Department of Toxic Substances Control

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SENT VIA ELECTRONIC MAIL

June 26, 2024

Brian Millar
Contract Planner
City of Dixon
600 East A Street
Dixon, CA 95620
bmillar@cityofdixon.us

RE: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE CAMPUS PROJECT, DATED MAY 24, 2024, STATE CLEARINGHOUSE NUMBER 2023080739

Dear Brian Millar,

The Department of Toxic Substances Control (DTSC) received a Draft Environmental Impact Report (DEIR) for The Campus project (project). The project would consist of a phased, mixed-use, 259-acre development that includes an approximately 48-acre Dixon Opportunity Center (DOC), approximately 144 acres of residential uses, and approximately 2.5 acres of commercial uses. The DOC would be located at the north end of the site. A high-density residential site would be located contiguous to the DOC and adjacent residential uses. A service commercial site would be located in the southeast corner of the DOC and adjacent to the high-density residential site. The southern portion of the site would consist of medium density and low-density residential uses totaling 1,041 dwelling units.

DTSC recommends and requests consideration of the following comments:

1. Page V of the Pedrick Road Property Phase I Environmental Site Assessment (ESA) titled Former Mistler Farm Facility Area reads, “Considering the very limited occurrences of slightly elevated concentrations of diesel and lead in surface soils, these conditions would not appear to represent a significant environmental concern, particularly if the former farm facility area is not subject to future residential redevelopment.” Furthermore, the same section states, “The minor soil and groundwater impacts detected in the area of the former onsite Mistler Farm facility are considered *de minimis conditions*, provided that the former farm facility area is not subject to residential or other sensitive uses, and that drinking water wells are not installed in that area.” This statement also appears on Page 24 of the Phase I ESA under 10.0 Findings, Opinions, and Conclusions. Due to the proposed residential development, the project represents a significant environmental concern. DTSC recommends the City of Dixon utilize an approved oversight on the Certified Local Agencies list or enter into DTSC’s Standard Voluntary Agreement (SVA) program so a proper evaluation of the project is completed. If entering into an SVA with DTSC, the FLUXX portal link is provided and the page also has a link to the Fluxx User Guide that can help you navigate the system. You will need to create a new profile and once in the system, click “Start a Request for Lead Agency Oversight Application. If you have any questions about the application portal, please contact the DTSC Brownfield Coordinator Gregory Shaffer or contact the Application Portal Inbox.
2. Section 10.0 Findings, Opinions, and Conclusions also recognizes an abandoned landfill/open pit as a Recognized Environmental Condition (REC). It reads, “It is indicated an open pit was excavated within the far westerly portion of the former Mistler Farm facility on the subject property around the early 1970s, and that various wastes were disposed/landfilled in the pit. Testing of the waste materials indicates that most or all of the landfilled materials may be characterized as a California hazardous waste for disposal purposes. The results of testing native soils underlying the landfill and

groundwater beneath and near the landfill do not indicate significant impact conditions. VOCs were detected in soil gas samples collected from the area of the landfill; however, the data suggest that these conditions potentially could be mitigated via removal of the landfilled wastes and excluding future residential and other sensitive use from the affected area. Due to the identified contaminant conditions and the open regulatory agency status, the abandoned landfill at the subject site is considered a recognized environmental condition." As suggested, the REC should be mitigated to ensure that the imported soil and fill material meets screening levels outlined in DTSC's Preliminary Endangerment Assessment (PEA) Guidance Manual.

3. All imported soil and fill material should be tested to ensure any contaminants of concern are within DTSC's and U.S. Environmental Protection Agency Regional Screen Levels for the intended land use. To minimize the possibility of introducing contaminated soil and fill material there should be documentation of the origins of the soil or fill material and, if applicable, sampling be conducted to ensure that the imported soil and fill material meets screening levels outlined in PEA Guidance Manual for the intended land use. The soil sampling should include analysis based on the source of the fill and knowledge of the prior land use. Additional information can be found by visiting DTSC's Human and Ecological Risk Office (HERO) webpage.
4. When agricultural crops and/or land uses are proposed or rezoned for residential use, a number of contaminants of concern can be present. The Lead Agency shall identify the amounts of Pesticides and Organochlorine Pesticides (OCPs) historically used on the property. If present, OCPs requiring further analysis are Dichlorodiphenyltrichloroethane, toxaphene, and dieldrin. Additionally, any level of arsenic present would require further analysis and sampling and must meet Human Health Risk Assessment Note Number 3 approved thresholds outlined in the PEA Guidance Manual. If they do not, remedial action must take place to mitigate them below those thresholds.

5. Additional chemicals of concern may be found in mixing/loading/storage area, drainage ditches, farmhouses, or any other outbuildings and should be sampled and analyzed. If smudge pots had been routinely utilized, additional sampling for Polycyclic Aromatic Hydrocarbons and/or Total Petroleum Hydrocarbons may be required.

DTSC appreciates the opportunity to comment on the DEIR for The Campus project. Thank you for your assistance in protecting California's people and environment from the harmful effects of toxic substances. If you have any questions or would like any clarification on DTSC's comments, please respond to this letter or via email for additional guidance.

Sincerely,

Dave Kereazis

Dave Kereazis
Associate Environmental Planner
HWMP-Permitting Division – CEQA Unit
Department of Toxic Substances Control
Dave.Kereazis@dtsc.ca.gov

cc: (via email)

Governor's Office of Planning and
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July 2, 2024

Campbell Soup Supply Company L.L.C
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Raffi Boloyan, Community Development Director
City of Dixon
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rboloyan@cityofdixon.us

RE: The Campus/Dixon DEIR Request for Extension of Comment Period to 60 Days

Dear Mr. Boloyan,

As noted in the Campus Project Draft Environmental Impact Report ("DEIR"), Campbell Soup Company ("Campbell") has owned and operated a critical tomato processing plant in adjacent Solano County on a site that abuts the proposed Campus Project Rezone. The processing plant has been in operation for 50 years and is critical not only to Campbell's national operations, but to the regional economy in the area. Campbell therefore is a particularly interested party in the public disclosure process pursuant to the California Environmental Quality Act (Pub. Resources Code, § 21000, et seq.).

The proposal to rezone adjacent properties with residential raises potential issues on a myriad of topics. Just one of those issues addresses runoff and drainage issues that will certainly result from any projects that follow in the wake of the Campus rezoning. On that note, just last Wednesday, the Dixon Regional Watershed Joint Powers Authority Board of Directors voted to deny concurrence on a plan to implement regional stormwater drainage infrastructure necessary for the significant changes in use proposed by The Campus project.

More time is necessary to analyze and comment on such issues as runoff and drainage, the potential impacts of such a proposal on incumbent uses, not to mention the complex issues that arise from proposing residential uses so close to agricultural processing uses that have been an integral feature of the region's landscape and economy for many years.

To that end, Campbell respectfully requests an extension of the public comment period from 45 to 60 days pursuant to CEQA Guidelines section 15105 and other relevant provisions of the statute.

We believe such an extension is necessary to ensure full disclosure and informed decision-making.

Sincerely,

David Kiehn
Senior Director of Agriculture Procurement
Campbell Soup Company

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

July 8, 2024

Brian Millar, Contract Planner
City of Dixon
600 East A Street
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BMillar@CityofDixon.us

Subject: The Campus, Environmental Impact Report, SCH No. 2023080739, City of Dixon, Solano County

Dear Mr. Millar:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Impact Report (EIR) from the City of Dixon (City) for The Campus (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1] CDFW previously submitted comments in response to the Notice of Preparation of the EIR (NOP) in a letter dated September 29, 2023.

CDFW is submitting comments on the EIR to inform the City, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA) or Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Dixon Venture LLC

Objective: The Project would develop a phased, mixed-use development on approximately 260 acres of farmland. The development would consist of 47.87 acres of light industrial business park/tech campus (the Dixon Opportunity Center), 2.49 acres of light commercial use, 11.54 acres of high-density residential use, 33.49 acres of

[1] CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

medium-density residential use, 99.24 acres of low-density residential use, 8.42 acres of recreational parks and open space, 27.90 acres of water and drainage infrastructure, and 23.66 acres of road and road right-of-way.

The Project would also rezone the site, currently zoned as Professional & Admin Office (PAO-PUD), Neighborhood Commercial (CN-PUD), and Light Industrial (ML-PUD), to Campus Mixed Use Planned Development (CAMU-PD).

Location: The Project is located in northeast Dixon, with a center point of approximately 38.477517 °N, -121.807619 °W. The Project site is comprised of APNs 0111-040-010, 0111-040-020, 0111-040-030, 0111-040-040, and 0111-080-050.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA either during construction or over the life of the Project. **The Project has the potential to impact Swainson's hawk (*Buteo swainsoni*), CESA listed as threatened species, as further described below.** Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with CESA.

Raptors and Other Nesting Birds

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act (MBTA).

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below, which are also included in **Attachment 1,** to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

I. Mitigation Measure Related Impact Shortcomings

MANDATORY FINDING OF SIGNIFICANCE. Does the Project have potential to substantially reduce the number or restrict the range of an endangered, rare, or threatened species?

AND

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

COMMENT 1: Swainson's hawk, EIR pages 2.2, 2.3, 2.4, 3.4-31, 3.4-35, 3.4-36, 3.4-37, and figures ES-4 and ES-6.

Issue: The EIR does not adequately mitigate potential impacts to Swainson's hawk. The California Natural Diversity Database (CNDDB) documents 143 occurrences of nesting Swainson's hawk within five miles of the Project site (CNDDB 2024). The nearest two occurrences of nesting Swainson's hawk overlap with the northwest and the southeast portions of the Project site (CNDDB 2024). Additionally, the EIR identifies that "croplands within the Project site (261.192 acres) provide suitable foraging habitat for this species and suitable nest trees are located adjacent to the Project site and in the surrounding vicinity" (EIR page 3.4-31).

Specific impacts, why they may occur and be potentially significant:

Nesting Swainson's hawks

Thank you for including in Mitigation Measure 3.4-4(b) protocol-level Swainson's hawk surveys pursuant to the 2000 *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline) (EIR pages 3.4-35, 3.4-36, and 3.4-37). However, the proposed buffer distance of 200 yards around any detected active nests is potentially inadequate and therefore the Project has the potential to impact nesting Swainson's hawk through auditory or visual disturbances above ambient levels, which may result in Swainson's hawk nest abandonment and loss

of eggs or reduced health and vigor and loss of young. This above protocol document includes Project activities which occur greater than 200 yards in a category of low disturbance to the reproductive success of individuals (TAC 2000 page 5). However, this "low" level of disturbance may still result in take, and a 200-yard buffer may not be adequate to prevent take of nesting Swainson's hawk. A more protective 0.5-mile buffer is recommended in both the *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California* (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83992&inline) and the *Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California* (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83991&inline) and should be implemented for this Project (CDFW 1994 page 11 and CEC and CDFG 2010).

Further, use of "if possible" in the Mitigation Measure, for example "If possible, no work will occur within 200 yards of the nest while it is in active use" (EIR page 3.4-35) presents uncertainty that any buffer will be implemented.

Swainson's hawk foraging habitat

As described in the EIR, the Project site contains 261.192 acres of Swainson's hawk foraging habitat (page 3.4-31), which would be destroyed during Project implementation (EIR pages 2-2, 2-3, and 2-4 figures ES-4 and ES-6). The Project site is within the draft Solano Multispecies Habitat Conservation Plan (HCP) Irrigated Agriculture Conservation Area, and should be mitigated at a 1:1 ratio according to the draft Solano HCP Mitigation Measure SH 1 for Swainson's hawk (See Section 6.4.8 and Figure 4-21 of the draft Solano HCP at: https://www.scwa2.com/solano-multispecies-habitat-conservation-plan/), as described our response to the NOP in a letter dated September 29, 2023.

Mitigation Measure 3.4-4(b) does not provide certainty that foraging habitat destroyed by the Project will be adequately mitigated. Mitigation Measure 3.4-4(b) states that "the City of Dixon as the CEQA lead agency shall make the final determination as to the extent of the proposed Project's impacts to Swainson's hawk foraging habitat and any appropriate mitigation that might be necessary associated with project development" (EIR page 3.4-36). Mitigation Measure 3.4-4(b) inappropriately defers determining the amount of mitigation land necessary to offset impacts to Swainson's hawk foraging habitat, therefore this impact may not be reduced to less-than-significant. Further, the amount of mitigation land, if any, would not be subject to public review under CEQA, thereby circumventing key purposes of CEQA including informing the public and governmental decision makers about the potential, significant environmental effects of a proposed project and identifying ways that environmental damage can be avoided or significantly reduced (CEQA Guidelines, § 15002). CEQA Guidelines section 15126.4,

subdivision (b) states: “Formulation of mitigation measures shall not be deferred until some future time. The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will considered, analyzed, and potentially incorporated in the mitigation measure. Compliance with a regulatory permit or other similar process may be identified as mitigation if compliance would result in implementation of measures that would be reasonably expected, based on substantial evidence in the record, to reduce the significant impact to the specified performance standards.” With respect to Swainson’s hawk foraging habitat mitigation, Mitigation Measure 3.4-4(b) does not commit the City as Lead Agency to habitat mitigation, nor does it adopt specific performance standards for mitigation.

Potentially significant impacts

Swainson’s hawk is CESA listed as a threatened species and therefore is considered to be a threatened species pursuant to CEQA Guidelines section 15380. Therefore, if an active Swainson’s hawk nest is disturbed by the Project or its foraging habitat is removed, the Project may result in a substantial reduction in the number or restriction in the range of a threatened species, which is considered a Mandatory Finding of Significance pursuant to CEQA Guidelines section 15065, subdivision (a)(1). **Recommended Mitigation Measures:** To reduce potential impacts to Swainson’s hawk to less-than-significant and comply with CESA, CDFW recommends replacing Mitigation Measure 3.4-4(b) with the below Mitigation Measures.

Mitigation Measure 3.4-4(e) (Swainson’s Hawk Surveys and Avoidance Buffer): If Project activities are scheduled during the nesting season for Swainson’s hawks (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the *Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley* (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline) and prepare a report documenting the survey results. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active

Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.

Mitigation Measure 3.4-4(f) (Swainson's Hawk Foraging Habitat Mitigation): Consistent with the draft Solano HCP, prior to Project construction, the Project shall provide Swainson's hawk foraging habitat mitigation at a 1:1 ratio, which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of Swainson's hawk foraging habitat credits at a CDFW-approved mitigation bank in Solano County, unless otherwise approved in writing by CDFW.

COMMENT 2: Burrowing owl (*Athene cunicularia*), EIR pages 3.4-31 and 3.4-34.

Issue: The EIR does not adequately mitigate potential impacts to burrowing owl. The CNDDB documents 17 occurrences of burrowing owl within five miles of the Project site (CNDDB 2024). The nearest occurrence of burrowing owl is a nesting burrow approximately 375 feet southeast of the Project site (CNDDB 2024). Additionally, the EIR identifies that "based on suitable habitat in the Project site and the number and proximity of nearby documented occurrences, burrowing owl has a high potential to occur in the Project site" (page 3.4-31).

Specific impacts, why they may occur and be potentially significant:

Nesting and wintering burrowing owl

Thank you for including a protocol-level burrowing owl survey and mitigation generally based on the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012) methodology (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline=true) in Mitigation Measure 3.4-4(a) (EIR page 3.4-34). However, Mitigation Measure 3.4-4(a) only includes surveys extending 500 feet from the edge of the Project area (EIR page 3.4-34). However, pursuant to the above protocol, the Project may impact nesting or wintering burrowing owl utilizing burrows or burrow surrogates on or within 500 meters (1,640 feet) of the Project site. The Project could result in burrowing owl nest abandonment, loss of young, reduced health and vigor of owlets, injury or mortality of adults, and permanent wintering (i.e., non-nesting) or nesting habitat loss. Burrowing owl is a California Species of Special Concern (SSC) because the species' population viability and survival are adversely affected by risk factors such as precipitous declines

from habitat loss, fragmentation, and degradation; evictions from nesting sites without habitat mitigation; wind turbine mortality; human disturbance; and eradication of California ground squirrel (*Otospermophilus beecheyi*) resulting in a loss of suitable burrows required by burrowing owl for nesting, protection from predators, and shelter (Shuford and Gardali 2008; *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); personal communication, CDFW Statewide Burrowing Owl Coordinator Esther Burkett, May 13, 2022). Preliminary analyses of regional patterns for breeding populations of burrowing owl have detected declines both locally in their central and southern coastal breeding areas, and statewide where the species has experienced breeding range retraction (*Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); personal communication, Esther Burkett, May 13, 2022).

