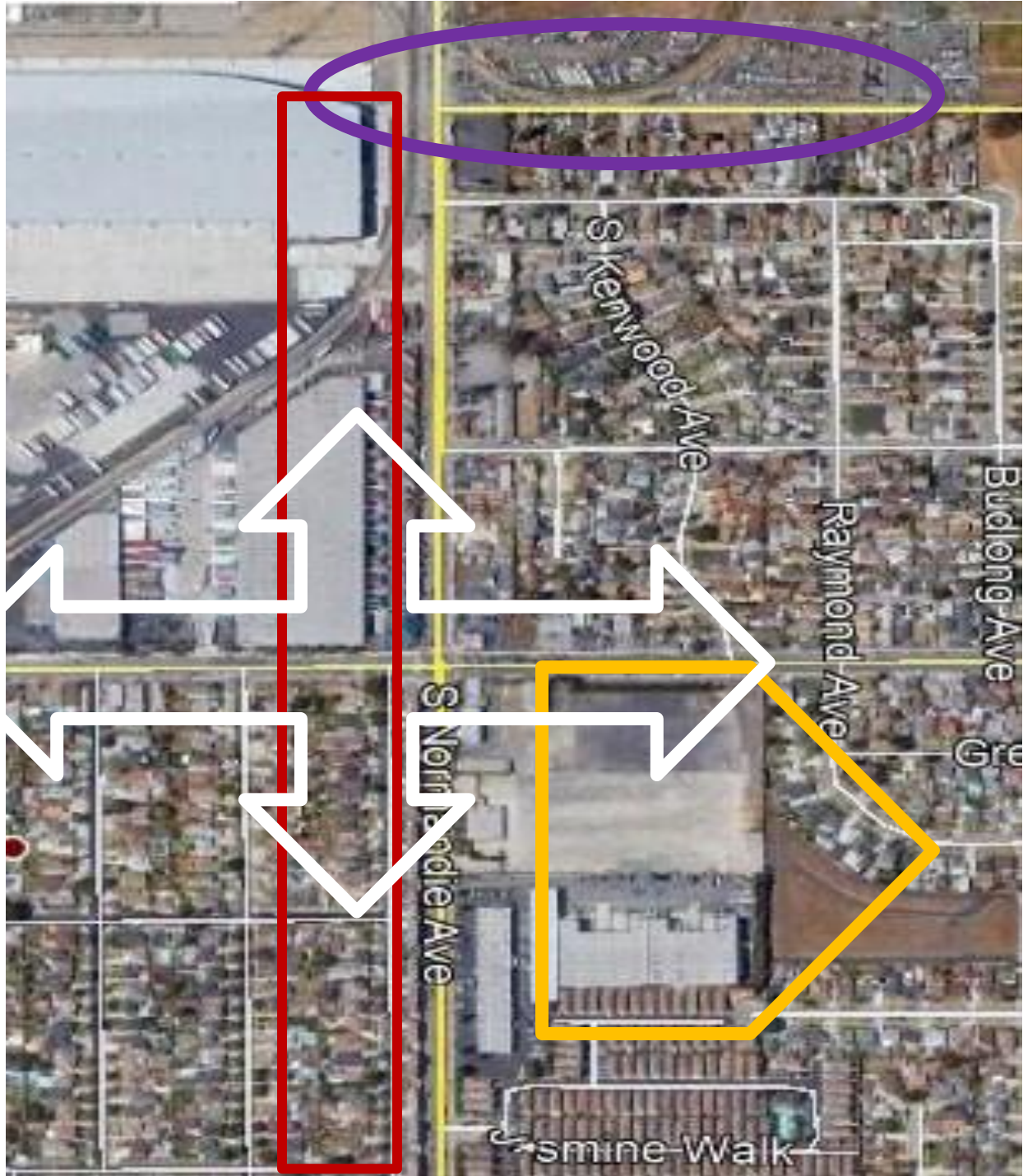
Empty Lots

Lack of
Government
Accountability

Better
Education
Current Boys
and Girls Club
location

We plan to have two workshops in the community as the plan develops to ensure community feedback and input is incorporated into this community visioning effort.

Chapter 3: Existing Conditions



- Del Amo Alley: overrun by trucks with residents less than 60 feet from their back yards
- Normandie Avenue: Land use incompatibilities where City and County of Los Angeles Plans meet
- Torrance Boulevard: Community impacts, Montrose Contamination and Industrial use incompatibilities
- Normandie Avenue and Torrance Boulevard: Infrastructure is ancient and is unable to handle current Truck Traffic – more proposed warehouses will increase dangerous driving conditions in these neighborhoods.

A. Location

We are located in unincorporated Los Angeles County, a strip between the cities of Torrance, West Carson, Gardena and Harbor City. The area has a history of concentrated chemical and industrial uses and over time as residential demand increased many areas were developed on top of these toxic legacy World War II complexes. The areas close proximity to the 405 and 110 freeways, which include heavy traffic from the Ports of Long Beach and Los Angeles, makes the area attractive for off port warehouses and distribution centers including the increased truck traffic that comes with this type of industry.

B. Demographics

The community population was measured within a 1-mile radius from the corner of Normandie Avenue and 204th Street, Torrance (Post Office mailing address) 90502 as the central point between the former manufacturing facilities of the Del Amo and the Montrose Chemical Superfund Sites.

Summary of information below derived from:

1. American Community Survey 2010-2014 used by EPA draft 12/2018;
2. CalEnviroScreen 3.0 (2018) tract #s 6037543502 and 6037292000;
3. City of Los Angeles Department of City Planning American Community Survey 2010-2014;
4. Los Angeles County General Plan 2035 (2015).

Population, Income and other demographics:

Three distinct neighborhoods identified within the 1-mile radius:

1. Denker Neighborhood (Montrose):

- Part of Los Angeles City known as “Harbor Gateway” aka “the L.A. Strip” that reaches the Port of San Pedro.
- Dense population crammed into apartment buildings.
- Poverty, high unemployment, minority, linguistically isolated, less than high school education.
- 60% Hispanic even split White, Asian and African American.
- Adjacent to EPA Montrose Superfund Site.
- 99% Pollution Burden especially *cleanups* and *hazardous waste*.
- High asthma and low birthrate.
- Local Hispanic gang 204th Street.

2. Kenwood Neighborhood (Del Amo):

- Part of Unincorporated Los Angeles County District 2.
- Over 50% home ownership in single family or duplexes.
- Moderate income, moderate unemployment, minority, linguistically isolated, less than high school education.
- 50% Hispanic, rest split Asian and White. Very few African Americans.
- Adjacent to EPA Montrose and Del Amo Superfund Sites.
- 96% Pollution Burden especially *cleanups* and *solid waste*.
- Asthma and low birthrate an issue.
- Local Hispanic gang *Tortilla Flats*.

3. South of Torrance Blvd. Neighborhood:

- Part of Unincorporated Los Angeles County District 2.
- Over 70% home ownership in single family homes.
- Higher income, older, fewer young children, better educated.
- Affected by EPA Montrose and Del Amo Superfund Sites.
- 96% Pollution Burden especially *cleanups* and *solid waste*.
- Asthma and low birthrate an issue.
- Even split between Asian, Hispanic and White, some Pacific Islanders.
- Linguistic isolation Spanish, Asian, Pacific Islander.

REFERENCES:

Los Angeles County General Plan 2035 (2015)

Note: Applies only to Unincorporated County areas.

<http://planning.lacounty.gov/generalplan/generalplan>

South Bay Planning Area

Parks and Recreation Element (Chapter 10, pp. 172-187).

- Goal is 4 acres per 1000 residents (Table 10.4, year 2010, p.181)
- Population 69,612
- 26 acres *Local Parks*:
 - *Community* 10-20 acres, within 2 mile radius,
 - *Neighborhood* 3-10 acres, ½ mile radius,
 - *Pocket* less than 3 acres, ¼ mile radius.
- 2/3rds children live more than ¼ mile to open space – See Neighborhood and Pocket Park Radius (Figure 10.3) http://planning.lacounty.gov/assets/upl/project/gp_2035_2014-FIG_10-3_Neighborhood_and_Pocket_Park_Service_Radius.pdf
- County Parks and Recreation Master Plan (Chapter 16, pp. 268-271)

City of Los Angeles Department of City Planning (1995)

<https://planning.lacity.org/complan/pdf/harcptxt.pdf>

The Harbor Gateway Community Plan of 1995 applies to the area located in south Los Angeles, south of 120th Street and north of Sepulveda Boulevard, surrounded by the communities of Southeast Los Angeles, Wilmington-Harbor City, and the Cities of Gardena, Torrance and Carson.

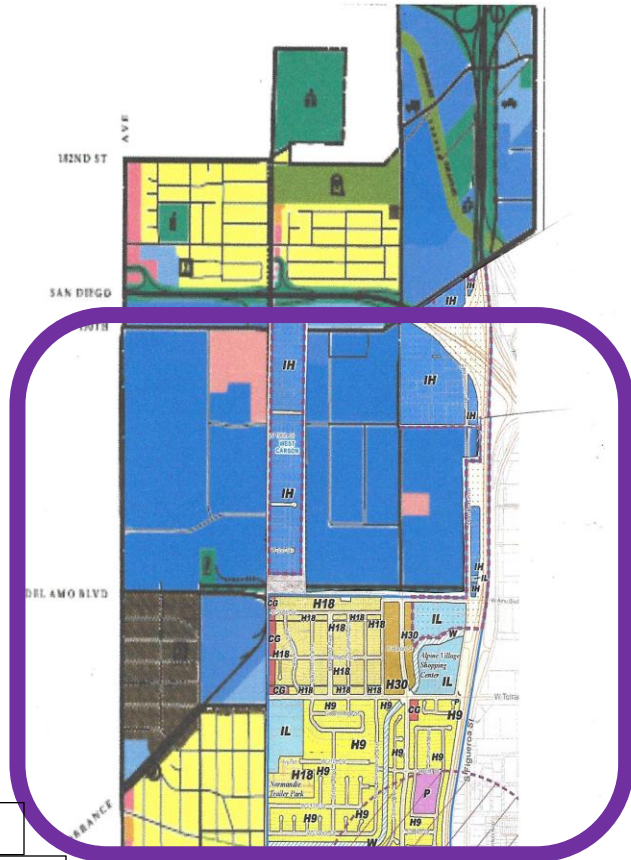
Harbor Gateway Demographic Profile (2014)

https://planning.lacity.org/complan/CPA_DemographicProfile/2014_HARBOR_GATEWAY.pdf

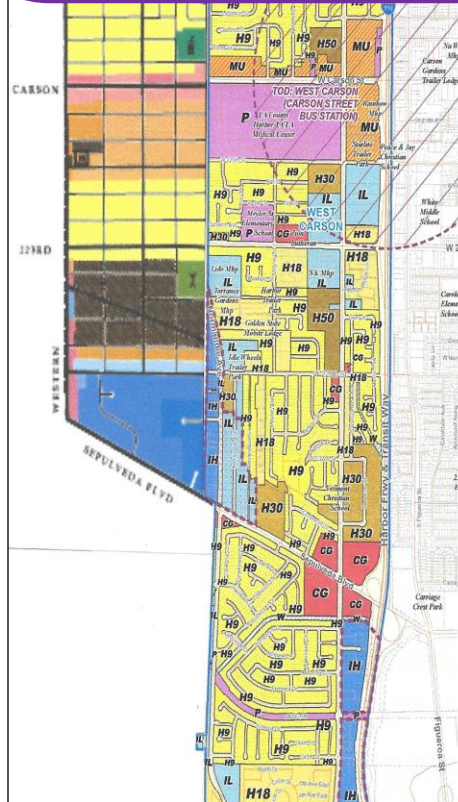
County of Los Angeles

LEGEND

- RL1 - Rural Land 1
- RL2 - Rural Land 2
- RL5 - Rural Land 5
- RL10 - Rural Land 10
- RL20 - Rural Land 20
- RL40 - Rural Land 40
- H2 - Residential 2
- H5 - Residential 5
- H9 - Residential 9
- H18 - Residential 18
- H30 - Residential 30
- H50 - Residential 50
- H100 - Residential 100
- H150 - Residential 150
- CR - Rural Commercial
- CG - General Commercial
- CM - Major Commercial
- MU-R - Mixed Use - Rural
- MU - Mixed Use
- IL - Light Industrial
- IH - Heavy Industrial
- IO - Industrial Office
- P - Public and Semi-Public
- OS-BLM - Bureau of Land Management
- OS-C - Conservation
- OS-PR - Parks and Recreation
- OS-NF - National Forest
- W - Water
- MR - Mineral Resources
- ML - Military Land



City of Los Angeles



Residential

The majority of residential units are single family homes. However, the character of the area is reflective of a mix of residential densities. Higher density buildings are most often located in the Denker Street (Montrose) community. Many of the higher-density units are aged and in need of repairs or rehabilitation. Residential properties are small and there is evidence of overcrowding, due in part to conversion of garages into living quarters, other makeshift housing and the high number of persons per household. Generally, the higher density properties lack landscaping and are in greater need of aesthetic maintenance and structural repair.



Commercial

The commercial areas are a mix of restaurants, automobile-oriented shops and other retail and office uses. The commercial areas are economically viable, but the physical condition and appearance reflects the need for repair and reinvestment. Commercial businesses are located along our major streets of Normandie and Torrance Blvd. and are well patronized. There are some vacant buildings and sites that offer potential for further commercial growth and development.



Industrial

The industrial areas are primarily clustered along the boundaries of the community on the major thoroughfares of Normandie Avenue, Vermont Avenue, Torrance Blvd and Denker Avenue. Uses range from outside storage to manufacturing and warehouses to auto-related uses with structures and sites being in generally fair condition. The industrial areas are not maintained and do not comply with current development standards. The area includes an Industrial Flex Zone, noting the area is in transition. We see this as a positive and an opportunity to create a more compatible land use with the surrounding residential areas.



Schools and Community Facilities

This section describes the schools and other community facilities located in our community specific planning focus area.

Schools

School-aged children in our community planning area may attend the following schools:

- Steven White Middle School 22102 S Figueroa St, Carson, CA 90745
- Fleming Jr. High School 25425 Walnut St, Lomita, CA 90717
- Carson High School 22328 S Main St, Carson, CA 90745
- Narbonne High School 24300 S Western Ave, Harbor City, CA 90710
- Van Deene Elementary School 826 Javelin St, Torrance, CA 9050



Van Deene Elementary School



Other Community Facilities

- Alpine Village 801 Torrance Blvd, Torrance, CA 90502
- Harbor UCLA Hospital 1000 W Carson St, Torrance, CA 90509
- Boys N Girls Club 1435 Del Amo Blvd. Torrance 90501



Parks

Parks are a tangible reflection of the quality of life in a community. According to the National Recreation and Parks Association, parks bring economic value to a community by raising local property values. The presence of parks also provides environment and health benefits, including improved water and air quality and an increased the likelihood that members of a community will exercise. Socially, parks serve as a gathering place for people and families of all ages and income brackets to enjoy.

According to the County Department of Parks and Recreation, Los Angeles has a median of 3.3 acres of park space per 1,000 people, well below the median of 6.8 acres per 1,000 people in other high-density U.S. cities. Across the county, 41 of the 262 neighborhoods have less than 1 acre of park space per 1,000 people. *

*Source: KCET Los Angeles is short on Parks, Ranking 74th Out of 100 Cities, Neighborhood Data for Social Change April 9, 2018



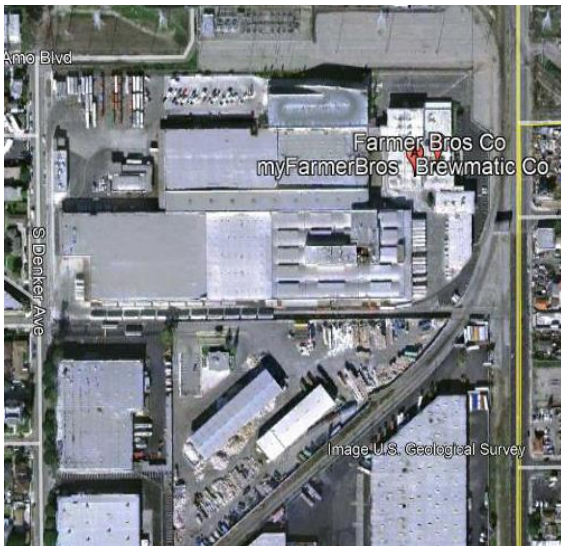
Grand Opening Spring 2020



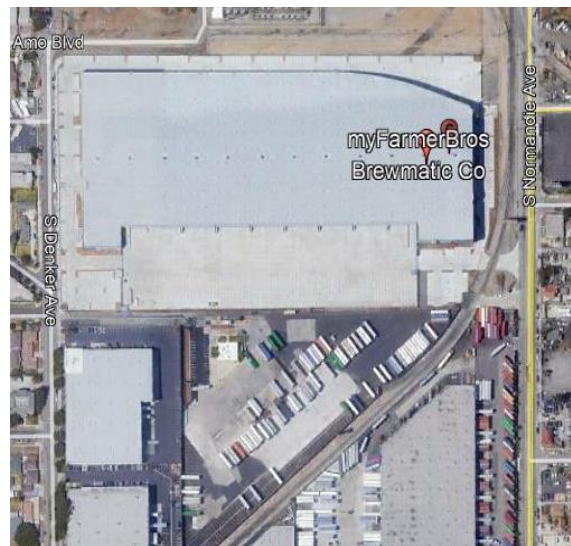
Focus Areas: Selections

We selected these particular areas based on site conditions, legacy contamination and land use incompatibilities both in the City and County of Los Angeles jurisdictions. These areas are currently being targeted by brownfields developers with the intent to take advantage of the sites conditions, lack of jurisdictional overlap (compatibility with surrounding land use planning) and the land use designations currently being updated. Many of these sites are being developed in the City of Los Angeles areas “by right” which allows for less planning review if the business being proposed is similar in description to the previous land uses. As an example, the Farmers Bros/Bridge Point site was a modest single story coffee roasting, truck and warehouse operation going back to the 1950’s. This property was purchased in 2015 and developed “by right” with no community or near neighbor input into the final use or design. Because it was being developed into a 167 trucking and warehouse business it did not need to be reviewed in light of area residential changes are general plan visions. This is a bad policy that needs to be changed, parcels like this need to be flagged and require appropriate review. This development has now locked this area into increased diesel emissions and truck traffic for at least the next half a century.

The ‘by right’ process must be overhauled or halted all together.



Farmers Bros. October 2016



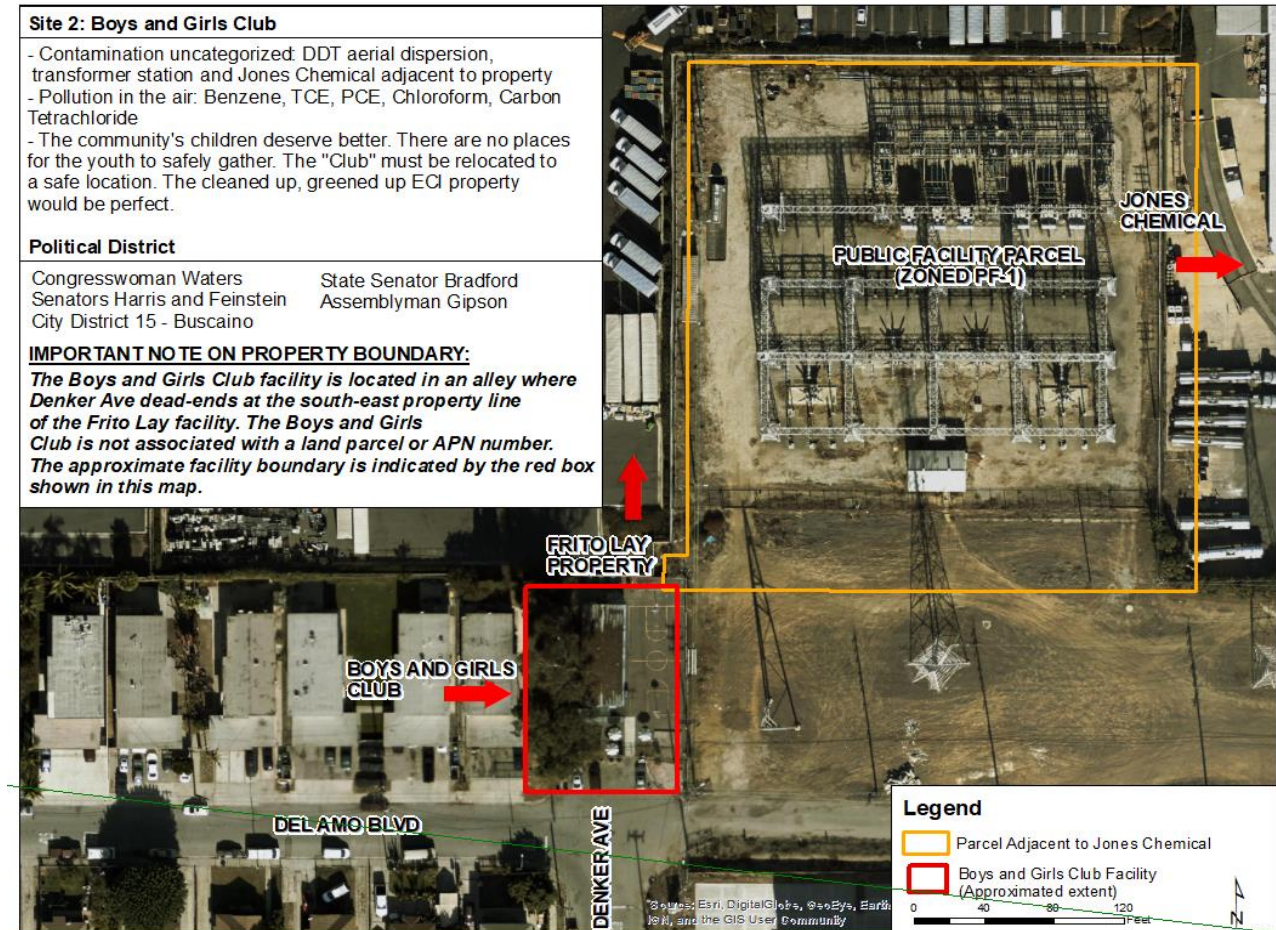
Bridge Point March 2018

20333 Normandie Ave. Torrance, CA 90503



Focus Areas: Short Histories

#2 Cheryl Green Boys and Girls Club 1435 Del Amo Blvd. Torrance 90501



The club is located at the Western border of the Los Angeles Department of Water and Power Right-of-Way and adjacent to Jones Chemical, a legacy chlorine transfer station. The whole area has been completely underserved for decades: lacking in places for educational or recreational opportunities. Our area is plagued by horrible gangs and territory disputes are met with deadly force including community bystanders caught in the crossfire. Cheryl Green was such a victim. Neighborhoods should not be the collateral damage to poor planning vision. The Club should be embraced as an important community asset and relocated to focus area #6; once it is rezoned and remediated of the contaminants that entered the property via the “Historical Stormwater Pathway” from Montrose Chemical. We need to protect all the resources we have but we cannot turn a blind eye when spaces for our children are carelessly placed in toxic locations. In this case on un-remediated land adjacent to facilities like Jones Chemical that have a “worst case scenario” of a chlorine gas release that would completely suffocate any living thing in the cloud of gas that would be carried in the direction of the prevailing wind. Since our work began on this vision plan we understand the response to our inquiries about the safety of this club has been to defund it, once again leaving the area void of resources community members can access. When residents must travel outside their service areas for children’s afterschool educational programs or recreational activities their acceptance into programs are determined if there is any room left over and often at a higher cost.

#4 Prologis 20502 Denker Ave. Torrance 90501



When we started this visioning process in October 2017, focus area #4 was a Smurfit paper recycling facility and had been for the past two decades; then one day it was gone and Prologis Trucking had taken over. Then several months later the International Distribution Trucking business (next door) on the corner of Normandie and Torrance Blvd., was bought by Prologis – connecting the two properties and creating one large trucking facility. Prologis has also made a huge investment further West on Del Amo Blvd. at the intersection of Van Ness Ave. in Torrance. We would hope that when Del Amo Blvd. is widened in the area running next to our community there is a transparent and inclusive process with the neighbors who will be greatly impacted by the enormous increase in diesel emissions and traffic.

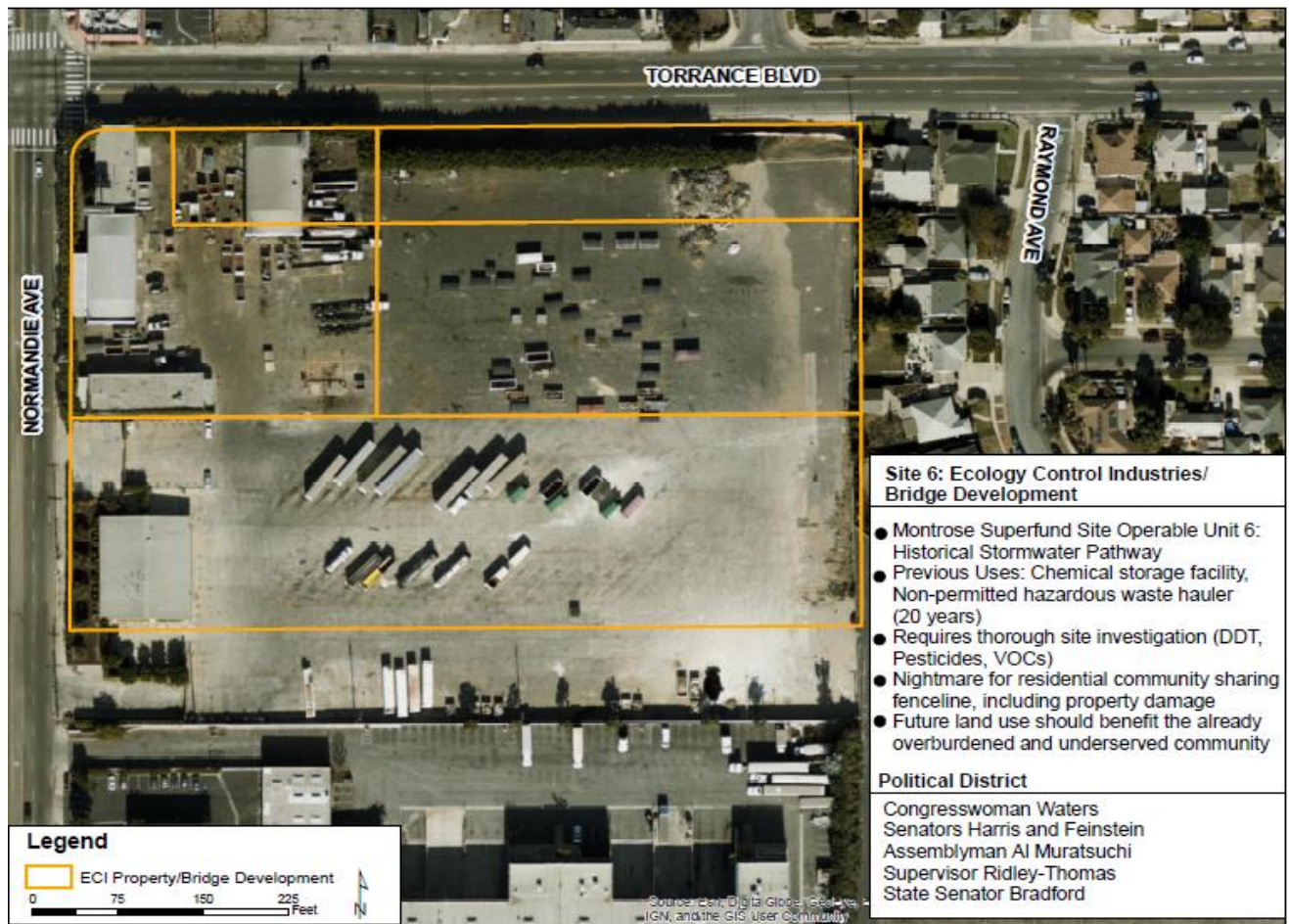
Transparency has not happened in the past.

