The Mitigated Negative Declaration for the HP Hood Cold Storage Project (DR21-034) was circulated for public comment from December 21, 2021 to January 20, 2022. Written comments were received as follows:

<table>
<thead>
<tr>
<th>Date</th>
<th>Commenter</th>
</tr>
</thead>
<tbody>
<tr>
<td>2/20/2022</td>
<td>Peter Minkel, Central Valley Regional Water Quality Control Board</td>
</tr>
<tr>
<td>2/20/2022</td>
<td>Molly Wright, Sacramento Metropolitan Air Quality Management District</td>
</tr>
<tr>
<td>2/20/2022</td>
<td>Rob Ferrera, Sacramento Municipal Utility District</td>
</tr>
<tr>
<td>2/20/2022</td>
<td>Aidan Marshall, Adams, Broadwell, Joseph &amp; Cardozo</td>
</tr>
</tbody>
</table>

All of the written comments are attached. Each of the comments addressed the project site and conditions as they relate to the particular areas of concern of the respective commenting agency, company, or organization. The comments are acknowledged by the City and have been considered as part of the project planning and its implementation.

The comments received did not identify any new significant effect, increase in severity of an impact identified in the Mitigated Negative Declaration, or provide significant new information. Recirculation of the Mitigated Negative Declaration is not required. See CEQA Guidelines section 15073.5.

Appendix A: Comments and Responses
HP Hood Cold Storage Expansion Project

Appendix A

Comments and Responses List:

- Comment Letter from Central Valley Regional Water Quality Control Board
- Response to the Central Valley Regional Water Quality Control Board
- Comment Letter from the Sacramento Metropolitan Air Quality Management District
- Response to the Sacramento Metropolitan Air Quality Management District
- Comment Letter from the Sacramento Municipal Utility District
- Response to the Sacramento Municipal Utility District
- Comment Letter from Adams, Broadwell, Joseph & Cardozo
20 January 2022

Ron Bess
City of Sacramento
300 Richards Boulevard, 3rd Floor
Sacramento, CA 95811
Rbess@cityofsacramento.org

COMMENTS TO REQUEST FOR REVIEW FOR THE MITIGATED NEGATIVE DECLARATION, HP HOOD COLD STORAGE EXPANSION PROJECT, SCH#2021120483, SACRAMENTO COUNTY

Pursuant to the State Clearinghouse’s 21 December 2021 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the Request for Review for the Mitigated Negative Declaration for the HP Hood Cold Storage Expansion Project, located in Sacramento County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore, our comments will address concerns surrounding those issues.

I. Regulatory Setting

   Basin Plan
   The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State’s water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

   The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of...
Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the Water Quality Control Plan for the Sacramento and San Joaquin River Basins, please visit our website: http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

**Antidegradation Considerations**

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at: https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf

In part it states:

*Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.*

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

**II. Permitting Requirements**

**Construction Storm Water General Permit**

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at: http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml
Phase I and II Municipal Separate Storm Sewer System (MS4) Permits
The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at: http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at: http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit
Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ. For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at: http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml

Clean Water Act Section 404 Permit
If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification
If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic

1 Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.
General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

Waste Discharge Requirements – Discharges to Waters of the State
If USACE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Dewatering Permit
If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:

**Limited Threat General NPDES Permit**
If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

**NPDES Permit**
If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/help/permit/

If you have questions regarding these comments, please contact me at (916) 464-4684 or Peter.Minkel2@waterboards.ca.gov.

[Signature]

Peter G. Minkel
Engineering Geologist

cc: State Clearinghouse unit, Governor’s Office of Planning and Research, Sacramento
RESPONSE TO CENTRAL VALLEY WATER QUALITY CONTROL BOARD LETTER

The letter lays out the regulatory setting for the CVRWQCB’s responsibility of protecting the quality of surface and groundwaters of the state and potential permitting requirements under the purview of the CVRWQCB. Listed potential permitting requirements include the Construction Stormwater General Permit, Stormwater Pollution Prevention Plans, Municipal Separate Storm Sewer System (MS4) Permits, Industrial Storm Water General Permit, Clean Water Act Sections 401 and 404, Discharges to Waters of the State, Dewatering Permit, NPDES Permit, and Limited Threat General NPDES Permit. The letter requests that the environmental review document evaluate potential impacts to both surface and groundwater quality. Impacts to hydrology and water quality are discussed on Pages 46 to 48 of the IS/MND. The CVRWQCB comment does not raise questions regarding the adequacy of the IS/MND, and therefore no changes to the IS/MND are required.
January 20, 2022

Ron Bess, Associate Planner
City of Sacramento Community Development Department
300 Richards Boulevard, 3rd Floor, Sacramento, CA 95811

Subject: HP Hood Cold Storage Expansion (State Clearinghouse # 2021120483) (SAC202102714)

Dear Ron Bess:

Thank you for providing the Sacramento Metropolitan Air Quality Management District (Sac Metro Air District) with the opportunity to review the Mitigated Negative Declaration (MND) for the HP Hood Cold Storage Expansion under the California Environmental Quality Act (CEQA). This project consists of a new 94,400-square-foot cold storage facility and associated site improvements on the 27.15-acre existing light industrial project site.

Sac Metro Air District offers the following recommendations on air quality and climate considerations for project implementation and CEQA review:

- Make publicly available the modeling runs that support Tables 2-2 through 2-4. The MND contends that project emissions of pollutants regulated by the Clean Air Act (“criteria pollutants”) are less than significant, and demonstrates this in Tables 2-2 through 2-4. We were unable to locate the appendices with the model runs for or these tables on the City website or elsewhere. For clear public disclosure of the claim of less than significant, it is important to show how the numbers in Tables 2-2 through 2-4 were determined.

- Use project-specific information to the full extent feasible in modeling to determine project emissions. The MND indicates default assumptions were used in its CalEEMod modeling to determine project emissions. The project is sufficiently well defined at the current stage of development that more project specific information may be available. Use of this information, if available, would ensure maximum possible accuracy in the modeling process.

- Explicitly include Sac Metro Air District Basic Construction Emission Control Practices (BCECP), available on our website, as mitigation in the MND. The MND uses Sac Metro Air District’s non-zero thresholds of significance for particulate matter emissions, and under our thresholds of significance, use of the non-zero thresholds requires BCECP implementation.
• Include as mitigation measures best management practices (BMPs) from Sac Metro Air District’s greenhouse gas thresholds, including (1) No natural gas: Projects shall be designed and constructed without natural gas infrastructure, and (2) Electric vehicle ready: Projects shall meet the current CalGreen Tier 2 standards, except all EV Capable spaces shall instead be EV Ready. The MND contends that the project greenhouse gas emissions are less than significant because the project is consistent with the City’s Climate Action Plan (CAP). The City is currently updating its CAP, and implementing the BMPs will help assure that the project greenhouse gas impacts are less than significant.

• Utilize natural refrigeration systems for any project refrigeration. We further maintain the recommendations in our June 2021 comments on the design review routing for this project, including electrification of loading docks, provision of electric vehicle charging infrastructure, and measures to reduce urban heat island effect impacts.

The use of high global warming potential (GWP) refrigerants with potent greenhouse gas emissions is growing, as is their contribution to global climate change. Next generation refrigeration systems can reduce the contribution to climate change of high GWP refrigerants by using natural refrigerant alternatives that have minimal climate impacts. For information on a local incentive program for natural refrigerants, you may visit the Sacramento Municipal Utilities District (SMUD) Pilot Natural Refrigerant Incentive Program page on SMUD’s website at www.smud.org. This program provides incentives to commercial customers that install natural refrigeration systems or retrofit a system from a high GWP refrigerant to a natural refrigerant.

Conclusion
As a reminder, all projects are subject to Sac Metro Air District rules and regulations in effect at the time of construction. Please visit our website to find a list of the most common rules that apply at the construction phase of projects. Please visit our permitting webpage, email permitting@airquality.org, or call 279-207-1122 for information on permitting requirements for project generators or other project equipment or processes that may release or control air pollutants.

Thank you for your attention to our comments. If you have questions about them, please contact me at mwright@airquality.org or 279-207-1157.

Sincerely,

Molly Wright, AICP
Air Quality Planner / Analyst

c: Paul Philley, AICP, Program Supervisor, Sac Metro Air District
RESPONSE TO THE SACRAMENTO METROPOLITAN AIR QUALITY MANAGEMENT DISTRICT (SMAQMD) LETTER

The SMAQMD letter requested that the model runs that support the emissions estimate be provided. The City posted the complete technical Air Quality memorandum, including the requested technical appendices to the City’s website prior to the close of the public comment period. The complete memorandum can be found here: https://www.cityofsacramento.org/-/media/Corporate/Files/CDD/Planning/Environmental-Impact-Reports/HP-Cold-Storage/Appendix-A---HP-Hood-AQ-GHG-Memo.pdf?la=en.

The SMAQMD suggests that project-specific information be used to the extent possible. The City agrees. The CalEEMod analysis used the square footage information from the project site plan, in addition to Sacramento-specific setting selections. However, project-specific information, including energy use and water use, were not yet available for use in the analysis. In general, CalEEMod provides a conservative estimate of project-specific impacts, including the issues mentioned in the comment; therefore, potential impacts associated with the project were sufficiently addressed.