Burrowing owl foraging habitat

The Project would result in a permanent reduction of potential burrowing owl foraging habitat in Solano County. According to the draft Solano HCP Mitigation Measure BO 1 for burrowing owl, burrowing owl habitat should be mitigated at a ratio of 1:1 (see Section 6.4.9 and Figure 4-22 of the draft Solano HCP).

Potentially significant impacts

Based on the foregoing, if burrowing owl are wintering or nesting on or within 500 meters of the Project site, or if burrowing owl foraging habitat is removed, Project impacts to burrowing owl would be potentially significant.

Recommended Mitigation Measure: To reduce potential impacts to burrowing owl to less-than-significant and comply with Fish and Game Code section 3500 et seq. and the federal MBTA, CDFW recommends replacing Mitigation Measure 3.4-4(a) with the below mitigation measures.

Mitigation Measure 3.4-4(a) (Burrowing Owl Surveys): A qualified biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, following the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012) methodology (https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds) and prepare a report documenting the survey results. Surveys for nesting burrowing owl shall be conducted if Project construction starts during nesting season (February 1 to August 31), and surveys for wintering burrowing owl shall be conducted if the construction starts during the wintering season (September 1 to January 31). The habitat assessment and surveys shall encompass the Project site and a sufficient buffer zone to detect owls nearby that may be impacted, which is up to 500 meters (1,640 feet) around the Project site pursuant to the above methodology. Habitat assessments and surveys shall occur each year of Project construction, as conditions may change

annually and suitable refugia for burrowing owl, such as small mammal burrows, can be created within a few hours or days, unless otherwise approved in writing by CDFW. Time lapses between surveys or Project activities shall trigger subsequent surveys including, but not limited to, a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the above methodology resulting in burrowing owl detections. The Project shall immediately notify CDFW if burrowing owl is detected and implement a construction avoidance buffer around any detected burrowing owl pursuant to the buffer distances outlined in the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012), which may be up to 500 meters (1,640 feet). Any detected owl shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. Impacts to nesting burrowing owl shall be fully avoided.

Mitigation Measure 3.4-4(b) (Burrowing Owl Burrow Mitigation): If the Project would impact an unoccupied nesting burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for nesting), or an occupied burrow (where a non-nesting owl would be evicted as described below), the following habitat mitigation shall be implemented prior to Project construction.

Impacts to each burrowing owl nesting site shall be mitigated by permanent preservation of two burrowing owl occupied nesting sites with appropriate foraging habitat within Solano County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-nesting evicted owl sites except two burrowing owl occupied non-nesting (i.e., wintering) sites shall be preserved. The Project may implement alternative methods for preserving habitat with written acceptance from CDFW.

Please be advised that CDFW does not consider exclusion of burrowing owl (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure for the reasons outlined below. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owl are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or “take” which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid “take.” Habitat compensation shall be provided for any evicted owl as described above and the Project shall obtain CDFW’s written acceptance of the eviction plan.

Mitigation Measure 3.4-4(c) (Burrowing Foraging Habitat Mitigation): Consistent with the draft Solano HCP, prior to Project construction, the Project shall provide burrowing owl foraging habitat mitigation at a 1:1 ratio, which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of burrowing owl foraging habitat credits at a CDFW-approved mitigation bank in Solano County, unless otherwise approved in writing by CDFW.

Mitigation Measure 3.4-4(d) (Cap Pipe and Hose): To prevent burrowing owl from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project site shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to CNDDB. The CNDDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying Project approval to be operative, vested, and final. (See: Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.).

CONCLUSION

CDFW appreciates the opportunity to comment on the EIR to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alex Single, Senior Environmental Scientist (Specialist), at Alex.Single@wildlife.ca.gov or

(707) 799-4210; or Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov or (707) 210-4415.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486...

Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1. Draft Mitigation and Monitoring Reporting Plan

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2023080739)

REFERENCES

CDFW, 2024. California Natural Diversity Database (CNDDB) Management Framework. California Department of Fish and Wildlife. Sacramento, CA. Website https://wildlife.ca.gov/Data/BIOS [accessed 20 June 2024].

CDFG, 2012. *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni)* in the Central Valley of California. California Department of Fish and Game, Sacramento, CA. https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83992&inline

CDFG, 2012. Department of Fish and Game Staff Report on Burrowing Owl Mitigation. State of California Natural Resources Agency, Sacramento, CA.

CEC and CDFG, 2010. Swainson's Hawk Survey Protocols, Impact Avoidance, and Minimization Measures for Renewable Energy Projects in the Antelope Valley of Los Angeles and Kern Counties, California. California Energy Commission and Department of Fish and Game, Sacramento, CA. https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83991&inline

TAC, 2000. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee, Sacramento, CA. https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline

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ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM)	**Description**	**Timing**	**Responsible Party**
3.4-4(a)	*Burrowing Owl Surveys.* A qualified biologist shall conduct a habitat assessment and surveys, if warranted based on the habitat assessment, following the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012) methodology (https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds) and prepare a report documenting the survey results. Surveys for nesting burrowing owl shall be conducted if Project construction starts during nesting season (February 1 to August 31), and surveys for wintering burrowing owl shall be conducted if the construction starts during the wintering season (September 1 to January 31). The habitat assessment and surveys shall encompass the Project site and a sufficient buffer zone to detect owls nearby that may be impacted, which is up to 500 meters (1,640 feet) around the Project site pursuant to the above methodology. Habitat assessments and surveys shall occur each year of Project construction, as conditions may change annually and suitable refugia for burrowing owl, such as small mammal burrows, can be created within a few hours or days, unless otherwise approved in writing by CDFW. Time lapses between surveys or Project activities shall trigger subsequent surveys including, but not limited to, a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the above methodology resulting in burrowing owl detections. The Project shall immediately notify CDFW if burrowing owl is detected and implement a construction avoidance buffer around any detected burrowing owl pursuant to the buffer distances outlined in the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012), which may be up to 500 meters (1,640 feet). Any detected owl shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. Impacts to nesting burrowing owl shall be fully avoided.	Prior to Ground Disturbance and for Duration of Construction	Project Applicant

3.4-4(b)	*Burrowing Owl Burrow Mitigation.* If the Project would impact an unoccupied nesting burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for nesting), or an occupied burrow (where a non-nesting owl would be evicted as described below), the following habitat mitigation shall be implemented prior to Project construction. Impacts to each burrowing owl nesting site shall be mitigated by permanent preservation of two burrowing owl occupied nesting sites with appropriate foraging habitat within Solano County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-nesting evicted owl sites except two burrowing owl occupied non-nesting (i.e., wintering) sites shall be preserved. The Project may implement alternative methods for preserving habitat with written acceptance from CDFW. Please be advised that CDFW does not consider exclusion of burrowing owl (i.e., passive removal of an owl from its burrow or other shelter) as a "take" avoidance, minimization, or mitigation measure for the reasons outlined below. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owl are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or "take" which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid "take." Habitat compensation shall be provided for any evicted owl as described above and the Project shall obtain CDFW's written acceptance of the eviction plan.	Prior to Ground Disturbance	Project Applicant
3.4-4(c)	*Burrowing Foraging Habitat Mitigation.* Consistent with the draft Solano HCP, prior to Project construction, the Project shall provide burrowing owl foraging habitat mitigation at a 1:1 ratio, which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and implementing and funding a long-term management plan in perpetuity, or 2) purchase of burrowing owl foraging habitat credits at a CDFW-approved mitigation bank in Solano County, unless otherwise approved in writing by CDFW.	Prior to Ground Disturbance	Project Applicant

3.4-4(d)	*Cap Pipe and Hose.* To prevent burrowing owl from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than 2 inches in diameter stored at the Project site shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.	Prior to Ground Disturbance and for Duration of Construction	Project Applicant
3.4-4(e)	*Swainson's Hawk Surveys and Avoidance Buffer.* If Project activities are scheduled during the nesting season for Swainson's hawks (March 1 to September 15), prior to beginning work on the Project, a qualified biologist shall conduct surveys according to the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline) and prepare a report documenting the survey results. Survey methods shall be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the Project site or a larger area if needed to identify potentially impacted active nests, unless otherwise approved by CDFW in writing, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys shall occur annually for the duration of the Project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson's hawk nests are detected, the Project shall immediately notify CDFW and implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist, unless otherwise approved by CDFW in writing. Any detected nesting Swainson's hawk shall be monitored by the qualified biologist to ensure it is not disturbed during construction activities, unless otherwise approved in writing by CDFW. If take of Swainson's hawk cannot be avoided, the Project shall consult with CDFW pursuant to CESA and obtain an ITP.	Prior to Ground Disturbance and for Duration of Construction	Project Applicant
3.4-4(f)	*Swainson's Hawk Foraging Habitat Mitigation.* Consistent with the draft Solano HCP, prior to Project construction, the Project shall provide Swainson's hawk foraging habitat mitigation at a 1:1 ratio, which shall include: 1) permanent preservation of the species' foraging habitat through a conservation easement and implementing and funding a	Prior to Ground Disturbance	Project Applicant

	long-term management plan in perpetuity, or 2) purchase of Swainson's hawk foraging habitat credits at a CDFW-approved mitigation bank in Solano County, unless otherwise approved in writing by CDFW.		

California Department of Transportation

DISTRICT 4
OFFICE OF REGIONAL AND COMMUNITY PLANNING
P.O. BOX 23660, MS–10D | OAKLAND, CA 94623-0660
www.dot.ca.gov

July 9, 2024

SCH #: 2023080739
GTS #: 04-SOL-2023-00325
GTS ID: 30706
Co/Rt/Pm: SOL/80/39.7

Brian Miller, Planner
City of Dixon
600 East A. Street
Dixon, CA 95620

Re: The Campus – Draft Environmental Impact Report (DEIR)

Dear Brian Miller:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Campus project. The Local Development Review (LDR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities. The following comments are based on our review of the May 2024 DEIR.

Please note this correspondence does not indicate an official position by Caltrans on this project and is for informational purposes only.

Project Understanding
The proposed project would consist of a phased, mixed-use, 259-acre development that includes an approximately 48-acre opportunity center, approximately 144 acres of residential uses, and approximately 2.5 acres of commercial uses along Interstate (I)-80.

Travel Demand Analysis
The project vehicle miles traveled (VMT) analysis and significance determination are undertaken in a manner consistent with the City's adopted VMT policy. Per the DEIR, this project is found to have significant and unavoidable VMT impacts. Caltrans commends the lead agency for implementing trip reduction measures from the California Air Pollution Control Officers Association (CAPCOA) Handbook to reduce VMT. The proposed mitigation measure 3.15-2 should be document with annual monitoring reports to demonstrate effectiveness.

To adequately evaluate the impact the project will have on the State Transportation Network (STN), please consider including the I-80 1st Street (State Route (SR)-113) interchange in the Traffic Impact Analysis. This interchange is on the western edge of the project area and will connect to 1st/SR-113 by a proposed internal four lane arterial.

To help reduce the project's VMT impact, Caltrans would also like to recommend fair share contributions to the following Regional Transportation Plan (Plan Bay Area 2050) projects:

RTP ID	Project Description
21-T07-058	This program includes funding to support regional and local planning programs and initiatives to support implementation of Plan Bay Area 2050 including support for Priority Development Area (PDA) planning and implementation.
21-T08-060	This program includes funding to implement a regional Complete Streets network with an emphasis on improvements near transit and in Equity Priority Communities. It also includes funding to implement county and local initiatives to support active transportation systems.
21-T10-070	This program includes funding to implement improvements to existing bus service in Priority Development Areas (PDAs) without existing high-frequency rail, ferry, or bus service. Improvements include frequency upgrades (30) minute peak headways and reorganization and/or expansion of bus routes.
21-T10-093	This program includes funding to implement other programmatic investments to enhance local transit frequency, capacity, and reliability. This program generally implements county, transit agency, and other local programs and initiatives to make bus and light rail travel faster and more reliable. Improvements include fleet and facilities expansions; transit corridor improvements; and transit station improvements.
21-T1--125	This program includes funding to implement improvements to existing regional bus service. Improvements include frequency upgrades (15-minute peak headways), transit signal priority, adaptive signal timing and ramp metering.

Construction-Related Impacts

Project work that requires movement of oversized or excessive load vehicles on State roadways requires a transportation permit that is issued by Caltrans. To apply, please visit Caltrans Transportation Permits (*link*). Prior to construction, coordination may be

required with Caltrans to develop a Transportation Management Plan (TMP) to reduce construction traffic impacts to the STN.

Equitable Access
If any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion. As well, the project must maintain bicycle and pedestrian access during construction. These access considerations support Caltrans' equity mission to provide a safe, sustainable, and equitable transportation network for all users.

Encroachment Permit
Please be advised that any permanent work or temporary traffic control that encroaches onto Caltrans' Right-of-Way (ROW) requires a Caltrans-issued encroachment permit. As part of the encroachment permit submittal process, you may be asked by the Office of Encroachment Permits to submit a completed encroachment permit application package, digital set of plans clearly delineating Caltrans' ROW, digital copy of signed, dated and stamped (include stamp expiration date) traffic control plans, this comment letter, your response to the comment letter, and where applicable, the following items: new or amended Maintenance Agreement (MA), approved Design Standard Decision Document (DSDD), approved encroachment exception request, and/or airspace lease agreement.

The checklist TR-0416 (*link*) is used to determine the appropriate Caltrans review process for encroachment projects. The Office of Encroachment Permit requires 100% complete design plans and supporting documents to review and circulate the permit application package. To obtain more information and download the permit application, please visit Caltrans Encroachment Permits (*link*). Your application package may be emailed to D4Permits@dot.ca.gov.

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Llisel Ayon, Associate Transportation Planner, via LDR-D4@dot.ca.gov. For future early coordination opportunities or project referrals, please contact LDR-D4@dot.ca.gov.

Sincerely,

YUNSHENG LUO
Branch Chief, Local Development Review
Office of Regional and Community Planning

c: State Clearinghouse

State Water Resources Control Board

June 9, 2024

Brian Millar
City of Dixon
600 East A Street
Dixon, CA 95620

CITY OF DIXON (CITY), ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE CAMPUS PROJECT (PROJECT); STATE CLEARINGHOUSE #2023080739

Dear Brian Millar:

Thank you for the opportunity to review the EIR for the proposed Project. The State Water Resources Control Board, Division of Drinking Water (State Water Board, DDW) is responsible for issuing water supply permits pursuant to the Safe Drinking Water Act. This Project is within the jurisdiction of the State Water Board, DDW's San Francisco District. DDW San Francisco District issues domestic water supply permit amendments to the public water systems serviced with a new or modified source of domestic water supply or new domestic water system components pursuant to Waterworks Standards (Title 22 California Code of Regulations (CCR), California Waterworks Standards chapter 16 et. seq.). A public water system requires a water supply permit amendment when changes are made to a domestic water supply source, storage, or treatment and for the operation of new water system components- as specified in the Waterworks Standards. The City will need to apply for a water supply permit amendment for this Project.

Title 22 CCR, article 3, section 64560 (a) requires that for any well that will serve a public water system, documentation shall be submitted to the State Water Board that includes: a source assessment, a well site control zone that considers a 50-foot radius, and well designs and specifications. The City should submit this documentation to the State Water Board, DDW San Francisco District Office once the California Environmental Quality Act (CEQA) process is completed.

<u>The State Water Board, DDW, as a responsible agency under the CEQA, has the following comments on the City's EIR:</u>

- The EIR outlines plans to construct a 1,500 gallon per minute well (PDF page 68). The State Water Board will need to approve an amendment to the City's water supply permit for the addition of a new water source to the City's water system (Title 22 CCR, article 2, section 64556). In the EIR, under section 1.3

"Known Responsible and Trustee Agencies" and under section 2.6 "Responsible Agencies," please add "The State Water Resources Control Board, Division of Drinking Water" to the list of responsible agencies (PDF pages 59 and 71).

- The State Water Board has administered the Drinking Water Program (DWP) since July 1, 2014, when the program was transferred from the California Department of Public Health (CDPH). CDPH was originally created from a reorganization of the Department of Health Services (DHS). Under section 3.10 "Hydrology and Water Quality," heading "State," please update the DHS information to reflect the State Water Resources Control Board as the current administrator of the DWP (PDF page 328).
- There appears to be a discrepancy. Under section 3.16 "Utilities and Service Systems," when discussing water supply availability and reliability under "Single Dry Years," the EIR states "During a single dry year, all of the City's existing surface water allotments are subject to some level of reduction (PDF page 483)." However, on PDF page 481 under "Surface Water Supply" the EIR states "The City does not currently use or plan to use surface water." Please clarify whether surface water will be used or not.