**#5 Los Angeles Department of Water and Power Right-of-Way 90501 & 90502
(Located between Denker Ave. and Vermont Ave.)**



This focus area is significantly blighted. Greening it up would benefit nearby neighborhoods and businesses and could include walking trails, dog parks and educational opportunities. This area and the two areas that border the Dominguez Channel, between Vermont Ave. and 110 freeways would benefit greatly from similar amenities and should be the responsibility of the land owner.

#6 Bridge Development/Ecology Controls 20846 Normandie Ave. Torrance 90502



This location has been a thorn in the side of the community for decades. For more than 25 years it was operated as a hazardous waste transfer station by Ecology Controls Industries, who during that time had questionable handling practices. Prior to this company the location was a chemical storage facility that during its operation in the 50's had one particular incident that caused a 10,000 gallon tank full of toluene to leak out overnight requiring remediation measures to be taken.

In 2015, an interested buyer, Warmington Residential, had plans to put new townhomes on this site. Concerns were raised about the characterization of the contaminants onsite and lack of transparency on the portion of the site under Superfund Authority. Then the Warmington proposal, and now the current Bridge proposal, is to build another warehouse in the area (this one with 21 truck bays).

This project seeks to bypass the very clear clean-up process laid out in statute under the Superfund Amendments and Reauthorization Act (SARA) of 1986. We have attached our most recent letter to EPA, dated June 14, 2018, stating our concerns in Appendix A. Their response: EPA is not ready to remediate this piece of the Montrose Superfund site; it is not a priority for them. Furthermore, they stated that the proposed warehouse would not interfere with their future site work. Of course not, because their plan is to continue to cap the waste in place for future generations to deal with. The longer cleanup is postponed the better for the polluters, money in their pockets. In their efforts to prolong all clean up attempts the responsible parties spend most of their time in court suing EPA. Their goal is to do as little as possible to clean up the TOXIC MESS they made.

The United States Environmental Protection Agency issued a perspective purchasers agreement to Bridge Development for this site. On June 14, 2018 the Del Amo Action Committee sent a letter to the US EPA stating concerns about the current cleanup process. They appear to be violating established guidance in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the property seems to be on a development fast track bypassing much of the community involvement process. The full letter can be found in the Appendix B.

The neighborhoods adjacent to this site have been under siege from trucks coming and going and banging around for more than two decades. The proposed warehouse would continue the long standing incompatible use of this property. **It is time for change.** This is a legacy toxic site that the community has been engaged with and often leading the discussion about its cleanup for too many generations already. Those impacted by the development of this site are being shut out of the process. Their viewpoint is the only chance to reverse incompatible land use decisions. If no change is made and we continue on the current path our community will forever remain poisoned and our problematic health conditions like Asthma will get so much worse. On November 25, 2019 the California Air Resources Board provided comments on the Initial Study – Mitigated Negative Declaration for this project which can be found in Appendix A. Among the concerns cited are the additional air pollution impacts from this project and they called for a full Environmental Impact Report (EIR).

This property is in an “Industrial Flex Zone” and has been identified as an area in transition by the County in its General Plan. This property is also in an “Opportunity Zone”. We hope this creates the opportunity that will lead to changes being made to enhance the health and well-being of the surrounding historical housing stock and multi-generational families.

#7 Royal Blvd Land Reclamation Site 20950 South Royal Blvd., Torrance 90502



This is an important property in our community vision; this focus area is actually cutting a neighborhood off from neighbors to the South. This property is a huge opportunity to create a recreational area with input from adjacent property owners. *Measure A* funding for open space is available. In 1991 the site was designated a State Superfund Site and after some remediation the property remains under oversight of the Cal Recycle branch of the California Environmental Protection Agency, which raises considerable questions about what contamination may be there. There is a need to understand any characterization that has already occurred so we can then begin to fill in data gaps. This lot is also a part of the “Historical Stormwater Pathway” and needs EPA prioritization, investigation and remediation. This is another legacy toxic site.

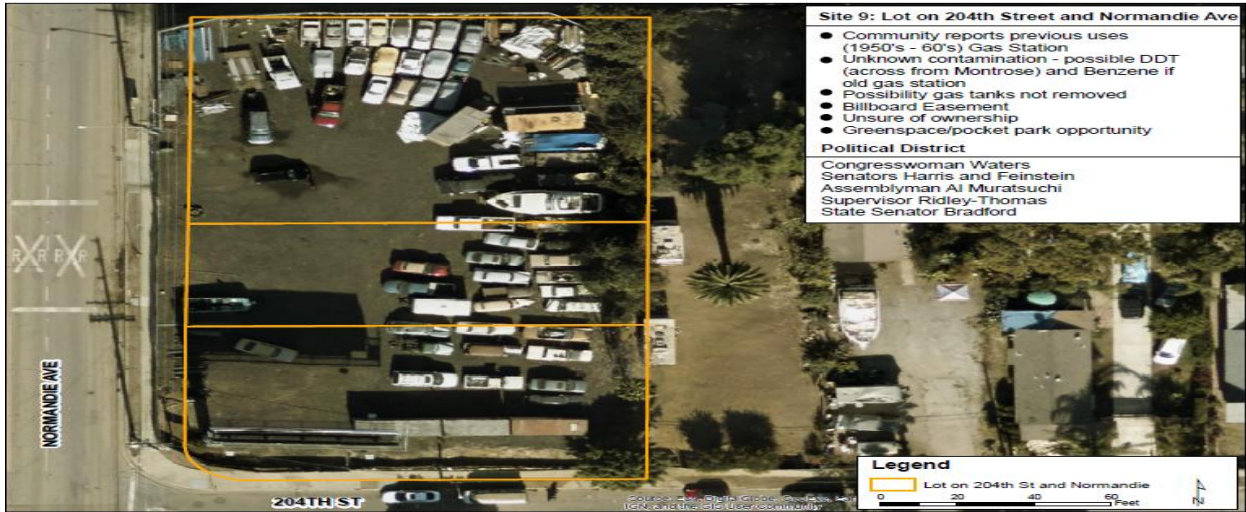
Lots adjacent to Del Amo Alley City of Los Angeles Properties

20228 S. Normandie Ave., The APN numbers that apply to this parcel are 7351-034-070, and 7351-034-805. The 7351-034-805 parcel belongs to Southern Pacific Trans Co.

These lots, vacant for decades, with visible staining on the ground where nothing has ever grown seem to suddenly overnight become truck storage, car storage and building material staging areas. The infrastructure of the alley between these areas and the backyards of community homes has been destroyed and fences crushed. One parcel still contains the old, well worn, railroad spur and the other lot once carried railcars full of chemicals for the Del Amo styrene, butadiene and co-polymer that processed synthetic rubber for World War II and is now part of the second Superfund site in our community. A complaint was filed August 3, 2018; email response from City of L. A. in Appendix A



#9 204th & Normandie 20320 Normandie Ave., Torrance 90502



This location is of questionable condition. Community historians report it as a community garage and gas station in the 1940's and do not remember any tank removal. This lot is at the entrance to our community and would be an excellent candidate for a pocket park and a buffer between our residential community and the huge Truck Warehouse recently built by Bridge across the street on the prior Farmers Bros property, there since the 50's, next to Montrose Chemical Superfund site.

D. Land Use Documents

LOS ANGELES COUNTY BOARD OF SUPERVISORS
MOTION BY CHAIR HILDA L. SOLIS AND SUPERVISOR MARK RIDLEY-THOMAS
DECEMBER 8, 2015: Development and Implementation of Equitable Development Tools

On March 23, 2015, the Board of Supervisors (Board) held a public hearing for the General Plan Update, which provided the blueprint for growth in the unincorporated areas in the next 20 years. At the hearing, the Board directed the Director of the Department of Regional Planning (DRP) to consult with experts, community groups, and other stakeholders to evaluate equitable development tools and concepts, and to report back with recommendations. The objective behind this effort was to identify strategies that could foster implementation of the General Plan in a manner that allows County residents at all income levels to benefit from growth and development, encourages the preservation and production of safe and affordable housing, and reduces neighborhood health disparities (collectively defined as "Equitable Development").

In their report back to the Board on June 24, 2015, DRP presented a toolbox of strategies to promote these objectives. The strategies focus on prioritizing policies, actions, and resources to address socio-economic, educational, environmental, and health challenges. The Board should now move forward with the next steps necessary to implement a range of land use programs and policies with the objective of ensuring that new development brings community benefit rather than displacement of existing residents. In addition, the Board should explore potential land use policies that can mitigate public nuisances and health hazards caused by environmental contamination. The motion can be found in Appendix A.

GOVERNOR’S OFFICE OF PLANNING AND RESEARCH

Considerations for General Plans, Area Plans, Community Plans, and Specific Plans

The Governor’s Office of Planning and Research (OPR) gives overall guidance to the land use planning in the state of California. This office lays out what must be considered in general plans and specific plans. A specific plan is a hybrid that can combine policy statements with development regulations (Gov. Code § 65450). It can be used to address the development requirements for a single project such as urban infill or a planned community. As a result, its emphasis is on concrete standards and development criteria. Its text and diagrams will address the planning of necessary infrastructure and facilities, as well as land uses and open space. In addition, it will specify those programs and regulations necessary to finance infrastructure and public works projects. A specific plan may be adopted either by resolution, like a general plan, or by ordinances such as zoning.

Area and community plans are part of the general plan. A specific plan is a tool for implementing the general plan but is not part of the general plan. Such plans refine the policies of the general plan as they apply to a smaller geographic area and are implemented by ordinances and other discretionary actions, such as zoning. The area or community plan process also provides a forum for resolving local conflicts. Large cities and counties where there are a variety of distinct communities or regions commonly use these plans. Guidance excerpts can be found in Appendix A.

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ATTORNEY GENERAL XAVIER BECERRA

Letter to City of Los Angeles: Warehouses & Overburdened Communities

In September, 2019, the City of Los Angeles received a letter from Becerra’s office, which rebuked it for the sub-standard job it had done in reviewing the mitigated negative declaration (MND) for the warehouse distribution center proposed for Harbor Gateway North neighborhood, and demanded that it prepare a full EIR under CEQA – “when it may have a significant effect on the environment.”

The State Attorney General’s office pointed out that the area is already exposed to significant pollution burdens from multiple sources, including the I-110 freeway. It is a community of single and multi-family homes, populated predominantly by people of color, linguistic isolation and high asthma rates. It accused the City of downplaying the number of daily truck trips into the community and not analyzing the significant cumulative impact when viewed in connection with the effects of past and current projects that may exceed the SC AQMD’s significant thresholds.

It added that the City had not analyzed the existing diesel pollution generated by proximity to the I-110 freeway and noted that City’s attempts to address inadequate mitigation of the project’s impacts were unenforceable, such as efforts to limit the daily number of trucks allowed. Another major issue raised was that the public did not have the opportunity to review or comment on these added conditions.

California State Attorney General, Xavier Becerra, formed a new Bureau of Environmental Justice in early 2018 dedicated to protecting communities that endure a disproportionate share of environmental pollution and public health hazards. At CSU Dominguez Hills in February 2019, Becerra remarked that these communities tend to be comprised primarily of low-income and minority families. Full letter can be found in Appendix A.

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E. Transportation

This section describes the existing conditions of the transportation system in Our Community Focus Area, including the roadway system, public transit, bicycle and pedestrian facilities and transportation-behavior.

Our community is adjacent to three major freeways, 110, 405 and the 91. We are located in the unincorporated Los Angeles County Strip a major artery to the Port of Los Angeles which makes us a magnet for off port impacts. We are in what is referred to as a “Diesel Death Zone”. See article Los Angeles Times by Tony Barboza located in Appendix C.

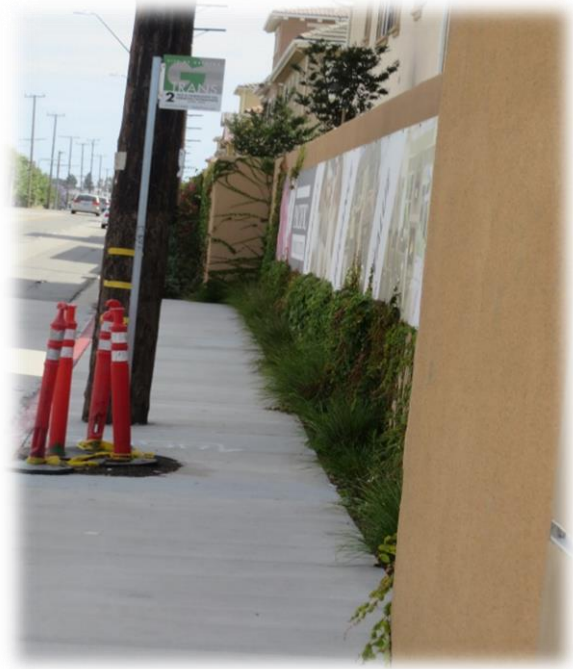
Roadway System

Our roads seem to be using the original infrastructure plan from the 1930’s. Normandie Avenue, Vermont Avenue and Torrance Boulevard are existing major highways. Normandie Avenue is falling apart piece by piece and increasing truck traffic is ruining the streets. Lack of updated infrastructure creates a very dangerous situation when making a left on Torrance Boulevard; the driver cannot see opposing traffic. The Del Amo Alley boards our community to the North and is slated for a four lane highway in the future. We envision “Green Street Concepts” incorporated into the Northern border of our community creating a buffer zone between the industrial zone, enlarged Del Amo Highway and residential neighborhoods.



Public Transit

The Torrance Transit and Gardena Transit Systems service our community. There is a lack of buses running during high use times. A major deterrent to using public transportation is the lack of sidewalks, bus benches or any safe place to wait for the bus. No handicap access!!



Pedestrian Facilities

There is a complete lack of sidewalks.

There is a complete lack of crosswalks.

There are a considerable amount of blind spots along roads making crossing streets safely almost impossible.



Bicycle Facilities

There are no existing bicycle facilities.

Truck traffic makes bicycle use hazardous.

We envision updated infrastructure to include separated bike lines for optimal safety.

Car Ownership

There seems to be multiple cars per household creating lack of street parking. The housing density requires more parking. Charging stations for electrical vehicles is nonexistent. The air quality in our community focus area would greatly improve with more eclectic vehicles and easy to access charging stations.



Travel Time to Work

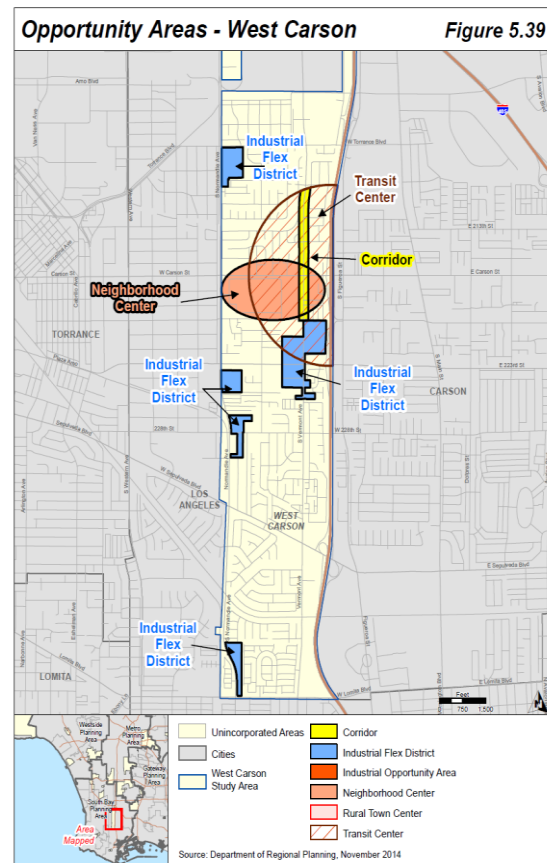
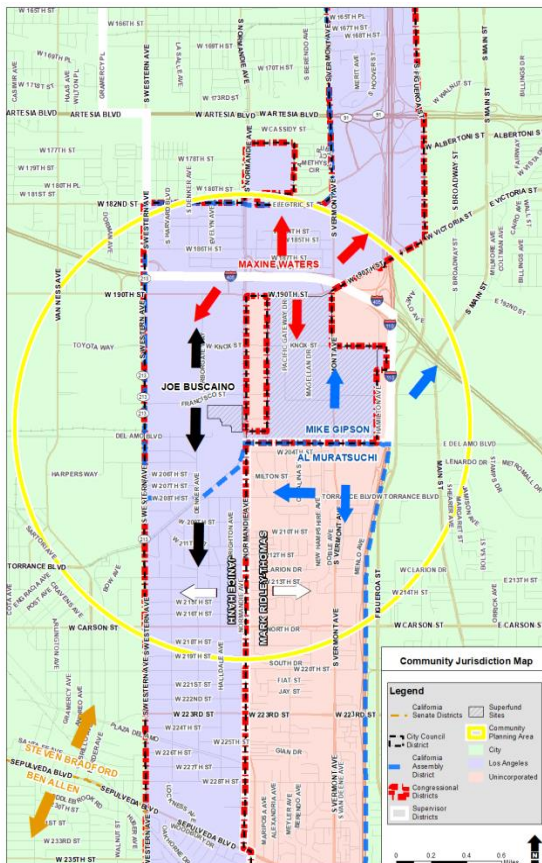
Our community focus area is very close in proximity to several freeways allowing for less time on the road.

Commute Mode Share

We have close access to the Metro Green Line just to the South of the community focus area on 182nd Street off of Vermont Avenue.

Chapter 4:

Challenges and Opportunities



Challenges and Opportunities

The following is a brief summary of the issues and weaknesses present in Community Focus Area. The list below was derived from a number of sources including the existing conditions analysis (presented above), stakeholder interviews, public workshops, discussions with County staff and the observations of the community core group. This is not a comprehensive list and is meant to set the stage for the vision and actions presented in Our Community Specific Vision Plan.

A: Land use and Urban Design

There are three distinct neighborhoods identified within the 1-mile radius

| 1 Denker Neighborhood (Montrose): | 2 Kenwood Neighborhood (Del Amo): | 3 South of Torrance Blvd. Neighborhood: |
|---|---|---|
| <p>Part of Los Angeles City known as “Harbor Gateway” aka “the L.A. Strip” that reaches the Port of San Pedro.</p> <p>Dense population crammed into apartment buildings.</p> <p>Adjacent to EPA Montrose Superfund Site.</p> <p>Recent influx of warehouses</p> | <p>Part of Unincorporated Los Angeles County District 2.</p> <p>Over 50% home ownership in single family or duplexes.</p> <p>Adjacent to EPA Montrose and Del Amo Superfund Sites.</p> <p>Recent influx of warehouses</p> | <p>Part of Unincorporated Los Angeles County District 2.</p> <p>Over 70% home ownership in single family homes.</p> <p>Affected by EPA Montrose & Del Amo Superfund Sites.</p> <p>Recent influx of warehouses</p> |

Overcrowding

Over the years, the population has expanded at a faster rate than the number of housing units and housing costs have increased. As a result, many of the residential areas are overcrowded. Many homes are multigenerational families leading to lack of parking for the residents.

Incompatible land uses

There are land use conflicts between residential and industrial use in parts of the community, especially at the southeast corner of Torrance Boulevard and Normandie Avenue, ECI/Bridge II, embedded in our residential community.

Normandie Avenue and Torrance Boulevard Commercial Areas

These areas have tremendous potential to be an asset to the surrounding communities but need significant improvement. Many existing buildings are in need of repair, there are vacant and underutilized parcels, some uses turn their back on the street and create an unattractive pedestrian experience, and there is a lack of public parking and enforcement.

Home and Building Repairs

Many of the buildings in our community need of improvement. Some are vacant or abandoned, yards and fences have not been maintained and buildings need physical improvements such as painting.

Inconsistent Neighborhood Character

While the residential neighborhoods were designed for single-family homes, the current zoning allows multi-family housing in most areas. The result is that most neighborhoods have an inconsistent urban fabric with apartment buildings located on small lots and near single-family homes. This results in an inconsistent and, at times, unattractive neighborhood character.

B. Transportation

Bus stops lack basic amenities

Our focus area has bus transit service however a majority of the bus stops lack the basic amenities such as benches, shelters, trash cans and transit information. Sidewalks and crosswalks need improvement or in many areas are non-existent. We are in great need of a good pedestrian network but the sidewalks in some places are in need of repair and upkeep. In addition, numerous locations do not have visible and safe crosswalks.

Limited bicycle facilities

There are very few bicycle facilities in the community. Cyclists usually ride either in the travel lane or on sidewalks, which is dangerous to pedestrians. Alleys are dangerous and unattractive – Many of the residential areas have alleys that provide secondary access to homes. The alleys are places for illegal dumping, graffiti, stray dogs and crime.

Streets have traffic congestion

There is traffic congestion on Torrance Boulevard and Normandie Avenue at certain times of the day. In particular, the areas around this intersection are congested in the morning and afternoon and major corridors, particularly Torrance Boulevard, Normandie Avenue and Vermont Avenue, are congested during peak commute times.

Lack of parking

There is limited public parking in the community and street parking in residential areas is often overcrowded.

C. Economy and Jobs

Lack of jobs

There are not enough jobs in the community for area residents that do not contribute to air quality problems. Indeed, the working age population greatly outnumbers the jobs in the surrounding areas.

Lack of diversity of jobs

The majority of jobs that do exist are low-wage and low-skill. A greater diversity of jobs is needed.

Lack of commercial diversity

While our community focus area contains two neighborhood supermarkets and a few fast food restaurants, several repair shops, lawnmower service, a pest control company and one or two retail stores, a greater diversity of commercial uses is needed. Residents who want quality food or a nice sit down typically must leave the community.

Limited opportunities for job training and vocational education

More job training, job placement and vocational education services are needed to help our youth and young adults in the community enter the workforce and advance their careers.

D. Public Facilities and Services

Lack of parks and open spaces

With no parks, the community is greatly underserved by parks and open spaces. More green space needed to promote community health and well-being.

Not enough County services!

Residents commented that there are not enough County services available in or near our community. To access some services, residents and businesses must travel to downtown or elsewhere. A one-stop shop for all County services was recommended.

Area is split between two jurisdictions (city and county)

Our community focus area is split between supervisorial district 2 and council district 15. This situation has increased the lack of compatible land use. There needs to be overlapping considerations where jurisdictions end and being to ensure no harm is done to near neighbors.

Additional facilities & services are needed for youth, seniors & the disabled

More youth and senior facilities are needed; there is a lack facilities and open space to handle the growing population. We think a library focused on youth and young adults would greatly benefit the area on many levels.

E. Community Life

Lack of identity

The community lacks a unique identity. Many residents do not even know that they live in the County and, still more do not associate themselves with the community called “Del Amo or Montrose” Many people believe they live in Torrance because that is the post office identify given this area. We think events and meetings with residents to select an identifiable name would be tremendously empowering. We identify with the toxic sites around us.

Few community meeting places

There is no identifiable center of the community where residents can socialize and gather. This lack of a center contributes to the lack of identity in the community.

Lack of entertainment and arts and cultural uses

There are few, if any, entertainment uses in our community focus area. Residents wanted places where adults and especially youth can meet and gather.

F. Health and Safety

High crime rates

The area suffers from high crime rates and gang activity. This has a negative impact on community identity and cohesion. There is a lack of zoning and code enforcement.

Streets have trash

Many of the streets are dirty and littered with trash. This is due to a general lack of respect for the public space and illegal dumping of bulky items, such as mattresses and couches. Regular large and bulky item pick up would be utilized by the community.

Graffiti is prevalent

Graffiti is visible throughout the community; surfaces are tagged, including fences in the community, billboards, vacant buildings, signs and walls.

Significant number of code violations

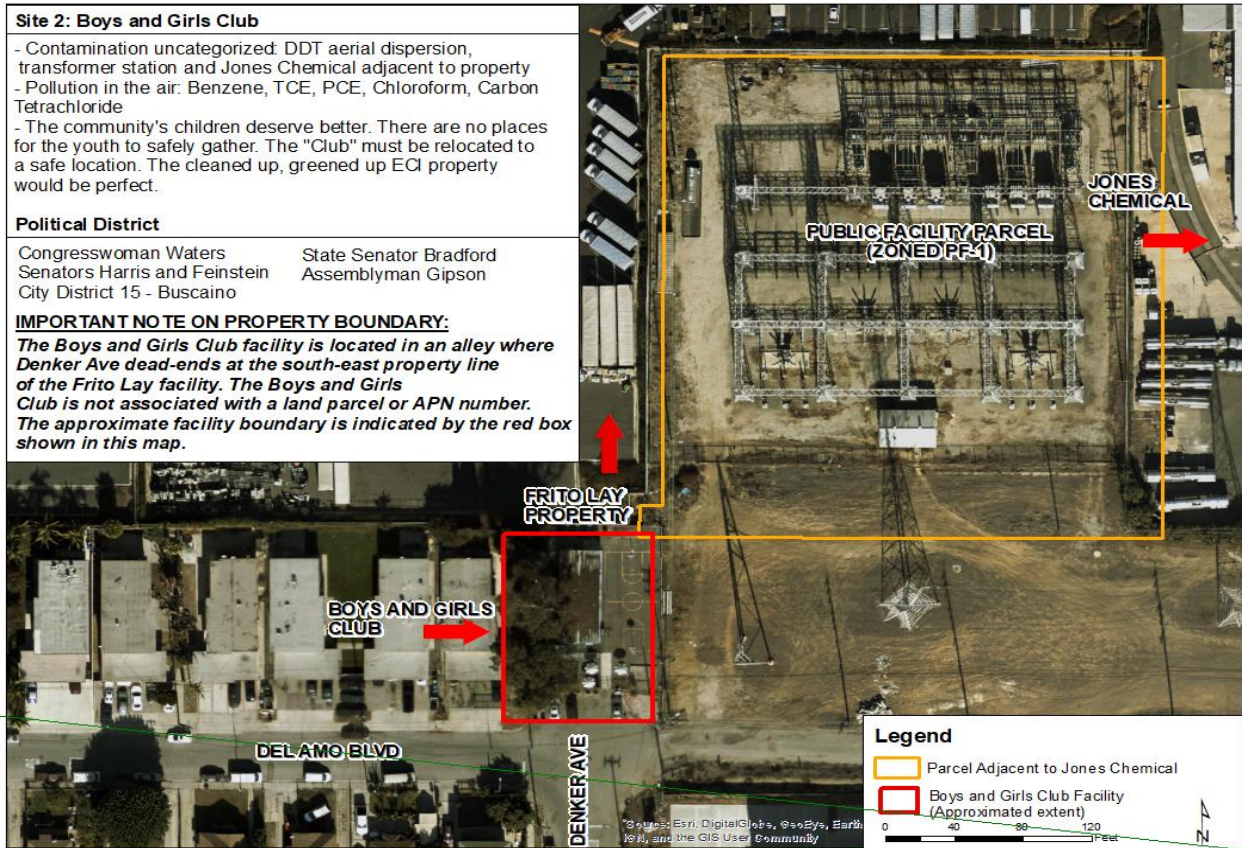
The area suffers from a large number of code violations. In residential areas, illegal units, garage conversions and additions are common. In many public areas illegal activities are occurring making residents afraid to fully enjoy their properties and neighborhood.

Challenges

Correction of Landuse Incompatibilities

Historical Problems with legacy sites, lack of open space and where land use plans collide.