The SMAQMD suggests that their Basic Construction Emission Control Practices be included as mitigation in the IS/MND or included as a condition of approval for the project. The City agrees. The City will incorporate the SMAQMD Basic Construction Emission Control Practices as a condition of approval for the project, consistent with SMAQMD Guidance. See SMAQMD Guide, Chapter 3, Chapter 4.
January 20, 2022

Ron Bess, Associate Planner
Community Development Department
City of Sacramento
300 Richards Boulevard, 3rd Floor
Sacramento, CA 95811
Rbess@cityofsacramento.org

Subject: HP Hood Cold Storage Expansion Project / MND / 2021120483

Dear Mr. Medill:

The Sacramento Municipal Utility District (SMUD) appreciates the opportunity to provide comments on the Mitigated Negative Declaration (MND) for the HP Hood Cold Storage Expansion Project (Project, SCH 2021120483). SMUD is the primary energy provider for Sacramento County and the proposed Project area. SMUD’s vision is to empower our customers with solutions and options that increase energy efficiency, protect the environment, reduce global warming, and lower the cost to serve our region. As a Responsible Agency, SMUD aims to ensure that the proposed Project limits the potential for significant environmental effects on SMUD facilities, employees, and customers.

It is our desire that the Project will acknowledge any impacts related to the following:

- Overhead and or underground transmission and distribution line easements. Please view the following links on smud.org for more information regarding transmission encroachment:
- Utility line routing
- Electrical load needs/requirements
- Energy Efficiency
- Climate Change
- Cumulative impacts related to the need for increased electrical delivery
- The potential need to relocate and or remove any SMUD infrastructure that may be affected in or around the project area
• We would also like to note that SMUD is listed as the gas provider on Page 38, however, SMUD is only the electric provider for this project.

SMUD would like to be involved with discussing the above areas of interest as well as discussing any other potential issues. We aim to be partners in the efficient and sustainable delivery of the proposed Project. Please ensure that the information included in this response is conveyed to the Project planners and the appropriate Project proponent.

Environmental leadership is a core value of SMUD, and we look forward to collaborating with you on this Project. Again, we appreciate the opportunity to provide input on this MND. If you have any questions regarding this letter, please do not hesitate to contact me at 916.732.6676, or by email at rob.ferrera@smud.org.

Sincerely,

Rob Ferrera
Environmental Services Specialist
Sacramento Municipal Utility District
6201 S Street
Sacramento, CA 95817

cc: Entitlements
RESPONSE TO SACRAMENTO MUNICIPAL UTILITIES DISTRICT LETTER

This comment letter requests acknowledgement of any impacts and future discussions related to transmission and distribution line easements, utility lines, energy efficiency, climate change, and the need for increased electrical delivery. Greenhouse gas emissions are discussed on pages 17 through 23 of the IS/MND. Representatives from HP Hood intend to meet with SMUD prior to start of construction to discuss these and any other pertinent issues. This comment does not question the adequacy of the IS/MND, and no changes to the document are required.
Via Email and Overnight Mail

Ron Bess, Associate Planner
City of Sacramento Community Development Department
300 Richards Boulevard, 3rd Floor
Sacramento, CA 95811
Email: Rbess@cityofsacramento.org

Re: Preliminary Comments on the Initial Study/Mitigated Negative Declaration for the HP Hood Cold Storage Expansion Project (DR21-034; SCH No. 2021120483)

Dear Mr. Bess:

We are writing on behalf of Sacramento Residents for Responsible Development (“Sacramento Residents”) to provide preliminary comments on the Initial Study/Mitigated Negative Declaration (“IS/MND”) prepared for the HP Hood Cold Storage Expansion Project, DR21-034 / SCH No. 2021120483 (“Project”) prepared by the City of Sacramento (“the City”), proposed by HP Hood, LLC (“Applicant”).

The Project is proposed to be located at 8340 Belvedere Avenue (APN: 061-0140-071-000 and 061-0140-092-0000) in the City of Sacramento. The proposed Project consists of the new construction of a 94,400-square-foot cold storage facility and associated site improvements on the 27.15-acre existing light industrial project site. The proposed expansion building will include an automated storage and retrieval system (“AS/RS”) warehouse, low bay truck dock, additional truck dock expansion offices, employee and utility areas, blow molding expansion, and wastewater treatment. Proposed site improvements include an additional 41 covered car parking spaces, landscaping, and a new on-site access road between the parking lot expansion and Safeway Distribution Driveway to the north. The existing on-site fire pump, storage tank, and trash compactors will be relocated to...
alternative on-site locations to accommodate the new construction. The Project will require a deviation from current zoning building height requirements.

As explained more fully below, an EIR is required because substantial evidence supports a fair argument that the Project may result in significant impacts. As a result of its shortcomings, the IS/MND lacks substantial evidence to support its conclusions and fails to properly mitigate the Project’s potentially significant impacts to public health, air quality, energy, water supply, greenhouse gases (“GHGs”), biological resources, noise, transportation, and aesthetics. Instead, substantial evidence supports a fair argument that the Project will result in significant and unmitigated impacts in these areas. The City cannot approve the Project until the errors in the IS/MND are remedied and substantial evidence supporting its conclusions is provided in an environmental impact report (“EIR”). We reserve the right to supplement these comments at later proceedings and hearings related to the Project.¹

I. STATEMENT OF INTEREST

Sacramento Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential public and worker health and safety hazards, and the environmental and public service impacts of the Project. Sacramento Residents includes the International Brotherhood of Electrical Workers Local 340, Plumbers & Steamfitters Local 447, Sprinkler Fitters Local 669, the District Council of Ironworkers and their members and their families; and other individuals that live and/or work in the City of Sacramento and Sacramento County.

Individual members of Sacramento Residents live, work, recreate, and raise their families in the City and in the surrounding communities. Accordingly, they would be directly affected by the Project’s environmental and health and safety impacts. Individual members may also work on the Project itself. They will be first in line to be exposed to any health and safety hazards that exist on site.

In addition, Sacramento Residents has an interest in enforcing environmental laws that encourage sustainable development and ensure a safe

working environment for its members. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for businesses and industries to expand in the region, and by making the area less desirable for new businesses and new residents. Indeed, continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduce future employment opportunities.

II. THE CITY FAILED TO PROVIDE TIMELY ACCESS TO DOCUMENTS INCORPORATED BY REFERENCE IN THE IS/MND

Sacramento Residents was not provided with access to the entire IS/MND or to the documents referenced and incorporated by reference in the IS/MND during the public comment period, as required by CEQA. As a result, Sacramento Residents was unable to complete a full review and analysis of the IS/MND and all reference documents prior to submitting these comments.

First, the City failed to make the IS/MND’s appendices available for public review during the entire comment period. The IS/MND, and its Notice of Availability (“NOA”), state that the Draft Mitigated Negative Declaration is available on the City’s website, and clarify that, due to the COVID 19 crises and current City public counter closures, the IS/MND was not available for review in printed form at City offices, as otherwise required by CEQA Section 21092 and CEQA Guidelines Section 15072. However, the IS/MND’s appendices were not available on the City’s website until January 18, 2022, just two days before the close of the public comment period. These include Appendix A - HP Hood AQ GHG Memo, Appendix B - HP Hood Phase 1 ESA Report, Appendix C - HP Geotechnical Report, Appendix D - HP Hood VMT Analysis Memo, and Appendix E - VMT Memo. The IS/MND’s appendices contain the analysis and evidence on which the IS/MND relies to support its conclusions regarding the Project’s impacts. The appendices are therefore critical chapters of the IS/MND, without which the public cannot meaningfully comment on the adequacy of the IS/MND. After we specifically requested access to the appendices, the City uploaded them to the website on 1/18/22, but failed to extend the public comment period.

2 IS/MND, pg. 20 (stating that the Draft Mitigated Negative Declaration is available online at: http://portal.cityofsacramento.org/Community-Development/Planning/Environmental/Impact-Reports); See Pub. Resources Code, § 21092, subd. (b)(1); 14 Cal. Code Reg. § 15072, subd. (g)(4).

3 Available at http://www.cityofsacramento.org/Community-Development/Planning/Environmental/Impact-Reports.

Second, the City failed to provide timely access to the documents referenced and relied upon in the IS/MND. On January 14, 2022, we submitted a written request for immediate access to the documents referenced in the IS/MND.\(^5\) Although the City posted the IS/MND appendices to the City’s website, the City still has not provided Sacramento Residents with access to any of the documents referenced and relied upon in the IS/MND which are not already available online. This is a violation of CEQA which improperly truncates the public review period on the IS/MND, and requires an extended comment period.

CEQA requires that “all documents referenced” – and the CEQA Guidelines require that “all documents incorporated by reference” – in a negative declaration shall be “readily accessible to the public during the lead agency’s normal working hours” during the entire public comment period.\(^6\) Courts have held that the failure to provide even a few pages of CEQA documents for a portion of the review period invalidates the entire process, and that such a failure must be remedied by permitting additional public comment.\(^7\) It is also well settled that a CEQA document may not rely on hidden studies or documents that are not provided to the public.\(^8\) The IS/MND’s appendices and supporting reference documents contain critical portions of the IS/MND’s analysis. Without access to these critical documents during the public comment period on the DEIR, Sacramento Residents and other members of the public were precluded from having the meaningful opportunity to comment on the IS/MND that is required by CEQA.