When the CEQA review process is completed, please forward the following items with the permit application to the State Water Board, DDW San Francisco District Office at DWPDIST04@waterboards.ca.gov:

- Copy of the EIR and Mitigation Monitoring and Reporting Plan (MMRP);
- Copy of all comment letters received and the lead agency responses as appropriate;
- Copy of the Resolution or Board Minutes adopting the EIR and MMRP; and
- Copy of the date stamped Notice of Determination filed at the Solano County Clerk's Office and the Governor's Office of Planning and Research, State Clearinghouse.

Please contact Lori Schmitz of the State Water Board at (916) 449-5285 or Lori.Schmitz@waterboards.ca.gov, for questions regarding this comment letter.

Sincerely,

Lori Schmitz
Environmental Scientist
Division of Financial Assistance
Special Project Review Unit
1001 I Street, 16th floor
Sacramento, CA 95814

Cc:

Office of Planning and Research, State Clearinghouse

Solmaz Marzooghi
Water Resource Control Engineer
San Francisco District

Marco Pacheco
District Engineer
San Francisco District

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mshonafelt@buchalter.com

July 9, 2024

VIA E-MAIL

Brian Millar
Contract Planner
Community Development Department
City of Dixon
600 East A St.
Dixon, CA 95620

Re: The Campus Final Environmental Impact Report (SCH# 2023080739)

Dear Mr. Millar:

This office represents Campbell Soup Supply Company LLC ("Campbell"). We thank you for the opportunity to comment on the City of Dixon's Draft Environmental Impact Report ("DEIR") prepared for The Campus Project ("Project"). Campbell requested a 15-day extension of the comment period of the DEIR in order to facilitate more robust public comment, given the significant potential effects of the Project on its operations in adjacent Solano County. The City denied that request. Campbell therefore submits this letter as a preliminary comment letter, with reservation of rights to submit further comments and evidence as it studies the Project in greater depth. Such reservation shall extend through the required approval process, up to the final public hearing. (*See, e.g., Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1200 [CEQA comments to be considered up to final project hearing].) It is important to note at the outset of this letter that Campbell does not, in principle, oppose residential uses in the City. Its goal is to (1) ensure that any rezoning takes place with full environmental analysis and complete disclosure regarding the potential reciprocal impacts of Campbell's historic operations in the area vis-à-vis future residential uses; (2) ensure that Campbell's historic operations in the area can continue and co-exist with proposed future land uses; and (3) ensure that land use planning is informed and intelligent, with proper regard for historic agricultural uses which serve prime agricultural land in the Project area.

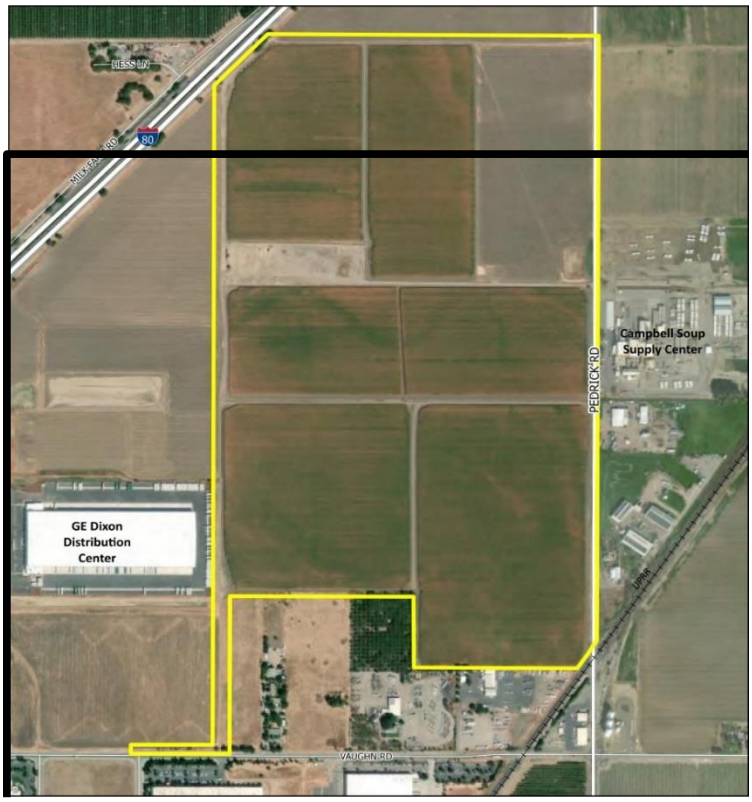
We understand that the Project proposes a large-scale rezoning of over approximately 260 acres, to facilitate development of up to 660,000 square feet of technology, business park

and light industrial uses, approximately 144 acres of residential uses comprised of low, medium and high density residential housing (up to 1,041 units), approximately 2.5 acres of commercial uses, an approximately 25 acre retention basin, and associated parks, paseos, utilities, and other infrastructure improvements. The Project is proposed in a 260-acre northeastern portion of the City, located between the intersection of Pedrick Road and Vaughn Road and Interstate 80 (generally, the "Property"). Pedrick Road represents the City's eastern city limit and border with adjacent unincorporated Solano County.

Campbell operates a tomato processing facility at 8380 Pedrick Road, which is located on the unincorporated Solano County side, directly across from and adjacent to the Property to the east. The Campbell facility operates 24 hours a day, seven days a week during the tomato-processing season from July to October, directly employing over 200 workers, many of whom reside in Dixon and the surrounding area. The remainder of the year the facility performs maintenance and upgrades with a dedicated group of mechanics, electricians, and contractors during normal business hours.[1]

This facility, along with a processing plant in Stockton, produce ***nearly all*** of the tomato ingredients included in Campbell products (e.g. tomato soup, V8, Pace salsa, Prego sauces, etc.). During the three-month tomato harvest season, the facility processes over 500,000 tons of tomatoes, which are processed within hours of harvesting. Those tomatoes necessarily come from local farms, located on average less than 30 miles from the facility. Many local growers have been supplying Campbell for multiple generations. Campbell operations have a significantly broader impact on the local economy, for example, by procuring equipment and services from local business, as well as the purchases from local growers and employment of truckers and company employees in the region. A depiction of the Project boundaries in relation to the Campbell facility, as taken from the DEIR, is presented here:

[1] During the off-season, the facility continues to operate as it undergoes preventative maintenance and capital improvements. Campbell tests boilers 30 days prior to the start of the season and equipment is subject to deep sanitation prior to the harvest season and three weeks following conclusion of the harvest. Due to the intensive nature of the processing equipment, Campbell must tear down and rebuild much of the machinery each season, underscoring the facility's need for continual attention outside of the seasonal harvest.



(DEIR, Figure 2-3.)

1. The DEIR Analysis Features Facial Inadequacies in Its Traffic and Circulation Analysis.

The DEIR explains that the Project poses a "major concern" with respect to traffic issues related to the existing Campbell facility. (DEIR, p. 3.15-25.) The City explained how it expressed "concerns about potential negative impacts on Campbell, including operational disruptions from new housing and high-volume intersections, [which may be] especially problematic during the harvest season's increased truck traffic." (DEIR, p. 3.15-25.) Critically, concerns were not limited to the Campbell facility, but also to surrounding agricultural uses and businesses. (DEIR, p. 3.15-25.) In a conclusory statement, the DEIR plainly stated that the Traffic Impact Analysis ("TIA") analyzed the road network, but that unspecified improvements will promote "safe and orderly operations." (DEIR, p. 3.15-25.) Critically, the TIA does not analyze hazards, incompatible uses, or how the Project could negatively interact with the surrounding industrial and agricultural uses.

The decision as to whether or not a project may have one or more significant effects must be based on substantial evidence in the record. (14 Cal. Code Regs. (the "CEQA Guidelines"), § 15064, subd. (f).) 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 treat the effect as significant." (*Id.*, § 15064, subd. (g).) Moreover, "the fact that a particular environmental effect meets a particular threshold cannot be used as an automatic determinant that the effect is or is not significant." (*East Sacramento Partnerships for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281, 302-03.) "A threshold of significance cannot be applied in a way that would foreclose the consideration of other substantial evidence tending to show the environmental effect to which the threshold relates might be significant." (*Id.* at p. 303; *see* CEQA Guidelines, § 15126.4, subd. (b)(2).).) An EIR must evaluate and describe feasible mitigation measures that could minimize significant adverse impacts. (*Id.*, § 15126.4, subd. (a)(1).)

Without providing any data or analysis and merely citing to unsupported conclusions, the DEIR failed to provide any evidence, let alone substantial evidence, to allow for an adequate analysis of the Project's impacts to the surrounding incompatible uses. As just one example, the DEIR does not disclose or analyze the ongoing operations of the Campbell facility in any detail. With such information absent from the analysis, the baseline conditions for studying potential environmental impacts are not adequately set out and therefore cannot adequately disclose potential impacts. As one court observed, "baseline determination is the first rather than the last step in the environmental review process. (*Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 125.) Further, the DEIR's bare reliance on its deficient analysis to conclude that the Project will not result in any traffic hazards cannot foreclose the analysis of potential impacts caused by placing incompatible high density residential uses near existing manufacturing and agricultural activities, as well as the need to consider and disclose mitigation of those impacts. Those adverse impacts derive from a myriad of issues, including the interaction between the Project's residents and commuters and trucks entering and exiting the Campbell facility (especially during the harvest season when trucks are hauling 500,000 tons of tomatoes to the facility on a 24-hour per day basis). Nor does this analysis discuss traffic hazards caused by interaction with other nearby uses, such as with agricultural vehicles on roadways near the Property. Simply put, while the DEIR acknowledges the potential detrimental impacts of placing residential zoning is close proximity to an incompatible industrial use, it does not adequately analyze the hazardous impacts of placing the Project in such proximity to industrial and agricultural uses.

A sufficient analysis here would have identified these potential impacts and developed mitigation for these impacts. Mitigation could include roadway improvements which limit the exposure of passenger and pedestrian traffic to hazardous heavy industrial and agricultural truck traffic. Additional mitigation could provide adequately studied and supported buffers and transition zones between the residential and existing industrial and agricultural sues. Such buffers and transition zones would further limit exposure to these hazards. Separately, mitigation cannot include any measures that would limit or exclude agricultural or industrial trucks on Pedrick Road. The DEIR explains that Pedrick is a "north-south rural highway" that connects eastern Dixon to I-80. (DEIR, p. 3.15-2.) Moreover, the County has jurisdiction over the eastern

half of Pedrick Road, so any highway modifications require coordination with the County. (DEIR, pp. 3.15-6—7.) The County expressed its concern with the Project's potential negative impacts to "agricultural support facilities and trucking routes essential to Campbell's and the wider agricultural community." (DEIR, p. 3.15-25.) Thus, the City must ensure safe and reliable trucking access to and over Pedrick Road.

2. The DEIR Failed to Adequately Evaluate the Project's Conflicts with Applicable General Plan Policies.

The DEIR inaccurately concluded that the Project is consistent with City General Plan policies and that, therefore, the Project would result in a less than significant impacts relative to General Plan consistency. (DEIR, p. 3.11-27.) Specifically, the DEIR inadequately analyzed the following General Plan policies:

> **Policy LCC-1.2:** Maintain designated urban-agricultural buffers within City jurisdiction to minimize conflicts with adjoining agricultural uses.

Without any other analysis, the DEIR found that the Project is consistent with this policy, merely because Pedrick Road will serve as a buffer between the future Project residents and workers and surrounding agricultural uses east of the roadway. Supposedly, the narrow roadway is an adequate buffer because it "will be modified to include bicycle/pedestrian and landscape improvements." (DEIR, p. 3.11-15.) The DEIR does not analyze the General Plan's requirement that new development be integrated "with existing uses, providing buffers ***and transitions*** between residential, commercial, and industrial uses." (General Plan, p. 3-26, emphasis added.) Nor does the DEIR explain how landscape improvements will satisfy the General Plan's requirement that new development provide transition between adjoining agricultural uses. The document merely assumes that landscaping will mitigate the deleterious effects caused by adjoining incompatible uses. This analysis is deficient and, for the reasons explained above, the Project is in conflict with Policy LCC-1.2 and will remain in conflict unless and until the City presents better analysis, data and proposed mitigation to provide adequate assurance to stakeholders, such as Campbell, that the General Plan policies will be adequately satisfied.

> **Policy LCC-5.4:** Grow the base of industrial and commercial employers in the Northeast Quadrant, and highway adjacent areas of the Southwest Dixon Specific Plan area, focusing uses that have common needs in this area to capitalize on synergies and minimize conflicts with other uses.

Similar to Policy LCC-1.2, Policy LCC-5.4 requires the City to plan for similar compatible uses to "minimize conflicts" with other uses (e.g. residential uses). The DEIR's consistency analysis concludes that the Project's light industrial, warehouse, research and development, office and commercial uses will be located in close proximity to each other, but ignores how such uses may interact with the residential and recreational uses proposed by the

Project. Moreover, the DEIR's conclusion that the Project's clustering of light industrial, warehouse, research and development, office and commercial uses satisfies this policy, underscores how and why the proximity of residential uses to the Campbell facility is problematic. Put another way, the DEIR's assertion that industrial uses must be aggregated in a manner that separates them from proposed residential zones is tantamount to an admission that residential rezoning adjacent to the Campbell facility is bad planning. Yet, the DEIR's analysis ignores the proximity of the Project's residential uses to the Campbell facility. Accordingly, this analysis is deficient and, for the reasons explained above, the Project is in conflict with Policy LCC-5.4.

> **Policy E-3.2:** Actively recruit new businesses to build on existing industry concentrations in Dixon, including businesses in the following sectors: manufacturing, logistics, food processing, biotechnology, and agricultural technology.

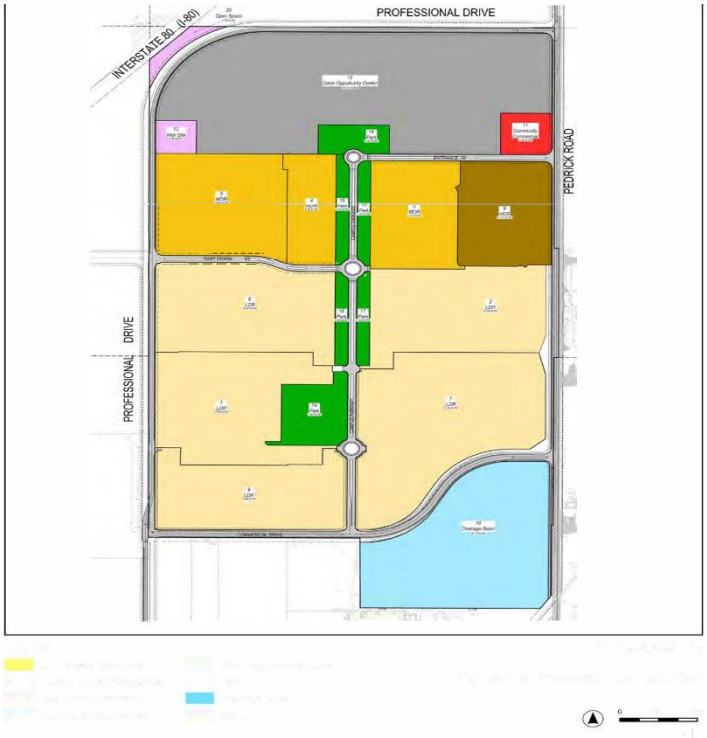
While the DEIR's analysis claims the Project is consistent with this policy because it would attract "light industrial, research and development and related uses" to the City, the DEIR is deficient with respect to an analysis of existing industrial uses. Specifically, the incompatibility between the Campbell facility and the proposed neighboring residential uses threatens the long-term viability of the manufacturing site. New adjacent residential uses could affect Campbell ability to operate in the same manner that it has operated for decades. This potential outcome is not speculative; encroachment of residential uses inevitably tends to result in growing political and social pressures to sunset pre-existing -- but now -- incompatible uses, such as agricultural processing and similar industrial activities on adjacent or nearby land. As a significant employer and contributor to the region's economy, without the installation of appropriate buffers and transitions, the winding down of manufacturing operations could negatively impact the local economy in many ways that have not been disclosed or studied, with cascading effects on regional economic dynamics. Accordingly, this analysis is deficient and, for the reasons explained above, the Project is in conflict with Policy E-3.2.