Rachael Green: Boys and Girls Club



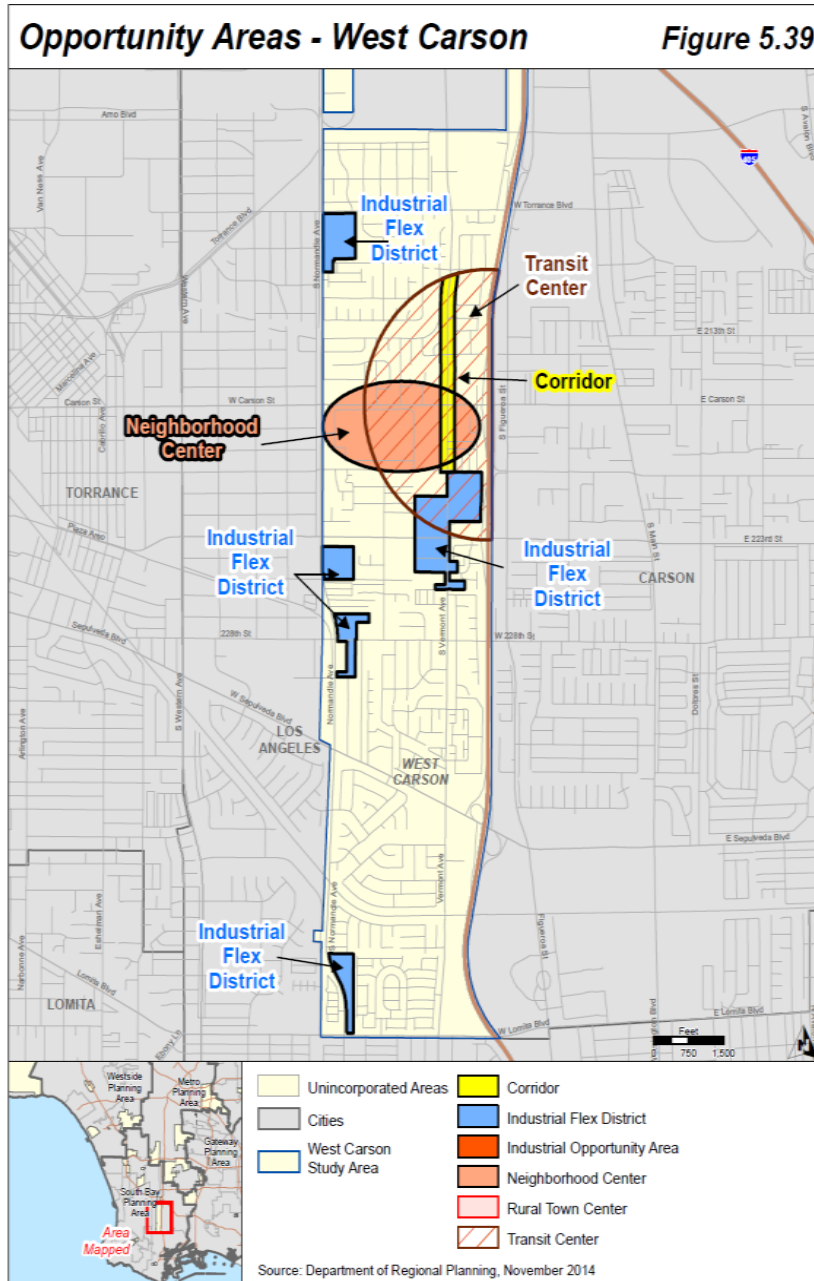
Royal Blvd.: Land Reclamation Site ~ Brownfield



Opportunities

Opportunity Statement

The City of Los Angeles is currently updating the Harbor Gateway Plan which will take into consideration our comments as a nearby community. The City planning area includes most of our toxic legacy sites and currently permitted air pollution facilities. This is a great opportunity to work across jurisdictions and the planners have been very open to our needs and concerns. The County has identified healthy communities as a priority and has entered into a process to balance the revenue an area can produce with the elements needed for healthy Los Angeles communities.



Neighborhood Centers

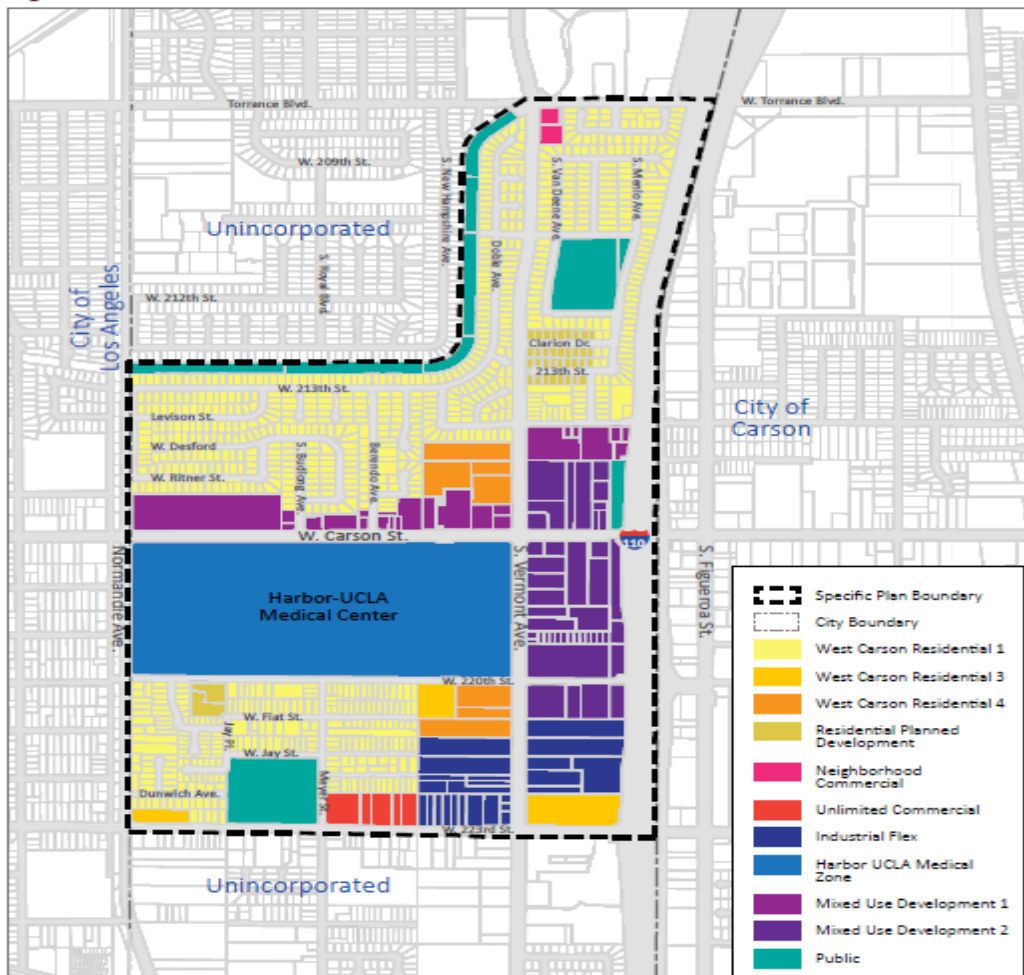
These are areas with opportunities suitable for community-serving uses, including commercial only and mixed-use development that combines housing with retail, service, office and other uses. Neighborhood centers are identified based on opportunities for a mix of uses, including housing and commercial; access to public services and infrastructure; playing a central role within a community; or the potential for increased design, and improvements that promote living streets and active transportation, such as street trees, lighting, and bicycle lanes.

Industrial Flex District

They are Industrial areas that provide opportunities for non-industrial uses and mixed uses, where appropriate, and also light industrial or office/professional uses that are compatible with residential uses.

West Carson Transit Oriented District Specific Plan

Figure 3.1 Land Use Framework Plan



Chapter 5: Community Vision

Our Vision

Identifying who we are – What does our community mean to us

- **We wish to ensure future generations have a healthy place to grow, live and thrive.**
- **Our community is comprised of multi-generational families of all ages, which contributes to a healthy community structure.**
- **We wish to preserve our culture identities.**
- **We wish to preserve the feeling of community that is enhanced by our single family housing residential areas.**
- **We seek to change incompatible landuses in and around our community; leading to healthier lives.**
- **We are focused on implementing a community vision that builds on the foundation we have created with pride and honor.**



Community Focus Area: Greening Vision

The Need for a Green Vision

There are many current opportunities to increase community greenspace. The health benefits of more open green recreational space in our communities are widely known. Resources have been approved by the tax payers to acquire and build parks. Focus groups have canvassed the county to gain an understanding of where the greatest park needs are. The Los Angeles County area is extremely built out and creating open space requires strategic planning. Identifying industrial areas that are incompatible with the surrounding residential areas and targeting these locations as they become available was a viable idea raised over and over during many of these community based focus groups, as it did in the ones our residents participated in with the Los Angeles Neighborhood Land Trust.

We began this community specific planning process because of the sudden build out and development of trucking facilities and warehouses in historical toxic legacy sites surrounding our community. Sites we hoped would become green space, healthy space and space between our families and the industries embedded in our lives and communities. Instead we see a mass rush by developers to grab all they can before Los Angeles County and City Planning efforts can bring any relief to communities like ours, where land use plans collide.

This planning effort addresses the need to preserve current open space and seize opportunities to correct land uses that are not compatible historical, have been poorly developed or changed over the decades. This is a common sense approach to development that does not currently consider bordering jurisdictions, like in our case with Los Angeles City and Los Angeles Unincorporated County areas. This is a community's focused effort to create a community specific plan; we believe will lead to a healthier place to live, before it is too late for many who have already suffered with the surrounding incompatibilities for many decades. This is the communities chance to speak out for what they envision for their neighborhood going forward.

Chapter 6: Priority Actions

The Core group prioritized Community Actions

Mandatory Needs:

To improve Quality of Life

- Relocate Boys and Girls Club
- Parks/Community Center
- Walking Paths
- Services (Daycare, after school activities and senior activities (walking groups))
- Stores
- Peaceful and Quite
- Safe Neighborhood No Gangs
- No Homelessness
- Health Services

Community Rights and Involvement made a priority

Clean Air to Breath

- Ensure Air and Soil is safe

Preserve a sense of community

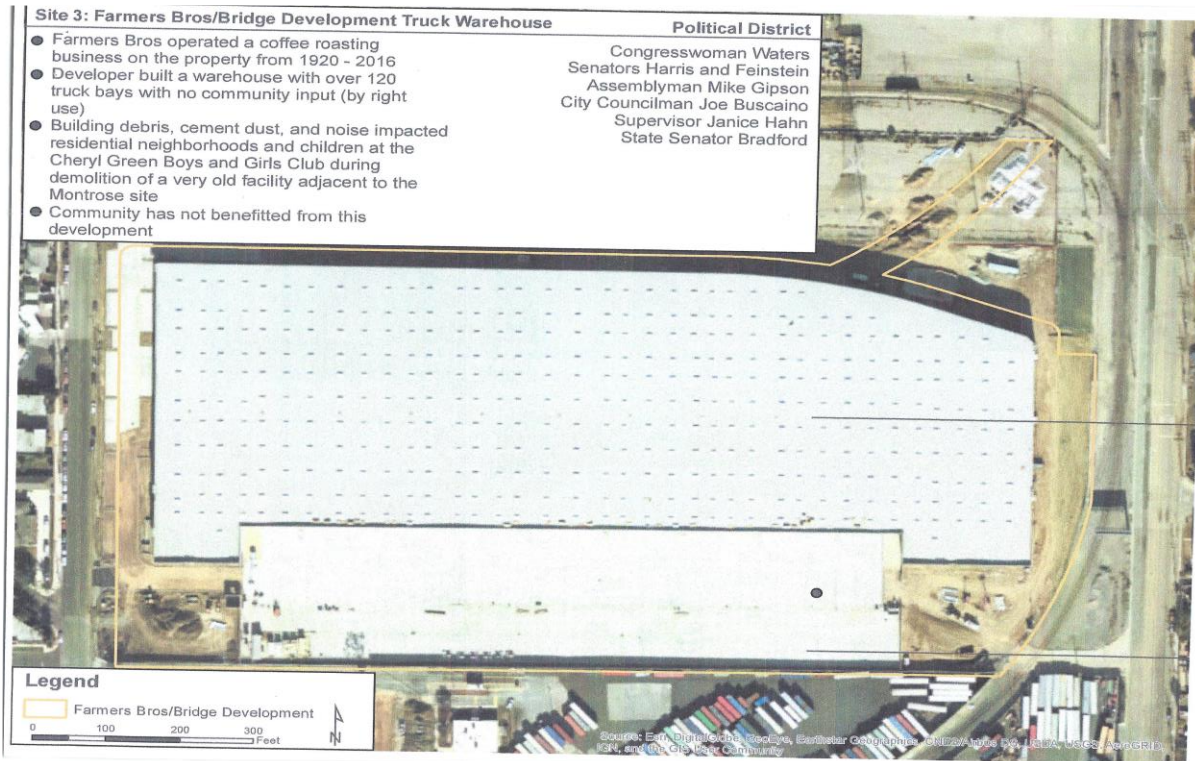
- Research history
 - Landscaping
 - Less Traffic (trucks)
 - Utilized vacant lots to Green Spots

Well-paying jobs at businesses that don't add to the already bad air pollution burden in the community

Priority Issues: Air Pollution

Warehouses and Trucks

Bridge: Warehouses



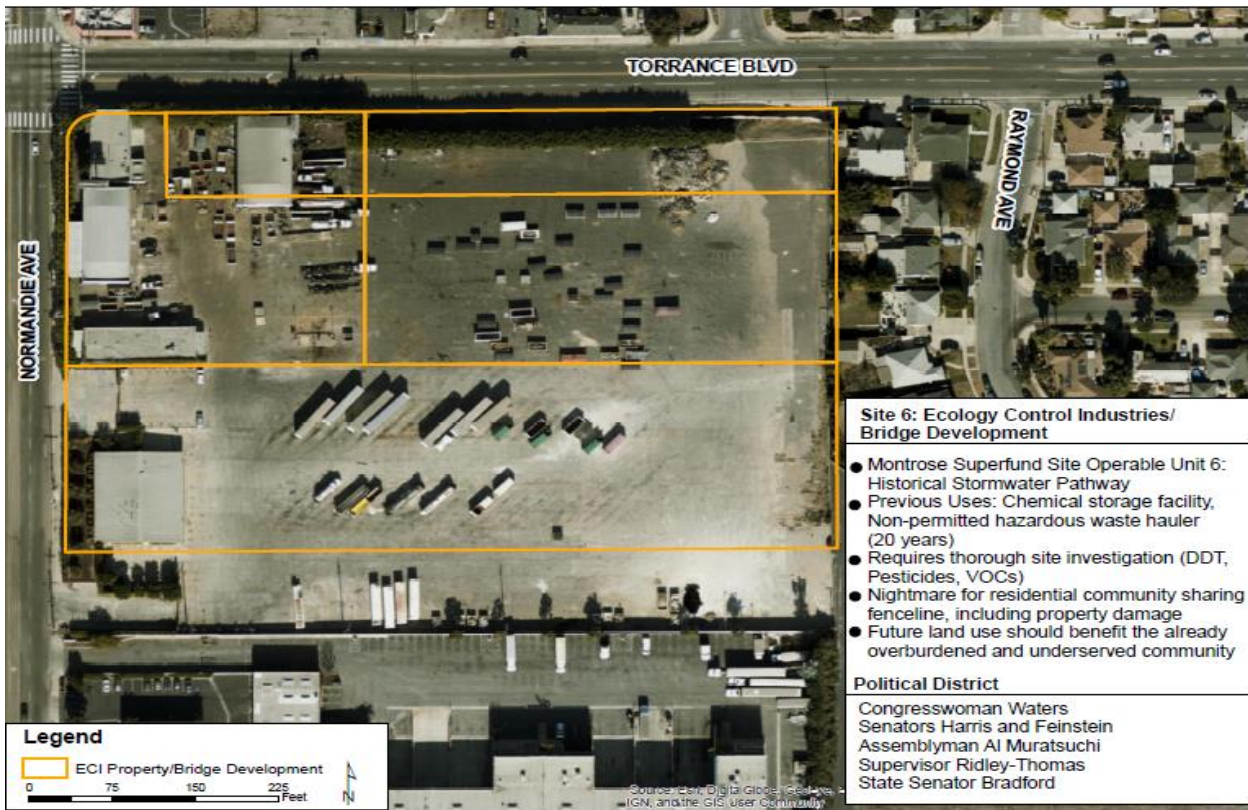
Trucks...Prologis



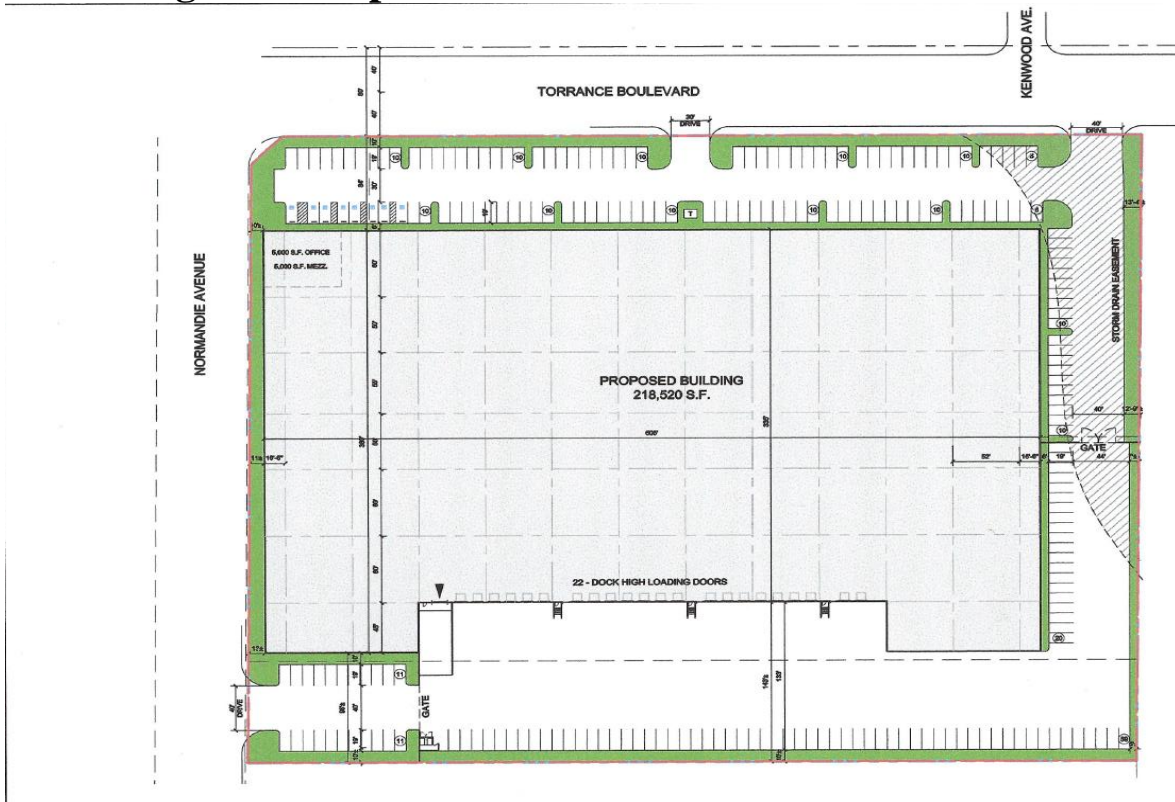
Trucks... Del Amo Alley



More Warehouses and Trucks....ECI/Bridge II



ECI/Bridge II – Proposed Warehouse



Appendices

Appendix A: **Land Use Documents**

From: John Jones <john.w.jones@lacity.org>
To: Martica Velez <mavelez@ph.lacounty.gov>
Cc:
Bcc:

Date: Tue, 7 Aug 2018 23:11:09 +0000

Subject: 20228 S. Normandie Ave.

Hello Martica Velez. On August 3rd, you submitted the following:

This is a complaint sent to you from LA County Public Health, Environmental Health Administration sent via email today August 3, 2018. Your online complaint service requires an address, hence this email. We can provide the City Assessor Parcel Number which is 7351-034-070 and/or 7351-034-805. The description of the location Parcel(s) on the North Side of W. Del Amo Blvd, this falls within the City of Los Angeles. Complaint: ugly swap meet for junk, old building material, plants, cars, trucks. Please provide us with a courtesy reply to the name and email above that this complaint will be processed by your department. Please provide us with any appropriate updates. Thank you.

I received an e-mail requesting investigation on behalf of one of our Neighborhood Prosecutor and a Senior Lead Officer from LAPD for this. Here is my reply:

Hello Lauren and SLO Bravo. This parcel does have an address:
20228 S. Normandie Ave.

The APN numbers that apply to this parcel are 7351-034-070, and 7351-034-805.

The 7351-034-805 parcel belongs to Southern Pacific Trans Co., and reflects the sections of property that now have, and at one time had rail road tracks on it throughout these parcels. The parcels to the East of these are a Superfund site currently under remediation.

The parcels that comprise 20228 S. Normandie Ave./APN 7351-134-070 are lot tied as one parcel.

I visited this site today and took pictures. Upon checking the address in CEIS, I discovered that we have a current VEIP case on this property. Further research revealed a permit from 1990, and a Certificate of Occupancy for "Use of Land - Truck and Container Storage".

In reading through the e-mails, there is an apparent time period this land was empty sometime after 2011, and it was perceived that this was an illegal use when it began to be used again. In ZIMAS, you can see from 2001 through 2011 aerial ortho photographs, this property was used for storage. The 2014 aerial photos show the land unoccupied. I'm not exactly sure when the land ceased to be used, and became used again, but they do have a Certificate of Occupancy to the use as Truck and Container storage, and are currently in the VEIP annual inspection program. I could not determine that any "swap meet" was going on in my inspection today. Under the circumstances, I find no immediate or valid violation.

--

John Jones
Senior Building Inspector
Los Angeles Building and Safety-Code Enforcement
638 S. Beacon St, Rm. 276
San Pedro, CA 90731

June 14, 2018

Environmental Protection Agency, Superfund
Dana Barton
75 Hawthorne Street
San Francisco, CA 94105

We hope you can help us facilitate a meeting with Regional Administrator Mike Stoker and the Del Amo Action Committee as soon as possible.

This matter is in regards to the Administrative Settlement Agreement and order on Consent for Removal Actions In the Matter of Ecology Control Industries, Inc. Removal Site, Los Angeles, California CERCLA Docket NO# 2018-07 (attached) and our comments (attached).

Yesterday community representatives and the Del Amo Action Committee met with Supervisor Ridley-Thomas' Staff members and two representatives of Bridge Development LLC, new owners of the Ecology Controls Site.

The developers stated that the EPA has provided them guidance since their early December 2017 discussions. That the EPA has stated to them what they wanted to see done at this property and the developers have complied with no negotiation on what EPA has laid out. They stated the site will be **capped and contamination contained in place.**

This is a remedial decision and the superfund cleanup process has been abandoned.

This agreement we feel violates the Superfund clean-up process Congress established the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) in 1980 and with its amendments.

There are four goals to this process:

Protect human health and the environment by cleaning up polluted sites;

Make responsible parties pay for cleanup work;

Involve communities in the Superfund process; and

Return Superfund sites to productive use.

The current fast track this property is on with EPA as the lead is to bypass community involvement as much as possible.

Instead of completing the nine step process:

Preliminary Assessment/Site Investigation

National Priorities Listing

Remedial Investigation/Feasibility Study

Record of Decision

Remedial Design/Remedial Action

Construction Complete

Post Construction Completion

National Priority Listing Deletion

Site Reuse/Redevelopment

It seems this site has skipped ahead to Site Reuse/Redevelopment with little opportunity for the community to weigh in on the landuse development decisions at this portion of the Montrose Chemical Site Operable Unit 6: Historical Stormwater Pathway South. Decisions that will add to the health impacts this already overburden community is dealing with; two MEGA Superfund sites and multiple other sources adding to the cumulative impacts suffered here.

Time is of the essence for our meeting so we may attempt to bring community involvement back into the decision making. The Del Amo Action Committee has been formed by the community and run by the community since 1992, more than 26 years. We have a vision for a healthier community that must be honored.