The City’s failure to post the IS/MND appendices online is also inconsistent with AB 819 (Levine, 2021). Effective January 1, 2022, Assembly Bill (AB) 819 (Levine) requires electronic filing of specified environmental documents and notices to the Office of Planning and Research (“OPR”). It amended Section 21082.1 of the Public Resources Code to require that a lead agency “[s]ubmit, in an electronic form as required by the Office of Planning and Research, the draft environmental impact report, proposed negative declaration, or proposed mitigated negative declaration to

\(^{5}\) Letter from J. Lauraine to City, re Request for Immediate Access to Documents Referenced or Relied Upon in the MND – HP Hood Cold Storage Expansion Project (January 4, 2022).


\(^{7}\) Ultramar v. South Coast Air Quality Man. Dist., supra at 699.

\(^{8}\) Santiago County Water District v. County of Orange (1981) 118 Cal.App.3d 818, 831 (“Whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report.”).
the State Clearinghouse.”9 Further, “[t]he lead agency shall post all environmental review documents described in subdivision (a) on its internet website, if any.”10 Here, the appendices are not available on CEQAnet.11 Further, all environmental review documents were not available on the City’s website for the entirety of the comment period. Thus, the City’s approach conflicts with AB 819.

We therefore request that the City provide Sacramento Residents with immediate access to all IS/MND reference documents that are not currently available on its website, and restart the public comment period on the IS/MND once access to the documents has been provided. We reserve our right to submit supplemental comments on the IS/MND and the Project at a future date following our review of these documents.

III. THE PROJECT DESCRIPTION IS INADEQUATE

The IS/MND does not meet CEQA’s requirements because it fails to include an accurate and complete Project description, rendering the entire analysis inadequate. California courts have repeatedly held that “an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.”12 CEQA requires that a project be described with enough particularity that its impacts can be assessed.13 Without a complete project description, the environmental analysis under CEQA is impermissibly limited, thus minimizing the project’s impacts and undermining meaningful public review.14 Accordingly, a lead agency may not hide behind its failure to obtain a complete and accurate project description.15

CEQA Guidelines section 15378 defines “project” to mean “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the

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11 The Project page on CEQAnet is [https://ceqanet.opr.ca.gov/2021120483](https://ceqanet.opr.ca.gov/2021120483).
13 14 CCR § 15124; see, Laurel Heights I, supra, 47 Cal.3d 376, 192-193.
14 Id.
environment.”16 “The term “project” refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term project does not mean each separate governmental approval.”17 Courts have explained that a complete description of a project must “address not only the immediate environmental consequences of going forward with the project, but also all “reasonably foreseeable consequence[s] of the initial project.”18 “If a[n]...EIR...does not adequately apprise all interested parties of the true scope of the project for intelligent weighing of the environmental consequences of the project, informed decision-making cannot occur under CEQA and the final EIR is inadequate as a matter of law.”19

A. The IS/MND Fails to Provide Information About the Blow Molding Expansion

The Project involves a “blow molding expansion,” but no information is provided regarding this expansion. Blow molding (or moulding) is a manufacturing process for forming and joining together hollow plastic parts. The IS/MND fails to provide any information regarding the extent of the expansion or the environmental impacts of blow molding. Blow molding requires water to cool or heat the plastic products and in finishing operations, which may increase the Project’s impacts on water consumption, wastewater, and greenhouse gases.20 Blow molding can be energy intensive.21 There is no indication that blow molding activities have been contemplated in any of the IS/MND’s environmental analyses. The IS/MND thus fails to disclose a critical project component and its associated environmental impacts. The IS/MND fails as an informational document.

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16 CEQA Guidelines § 15378.
17 Id., § 15378(c).
18 Laurel Heights I, 47 Cal. 3d 376, 398 (emphasis added); see also Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal. 4th 412, 449-50.
B. The IS/MND Fails to Explain the Project’s End Uses

The IS/MND fails to describe the end uses of the Project. The IS/MND discloses that the Project will include an automated storage and retrieval system (“ASRS”) warehouse, low bay truck dock, additional truck expansion offices, employee and utility areas, blow molding expansion, and wastewater treatment. But no information is provided regarding what these features will be used for. It is undisclosed what will be stored in the cold storage, what will the blow molding expansion be used for, what sources of wastewater will be treated by the wastewater treatment feature, etc.

Similarly, the IS/MND fails to explain the relationship between the Project and the existing facility. For example, the IS/MND does not explain whether the cold storage warehouse will be the first of its kind on the facility, or whether the Project’s cold storage will be an expansion of existing cold storage capacity. To understand, disclose, and effectively mitigate the impacts of the instant Project, the IS/MND must provide basic information regarding the existing facility’s operations. The IS/MND fails as an informational document.

C. The IS/MND Fails to Substantiate the Claim that the Project Will Not Require Use of Backup Generators

The IS/MND states that the Project would not use generators, but fails to explain how the Project would handle power outages. This claim requires substantiation, as cold storage warehouses commonly utilize backup generators, due to their need for a constant energy supply to power refrigeration. The IS/MND does not explicitly state what goods will be stored in the Project’s cold storage

22 California Air Resources Board, Comments re: Notice of Preparation (NOP) for the United States Cold Storage Hesperia Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2020069036 (July 24, 2020), available at https://ww2.arb.ca.gov/sites/default/files/classic/toxics/tdceqalist/uscoldstorage.pdf (stating that the HRA prepared for the Project should account for all potential health risks from Project-related diesel PM emission sources such as backup generators, TRUs, and heavy-duty truck traffic); Kusing Power Generator, http://ksdieselgenerator.com/2019/backup-generator-for-cold-storage-room.html, last visited 6/21/2021 (“Backup power supply is necessary for cold storage room to remain functional to avoid deterioration of high value-added goods such as vegetables and food stored in the room after long period of power failure”); East Coast Power Systems, Electrical Power Systems for Warehouses, https://www.ecpowersystems.com/resources/electrical-power-systems/electrical-power-systems-for-warehouses/ (explaining that some warehouses that deal with refrigeration have to have multiple power backup generators by law).

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facilities. It is reasonable to infer that any product requiring cold storage is unlikely to be properly maintained without access to cold storage, a condition that would occur during power outages in which electricity would not be available to support the Project’s refrigeration equipment. It is reasonably foreseeable that the goods stored at the Project site may be dairy products, since the Project is an expansion of an existing industrial dairy facility which currently operates on the site. Dairy products can quickly perish without refrigeration, so it is likely that backup generators will be required. The IS/MND does not identify an alternate source of emergency power, and thus lacks support for the assertion that backup generation would not be used at the Project site. Moreover, the IS/MND does not prohibit use of backup generators as a condition of approval or mitigation measure. Thus, the Applicant is not prevented from using backup generators in the future. Therefore, the IS/MND must include backup generators in the project description, and analyze the impacts of those generators, or provide substantial evidence explaining how Project operation will be maintained during power outages without the use of generators, and analyze the impacts of this alternative power source.

A failure to identify backup generators impacts the adequacy of the IS/MND’s environmental analyses. Backup generators commonly rely on fuels such as natural gas or diesel, and thus can significantly impact air quality, GHG emissions, and public health through toxic diesel particulate (“DPM”) emissions. Backup generators increase operational emissions during testing periods and unscheduled


24 California Air Resources Board, Emission Impact: Additional Generator Usage Associated with Power Outage (January 30, 2020), available at https://ww2.arb.ca.gov/resources/documents/emissions-impact-generator-usage-during-psps (showing that generators commonly rely on gasoline or diesel, and that use of generators during power outages results in excess emissions); California Air Resources Board, Use of Back-up Engines for Electricity Generation During Public Safety Power Shutoff Events (October 25, 2019), available at https://ww2.arb.ca.gov/resources/documents/use-back-engines-electricity-generation-during-public-safety-power-shutoff (“When electric utilities de-energize their electric lines, the demand for back-up power increases. This demand for reliable back-up power has health impacts of its own. Of particular concern are health effects related to emissions from diesel back-up engines. Diesel particulate matter (DPM) has been identified as a toxic air contaminant, composed of carbon particles and numerous organic compounds, including over forty known cancer-causing organic substances. The majority of DPM is small enough to be inhaled deep into the lungs and make them more susceptible to injury. Much of the back-up power produced during PSPS events is expected to come from engines regulated by CARB and California’s 35 air pollution control and air quality management districts (air districts).”)

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events. Unscheduled events include, but are not limited to, Public Safety Power Shutoff (PSPS) events and extreme heat events. Extreme heat events are defined as periods where in the temperatures throughout California exceed 100 degrees Fahrenheit. From January, 2019 through December, 2019, Southern California Edison reported 158 of their circuits underwent a PSP event. In 2021, the Governor Of California declared that during extreme heat events the use of stationary generators shall be deemed an emergency use under California Code of Regulations (CCR), title 17, section 93115.4 sub. (a) (30) (A)(2). The number of Extreme Heat Events is likely to increase in California with the continuing change in climate the State is currently undergoing.

Power produced during PSPS or extreme heat events is expected to come from engines regulated by CARB and California’s 35 air pollution control and air quality management districts (air districts).