Because the DEIR's analyses were deficient with respect to the Project's conflicts with applicable General Plan policies, and because those conflicts could result in a significant impact on the environment, the City must correct this analysis, develop further analysis, obtain expert assessments and develop the requisite mitigation measures to ensure the Project would result in a less than significant impact on the environment.

3. The DEIR Failed to Adequately Evaluate and Disclose the Project's Conflicts with Agricultural Uses.

The DEIR reveals that the Project envisions both low-density and high density residential uses just west of Pedrick Road and adjacent to the Campbell facility. Those uses are depicted in Figure ES-6, excerpted below, with yellow areas identified as low-density residential and the areas keyed in brown as high-density residential. While not identified in Figure ES-6, the

Campbell facility lies just east of those residential zones, with Pedrick Road serving as the only "buffer" between those uses.



(DEIR, Figure ES-6.) While not highlighted in the figure, the Campbell facility is located immediately adjacent to the above rezoning scheme, on the east side of Pedrick Road, with Pedrick Road serving as the only separation between the two uses. The environmental implications of placing low and medium residential zones in such close proximity to the Campbell processing plant are manifest on the face of the DEIR. Yet, the DEIR nowhere discusses such details as (1) the operational details of the plant; (2) the seasonal characteristics of trucking operations to and from the plant; (3) noise, dust, odors, air quality and light and glare impacts on potential sensitive receptors who would occupy residences at the rezoned sites; (4) whether or how Pedrick Road or other proposed buffers may adequately mitigate potential impacts of ongoing operations on the proposed adjacent residential uses; and (5) the potential effects of the closure of the Campbell facility on the regional economy. It is a matter of record that the agricultural processing operations such as these are incompatible with residential uses. Rezoning in the manner proposed by the Project, and as disclosed by the DEIR, without careful and deliberate study of the reciprocal effects of incumbent, incompatible uses cannot qualify as "smart" planning. It proceeds without thoughtful consideration of the relation to existing uses and will tend to place proposed future projects at increased environmental risk. (*See, e.g.*, Environmental Assessment Factors and Categories eGuide (HUD Exchange, Department of Housing and Urban Development, hudexchange.infor/programs/enviormental-

review.environmental-assessment/guide/land-development/, accessed July 2024).) For those reasons, Campbell proposed revisions to the Project proposal that relocate residential uses further west, with adequate analysis of proper buffers between those uses and Pedrick Road.

4. Conclusion.

As noted, Campbell reserves the right to provide additional comment, analysis and data concerning the above issues. While Campbell supports housing and the City's efforts to bring housing opportunities to the region, Campbell submits that such efforts must be conducted with a properly robust analysis and full disclosure to the public in order to ensure smart planning that is in the best interest not only of the City but also current stakeholders in neighboring Solano County and the surrounding region.

Accordingly, Campbell does not oppose new development in the City, but instead opposes the City's lack of adequate study of this Project and the Project's surrounding uses. Campbell comments reflect its desire maintain good neighborly relationships with future surrounding residents and businesses. Addressing the comments contained in this letter will minimize potential conflicts between neighbors and the vital economic activity that Campbell provides to the region.

Sincerely,

BUCHALTER
A Professional Corporation

Michael W. Shonafelt

MWS:nj

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July 9, 2024

Via Overnight Mail and Email
Brian Millar, Contract Planner
City of Dixon Community Development Department
600 East A Street
Dixon, CA 95620
Email: bmillar@cityofdixon.us

Re: **Comments on the Draft Environmental Impact Report for The Campus Project (SCH # 2023080739)**

Dear Mr. Millar:

We are writing on behalf of Napa-Solano Residents for Responsible Development ("Napa-Solano Residents") to comment on the Draft Environmental Impact Report ("DEIR") prepared by the City of Dixon ("City") for The Campus Project (SCH Number 2023080739)[1] ("Project") proposed by Morton & Pitalo, Inc., ("Applicant") on behalf of Dixon Venture, LLC ("Property Owner").[2]

The Project site is comprised of five parcels located adjacent to Pedrick Road near Interstate 80 ("I-80") at the eastern edge of the City's Northeast Quadrant Specific Plan ("NEQSP") and comprises nearly 40 percent of the NEQSP plan's total 643 acres. The Project proposes a mixed-use development to implement the intent of the City's recently created Campus Mixed Use General Plan designation "… to foster new mixed employment districts with a range of job-generating uses, housing, and easy access to the regional transportation network." The proposed project would consist of a phased, mixed-use development that includes an approximately 48-acre Dixon Opportunity Center ("DOC") with up to 660,000 sq ft of technology, business park and light industrial uses, approximately 144 acres of residential uses

[1] City of Dixon, The Campus Draft Environmental Impact Report (hereinafter "DEIR") (May 24, 2024) available at https://ceqanet.opr.ca.gov/2023080739/2.
[2] City of Dixon, Planning Commission Staff Report: Study Session on the Campus Mixed Use Project (hereinafter "PC Staff Report") (March 12, 2024) available at https://www.cityofdixon.us/media/Agenda%20Items/20240312%20PC/11.2.pdf.

composed of low, medium and high-density residential housing, approximately 2.5 acres of commercial uses, an approximately 25 acre retention basin, and associated parks, paseos, utilities, and other infrastructure improvements.

The DEIR fails to comply with CEQA's basic requirement to act as an "informational document." It lacks meaningful details regarding the Project's air quality, transportation, GHG emissions, and biological resources impacts, without which the public and decisionmakers cannot adequately assess the Project's significant impacts. The DEIR's shortcomings render it deficient as a matter of law because it fails to properly disclose and mitigate the Project's potentially significant impacts. The DEIR also lacks substantial evidence to support the City's conclusions regarding the Project's impacts and proposed mitigation. These deficiencies render the document inadequate for purposes of compliance with CEQA.

We reviewed the DEIR and its technical appendices with the assistance of traffic and transportation expert Daniel T. Smith Jr., P.E., of Smith Engineering;[3] environmental health, air quality and GHG expert Paul E. Rosenfield, PhD. and hazardous materials expert Matt Hagemann, P.G., C.Hg. of Soil Water Air Protection Enterprise ("SWAPE");[4] and biological resources expert Scott Cashen, M.S.[5] We reserve the right to supplement these comments at a later date, and at any later proceedings related to this Project.[6]

I. STATEMENT OF INTEREST

Napa-Solano Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential environmental impacts associated with Project development. Napa-Solano Residents includes members of the International Brotherhood of Electrical Workers Local 180, Plumbers & Steamfitters Local 343, Sheet Metal Workers Local 104, Sprinkler

[3] Mr. Smith's technical comments and curricula vitae are attached hereto as Exhibit A ("Smith Comments").
[4] SWAPE's technical comments and curricula vitae are attached hereto as Exhibit B ("SWAPE Comments").
[5] Mr. Cashen's technical comments and curricula vitae are attached hereto as Exhibit C ("Cashen Comments").
[6] Gov. Code § 65009 (b); PRC § 21177 (a); *Bakersfield Citizens for Local Control v. Bakersfield* ("*Bakersfield*") (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist*. (1997) 60 Cal. App. 4th 1109, 1121.

Fitters Local 483, and their members and their families, and other individuals that live and/or work in the City of Dixon and Solano County.

Napa-Solano Residents supports the development of sustainable residential, commercial and industrial centers where properly analyzed and carefully planned to minimize impacts on public health and the environment. Developments like the Project should avoid adverse impacts to air quality, biological resources, transportation, and public health, and should take all feasible steps to ensure unavoidable impacts are mitigated to the maximum extent feasible. Only by maintaining the highest standards can development truly be sustainable.

The individual members of Napa-Solano Residents and the members of the affiliated labor organizations live, work, recreate and raise their families in and around the City of Dixon and Solano County. They would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work constructing the Project itself. They would be the first in line to be exposed to any health and safety hazards which may be present on the Project site. They each have a personal interest in protecting the Project area from unnecessary, adverse environmental and public health impacts.

Napa-Solano Residents and its members also have an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for the members they represent. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for industry to expand in Dixon and Solano County, and by making it less desirable for businesses to locate and people to live and recreate in the County, including the Project vicinity. Continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduces future employment opportunities.

Finally, Napa-Solano Residents is concerned with projects that can result in serious environmental harm without providing countervailing economic benefits. CEQA provides a balancing process whereby economic benefits are weighed against significant impacts to the environment.[7] It is in this spirit we offer these comments.

[7] PRC § 21081 (a)(3); *Citizens for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 171.

II. LEGAL BACKGROUND

CEQA requires public agencies to analyze the potential environmental impacts of their proposed actions in an EIR.[8] "The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language."[9]

CEQA has two primary purposes. First, CEQA is designed to inform decisionmakers and the public about the potential significant environmental effects of a project.[10] "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.'"[11] 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."[12] 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."[13]

Second, CEQA requires public agencies to avoid or reduce environmental damage when "feasible" by requiring consideration of environmentally superior alternatives and adoption of all feasible mitigation measures.[14] The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to "identify ways that environmental damage can be avoided or significantly reduced."[15] If the project will have a significant effect on the

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[8] PRC § 21100.
[9] *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal ("Laurel Heights I")* (1988) 47 Cal.3d 376, 390 (internal quotations omitted).
[10] PRC § 21061; 14 CCR §§ 15002 (a)(1); 15003 (b)-(e); *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 517 ("[T]he basic purpose of an EIR is to provide public agencies and the public in general with detailed information about the effect [that] a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.").
[11] *Citizens of Goleta Valley,* 52 Cal.3d at p. 564 (quoting *Laurel Heights I*, 47 Cal.3d at 392).
[12] *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810; *see also Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs*. (2001) 91 Cal.App.4th 1344, 1354 ("*Berkeley Jets*") (purpose of EIR is to inform the public and officials of environmental consequences of their decisions *before* they are made).
[13] 14 CCR § 15003 (b).
[14] *Id*. § 15002 (a)(2), (3); *see also Berkeley Jets*, 91 Cal.App.4th at 1354; *Citizens of Goleta Valley*, 52 Cal.3d at p. 564.
[15] 14 CCR § 15002 (a)(2).

environment, the agency may approve the project only if it finds that it has "eliminated or substantially lessened all significant effects on the environment" to the greatest extent feasible and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns."[16]

While courts review an EIR using an "abuse of discretion" standard, "the reviewing court is not to 'uncritically rely on every study or analysis presented by a project proponent in support of its position. A clearly inadequate or unsupported study is entitled to no judicial deference."[17] As the courts have explained, a prejudicial abuse of discretion occurs "if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process."[18] "The ultimate inquiry, as case law and the CEQA guidelines make clear, is whether the EIR includes enough detail 'to enable who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.'"[19]

III. THE DEIR LACKS AN ACCURATE, COMPLETE AND STABLE PROJECT DESCRIPTION

The DEIR does not meet CEQA's requirements because it fails to include an accurate, complete and stable description of the Project, rendering the DEIR's impact 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."[20] CEQA requires that a project be described with enough

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[16] PRC § 21081 (a)(3), (b); CCR §§ 15090(a), 15091(a), 15092(b)(2)(A), (B); *Covington v. Great Basin Unified Air Pollution Control Dist*. (2019) 43 Cal.App.5th 867, 883.
[17] *Berkeley Jets*, 91 Cal.App.4th at p. 1355 (emphasis added) (quoting *Laurel Heights I*, 47 Cal.3d at 391, 409, fn. 12).
[18] *Berkeley Jets*, 91 Cal.App.4th at p. 1355; *see also San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722 (error is prejudicial if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process); *Galante Vineyards*, 60 Cal.App.4th at p. 1117 (decision to approve a project is a nullity if based upon an EIR that does not provide decision-makers and the public with information about the project as required by CEQA); *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946 (prejudicial abuse of discretion results where agency fails to comply with information disclosure provisions of CEQA).
[19] *Sierra Club,* 6 Cal.5th at p. 516 (quoting *Laurel Heights I*, 47 Cal.3d at 405).
[20] *Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 17; *Communities for a Better Environment v. City of Richmond* ("*CBE v. City of Richmond*") (2010) 184 Cal.App.4th 70, 85–89; *County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 Cal.App.3d 185, 193.

particularity that its impacts can be assessed.[21] Without a complete, stable and accurate project description, the environmental analysis under CEQA is impermissibly limited, thus minimizing the project's impacts and undermining meaningful public review.[22]

A. The DEIR Fails to Consistently Describe the Size of the Project

The DEIR's *Project Description* states that the Project site "contains a total of approximately 260 +/- acres."[23] However, elsewhere in the DEIR, the Project site is described as containing "261.192 acres of cropland habitat, 17.426 acres developed/disturbed habitat, and 1.143 acres of ditches[.]"[24] This confusion over the size of the Project calls the analysis of the Project's impacts into question. For example, Mr. Cashen found that the DEIR analyzed impacts to Swainson's hawks based on the reported 261.192 acres of cropland, but failed to analyze the 17.426 acres of developed/disturbed areas and 1.143 acres of ditches as potential foraging habitat for the species. Mr. Cashen explains that foraging habitat for Swainson's hawks includes a variety of open habitat types where prey items are both available and accessible, including roads, irrigation ditches, and barren areas.[25] The DEIR's failure to accurately and consistently describe the Project's size results in a corresponding failure to analyze the extent of the Project's impacts.

IV. THE DEIR FAILS TO ESTABLISH THE EXISTING BASELINE

The DEIR fails to accurately disclose the baseline environmental conditions related to the Project's biological resources impacts. As a result, the DEIR lacks the necessary baseline information against which to measure the Project's impacts on wildlife from construction and operation of the Project.

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

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[21] 14 CCR § 15124; *see Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 192–193; *see also El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1597 ("An accurate and complete project description is necessary to fully evaluate the project's potential environmental effects.")
[22] *Id.*
[23] DEIR, p. 2-1.
[24] DEIR, p. 3.4-34.
[25] Cashen Comments, p. 2.

environmental review commences.[26] As numerous courts have held, the impacts of a project must be measured against the "real conditions on the ground."[27] The description of the environmental setting constitutes the baseline physical conditions by which a lead agency may assess the significance of a project's impacts.[28] Use of the proper baseline is critical to a meaningful assessment of a project's environmental impacts.[29] An agency's failure to adequately describe the existing setting contravenes the fundamental purpose of the environmental review process, which is to determine whether there is a potentially substantial, adverse change compared to the existing setting.

Baseline information on which a lead agency relies must be supported by substantial evidence.[30] The CEQA Guidelines define "substantial evidence" as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion."[31] "Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts ... [U]nsubstantiated opinion or narrative [and] evidence which is clearly inaccurate or erroneous ... is not substantial evidence."[32]

A. The DEIR Fails to Adequately Establish the Environmental Setting for Biological Resources

The DEIR fails to identify the presence of special status species at the Project site. According to the Biological Resources Assessment prepared for the Project, yellow-billed magpie were observed at the Project site.[33] Mr. Cashen states that the yellow-billed magpie is a U.S. Fish and Wildlife Service Bird of Conservation Concern, and it is included on CDFW's Special Animals List.[34] Birds of

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[26] 14 CCR § 15125 (a).
[27] *Save Our Peninsula Com. v. Monterey Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 121-22; *City of Carmel-by-the Sea v. Bd. of Supervisors* (1986) 183 Cal.App.3d 229, 246.
[28] 14 CCR § 15125 (a).
[29] *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Ca.4th 310, 320.
[30] *Id.* at 321 (stating "an agency enjoys the discretion to decide […] exactly how the existing physical conditions without the project can most realistically be measured, subject to review, as with all CEQA factual determinations, for support by substantial evidence"); *see Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.
[31] 14 CCR §15384.
[32] PRC § 21082.2 (c).
[33] DEIR, Appendix D, p. C-2.
[34] Cashen Comments, p. 2.

Conservation Concern are species that are likely to become candidates for listing under the Endangered Species Act unless additional conservation actions are implemented.[35] Despite the presence of the yellow-billed magpie, the DEIR fails to disclose their presence and as a result, fails to analyze impacts on a special status species.