*Sincerely,
Cynthia Babich
Cynthia Medina
Florence Gharibian
Jan Kalani
Savannah Medina*

~~~~~

## General Plan

MOTION BY CHAIR HILDA L. SOLIS AND SUPERVISOR MARK RIDLEY-THOMAS DECEMBER 8, 2015

### Development and Implementation of Equitable Development Tools

On March 23, 2015, the Board of Supervisors (Board) held a public hearing for the General Plan

WE THEREFORE, MOVE THAT THE BOARD OF SUPERVISORS: MOTION  
RIDLEY-THOMAS \* KUEHL \* KNABE \* ANTONOVICH \* SOLIS

Declare that it is the intent of the Board of Supervisors to implement the Los Angeles County General Plan in a manner that promotes sustainable, healthy, and well- designed environments that enhance the quality of life and public well-being for all residents in the unincorporated areas; and instruct the Director of the Department of Regional Planning, in coordination with the Directors of other appropriate Departments, potentially including but not limited to Public Works, Public Health, Parks and Recreation, Community Development Commission, County Counsel, and the Fire Department, to initiate an Equitable Development Work Program consisting of the following:

- Update the density bonus ordinance to further ease and incentivize the low-income households; and other changes to strengthen the effectiveness of the ordinance.
- Initiate discussions with the City of Los Angeles on a nexus study for the creation of a linkage fee.
- Provide a menu of options for the implementation of an inclusionary housing program. The program should consider on-site affordable units as a mandatory component of for-sale housing projects and propose approaches to requiring rental projects to provide on-site affordable units in exchange for discretionary entitlements, public subsidy, and other public concessions.
- Review the regulatory barriers to the establishment and expansion of community land trusts and other shared equity models, and potential incentives to promote their greater adoption.
- Propose additional strategies to preserve existing affordable housing and incentivize the production of new affordable housing; identify any necessary procedural and state and local legislative adjustments.
- Produce a map of contaminated sites, such as Superfund sites, brownfields, and toxic “hotspots” in the unincorporated areas, and provide recommendations on targeted land use policies that can be used to improve the health and quality of life for surrounding residents.
- Develop tools, including heat maps, equity scorecards, healthy design guidelines, and other approaches to evaluate, monitor, and advance equity objectives in the implementation of the General Plan, using relevant data from other County Departments as necessary to ensure a comprehensive analysis.
- Direct the Director of the Department of Regional Planning to develop a framework for facilitating robust engagement with affordable housing, economic development, and environmental justice experts designed to provide technical assistance in carrying out this work and to support the Board in strengthening these equitable development tools and exploring new policies that promote equitable growth. The framework may include establishment of an advisory committee.
- Develop the Equitable Development Work Program in consultation with the Healthy Design Workgroup, the Homeless Initiative, and the Affordable Housing Steering Committee, to ensure efficiencies and coordination, and report back to the Board in writing quarterly with an update on the status of implementation and a timeline for the advancement of ongoing initiatives.

# Governor's Office of Planning and Research (OPR)

## *Document Summary*

### State of California 2017: General Plan Guidelines Chapter 2

#### Considerations for General Plans Area Plans, Community Plans, and Specific Plans

Area and community plans are part of the general plan. A specific plan is a tool for implementing the general plan but is not part of the general plan. The following paragraphs look briefly at each of these types of plans. In addition to consistency between plans, general plans must also be consistent with airport land use compatibility plans in specified regions, unless overridden by a two-thirds vote of the local government, pursuant to Public Utilities Code section 21676. "Area plan" and "community plan" are terms for plans that focus on a particular region or community within the overall general plan area. A resolution is required to adopt an area or community plan as an amendment to the general plan, in the manner set out in Government Code section 65350. Such plans refine the policies of the general plan as they apply to a smaller geographic area and are implemented by ordinances and other discretionary actions, such as zoning. The area or community plan process also provides a forum for resolving local conflicts. Large cities and counties where there are a variety of distinct communities or regions commonly use these plans.

An area or community plan must be internally consistent with the general plan. To facilitate such consistency, the general plan should provide a policy framework for the detailed treatment of specific issues in the various area or community plans. Ideally, to simplify implementation, the area or community plans and the general plan should share a uniform format for land use categories, terminology, and diagrams. Each area or community plan need not address all of the issues identified by Government Code section 65302 when the overall general plan satisfies these requirements. For example, an area or community plan need not discuss fire safety if the jurisdiction-wide plan adequately addresses the subject and the area or community plan is consistent with those policies and standards. While an area or community plan may provide greater detail regarding policies affecting development in a defined area, adopting one or a series of such plans does not substitute for regular updates to the general plan. Many of the mandatory general plan issues are most effectively addressed on a jurisdiction-wide basis that ties together the policies of the individual area or community plans

Specific plans must be consistent with all facets of the general plan, including the policy statements. In turn, zoning, subdivisions, and public works projects must be consistent with the specific plan (Gov. Code § 65455). Once a specific plan has been adopted, later projects may not require additional review (Cal. Code Regs., tit. 14, § 15182). The publication *A Planner's Guide to Specific Plans*, by the Governor's Office of Planning and Research (OPR), provides further information on relationships between plans.

# Appendix B: California Environmental Quality Act (CEQA)

## Warehouses and Overburdened Communities

November 25, 2019

Erica Gutierrez  
Department of Regional Planning  
County of Los Angeles  
320 West Temple Street  
Los Angeles, California 90012

Dear Erica Gutierrez:

Thank you for providing California Air Resources Board (CARB) staff with the opportunity to comment on the Bridge Point South Bay II Project (Project) Initial Study and Mitigated Negative Declaration (IS/MND), State Clearinghouse No. 2019099067.

The Project consists of the construction and operation of a 203,877 square-foot warehouse building, which includes 10,000 square feet of office space. Once in operation, the Project is projected to introduce an additional 357 total vehicle trips daily, including 283 daily passenger vehicle trips, and 74 daily heavy-duty truck trips. The Project is located within an unincorporated area of Los Angeles County (County), which is the lead agency for California Environmental Quality Act (CEQA) purposes.

Freight facilities, such as warehouse and distribution facilities, can result in high daily volumes of heavy-duty diesel truck traffic and operation of on-site equipment (e.g., forklifts, yard tractors, etc.) that emit toxic diesel emissions and contribute to regional air pollution and global climate change. CARB staff has reviewed the IS/MND and is concerned about the air pollution impacts that would result should the County approve the Project.

### **I. The Project Would Expose Disadvantaged Communities to Elevated Air Pollution**

The Project, if approved, will expose nearby disadvantaged communities to elevated air pollution. Residences are located north, south, east, and west of the Project. The closest residences are located approximately 70 feet from the Project's southern boundary. In addition to residences, two schools (Van Deene Avenue Elementary School and Halldale Elementary School) and four daycare centers (Zhou Family Daycare, Learn N' Play Daycare, Night and Weekend Child Care, and Harbor-UCLA KinderCare) are located within 1 mile of the Project. The community is surrounded by existing toxic diesel particulate matter (diesel PM) emission sources, which include existing warehouses and vehicular traffic along Interstate 110 (1-110) and Interstate 405 (1-405). Due to the Project's proximity to residences, schools, and daycare centers already disproportionately burdened by multiple sources of air pollution, CARB staff is

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concerned with the potential cumulative health impacts associated with the construction and operation of the Project.

The State of California has placed additional emphasis on protecting local communities from the harmful effects of air pollution through the passage of Assembly Bill 617 (AB 617) (Garcia, Chapter 136, Statutes of 2017). AB 617 is a significant piece of air quality legislation that highlights the need for further emission reductions in communities with high exposure burdens, like those in which the Project is located. Diesel PM emissions generated during the construction and operation of the Project would negatively impact the community, which is already disproportionately impacted by air pollution from existing freight facilities and vehicular traffic along 1-110 and 1-405.

Through its authority under Health and Safety Code, section 39711, the California Environmental Protection Agency (CalEPA) is charged with the duty to identify disadvantaged communities. CalEPA bases its identification of these communities on geographic, socioeconomic, public health, and environmental hazard criteria (Health and Safety Code, section 39711, subsection (a)). In this capacity, CalEPA currently defines a disadvantaged community, from an environmental hazard and socioeconomic standpoint, as a community that scores within the top 25 percent of the census tracts, as analyzed by the California Communities Environmental Health Screening Tool Version 3.0 (CalEnviroScreen). CalEnviroScreen uses a screening methodology to help identify California communities currently disproportionately burdened by multiple sources of pollution. The census tract containing the Project is within the top 1 percent for Pollution Burden<sub>1</sub> and is therefore considered a disadvantaged community. GARB staff urges the County to ensure that the Project does not adversely impact neighboring disadvantaged communities.

## **II. The IS/MND Did Not Model Mobile Air Pollutant Emissions Using CARB's 2017 Emission Factor Model (EMFAC2017)**

The Project's air quality and health impacts were modeled using mobile emission factors obtained from CARB's 2014 Emission Factors model (EMFAC2014). Project-related air pollutant emissions from mobile sources should be modeled using CARB's latest EMFAC2017. One of the many updates made to EMFAC included an update to the model's heavy-duty emission rates and idling emission factors, which results in higher PM emissions as compared to EMFAC2014. Since EMFAC2017 generally shows higher emissions of particulate matter from trucks than EMFAC2014, the Project's mobile source NO<sub>x</sub> and diesel PM emissions are likely underestimated. CARB staff urges the applicant and County to model and report the Project's air pollution emissions from mobile sources using emission factors found in CARB's latest EMFAC2017.

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



### **III. It is Unclear Whether the Proposed Warehouse Building would be Used for Cold Storage**

The Project's description explicitly states that the proposed warehouse will not include cold storage. However, according to the Project's health risk assessment (HRA) (see Appendix B of the IS/MND), 20 percent of the total trucks visiting the Project would have operational transport refrigeration units (TRU).<sup>2</sup> This seems to imply that refrigerated goods can be stored on-site.

CARB staff urges the applicant and County to revise the IS/MND to clearly define the use of the proposed warehouse. The Project's description should clearly define the Project so the public can fully understand the potential environmental effects of the Project on their communities.

If the Project will not be used for cold storage, as presently stated in the Project's description, CARB staff urges the County to either include in the IS/MND:

- A Project design measure requiring contractual language in tenant lease agreements that prohibits tenants from operating TRUs within the Project site; or
- A condition "requiring a restrictive covenant over the parcel that prohibits the applicant's use of TRUs on the property unless the applicant seeks and receives an amendment to its conditional use permit allowing such use.

If the County does allow TRUs within the Project site, CARB staff urges the County to incorporate in the Final EIR and associated HRA the operational emission reduction measures outlined in Attachment A.

### **IV. The 15/MND Does Not Adequately Analyze Potential Air Quality Impacts from the Project's Transport Refrigeration Units**

Although the stand-alone HRA prepared for the Project evaluated cancer risks from on-site TRUs, the applicant and County did not model and report air pollutant emissions from TRUs in the IS/MND. The air pollutant emission estimates, found in Table 3-6 (Operational Regional Criteria Pollutant Emissions) of the IS/MND, were modeled using the California Emission Estimator Model (CalEEMod). Although CalEEMod can estimate air pollutant emissions from area, energy, and mobile sources, the current version of CalEEMod does not account for air pollutant emissions from TRUs. If the Project will be used for cold storage, which is unclear in the current draft of the IS/MND, CARB staff urges the applicant and County to model and report the Project's air pollution emissions from TRUs in a recirculated IS/MND. Air pollutant emissions from TRUs should reflect CARB's latest emission factors assuming a conservative

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<sup>2</sup> TRUs are refrigeration systems powered by integral diesel engines that protect perishable goods during transport in an insulated truck and trailer vans, rail cars, and domestic shipping containers.

percentage of the Project's truck fleet is equipped with TRUs, as well as a conservative idling duration for each TRU.

## **V. The Health Risk Assessment Used Inappropriate Assumptions when Modeling the Project's Health Risk Impacts from On-Site Transport Refrigeration Units**

CARB staff has reviewed the Project's HRA. and has concerns regarding the emission factors and idling duration assumptions used to estimate the Project's health impacts. In the HRA, the applicant and County assumed that all TRUs visiting the Project site would be 34-horsepower (hp) units and would not idle longer than 30 minutes. TR Us with a power rating of less than 25 hp have a higher air pollutant emission rate (0.3 grams per brake horsepower-hour (g/bhp-hr)) than those greater than 25 hp (0.02 g/bhp-hr). Data obtained by CARB staff indicates that TRUs can operate for as long as two hours per visit, which is well above the 30-minute duration assumed in the HRA. Unless the applicant and County prohibit TRUs with a power rating of less than 25 hp from accessing the site or restrict idling times to less than 30 minutes, the Project's HRA should be revised. The revised HRA should assume a conservative percentage of the TRUs entering the Project site have a power rating of less than 25 hp and a TRU idling duration legitimized by substantial evidence. If the results of the revised HRA show new significant health impacts, the IS/MND should be revised and recirculated for public review.

## **VI. Conclusion**

Lead agencies may only adopt mitigated negative declarations if the "initial study shows that there is no substantial evidence, in light of the whole record before the agency that the project, as revised, may have a significant effect on the environment" (14 CCR section 15070(b)(2)). Based on the comments provided above, CARB staff is concerned that the County's current IS/MND does not meet this threshold.

As it stands, the IS/MND does not meet the bare legal minimum of serving as an adequate informational document relative to informing decision makers and the public that there is no substantial evidence<sup>3</sup> in the record that the Project, as revised, may have a significant effect on the environment (see *Sierra Club v. County of Fresno* (2018) 6 Cal.5<sup>th</sup> 502, 520). CARB staff believes that there would be substantial evidence in the record to find that the Project may have a significant effect on the environment if the air quality and health impact analysis: 1) used EMFAC2017 to better estimate the Project's mobile source diesel PM and NO<sub>x</sub> emissions; 2) clearly defined the use of the proposed warehouse in the Project's description; and 3) adequately analyzed potential air quality impacts from the Project's TRUs. In this event, the County

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<sup>3</sup> "Substantial evidence" is defined, in part, as "enough relevant information and reasonable information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts."

would be required to prepare a full Environmental Impact Report (EIR) for the Project under the "fair argument" standard (See *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83).<sup>4</sup>

CARB staff recommends that the County revise the air quality section and the HRA for the Project, and recirculate the IS/MND for public review. Should the updated and recirculated IS/MND find, after adequately addressing informational deficiencies noted in this letter, that there is substantial evidence in the record to support a fair argument that the Project may have a significant effect on the environment, the County must prepare and circulate a draft EIR for public review, as required under CEQA.

In addition to the concerns listed above, CARB staff encourages the applicant and County to implement the measures listed in Attachment A of this comment letter in order to reduce the Project's construction and operational air pollution emissions. CARB staff appreciates the opportunity to comment on the IS/MND for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist, at (916) 440-8242 or via email at [stanley.armstrong@arb.ca.gov](mailto:stanley.armstrong@arb.ca.gov).

Sincerely,

Richard Boyd, Chief  
Risk Reduction Branch Transportation and Toxics Division

Attachment

cc: See next page.

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<sup>4</sup>The adequacy of an **IS/MND** is judicially reviewed under the "fair argument" standard should a party challenge the lead agencies CEQA determination. Under this standard, a negative declaration is invalid if there is substantial evidence in the record supporting a fair argument that a project may have a significant effect on the environment. (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1399.) This is the case "even though [the lead agency] may also be presented with other substantial evidence that the project will not have a significant effect." (CEQA Guidelines, Title 14 CCR section 15064(f)(1).) The California Environmental Quality Act (CEQA) places the burden of environmental investigation on the public agency rather than on the public. If a lead agency does not fully evaluate a project's environmental consequences, it cannot support a decision to adopt a negative declaration by asserting that the record contains no substantial evidence of a significant adverse environmental impact. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311 .) If a lead agency does not study a potential environmental impact, a reviewing court may find the existence of a fair argument of a significant impact based on limited facts in the record that might otherwise not be sufficient to support a fair argument of a significant impact. (*Sundstrom v. County of Mendocino* (1 988) 202 Cal.App.3d 296, 311 .)

cc: State Clearinghouse  
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Stanley Armstrong  
Air Pollution Specialist  
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## ATTACHMENT A

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

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

#### Recommended Construction Measures

1. Ensure the cleanest possible construction practices and equipment are used. This includes eliminating the idling of diesel-powered equipment and providing the necessary infrastructure (e.g., electrical hookups) to support zero and near-zero equipment and tools.
2. Implement, and plan accordingly for, the necessary infrastructure to support the zero and near-zero emission technology vehicles and equipment that will be operating on site. Necessary infrastructure may include the physical (e.g., needed footprint), energy, and fueling infrastructure for construction equipment, on-site vehicles and equipment, and medium-heavy and heavy-heavy duty trucks.
3. In construction contracts, include language that requires all off-road diesel-powered equipment used during construction to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In place of Tier 4 engines, off-road equipment can incorporate retrofits such that emission reductions achieved equal or exceed that of a Tier 4 engine.
4. In construction contracts, include language that requires all off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers) used during project construction be battery powered.
5. In construction contracts, include language that requires all heavy-duty trucks entering the construction site, during the grading and building construction phases be model year 2014 or later. All heavy-duty haul trucks should also meet CARB's lowest optional low-NOx standard starting in the year 2022.<sup>1</sup>

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<sup>1</sup> In 2013, CARB adopted optional low-NOx emission standards for on-road heavy-duty engines. CARB staff encourages engine manufacturers to introduce new technologies to reduce NOx emissions below the current mandatory on-road heavy-duty diesel engine emission standards for model years 2010 and later. CARB's optional low-NOx emission standard is available at: <https://www.arb.ca.gov/msprog/onroad/optionnox/optionnox.htm>.

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

### **Recommended Operation Measures**

1. Include contractual language in tenant lease agreements that requires tenants to use the cleanest technologies available, and to provide the necessary infrastructure to support zero-emission vehicles and equipment that will be operating on site.

2. Include contractual language in tenant lease agreements that requires all loading/unloading docks and trailer spaces be equipped with electrical hookups for trucks with transport refrigeration units (TRU) or auxiliary power units. This requirement will substantially decrease the amount of time that a TRU powered by a fossil-fueled internal combustion engine can operate at the project site. Use of zero-emission all-electric plug-in TRUs, hydrogen fuel cell transport refrigeration, and cryogenic transport refrigeration are encouraged and can also be included lease agreements.<sup>2</sup>

3. Include contractual language in tenant lease agreements that requires all TRUs entering the project site be plug-in capable.

4. Include contractual language in tenant lease agreements that requires future tenants to exclusively use zero-emission light and medium-duty delivery trucks and vans.

5. Include contractual language in tenant lease agreements requiring all TRUs, trucks, and cars entering the Project site be zero-emission.

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

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

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

8. Include contractual language in tenant lease agreements that requires the tenant be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation,<sup>3</sup> Periodic Smoke Inspection Program (PSIP),<sup>4</sup> and the Statewide Truck and Bus Regulation.<sup>5</sup>

9. Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than five minutes while on site.

10. Include contractual language in tenant lease agreements that limits on-site TRU diesel engine runtime to no longer than 15 minutes. If no cold storage operations are planned, include contractual language and permit conditions that prohibit cold storage operations unless a health risk assessment is conducted and the health impacts fully mitigated.

11. Include rooftop solar panels for each proposed warehouse to the extent feasible, with a capacity that matches the maximum allowed for distributed solar connections to the grid.

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

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

<sup>5</sup> The regulation requires newer heavier trucks and buses must meet particulate matter filter requirements beginning January 1, 2012. Lighter and older heavier trucks replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 201 O model year engines or equivalent. CARB's Statewide Truck and Bus Regulation is available at: <https://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm>.

**Attachment – 3**

*Attorney General Xavier Becerra*  
*September 5, 2018, Letter to City of Los Angeles*

**XAVIER BECERRA**  
*Attorney General*

*State of California*  
**DEPARTMENT OF JUSTICE**



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September 5, 2018

Ms. Terry Kaufmann-Macias  
Managing Senior Assistant Attorney  
Los Angeles City Attorney's Office  
200 North Main Street, 7<sup>th</sup> Floor, MS 140  
Los Angeles, CA 90012

RE: 15116-15216 South Vermont Avenue / 747-761 West Redondo Beach Boulevard, Los Angeles City Council File No. 18-0279, Environmental Document ENV-2017-1015-MND

Dear Ms. Kaufmann-Macias:

As we discussed on the phone August 3, 2018, our office has reviewed the mitigated negative declaration (MND) for the industrial warehouse distribution center project (the Project) proposed in the Harbor Gateway North neighborhood in the City of Los Angeles and we respectfully submit these comments regarding compliance with the California Environmental Quality Act (CEQA).<sup>1</sup>

We recognize that the City has undertaken several initial studies to determine whether the proposed warehouse may have a significant impact on the environment. Nevertheless, the MND falls short of adequately analyzing, disclosing, and mitigating to the extent feasible the significant environmental impacts of the Project. While the Project will draw significant new air pollution into the Harbor Gateway North community, the City has failed to adequately characterize these impacts. In addition, the City has failed to apply enforceable mitigation measures as required by CEQA.

A warehouse project of this scale and size, surrounded by a community that is already overburdened by pollution, necessitates a complete and transparent environmental review process provided by the preparation of an environmental impact report (EIR). While the City has laid the foundation of an adequate environmental analysis of the project through its preparation of initial studies, CEQA requires that the City take the next step and prepare a full EIR.

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<sup>1</sup> The Attorney General submits these comments pursuant to his independent power and duty to protect the environment and natural resources of the State. (See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12612; *D'Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1,1415.)



## BACKGROUND

### I. THE PROJECT

The Project is a one-story 341,402 square foot warehouse that will have a total of 223 automobile parking spots, a minimum of 71 truck trailer parking spots, and 36 truck loading positions.<sup>2</sup> The Project will be permitted to operate 24 hours a day, seven days a week, with some limitations on the activities that can occur at night.<sup>3</sup> The Project allows truck entrance and exits from two points—one on Orchard Avenue with space for at least four trucks to queue and another on Vermont Avenue with space for at least three trucks to queue.<sup>4</sup> The Project is estimated to generate 1,321 daily automobile roundtrips.<sup>5</sup> Its not clear what the Project eventually will be used for, as the ultimate tenant and use is not yet identified, but the City proposes to permit use for warehousing, manufacturing, or as a “high-cube warehouse distribution center.”<sup>6</sup> The City requires additional future approvals should the future tenant plan to use the facility for cold storage or as a fulfillment center.<sup>7</sup>

### II. THE PROJECT SETTING IS CHARACTERIZED BY SENSITIVE RECEPTORS ALREADY EXPOSED TO SIGNIFICANT POLLUTION BURDENS

Harbor Gateway North is a neighborhood already heavily burdened by multiple sources of pollution. It ranks in the 100th percentile for overall pollution burden and in the top 5% for pollution burden and vulnerability combined according to the California Environmental Protection Agency’s screening tool CalEnviroScreen.<sup>8</sup> The I-110 freeway cuts through the

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<sup>2</sup> Los Angeles City Planning Commission, Letter of Determination, Case No. CPC-2017-1014-CU-ZAA-SPR (March 16, 2018), at p. 1 (hereafter “Letter of Determination”).

<sup>3</sup> Letter of Determination, Condition 17, at p. C-3. Loading and unloading activity is prohibited within 300 feet from residential buildings between 10:00 pm and 7:00 am. (*Id.*, Condition 32, at p. C-6.) It is not clear how much of the Project activity will fall into this time restriction, and therefore not clear whether it will mitigate impacts of overnight noise and vibration impacts.

<sup>4</sup> *Id.*, Condition 28, at p. C-6.

<sup>5</sup> Kunzman Associates, Inc., South Bay Distribution Center (15134 S. Vermont Avenue) Air Quality, Global Climate Change, and Health Risk Assessment Impact Analysis (October 13, 2017), p. 59 (hereafter Air Quality Study).

<sup>6</sup> Letter of Determination, Condition 2, at p. C-1. A high cube warehouse is “used primarily for the storage and/or consolidation of manufactured goods (and to a lesser extent, raw materials) prior to their distribution to retail locations or other warehouses.” Institute of Transportation Engineers, High Cube Warehouse Vehicle Trip Generation Analysis (October 2016), available at <http://library.ite.org/pub/a3e6679a-e3a8-bf38-7f29-2961becdd498>.

<sup>7</sup> Letter of Determination, Condition 27, at p. C-6.

<sup>8</sup> CalEnviroScreen is a tool created by the Office of Environmental Health Hazard Assessment that uses environmental, health, and socioeconomic information to produce scores and rank every census tract in the state, available at <https://oehha.ca.gov/calenviroscreen> (as of

neighborhood, making it no surprise that the community is in the 95th percentile for traffic burdens and 82nd percentile for diesel and particulate matter (PM) 2.5. In addition, the neighborhood is in the 95th percentile for solid waste sites, 95th percentile for leaking underground storage tanks, and 90th percentile for hazardous waste sites. The community is majority Hispanic (63%) and almost entirely made up of people of color (94%). The community that surrounds the project has high asthma rates and low birth weights relative to the rest of the state—higher than 79% and 80% of the state respectively. Other features of the community tend to make it more vulnerable to pollution, including high housing burdens, high rates of unemployment, and linguistic isolation.

The Project is located on a vacant 15-acre lot zoned for light manufacturing land uses.<sup>9</sup> The Project is surrounded by:

1. Single and multi-family homes to the south along Redondo Beach Boulevard;
2. A nursing home and other light commercial land uses to the west, such as a barber shop, along Vermont Ave;
3. Rosecrans Recreation Center—a public park with outdoor sports fields—to the north along a railroad easement; and
4. One-story light commercial buildings to the east and a construction and demolition recycling facility to the northeast along Orchard Ave.

Amestoy Elementary School is kitty corner to the northwest corner of the Project and several senior facilities, churches, and a hospital are within half a mile of the Project.<sup>10</sup> Harbor Gateway North Neighborhood Council asserts in its comment letter that 200 single family homes and 20 apartment buildings containing 184 units are near and would be impacted by the Project.<sup>11</sup> The nearest sensitive receptor, the Rosecrans Recreation Center, is approximately 80