According to the California Public Utilities Commission (“CPUC”) de-energization report in October 2019, there were almost 806 PSPS events that impacted almost 973,000 customers (~7.5% of households in California) of which ~854,000 of them were residential customers, and the rest were commercial/industrial/medical baseline/other customers. CARB’s data also indicated that on average each of these customers had about 43 hours of power outage in October 2019. Using the actual emission factors for each diesel backup generator engines in the air district’s stationary backup generator database, CARB staff calculated that the 1,810 additional stationary running during a PSPS in October 2019 generated 126 tons of NOx, 8.3 tons or particulate matter, and 8.3 tons of DPM.

For every PSPS or Extreme Heat Event (“EHE”) triggered during the operational phase of the project, significant concentrations of DPM will be released

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that are not accounted for in the City’s analysis. In 2021, two EHEs have been declared so far. For the June 17, 2021 EHE, the period for which stationary generator owners were allowed to use their BUGs lasted 48 hours. For the July 9, 2021 EHE, the period for which stationary generator owners were allowed to use their backup generators lasted 72 hours. These two events would have tripled the calculated DPM emissions from the Project for the year if the project had been completed.

Overall, due to the significance environmental impacts associated with backup generators, the IS/MND must be revised to disclose any backup generators that may foreseeably be required for the Project.

D. The IS/MND’s Description of the Project’s Transportation Requirements is Inconsistent.

The IS/MND transportation analysis claims “[t]he proposed project does not propose creating any more traffic through either employee trips, or truck trips as a part of the current operations... The amount of employees is expected to remain the same as current operations.”30 The IS/MND apparently contradicts this claim in its air quality analysis, which states: “[o]nce the project is constructed, the project would include diesel truck traffic associated with loading and unloading of products at the warehouse.” And the IS/MND’s Air Quality and Greenhouse Gas Analysis states: “Using the default trip rates, the proposed project would generate approximately 179 average daily trips, a mix of employee and truck trips.” It is thus unclear whether the Project will involve an increase in truck trips.

Clarity on this topic is necessary to evaluate the Project’s air quality, greenhouse gas, and transportation impacts. Regarding transportation impacts, the IS/MND reasons that because the Project would not involve any increase in vehicle trips, there would be a less than significant transportation impact. The City will have to revisit this conclusion if the Project will in fact generate vehicle trips as identified in the air quality analysis. As a result of these inconsistencies, the IS/MND thus fails as an informational document: an accurate, stable and finite

30 IS/MND, pg. 58.
project description is the *sine qua non* of an informative and legally sufficient
EIR.”31

**IV. THERE IS A FAIR ARGUMENT THAT THE PROJECT MAY CAUSE
SIGNIFICANT IMPACTS THAT REQUIRE THE CITY TO PREPARE
AN EIR**

CEQA requires that lead agencies analyze any project with potentially
significant environmental impacts in an EIR.32 “Its purpose is to inform the public
and its responsible officials of the environmental consequences of their decisions
before they are made. Thus, the EIR protects not only the environment, but also
informed self-government.”33 The EIR has been described as “an environmental
‘alarm bell’ whose purpose it is to alert the public and its responsible officials to
environmental changes before they have reached ecological points of no return.”34

CEQA’s purpose and goals must be met through the preparation of an EIR,
except in certain limited circumstances.35 CEQA contains a strong presumption in
favor of requiring a lead agency to prepare an EIR. This presumption is reflected in
the “fair argument” standard. Under that standard, a lead agency “shall” prepare
an EIR whenever substantial evidence in the whole record before the agency
supports a fair argument that a project may have a significant effect on the
environment.36

In contrast, a mitigated negative declaration may be prepared only when,
after preparing an initial study, a lead agency determines that a project may have a
significant effect on the environment, but:

89; *County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 Cal.App.3d 185, 193.
33 *Citizens of Goleta Valley v. Bd. of Supervisors* (“Goletta Valley”) (1990) 52 Cal.3d 553, 564, internal
citations omitted.
35 See Pub. Resources Code, § 21100
36 Pub. Resources Code, §§ 21080, subd. (d), 21082.2, subd. (d); CEQA Guidelines, §§ 15002, subd.
(h)(3), 15064, subds. (f)(1), (h)(1); *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.
68, 75, 82; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-
151; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (“Quail Botanical”) (1994) 29
(1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.37

Courts have held that if “no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR.”38 The fair argument standard creates a “low threshold” favoring environmental review through an EIR, rather than through issuance of a negative declaration.39 An agency’s decision not to require an EIR can be upheld only when there is no credible evidence to the contrary.40

“Substantial evidence” required to support a fair argument is defined as “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.”41 According to the CEQA Guidelines, when determining whether an EIR is required, the lead agency is required to apply the principles set forth in Section 15064, subdivision (f):

[I]n marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR. 13 Pub. Resources Code, § 21064.5 (emphasis added).

37 Pub. Resources Code, § 21064.5 (emphasis added).
39 Citizens Action to Serve All Students v. Thornley (1990) 222 Cal.App.3d 748, 754
40 Sierra Club v. County of Sonoma (1992) 6 Cal.App.4th, 1307, 1318; see also Friends of B Street v. City of Hayward (1980) 106 Cal.App.3d 988, 1002 (“Friends of B Street”) (“If there was substantial evidence that the proposed project might have a significant environmental impact, evidence to the contrary is not sufficient to support a decision to dispense with preparation of an EIR and adopt a negative declaration, because it could be ‘fairly argued’ that the project might have a significant environmental impact”).
41 CEQA Guidelines, § 15384, subd. (a).
Furthermore, CEQA documents, including EIRs and MNDs, must mitigate significant impacts through measures that are “fully enforceable through permit conditions, agreements, or other legally binding instruments.” Deferring formulation of mitigation measures to post-approval studies is generally impermissible. Mitigation measures adopted after Project approval deny the public the opportunity to comment on the Project as modified to mitigate impacts. If identification of specific mitigation measures is impractical until a later stage in the Project, specific performance criteria must be articulated and further approvals must be made contingent upon meeting these performance criteria. Courts have held that simply requiring a project applicant to obtain a future report and then comply with the report’s recommendations is insufficient to meet the standard for properly deferred mitigation.

With respect to this Project, the MND fails to satisfy the basic purposes of CEQA. The MND fails to adequately disclose, investigate, and analyze the Project’s potentially significant impacts, and fails to provide substantial evidence to conclude that impacts will be mitigated to a less than significant level. Because the MND lacks basic information regarding the Project’s potentially significant impacts, the MND’s conclusion that the Project will have a less than significant impact on the environment is unsupported. The City failed to gather the relevant data to support its finding of no significant impacts. Moreover, substantial evidence shows that the Project may result in potentially significant impacts. Therefore, a fair argument can be made that the Project may cause significant impacts requiring the preparation of an EIR.

A. The City Failed to Disclose and Analyze Potentially Significant Health Risks

A lead agency’s significance determination must be supported by accurate scientific and factual data. An agency cannot conclude that an impact is less than
significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.\textsuperscript{49}

These standards apply to an EIR’s analysis of public health impacts of a Project. In \textit{Sierra Club v. County of Fresno}, the California Supreme Court affirmed CEQA’s mandate to protect public health and safety by holding that an EIR fails as an informational document when it fails to disclose the public health impacts from air pollutants that would be generated by a development project.\textsuperscript{50} In \textit{Sierra Club}, the Supreme Court held that the EIR for the Friant Ranch Project—a 942-acre master-planned, mixed-use development with 2,500 senior residential units, 250,000 square feet of commercial space, and open space on former agricultural land in north central Fresno County—was deficient as a matter of law in its informational discussion of air quality impacts as they connect to adverse human health effects.\textsuperscript{51} As the Court explained, “a sufficient discussion of significant impacts requires not merely a determination of whether an impact is significant, but some effort to explain the nature and magnitude of the impact.”\textsuperscript{52} The Court concluded that the County’s EIR was inadequate for failing to disclose the nature and extent of public health impacts caused by the project’s air pollution. As the Court explained, the EIR failed to comply with CEQA because after reading the EIR, “the public would have no idea of the health consequences that result when more pollutants are added to a nonattainment basin.”\textsuperscript{53} CEQA mandates discussion, supported by substantial evidence, of the nature and magnitude of impacts of air pollution on public health.\textsuperscript{54}

Furthermore, in \textit{Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs. (“Berkeley Jets”)}, the Court of Appeal held that a CEQA document must analyze the

\textsuperscript{49} \textit{Kings County Farm Bureau}, 221 Cal.App.3d at 732.
\textsuperscript{50} \textit{Sierra Club}, 6 Cal.5th at 518–522.
\textsuperscript{51} \textit{Id.} at 507–508, 518–522.
\textsuperscript{52} \textit{Id.} at 519, citing \textit{Cleveland National Forest Foundation v. San Diego Assn. of Governments} (2017) 3 Cal.5th 497, 514–515.
\textsuperscript{53} \textit{Id.} at 518. CEQA’s statutory scheme and legislative intent also include an express mandate that agencies analyze human health impacts and determine whether the “environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.” (Public Resources Code § 21083(b)(3) (emphasis added).) Moreover, CEQA directs agencies to “take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached.” (Public Resources Code § 21000(d) (emphasis added).)
\textsuperscript{54} \textit{Sierra Club}, 6 Cal.5th at 518–522.