V. THE DEIR FAILS TO ADEQUATELY DISCLOSE AND MITIGATE POTENTIALLY SIGNIFICANT IMPACTS

An EIR must fully disclose all potentially significant impacts of a Project and implement all feasible mitigation to reduce those impacts to less than significant levels. The lead agency's significance determination with regard to each impact must be supported by accurate scientific and factual data.[36] An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.[37]

Moreover, the failure to provide information required by CEQA is a failure to proceed in the manner required by law.[38] Challenges to an agency's failure to proceed in the manner required by law, 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.[39] In reviewing challenges to an agency's approval of an EIR based on a lack of substantial evidence, the court will 'determine de novo whether the agency has employed the correct procedures, scrupulously enforcing all legislatively mandated CEQA requirements.'[40]

Even when the substantial evidence standard is applicable to agency decisions to certify an EIR and approve a project, reviewing courts will not 'uncritically rely on every study or analysis presented by a project proponent in support of its position. A clearly inadequate or unsupported study is entitled to no judicial deference.'"[41]

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[35] *Ibid.*
[36] 14 CCR § 15064 (b).
[37] *Kings Cty. Farm Bur. v. Hanford* (1990) 221 Cal.App.3d 692, 732.
[38] *Sierra Club v. State Bd. of Forestry* (1994) 7 Cal.4th 1215, 1236.
[39] *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.
[40] *Id., Madera Oversight Coal., Inc. v. County of Madera* (2011) 199 Cal. App. 4th 48, 102.
[41] *Berkeley Jets*, 91 Cal.App.4th at 1355.

A. The DEIR Underestimates and Fails to Substantiate the Project's GHG Emissions

The CEQA Guidelines allow, under certain circumstances, a lead agency to rely on a qualitative analysis or performance based standards to determine the significance of a Project's GHG impacts.[42] In doing so, the lead agency should consider the extent to which the project complies with regulations or requirements adopted to implement a statewide, regional or local plan for the reduction or mitigation of GHG emissions.[43] "In determining the significance of impacts, the lead agency may consider a project's consistency with the State's long-term climate goals or strategies, provided that substantial evidence supports the agency's analysis of how those goals or strategies address the project's incremental contribution to climate change and its conclusion that the project's incremental contribution is not cumulatively considerable."[44]

Furthermore, the CEQA Guidelines mandate that an environmental document, like the DEIR, that relies on a greenhouse gas reduction plan for a cumulative impacts analysis must identify those requirements specified in the plan that apply to the project, and if those requirements are not otherwise binding and enforceable, incorporate those requirements as mitigation measures applicable to the project.[45] The DEIR estimates that the Project would generate net annual GHG emissions of 24,417 MT CO2e/year.[46] However, despite quantifying the Project's GHG emissions, the DEIR fails to substantiate the conclusion that the Project's GHG emissions impacts are less than significant and instead only contains a cursory and incomplete analysis of the Project's compliance with the 2022 Scoping Plan and Plan Bay Area 2050, the Bay Area's regional long-range plan adopted by Metropolitan Transportation Commission ("MTC").[47]

1. The DEIR Does Not Demonstrate Compliance with the 2022 Scoping Plan

The DEIR identifies that CARB's 2022 Scoping Plan "provides policies that are considered needed to meet the State's mid-term and long-term GHG emissions

[42] 14 CCR § 15064.4
[43] *Id.*
[44] 14 CCR § 15064.4 (b)(3).
[45] 14 CCR § 15183.5 (b)(2).
[46] DEIR, p. 3.8-24.
[47] DEIR, pp. 3.8-24 - 3.8-27.

reduction targets."[48] The DEIR claims compliance with these policies largely through compliance with existing laws and regulations including the CALGreen Code and Building Energy Efficiency Standards.[49] These bare conclusions contain no analysis of "how those goals or strategies address the project's incremental contribution to climate change and its conclusion that the project's incremental contribution is not cumulatively considerable."[50] These conclusions lack the support of substantial evidence and therefore do not comply with CEQA,

The DEIR also claims that the Project is consistent with the 2022 Scoping Plan as it "incorporates a wide array of construction- and operation-related Project features that reduce Project emissions."[51] However, despite this claim, the DEIR only includes the following measures aimed at reducing Project GHG emissions:

> **Mitigation Measure 3.3-1(a):** Prior to the issuance of each building permit, the Project applicant shall ensure that the Project buildings are designed to exceed the Title 24 Building Envelope Energy Efficiency Standards by 1% or greater.
>
> **Mitigation Measure 3.3-1(b):** During Project operation, operators of heavy-duty trucks that travel to and from the Project site are required to use trucks that have 2010 model year or newer engines that meet the CARB's 2010 engine emission standards of 0.01 g/bhp-hr for particulate matter (PM) and 0.20 g/bhp-hr of NOx emissions, or newer, cleaner trucks and equipment.[52]

In addition to the above mitigation measures, the DEIR states that it will implement:

> [N]eighborhood design improvements such as pedestrian network improvements, traffic calming measures, and would incorporate mixed-use, walkable, transit-oriented, and compact infill development. The Project would also include an extensive park system that would connect the central portion of the Project site to the Project's roadways and roadways adjacent to the Project site.

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[48] DEIR, p. 3.8-24.
[49] DEIR, pp. 3.8-24 - 3.8-25.
[50] 14 CCR § 15064.4 (b)(3).
[51] DEIR, p. 3.8-26.
[52] DEIR, p. ES-10.

While these design features may reduce energy consumption and GHG emissions, the DEIR contains no analysis supporting that contention. Moreover, the DEIR lacks any evidence that these "neighborhood design" features are mandatory, binding and enforceable, nor does the DEIR incorporate those features as mitigation measures applicable to the Project as required by CEQA Guidelines section 15183.5(b)(2).

2. The DEIR Does Not Demonstrate Compliance with MTC's Plan Bay Area 2050

The DEIR sets forth a number of GHG reduction strategies contained in MTC's Plan Bay Area 2050[53] and asserts that the Project will be consistent with those strategies.[54] However, the DEIR's analysis fails to include substantial evidence that the Project is consistent with those strategies.

For example, among the MTC GHG reduction strategies cited in the DEIR is the MTC's goal to "Build a Next-Generation Transit Network."[55] Per Plan Bay Area 2050, this strategy includes goals to "Improve the quality and availability of local bus and light rail service, with new bus rapid transit lines, South Bay light rail extensions, and frequency increases focused in lower-income communities", "[e]xpand and modernize the regional rail network", and "[b]uild an integrated regional express lanes and express bus network."[56] However, despite the detailed goals provided under the strategy, the DEIR claims that the Project is consistent with this strategy by stating that the "Project would provide demand for increase local transit frequency, capacity, and reliability, thereby ensuring no conflict with this strategy category."[57] The DEIR is wholly lacking in analysis and fails to demonstrate consistency with any of the elements of the MTC's goal to build a next-generation transit network.

The DEIR makes no effort to assess the Project's consistency with any of the MTC's strategies. As with the DEIR's cursory analysis of consistency with the 2022 Scoping Plan, it asserts that the Project will comply with green building standards

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[53] Metropolitan Transportation Commission/ Association of Bay Area Governments, Plan Bay Area 2050 (hereinafter "Plan Bay Area 2050") (October 2021) available at https://planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_October_2021.pdf
[54] DEIR, p. 3.8-26 – 3.8-27.
[55] *Id.*, p. 3.8-27.
[56] Plan Bay Area 2050, pdf p. 13.
[57] DEIR, p. 3.8-27.

and describes a handful of unenforceable project design features to support its conclusions regarding GHG impacts. While these design features may reduce energy consumption and GHG emissions, the DEIR fails to support that contention with analysis or evidence. Moreover, the DEIR lacks any evidence that such features are mandatory, binding and enforceable, nor does the DEIR incorporate those features as mitigation measures applicable to the Project as required by CEQA Guidelines section 15183.5(b)(2).

The City must revise and recirculate the DEIR with a proper analysis of the Project's GHG impacts.

3. The DEIR Fails to Require All Feasible GHG Mitigation

The DEIR concludes that the proposed Project's GHG emissions would be less than significant as a result of compliance with CARBs 2022 Scoping Plan and MTC Plan Bay Area 2050. However, SWAPE's review of the DEIR's proposed mitigation demonstrates that the DEIR fails to require feasible mitigation to address the Project's GHG impacts, leaving the impact potentially significant and unmitigated.[58]

Here, while the DEIR implements Mitigation Measures 3.3-1(a) and (b), the DEIR fails to implement *all* feasible mitigation.[59] SWAPE's comments identify several cost-effective, feasible ways to incorporate lower-emitting mitigation and design features into the proposed Project above and beyond the measures included in Mitigation Measures 3.3-1(a) and (b), which subsequently, would reduce emissions released during Project construction and operation.[60] For example, SWAPE recommends the following mitigation measures be implemented in the Project:

- Measures that encourage transit use, carpooling, bike-share and car-share programs, active transportation, and parking strategies, including, but not limited to the following:
    - Promote transit-active transportation coordinated strategies;
    - Increase bicycle carrying capacity on transit and rail vehicles;

[58] SWAPE Comments, p. 3.
[59] DEIR, p. ES-10.
[60] SWAPE Comments, pp. 4-7.

  - Improve or increase access to transit;
  - Increase access to common goods and services, such as groceries, schools, and day care;
  - Incorporate the neighborhood electric vehicle network;
  - Orient the project toward transit, bicycle and pedestrian facilities;
  - Improve pedestrian or bicycle networks, or transit service;
  - Provide traffic calming measures;
  - Provide bicycle parking;
  - Limit or eliminate park supply;
  - Unbundle parking costs;
  - Provide parking cash-out programs; and
  - Implement or provide access to a commute reduction program.
- Incorporate bicycle and pedestrian facilities into project designs, maintaining these facilities, and providing amenities incentivizing their use; and planning for and building local bicycle projects that connect with the regional network.
- Improving transit access to rail and bus routes by incentives for construction and transit facilities within developments, and/or providing dedicated shuttle service to transit stations.
- Designate a percentage of parking spaces for ride-sharing vehicles or high-occupancy vehicles, and provide adequate passenger loading and unloading for those vehicles.
- Require at least five percent of all vehicle parking spaces include electric vehicle charging stations, or at a minimum, require the appropriate infrastructure to facilitate sufficient electric charging for passenger vehicles and trucks to plug-in.
- Implement preferential parking permit program.
- Implement school pool and bus programs.
- Encourage telecommuting and alternative work schedules, such as:
  - Staggered starting times;
  - Flexible schedules; and
  - Compressed work weeks.
  - Implement commute trip reduction marketing, such as:
  - New employee orientation of trip reduction and alternative mode options;

  - Event promotions; and
  - Publications
- Price workplace parking, such as:
  - Explicitly charging for parking for its employees;
  - Implementing above market rate pricing;
  - Validating parking only for invited guests;
  - Not providing employee parking and transportation allowances; and
  - Educating employees about available alternatives.
- Adopting employer trip reduction measures to reduce employee trips such as vanpool and carpool programs, providing end-of-trip facilities, and telecommuting programs including but not limited to measures that:
  - Provide car-sharing, bike sharing, and ridesharing programs;
  - Provide transit passes;
  - Shift single occupancy vehicle trips to carpooling or vanpooling, for example providing ride-matching services;
  - Provide incentives or subsidies that increase that use of modes other than single occupancy vehicle;
  - Provide on-site amenities at places of work, such as priority parking for carpools and vanpools, secure bike parking, and showers and locker rooms; and
  - Provide employee transportation coordinators at employment sites.
- Provide a guaranteed ride home service to users of non-auto modes.
- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity that is equal to or greater than the building's projected energy needs, including all electrical chargers.
- Designing all project building roofs to accommodate the maximum future coverage of solar panels and installing the maximum solar power generation capacity feasible.
- Oversizing electrical rooms by 25 percent or providing a secondary electrical room to accommodate future expansion of electric vehicle charging capability.
- Requiring all stand-by emergency generators to be powered by non-diesel fuel.

- Meeting CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking.
- Designing to LEED green building certification standards.[61]

Before the City can conclude that the Project's GHG impacts are unavoidable, the City must consider these measures as feasible GHG reduction measures in a revised and recirculated EIR.

B. The DEIR Fails to Adequately Disclose, Analyze, And Mitigate Potentially Significant Transportation Impacts

The DEIR fails to disclose all potentially significant transportation impacts of the Project and does not implement all feasible mitigation to reduce those impacts to less than significant levels, in violation of CEQA.

1. The DEIR Fails to Require All Feasible Mitigation for VMT Impacts

The DEIR states that the Project would have a significant and unavoidable VMT impact. But Mr. Smith explains that the DEIR's characterization of this impact as "unavoidable" is not supported by consideration of measures that reduce VMT impacts.[62] CEQA Guidelines Section 15093 provides that an impact can only be labeled as significant-and-unavoidable after all available, feasible mitigation is considered. Even if the Project cannot achieve VMT levels below VMT significance thresholds, it is the obligation of the City to require implementation of all feasible mitigation. Hence, the DEIR must include a robust discussion of VMT mitigation measures and require implementation of all feasible measures that make meaningful progress toward lowering VMT as much as possible.

The DEIR includes Mitigation Measure 3.15-2, which is a mitigation measure in name only, as it fails to require any enforceable measures to reduce the Project's VMT impacts. Mitigation Measure 3.15-2 states in its entirety:

[61] SWAPE Comments, pp. 5-6.
[62] Smith Comments, p. 2.

> The effectiveness of various VMT mitigation strategies as documented in the literature is summarized in the California Air Pollution Control Officers Association (CAPCOA) Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Change Vulnerabilities, and Advancing Health Equity (CAPCOA Handbook). Table 3.15-6 summarizes the maximum potential effectiveness of various applicable strategies documented in the CAPCOA Handbook that were considered for potential incorporation into the Project.

This statement masquerading as a mitigation measure defies all logic and fails to serve any purpose as it fails to require action on the part of the Applicant and does not achieve any reduction in Project VMT. Additionally, even if there were action items provided in the measure, the measure itself lacks any enforcement mechanism. Pursuant to CEQA Guidelines § 15126.4 (a)(2) "[m]itigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design."

Unsurprisingly, the DEIR concludes that the Project will result in a significant and unavoidable impact after mitigation.[63]

Mr. Smith explains that CAPCOA mitigation measures T-7 through T-10, considered as a group in DEIR Table 3.15-6, and indicated on that table to reduce VMT impacts by up to 4 to 8 percent, are feasible.[64]

For example, CAPCOA measure T-7 (Commute Trip Reduction Marketing) and T-9 (Discount Transit Passes) involve negligible or minimal costs to the Project's future tenants and would be effective measures to reduce Project related VMT. Implementation of Measure T-10 (End-of-Trip Bicycle Support Facilities, e.g. changing rooms, showers, lockers and bicycle storage facilities) would require some initial capital investment to develop the physical facilities but is not infeasible.[65]

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[63] DEIR, p. 3.15-23.
[64] Smith Comments, p. 3.
[65] Smith Comments, p. 2.

Mr. Smith also identifies additional feasible measures in his comments that would serve to reduce the Project's residential VMT impacts. These include:

- Commute carpool marketing and matching programs working through homeowners associations;
- Shared ride-to-school matching programs working through homeowners associations or through the schools and PTA groups;
- Charging a per dwelling unit VMT mitigation fee and use the proceeds to organize, manage, and perhaps subsidize peak period subscription bus service to major employment destinations outside the City; and,
- Requiring the developer to include the price of and provide an electric bicycle in the price of each dwelling unit to increase the distance of trips residents might be willing to use bicycles for purposeful trips.

The City cannot adopt a statement of overriding considerations until it adopts all feasible mitigation to reduce VMT impacts to the greatest extent feasible, and until the City identifies supportable overriding considerations authorized by CEQA, such as the provision of employment opportunities for highly trained workers.[66]

2. The DEIR Fails to Analyze Potentially Significant Transportation Hazards

Under CEQA, the lead agency must analyze whether a Project would "[s]ubstantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)"[67] Mr. Smith found that the DEIR fails to disclose and analyze increased hazards due to incompatible uses in the Project vicinity.

The Project site is located in a rural area, surrounded by agricultural uses which will necessarily be impacted by the Project's 17,000 daily vehicle trips.[68] Mr. Smith explains that The National Highway Traffic Safety Administration statistics show that in 2013, almost 54 percent of all fatal traffic crashes occurred on rural roads, despite the fact that only about 19 percent of the US population lived in rural

[66] PRC § 21081 (a)(3), (b).
[67] 14 CCR, Appendix G: XVII (c)
[68] Smith Comments, p. 3.

areas.[69] This is due in part to the fact that rural roads pre-date and do not come close to conforming to roadway geometric standards, have minimal signs and markings, have little or no street lighting, suffer from minimal maintenance and pose challenges unexpected by unfamiliar urban drivers.[70] Additionally, Mr. Smith explains that the rural roads surrounding the Project site are already used by commuters on a daily basis to avoid traffic slowdowns on Interstate 80.[71] Mr. Smith found that the Project will result in a significant impact from traffic hazards due to incompatible uses.[72]

The DEIR recognizes that "concerns regarding the proximity of residential development to agricultural operations are valid,"[73] but lacks analysis or mitigation of these impacts. The City must revise the DEIR to include analysis of the Project's transportation impacts from hazards due to incompatible uses, and propose enforceable mitigation measures to address this significant impact.