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July 17, 2018). A census tract with a high score is one that experiences a much higher pollution burden than a census tract with a low score. Office of Environmental Health Hazard Assessment, CalEnviroScreen 3.0 Report (January 2017), available at <https://oehha.ca.gov/media/downloads/calenviroscreen/report/ces3report.pdf>.

<sup>9</sup> Department of City Planning Recommendation Report prepared for February 8, 2018 City Planning Commission Hearing, at pp. A-1-A-2.

<sup>10</sup> Letter to Department of City Planning from Harbor Gateway North Neighborhood Council, December 14, 2017.

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

feet away.<sup>12</sup> Other sensitive receptors, such as homes and a senior facility, are between 100-550 feet away, including the elementary school which is within 500 feet of the Project.<sup>13</sup>

The I-110 freeway is 650 feet away from the Project and appears to be the most likely source of truck traffic to and from the Project.<sup>14</sup> Trucks entering and exiting the I-110 freeway would traverse Redondo Beach Boulevard, lined with single- and multi-family homes, turning right onto and queuing at the entrance points on Orchard Avenue or Vermont Avenue, where a nursing home and elementary school are situated.<sup>15</sup>

## COMMENTS

### I. THE CITY HAS NOT ADEQUATELY ANALYZED, DISCLOSED, OR MITIGATED THE SIGNIFICANT IMPACTS OF THE PROJECT

California law requires a public agency approving a project to prepare an EIR when the project may have a significant effect on the environment.<sup>16</sup> The EIR is the “heart of CEQA”—it informs the public and decision makers of the environmental consequences of their decisions before those decisions are made—and therefore there is a low threshold for the requirement.<sup>17</sup> If after conducting initial studies the agency determines that there is no substantial evidence in the record supporting a “fair argument” that a project may have a significant effect on the environment, it may prepare a negative declaration.<sup>18</sup> The significance of the activity varies with the setting.<sup>19</sup>

Here, while the City has undertaken several studies to evaluate the environmental impacts of the Project, it has substantially ignored or downplayed the existing environmental conditions and sensitive receptors surrounding the Project, resulting in an incomplete and unsupported conclusion that the Project will not have significant and cumulative impacts. Since the ultimate tenant is not known, the City must evaluate the impacts of all potential uses of the Project, including manufacturing and use as a cold storage facility or fulfillment center, rather than inappropriately deferring that decision for future environmental analysis. Furthermore, the City has included unenforceable and inappropriately deferred mitigation measures in its attempt to reduce the Project’s significant environmental impacts. The Project must be denied until a

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<sup>12</sup> Letter of Determination, Finding 2, at p. F-2.

<sup>13</sup> Air Quality Study, at p. 2; Mitigated Negative Declaration, ENV-2017-1015-MND, at p. 3.

<sup>14</sup> Letter of Determination, Finding 2, at p. F-2.

<sup>15</sup> *See id.*, Condition 28, at p. C-6.

<sup>16</sup> Pub. Resources Code § 21082.2, subd. (a); CEQA Guidelines, § 15064, subd. (a); *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 330.

<sup>17</sup> *Mejia*, 130 Cal.App.4th at pp. 330-332.

<sup>18</sup> *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1399-1400.

<sup>19</sup> *Mejia*, 130 Cal.App.4th at p. 331; CEQA Guidelines, § 15064, subd. (b).

complete environmental analysis assessing its impacts has been conducted and feasible mitigation measures to reduce those impacts have been imposed.

**A. The City Neglects to Analyze the Projects Significant Environmental Impacts on Nearby Sensitive Receptors**

“A project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant.”<sup>20</sup> A lead agency must evaluate whether a project will expose “sensitive receptors” to pollution.<sup>21</sup> In the air pollution context, CARB recommends a minimum separation between sensitive receptors and sources of air pollution to reduce the sensitive population’s exposure to increased health risks.<sup>22</sup> Children and the elderly are especially vulnerable to the health impacts associated with exposure to diesel particulate matter and other air pollution, including cancer, asthma, and heart disease.<sup>23</sup> Because of this, CARB recommends 1,000 feet separation between sensitive receptors and distribution centers or other land uses that would generate more than 100 trucks per day.<sup>24</sup>

The City at times acknowledges and at other times downplays the Project’s close proximity to sensitive receptors.<sup>25</sup> But there is no question the Project is surrounded by sensitive receptors—children play outdoors at the park that is 80 feet away from the project and at recess at the school within 500 feet, elderly people live at the senior facility nearby, and families live in the hundreds of homes and apartments that surround the Project. These sensitive receptors are

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<sup>20</sup> CEQA Guidelines, § 15300.2; *see also* CEQA Guidelines, § 15064, subd. (b); *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 718.

<sup>21</sup> *See e.g.* CEQA Guidelines, App. G.

<sup>22</sup> California Air Resources Board, *Air Quality and Land Use Handbook: A Community Health Perspective* (April 2005) (hereafter *CARB Handbook*); *see also* South Coast Air Quality Management District, *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning* (May 6, 2005), at p. 2-3, 2-4 (hereafter *SCAQMD Guidance*).

<sup>23</sup> *CARB Handbook*, at p. ES 1.

<sup>24</sup> *Id.* at p. 4.

<sup>25</sup> Letter of Determination at p. F-2 states, “Given ... [the Project’s] relative isolation from sensitive uses, [the Project] will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety.” Also *ibid.*, stating that other than the Rosecrans Recreation Center, the closest sensitive receptors are beyond 100 feet of the Project. *Compare* the MND at p. 20, listing the recreation center and several residences located within 100 feet of the Project, but still none beyond 100 feet. *Compare also* Air Quality Study at p. 2, describing sensitive receptors as including the Rosecrans Recreation Center, single- and multi-family dwellings around 100 feet away, the nursing home located 155 feet away, and additional homes 300-500 feet away, but not including the elementary school. The Air Quality Study concludes that due to distance of nearest sensitive receptors, the operational odor impacts would be less than significant. *Id.* at p. 63.

already exposed to significant air pollution from the I-110 freeway that is located just 650 feet away from the Project and in some instances even closer to the sensitive receptors.<sup>26</sup>

Nevertheless, the City's health risk assessment analyzes impacts only on those sensitive receptors that are located within 100 feet of the Project, namely the Rosecrans Recreation Center and the homes that are directly across the street from the Project.<sup>27</sup> It does not articulate a basis for this distance, and it does not analyze impacts to the nursing home, elementary school, or additional homes that are within the 1,000-foot buffer recommended by CARB. It neglects to analyze impacts to these other sensitive receptors even while recognizing that the higher-than-average cancer risk already experienced by people in the area is "largely due to the proximity of the Santa Fe railroad lines and I-110 Freeway."<sup>28</sup> The size of this Project, the volume of additional mobile sources of air pollution it is anticipated to attract, and its close proximity to sensitive receptors, along with established CARB and SCAQMD guidance, raises a fair argument that there may be unmitigated environmental impacts that must be studied through a full environmental impact analysis.

The close proximity of sensitive receptors to the Project is especially troubling given the appellants' expert analysis that provides substantial evidence that the City has significantly undercounted the number of daily truck and passenger vehicle trips the project could bring into the community.<sup>29</sup> The expert report reveals that the City has undercounted the number of truck trips by 107%—318 truck trips per day—and that the total number of truck trips is more accurately estimated as 616 per day or 224,840 per year.<sup>30</sup> The City's conclusion that the project will have less than significant air quality impacts relies on a volume of trucks that is roughly half what it should be, and this infects the entire analysis, including the City's evaluation of health risks, noise impacts, and traffic impacts.

In addition to our concern about the significant impacts associated with additional trucks entering the area, we have concerns about the historical contamination located at the Project site. The site has a long history of industrial uses, including as a railroad substation and switch gallery, nursery, furniture and electrical cord manufacturing, and a gas station.<sup>31</sup> There is evidence of releases of chemicals at the site, including tetrachloroethylene, trichloroethene, petroleum hydrocarbons, and heavy metals.<sup>32</sup> There appears to be one underground storage tank abandoned in place and two underground storage tanks that are unaccounted for.<sup>33</sup> The MND

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<sup>26</sup> Some homes are located in between the Project and the freeway along Redondo Beach Boulevard (along the likely truck route) and to the north east of the Project, between the Rosecrans Recreation Center and the freeway.

<sup>27</sup> Air Quality Study, at p. 71.

<sup>28</sup> *Id.* at p. 69.

<sup>29</sup> Talaro Appeal, Exhibit B, SWAPE Comments, at pp. 4-8.

<sup>30</sup> *Id.* at p. 6.

<sup>31</sup> *Id.* at pp. 1-2.

<sup>32</sup> *Id.* at p. 2.

<sup>33</sup> *Id.* at pp. 2-3.

does not study the impacts of any necessary clean up activity, including the generation of contaminated dust that workers and nearby sensitive receptors could be exposed to. Rather than study these foreseeable impacts, the City requires the applicant to obtain environmental reports relating to the site and submit to regulatory agencies “evidence . . . that the site has been adequately remediated and that the project would not constitute a health risk to the environment or the public.”<sup>34</sup> Similarly, the Letter of Determination requires the applicant to get approval from appropriate regulatory agencies for plans to handle hazardous materials from the site.<sup>35</sup> These reports and evidence must be gathered and analyzed, and the impacts from any necessary cleanup activity mitigated, through the development of an EIR before Project approval.

**B. The City Has Not Analyzed nor Mitigated the Project’s Significant Cumulative Impacts**

CEQA requires a lead agency to consider whether a project’s effects, while limited on their own, are “cumulatively considerable” and therefore significant. “Cumulatively considerable” means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.<sup>36</sup> This requires a lead agency to determine whether pollution from a proposed project together with any pollution the community is already exposed to will be significant.

The City concludes that the Project’s impacts even when combined with the effects of other projects is less than significant. In its Air Quality Study, the city contends that the cumulative air quality impact analysis must be “generic” because the “greatest source of emissions is from mobile sources” which travel outside the project area.<sup>37</sup> While it admits that the Project will have incremental impacts on the already degraded local air quality, it concludes that because the Project will not exceed SCAQMD’s significance thresholds, it will not have a significant cumulative impact.<sup>38</sup> Similarly, even though the ambient cancer risk in the Project area is double that of the county-wide cancer risk—the cancer risk is 993.3 in one million in the Project area versus 415 in one million countywide—the City concludes the Project’s cumulative impacts are less than significant because the Project’s contribution to the cancer risk does not meet SCAQMD’s threshold for that criteria.<sup>39</sup>

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<sup>34</sup> Letter of Determination, Condition 39, at p. C-7.

<sup>35</sup> *Id.* at Condition 40, at p. C-7.

<sup>36</sup> Pub. Resources Code § 21083, subd (b)(3).

<sup>37</sup> Air Quality Study, at p. 60.

<sup>38</sup> *Id.* at pp. 60-61.

<sup>39</sup> SCAQMD’s comments on the MND calls into question whether the Air Quality Study’s health risk assessment adequately calculated the cancer risk because it averaged the diesel exposure over 30 years instead of acknowledging the reality that the exposure would be higher in the early years of the Project than in the later years, exposing the children present during the earlier years to higher diesel levels and a correspondingly higher cancer risk.

The City does not analyze the existing diesel pollution generated by the I-110 freeway that is 650 feet away from the Project and even closer to some of the nearby sensitive receptors, nor does it discuss the Project's contribution to that known source of air pollution or its impact on the surrounding community. Air pollution studies indicate that residents living up to 1,000 feet away from freeways experience higher adverse health impacts than those who live further away from freeways, including a variety of respiratory symptoms, asthma, and decreased lung function in children.<sup>40</sup> Proximity to freeways increases cancer risks as well.<sup>41</sup> Because of this, state law restricts the siting of new schools within 500 feet of a freeway.<sup>42</sup> Yet, the City has not analyzed whether the Project with its expected contribution to air pollution would be cumulatively considerable when added to the air pollution from the nearby freeway. This is particularly necessary given the close proximity of the surrounding sensitive receptors, both to the freeway and the Project.<sup>43</sup>

Furthermore, nowhere does the City acknowledge or study the cumulative impacts of the nearby construction demolition debris recycling facility, which would have a shared access point with the Project on Orchard Avenue. That facility can reasonably be expected to draw heavy duty trucks and vehicles into the area, such that even if the Project impacts alone were not significant, when combined with the existing truck traffic generated by the recycling facility, the impacts could be cumulatively considerable. Other impacts could become cumulatively considerable when considered in combination with the recycling facility's nearby operation, including noise, air quality, odors, water quality, and hazardous materials. The significance of the Project's impacts must be evaluated when combined with the impacts associated with these other nearby projects and activities.

**C. The City Has Not Included All Feasible, Enforceable Mitigation Measures.**

CEQA prohibits agencies from approving projects with significant environmental effects where there are feasible mitigation measures that would substantially lessen or avoid those effects.<sup>44</sup> The lead agency is expected to develop mitigation in an open public process.<sup>45</sup> "The development of mitigation measures . . . is not meant to be a bilateral negotiation between a project proponent and the lead agency after project approval; but rather, an open process that also

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<sup>40</sup> CARB Handbook, at p. 8.

<sup>41</sup> *Id.*, at p. 9

<sup>42</sup> Pub. Resources Code, § 21151.8.

<sup>43</sup> Rosecrans Recreation Center appears to be about the same distance away from the freeway as the Project, or 700 feet. As a result, the children who play at that park would be exposed to the freeway pollution as well as the Project's pollution. Homes north and south of the Project are well within 1,000 feet of the freeway.

<sup>44</sup> Pub. Resources Code, § 21100, subd. (b)(3).

<sup>45</sup> *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 93.

involves other interested agencies and the public.”<sup>46</sup> Mitigation measures must be fully enforceable and cannot be deferred to a future time.<sup>47</sup>

The MND asserts that its relatively limited mitigation measure III-0, which limits the VOC content for architectural coatings, mitigates the air quality impacts of the Project. Additional mitigation measures identified in the Air Quality Study and ultimately included in the Letter of Determination likewise do not address the mobile source emissions.<sup>48</sup> But the impacts of the Project primarily come from the increase in mobile sources in the area.

The City attempted to address some of CARB and SCAQMD’s comments about the inadequate mitigation of the Project’s impacts. While some improvements were made, such as an increase in electric vehicle infrastructure and parking,<sup>49</sup> most of the conditions that were added to address the air pollution control agencies’ concerns are unenforceable. For example, the conditions include requiring truck routes to be developed, adopted, and clearly marked, all at some future point without additional City review or input and with the single criteria that trucks should not enter residential areas. It is not clear what the City means by preventing trucks from entering residential areas, since the Project is surrounded by residential areas and the only access to the Project involves truck routes that pass by homes. Some of the homes where trucks would traverse are well within the 1,000 feet of the I-110, where health impacts from exposure to the freeway’s pollution would be expected to occur. The City must define truck routes and analyze them as part of Project’s environmental review and approval.

Further, the City purports to limit the daily number of trucks allowed at the Project to 338 (the amount analyzed by the City’s initial studies), but this limitation is an unenforceable recommendation. The Letter of Determination states that “[i]f higher daily truck volumes are anticipated to visit the site, the Lead Agency should commit to reevaluating the project through CEQA prior to allowing this land use or higher activity level.” Since the MND and the initial studies analyze the Project based on the assumption that the number of truck trips would be 338, this unenforceable mitigation measure calls into question the entire environmental analysis, especially the noise, odor, traffic, air quality, and health risk assessment analyses.

These conditions were added after the MND’s comment period concluded and the hearing was conducted, appearing for the first time in the final Letter of Determination adopted and published by the City Planning Commission on March 16, 2018. Contrary to CEQA’s purpose of having an open process for developing mitigation measures, the public did not have an opportunity to review or comment on them. They are not addressed in the City’s Mitigation Monitoring Program.

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<sup>46</sup> *Ibid.*

<sup>47</sup> CEQA Guidelines, § 15126.4

<sup>48</sup> The Air Quality Study identified only three mitigation measures, 1) limiting VOC content in architectural coatings, 2) requiring recycling programs to reduce waste going to landfills, and 3) requiring building structures to meet green building code standards.

<sup>49</sup> Letter of Determination, Conditions 6 and 8, at pp. C-1-C-2



Some of CARB's and SCAQMD's recommended mitigation measures are not incorporated or addressed by the City at all, including the following: (1) requiring 2010 model year or newer haul trucks be use to reduce emissions; (2) requiring an accelerated phase-in of non-diesel-powered truck if the Project generates significant regional emissions; (3) creating a buffer zone that could be office space, greenbelt, or parking of 1,000 feet between the warehouse and the nearby sensitive receptors; and (4) ensuring that trucks queue well inside the Project boundaries (not near sensitive receptors). These mitigation measures must be considered by the City and if infeasible, that explanation must be provided.

## **II. LOS ANGELES CITY CODE VIOLATIONS**

The Project requires a conditional use permit because it is a "major development project" creating more than 250,000 square feet of warehouse floor area. (Los Angeles Municipal Code section 12.24-U 14(a).) To approve this permit, the City must find that the "project's location, size, height, operations, and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety." (Los Angeles Municipal Code section 12.24-E 2.) The City finds that given "it's relative isolation from sensitive uses, and its proximity to Harbor Freeway I-110, the proposed [project] will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety." That finding is unsupported. The location of the freeway, a constant source of air and noise pollution for the community, cannot be used as the basis for the City's assertion that the Project will not adversely affect the Harbor Gateway North community. The statement that the Project is isolated from sensitive receptors also is not supported by the evidence before the City. Furthermore, the City's findings rely on the MND's inadequate environmental impacts analysis to reach this conclusion.

## **CONCLUSION**

The City has provided some information regarding the foreseeable significant environmental impacts of the large industrial warehouse Project and incorporated some mitigation measures to reduce those significant environmental impacts. Nevertheless, it has not fully studied or addressed the potential significant and cumulative environmental impacts that the nearby sensitive receptors will be exposed to as a result of the Project and has not included all feasible, enforceable mitigation measures to reduce those impacts, as required by CEQA. The already overburdened nearby community is entitled to full disclosure and mitigation of the environmental impacts of the Project prior to its approval.

September 5, 2018  
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Sincerely,



CHRISTIE VOSBURG  
Supervising Deputy Attorney General

For XAVIER BECERRA  
Attorney General

CC: The Honorable Jose Huizar, LA City Council PLUM Committee Chair  
Zina Cheng, Clerk, LA City Council PLUM Committee  
Joe Buscaino, LA City Councilman, District 15  
Scott Mulkey, Vice President, Prologis, Applicant  
Armen Ross, The Ross Group, Applicant's Representative  
Oliver Netburn, LA City Planner  
Gideon Kracov, Appellant Representative

# Appendix C: **Public Health Information**

## Chemicals of Concern and where they are in our community



### Diesel Particulate Matter:

California has identified diesel PM as a toxic air contaminant (TAC) based on its potential to cause cancer. Diesel engines emit very large amounts of carbon particles or "soot" also known as diesel particulate matter (PM). Diesel exhaust contains more than 40 cancer-causing substances that adhere to the soot. Diesel PM comprises about 8% of outdoor fine particulate matter (PM<sub>2.5</sub>), which is a known health hazard because of its ability to easily enter the lungs.

- Air: heavy truck traffic concentrated on Torrance Blvd. and Normandie Ave.
- Air: impacted by warehouse that the Trucks are coming and going from
- Air: being concentrated on Torrance Blvd. and Normandie Ave., lack of traffic flow
- Air: infused with exhaust from goods movement from Ports along 110 and 405 freeways

### Benzene:



Cancer causing; effects bone marrow; can cause anemia and leukemia and death.

- Groundwater: contaminated under homes from the Del Amo Superfund site
- Air: inside and outside from vapors from the groundwater coming up through the soil
- Air: drifting from the Torrance Refinery from gasoline and other petroleum products
- Air: emitted from diesel trucks it is one of many toxic air contaminants (TAC's)
- Air: tobacco smoke, cars and industrial emissions also add to benzene in our Air.

### DDT, DDE and DDD

DDT affects the nervous system causing excitability, tremors and seizures. DDE can cause increased chance of having a premature baby.

- Soil: in many yards and on the Montrose Superfund site
- Dust: in our attics
- In home raised chickens and eggs
- Groundwater: under homes



### pCBSA

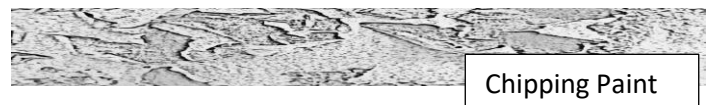
pCBSA is a by-product of the production of dichloro-diphenyl-trichloroethane (DDT). pCBSA is highly water soluble and has contaminated aquifers beneath the community.

- Groundwater: throughout the community
- Clean up levels not adequate
- Lack of studies on health impacts.

### Lead

The effects of lead are the same whether it enters the body through inhalation or ingestion. Lead can affect almost every organ and system in your body. The nervous system is the main target for lead toxicity in adults and children.

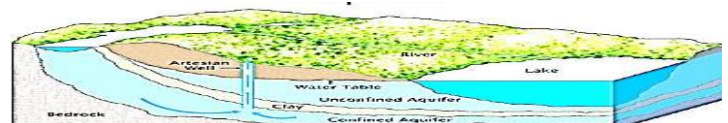
- Water pipes: in some older homes
- Soil: from slag buried in the community
- Homes: with deteriorating chipping paint



### Trichloroethylene (TCE)

Exposure to moderate amounts of trichloroethylene may cause headaches, dizziness, and sleepiness; large amounts may cause coma and even death.

- Air: inside the homes, vapor intrusion
- Groundwater: under the community
- Soil: at the Montrose and ECI/Bridge sites



## California Air Resources Board

## Summary: Diesel Particulate Matter Health Impacts

Diesel engines emit a complex mixture of pollutants, including very small carbon particles, or "soot" coated with numerous organic compounds, known as diesel particulate matter (PM). Diesel exhaust also contains more than 40 cancer-causing substances, most of which are readily adsorbed onto the soot particles. In 1998, California identified diesel PM as a toxic air contaminant (TAC) based on its potential to cause cancer. Other agencies, such as the National Toxicology Program, the U.S. Environmental Protection Agency and the National Institute of Occupational Safety and Health, concluded that exposure to diesel exhaust likely causes cancer. The most recent assessment (2012) came from the World Health Organization's International Agency for Research on Cancer (IARC). IARC's extensive literature review led to the conclusion that diesel engine exhaust is "carcinogenic to humans," thereby substantiating and further strengthening California's earlier TAC determination.

Diesel engine emissions are believed to be responsible for about 70% of California's estimated known cancer risk attributable to toxic air contaminants. **1** Also, diesel PM comprises about 8% of outdoor fine particulate matter (PM<sub>2.5</sub>), which is a known health hazard. As a significant fraction of PM<sub>2.5</sub>, diesel PM contributes to numerous health impacts that have been attributed to particulate matter exposure, including increased hospital admissions, particularly for heart disease, but also for respiratory illnesses, and even premature death. **2** ARB estimates that diesel PM contributes to approximately 1,400 (95% confidence interval: 1,100-1,800) premature deaths from cardiovascular disease annually in California. **3** Additionally, exposure to diesel exhaust may contribute to the onset of new allergies; a clinical study of human subjects has shown that diesel exhaust particles, in combination with potential allergens, may actually be able to produce new allergies that did not exist previously.

Several factors exacerbate the health risks of diesel PM exposure:

- Diesel PM is often emitted close to people so high exposures occur
- Diesel PM is in a size range that readily deposits in the lung
- Diesel PM contains compounds known to damage DNA and cause cancer

Additionally, diesel PM pollution can affect the environment:

- Diesel PM causes visibility reduction
- Diesel black carbon (soot) is a potent contributor to global warming

### Assessments of Diesel Exhaust Health Impacts

| Agency                                                            | Date | Summary of Findings                                                                                                                                                                                                                                   |
|-------------------------------------------------------------------|------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The National Institute for Occupational Health and Safety (NIOSH) | 1988 | <ul style="list-style-type: none"><li>• Animal evidence "confirmatory" for carcinogenesis</li><li>• Human evidence "limited"</li><li>• Diesel exhaust classified as "potential occupational carcinogen"</li></ul>                                     |
| International Agency for Research on Cancer (IARC)                | 1989 | <ul style="list-style-type: none"><li>• Rat data "sufficient" for carcinogenicity</li><li>• Human epidemiology data "limited"</li><li>• Diesel exhaust considered a "probable" human carcinogen</li></ul>                                             |
| World Health Organization (WHO)                                   | 1996 | <ul style="list-style-type: none"><li>• Rat data support carcinogenicity</li><li>• Human epidemiology data suggest "probably carcinogenic"</li><li>• Epidemiology studies considered "inadequate for a quantitative estimate of human risk"</li></ul> |
| California Environmental                                          | 1998 | <ul style="list-style-type: none"><li>• Rat data "have demonstrated" carcinogenicity of diesel exhaust</li></ul>                                                                                                                                      |

| Agency                                                                                          | Date | Summary of Findings                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Protection Agency                                                                               |      | <ul style="list-style-type: none"> <li>particles</li> <li>Causal association of diesel exhaust and lung cancer in epidemiology studies is a “reasonable and likely explanation”</li> <li>Designated diesel particulate matter a “toxic air contaminant”</li> </ul>                                                                                                                                                                                           |
| National Toxicology Program (NTP)                                                               | 2000 | <ul style="list-style-type: none"> <li>Diesel exhaust particulates listed as “reasonably anticipated to be a human carcinogen” based on findings of elevated lung cancer in occupational groups exposed to diesel exhaust and supporting animal and mechanistic studies</li> </ul>                                                                                                                                                                           |
| U.S. Environmental Protection Agency (EPA)                                                      | 2002 | <ul style="list-style-type: none"> <li>Diesel emissions considered “likely to be carcinogenic to humans”</li> <li>Strong but less than sufficient epidemiologic evidence</li> <li>Evidence of carcinogenicity of diesel exhaust particles in rats and mice by non-inhalation routes of exposure</li> <li>Extensive supportive data including the demonstrated mutagenic and/or chromosomal effects of diesel exhaust and its organic constituents</li> </ul> |
| U.S. Environmental Protection Agency (EPA)                                                      | 2009 | <ul style="list-style-type: none"> <li>Although not diesel-specific, the relationship between particulate matter (such as diesel PM) and premature mortality was determined to be causal</li> </ul>                                                                                                                                                                                                                                                          |
| National Toxicology Program (NTP)                                                               | 2011 | <ul style="list-style-type: none"> <li>Diesel exhaust particulates listed as “reasonably anticipated to be a human carcinogen, based on limited evidence of carcinogenicity from studies in humans and supporting evidence from studies in experimental animals and mechanistic studies”</li> </ul>                                                                                                                                                          |
| International Agency for Research on Cancer (IARC; part of the World Health Organization (WHO)) | 2012 | <ul style="list-style-type: none"> <li>Diesel engine exhaust classified as “carcinogenic to humans”</li> <li>“Sufficient evidence” in humans for diesel exhaust as a cause of lung cancer</li> <li>“Limited evidence” for increased risk of bladder cancer</li> </ul>                                                                                                                                                                                        |