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impacts from human exposure to toxic substances.\textsuperscript{55} In that case, the Port of Oakland approved a development plan for the Oakland International Airport.\textsuperscript{56} The EIR admitted that the Project would result in an increase in the release of TACs and adopted mitigation measures to reduce TAC emissions, but failed to quantify the severity of the Project’s impacts on human health.\textsuperscript{57} The Court held that mitigation alone was insufficient, and that the Port had a duty to analyze the health risks associated with exposure to TACs.\textsuperscript{58} As the CEQA Guidelines explain, “t]he EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected.”\textsuperscript{59}

The failure to provide information required by CEQA makes meaningful assessment of potentially significant impacts impossible and is presumed to be prejudicial.\textsuperscript{60} Challenges to an agency’s failure to proceed in the manner required by CEQA, such as the failure to address a subject required to be covered in an EIR or to disclose information about a project’s environmental effects or alternatives, are subject to a less deferential standard than challenges to an agency’s factual conclusions.\textsuperscript{61}

Here, the IS/MND acknowledges that diesel particulate matter (“DPM”) is a toxic air contaminant that can cause health impacts at certain concentrations.\textsuperscript{62} The IS/MND further acknowledges that construction activities associated with the Project would generate DPM through use of diesel-fueled vehicles and equipment.\textsuperscript{63} And once the project is constructed, the project would include diesel truck traffic associated with loading and unloading of products at the warehouse.\textsuperscript{64} The IS/MND reasons that health impacts from DPM would be less than significant due to the distance of sensitive receptors from the Project, and CARB’s In-Use Off-Road Diesel Vehicles regulation, which limits idling to 5 minutes or less. However, the IS/MND fails to quantify the emissions reductions and resulting health risk that the City assumes would result from idling reductions.

\textsuperscript{55} 91 Cal.App.4th at 1369–1371.
\textsuperscript{56} Id. at 1349–1350.
\textsuperscript{57} Id. at 1364–1371.
\textsuperscript{58} Id.
\textsuperscript{59} 14 C.C.R. § 15003(b).
\textsuperscript{60} Sierra Club v. State Bd. Of Forestry (1994) 7 Cal.4th 1215, 1236–1237.
\textsuperscript{61} Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 435.
\textsuperscript{62} IS/MND, pg. 16.
\textsuperscript{63} IS/MND, pg. 22.
\textsuperscript{64} Id.

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As in Berkeley Jets, the IS/MND fails to quantify concentrations of DPM sensitive receptors will be exposed to, and fails to compare the resultant health impacts against applicable thresholds. The applicable threshold is set by the Sacramento Metropolitan Air Quality Management District (“SMAQMD”), which provides that there is a significant health impact when TAC exposures create a risk of 10 in 1 million for stationary sources, or substantially increase the risk of exposure to TACs from mobile sources. Although the City’s analysis points to factors that might mitigate the severity of health impacts from DPM, the analysis lacks specificity and does not enable the public to compare emissions against standards of significance. This approach is in clear violation of the requirement discussed in Sierra Club and Berkeley Jets to disclose a project’s potential health risks to a degree of specificity that would allow the public to make the correlation between the project’s impacts and adverse effects to human health.

The failure to prepare a quantified health risk analysis also conflicts with scientific authority. California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (“OEHHA”) guidance recommends that exposure from projects lasting more than 6 months be evaluated for the duration of the project and recommends that an exposure duration of 30 years be used to estimate individual cancer risk for the maximally exposed individual resident (“MEIR”). The Project’s construction and operations will last more than 6 months. Therefore, an analysis of health risk impacts posed to nearby sensitive receptors from Project operation must be included in an EIR for the Project.

B. The IS/MND Fails to Adequately Analyze Potentially Significant Air Quality Impacts

The IS/MND states that “[o]ff-road sources include the use of forklifts and hostlers; however, these are all planned to be electric.” The IS/MND’s analysis of the Project’s air quality impacts relies on this assumption – the City’s air quality analysis states that “Operational Off-Road Equipment - Assumed warehouse
equipment, all are planned to be electric.” Accordingly, the City’s CalEEEMod model assumes the Project would have zero offroad emissions. But the IS/MNBD lacks enforceable and binding language requiring offroad equipment to be electric. As a result, the City’s assumption that offroad sources would be electric is unsupported by substantial evidence. The IS/MND must be revised to identify a mitigation measure requiring offroad equipment to be electric.

C. The IS/MND Fails to Analyze Potentially Significant Energy Impacts

The IS/MND states that the Project’s energy impacts are less than significant. CEQA provides that when the basis for an EIR’s finding that an impact is less than significant is not apparent from the facts and circumstances, the EIR must explain the reasons for the finding. An unsubstantiated conclusion that an impact is not significant, without supporting information or explanatory analysis, is insufficient; the reasoning supporting the determination of insignificance must be disclosed. The caselaw provides that the key factor is not the length of the EIR’s analysis, but whether the analysis provides enough detail for the public to discern the analytic basis for the agency’s determination.

Here, the IS/MND does not provide enough detail for the public to discern the basis for the City’s conclusion. The analysis lacks sufficient detail to address the significance thresholds in Appendix G of the California Environmental Quality Act (CEQA) Guidelines. According to the Guidelines, a project will normally have a significant adverse environmental impact on energy if it will:

- Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation.
- Conflict with or obstruct a State or local plan for renewable energy or energy efficiency.

The City’s approach to the energy analysis is to generally list the Project’s sources of energy consumption. For example, the IS/MND states:

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68 Appendix A, pg. 27.
69 Id. at 30.
71 Id., 116 CA4th 1099.
The proposed project includes the development of a 94,400 square foot cold storage facility and associated site improvements on the existing 27.15-acre project site. The amount of energy used at the project site would directly correlate to the size of the proposed buildings, the energy consumption of associated facilities and technology, and outdoor lighting. Other major sources of proposed project energy consumption include fuel used by vehicle trips generated during project construction and operation, and fuel used by off-road construction vehicles during construction.\textsuperscript{72}

Although the IS/MND lists the sources of energy consumption, the IS/MND does not quantify or otherwise measure the energy consumption of these sources, or the impact on energy supplies. It is insufficient to merely state that the “[t]he amount of energy used at the project site would directly correlate to the size of the proposed buildings,” the IS/MND must explain what that amount is, and illustrate the significance of that amount. The IS/MND thus fails as an informational document.

The IS/MND states, in the air quality section: “the estimated potential increased electricity demand associated with operation of the proposed project is approximately 2,044,708 kilowatt hour per year, based on CalEEMod defaults. The proposed project’s estimated potential increased water demand is approximately 25.55 million gallons per year, based on CalEEMod defaults.” Reliance on CalEEMod defaults may be appropriate for measuring air quality impacts, but it does not constitute the site-specific analysis required by CEQA for an energy analysis. A site-specific analysis of the Project’s energy impacts would include the Project’s unique sources of energy consumption, such as the Project’s blow molding expansion and automated storage and retrieval system.

The City states that Project would be required to comply with Title 24 Efficiency Standards. But caselaw provides that an EIR should not rely solely on compliance with Title 24 standards to mitigate operational and construction energy impacts, and should not assume that mitigation for greenhouse gas emissions will serve as a substitute for an analysis of energy use impacts.\textsuperscript{73} Even if compliance with Title 24 standards was sufficient evidence to conclude a project would not be wasteful, caselaw provides that a finding of compliance with Title 24 must be

\textsuperscript{72} IS/MND, pg. 39.

supported by substantial evidence.\textsuperscript{74} Therefore, the City’s conclusion that the Project will not be wasteful is unsupported by substantial evidence.

D. The City Fails to Analyze Potentially Significant Impacts on Water Supply

The IS/MND improperly defers analysis and mitigation of water supply impacts. The IS/MND states:

As part of the COAs for the proposed project, the City’s Department of Utilities will require preparation of a water study for the project. The water study will be required to demonstrate the project’s compliance with city requirements related to water service and will be submitted for review and approval to the City’s Department of Utilities. Preparation and review of the water study will ensure that development of the project would include provision of adequate water infrastructure to support the proposed project.

Deferring formulation of mitigation measures to post-approval studies is generally impermissible.\textsuperscript{75} Courts have held that simply requiring a project applicant to obtain a future report and then comply with the report’s recommendations is insufficient to meet the standard for properly deferred mitigation.\textsuperscript{76} A key purpose on environmental review is to provide information to the public regarding a project’s impacts. By deferring analysis of the Project’s water demands and impacts on water supply, the IS/MND fails as an informational document.

The conclusions of the City’s water supply analysis are not supported by substantial evidence. The IS/MND states, “The proposed project is consistent with land use and zoning designations and would not generate an increase in demand from what has already been anticipated in the Master EIR. As such, adequate capacity is expected to be available to serve the proposed project’s water demands.” But consistency with land use policies in this case does not guarantee a less than significant impact: the Master EIR, in Impact 4.11-2, concluded that the potential increase in demand for potable water in excess of the City’s existing diversion and

\textsuperscript{74} Spring Valley Lake Ass’n v. City of Victorville (2016) 248 CA4th 91, 103.


