

# PAUL HASTINGS

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VIA E-MAIL SRJOHNSON@CITYOFSACRAMENTO.ORG

Scott Johnson, Associate Planner  
City of Sacramento, Community Development Department  
Environmental Planning Services  
300 Richards Boulevard, Third Floor  
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**Re: UNION PACIFIC RAILROAD COMMENTS ON DRAFT ENVIRONMENTAL IMPACT REPORT  
FOR THE SACRAMENTO ENTERTAINMENT AND SPORTS CENTER & RELATED  
DEVELOPMENT PROJECT (P13-065) (SCH#: 2013042031)**

Dear Mr. Johnson:

On behalf of Union Pacific Railroad ("UPRR"), we submit the following comments on the above referenced Draft Environmental Impact Report ("EIR").

**1. The EIR Must Include Measures to Mitigate the Project's Potentially Significant Impacts on the Remediation of the Railyards South Plume.**

Modeling for the South Plume Feasibility Study (*Final Feasibility Study Report, Central Shops Study Area – Soil and South Plume Study Area – Ground Water, The Railyards, Sacramento, CA*, ERM August 2010, [http://www.envirostor.dtsc.ca.gov/public/final\\_documents2.asp?global\\_id=34400004&doc\\_id=5005829](http://www.envirostor.dtsc.ca.gov/public/final_documents2.asp?global_id=34400004&doc_id=5005829)) concluded that at high rates of extraction from depths less than 100 feet, groundwater is drawn from the coarse zone between approximately 65 and 95 feet (the "Gravel Zone"). The Gravel Zone contains significant volatile organic compound ("VOC") contaminant mass that at the proposed pumping rates will likely be relocated from the current footprint of the South Plume and will likely require treatment prior to discharge. The EIR must explain how to design the proposed dewatering system to minimize the relocation and treatment of existing contaminant mass.

The Draft EIR acknowledges in impacts 4.6-4 and 4.6-6 that construction dewatering could adversely affect the remediation of the Railyards South Plume, and that this is a potentially significant impact, but the EIR does not explain how this impact can be avoided or mitigated. The Draft EIR states only that the City and the project applicant will obtain approval from the Department of Toxic Substances Control ("DTSC") prior to engaging in dewatering activities. To the extent this is intended to qualify as mitigation, it is improper deferral of mitigation.

Deferral of mitigation is permissible only when an EIR specifies "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way." 14 CCR § 15126.4(a)(1)(B). Here, the Draft EIR includes no such specifications: it is silent both as to performance standards and as to methods to accomplish them. At a minimum, the EIR must explain the performance standards that will be met ("DTSC approval" is not a performance standard) and the types of "appropriate steps" that could be taken to accomplish those standards. This should include a commitment from the project applicant to perform any remediation that is necessary as a result of relocating or otherwise disturbing the existing contaminant mass.

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The City and the project applicant are further advised that UPRR does not assume responsibility for any costs of remediation caused by the City or project applicant or which might otherwise result from the construction of the proposed project.

**2. The Project Must Avoid Interference with Existing Groundwater Remediation Systems.**

Experience dictates that during wet weather, the City of Sacramento combined sewer system may experience flows at or greater than capacity. The Draft EIR notes that the project will involve extraction of 1 million gallons per day ("mgd") for a period of 12 to 15 months, and acknowledges in impacts 4.11-5 and 4.11-7 that the project would discharge additional flows to the City's sewer and drainage systems, which could exceed existing infrastructure capacity.

UPRR is actively remediating soil and groundwater in the vicinity of the project. The existing groundwater remediation systems have float switches that allow for shut off during periods of high storm flow. In addressing sewer capacity limitations and associated impacts and mitigation, the EIR must account for nearby groundwater remediation systems, and the project must not prevent or impact continued operation of the existing systems. The mitigation measures should include methods to avoid interference with remedial systems and a commitment to perform any remediation that is necessary as a result of interference with existing systems or exacerbation of existing contaminants.

**3. The Project Must Include Mitigation to Protect Construction Workers from Contaminated Groundwater.**

The Draft EIR acknowledges in impact 4.6-3 that the project could expose "people" to existing contaminated groundwater during dewatering activities. The Draft EIR includes insufficient discussion of potential impacts to construction workers and protective mitigation. The project must include mitigation measures to protect construction workers from vapors in contaminated groundwater and from direct contact with contaminated groundwater.

Thank you for the opportunity to participate in the planning process. We look forward to reviewing your responses in the Final EIR.

Sincerely,



Robert P. Hoffman  
for PAUL HASTINGS LLP

CJB

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