C. The DEIR Fails to Disclose, Analyze, And Mitigate Potentially Significant Impacts On Biological Resources

1. The Project will Result in Significant Impacts to Habitat for Special Status Birds

As noted above, the DEIR failed to account for the presence of yellow-billed magpie at the Project site, despite evidence that they are present. Mr. Cashen states that construction and operation of the Project would directly, indirectly, and cumulatively impact habitat for yellow-billed magpie, resulting in a significant impact to a special status species.[74] The presence of yellow-billed magpie must be disclosed and analyzed in a revised EIR for the Project.

Additionally, although the DEIR determined that conversion of habitat for the tricolored blackbird, white-tailed kite, and northern harrier would be a potentially significant impact, the DEIR does not incorporate mitigation for this impact.[75] Instead, the DEIR includes Mitigation Measure 3.4-1(c) which is designed

[69] Smith Comments, p. 3.
[70] Smith Comments, p. 4.
[71] Smith Comments, p. 4.
[72] Smith Comments, p. 4.
[73] DEIR, pg. 3.15-25.
[74] Cashen, p. 3
[75] DEIR, p. 3.4-34.

to avoid or minimize impacts on tricolored blackbird, northern harrier, white-tailed kite and other special-status birds and nesting migratory birds and raptors that may occur on the Project site through site surveys for active nests.[76] The proposed mitigation does not address the conversion of habitat, and therefore the impacts to these species remain significant.[77]

2. The DEIR Fails to Adequately Mitigate the Project's Impacts on Biological Resources

Mr. Cashen analyzed the Project's mitigation measures and determined that they are ineffective at mitigating the Project's impacts on biological resources. In addition to the DEIR's failure to include mitigation measures to address habitat loss as noted above, the DEIR's mitigation measures fail to include necessary elements to ensure their effectiveness.

For example, Mitigation Measures 3.4-4(a) through -4(c) require actions by a "qualified biologist". Mr. Cashen notes that the term "qualified biologist" is not defined and cannot be relied upon. For the mitigation measures to be effective they must require that the biologist possess the minimum qualifications required by CDFW.[78]

Mr. Cashen also found that mitigation measures designed to reduce the Project's potentially significant impacts to burrowing owl and Swainson's hawk are inadequate.

Mitigation Measure 3.4-4(a) requires focused burrowing owl surveys and states that "[i]f active burrowing owl burrows are detected, the avoidance, minimization, and mitigation methodologies outlined in the CDFW's Staff Report on Burrowing Owl Mitigation shall be followed prior to initiating Project related activities that may impact burrowing owls."[79] Mr. Cashen explains that absent specific avoidance techniques, the measure is too vague to be effective. The DEIR must identify the specific avoidance, minimization, and mitigation measures in CDFW's Staff Report that would be required if burrowing owls are detected during the surveys.[80] Additionally, the DEIR fails to include information regarding habitat

[76] DEIR, p. ES-19.
[77] Cashen Comments, p. 3.
[78] Cashen Comments, p. 4.
[79] DEIR, p. 3.4-34.
[80] Cashen Comments, p. 6.

compensation for burrowing owl including the compensation ratio and the criteria that would be used for selection of habitat compensation lands.[81] As a result of these deficiencies, the DEIR lacks substantial evidence to conclude that impacts to burrowing owl would be less than significant.

Mr. Cashen also determined that Mitigation Measure 3.4-4(b) fails to address impacts to Swainson's hawk. Measure 3.4-4(b) states:

> If construction activities will begin during the Swainson's hawk nesting season (March 20 to September 15), a qualified biologist should conduct at least the minimum number of surveys called for within at least two survey periods prior to the initiation of construction in accordance with the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk Technical Advisory Committee 2000) or the current CDFW-approved protocol.[82]

Mr. Cashen explains that the survey protocol cited in the measure requires surveys to be completed regardless of the time of year and are not to be limited to the nesting season.[83]

In his review, Mr. Cashen found that, although not disclosed in the DEIR, there is an active Swainson's hawk nest site approximately 300 feet north of the Project site.[84] As a result, additional mitigation measures are required, in accordance with CDFW mitigation guidelines.[85] Mr. Cashen identifies the following additional mitigation measures that should be included in the DEIR to reduce significant impacts to Swainson's hawk:

> One acre of foraging habitat for each acre of development at a ratio of 1:1. Mitigated lands shall consist of 10 percent of the land requirements met by fee title acquisition or a conservation easement allowing for the active management of the habitat, and the remaining 90 percent of the land protected by a conservation easement on agricultural lands or other suitable

[81] Cashen Comments, p. 6.
[82] DEIR, p. 3.4-35.
[83] Cashen Comments, p. 6.
[84] Cashen Comments, p. 7.
[85] Cashen Comments, p. 7.

> habitats which provide foraging habitat for Swainson's hawk (grasslands, rangeland, etc.) and no requirements for active management of the habitat; or,
>
> One-half acre of foraging habitat for each acre of development authorized at a ratio of 0.5:1. All the land requirements shall be met by fee title acquisition or a conservation easement, which allows for the active management of the habitat for prey production on the land. Prey abundance and availability is determined by land and farming patterns including crop types, agricultural practices, and harvesting regimes. Actively managed land for prey production may result in the land becoming less valuable for crop production due to management limitations but increases the value for Swainson's hawk through functional lift.[86]

Overall, the DEIR's mitigation measures fail to mitigate the aforementioned habitat loss impacts of the Project. Additional mitigation measures must be included in a recirculated EIR.

D. The DEIR Fails to Adequately Disclose, Analyze, And Mitigate Potentially Significant Public Services Impacts

Under CEQA, a significant environmental impact could result if implementation of the proposed project would increase demand for police protection services to the extent that the construction of new or physically altered police protection facilities would be needed.[87]

The Project will develop land on the northeastern border of the City, separate from the existing population center of the City. The DEIR identifies that the "Project would result in the addition of approximately 2,988 residents to the City, or 10.3 percent of the total projected 2040 population."[88] The DEIR also states that "[t]he current service ratio for the City of Dixon Police Department is 0.67 officers per 1,000 people (28 sworn officers/19,018 people)."[89]

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[86] DEIR, pp. 3.4-35 and -36.
[87] CEQA Appendix G, Section XIV.
[88] DEIR, p. 4-7.
[89] DEIR, p. 3.14-15.

According to the DEIR, the City Police Department has a goal to maintain a response time of less than five minutes to Priority 1 calls which typically relate to incidents in which there is an immediate threat to life, danger of serious physical injury, or danger of major property damage.[90]

However, the DEIR fails to take the analysis a step further and analyze whether the increase in population at the City's northeast border would require the expansion of police facilities in order to meet the five-minute response time goal. In this case, the City's only police station is located at 201 W A St., in the City's population core and approximately 10-minutes away from the Project site via car. The DEIR fails to analyze or disclose the impacts of creating police response times that are double the Police Department's Priority 1 response time goals.

The City's analysis lacks the substantial evidence required by CEQA to support its conclusion that the Project would not impact emergency response times and would not require new police facilities.

A revised EIR must be prepared and recirculated that includes a detailed analysis of the police services required to serve the Project site. Based on available evidence, additional police stations may be required to safely serve future occupants of the Project site. If so, the DEIR must disclose this as a significant public services impact and provide mitigation to increase available police services for the Project. Alternatively, the City must provide substantial evidence supporting the existing unsupported conclusion that the proposed Project would not impact emergency response time and would not require new police facilities.

E. The DEIR Fails to Adequately Disclose, Analyze, And Mitigate Potentially Significant Land Use Impacts

The City cannot make the required findings for the Project's required entitlements because the Project will conflict with land use plans, policies, and regulations adopted for the purpose of avoiding or mitigating an environmental effect, including the following policies:

[90] DEIR, p. 3.14-2.

City's General Plan Policy NE-1.13 states:

> In areas where development (including trails or other improvements) has the potential for adverse effects on special-status species, require project proponents to submit a study conducted by a qualified professional that identifies the presence or absence of special-status species at the proposed development site. If special-status species are determined by the City to be present, require incorporation of appropriate mitigation measures as part of the proposed development prior to final approval.[91]

Mr. Cashen found that the field study completed for the DEIR fails to meet the standard set forth by Policy NE-1.13 because the study used to assess the potential for special-status species to occur at the Project site was not designed to determine the presence or absence of species. As a result, the DEIR's analysis of the Project's impacts to special-status species falls short of the requirements set by the City's General Plan.

The DEIR also fails to demonstrate consistency with Policy PSF-1.1 which states that that City shall "[p]rovide responsive, efficient, and effective police services that promote a high level of public safety."[92] As explained above, the DEIR fails to provide substantial evidence that City police services will be capable of providing the necessary public safety services to the future residents of the Project site.

The Project's failure to comply with mandatory land use plans and policies result in both significant land use impacts and significant impacts under CEQA.[93]

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[91] City of Dixon, Dixon General Plan 2040 (hereinafter "General Plan") (May 2021) p. 2-15
[92] General Plan, p. 6-6.
[93] *Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714, 732; *Pocket Protectors v. Sacramento* (2005) 124 Cal.App.4th 903.) Indeed, any inconsistencies between a proposed project and applicable plans must be discussed in an EIR. (14 CCR § 15125(d); *City of Long Beach v. Los Angeles Unif. School Dist*. (2009) 176 Cal. App. 4th 889, 918; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal. App. 4th 859, 874 (EIR inadequate when Lead Agency failed to identify relationship of project to relevant local plans).) A Project's inconsistencies with local plans and policies constitute significant impacts under CEQA. (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 783-4, 32 Cal.Rptr.3d 177; see also, *County of El Dorado v. Dept. of Transp*. (2005) 133 Cal.App.4th 1376 (fact that a project may be consistent with a plan, such as an air plan, does not necessarily mean that it does not have significant impacts).)

VI. THE DEIR FAILS TO ADEQUATELY DESCRIBE AND ANALYZE THE DEVELOPMENT AGREEMENT

The DEIR notes that approval of a Development Agreement between the City and the Applicant would be one of the Project's required approvals.[94] However, the DEIR fails to contain any analysis of the potential environmental impacts that may be caused by implementation of the Development Agreement. The DEIR's failure to describe this critical component of the Project, and failure to analyze its impacts as required by CEQA results in the publics and decisionmakers' inability to analyze the potential environmental impacts of the Development Agreement.

A development agreement is a contract between an agency and a developer establishing certain development rights with any person having a legal or equitable interest in the property at issue. The purpose of a development agreement is generally to extend the life of the entitlements in exchange for the provision of public benefits and to reduce the economic risk of development.[95] While a development agreement must advance an agency's local planning policies, it may also contain provisions that vary from otherwise applicable zoning standards and land use requirements as long as the project is consistent with the general plan and any applicable specific plan.[96] For this reason, it is critical that the terms of a proposed development agreement be disclosed to the public and analyzed during the Project's CEQA review in order to determine whether the development agreement may have potentially significant impacts that are not otherwise inherent in the Project.

When a development agreement is required to implement a project, it is considered part of the project under CEQA.[97] Development agreements must be enacted in accordance with the Government Code and applicable local planning codes, and must undergo environmental review at the time of adoption. Therefore, any development agreement for the Project must be described in the EIR and considered by the City's decision makers at the same time as the rest of the Project approvals.

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[94] DEIR, p. 2-8.
[95] Gov. Code §§ 65864-65869.5.
[96] *Id*.
[97] See Gov. Code § 65864; 14 CCR §§15352 (a), (b), 15378; *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116.

The DEIR fails to disclose any of the terms being considered for inclusion in the Development Agreement including the length of time the Development Agreement will be in effect. The DEIR must be revised to correct this omission. In particular, the public must be allowed to consider whether the proposed Development Agreement will have significant impacts in addition to the impacts disclosed in the DEIR *before* the City enters into a contract with the Applicant which could guarantee the long-term existence of those impacts during the life of the contract. It is conceivable that, by extending the Project's land use entitlements, the mitigation measures implemented for the Project will cease to be effective over the term of the Development Agreement, resulting in new significant environmental impacts from the Project. In addition, it is possible that the Development Agreement could have further significant environmental impacts not analyzed in the DEIR.

Because the Development Agreement was not included in the DEIR's analysis of the Project, the DEIR must be revised and recirculated in order to give the public an opportunity to comment on the Project's adverse impacts or mitigation measures that are affected by the terms of the Agreement.[98]

Additionally, the public must have an opportunity to evaluate and comment on the specific public benefits conferred by the Agreement, as the City has great discretion in determining what constitutes a public benefit. The City and the public must consider what public benefits would warrant providing the Applicant a guarantee on the Project's entitlements. Examples of public benefits could include community workforce or skilled and trained workforce requirements, funds or community services provided to the City to offset air quality, transportation, GHG emissions, and biological resources impacts associated with the Project. City residents and other members of the public must be given a meaningful opportunity to provide input to the City on what public benefits the City should require.

The City must evaluate and disclose the environmental impacts of the Project in light of the Development Agreement prior to approval of the Project. The City must also recirculate the EIR to include analysis of the environmental impacts of the Development Agreement's terms.

[98] 14 CCR §15088.5 (a); *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal*. (1993) 6 Cal.4th 1112.

VII. THE DEIR LACKS SUBSTANTIAL EVIDENCE TO SUPPORT THE REQUIRED FINDINGS UNDER THE SUBDIVISION MAP ACT

The Subdivision Map Act ("Map Act") requires a lead agency to make findings that a proposed subdivision is consistent with the general plan/specific plan, and does not have any detrimental environmental or public health effects. The City is unable to make these mandatory findings because the Project has unmitigated, adverse impacts in both of these areas. Moreover, the DEIR fails to provide substantial evidence to meet either of these legal standards.

As discussed in our comments above, the Project will conflict with elements of the City's adopted General Plan. Additionally, there is substantial evidence demonstrating that the Project will result in significant impacts related to air quality, GHG emissions, transportation, and biological resources that the City has not sufficiently analyzed or mitigated. These conflicts cannot be ignored and necessarily contravene the findings required to approve the Project under the Map Act.

The City must revise the DEIR and address the Project's potentially significant impacts and implement additional mitigation to address those impacts before it is able to make the findings required under the Map Act.

VIII. THE STATEMENT OF OVERRIDING CONSIDERATION MUST CONSIDER WHETHER THE PROJECT PROVIDES EMPLOYMENT OPPORTUNITIES FOR HIGHLY TRAINED WORKERS

The DEIR concludes that the Project will have significant and unavoidable environmental impacts related to agricultural resources, air quality, and transportation.[99] Therefore, in order to approve the Project, CEQA requires the City to adopt a statement of overriding considerations, providing that the Project's overriding benefits outweigh its environmental harm.[100] An agency's determination that a project's benefits outweigh its significant, unavoidable impacts "lies at the core of the lead agency's discretionary responsibility under CEQA."[101]

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[99] DEIR, pp. ES-9 - ES-39.
[100] 14 CCR, § 15043.
[101] *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392.

The City must set forth the reasons for its action, pointing to supporting substantial evidence in the administrative record.[102] This requirement reflects the policy that public agencies must weigh a project's benefits against its unavoidable environmental impacts, and may find the adverse impacts acceptable only if the benefits outweigh the impacts.[103] Importantly, a statement of overriding considerations is legally inadequate if it fails to accurately characterize the relative harms and benefits of a project.[104]

In this case, the City must find that the Project's significant, unavoidable impacts are outweighed by the Project's benefits to the community. CEQA specifically references employment opportunities for highly trained workers as a factor to be considered in making the determination of overriding benefits.[105] Currently, there is not substantial evidence in the record showing that the Project's significant, unavoidable impacts are outweighed by benefits to the community. For example, the Applicant has not made any commitments to employ graduates of state approved apprenticeship programs or taken other steps to ensure employment of highly trained and skilled craft workers on Project construction. Other proposed "overriding considerations" identified in the DEIR, such as the creation of infill housing, are not supported by substantial evidence. Therefore, the City would not fulfill its obligations under CEQA if it adopted a statement of overriding considerations and approved the Project as currently proposed.