- 1. Based on estimated ambient statewide diesel PM levels in 2012; the current cancer risk is estimated to be 520 new cases of cancer projected to occur per million residents exposed. This estimate was calculated using a unit risk factor of  $8.94 \times 10^{-4} \mu\text{g}/\text{m}^3$  derived using methodology developed by the California Office of Environmental Health Hazard Assessment (<http://oehha.ca.gov/media/downloads/crnr/appendixa.pdf>) and assumes an ambient diesel PM concentration of  $0.58 \mu\text{g}/\text{m}^3$ . Derivation of both of these values are summarized in Propper et al. 2015. *Environmental Science & Technology* 49(19):11329–11339.
- 2. A more extensive list of health impacts associated with particulate matter exposure was released in 2009 by the U.S. Environmental Protection Agency
- 3. Based on 2009 to 2011 exposure

### Contact

Air Resources Board, Research Division  
 Email: [research@arb.ca.gov](mailto:research@arb.ca.gov) Phone: (916) 445-0753

This fact sheet answers the most frequently asked health questions (FAQs) about benzene. For more information, call the CDC Information Center at 1-800-232-4636. This fact sheet is one in a series of summaries about hazardous substances and their health effects. It is important you understand this information because this substance may harm you. The effects of exposure to any hazardous substance depend on the dose, the duration, how you are exposed, personal traits and habits, and whether other chemicals are present.

**HIGHLIGHTS:** Benzene is a widely used chemical formed from both natural processes and human activities. Breathing benzene can cause drowsiness, dizziness, and unconsciousness; long-term benzene exposure causes effects on the bone marrow and can cause anemia and leukemia. Benzene has been found in at least 1,000 of the 1,684 National Priority List (NPL) sites identified by the Environmental Protection Agency (EPA).

## What is benzene?

Benzene is a colorless liquid with a sweet odor. It evaporates into the air very quickly and dissolves slightly in water. It is highly flammable and is formed from both natural processes and human activities.

Benzene is widely used in the United States; it ranks in the top 20 chemicals for production volume. Some industries use benzene to make other chemicals which are used to make plastics, resins, and nylon and other synthetic fibers. Benzene is also used to make some types of rubbers, lubricants, dyes, detergents, drugs, and pesticides. Natural sources of benzene include emissions from volcanoes and forest fires. Benzene is also a natural part of crude oil, gasoline, and cigarette smoke.

## What happens to benzene when it enters the environment?

- Industrial processes are the main source of benzene in the environment.
- Benzene can pass into the air from water and soil.
- It reacts with other chemicals in the air and breaks down within a few days.
- Benzene in the air can attach to rain or snow and be carried back down to the ground.
- It breaks down more slowly in water and soil, and can pass through the soil into underground water.
- Benzene does not build up in plants or animals.

## How might I be exposed to benzene?

- Outdoor air contains low levels of benzene from tobacco smoke, automobile service stations, exhaust from motor vehicles, and industrial emissions.
- Vapors (or gases) from products that contain benzene, such as glues, paints, furniture wax, and detergents, can also be a source of exposure.
- Air around hazardous waste sites or gas stations will contain higher levels of benzene.
- Working in industries that make or use benzene.

## How can benzene affect my health?

Breathing very high levels of benzene can result in death, while high levels can cause drowsiness, dizziness, rapid heart rate, headaches, tremors, confusion, and unconsciousness. Eating or drinking foods containing high levels of benzene can cause vomiting, irritation of the stomach, dizziness, sleepiness, convulsions, rapid heart rate, and death.

The major effect of benzene from long-term exposure is on the blood. Benzene causes harmful effects on the bone marrow and can cause a decrease in red blood cells leading to anemia. It can also cause excessive bleeding and can affect the immune system, increasing the chance for infection. Some women who breathed high levels of benzene for many months had irregular menstrual periods and a decrease in the size of their ovaries, but we do not know for certain that benzene caused the effects. It is not known whether benzene will affect fertility in men.

# Benzene

CAS # 71-43-2

## How likely is benzene to cause cancer?

Long-term exposure to high levels of benzene in the air can cause leukemia, particularly acute myelogenous leukemia, often referred to as AML. This is a cancer of the blood-forming organs. The Department of Health and Human Services (DHHS) has determined that benzene is a known carcinogen. The International Agency for Research on Cancer (IARC) and the EPA have determined that benzene is carcinogenic to humans.

## How can benzene affect children?

Children can be affected by benzene exposure in the same ways as adults. It is not known if children are more susceptible to benzene poisoning than adults.

Benzene can pass from the mother's blood to a fetus. Animal studies have shown low birth weights, delayed bone formation, and bone marrow damage when pregnant animals breathed benzene.

## How can families reduce the risks of exposure to benzene?

Benzene exposure can be reduced by limiting contact with gasoline and cigarette smoke. Families are encouraged not to smoke in their house, in enclosed environments, or near their children.

## Is there a medical test to determine whether I've been exposed to benzene?

Several tests can show if you have been exposed to benzene. There is a test for measuring benzene in the breath; this test must be done shortly after exposure. Benzene can also be measured in the blood; however, since benzene disappears rapidly from the blood, this test is only useful for recent exposures.

In the body, benzene is converted to products called metabolites. Certain metabolites can be measured in the urine. The metabolite 5-phenylmercapturic acid in urine is a sensitive indicator of benzene exposure. However, this test must be done shortly after exposure and is not a reliable indicator of how much benzene you have been exposed to, since the metabolites may be present in urine from other sources.

## Has the federal government made recommendations to protect human health?

The EPA has set the maximum permissible level of benzene in drinking water at 5 parts benzene per billion parts of water (5 ppb).

The Occupational Safety and Health Administration (OSHA) has set limits of 1 part benzene per million parts of workplace air (1 ppm) for 8 hour shifts and 40 hour work weeks.

## References

Agency for Toxic Substances and Disease Registry (ATSDR) 2007. Toxicological Profile for Benzene (Update). Atlanta, GA: U.S. Department of Public Health and Human Services, Public Health Service.

## Where can I get more information?

For more information, contact the Agency for Toxic Substances and Disease Registry, Division of Toxicology and Human Health Sciences, 1600 Clifton Road NE, Mailstop F-57, Atlanta, GA 30329-4027.

Phone: 1-800-232-4636

ToxFAQs™ Internet address via WWW is <http://www.atsdr.cdc.gov/toxfaqs/index.asp>.

ATSDR can tell you where to find occupational and environmental health clinics. Their specialists can recognize, evaluate, and treat illnesses resulting from exposure to hazardous substances. You can also contact your community or state health or environmental quality department if you have any more questions or concerns.



# DDT, DDE, and DDD - ToxFAQs™

CAS # 50-29-3, 72-55-9, 72-54-8

This fact sheet answers the most frequently asked health questions (FAQs) about DDT, DDE, and DDD. For more information, call the CDC Information Center at 1-800-232-4636. This fact sheet is one in a series of summaries about hazardous substances and their health effects. It is important you understand this information because this substance may harm you. The effects of exposure to any hazardous substance depend on the dose, the duration, how you are exposed, personal traits and habits, and whether other chemicals are present.

**HIGHLIGHTS:** Exposure to DDT, DDE, and DDD occurs mostly from eating foods containing small amounts of these compounds, particularly meat, fish and poultry. High levels of DDT can affect the nervous system causing excitability, tremors and seizures. In women, DDE can cause a reduction in the duration of lactation and an increased chance of having a premature baby. DDT, DDE, and DDD have been found in at least 442 of the 1,613 National Priorities List (NPL) sites identified by the Environmental Protection Agency (EPA).

## What are DDT, DDE, and DDD?

DDT (dichlorodiphenyltrichloroethane) is a pesticide once widely used to control insects in agriculture and insects that carry diseases such as malaria. DDT is a white, crystalline solid with no odor or taste. Its use in the U.S. was banned in 1972 because of damage to wildlife, but is still used in some countries.

DDE (dichlorodiphenyldichloroethylene) and DDD (dichlorodiphenyldichloroethane) are chemicals similar to DDT that contaminate commercial DDT preparations. DDE has no commercial use. DDD was also used to kill pests, but its use has also been banned. One form of DDD has been used medically to treat cancer of the adrenal gland.

## What happens to DDT, DDE, and DDD when they enter the environment?

- DDT entered the environment when it was used as a pesticide; it still enters the environment due to current use in other countries.
- DDE enters the environment as contaminant or breakdown product of DDT; DDD also enters the environment as a breakdown product of DDT.
- DDT, DDE, and DDD in air are rapidly broken down by sunlight. Half of what's in air breaks down within 2 days.
- They stick strongly to soil; most DDT in soil is broken down slowly to DDE and DDD by microorganisms; half the DDT in soil will break down in 2-15 years, depending on the type of soil.
- Only a small amount will go through the soil into groundwater; they do not dissolve easily in water.
- DDT, and especially DDE, build up in plants and in fatty tissues of fish, birds, and other animals.

## How might I be exposed to DDT, DDE, and DDD?

- Eating contaminated foods, such as root and leafy vegetables, fatty meat, fish, and poultry, but levels are very low.
- Eating contaminated imported foods from countries that still allow the use of DDT to control pests.
- Breathing contaminated air or drinking contaminated water near waste sites and landfills that may contain higher levels of these chemicals.
- Infants fed on breast milk from mothers who have been exposed.
- Breathing or swallowing soil particles near waste sites or landfills that contain these chemicals.

## How can DDT, DDE, and DDD affect my health?

DDT affects the nervous system. People who accidentally swallowed large amounts of DDT became excitable and had tremors and seizures. These effects went away after the exposure stopped. No effects were seen in people who took small daily doses of DDT by capsule for 18 months. A study in humans showed that women who had high amounts of a form of DDE in their breast milk were unable to breast feed their babies for as long as women who had little DDE in the breast milk. Another study in humans showed that women who had high amounts of DDE in the blood had an increased chance of having premature babies. In animals, short-term exposure to large amounts of DDT in food affected the nervous system, while long-term exposure to smaller amounts affected the liver. Also in animals, short-term oral exposure to small amounts of DDT or its breakdown products may also have harmful effects on reproduction.

Agency for Toxic Substances and Disease Registry  
Division of Toxicology and Human Health Sciences



CS-200908-A

# DDT, DDE, and DDD - ToxFAQs™

CAS # 50-29-3, 72-55-9, 72-54-8

## How likely are DDT, DDE, and DDD to cause cancer?

Studies in DDT-exposed workers did not show increases in cancer. Studies in animals given DDT with the food have shown that DDT can cause liver cancer.

The Department of Health and Human Services (DHHS) determined that DDT may reasonably be anticipated to be a human carcinogen.

The International Agency for Research on Cancer (IARC) determined that DDT may possibly cause cancer in humans. The EPA determined that DDT, DDE, and DDD are probable human carcinogens.

## How can DDT, DDE, and DDD affect children?

There are no studies on the health effects of children exposed to DDT, DDE, or DDD. We can assume that children exposed to large amounts of DDT will have health effects similar to the effects seen in adults. However, we do not know whether children differ from adults in their susceptibility to these substances.

There is no evidence that DDT, DDE, or DDD cause birth defects in people. A study showed that teenage boys whose mothers had higher DDE amounts in the blood when they were pregnant were taller than those whose mothers had lower DDE levels. However, a different study found the opposite in preteen girls. The reason for the discrepancy between these studies is unknown.

Studies in rats have shown that DDT and DDE can mimic the action of natural hormones and in this way affect the development of the reproductive and nervous systems. Puberty was delayed in male rats given high amounts of DDE as juveniles. This could possibly happen in humans.

A study in mice showed that exposure to DDT during the first weeks of life may cause neurobehavioral problems later in life.

## How can families reduce the risk of exposure to DDT, DDE, and DDD?

- Most families will be exposed to DDT by eating food or drinking liquids contaminated with small amounts of DDT.
- Cooking will reduce the amount of DDT in fish.
- Washing fruit and vegetables will remove most DDT from their surface.
- Follow health advisories that tell you about consumption of fish and wildlife caught in contaminated areas.

## Is there a medical test to show whether I've been exposed to DDT, DDE, and DDD?

Laboratory tests can detect DDT, DDE, and DDD in fat, blood, urine, semen, and breast milk. These tests may show low, moderate, or excessive exposure to these compounds, but cannot tell the exact amount you were exposed to, or whether you will experience adverse effects. These tests are not routinely available at the doctor's office because they require special equipment.

## Has the federal government made recommendations to protect human health?

The Occupational Safety and Health Administration (OSHA) sets a limit of 1 milligram of DDT per cubic meter of air (1 mg/m<sup>3</sup>) in the workplace for an 8-hour shift, 40-hour workweek.

The Food and Drug Administration (FDA) has set limits for DDT, DDE, and DDD in foodstuff at or above which the agency will take legal action to remove the products from the market.

## References

Agency for Toxic Substances and Disease Registry (ATSDR). 2002. Toxicological Profile for DDT/DDE/DDD (Update). Atlanta, GA: U.S. Department of Health and Human Services, Public Health Service.

## Where can I get more information?

For more information, contact the Agency for Toxic Substances and Disease Registry, Division of Toxicology and Human Health Sciences, 1600 Clifton Road NE, Mailstop F-57, Atlanta, GA 30329-4027.

Phone: 1-800-232-4636

ToxFAQs™ Internet address via WWW is <http://www.atsdr.cdc.gov/toxfaqs/index.asp>.

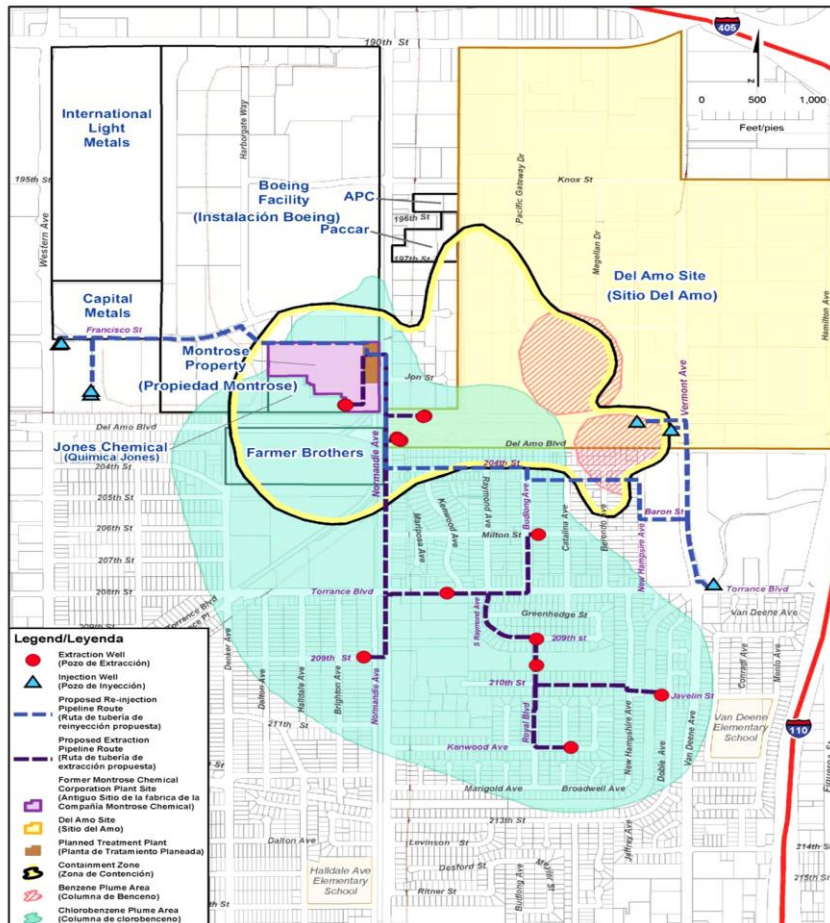
ATSDR can tell you where to find occupational and environmental health clinics. Their specialists can recognize, evaluate, and treat illnesses resulting from exposure to hazardous substances. You can also contact your community or state health or environmental quality department if you have any more questions or concerns.

February 2, 2015

The Office of Environmental Health Hazard Assessment (OEHHA) is identifying a public health protective concentration of 3 parts per million (ppm) for the chemical para-chlorobenzene sulfonic acid (pCBSA) in drinking water. pCBSA is a by-product of the production of dichloro-diphenyl-trichloroethane (DDT) and is often found in soil at former DDT manufacturing sites. pCBSA is highly water soluble and has contaminated aquifers beneath these sites.

A public health protective concentration is a health-based advisory level that OEHHA develops for a chemical in drinking water for which there is no public health goal or formal regulatory standard. Like a public health goal, a public health protective concentration is based on a risk assessment using the most current principles, practices and methods in the fields of toxicology, epidemiology and risk assessment. The susceptibility and exposure of infants and children is explicitly incorporated into the assessment. A public health protective concentration differs from a public health goal in that it does not undergo formal public review and comment, or an external scientific peer review.

Regulatory entities can use a public health protective concentration as guidance in their management of potential drinking water sources where the chemical may be present. Like a public health goal, a public health protective concentration is not a boundary line between a "safe" and "dangerous" level of a contaminant. Drinking water can still be considered acceptable for public consumption if it contains a chemical at a level exceeding the public health protective concentration.



# Lead - ToxFAQs™

## What is lead?

Lead is a naturally occurring metal found in small amounts in the earth's crust. Lead can be found in all parts of our environment, including air, water and soil. Lead can exist in many different chemical forms.



Lead is used in the production of batteries, ammunition, and metal products (solder and pipes). Because of health concerns, use of lead in paints, ceramic products, caulking, and pipe solder has been dramatically reduced. The use of lead as an additive to automobile gasoline was banned in 1996 in the United States.

## What happens to lead in the environment?

- Lead is an element and, therefore, it does not break down.
- When lead is released to the air, it may be transported long distances before it deposits onto the ground.
- Once deposited, lead often adheres to soil particles.
- Lead in soil can be transported into groundwater, but the amount of lead that moves into groundwater will depend on the chemical form of lead and soil type.

## How can I be exposed to lead?

- Eating food or drinking water that contains lead. Water pipes in some older homes may contain lead solder which can leach into the water.
- Spending time in areas where lead-based paints have been used and are deteriorating. Deteriorating lead paint can form lead dust which can be ingested.
- Spending time in areas where the soil is contaminated with lead.
- Working in a job where lead is used or participating in certain hobbies in which lead is used, such as making stained glass.
- Using health-care products or folk remedies that contain lead.

Lead can affect almost every organ and system in your body

## How can lead affect my health?

The effects of lead are the same whether it enters the body through inhalation or ingestion. Lead can affect almost every organ and system in your body. The nervous system is the main target for lead toxicity in adults and children. Long-term exposure can result in decreased learning, memory, and attention and weakness in fingers, wrists, or ankles. Lead exposure can cause anemia and damage to kidneys. It can also cause increases in blood pressure, particularly in middle-aged and older individuals. Exposure to high lead levels can severely damage the brain and kidneys and can cause death. In pregnant women, exposure to high levels of lead may cause a miscarriage. High-level exposure in men can damage reproductive organs.

# Lead

## How can lead affect children?

Children are more vulnerable to lead poisoning than adults because their nervous system is still developing. Children can be exposed to lead in their environment and prior to birth from lead in their mother's body. At lower levels of exposure, lead can decrease mental development, with effects on learning, intelligence and behavior. Physical growth may also be decreased. A child who swallows large amounts of lead may develop anemia, severe stomachache, muscle weakness, and brain damage. Exposure to lead during pregnancy can result in premature births. Some effects of lead may persist into adulthood.

## Can lead cause cancer?

There have been several agencies and organizations both in the United States and internationally that have reviewed studies and made an assessment about whether lead can cause cancer.

- The Department of Health and Human Services (HHS) has determined that lead and lead compounds are reasonably anticipated to be human carcinogens
- The U.S. Environmental Protection Agency (EPA) has classified lead as a probable human carcinogen.
- The International Agency for Research on Cancer (IARC) has determined that inorganic lead is probably carcinogenic to humans, and that there is insufficient information to determine whether organic lead compounds will cause cancer in humans.

## Can I get a medical test to check for lead?

A blood test is available to measure the amount of lead in your blood. Blood tests are commonly used to screen children for lead poisoning. Your doctor can draw blood samples and send them to appropriate laboratories for analysis.

## How can I protect my family from lead exposure?

- Avoid exposure to sources of lead.
- Do not allow children to chew or mouth surfaces that may have been painted with lead-based paint.
- If your home contains lead-based paint or you live in an area contaminated with lead, wash children's hands and faces often to remove lead dusts and soil, and regularly clean the house of dust and tracked in soil.

## Want more information?



Go to ATSDR's [Toxicological Profile for Lead](#)

CDC Lead Poisoning Prevention Program <https://www.cdc.gov/nceh/lead/default.htm>

Environmental Protection Agency <https://www.epa.gov/lead/protect-your-family-exposures-lead>

Call CDC-INFO at 1-800-232-4636, or submit your question online at <https://www.cdc.gov/dcs/ContactUs/Form>

Go to ATSDR's Toxic Substances Portal: <http://www.atsdr.cdc.gov/substances/index.asp>

If you have any more questions or concerns, you can also find & contact your ATSDR Regional Representative at [http://www.atsdr.cdc.gov/DRO/dro\\_org.html](http://www.atsdr.cdc.gov/DRO/dro_org.html)

This fact sheet answers the most frequently asked health questions (FAQs) about trichloroethylene. For more information, call the ATSDR Information Center at 1-800-232-4636. This fact sheet is one in a series of summaries about hazardous substances and their health effects. It is important you understand this information because this substance may harm you. The effects of exposure to any hazardous substance depend on the dose, the duration, how you are exposed, personal traits and habits, and whether other chemicals are present.

**HIGHLIGHTS:** Trichloroethylene is used as a solvent for cleaning metal parts. Exposure to very high concentrations of trichloroethylene can cause dizziness, headaches, sleepiness, incoordination, confusion, nausea, unconsciousness, and even death. Trichloroethylene has been found in at least 1,051 of the 1,854 National Priorities List sites identified by the Environmental Protection Agency (EPA).

## What is trichloroethylene?

Trichloroethylene is a colorless, volatile liquid. Liquid trichloroethylene evaporates quickly into the air. It is nonflammable and has a sweet odor.

The two major uses of trichloroethylene are as a solvent to remove grease from metal parts and as a chemical that is used to make other chemicals, especially the refrigerant, HFC-134a.

## What happens to trichloroethylene when it enters the environment?

- Trichloroethylene can be released to air, water, and soil at places where it is produced or used.
- Trichloroethylene is broken down quickly in air.
- Trichloroethylene breaks down very slowly in soil and water and is removed mostly through evaporation to air.
- It is expected to remain in groundwater for long time since it is not able to evaporate.
- Trichloroethylene does not build up significantly in plants or animals.

## How might I be exposed to trichloroethylene?

- Breathing trichloroethylene in contaminated air.
- Drinking contaminated water.
- Workers at facilities using this substance for metal degreasing are exposed to higher levels of trichloroethylene.
- If you live near such a facility or near a hazardous waste site containing trichloroethylene, you may also have higher exposure to this substance.

## How can trichloroethylene affect my health?

Trichloroethylene was once used as an anesthetic for surgery. Exposure to moderate amounts of trichloroethylene may cause headaches, dizziness, and sleepiness; large amounts may cause coma and even death. Eating or breathing high levels of trichloroethylene may damage some of the nerves in the face. Exposure to high levels can also result in changes in the rhythm of the heartbeat, liver damage, and evidence of kidney damage. Skin contact with concentrated solutions of trichloroethylene can cause skin rashes. There is some evidence exposure to trichloroethylene in the work place may cause scleroderma (a systemic autoimmune disease) in some people. Some men occupationally-exposed to trichloroethylene and other chemicals showed decreases in sex drive, sperm quality, and reproductive hormone levels.

## How likely is trichloroethylene to cause cancer?

There is strong evidence that trichloroethylene can cause kidney cancer in people and some evidence for trichloroethylene-induced liver cancer and malignant lymphoma. Lifetime exposure to trichloroethylene resulted in increased liver cancer in mice and increased kidney cancer and testicular cancer in rats.

The Department of Health and Human Services (DHHS) considers trichloroethylene to be a known human carcinogen. The International Agency for Research on Cancer (IARC) classified trichloroethylene as carcinogenic to humans. The EPA has characterized trichloroethylene as carcinogenic to humans by all routes of exposure.

# Trichloroethylene

CAS # 79-01-6

## How can trichloroethylene affect children?

It is not known whether children are more susceptible than adults to the effects of trichloroethylene.

Some human studies indicate that trichloroethylene may cause developmental effects such as spontaneous abortion, congenital heart defects, central nervous system defects, and small birth weight. However, these people were exposed to other chemicals as well.

In some animal studies, exposure to trichloroethylene during development caused decreases in body weight, increases in heart defects, changes to the developing nervous system, and effects on the immune system.

## How can families reduce the risk of exposure to trichloroethylene?

- Avoid drinking water from sources that are known to be contaminated with trichloroethylene. Use bottled water if you have concerns about the presence of chemicals in your tap water. You may also contact local drinking water authorities and follow their advice.
- Prevent children from playing in dirt or eating dirt if you live near a waste site that has trichloroethylene.
- Trichloroethylene is used in many industrial products. Follow instructions on product labels to minimize exposure to trichloroethylene.

## Is there a medical test to determine whether I've been exposed to trichloroethylene?

Trichloroethylene and its breakdown products (metabolites) can be measured in blood and urine. However, the detection of trichloroethylene or its metabolites cannot predict the kind of health effects that might develop from that exposure. Because trichloroethylene and its metabolites leave the body fairly rapidly, the tests need to be conducted within days after exposure.

## Has the federal government made recommendations to protect human health?

The EPA set a maximum contaminant goal (MCL) of 0.005 milligrams per liter (mg/L; 5 ppb) as a national primary drinking standard for trichloroethylene.

The Occupational Safety and Health Administration (OSHA) set a permissible exposure limit (PEL) of 100 ppm for trichloroethylene in air averaged over an 8-hour work day, an acceptable ceiling concentration of 200 ppm provided the 8 hour PEL is not exceeded, and an acceptable maximum peak of 300 ppm for a maximum duration of 5 minutes in any 2 hours.

The National Institute for Occupational Safety and Health (NIOSH) considers trichloroethylene to be a potential occupational carcinogen and established a recommended exposure limit (REL) of 2 ppm (as a 60-minute ceiling) during its use as an anesthetic agent and 25 ppm (as a 10-hour TWA) during all other exposures.

## Reference

This ToxFAQs™ information is taken from the 2019 Toxicological Profile for Trichloroethylene produced by the Agency for Toxic Substances and Disease Registry, Public Health Service, U.S. Department of Health and Human Services, Public Health Service in Atlanta, GA.

## Where can I get more information?

For more information, contact the Agency for Toxic Substances and Disease Registry, Division of Toxicology and Human Health Sciences, 1600 Clifton Road NE, Mailstop F-57, Atlanta, GA 30329-4027.

Phone: 1-800-232-4636

ToxFAQs™ on the web: [www.atsdr.cdc.gov/ToxFAQs](http://www.atsdr.cdc.gov/ToxFAQs)

ATSDR can tell you where to find occupational and environmental health clinics. Their specialists can recognize, evaluate, and treat illnesses resulting from exposure to hazardous substances. You can also contact your community or state health or environmental quality department if you have any more questions or concerns.

### Warehouse Mitigation Measures<sup>1</sup>

- 1) Trucks certified to meet or exceed ARB's 0.02 g/bhp-h optional low-NOx emissions standard (i.e., near-zero or zero emission).
- 2) Tier 4 or cleaner construction equipment.
- 3) Solar photovoltaic panels on site sufficient to supply all electric energy demands for the office space, air conditioning and dark shell lighting of the project.
- 4) Solar ready roofs.
- 5) Three minute limit on all diesel idling.
- 6) Roundabouts at major intersections.
- 7) Air Quality Complaints. Prior to the start of grading, developer must post legible, durable, weather-proof signs, of a size to be easily readable from the street, at all construction entrances, which state in English and Spanish (i) that diesel trucks servicing the Project site shall not idle for more than 3 minutes; and (ii) the name and telephone numbers of an authorized individual such as the Project Superintendent to be contacted to resolve dust and air quality complaints, and a phone number to the local air district to report violations. The signs must remain posted on the property until construction is complete. All legitimate dust complaints must be resolved within 24 hours of receipt.
- 8) A minimum of 250-foot building setbacks from adjacent properties, and a larger buffer from residential and other sensitive receptor facilities based upon site-specific analyses.
- 9) Maximize use of native plants in landscaped areas.
- 10) Maximize use of drought-tolerant landscape materials.
- 11) Maximize harvesting of rainwater and project drainage.
- 12) Design streets to capture runoff to irrigate medians and parkways (zero curb design).
- 13) Provide on-street truck parking turnouts.
- 14) Exceed Title 24 by at least 15%.
- 15) Accommodate alternate forms of transportation including, public transportation (bus), charging stations for electric cars, carpooling, and bicycles.
- 16) Install a sufficient number of electric vehicle charging stations to accommodate 30% of the projected number of employee vehicles. Electric charging units shall meet or exceed Level 2 Electric Vehicle Service Equipment standards.
- 17) Provide preferential parking locations for ZEVs and carpool/vanpool vehicles.
- 18) Zero-emission fork lifts and yard goats, or near-zero emission CNG using RNG if electric powered equipment is not readily available.
- 19) Electric plug-in capacity for all trucks equipped with transportation refrigeration units (TRUs), and TRUs shall be limited to diesel run-time of 15 minutes.
- 20) Promote the riding of bicycles, through the provision of bike racks / storage, showers and changing rooms.
- 21) Reduce 'heat-island' effect by incorporating lighter paving materials where possible and light roofing materials on all structures.

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<sup>1</sup> Based on document prepared by Richard Drury of Lozeau Drury, LLP. Edited and revised by Joe Lyou, Coalition for Clean Air.



- 22) Employ adequate shielding features to ensure zero light spill off-site.
- 23) Minimize water use in restrooms. Use zero or ultra-low flow urinals, dual flush toilets, and EPA certified WaterSense high efficiency fixtures.