\textsuperscript{76} Id.
treatment capacity, and which could require construction of new water supply facilities, would result in a significant and unavoidable effect.77

E. The IS/MND Fails To Adequately Establish The Environmental Setting For Biological Resources And Fails To Adequately Disclose, Analyze, And Mitigate Potentially Significant Impacts On Biological Resources

i. The IS/MND Fails to Adequately Establish the Environmental Setting

CEQA requires that a lead agency include a description of the physical environmental conditions in the vicinity of the Project as they exist at the time environmental review commences.78 Here, the IS/MND states that 23 special-status wildlife species were identified during the database queries and desktop review.79 However, neither the IS/MND nor the appendices disclose the actual list of species. As a result, the IS/MND fails as an informational document, and prevents analysis of impacts on potentially-present species.

The City relied on California Natural Diversity Data Base (“CNDDB”) for determining occurrence likelihoods of special-status species. The City apparently failed to consult other major databases such as eBird and iNaturalist, which collectively contain a more comprehensive record. Sole reliance on CNDDB is not supported by substantial evidence. The California Department of Fish and Wildlife cautions that sole reliance on CNDDB is inappropriate as a basis for narrowing a list of potentially occurring species:

“We work very hard to keep the CNDDB and the Spotted Owl Database as current and up-to-date as possible given our capabilities and resources. However, we cannot and do not portray the CNDDB as an exhaustive and comprehensive inventory of all rare species and natural communities statewide. Field verification for the presence or absence of sensitive species will always be an important obligation of our customers...”80

77 IS/MND, pp. 68-69.
78 CEQA Guidelines, § 15125, subd. (a).
79 IS/MND, pg. 28.
80 California Department of Fish and Wildlife, About the CNDDB – Disclaimer, https://wildlife.ca.gov/Data/CNDDDB/About.
Therefore, the IS/MND’s environmental baseline – and the conclusions relying on that baseline – are incomplete. An EIR must be prepared that contains a complete and accurate environmental baseline.

ii. The IS/MND Fails to Mitigate the Project’s Habitat Loss Impacts

The IS/MND acknowledges that the ruderal/disturbed areas in the project site provide potential habitat for burrowing owl. The IS/MND states that “[i]f burrowing owls are residing in the project site or on adjacent parcels, the project would have potential for adverse effects through injury or mortality, displacement, and loss of habitat.”81 As a result, the City concludes that impacts are potentially significant unless mitigated. The IS/MND’s mitigation involves conducting a pre-construction survey, and preparing a mitigation plan in consultation with the Department of Fish and Wildlife should any occupied owl burrows are detected.

But the mitigation measure identified by the IS/MND – MM BIO-1 – constitutes improperly deferred mitigation. Deferring formulation of mitigation measures is generally impermissible.82 In *Preserve Wild Santee v. City of Santee* (“Preserve Wild Santee”), a plan for active habitat management did not describe anticipated management actions or include standards or guidelines for actions that might be taken.83 The court held that if identification of specific mitigation measures is impractical until a later stage in the Project, specific performance criteria must be articulated and further approvals must be made contingent upon meeting these performance criteria.84 Here, MM BIO-1 correctly states that its mitigation will be informed by CDFW’s Staff Report on Burrowing Owl Mitigation. But MM BIO-1 fails to include any language requiring habitat compensation, an impact the IS/MND admits is potentially significant. Compensatory mitigation for habitat loss is recommended by the CDFW Staff Report, but the language of MM BIO-1 does not guarantee that the City would be required to comply with the Staff Report’s recommendation. As a result, the City’s mitigation measure lacks specific performance criteria for mitigating impacts to habitat. Further, MM BIO-1 states that the City will consult with CDFW in development of the mitigation plan, but

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81 IS/MND, pg. 27.
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does not require CDFW’s recommendations to be followed. Courts have held that mitigation that does no more than allow approval by a county department without setting enforceable standards is inadequate. The mitigation measure is thus improperly deferred.

Also, because the City fails to adopt any compensatory mitigation measures to mitigate habitat loss, the potentially significant habitat loss impact it identifies is yet unmitigated. Thus, the City’s determination that habitat loss impacts are mitigated to a less-than-significant level is not supported by substantial evidence. An EIR must be prepared to analyze this potentially significant impact.

**F. The IS/MND Fails to Disclose Potentially Significant Noise Impacts**

The IS/MND claims that the Project would have a less than significant impact on external noise levels in the Project area. The City acknowledges that the project would result in potential minor long-term noise increases in the project area due to project-related traffic on area streets, project traffic circulating within the project site, facility operations on the project site, and from internal combustion engine-powered trucks operated on the project site. But the City reasons that impacts would be less than significant due to the distance of sensitive receptors and because the project does not propose a substantial increase in existing traffic. However, since the City failed to conduct a noise study to analyze how much noise will be produced by the Project’s operation, the City’s conclusions are not supported by substantial evidence. Further, the IS/MND is deficient as an informational document.

The IS/MND claims that impacts on internal noise levels at sensitive receptors will be less than significant. The City reasons that “project regulatory compliance with the City of Sacramento normally acceptable noise standard of 75 dBA LDN for industrial land uses will ensure the project does not result in residential interior noise levels of 45 dBA LDN or greater caused by noise level increases due to the project.” But this approach does not comply with CEQA. To meet CEQA’s informational and analytical requirements, the IS/MND must analyze the noise generated by the Project, and measure the impact on sensitive receptors.

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86 IS/MND, pg. 53.
87 IS/MND, pg. 53.
88 IS/MND, pg. 53.
Merely stating that the Project will comply with noise standards does not discharge the City of its duty to analyze impacts in the IS/MND.

The IS/MND states that construction noise impacts will be less than significant after mitigation. MM NOI-1 provides:

The applicant shall ensure that construction activities are consistent with City Code Section 8.68.060, Exemptions. Project construction activities that may result in the generation of noise shall not occur outside of the hours of 7:00 a.m. and 6:00 p.m., on Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday, and outside the hours of 9:00 a.m. and 6:00 p.m. on Sunday, and all internal combustion engines used for project construction shall be equipped with intake and exhaust silencers and maintained in accordance with the equipment manufacturer’s specifications.

This analysis is insufficient because, as stated earlier, the IS/MND does not actually analyze or quantify construction. Courts have held that it is insufficient to merely identify mitigation without analyzing the actual impact.89

Further, the IS/MND’s reliance on City noise thresholds is unsupported by substantial evidence. The courts have held that reliance on a maximum noise level as the sole threshold of significance for noise impacts violates CEQA because it fails to consider whether the magnitude of changes in noise levels is significant.90 In Keep our Mountains Quiet v. County of Santa Clara,91 neighbors of a wedding venue sued over the County of Santa Clara’s failure to prepare an EIR for a proposed project to allow use permits for wedding and other party events at a residential property abutting an open space preserve. Neighbors and their noise expert contended that previous events at the facility had caused significant noise impacts that reverberated in neighbors’ homes and disrupted the use and enjoyment of their property.92 Similar to the IS/MND in this case, the County’s EIR relied on the noise standards set forth in its noise ordinance as its thresholds for significant noise exposure from the project, deeming any increase to be insignificant so long as the absolute noise level did not exceed those standards.93 The Court examined a long line of CEQA cases which have uniformly held that conformity with land use

89 Berkely Jets, supra, 91 Cal.App.4th at 1364–1371.
90 King & Gardiner Farms, LLC, 45 Cal.App.5th at 865.
92 Id. at 724.
93 Id. at 732.
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regulations is not conclusive of whether or not a project has significant noise impacts94 in holding that the County’s reliance on the project’s compliance with noise regulations did not constitute substantial evidence supporting the County’s finding of no significant impacts.95 Here, the IS/MND solely relies on consistency with the City’s noise standards – without conducting a noise study to analyze the increase in noise or impacts on sensitive receptors. Thus, the IS/MND’s analysis is flawed in the same way as Keep our Mountains Quiet. An EIR must be prepared to analyze this potentially significant impact.

The City’s failure to conduct a noise study violates the requirements of the Sacramento 2035 General Plan Draft Master Environmental Impact Report. The Draft EIR states that “the continuing exposure of existing noise-sensitive land uses to noise levels in excess of City standards or to substantial noise increases as a result of the future growth under the proposed General Plan is considered a significant impact.”96 As mitigation, the Draft EIR provides that “[f]or new development, proposed projects undergo CEQA review; on a case-by-case basis, a site-specific noise study would be required for any project that could exceed City noise standards.”97 Here, the IS/MND acknowledges that the Project will generate noise during construction and operation, and construction noise impacts will be significant before mitigation. Since it is possible City noise standards could be exceeded, a site-specific noise study is required. Without a noise study, the significant noise impact identified in the Draft EIR is unmitigated.

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95 Id. at 732-734; see also King & Gardiner Farms, LLC v. County of Kern (2020) 45 Cal.App.5th 814, 893, as modified on denial of rehearing (Mar. 20, 2020).
97 Id. at 4.8-17.
G. The IS/MND Fails to Disclose Potentially Significant Aesthetic Impacts

Appendix G of the CEQA Guidelines provides that a significant impact related to aesthetics would occur if the project would: “substantially interfere with an important scenic resource or substantially degrade the view of an existing scenic resource.” The proposed cold storage building is proposed at 100 feet in height and exceeds the M-1S zone maximum permitted height of 70 feet. Approval of the project as proposed would require the approval of a deviation by the City Design Director. Because the Project’s height is higher than what is anticipated by the City’s land use policies, it may result in interference with an important scenic resource or substantially degrade the view of an existing scenic resource. Important scenic resources in the City of Sacramento include major natural open space features such as the American River and Sacramento River, including associated parkways. But the IS/MND fails to analyze whether this deviation would have aesthetic impacts. This is a potentially significant impact that must be analyzed in an EIR.