Additionally, commitment to hiring a skilled and trained workforce for Project construction is consistent with the City's General Plan Economic Development Element which identifies that:

> The availability of skilled labor is an all- important factor for companies when deciding where to locate their businesses. Dixon can bolster the competitive advantage its affordably priced housing offers to attract new businesses in higher wage sectors. In turn, higher household incomes would increase tax base and provide more customers for local businesses.[106]

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[102] PRC § 21081 (b); 14 CCR, § 15093 (a) and (b); *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, 357.
[103] PRC § 21081 (b); 14 CCR, § 15093 (a) and (b)
[104] *Woodward Park Homeowners Association v. City of Fresno* (2007) 150 Cal.App.4th 683, 717.
[105] PRC § 21081 (a)(3) and (b).
[106] General Plan, p. 4-8.

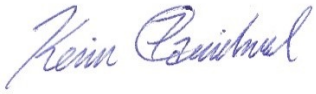
In furtherance of the City's economic development goals, General Plan Policy E-2.5 provides that the City shall "[e]ncourage development of a local labor force with skills to meet the needs of the area's businesses and industries."[107]

We urge the City to prepare and circulate a revised EIR which identifies the Project's potentially significant impacts, requires all feasible mitigation measures and analyzes all feasible alternatives to reduce impacts to a less than significant level. If a Statement of Overriding Considerations is adopted for the Project, we urge the City to consider whether the Project will result in employment opportunities for highly trained workers.

IX. CONCLUSION

The DEIR is inadequate and must be withdrawn. We urge the City to prepare and circulate a revised DEIR which accurately sets for the existing environmental setting, discloses all of the Project's potentially significant impacts, and requires all feasible mitigation measures to reduce the Project's significant environmental impacts. We thank you for the opportunity to provide these comments on the DEIR.

Sincerely,



Kevin Carmichael

KTC:ljl

[107] General Plan, p. 4-9.

EXHIBIT A

SMITH ENGINEERING & MANAGEMENT

July 5, 2024

Mr. Kevin Carmichael
Adams Broadwell Joseph & Cardozo
520 Capitol Mall, Suite 350
Sacramento, CA 95814

Subject: The Campus Project Draft EIR SCH # 2023080739 P24002

Dear Mr. Carmichael:

Per your request, I reviewed the Draft Environmental Impact Report (the "DEIR") and supporting Appendices for the Campus Project (the "Project") in the City of Dixon (the "City"). My review is with respect to transportation and circulation considerations.

My qualifications to perform this review include registration by the State of California as a Civil and Traffic engineer and over 50 years professional practice in those fields. I have both prepared and reviewed documents under the California Environmental Quality Act ("CEQA") involving traffic and transportation matters. My professional resume is attached hereto.

My comments follow.

The DEIR Discloses That the Project's Residential and Employment Generating Components Would Exceed Related VMT Significance Thresholds. It Finds These Conditions Significant and Unavoidable Impacts. Yet It Does Not Implement Mitigation Measures That Are Feasible, Though Incapable of Fully Mitigating the Project's Impacts.

The DEIR discloses at page 3.15-20 that the Projects residential component would generate VMT (Vehicle Miles Traveled) at a rate of 22 daily vehicle miles per capita. This rate exceeds the City's adopted significance threshold of 18.6

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VMT per capita by 16.5 percent. The DEIR also discloses that the Project's employment generating component would result in daily VMT at a rate of 16.3 VMT per employee. This rate exceeds the City's adopted significance threshold 14.1 VMT per employee by 14.7 percent. Based on these analysis results, the DEIR finds the outcome a potentially significant impact.

After consideration mitigation measures identified in the California Air Pollution Control Officers Association ("CAPCOA") publication *Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Change Vulnerabilities and Advancing Health Equity*[1] ("the CAPCOA Handbook"), the DEIR concludes at page 3.15-22 that "strategies that could potentially provide the level of mitigation needed to support a finding of less than significant impact with mitigation would either change the fundamental nature of the project, be infeasible from a market prospective or not provide the needed level of mitigation." The problem with the DEIR is that it does not recommend conditioning the Project to implement any mitigation whereas CEQA requires a project, if impacts are found to be significant, to implement all feasible mitigation, even if such mitigation measures are insufficient to fully mitigate the project's entire impacts.

Surely, CAPCOA mitigation measures T-7 through T-10, considered as a group in DEIR Table 3.15-6, and indicated on that table to reduce VMT impacts by up to 4 to 8 percent are feasible. CAPCOA measure T-7 (Commute Trip Reduction Marketing) and T-9 (Discount Transit Passes) involve negligible or minimal costs. Measure T-10 (End-of-Trip Bicycle Support Facilities, e.g. changing rooms, showers, lockers and bicycle storage facilities) involve some initial capital investment to develop the physical facilities but have broad utility in increasing overall employee morale since they can be used by other employees who walk, run or work-out before or after work or at lunch break. Clearly, all four of these measures have proven feasible in numerous applications and failure to implement them on the basis that they don't completely mitigate the VMT impact is inconsistent with CEQA guidance.

CAPCOA Measure T-11 (Provide Employer-Sponsored Vanpools) requires initial capital investment by the employer for van acquisition and continuing costs for major repairs and vehicle replacement but the poolers normally pay for operating costs and routine maintenance. DEIR Table 3.15-6 indicates that this measure could reduce average VMT per employee by up to 20.4 percent. Vanpool programs can be organized by groups of employers acting together as well as by individual large employers. Vanpool programs have proven successful and feasible in so many applications that it is misleading and inappropriate for the DEIR to imply that they are infeasible or inapplicable to this Project in Dixon.

[1] December, 2021.

While the City and its consultants have rejected outright the CAPCOA measures aimed at residentially generated VMT, they have failed to apply any imagination in devising strategies that might have cost feasibility and some effectiveness in the context of residential development in Dixon. Strategies that might be implemented include:

- Commute carpool marketing and matching programs working through homeowners associations.
- Shared ride-to-school matching programs working through homeowners associations or through the schools and PTA groups.
- Charging a per dwelling unit VMT mitigation fee and use the proceeds to organize, manage, and perhaps subsidize peak period subscription bus service to major employment destinations outside the City.
- Requiring the developer to include the price of and provide an electric bicycle in the price of each dwelling unit to increase the distance of trips residents might be willing to use bicycles for purposeful trips.

The City cannot satisfy CEQA's requirement to implement all feasible mitigation where significant impact is disclosed by simply pointing out that the principle measures directed at residential VMT that CAPCOA endorses would change the fundamental nature of the project or are infeasible from a market prospective. The City must do the best it can to develop and implement measures that are appropriate in this development and in the Dixon context.

The DEIR Fails to Address the Implication for Safety on Rural Roads Surrounding Dixon Given That Project Traffic Will Increase Use of Them

Dixon and this Project in Dixon are separated from the nearest communities by many square miles of agricultural development serviced by rural roads and highways that are built to varying geometric design and traffic guidance qualities that are frequently used by slow moving and sometimes extra-wide farm equipment.

One of the considerations on which the DEIR evaluates potential transportation impacts is listed as Impact 3.15-3: whether or not implementation of the Project could substantially increase hazards due to a geometric design feature or incompatible uses. Most EIRs include amplifying language describing as an incompatible use, rural roads used by slow moving and sometimes wide farm equipment.

The City's analysis in this matter focuses on a comment on the Notice of Preparation by the Solano County Department of Resource Management and specifically on the Campbell's Soup Supply Company facility at 8380 Pedrick Road. The City's response in the matter is, in summary, to point out that the Campbell's facility is within the City where the City has control of roadway geometric design and traffic engineering features and that the City has

undertaken studies within the context of this DEIR that identify improvements to maintain safe and orderly operations along Pedrick Road and that, assuming those improvements are carried out, the Project's impacts would be less than significant.

The problem with this is that it completely ignores the potential impacts on all the other rural agricultural roads that literally surround Dixon. The problem is not that very many of the over 17,000 daily trips to and from the Project are going to be routinely driving on the rural agricultural roads that surround the City although some of that is inevitable. It is the fact that I-80 regularly heavily congests at peak times on the segments near and through Dixon and when that happens, many knowledgeable commuters and other regular travelers of the corridor (such as this commenter) rely on their real-time cell phone congestion avoidance and fastest route finding software that diverts them from the freeway and onto the rural roads.

This is not an inconsequential safety problem. The National Highway Traffic Safety Administration statistics show that in 2013, almost 54 percent of all fatal traffic crashes occurred on rural roads, despite the fact that only about 19 percent of the US population lived in rural areas. On a per mile driven basis, a person was 2.6 times more likely to be killed on a rural road than on an urban road (1.88 fatal crashes per 100 million miles driven on rural roads versus only .93 on urban roadways)[2]. Fundamentally, rural roads are much less safe than urban roads.

There are numerous reasons for this. Many rural roads pre-date and do not come close to conforming to roadway geometric standards, have minimal signs and markings, have little or no street lighting, suffer from minimal maintenance and pose challenges unexpected by unfamiliar urban drivers. In addition, there are driver-psychology considerations. Long straightaways, apparently minimal traffic and expectation of minimal enforcement leads unfamiliar urban drivers to travel much too fast without respect for speed limits (if posted), to attempt unsafe passes of slow-moving vehicles, and other driving behaviors which render them less capable of responding to the challenges of the road when those challenges occur (such as encountering an unexpected sharp curve or the sudden emergence of a farm vehicle from a 'blind' driveway).

The DEIR should admit that congestion-related diversion of traffic to rural roads in the area is problem that traffic from the Project will contribute to, admit that the City has no reasonable means of mitigating this, and characterize the impact as significant and unavoidable.

[2] See *Traffic Safety Facts, Urban/Rural Comparison ,* Department of Transportation, National Highway Traffic Safety Administration, DOT HS 812 181, July, 2015.

Conclusion
This concludes my comments on the Campus Project DEIR. The DEIR must adopt all feasible VMT mitigation measures and characterize diversionary impacts to rural agricultural roads as significant and unavoidable.

Sincerely,

Smith Engineering & Management
A California Corporation

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

SMITH ENGINEERING & MANAGEMENT

DANIEL T. SMITH, Jr.
President

EDUCATION

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

PROFESSIONAL REGISTRATION

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

PROFESSIONAL EXPERIENCE

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

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

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

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

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

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

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

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

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

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

MEMBERSHIPS

Institute of Transportation Engineers Transportation Research Board

PUBLICATIONS AND AWARDS

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

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

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

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

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

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

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

EXHIBIT B

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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July 3, 2024

Kevin Carmichael
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd #1000
South San Francisco, CA 94080

Subject: Comments on The Campus Project (SCH No. 2023080739)

Dear Mr. Carmichael,

We have reviewed the May 2024 Draft Environmental Impact Report ("DEIR") for The Campus Project ("Project") located in the City of Dixon ("City"). The Project proposes to construct 27,000-square-feet ("SF") of commercial space and 144.27-acres of residential space on the 259.61-acre site.

Our review concludes that the DEIR fails to adequately evaluate the Project's air quality and greenhouse gas impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project may be underestimated and inadequately addressed. A revised Environmental Impact Report ("EIR") should be prepared to adequately assess and mitigate the potential air quality and greenhouse gas impacts that the project may have on the environment.

Air Quality

Failure to Implement All Feasible Mitigation to Reduce Emissions

The DEIR concludes that criteria air pollutant emissions from Project construction would result in a significant-and-unavoidable impact. Specifically, the DEIR estimates that the particulate matter 10 ("PM_{10}") construction-related emissions would exceed the applicable Yolo-Solano Air Quality Management District ("YSAQMD") thresholds. The DEIR states:

> "[E]ven with implementation of Mitigation Measure 3.3-2, which is consistent with the CalEEMod mitigation listed above, the proposed Project would exceed the YSAQMD's threshold for construction PM10 emissions. Therefore, overall, the proposed Project would have a significant and unavoidable impact as it relates to construction emissions" (p. 3.3-28).

The DEIR also concludes that criteria air pollutant emissions from Project operations would result in a significant-and-unavoidable impact. The DEIR estimates that the reactive organic gasses ("ROG") and PM_{10} operational emissions would exceed YSAQMD thresholds. Specifically, the DEIR states:

> "Even with implementation of feasible mitigation (i.e., Mitigation Measure 3.3-1(a) and 3.3-1(b)), the Project operational emissions would exceed the YSAQMD threshold of significance for ROG. This is primarily due to the number of mobile vehicle trips generated by the proposed Project. Therefore, the proposed Project would be required to implement Mitigation Measure 3.3-1(a) and Mitigation Measure 3.3-1(b). No further operation-related mitigation is feasible. Implementation of Mitigation Measure 3.3-1(a) and Mitigation Measure 3.3-1(b) would reduce proposed Project operation-related criteria pollutant emissions. However, even after these mitigation measures are applied, proposed Project PM10 emissions would be above the applicable YSAQMD thresholds. Therefore, there is a significant and unavoidable impact relative to this topic" (p. 3.3 - 24).

The DEIR concludes after Mitigation Measures ("MM") 3.3-1(a) and 3.3-1(b) are implemented, that the Project's operational air quality impacts would be significant-and-unavoidable. Although we agree with the DEIR that the Project would result in significant air quality impacts, the DEIR's assertion that this impact is significant-and-unavoidable is unreliable. According to CEQA Guidelines § 15096(g)(2):

> "When an updated EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment."[1]

The DEIR is required under CEQA to implement all feasible mitigation to reduce impacts to a less-than-significant level. While the DEIR implements MM 3.3-1a through 3.3-2, the DEIR fails to implement *all* feasible mitigation (p. ES-10). Therefore, the DEIR's conclusion that Project's air quality emissions would be significant-and-unavoidable is unsubstantiated. To reduce the Project's air quality impacts to the maximum extent possible, additional feasible mitigation measures should be incorporated, such as those suggested in the section of this letter titled "Feasible Mitigation Measures Available to Reduce Emissions". The Project should not be approved until a revised EIR is prepared, incorporating all feasible mitigation to reduce emissions to the maximum extent feasible.

[1] "Cal. Code Regs. tit. 14 § 15096." California Legislature, *available at:* https://casetext.com/regulation/california-code-of-regulations/title-14-natural-resources/division-6-resources-agency/chapter-3-guidelines-for-implementation-of-the-california-environmental-quality-act/article-7-eir-process/section-15096-process-for-a-responsible-agency.

Greenhouse Gas

Failure to Adequately Evaluate Greenhouse Gas Impacts

The DEIR estimates that the Project would result in net annual greenhouse gas ("GHG") emissions of 24,417 metric tons of carbon dioxide equivalents per year ("MT CO_2e/year") (see excerpt below) (p. 3.8-24, Table 3.8-3):

TABLE 3.8-3: OPERATIONAL GHG EMISSIONS AT BUILDOUT (METRIC TONS/YEAR)

	Bio- CO_2	*Non-Bio- CO_2*	*Total CO_2*	*CH_4*	*N_2O*	*CO_2E*
Area	0	24.1	24.1	<0.01	<0.01	24.2
Energy	0	3,647	3,647	0.48	0.04	3,672
Mobile	0	16,684	16,684	0.92	0.92	17,006
Waste	131	0	131	13.1	0	460
Water	62.7	72.2	135	6.44	0.15	342
Total	**193.7**	**20,427**	**20,621**	**21.0**	**1.12**	**24,417**

SOURCES: CALEEMOD (V.2022.1.1.21)

The DEIR relies on a qualitative analysis to demonstrate a less than significant impact, Specifically, the DEIR concludes that the Project would be consistent with the California Air Resources Board's ("CARB") 2022 Climate Change Scoping Plan and the Metropolitan Transport Commission's ("MTC") Plan Bay Area 2050 (p. 3.7-23 – 3.7-26), stating:

> "The proposed Project would be consistent with relevant plans, policies, and regulations associated with GHGs, notably the most recent version of the CARB's Scoping Plan, and the MTC's Plan Bay Area 2050. This would ensure that the proposed Project would be consistent with, and would not impair, the State's carbon neutrality standard by year 2045 as established under AB 1279. The State is making progress toward reducing GHG emissions in key sectors such as transportation, industry, and electricity. Since the Project would be consistent with State GHG Plans, it would not impede the State's goals of reducing GHG emissions 40 percent below 1990 levels by 2030, and of achieving carbon neutrality by 2045. The proposed Project would make a reasonable fair share contribution to the State's GHG reduction goals, by implementing an array of Project features that would reduce GHG emissions, and therefore, the proposed Project's GHG emissions would be considered to have a less than significant impact" (p. 3.8-29).