- 24) Employ a recycling program.
- 25) Divert construction waste from landfills.
- 26) Incorporate recycled materials where feasible.
- 27) Incorporate low-emitting adhesives, paints, coatings, and flooring systems.
- 28) Make the best use of day-light into the interior spaces.
- 29) If project changes use of agricultural land, create an agricultural easement for comparable agricultural land (production) in California.
- 30) All LEED-certified buildings.
- 31) Use non-reflective solar panels.
- 32) All sites to be gated and manned 24/7 to monitor/regulate truck access.
- 33) Build or arrange for a renewable LNG/CNG fueling station(s) as appropriate to support low-NOx trucks.
- 34) Construct sound walls and utilize rubberized asphalt.
- 35) Use non-diesel emergency backup generators.
- 36) Provide funding for work force development & education.
- 37) Create a first source hiring program that encourages and assists local residents in securing facility-related jobs.
- 38) Provide funding to local air districts for air quality improvement projects.
- 39) Construct active transportation paths and nature trails to the benefit of the community.
- 40) Locate truck check-in points sufficiently interior to the project to preclude queuing of trucks onto public streets.
- 41) Provide rest areas with free Wi-Fi and restrooms for truck drivers.

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16 JUSTICE, SIERRA CLUB, and CENTER FOR BIOLOGICAL  
17 DIVERSITY

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
19 **FOR THE COUNTY OF SAN BERNARDINO**

20 CENTER FOR COMMUNITY ACTION AND  
21 ENVIRONMENTAL JUSTICE, SIERRA CLUB,  
22 and CENTER FOR BIOLOGICAL DIVERSITY,

23 Plaintiffs/Petitioners,

24 vs.

25 CITY OF FONTANA, FONTANA CITY  
26 COUNCIL, and DOES 1-25, inclusive,

27 Defendants/Respondents,

28 UST-CB Partners GP, LLC, a Delaware limited  
liability company, and DOES 26-50, inclusive,

Real Parties in Interest.

CASE NO.

[California Environmental Quality Act]

**PETITION FOR PEREMPTORY WRIT OF  
MANDATE AND COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF**

C.C.P. §§ 1085, 1094.5 & § 1021.5; Pub. Res.  
Code §§ 21000 et seq.

1 Petitioners hereby alleges at follows:

2 I. **INTRODUCTION**

3 1. CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE,  
4 SIERRA CLUB and CENTER FOR BIOLOGICAL DIVERSITY (collectively, “Petitioners”) petition  
5 this Court for a writ of mandate and Order under Code of Civil Procedure § 1094.5 and § 1085,  
6 directed to Respondents, CITY OF FONTANA and FONTANA CITY COUNCIL, (“Respondents” or  
7 the “City”), setting aside Respondent’s approval of the massive West Valley Logistics Center, which  
8 consists of seven warehouses totaling over 3.4 million square feet (“Project”).  
9

10 2. Project approvals included Specific Plan Amendment No. 11-003, General Plan  
11 Amendment No. 11-026, Zone Change No. 11-016, Development Agreement No.11-002, and  
12 Tentative Parcel Map No. 19156 (TPM No 13-005) to change the General Plan land use designation  
13 from Residential Planned Community (R-PC), Medium Density Residential (R-M), Multi-Family  
14 Residential (R-MF), Recreational Facilities (P-R) to Light Industrial (I-L) and Open Space (OS) and a  
15 Zone Change to change the Zoning District Map from Valley Trails Specific Plan to West Valley  
16 Logistics Specific Plan. The application also includes a Specific Plan Amendment to change the land  
17 use to industrial to facilitate the development of the seven warehouse buildings on 212.1 adjusted  
18 gross acres.  
19

20 3. A number of government agencies, nonprofit organizations, individuals, and even the  
21 County of San Bernardino and neighboring cities submitted detailed comments expressing grave  
22 concerns about the Project and its expected significant environmental impacts. The California Air  
23 Resources Board, for example, expressed concern about the Project’s air quality impacts, noting that  
24

25 [f]reight facilities, such as warehouse/distribution facilities, are frequented daily  
26 by volumes of heavy-duty diesel truck and equipment that emit toxic diesel  
27 emissions and contribute to regional pollution, as well as global climate change.  
28 Residential homes are immediately adjacent to the east and south of the proposed  
Project site. In communities already impacted by diesel pollution from existing  
freight operations, the proposed land use change will exacerbate the adverse

1 health impacts already experienced by these residents.

2 4. The agency and public comments raise a number of serious concerns about the Project  
3 and its expected environmental and public health impacts. The Project, moreover, will substantially  
4 and disproportionately impact a community of color that is already besieged by numerous other large  
5 industrial projects, including warehouse/distribution facilities, in the area.  
6

7 5. Petitioners contend the EIR unlawfully failed to adequately analyze the Project's  
8 environmental and public health impacts, including impacts to air quality, traffic, special status  
9 wildlife, and wildlife movement. The thousands of daily truck trips generated by this Project will  
10 significantly contribute to the area's polluted air, which is among the worst in the nation. In addition,  
11 the Project will contribute very substantially to the unfolding climate disaster by generating very  
12 substantial levels of Greenhouse Gas ("GHG") emissions. Lastly, Petitioners contend the Project was  
13 required to but failed to adequately consider the project's impact on a community of color.  
14

15 6. In this action, Petitioners seek a peremptory writ of mandate directing Respondents to  
16 set aside all Project approval and their certification of a Final Environmental Impact Report ("EIR")  
17 for the Project.

18 **II. PARTIES**

19 7. Petitioner CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL  
20 JUSTICE (CCA EJ) is a membership-based California non-profit environmental health and justice  
21 organization with its primary membership residing in Riverside and San Bernardino Counties.  
22 CCA EJ's core mission is to bring people together to improve their social and natural environment, and  
23 to empower the community to create safer and healthier places to live, work, learn, and play. CCA EJ  
24 has its physical office in Jurupa Valley, immediately adjacent to the Project site. Many of CCA EJ's  
25 members live in Fontana, Jurupa Valley, or San Bernardino County in the vicinity of the Project.  
26 CCA EJ has identified Jurupa Valley as a "community at risk" for a variety of environmental  
27  
28

1 injustices, particularly for bearing a disproportionate share of the impacts from high polluting  
2 industries, heavy-duty diesel truck and other mobile source emissions, and suffering other disparities  
3 created by zoning and discriminatory and irresponsible land use planning and decision-making.  
4 CCAEJ, along with co-petitioners, submitted numerous comments to the City of Fontana regarding  
5 this Project, thereby raising serious concerns about this Project’s detrimental impacts on the health and  
6 welfare of the local disadvantaged residents.  
7

8           8.       Petitioner Sierra Club is a national non-profit organization with approximately 600,000  
9 members nationally, including over 7,000 members in the San Gorgonio Chapter. Sierra Club is  
10 dedicated to exploring, enjoying, protecting the wild places of the earth, to participating and  
11 encouraging protection of the environment and restoration of the quality of natural and human  
12 environments. Members of the San Gorgonio Chapter of the Sierra Club live, work, and recreate in the  
13 vicinity of the Project, and will be affected by its construction and operation. Sierra Club submitted  
14 extensive comments concerning this Project, urging the City not to approve the Project until and  
15 unless the serious CEQA violations are addressed.  
16

17           9.       Petitioner and Plaintiff CENTER FOR BIOLOGICAL DIVERSITY (the “Center”) is a  
18 non-profit, public interest corporation with over 69,000 members with offices in Oakland, Los  
19 Angeles, and Joshua Tree, California, as well as offices in Arizona, Oregon, Colorado, and  
20 Washington, D.C. The Center and its members are dedicated to protecting diverse native species and  
21 habitats through science, policy, education, and environmental law. Center members reside in and own  
22 property throughout California as well as San Bernardino County. The Center and its members would  
23 be directly, adversely and irreparably harmed by the Projects and its components, as described herein,  
24 until and unless this Court provides the relief prayed for in this petition. The Center brings this action  
25 on its own behalf, for its members, and in the public interest.  
26

27           10.       Respondent and Defendant, City of Fontana, is the “lead agency” within the meaning  
28

1 of CEQA, and the local government agency and subdivision of the State of California charged with  
2 authority to regulate and administer land use and development within its territory, but only in  
3 compliance with the duly adopted provisions of its zoning ordinances, General Plan, and all  
4 applicable provisions of state law, including the California Environmental Quality Act, the Planning  
5 and Zoning law, and the Subdivision Map Act.

6  
7 11. Respondent and Defendant City Council of Fontana is the legislative body and highest  
8 administrative body of the City. The City Council has the authority to approve and is responsible for,  
9 amendments to the General Plan, the Specific Plan, the Zoning Ordinance, as well as the approval of  
10 tentative maps and Development Agreement at issue in this case.

11  
12 12. Petitioners are informed and on that basis alleges that USB-CB Partners L.P (“Real  
13 Party”), a Delaware corporation, is the real party in interest by virtue of being a project  
14 applicant/representative, a recipient of a project approval(s), and having an ownership interest in the  
15 subject of this litigation.

16  
17 13. Petitioners do not know the identity of DOES 26-50, but will amend the Petition as  
18 required to specifically identify each such person or entity as a real party in interest if the identity,  
19 interest and capacity of such party, if any, becomes known.

20 **III. PROCEDURAL ALLEGATIONS**

21  
22 14. Petitioners have performed any and all conditions precedent to filing the instant action and  
23 have exhausted any and all administrative remedies to the extent required by law, by inter alia,  
24 submitting written comments on the project and its environmental review at every step of the  
25 administrative review process.

26  
27 15. Petitioners have requested that the City not approve this Project and certify the EIR. Any  
28 further attempts to pursue administrative remedies would be futile.

16. Petitioners have complied with the requirements of Public Resources Code section 21167.5

1 by mailing a written notice of the commencement of this action to Respondent prior to filing this  
2 petition and complaint.

3 17. Petitioners have complied with the requirements of Public Resources Code section 21167.7  
4 and Code of Civil Procedure section 388 by mailing a copy of the Petition/Complaint to the state  
5 Attorney General.  
6

7 18. Petitioners have no plain, speedy or adequate remedy in the ordinary course of law unless  
8 this Court grants the requested writ of mandate to require Respondents to comply with their duties and  
9 set aside the approval of the Project until they have prepared a legally sufficient EIR. In the absence  
10 of such remedies, Respondents' approvals will remain in effect in violation of CEQA.  
11

12 19. If Respondents are not enjoined from approving the Project, and from undertaking acts in  
13 furtherance thereof, Petitioners will suffer irreparable harm from which there is no adequate remedy at  
14 law in that the Project area and surrounding areas would be irrevocably altered and significant adverse  
15 impacts on the environment would occur. Petitioners and the general public have also been harmed by  
16 Respondents' failure to provide an environmental document that accurately and fully informs  
17 interested persons of the Project's impacts.  
18

19 20. In pursuing this action, which involves enforcement of important rights affecting the public  
20 interest, Petitioners will confer a substantial benefit on the general public, citizens of Fontana, Jurupa  
21 Valley, San Bernardino County and the State of California, and will therefore be entitled to attorneys'  
22 fees and costs pursuant to, inter alia, Code of Civil Procedure § 1021.5.

23 21. Petitioners bring this action in part pursuant to Public Resources Code § 21168.5 and Code  
24 of Civil Procedure § 1085 or § 1094.5, which require that an agency's approval of a project be set  
25 aside if the agency has prejudicially abused its discretion. Prejudicial abuse of discretion occurs either  
26 where an agency has failed to proceed in a manner required by law or where its determination or  
27 decision is not supported by substantial evidence. Respondents have prejudicially abused their  
28

1 discretion because Respondents have failed to proceed according to the law, and their decision is not  
2 supported by substantial evidence.

3 **IV. STATEMENT OF FACTS**

4 22. The proposed Project consists of the development and operation of the seven warehouse  
5 buildings, totaling more than 3.4 million square feet, on 212.1 adjusted gross acres in the City of  
6 Fontana.  
7

8 23. The Project site is located within the southeastern portion of the City of Fontana, in the  
9 southwest “Valley Region” of San Bernardino County. The site is bounded on the north by a Southern  
10 California Edison (SCE) utility corridor, on the west by the Jurupa Hills, on the south by a residential  
11 neighborhood in the City of Jurupa Valley, and on the east by the community of Bloomington in San  
12 Bernardino County. The Jurupa Hills, a major landform in southern Fontana, are the natural backdrop  
13 to the Specific Plan site and surrounding neighborhoods.  
14

15 24. According to the Revised West Valley Specific Plan, the West Valley Logistics Center  
16 consists of 291.31 acres, of which 212.11 acres is planned for warehouse/distribution logistics uses,  
17 16.47 acres of which are within existing detention basins, approximately 55.23 acres of natural hillside  
18 will be preserved in open space, and 7.5 acres will consist of roadways.  
19

20 25. Because the Project site was originally designated for residential use, the City’s approval of  
21 the Project required wholesale revisions of the City’s General Plan and West Valley Specific Plan.  
22 Accordingly, Project approvals included Specific Plan Amendment No. 11-003, General Plan  
23 Amendment No. 11-026, Zone Change No. 11-016, Development Agreement No.11-002, and  
24 Tentative Parcel Map No. 19156 (TPM No 13-005) to change the General Plan land use designation  
25 from Residential Planned Community (R-PC), Medium Density Residential (R-M), Multi-Family  
26 Residential (R-MF), Recreational Facilities (P-R) to Light Industrial (I-L) and Open Space (OS) and a  
27 Zone Change to change the Zoning District Map from Valley Trails Specific Plan to West Valley  
28



1 Logistics Specific Plan.

2 **PROJECT SETTING and PROJECT IMPACTS**

3 Air Quality

4 26. The Project is located in an area that is violation of the Clean Air Act’s National Ambient  
5 Air Quality Standards (“NAAQS”). The South Coast Air Basin is designated as an extreme  
6 nonattainment area for the 2008 8-hour ozone standard, a moderate nonattainment area for the 2012  
7 PM 2.5 (microparticulate) standard, a serious nonattainment area for the 2006 PM 2.5 standard, and a  
8 moderate nonattainment area for the 1997 PM 2.5 standard<sup>1</sup>. According to state and local air agencies,  
9 achieving attainment will require massive emissions reductions from all pollution sources, even in the  
10 absence of any growth in emissions associated with new projects.  
11

12 27. According to the EIR, the Project will introduce up 2,432 daily truck trips, of which the  
13 EIR claims 60.3% will be 4+ axle trucks, 17.7% will be three-axle trucks, and 22% will be two-axle  
14 trucks. According to CARB’s public comments, the 2,432 figure is likely underestimated. Larger  
15 trucks will generate significantly larger amounts of emissions of diesel particulate matter, or DPM,  
16 greenhouse gasses (GHGs), and other pollutants compared to other vehicles. The EIR does not include  
17 any adequate explanation of where these percentages were obtained. Owing to this failure, the EIR’s  
18 project description is inadequate and flawed because it is impossible to determine the diesel truck  
19 emissions generated by this Project without accurate description of the number of each type of truck  
20 that will be making deliveries to and from the Project.  
21

22 28. The EIR admits the Project will exceed South Coast Air Quality Management District’s  
23 (SCAQMD) thresholds of significance for nitrogen oxides (NOx) and volatile organic compounds  
24 (VOCs), and will therefore cause a significant impact on air quality, but does not identify and analyze  
25 a reasonable range of potentially feasible mitigation measures to reduce this impact to a less than  
26

27  
28 <sup>1</sup> U.S. EPA, Nonattainment Areas for Criteria Pollutants (Green Book), available at  
<https://www.epa.gov/green-book>

1 significant level. Despite the inadequate analysis of mitigation measures, the City and the Final EIR  
2 conclude that the significant impacts on air quality and climate change are “unavoidable.”

3 29. Petitioners and other commentators and agencies identified a number of potentially feasible  
4 mitigation measures to address the significant air quality and climate change impacts. The Final EIR  
5 and the City rejected these proposed mitigation measures without any adequate analysis or discussion.  
6 Suggested mitigation measures included mitigation measures previously suggested by the SCAQMD  
7 for similar projects, those discussed by the EIR for the Kimball Business Park Project and climate  
8 change mitigation measures suggested by CAPCOA’s Quantifying Greenhouse Gas Mitigation  
9 Measures. See Response to Comments, Final EIR at 2-13. The Final EIR rejected these potentially  
10 feasible mitigation measures without any adequate discussion or analysis.  
11

12 30. As required by CEQA and recently confirmed by the California Supreme Court in Sierra  
13 Club v. County of Fresno (2018) 6 Cal.5<sup>th</sup> 402, the EIR was required to include a discussion of the  
14 Project’s health impact on the local residents. To this end, the City prepared a Health Risk Assessment  
15 (HRA), which is discussed in the EIR. As set forth in public comments, the EIR’s discussion of the  
16 Project’s public health impacts, and the HRA on which it is based, are seriously flawed and do not  
17 pass legal muster. The HRA fails, for example, to incorporate age-specific inhalation rates or to  
18 analyze the differential impact of diesel emissions on infants and children.  
19

20 31. The City concluded that the “minor increases in regional air pollution from project-  
21 generated ROG [reactive organic gasses that can create ozone] and NO<sub>x</sub>, and CO would have nominal  
22 or negligible impacts on human health.” It is inconceivable that the addition of more than 2,400 daily  
23 heavy-duty truck trips in the immediate vicinity of residential neighborhoods would result in only  
24 “nominal or negligible” impacts on human health.  
25

26 Climate Change

27 32. The California Global Warming Solutions Act of 2006 mandates that greenhouse gas  
28

1 emissions be reduced to 1990 levels by 2020. Despite the California legislature’s unequivocal mandate  
2 that local planning decision-makers must specifically consider and address their planning decisions’  
3 impacts on global climate change, the City failed to adequately analyze and mitigate this Project’s  
4 impacts on global warming.

5  
6 33. The City concluded that owing to the Project’s expected overall emission of 60,000 metric  
7 tons of CO2 equivalents (MTCO2e) per year, which exceed the SCAQMD’s recommended 3,000  
8 MTCO2e threshold by a factor 20, the Project’s impact on climate change would be significant.

9 34. The City concluded that the Project would result in a significant impact on climate change  
10 also because the Project will conflict with applicable regulatory plans, policies, and regulations  
11 intended to reduce GHG emissions. In particular, the City concluded the Project conflicts with the  
12 ARB 2017 Scoping Plan Update, which sets a 2030 target of 40% reductions below 1990 levels,  
13 consistent with Executive Order B-3014 and SB 32. The EIR contends the Project will comply with  
14 every component of the 2017 Scoping Plan Update, but concludes, however, that the Project would  
15 result in a significant impact on account of conflicts with the 2017 Scoping Plan Update’s target  
16 because the Project exceeds the numerical threshold and would result in a cumulatively significant  
17 impact. The EIR fails as an informational document because its analysis of the Project’s consistency  
18 with the 2030 40% reduction target is wholly inadequate.

19  
20  
21 35. The EIR fails to consider, let alone establish Project consistency with other significant state  
22 GHG policies and plans. For instance, without any adequate explanation the GHG emissions analysis  
23 fails to establish consistency with Executive Order S-3-05, which requires a reduction in GHG  
24 emissions to 80 percent below 1990 levels by 2050.

25 36. The EIR and the City conclude that “no feasible mitigation measures exist that would  
26 reduce project-related emissions to levels that are less-than-significant.” (Recirculated Draft EIR  
27 [RDEIR] at 4.2.7-42.) This contention is based on a misstatement of the applicable CEQA standard,  
28

1 pursuant to which, where the lead agency concludes an impact is be significant effect, it must adopt *all*  
2 feasible mitigation measures to reduce that effect, even if the effect would remain significant. The  
3 City’s conclusion that it could not adopt mitigation measures to reduce GHG emissions from mobile  
4 sources is not supported by substantial evidence. Petitioners supplied the City with several examples  
5 of such mitigation measures that could effectively reduce the Project’s GHG emissions.  
6

7 Biological Resources

8 37. As set forth above, the Project site abuts a large, relatively intact open space area. The EIR  
9 claims that there are “no existing habitat features that occur between Rattlesnake Mountain and the  
10 Jurupa Hills that would be expected to support a wildlife movement corridor.” (RDEIR at 4.2.3-16.)  
11 However, a local expert explained the City’s position incorrectly assumes this area lacks the necessary  
12 features to serve as a wildlife movement corridor for avian species, when, in fact, wildlife corridors  
13 are often forced corridors resulting from human land development. (RDEIR, Appx. B3 at PDF 16.)  
14 Similarly, the RDEIR incorrectly claims that the Project area “does not represent an opportunity for  
15 avian movement between undeveloped areas in the Jurupa Hills and Rattlesnake Mountain, and the  
16 project site in its current condition does not provide an east-west movement corridor for avian  
17 species.” (RDEIR at 4.2.3-28.) These claims are not supported by any evidence, and were refuted by  
18 the expert opinions of Dr. Smallwood and the California Department of Fish and Wildlife (“CDFW”).  
19 (See CDFW Letter at RDEIR, Appx. B3 at 79-83.) This statement is even at odds with an earlier  
20 version of the RDEIR, which stated “The project site is currently the only open space connecting the  
21 native Riversidean Sage Scrub (RSS) habitats in the Jurupa Hills and Rattlesnake Mountain.  
22  
23

24 38. The EIR’s conclusion regarding the absence of the federally-listed California coastal  
25 gnatcatcher is not supported by substantial evidence because the City never bothered to undertake a  
26 protocol level survey for this species. The EIR, moreover, misleadingly claims that undisturbed  
27 gnatcatcher habitat “that meets the Critical Habitat definition occurs exclusively within the proposed  
28

1 conservation area,” when in fact most of the Project site is designated gnatcatcher critical habitat. The  
2 EIR fails to address the Project’s impacts to gnatcatcher critical habitat and to gnatcatcher recovery.  
3 As a result of these deficiencies, the EIR’s conclusion that the impact on the gnatcatcher would be less  
4 than significant is not supported by substantial evidence.

5  
6 39. The EIR’s analysis of the Project impacts on the burrowing owl (a California species of  
7 special concern) is inadequate. The burrowing owl survey was not conducted during the breeding  
8 season and was otherwise not based on the established protocol. Despite the fact that one owl was  
9 detected and the EIR admits the site contains suitable owl habitat, the EIR improperly deferred  
10 protocol surveys until after Project approval.

11  
12 40. Likewise, the EIR’s analysis of the Project impacts on the federally-listed Delhi Sands  
13 flower-loving fly is inadequate. Adequate surveys for this species were never conducted.

14  
15 41. The EIR does not include any adequate mitigation measures to address potential impacts  
16 on special status plants. The EIR improperly defers the formulation of such mitigation measures until  
17 after Project approval, albeit without identifying any performance criteria or analysis of whether  
18 mitigation would be feasible, as required by CEQA.

#### 19 Environmental Justice

20  
21 42. Environmental justice is the fair treatment of people of all races, cultures, and incomes  
22 with respect to the development, adoption, implementation, and enforcement of environmental laws,  
23 regulations, and policies. Senate Bill (“SB”) 115; Cal. Gov. Code § 65040.12(e). The Project has an  
24 environmental justice impact because it would disproportionately affect a minority population or a  
25 low-income population.

26  
27 43. The California Department of Justice, through the Office of the Attorney General, released  
28 a report in 2012 entitled “Environmental Justice at the Local and Regional Level—Legal Background”  
 (“report”) which interprets existing CEQA law as imposing several environmental justice obligations

1 on local governments. According to the report, while CEQA does not use the term “environmental  
2 justice”, it centers on “whether or not a proposed project may have a “significant effect on the  
3 environment.”” Pub. Res. Code. § 21000(b). A “project may have a ‘significant effect on the  
4 environment’” if, among other things, “[t]he environmental effects of a project will cause substantial  
5 adverse effects on human beings, either directly or indirectly.” Pub. Res Code. § 21083(b)(3). An EIR  
6 shall identify and focus on the significant environmental effects of a proposed project. 14 Cal. Code  
7 Regs., (hereinafter cited as “CEQA Guidelines”) § 15126.2(a). The discussion should include  
8 “population concentration, the human use of the land..., health and safety problems” and “[t]he EIR  
9 shall also analyze any significant environmental effects the project might cause by bringing  
10 development and people into the area affected.” Id.

11  
12 44. The EIR does not include any analysis of the Project’s environmental justice impacts or  
13 disparate impacts on a community disproportionately comprised of people of color.  
14

### 15 **PROCEDURAL HISTORY**

16 45. A Draft EIR for the West Valley Logistics Center Specific Plan (“WVLCSP”) was made  
17 available for public comment beginning on April 22, 2014 and ending on June 5, 2014. After  
18 receiving extensive public comments, the City decided to recirculate the entire Draft EIR pursuant to  
19 the provisions of CEQA Guidelines § 5088.5 (a). A Recirculated Draft EIR was made available for  
20 public comment beginning on December 18, 2014, and ending on February 2, 2015.  
21

22 46. The City received extensive comments from the agencies and the public. Based on these  
23 comments, the applicant revised the proposed project by altering the routing of trucks between the  
24 project site and area freeways. Largely as a result of these revisions, the EIR’s analysis of the Project’s  
25 traffic impact analysis, air quality, greenhouse gas, and noise were revised and the EIR was  
26 recirculated for a second time.

27 47. The Second Recirculated Draft EIR was circulated for 45 days, from February 5, 2018 to  
28

1 March 23, 2018. In October 2018, the City released a Final EIR, consisting of the comments and  
2 responses to comments on the Draft EIR, First Recirculated Draft EIR, and Second Recirculated Draft  
3 EIR; revisions to the Second Recirculated Draft EIR; and an erratum making minor, non-substantive  
4 changes to the Final EIR.

5  
6 48. The Planning Commission held public hearings on December 18, 2018 and January 15,  
7 2019, and recommended that the City Council approve the Project, subject to all conditions of  
8 approval adopted and mandated by the City Council, with a further recommendation that the City  
9 Council not approve the Project until street improvements consistent with mitigation measures TRA-  
10 1A, 1B, 1C, 1D, and 1E have been approved and agreed to by the various jurisdictions.

11 49. On March 12, 2019, the City Council held a public hearing and approved the Project,  
12 certified the Final EIR, and adopted findings in support of the Project approval.

#### 14 **CEQA MANDATES**

15 50. CEQA was enacted to require public agencies and decision-makers to document and  
16 consider the environmental implications of their actions before formal decisions are made. Pub. Res.  
17 Code § 21000, and to “[e]nsure that the long-term protection of the environment shall be the guiding  
18 criterion in public decisions.” Pub. Res. Code § 21001(d) “CEQA was intended to be interpreted in  
19 such a manner as to afford the fullest possible protection to the environment within the reasonable  
20 scope of the statutory authority.” CEQA Guidelines § 15003(f), citing Friends of Mammoth v. Board  
21 of Supervisors, (1972) 8 Cal. 3d 247. “[T]he overriding purpose of CEQA is to ensure that agencies  
22 regulating activities that may affect the quality of the environment give primary consideration to  
23 preventing environmental damage. CEQA is the Legislature's declaration of policy that all necessary  
24 action be taken ‘to protect, rehabilitate and enhance the environmental quality of the state. Save our  
25 Peninsula v. Monterey County Board of Supervisors (2001) 87 Cal.App.4th 99, 117, citing Laurel  
26 Heights Improvement Assn. v. Regents of University of California, (1988) 47 Cal.3d 373, 392; and  
27  
28

1 Pub. Res. C § 21000.

2 51. The lead agency must identify all potentially significant impacts of the project, and must  
3 therefore consider all the evidence in the administrative record, not just its initial study. Pub. Res.  
4 Code § 21080 (c), (d), § 21082.2. The CEQA Guidelines direct lead agencies to conduct an Initial  
5 Study to “determine if the project may have a significant on the environment.” § 15063(a). “All phases  
6 of the project planning, implementation, and operation must be considered in the Initial Study”.  
7 CEQA Guidelines § 15063(a)(1). Besides the direct impacts, the lead agency must also consider  
8 reasonably foreseeable indirect physical changes in the environment in the area in which significant  
9 effects would occur, directly or indirectly. See CEQA Guidelines § 15064(d) & § 15360; see also  
10 Laurel Heights Improvement Assn, supra, 47 Cal. Ed at 392.  
11

12 52. An indirect impact is a physical change in the environment, not immediately related to the  
13 project in time or distance, but caused indirectly by the project and reasonably foreseeable. CEQA  
14 Guidelines § 15064(d)(2) & § 15358(a)(2). Indirect impacts to the environment caused by a project’s  
15 economic or social effects must be analyzed if they are “indirectly caused by the project, are  
16 reasonably foreseeable, and are potentially significant.” CEQA Guidelines § 15064(d)-(e). A lead  
17 agency may not limit environmental disclosure by ignoring the development or *other activity* that will  
18 ultimately result from an initial approval. City of Antioch v. City Council (1986) 187 CA3d 1325  
19 (emphasis added). The guidelines specifically require that an Initial Study must consider “all phases of  
20 project planning, implementation, and operation.” CEQA Guidelines § 15063(a)(1).  
21

22 53. The EIR must contain a sufficient degree of analysis to provide the decision-makers with  
23 enough information to make an intelligent decision. CEQA Guidelines § 15151. The analysis in the  
24 EIR must be sufficient to connect the dots between facts and conclusion; it may not include the  