I. CONCLUSION

The City lacks substantial evidence to support the conclusions in the IS/MND that the Project will have less than significant impacts on public health, air quality, energy, water supply, greenhouse gases, biological resources, noise, transportation, and aesthetics. Moreover, substantial evidence supports a fair argument that these impacts may be significant and unmitigated. Due to the IS/MND’s deficiencies, the City cannot conclude that the Project’s impacts have been mitigated to a less than significant level.

The CEQA Guidelines require that an EIR be prepared if there is substantial evidence supporting a fair argument that any aspect of a project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial. As discussed in detail above, there is a fair argument based on substantial evidence that the Project would result in significant adverse impacts not identified in the IS/MND. Moreover, there is substantial evidence the proposed mitigation measures will not reduce potentially significant impacts to a level of insignificance.

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98 CEQA Guidelines § 15063(b)(1).
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We urge the City to fulfill its responsibilities under CEQA by withdrawing the IS/MND and preparing an EIR to address the issues raised in this preliminary comment letter. This is the only way the City and the public can ensure the Project’s significant environmental impacts are mitigated to less than significant levels.

Sincerely,

Aidan P. Marshall

APM:acp
RESPONSE TO ADAMS BROADWELL LETTER - Bargas Environmental Consulting

Section 3 - The Project Description is Inadequate

This comment serves as an introduction to Section 3, Subsections A through D. This comment states that the IS/MND fails to include an accurate and complete project description, and thereby renders the entire IS/MND analysis inadequate. Specific details are discussed in the comment letter Section 3, Subsections A through D. The project description is discussed in detail on page 5 of the IS/MND. Additional comments regarding specifics of the project description are in comment Subsections A through D, and are addressed below.

Section 3.A - The IS/MND Fails to Provide Information About the Blow Molding Expansion.

This comment states that the project description includes mention of “blow molding expansion” but asserts that no information is provided in the IS/MND. It additionally states that blow molding can impact Project “water consumption, wastewater, and greenhouse gases.” Blow molding is discussed in the overall project description on Page 5 of the IS/MND. The Project Site Plan in Figure 3 on Page 8 of the IS/MND shows the details of the identified blow molding expansion. Impacts for the entire Project (including blow molding expansion as described in the Project Description on Page 5 of the IS/MND) to water consumption, wastewater, greenhouse gases, and energy are detailed in Section III.14 (Utilities and Service Systems, Pages 68 to 70), III.2 (Air Quality, Pages 17 to 23), and Appendix A (Air Quality and Greenhouse Gas Analysis Memorandum) of the IS/MND. Please see Response 3.B below for a discussion of the full project description. No further environmental review pertaining to the blow molding expansion is required.

Section 3.B - The IS/MND Fails to Explain the Project’s End Uses.

This comment states that the project fails to explain the Project’s end uses regarding the automated storage and retrieval system (ASRS) warehouse, low bay truck dock, additional truck expansion offices, employee and utility areas, blow molding expansion, and wastewater treatment. Project description and analysis of blow molding expansion are provided above in response to comment Section 3.A and in this section 3-B.. A full project description is provided on Page 5 of the IS/MND, and a site plan detailing the proposed Project is included as Figure 3 on Page 8 of the IS/MND. As discussed on Page 9 of the IS/MND, the Project site has been designated as Employment Center Low Rise in the 2035 City of Sacramento General Plan and is zoned M-1S-SWR, Light Industrial Zone. With the exception of the height of the cold storage building at 100 feet, which requires a deviation approval from the City Design Director, the project is consistent with the current land use and zoning already analyzed in the 2035 General Plan Master Environmental Impact Report (MEIR).

Details of the ASRS, low bay truck dock, offices, employee and utility areas, and employees are discussed in Appendix D (VMT Analysis Memorandum) and Pages 58 to 60 of the IS/MND. Operational emissions from the project as a whole, including water source emissions from water supply and conveyance, water treatment, water distribution, and wastewater treatment, are discussed on Pages 14 to 23 and Appendix A (Air Quality and Greenhouse Gas Analysis Memorandum). Project impacts as discussed in the IS/MND were found to be less than significant or less than significant with mitigation incorporated. The IS/MND provides a thorough project description and analysis of the end uses of the project. No further environmental review is required.
Section 4 - The IS/MND Fails to Show There Is A Fair Argument that the Project May Cause Significant Impacts That Require The City to Prepare an EIR

This comment cites CEQA regulations and legal rulings regarding when a CEQA Environmental Impact Report (EIR) versus an IS/MND is required, and the legal thresholds for both. It also states that the Project IS/MND fails to adequately disclose, investigate and analyze the Project’s potentially significant impacts, fails to provide substantial evidence that impacts will be mitigated to a less than significant level, and concludes that substantial evidence shows the Project may result in potentially significant impacts, therefore requiring preparation of an EIR. Additional details and arguments by the Adams Broadwell letter author are provided in comment Subsections 4.A through 4.I.

The IS/MND provides a thorough analysis of all environmental factors under CEQA, either through discussion of the Project and impacts already evaluated in the 2035 General Plan MEIR, such as Wildfire on page 10 of the IS/MND, or through detailed environmental analysis supported by substantial evidence such as Air Quality in pages 14 to 23 of the IS/MND and Appendix A (Air Quality and Greenhouse Gas Analysis Memorandum). Potentially significant impacts were identified for Biological Resources, Cultural Resources, Noise, Tribal Cultural Resources, and Mandatory Findings of Significance, as shown on page 73 of the IS/MND. Implementation of Project-specific mitigation measures, as identified in the IS/MND and the Mitigation Monitoring and Reporting Program (MMRP), will mitigate these impacts to a less than significant level. Therefore, the environmental analysis of the IS/MND is supported by substantial evidence, and an EIR is not required for the Project.

Section 4.D - The City Fails to Analyze Potentially Significant Impacts on Water Supply

This comment states the IS/MND defers mitigation to potential impacts on water supply. Discussion of Project impacts to water supply is contained on pages 68 to 70 of the IS/MND. Based on the Project Description on Page 5 of the IS/MND, the Project is the creation of a new ASRS warehouse and associated site improvements on an existing industrial facility consistent with the current land use and zoning already analyzed as part of the 2035 General Plan MEIR. As discussed in Appendix D (VMT Analysis Memorandum) and Pages 58 to 60 of the IS/MND, the Project will not result in any new employees. Water demand from on-site personnel is therefore not expected to increase by a substantial amount. Discussion of the City design review and approval process for projects, including Conditions of Approval such as water study preparations, are a description of existing regulatory processes and are not deferred mitigation. Additionally, the City of Sacramento SB 610/SB 221 Water Supply Assessment and Certification Form sets forth a watersupply assessment threshold for industrial projects “planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area”1. Based on the Project Description in page 5 of the IS/MND, the Project is well below this threshold. Review of the Project during design phase and plan check, as required by City General Plan Ordinance U 2.1.9 (New Development), will ensure compliance with City requirements and the Project will have a less than significant impact on water supply.

Section 4.E - The IS/MND Fails to Adequately Establish the Environmental Setting for Biological Resources and Fails to Adequately Disclose, Analyze, and Mitigate Potentially Significant Impacts on Biological Resources.

The comment states that the IS/MND fails to provide adequate information to establish the environmental setting for biological resources. The environmental setting for biological resources, and

1 “City of Sacramento SB610/SB221 Water Supply Assessment and Certification Form” City of Sacramento, 2013.
project impacts to biological resources, are discussed in detail on pages 24 to 30 of the IS/MND. As discussed in this section, Bargas Environmental Consulting conducted a desktop review of the Project site for biological resources, and reviewed the Phase I Environmental Site Assessment (ESA) (Appendix B) for the Project site. The comment inaccurately states that the City “relied on California Natural Diversity Database (“CNDDB”)” and “failed to consult other major databases such as eBird and iNaturalist.” As discussed on Page 26, the biological resources desktop review did not solely rely on CNDDB results, but also included the following information sources and databases: the Phase I ESA for the Project site (Appendix B), “the USFWS National Wetlands Inventory (NWI; USFWS 2021b), the United States Environmental Protection Agency’s (US EPA) NEPAssist tool (US EPA 2021), the USFWS Information for Planning and Consultation (IPaC) tool (USFWS 2021a), the California National Diversity Database (CDFW 2021), historic aerial photographs, review of the City 2035 General Plan EIR, and other archival resources.” Additionally, the analysis discussed a detailed list of special-status species, as shown on Page 27 of the IS/MND. The environmental setting for the IS/MND is supported by substantial evidence, and further analysis is not required.

The comment also states the IS/MND fails to mitigate the project’s habitat loss impacts, and claims that Mitigation Measure (MM) BIO-1 “Avoid and Minimize Impacts to Burrowing Owl” constitutes improperly deferred mitigation. Implementation of MM BIO-1 requires preconstruction survey for burrowing owls within 30 days of the start of construction activities, sets forth the performance criteria for the preconstruction survey, and (if occupied burrows are found) requires a complete burrowing owl survey that must be conducted in accordance with the California Department of Fish and Wildlife (CDFW) “Staff Report on Burrowing Owl Mitigation.” The comment erroneously states that MM BIO-1 “does not require CDFW’s recommendations to be followed.” MM BIO-1 in fact requires, in the event that burrows or burrowing owls are found on the Project site, that the City and applicant shall not only consult with CDFW, but also submit a Burrowing Owl Mitigation Plan to CDFW with specific performance criteria related to proposed measures, including avoidance, minimization, exclusion, relocation, or other measures, and include a plan to monitor mitigation success. As such, MM BIO-1 sets forth specific requirements and obligations, with specific performance criteria, of the applicant and the City. It does not constitute improperly deferred mitigation but instead serves to mitigate the potential Project impacts to Burrowing Owl to a less-than-significant level with mitigation incorporated. Further environmental analysis of Project impacts to biological resources is therefore not required.

Section 4.F – The IS/MND Fails to Disclose Potentially Significant Noise Impacts

This comment asserts that the analysis of potential noise impacts is insufficient because a noise study was not conducted as part of the IS/MND. Project noise impacts are discussed on pages 49 to 53 of the IS/MND. As discussed in the Project Description on page 5 of the IS/MND, the noise impacts section on pages 49 to 53, and Appendix D (VMT Analysis Memorandum), the Project does not propose any increase in vehicles per day nor any increase in employees. Additionally, the Project is an existing industrial facility consistent with current planned land use and zoning, and will not change the land use or zoning of the site. As shown in Figure 3 of the IS/MND (Site Plan), the facility will not expand beyond the current site boundary. Also as discussed on Page 52 of the IS/MND, the closest noise sensitive land use is 0.6 miles from the Project site. Page 52 of the IS/MND provides analysis of potential construction noise impacts in relation to City Code Section 8.86.060 regarding construction noise, and MM NOI-1 is provided to reduce potential Project noise impacts from construction to a less than significant level. The project would not include any uses that would produce substantial noise exceeding the noise already generated at the site. Further environmental analysis of Project impacts to noise is therefore not required.
Section 4.G - The IS/MND Fails to Disclose Potentially Significant Aesthetic Impacts

The comment asserts that the Project’s maximum height of 100 feet may pose a potential significant impact to aesthetics and “may result in interference with an important scenic resource or substantially degrade the view of an existing scenic resource.” Discussion of potential project impacts to aesthetics is detailed on pages 11 to 13 of the IS/MND. Approval of the 100-feet height of the Project would require the approval of a deviation by the Design Director. As noted on pages 11 to 13 of the IS/MND, Site Plan and Design Review will be conducted for the proposed Project in order to ensure that the proposed development would not result in substantial degradation in the existing visual character of the Project site. Additionally, the Project site according to aerial imagery and the 2035 General Plan, is surrounded by similar industrial uses to the north, south, east, and west. The Project site is located on flat terrain far from any scenic resources: approximately 1.8 miles from the American River, and 6.8 miles from the Sacramento River. Development of the site, subject to approval of a deviation by the Design Director, would not result in a significant impact to aesthetics. Further environmental analysis of Project impacts to aesthetics is therefore not required.

Section 4.F – Conclusion

The comment asserts that the City lacks substantial evidence to support the conclusion that the Project will have less-than-significant impacts to the environment, and requests that an EIR be prepared. As discussed previously in this letter, the IS/MND provides detailed environmental analysis supported by substantial evidence that the Project will have a less-than-significant impact with mitigation incorporated. Therefore, further environmental analysis, and preparation of an EIR, is not required.

RESPONSE TO ADAMS BROADWELL JOSEPH & CARDOZO – LSA Consulting

III.C. The IS/MND Fails to Substantiate the Claim that the Project Will Not Require Use of Backup Generators.

This comment states that the project fails to explain how the project would handle power outages, including the use of backup generators during extreme-heat days or blackout conditions.

The proposed project is described on page 5 of the Initial Study. As described, the project would include the construction of a 94,400-square-foot cold storage facility and associated site improvements. The proposed project does not include any emergency backup generators, as emergency backup generators were not included in the project description or analysis of the project. Although not currently planned, any future backup generators installed at the property would be subject to the appropriate level of CEQA review and permitting by the Sacramento Metropolitan Air Quality Management District (SMAQMD) as a separate project. Backup generators are not necessary for the proposed project because the building would maintain temperature control long enough for goods to be located to other buildings on site, shipped to their ultimate destination, or be disposed of if necessary.

The proposed project does not include back-up generators; therefore, additional analysis related to generator emissions is not necessary.

III.D. The IS/MND’s Description of the Project’s Transportation Requirements is Inconsistent.
As noted in the project description, the proposed project would not include additional employees. This information was unknown at the time the analysis was prepared; therefore, the Air Quality analysis utilized default trip generation rates for employee and truck trips to estimate air emissions associated with the project. As such, the mobile source emission estimates shown in Table 2-3 of the Initial Study are conservative because the proposed project would not include additional employees. Consistent with the Office of Planning and Research SB 743 Technical Advisory on Evaluating Transportation Impacts in CEQA, truck trips are not included in the vehicle miles traveled (VMT) assessment for the proposed project. The project, however, is not expected to increase truck trips because the proposed project would replace the existing cold storage currently on the project site with a modernized building with automation.

IV.A. The City Failed to Disclose and Analyze Potentially Significant Health Risks

The commenter asserts that the City must provide rigorous analysis and concrete substantial evidence justifying the findings regarding health risks. The IS/MND presents information regarding potential diesel emissions associated with the project. Project construction emissions, which are shown in Table 2-2, indicate that PM$_{10}$ emissions (including diesel exhaust) would be 8 pounds per day (lbs/day), which is well below the 80 lbs/day SMAQMD threshold of significance. Additionally, the operational emissions for the proposed project are shown in Table 2-3. The reported PM$_{10}$ emissions would include any diesel emissions associated with trucks on the project site. The PM$_{10}$ emissions would be 3 lbs/day, which is also well below the SMAQMD’s significance threshold of 80 lbs/day. It is important to note that the SMAQMD established the significance threshold at levels at which the impact of exceeding these thresholds would have an adverse impact on the region’s attainment status, and at a level that is protective of public health. As shown in Tables 2-2 and 2-3 of the IS/MND and as supported by the substantial evidence provided in the technical appendix of the Air Quality Technical Memorandum, the project emissions would be well below the SMAQMD’s thresholds. As such, the City has determined that the proposed project would not result in localized or regional health effects.

Additionally, as noted on page 21 of the IS/MND, the California Air Resources Board (CARB) recommends that distribution centers be located more than 1,000 feet from sensitive land uses. When receptors are located closer than 1,000 feet, additional analysis would be necessary. The closest sensitive receptor to the project site is located almost three times the screening distance, at 2,800 feet away.

Therefore, according to the CARB methodology, construction and operational emissions would not result in any measurable increase in health risk to receptors in the project vicinity and more detailed modeling is not warranted. Additionally, as described above, emissions associated with the project are minimal. Given the distance to receptors and the minimal emissions associated with the project, no additional analysis is needed. Model output from the California Emissions Estimator Model used in the analysis was included as an appendix to the IS/MND and provides the robust analysis and substantial evidence the City is relying on to make this determination. CARB’s In-Use Off-Road Diesel Vehicles Regulations is a requirement and is incorporated into the modeling assumptions and quantitative findings used in this determination.

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The commentor claims that the California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (OEHHA) guidance would be applicable to the project. However, as described above, the emissions associated with the project are so minimal that the project screens out the requirement for any additional modeling, following guidance provided by the CARB. Therefore, additional quantitative modeling is not required.

IV.B. The IS/MND Fails to Adequately Analyze Potentially Significant Air Quality Impacts.

The commenter recommends that a mitigation measure be included to require electric equipment in the warehouse. A mitigation measure is not necessary because the Project Description provided on page 5 of the IS/MND clearly states that the warehouse will use an automated storage and retrieval system. These systems do not use diesel or natural gas-powered equipment. All equipment will be electric as modeled in the air quality analysis. As shown in Table 2-3 of the IS/MND, all air quality impacts would be well below the SMAQMD’s significance thresholds. No additional mitigation is required.

IV.C. The IS/MND Fails to Analyze Potentially Significant Energy Impacts.

Energy use estimates were shown on page 20 of the IS/MND. As noted in the Energy section of the IS/MND, SMUD and PG&E provide energy services to the project site. The proposed project would construct a refrigerated warehouse. The purpose of the new building would be to replace an older, less energy efficient building for refrigerated goods that are already distributed from the project site. The building will be designed to limit wasteful, inefficient consumption of energy during project operation and will be designed to the latest energy efficiency standards as required by the California Building Code. As noted on page 38 of the IS/MND, during construction of the project, several measures will be implemented to increase efficiency and minimize wasteful energy consumption during the construction process, including reduced on-site vehicle idling and the use of optimized construction equipment. Utility providers that currently serve the project site will continue to do so with implementation of the proposed project. Utility providers have the existing energy capacity to serve the additional needs of the new building. Therefore, as described in the IS/MND, the project will not result in the wasteful, inefficient, or unnecessary consumption of energy resources.