25 agency’s bare conclusions or opinions. Citizens of Goleta Valley v. Board of Supervisors (1990) 52  
26 Cal.3d 553, 568. “The grounds upon which an administrative agency has acted must be ‘clearly  
27  
28



1 disclosed and adequately sustained.” San Bernardino Valley Audubon Society, Inc. v. County of San  
2 Bernardino (1984) 55 Cal.App.3d 738, 752.

3 54. CEQA requires that agencies “mitigate or avoid the significant effects on the environment  
4 of projects that it carries out or approves whenever it is feasible to do so.” Pub. Res. Code §  
5 21002.1(b); Napa Citizens for Honest Gov’t v. Napa County Bd. Of Supervisors (“Napa”) (2001) 91  
6 Cal.App.4th 342, 360 (“the EIR must propose and describe mitigation measures that will minimize the  
7 significant environmental effects that the EIR has identified.” “CEQA does not authorize an agency  
8 to proceed with a project that will have significant, unmitigated effects on the environment, based  
9 simply on a weighing of those effects against the project’s benefits, unless the measures necessary to  
10 mitigate those effects are truly infeasible.” City of Marina v. Board of Trustees of the California State  
11 University (2006) 39 Cal.4th 341, 368-369. Because the EIR admits the Project’s cumulative impact  
12 on climate change and air quality will be significant, the EIR was required to consider and impose all  
13 feasible mitigation measures and alternatives to reduce this impact to the extent feasible.

14 55. Where the CEQA environmental process was procedurally or substantively defective,  
15 reviewing courts may find prejudicial abuse of discretion even if proper adherence to CEQA mandates  
16 may not have resulted in a different outcome. Pub. Res. Code § 21005(a). For example, the Court in  
17 Citizens to Preserve Ojai v. County of Ventura (1985) 176 Cal.App.3d 421, 428 held that the  
18 certification of an EIR that had not adequately discussed the environmental impacts of the project  
19 constituted a prejudicial abuse of discretion even if strict compliance with the mandates of CEQA  
20 would not have altered the outcome. The Court in Resource Defense Fund v. LAFCO (1987) 191  
21 Cal.App.3d 886, 897-8, went so far as to declare that failure to comply with CEQA procedural  
22 requirements was per se prejudicial. The court in Kings County Farm Bureau v. City of Hanford  
23 (1990) 221 Cal.App.3d 692 explained that an agency commits prejudicial error if “the failure to  
24 include relevant information precludes informed decision making and informed public participation,  
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1 thereby thwarting the statutory goals of the EIR process.” Id., at 712.

2 56. CEQA’s environmental review process is intended to provide the public with assurances  
3 that “the agency has, in fact, analyzed and considered the ecological implications of its actions.”  
4 Laurel Heights Improvement Ass. v. Regents of the University of California (1988) 47 Cal.3rd 376,  
5 392. The function of the environmental review, then, is not merely to result in informed decision  
6 making on the part of the agencies, it is also to inform the public so they can respond to an action with  
7 which they disagree. Id.

9 **FIRST CAUSE OF ACTION**

10 (Violations of CEQA)

11 57. Petitioners refer to and incorporate herein by this reference paragraphs 1-56, inclusive, of  
12 this Petition as though fully set forth herein.

13 58. The Final EIR fails to adequately describe the Project setting and to establish the  
14 environmental baseline. The EIR fails, for example, to adequately describe the suitability of the  
15 habitat for harboring special status species such as the gnatcatcher, or to serve as a critical wildlife  
16 movement corridor. The EIR’s analysis of the environmental baseline does not include reliable  
17 protocol level surveys for special status species.

18 59. The EIR fails to adequately analyze Project’s environmental impacts, including but not  
19 limited to impacts on air quality and related public health impacts, biological resources, climate  
20 change, energy use, traffic and noise. The Final EIR, moreover, fails to adequately analyze the  
21 Project’s cumulative or potential growth-inducing impacts.

22 60. The EIR fails to adequately analyze, discuss and propose potentially feasible mitigation  
23 measures to address the Project’s potentially significant impacts, including mitigation measures to  
24 address the Project’s impacts on air quality, biological impacts, climate change, traffic and noise. In  
25 some cases, formulation of mitigation measures are improperly deferred without any discussion of the  
26  
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1 feasibility of mitigation or identifying performance criteria.

2 61. The EIR fails to include an adequate analysis of the Projects' environmental justice  
3 implications or the Project's potential to impact communities comprised primarily of people of color  
4 or socio-economically disadvantaged communities.

5 62. The EIR fails to adequately and in good faith respond to public and agency comments.

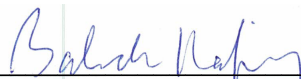
6  
7 **PRAYER FOR RELIEF**

8 WHEREFORE, Petitioners pray for judgment against the City, as set forth herein below.:

- 9 (1) That the Court issue an alternative and peremptory writ of mandate commanding  
10 Respondent the City of Fontana and Fontana City Council to set aside, invalidate and  
11 void all approvals in connection with the West Valley Logistics Project;  
12  
13 (2) The City set aside its certification of the EIR for the West Valley Logistics Project;  
14  
15 (3) For declaratory judgment, stating that the actions of Respondents in approving West  
16 Valley Logistics Project and certifying the EIR were in violation of CEQA;  
17  
18 (4) For a temporary restraining order, preliminary injunction, and permanent injunction  
19 prohibiting any actions by Respondents and/or Real Parties in Interest pursuant to the  
20 approval of West Valley Project until Respondents have fully complied with the  
21 California Environmental Quality Act, all other applicable state, local laws and  
22 requirements  
23 (5) For an award of costs and attorney's fee, and  
24 (6) For an award of such other and further relief as the Court deems just and proper.

25 Dated: April 12, 2019

LAW OFFICES OF BABAK NAFICY

26 By:   
27 Babak Naficy  
28 Attorney for Plaintiffs/Petitioners

Verification

1  
2 I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory and  
3 Injunctive Relief and Petition for Writ of Mandate and know its contents. I am an officer of the  
4 Center for Community Action and Environmental Justice, one of the the Plaintiff/Petitioners in this  
5 action. The matters stated therein are true of my knowledge except as to those matters which are  
6 stated on information and belief, and as to those matters those matters, I believe them to be true.

7 Executed on April 12 2019, in, \_\_\_\_\_ in the County of  
8 San Bernardino.  
9

10 I declare under the penalty of perjury under the laws of the state of California that the  
11 foregoing is true and correct.

12  
13 Signed: 

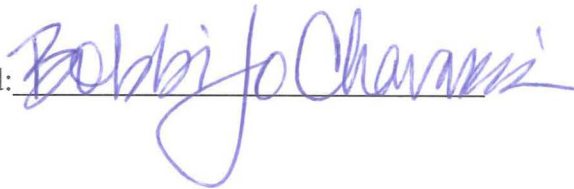
Dated: 4/12/2019

Verification

1  
2 I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory and  
3 Injunctive Relief and Petition for Writ of Mandate and know its contents. I am an officer of the  
4 Sierra Club, one of the the Plaintiff/Petitioners in this action. The matters stated therein are true of  
5 my knowledge except as to those matters which are stated on information and belief, and as to those  
6 matters those matters, I believe them to be true. Executed on April 12, 2019, in,  
7 in the County of San Bernardino.

8  
9 I declare under the penalty of perjury under the laws of the state of California that the  
10 foregoing is true and correct.

11  
12 Signed:



Dated:

4/12/19

Verification

1 I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory and  
2 Injunctive Relief and Petition for Writ of Mandate and know its contents. I am an officer of the  
3 Center for Biological Diversity, one of the Plaintiff/Petitioners in this action. The matters stated  
4 therein are true of my knowledge except as to those matters which are stated on information and  
5 belief, and as to those matters those matters, I believe them to be true. Executed on April 11, 2019,  
6 in Shelter Cove, in the County of Humboldt.  
7

8  
9 I declare under the penalty of perjury under the laws of the state of California that the  
10 foregoing is true and correct.

11  
12 Signed: *Peter A. Sauer* Dated: April 11, 2019  
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10 *Counsel for Center for Community Action and Environmental Justice.*

11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 IN AND FOR THE COUNTY OF SAN BERNARDINO

13 CENTER FOR COMMUNITY ACTION AND  
ENVIRONMENTAL JUSTICE, SIERRA CLUB,

14 Petitioners/Plaintiffs,

15 v.

16 COUNTY OF SAN BERNARDINO, BOARD OF  
SUPERVISORS OF COUNTY OF SAN  
17 BERNARDINO,

18 Respondents/Defendants,

19  
20 JM REALTY GROUP, INC., DOES 1 through 100  
inclusive,

21  
22  
23 Real Parties in Interest.

Case No: CIVDS1827902

(California Environmental Quality Act)

**VERIFIED PETITION FOR WRIT OF  
MANDATE UNDER THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT**

[Code Civ. Proc., §§ 1085, 1094.5; CEQA  
(Pub. Resources Code, §§ 21000 et seq.)]

Date:

Time:

Dept:

Judge:

Action Filed:

Trial Date:

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

OCT 26 2018

BY Melissa White  
MELISSA WHITE, DEPUTY

**BY FAX**

1 **I. INTRODUCTION**

2 1. On September 25, 2018, the San Bernardino County Board of Supervisors (“Board”)  
3 approved the Slover Distribution Center (“Project”) – a warehouse development in close proximity  
4 to homes and schools in the community of Bloomington. On the same day, the Board also approved  
5 a final environmental impact report (“Final EIR”) that purports to, but fails to analyze the  
6 widespread impacts of the Project’s construction and operation.

7 2. This project is one of many warehouses that has been approved in the Bloomington portion  
8 of San Bernardino County, which impose large impacts on community residents and school children.  
9 The project design so close to residences and schools compelled State Senator Connie Levya and  
10 State Assembly Representative Eloise Gomez Reyes to write the following in an Opinion Editorial to  
11 the Inland Empire Community News: “The approval of the proposed warehouse in Bloomington by  
12 the San Bernardino County Board of Supervisors will further erode our quality of life and have  
13 serious health impacts on the hardworking community that will be most directly impacted by this  
14 project.”

15 3. As a result, Petitioners bring this action on their behalf, on behalf of their members, the  
16 general public, and in the public interest, to compel the County to adhere to the California  
17 Environmental Quality Act’s (“CEQA”) critical environmental review and mitigation requirements  
18 designed to maintain a high-quality, healthy environment for all Californians.

19 **II. PARTIES**

20 4. Petitioner and Plaintiff CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL  
21 JUSTICE (“CCAIEJ”) is a membership-based California non-profit environmental health and justice  
22 organization with its membership in and around San Bernardino County. CCAIEJ’s mission is to  
23 bring people together to improve their social and natural environment, and to build community  
24 power in order to create safer, healthier, toxic free places to live, work, learn and play in and around  
25 the counties of Riverside and San Bernardino. CCAIEJ has its physical offices in Jurupa Valley and  
26 organizes to build leadership for community action in Jurupa Valley, Mira Loma, Riverside, the  
27 unincorporated areas in San Bernardino County as well as other cities throughout the counties of  
28 Riverside and San Bernardino. CCAIEJ has identified the unincorporated area of Bloomington in



1 San Bernardino County as a “community at risk” for various environmental injustices including  
2 bearing a disproportionate share of the impacts from high polluting industries, heavy-duty diesel  
3 truck and other mobile source emissions, and suffering other disparities created by zoning and  
4 irresponsible land use planning. Accordingly, CCAEJ, together with the co-petitioner to this action  
5 and other environmental groups, filed extensive comments that are part of the administrative record  
6 for the County’s approval of the Project and Final EIR. CCAEJ’s members are extremely concerned  
7 that the Project will detrimentally impact their health and wellbeing, and the health and wellbeing of  
8 their children, of their community, and the environment, and that it will detrimentally impact the  
9 area’s surrounding resources. Most of CCAEJ’s members who reside in and around the  
10 unincorporated area of Bloomington in San Bernardino County and around the proposed site for the  
11 Project already suffer a disproportionate burden from existing stationary and mobile sources of  
12 pollution, including significant air pollution from, *inter alia*, the movement of goods throughout  
13 region to existing warehouses and other storage and distribution centers.

14 5. Petitioner and Plaintiff SIERRA CLUB is a national nonprofit organization of approximately  
15 600,000 members. Sierra Club is dedicated to exploring, enjoying, and protecting the wild places of  
16 the earth; to practicing and promoting the responsible use of the earth’s ecosystems and resources; to  
17 educating and encouraging humanity to protect and restore the quality of the natural and human  
18 environment; and to using all lawful means to carry out these objectives. Sierra Club’s particular  
19 interest in this case and the issues that this Project approval concerns stem from the Sierra Club’s  
20 local San Gorgonio Chapter’s interests in preserving the native, endangered, imperiled and sensitive  
21 species and wildlife habitats in the region; decreasing rather than increasing heavy-duty and  
22 medium-duty truck traffic in an already highly overburdened air basin; and ensuring that good,  
23 livable and healthy jobs are brought to the area. The members of the San Gorgonio Chapter live,  
24 work, and recreate in and around the areas that will be directly affected by the construction and  
25 operation of the Project. Sierra Club submitted extensive comments to the County throughout its  
26 environmental review process for the Project that are part of the County’s record of its decision to  
27 approve the Project and its Final EIR.

1 6. By this action, Petitioners seek to protect the health, welfare, and economic interests of their  
2 members and the general public and to enforce the County’s duties under CEQA. Petitioners’  
3 members and staff have an interest in their health and well-being, in the health and well-being of  
4 others, including the residents of the unincorporated area of Bloomington in San Bernardino County  
5 and its surrounding areas and in the region. Petitioners also have a strong interest in conserving and  
6 protecting the environment, in protecting the aesthetic and ecological integrity of the areas  
7 surrounding the Project area, and have economic interests in San Bernardino County. Petitioners’  
8 staff and members who live and work near the Project also have a right to and a beneficial interest in  
9 the County’s compliance with CEQA. These interests have been, and continue to be, threatened by  
10 the County’s decision to certify the Final EIR and approve the Project in violation of CEQA. Unless  
11 the relief requested in this case is granted, Petitioners’ staff and members will continue to be  
12 adversely affected and irreparably injured by the County’s failure to comply with CEQA.

13 7. Respondent and Defendant COUNTY OF SAN BERNARDINO (the “County”) is organized  
14 and existing under the Constitution and laws of the State of California, with the capacity to sue and  
15 be sued.

16 8. As referred to herein, the County consists of all boards including Respondent and Defendant  
17 SAN BERNARDINO COUNTY BOARD OF SUPERVISORS, commissions and departments  
18 including the current Planning and/or Land Use Department and/or the County’s Planning  
19 Commission.

20 9. The County is the “lead agency” as the term is defined by CEQA, and is therefore, charged  
21 with principal responsibility for carrying out or approving the Project, and for evaluating the  
22 Project’s environmental impacts pursuant to CEQA. (Pub. Res. Code § 21067.)

23 10. The County approved the Project and the EIR at issue in this case, and based on information  
24 and belief authorized and filed or caused to be filed at least three Notices of Determination certifying  
25 the EIR and approving a Statement of Overriding Considerations, the last of which was the only  
26 relevant Notice of Determination for statute of limitations purposes and was posted by the County of  
27 San Bernardino’s County Clerk on September 27, 2018.

1 11. Petitioners are informed and believe on that basis allege that JM REALTY GROUP, INC., a  
2 California Corporation, is a Real Party in Interest insofar as (1) it is the entity named and thereby  
3 identified on the County’s public notice documents relating to the Project including its September  
4 27, 2018 Notice of Determination, pursuant to Public Resources Code section 21167.6.5, and (2) it is  
5 the entity listed as owner and developer of the property subject to the County’s actions pursuant to  
6 its approval of the Project and the Final EIR, including the County’s execution of the development  
7 agreement required by the Project.

8 12. Petitioners do not know the true names and capacities of Real Parties in Interest, Does 1  
9 through 100 inclusive, and therefore, name them by such fictitious names. Petitioners will seek  
10 leave from the Court to amend this petition to reflect the true names and capacities of Does 1  
11 through 100 inclusive once they have been ascertained.

12 **III. JURISDICTION AND VENUE**

13 13. Venue is proper in the Superior Court of California, County of San Bernardino under Code of  
14 Civil Procedure section 395 because the County, its Board of Supervisors and the proposed project  
15 are currently located, or will be located, in San Bernardino County.

16 14. Venue is also proper in the Court pursuant to Code of Civil Procedure sections 393, 394.

17 15. The action is filed in the Civil Division of the San Bernardino District located in the San  
18 Bernardino Justice Center, 247 West 3<sup>rd</sup> Street, San Bernardino, CA, 92415-0210 in accordance with  
19 the General Order – Where to File Documents – dated January 10, 2018, which requires all CEQA  
20 Petitions for Writ of Mandate to be filed in this Courthouse.

21 16. The court has jurisdiction over this action pursuant to Public Resources Code section 21168  
22 and Code of Civil Procedure section 1094.5 (or in the alternative, pursuant to Public Resources Code  
23 section 21168.5 and California Code of Civil Procedure section 1085).

24 17. This petition has been filed within 30 days of the filing and posting of the County’s last  
25 Notice of Determination approving the Project and the Final EIR, which was posted by the County  
26 of San Bernardino’s County Clerk, in accordance with Public Resources Code section 21167(c) and  
27 Cal. Code Regs., tit. 14 (“CEQA Guidelines”) section 15112(c)(1).

1 18. Petitioners have complied with Public Resources Code section 21167.5 by prior service of a  
2 letter upon the County indicating their intent to file this petition. (Attachment "A" hereto.)

3 19. Petitioners have performed any and all conditions precedent to filing this instant action and  
4 have exhausted any and all available administrative remedies to the extent required by law.  
5 Petitioners do not have a plain, speedy, or adequate remedy at law because Petitioners and their  
6 members will be irreparably harmed by the County's failure to comply with CEQA's environmental  
7 review and mitigation requirements in approving the Final EIR for the Project and by the ensuing  
8 environmental and public health consequences that will be caused by the construction and operation  
9 of the Project, as approved.

#### 10 **IV. STATEMENT OF FACTS**

##### 11 **A. Community and Environmental Setting**

12 20. The Slover Distribution Center Project is a proposal for the construction and operation  
13 of an industrial high cube/warehouse building, totaling 344,000 square feet and 45 feet high,  
14 on 17.34 vacant acres in the unincorporated community of Bloomington in the County of San  
15 Bernardino.

16 21. The Project site consists of five parcels, four of which are vacant and one parcel with a  
17 single residence at the southwest corner of the property which is scheduled to be demolished.  
18 The Project site is bounded by Slover Avenue on the north, Laurel Avenue to the west and  
19 Locust Avenue to the east.

20 22. The area to the immediate south of the Project site is populated with single-family  
21 homes in residential zones. In fact, homes are located within approximately 50 feet from the  
22 proposed development along Mindanao Street. The Project proposes a single row of  
23 landscaping and a steel tubular fence along the southern Project boundary.

24 23. Single-family homes are also located to the west, north, and east, including within  
25 approximately 175 feet across Locust Avenue to the east. Bloomington High School is located  
26 within approximately 547 feet to the southwest of the site.

27 24. The Project will have a total of 224 automobile parking stalls and 49 truck dock doors  
28 and 48 truck parking stalls. The Project's main access point (Driveway 2) will be on Slover

1 Avenue. Additional points of access will be on Laurel Avenue (Driveway 1) and Locust  
2 Avenue (Driveway 3).

3 25. The Project site is subject to the Bloomington Community Plan, which is part of the  
4 County of Riverside General Plan. Among other applicable policies, the Community Plan  
5 states in Policy LU3.1. A. ii, that: “Industrial development shall generally be located south of  
6 Hwy. 10 and north of Slover Avenue.” The Project locates industrial development south of  
7 Slover Avenue.

8 26. The Project includes the certification of Final Environmental Impact Report (PEN17-  
9 0145) and the following land use approvals:

- 10 a) General Plan Amendment to change the existing land use designation from  
11 Bloomington/Residential with a 20,000-acre minimum lot size, additional  
12 agricultural overlay (BL/RS-20M-AA), and Bloomington/Single Residential  
13 with a 1-acre minimum lot size, additional agricultural overlay (BL/RS-1-  
14 AA) to Bloomington/Community Industrial (BL/IC);
- 15 b) Conditional Use Permit (CUP) to construct a 344,000-square-foot-high-cube  
16 industrial warehouse building, associated office facilities, and site  
17 improvements; and,
- 18 c) Tentative Parcel Map to combine the five existing parcels into one lot.

19 **B. CEQA Review and Project Approval**

20 27. The County circulated a Notice of Preparation (NOP) of Draft Environmental Impact  
21 Report (“Draft EIR”) for the Project pursuant to CEQA on or about January 12, 2017.

22 28. The Project’s Draft EIR pursuant to CEQA was circulated for public comment on  
23 December 14, 2017.

24 29. The Project’s Final EIR was made available in or about June 2018.

25 30. The Final EIR finds that the Project will result in significant and unavoidable impacts to  
26 air quality and traffic/circulation.

27 31. On June 21, 2018, the County of San Bernardino Planning Commission held a public  
28 hearing on the Project and voted to recommend that the Board of Supervisors approve the

1 Project including certification of the Final EIR. Substantial public testimony was received at  
2 the public hearing which lasted more than four hours.

3 32. On August 21, 2018, the County of San Bernardino Board of Supervisors held a public  
4 hearing on the Project. The Board continued the hearing to allow for publication and mailing  
5 of a corrected public hearing notice, and it closed the public hearing to those who spoke on  
6 August 21<sup>st</sup>.

7 33. On September 25, 2018, the Board of Supervisors held a further public hearing on the  
8 Project. At this meeting, the Board voted to approve the Project including certification of the  
9 Final EIR.

10 34. The County's approval of the Project will cause Petitioners irreparable injury  
11 for which Petitioners have no adequate remedy at law. Petitioners and their members will be  
12 irreparably harmed by the County's actions in approving the Project. Petitioners were harmed  
13 by, among other things, the failure of the County in its certification of the EIR to adequately  
14 evaluate the potential impacts of the Project, and the County's approval of the Project without  
15 providing adequate and effective mitigation measures contrary to the requirements of State  
16 law.

17 35. The maintenance of this action is for the purpose of enforcing important public policies  
18 of the State of California with respect to the protection of the environment under CEQA and  
19 conformance with state law and local law. The maintenance and prosecution of this action will  
20 confer a substantial benefit upon the public by protecting the public from environmental and  
21 other harms alleged in this Petition. Petitioners are acting as private attorneys general to  
22 enforce these public policies and prevent such harm.

### 23 **FIRST CAUSE OF ACTION**

24 **(Violations of CEQA – Failure to Comply with CEQA's requirements – Code of Civil**  
25 **Procedure Section 1085, or 1094.5; Public Resources Section 21000 et seq.)**

26 36. Petitioners hereby reallege and incorporate paragraphs 1 through 35 inclusive.

27 37. CEQA requires the lead agency for a project to prepare an EIR that complies with the  
28

1 requirements of the statute. The lead agency must also provide for public review and comment on  
2 the project and associated environmental documentation. An EIR must provide sufficient  
3 environmental analysis such that decision-makers can intelligently consider environmental  
4 consequences when acting on proposed projects.

5 38. Respondents violated CEQA by certifying an EIR for the Project that is inadequate and fails  
6 to comply with CEQA. Among other things, Respondents:

- 7 a. Failed to adequately disclose or analyze the Projects significant impacts on the  
8 environment, including, but not limited to, the Project's aesthetic, air quality, energy,  
9 greenhouse gas emissions, land use, noise, and traffic impacts. By way of example,  
10 the Project's EIR vastly understates the Project's air quality effects related to diesel  
11 truck trips, where it relies upon unrealistic assumptions about the nature of Project  
12 truck trips. By way of further example, the noise analysis omits important analysis  
13 such as calculating the Project's nighttime noise levels, where the Project is expected  
14 to operate 24 hours per day seven days per week. Again for example, the Project  
15 patently conflicts with a number of policies contained in the Bloomington  
16 Community Plan, and the Project fails to mitigate these significant effects.
- 17 b. Failed to consider cumulative impacts associated with other proposed logistics centers  
18 in the area and failed to revise and recirculate the EIR in response to significant new  
19 information that occurred after the release of the Projects draft EIR regarding the  
20 newly proposed Project.
- 21 c. Failed to adequately mitigate Project impacts, including, but not limited to, the failure  
22 to adopt feasible air quality mitigation and the failure to adopt certain and enforceable  
23 traffic mitigation.
- 24 d. Failed to adopt feasible Project alternatives, and failed to make adequate findings  
25 supported by substantial evidence that Project alternatives are infeasible within the  
26 meaning of CEQA.

27 39. As a result of the foregoing defects, Respondents prejudicially abused their discretion by  
28 certifying an EIR that does not comply with CEQA and by approving the Project in reliance thereon.

1 Accordingly, Respondents' certification of the EIR and approval of the Project must be set aside.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Petitioners pray for judgment as set forth below:

4 A. For a writ of mandate or peremptory writ issued under the seal of this Court pursuant  
5 to Code of Civil Procedure 1094.5 or in the alternative 1085, and directing the County and/or Does  
6 1-20 inclusive to:

- 7 1. Void the Final EIR for the Project approval;
- 8 2. Set aside and withdraw all approvals of the Project including but not limited  
9 to the County's approval of the General Plan amendment and all related land  
10 use approvals;
- 11 3. Refrain from granting any further approvals for the Project until the County  
12 fully with the requirements of CEQA.

13 B. For a writ of mandate or peremptory writ issued under the seal of this Court pursuant  
14 to Code of Civil Procedure 1094.5 or in the alternative 1085, and directing all Real Parties in Interest  
15 and/or Roes 21-40 inclusive to:

- 16 1. Refrain from constructing and operating the Project until the County complies  
17 fully with the requirements of CEQA by voiding the approved Final EIR for  
18 the Project, setting aside and withdrawing all approvals issued pursuant to that  
19 document's review, and conducting a new environmental review process that  
20 complies with CEQA's requirements as set forth herein.

21 C. For Petitioners' fees and costs, including reasonable attorneys' fees and expert  
22 witness costs, as authorized by Code of Civil Procedure § 1021.5 and any other applicable  
23 provisions of law.

24 D. For such other legal and equitable relief as this Court deems appropriate and just.  
25  
26  
27  
28



1 DATED: October 25, 2018

Respectfully submitted,

2 Abigail Smith

3  
4 Abigail Smith  
Law Offices of Abigail Smith

5  
6 *Counsel for Petitioner Sierra Club*

7 Adrian Martinez

8 Adrian Martinez  
9 Byron Chan  
Earthjustice

10 *Counsel for Petitioner CCAEJ*

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VERIFICATION

I, the undersigned, certify and declare that I have read the foregoing Petition for Writ of Mandate and know its contents. The statement following the box checked is applicable.

I am Executive Director of the CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE and am authorized to make this verification for and on its behalf, and I make this verification for that reason. The matters stated in the document described above are true of my own knowledge and belief, except as to those matters stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

October 25, 2018

By:   
Name: Allen Hernandez

1 **VERIFICATION**

2 I, the undersigned, certify and declare that I have read the foregoing Petition for Writ of  
3 Mandate and know its contents. The statement following the box checked is applicable.  
4

5 I am ( ) a member, (X) an officer of the SIERRA CLUB and am authorized to make this  
6 verification for and on its behalf, and I make this verification for that reason. The matters stated in  
7 the document described above are true of my own knowledge and belief, except as to those matters  
8 stated on information and belief, and as to those matters I believe them to be true.  
9

10 I declare under penalty of perjury under the laws of the State of California that the foregoing  
11 is true and correct.  
12

13 October 25, 2018

14 By: Mary Ann Ruiz  
15 Name: Mary Ann Ruiz  
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**Attachment A**

**Attachment A**

**Law Offices of Abigail Smith**

1455 Frazee Road, Suite 500, San Diego, CA 92108

Abigail A. Smith, Esq.  
Email: [abby@socalceqa.com](mailto:abby@socalceqa.com)  
Telephone: (951) 506-9925  
Facsimile: (951) 506-9725

***VIA U.S. MAIL and EMAIL***

October 24, 2018

County of San Bernardino  
c/o Laura Welch, Clerk of the Board  
385 N. Arrowhead Ave., 2<sup>nd</sup> Floor  
San Bernardino, CA 92415  
COB@sbcounty.gov

**Re: *Notice of Intent to File CEQA Petition in the Matter of the Approval of the Environmental Impact Report for Slover Distribution Center project and all related approvals***

To the County of San Bernardino:

PLEASE TAKE NOTICE, under Public Resources Code section 21167.5, that this letter serves as written notice of the intent of Petitioners SIERRA CLUB and CENTER FOR COMMUNITY ACTION & ENVIRONMENTAL JUSTICE to file a Petition for Writ of Mandate under the provisions of the California Environmental Quality Act (“CEQA”) against Respondent COUNTY OF SAN BERNARDINO challenging the City’s approval of the Slover Distribution Center project including certification of the Environmental Impact Report and all related land use approvals made on or about September 25, 2018.

Sincerely,



Abigail Smith, Esq.  
*Counsel for Sierra Club*

Adrian Martinez, Esq.  
*Counsel for the Center for Community Action & Environmental Justice*