However, the DEIR's claim that the Project is consistent with the CARB's 2022 Climate Change Scoping Plan and the MTC's Plan Bay Area 2050, as well as the subsequent less-than-significant impact conclusion, is unsupported as the DEIR fails to incorporate the above-mentioned strategies as formal mitigation measures. By not formally adopting the referenced strategies, the DEIR's conclusion is unsubstantiated, as according to the Association of Environmental Professionals CEQA Portal Topic Paper on Mitigation Measures:

> "While not 'mitigation', a good practice is to include those project design feature(s) that address environmental impacts in the mitigation monitoring and reporting program (MMRP). Often the MMRP is all that accompanies building and construction plans through the permit process. If the

design features are not listed as important to addressing an environmental impact, it is easy for someone not involved in the original environmental process to approve a change to the project that could eliminate one or more of the design features without understanding the resulting environmental impact."[2]

As demonstrated above, measures that are not formally included in a mitigation monitoring and reporting program ("MMRP") may be eliminated from the Project's design altogether. As the above-mentioned GHG policies are not formally included as a mitigation measure, we cannot guarantee that these strategies would be implemented, monitored, and enforced on the Project site. The Project's GHG analysis is unsupported and should not be relied upon to determine Project significance.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

The DEIR is required under CEQA to implement all feasible mitigation to reduce the Project's potential impacts. As demonstrated in the sections above, the Project would result in potentially significant air quality and GHG impacts that should be mitigated further.

First, in order to reduce the VOC emissions associated with Project operation, we recommend the DEIR consider incorporating the following mitigation measure from the California Department of Justice ("DOJ"):[3]

- Require the use of super compliant, low-VOC paints less than 10 g/L during the architectural coating construction phase and during Project maintenance.

Furthermore, Los Angeles County recommends:[4]

- If paints and coatings with VOC content of 0 grams/liter to less than 10 grams/liter cannot be utilized, the developer shall avoid application of architectural coatings during the peak smog season: July, August, and September.

Second, the Environmental Protection Agency ("EPA") explains that sources of PM_{10} emissions include "vehicle exhaust and road dust."[5,6] In order to reduce the PM_{10} emissions associated with Project

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[2] "CEQA Portal Topic Pape: Mitigation Measures." The Association of Environmental Professionals, February 2020, *available at*: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://ceqaportal.org/tp/CEQA%20Mitigation%202020.pdf, p. 6.
[3] "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act." State of California Department of Justice, September 2022, *available at*: https://oag.ca.gov/system/files/media/warehouse-best-practices.pdf, p. 8 – 10.
[4] "Mitigation Monitoring and Reporting Program." Los Angeles County Housing Element Update Program EIR. August 2021, *available at*: https://planning.lacounty.gov/wp-content/uploads/2023/07/Housing_final-peir-mitigation-monitoring.pdf.
[5] "Proposed Revisions to the National Ambient Air Quality Standards for Nitrogen Dioxide." EPA, July 2009, *available at*: https://www.gpo.gov/fdsys/pkg/FR-2009-07-15/pdf/E9-15944.pdf.
[6] "Particle Pollution and your Health." EPA, September 2003, *available at*: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.airnow.gov/sites/default/files/2018-03/pm-color.pdf.

construction and operations, we recommend the DEIR consider incorporating the following mitigation measure from the DOJ:[7]

- Install Level 2 EV charging stations in 15% of all parking spaces for multi-family developments and pre-wiring to allow for a Level 2 EV charging stations in all single-family residential garages.

Third, in order to reduce the GHG emissions associated with the Project, we recommend several other mitigation measures (see list below).

South California Association of Governments ("SCAG")'s 2020 RTP/SCS Program Environmental Impact Report ("PEIR")'s Greenhouse Gas Project Level Mitigation Measures ("PMM-GHG-1") recommends:

- Measures that encourage transit use, carpooling, bike-share and car-share programs, active transportation, and parking strategies, including, but not limited to the following:
    - Promote transit-active transportation coordinated strategies;
    - Increase bicycle carrying capacity on transit and rail vehicles;
    - Improve or increase access to transit;
    - Increase access to common goods and services, such as groceries, schools, and day care;
    - Incorporate the neighborhood electric vehicle network;
    - Orient the project toward transit, bicycle and pedestrian facilities;
    - Improve pedestrian or bicycle networks, or transit service;
    - Provide traffic calming measures;
    - Provide bicycle parking;
    - Limit or eliminate park supply;
    - Unbundle parking costs;
    - Provide parking cash-out programs;
    - Implement or provide access to commute reduction program;
- Incorporate bicycle and pedestrian facilities into project designs, maintaining these facilities, and providing amenities incentivizing their use; and planning for and building local bicycle projects that connect with the regional network;
- Improving transit access to rail and bus routes by incentives for construction and transit facilities within developments, and/or providing dedicated shuttle service to transit stations; and
- Designate a percentage of parking spaces for ride-sharing vehicles or high-occupancy vehicles, and provide adequate passenger loading and unloading for those vehicles;
- Require at least five percent of all vehicle parking spaces include electric vehicle charging stations, or at a minimum, require the appropriate infrastructure to facilitate sufficient electric charging for passenger vehicles and trucks to plug-in.
- Implement preferential parking permit program
- Implement school pool and bus programs
- Encourage telecommuting and alternative work schedules, such as:
    - Staggered starting times

[7] *Ibid.*

    - Flexible schedules
    - Compressed work weeks
    - Implement commute trip reduction marketing, such as:
    - New employee orientation of trip reduction and alternative mode options
    - Event promotions
    - Publications
- Price workplace parking, such as:
    - Explicitly charging for parking for its employees;
    - Implementing above market rate pricing;
    - Validating parking only for invited guests;
    - Not providing employee parking and transportation allowances; and
    - Educating employees about available alternatives.
- Adopting employer trip reduction measures to reduce employee trips such as vanpool and carpool programs, providing end-of-trip facilities, and telecommuting programs including but not limited to measures that:
    - Provide car-sharing, bike sharing, and ride-sharing programs;
    - Provide transit passes;
    - Shift single occupancy vehicle trips to carpooling or vanpooling, for example providing ride-matching services;
    - Provide incentives or subsidies that increase that use of modes other than single-occupancy vehicle;
    - Provide on-site amenities at places of work, such as priority parking for carpools and vanpools, secure bike parking, and showers and locker rooms;
    - Provide employee transportation coordinators at employment sites;
- Provide a guaranteed ride home service to users of non-auto modes.

The DOJ recommends:[8]

- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity that is equal to or greater than the building's projected energy needs, including all electrical chargers.
- Designing all project building roofs to accommodate the maximum future coverage of solar panels and installing the maximum solar power generation capacity feasible.
- Oversizing electrical rooms by 25 percent or providing a secondary electrical room to accommodate future expansion of electric vehicle charging capability.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel.
- Meeting CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking.
- Designing to LEED green building certification standards.

[8] *Ibid.* p. 9 – 10.

In their 2022 Scoping Plan, CARB recommends that new residential projects "[use] all-electric appliances without any natural gas connections and [do] not use propane or other fossil fuels for space heating, water heating, or indoor cooking" in order to reduce Project-related GHG emissions. [9]

CEQA Guidelines 15126.4 (c)(3) include "[o]ffsite measures, including offsets that are not otherwise required, to mitigate a project's emissions" as an option for GHG mitigation.[10] An example of this was in the case of the Oakland Sports and Mixed-Use Project, where off-site reduction measures in the neighboring communities were recommended.[11] We recommend consideration of local carbon offset programs to reduce the Project's GHG impacts as a measure of last result.

As demonstrated above, we have provided several mitigation measures that would reduce Project-related ROG, PM_{10}, and GHG emissions developed from sources including SCAG, the DOJ and CARB. These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently reduce emissions released during Project construction and operation.

A revised EIR should be prepared that includes *all* feasible mitigation measures, as well as updated air quality and GHG analyses to ensure that the necessary mitigation measures are implemented to reduce emissions to the maximum extent feasible. The revised EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project's potentially significant emissions are reduced to the maximum extent possible.

Disclaimer

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or

[9] "2022 Scoping Plan For Achieving Carbon Neutrality" CARB, November 2022, *available at*: https://ww2.arb.ca.gov/sites/default/files/2022-11/2022-sp-appendix-d-local-actions.pdf, Appendix D, p. 23, Table 3.

[10] "Cal. Code Regs. tit. 14 § 15126.4." CEQA Guidelines, May 2024, *available at*: https://casetext.com/regulation/california-code-of-regulations/title-14-natural-resources/division-6-resources-agency/chapter-3-guidelines-for-implementation-of-the-california-environmental-quality-act/article-9-contents-of-environmental-impact-reports/section-151264-consideration-and-discussion-of-mitigation-measures-proposed-to-minimize-significant-effects.

[11] "Cal. Pub. Resources Code § 21168.6.7." 2023, *available at*: https://casetext.com/statute/california-codes/california-public-resources-code/division-13-environmental-quality/chapter-6-limitations/section-2116867-oakland-sports-and-mixed-use-project-conditions-for-approval-certification-of-project-for-streamlining.

otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,

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Education:

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.
B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

Professional Certifications:

California Professional Geologist
California Certified Hydrogeologist
Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2104, 2017;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt's responsibilities have included:

- Lead analyst and testifying expert in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.

With Komex H2O Science Inc., Matt's duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.
- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted

public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation-wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

Policy:

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9.

Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, Oxygenates in Water: Critical Information and Research Needs.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific

principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

Geology:

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt is currently a part time geology instructor at Golden West College in Huntington Beach, California where he taught from 2010 to 2014 and in 2017.

Invited Testimony, Reports, Papers and Presentations:

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Coloradao.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal repesentatives, Parker, AZ.

Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

Hagemann, M.F., 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

Hagemann, M.F., 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

Hagemann, M.F., 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

Hagemann, M.F., 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

Hagemann, M.F., 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and **Hagemann, M.F**. 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukanaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

Other Experience:

Selected as subject matter expert for the California Professional Geologist licensing examinations, 2009-2011.

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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Paul Rosenfeld, Ph.D.

Chemical Fate and Transport & Air Dispersion Modeling

Principal Environmental Chemist

Risk Assessment & Remediation Specialist

Education

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Thesis on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years' experience conducting environmental investigations and risk assessments for evaluating impacts to human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risk, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, industrial, military and agricultural sources, unconventional oil drilling operations, and locomotive and construction engines. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities. Dr. Rosenfeld has also successfully modeled exposure to contaminants distributed by water systems and via vapor intrusion.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particulate matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, creosote, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants. Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at sites and has testified as an expert witness on numerous cases involving exposure to soil, water and air contaminants from industrial, railroad, agricultural, and military sources.

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
UCLA School of Public Health; 2003 to 2006; Adjunct Professor
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
UCLA Institute of the Environment, 2001-2002; Research Associate
Komex H_2O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health.* 18:48

Simons, R.A., Seo, Y. **Rosenfeld, P**., (2015) Modeling the Effect of Refinery Emission On Residential Property Value. Journal of Real Estate Research. 27(3):321-342

Chen, J. A, Zapata A. R., Sutherland A. J., Molmen, D.R., Chow, B. S., Wu, L. E., **Rosenfeld, P. E.,** Hesse, R. C., (2012) Sulfur Dioxide and Volatile Organic Compound Exposure To A Community In Texas City Texas Evaluated Using Aermod and Empirical Data. *American Journal of Environmental Science*, 8(6), 622-632.

Rosenfeld, P.E. & Feng, L. (2011). *The Risks of Hazardous Waste.* Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2011). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Agrochemical Industry*, Amsterdam: Elsevier Publishing.

Gonzalez, J., Feng, L., Sutherland, A., Waller, C., Sok, H., Hesse, R., **Rosenfeld, P.** (2010). PCBs and Dioxins/Furans in Attic Dust Collected Near Former PCB Production and Secondary Copper Facilities in Sauget, IL. *Procedia Environmental Sciences*. 113–125.

Feng, L., Wu, C., Tam, L., Sutherland, A.J., Clark, J.J., **Rosenfeld, P.E.** (2010). Dioxin and Furan Blood Lipid and Attic Dust Concentrations in Populations Living Near Four Wood Treatment Facilities in the United States. *Journal of Environmental Health*. 73(6), 34-46.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2010). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Wood and Paper Industries.* Amsterdam: Elsevier Publishing.

Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2009). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Petroleum Industry*. Amsterdam: Elsevier Publishing.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P**. (2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. *WIT Transactions on Ecology and the Environment, Air Pollution,* 123 (17), 319-327.

Tam L. K.., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, 70, 002252-002255.

Tam L. K.., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, 70, 000527-000530.

Hensley, A.R. A. Scott, J. J. J. Clark, **Rosenfeld, P.E.** (2007). Attic Dust and Human Blood Samples Collected near a Former Wood Treatment Facility. *Environmental Research*. 105, 194-197.

Rosenfeld, P.E., J. J. J. Clark, A. R. Hensley, M. Suffet. (2007). The Use of an Odor Wheel Classification for Evaluation of Human Health Risk Criteria for Compost Facilities. *Water Science & Technology* 55(5), 345-357.

Rosenfeld, P. E., M. Suffet. (2007). The Anatomy Of Odour Wheels For Odours Of Drinking Water, Wastewater, Compost And The Urban Environment. *Water Science & Technology* 55(5), 335-344.

Sullivan, P. J. Clark, J.J.J., Agardy, F. J., **Rosenfeld, P.E.** (2007). *Toxic Legacy, Synthetic Toxins in the Food, Water, and Air in American Cities.* Boston Massachusetts: Elsevier Publishing

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash. *Water Science and Technology*. 49(9),171-178.

Rosenfeld P. E., J.J. Clark, I.H. (Mel) Suffet (2004). The Value of An Odor-Quality-Wheel Classification Scheme For The Urban Environment. *Water Environment Federation's Technical Exhibition and Conference (WEFTEC) 2004.* New Orleans, October 2-6, 2004.

Rosenfeld, P.E., and Suffet, I.H. (2004). Understanding Odorants Associated With Compost, Biomass Facilities, and the Land Application of Biosolids. *Water Science and Technology*. 49(9), 193-199.

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash, *Water Science and Technology*, 49(9), 171-178.

Rosenfeld, P. E., Grey, M. A., Sellew, P. (2004). Measurement of Biosolids Odor and Odorant Emissions from Windrows, Static Pile and Biofilter. *Water Environment Research*. 76(4), 310-315.

Rosenfeld, P.E., Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office*, Publications Clearinghouse (MS–6), Sacramento, CA Publication #442-02-008.

Rosenfeld, P.E., and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution*. 127(1-4), 173-191.

Rosenfeld, P.E., and Henry C. L., (2000). Wood ash control of odor emissions from biosolids application. *Journal of Environmental Quality.* 29, 1662-1668.

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affect on biosolids odor emissions and microbial activity. *Water Environment Research*. 73(4), 363-367.

Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research*. 131(1-4), 247-262.

Chollack, T. and **P. Rosenfeld. (**1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

Rosenfeld, P. E. (1994). Potential Utilization of Small Diameter Trees on Sierra County Public Land. Masters thesis reprinted by the Sierra County Economic Council. Sierra County, California.

Rosenfeld, P. E. (1991). How to Build a Small Rural Anaerobic Digester & Uses Of Biogas In The First And Third World. Bachelors Thesis. University of California.

Presentations:

Rosenfeld, P.E., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

Rosenfeld, P.E., Sutherland, A; Hesse, R.; Zapata, A. (October 3-6, 2013). Air dispersion modeling of volatile organic emissions from multiple natural gas wells in Decatur, TX. *44th Western Regional Meeting, American Chemical Society.* Lecture conducted from Santa Clara, CA.

Sok, H.L.; Waller, C.C.; Feng, L.; Gonzalez, J.; Sutherland, A.J.; Wisdom-Stack, T.; Sahai, R.K.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Atrazine: A Persistent Pesticide in Urban Drinking Water. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Feng, L.; Gonzalez, J.; Sok, H.L.; Sutherland, A.J.; Waller, C.C.; Wisdom-Stack, T.; Sahai, R.K.; La, M.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Bringing Environmental Justice to East St. Louis, Illinois. *Urban Environmental Pollution.* Lecture conducted from Boston, MA.

Rosenfeld, P.E. (April 19-23, 2009). Perfluoroctanoic Acid (PFOA) and Perfluoroactane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

Rosenfeld, P.E. (April 19-23, 2009). Cost to Filter Atrazine Contamination from Drinking Water in the United States" Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*. Lecture conducted from Tuscon, AZ.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P**. (20-22 July, 2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. Brebbia, C.A. and Popov, V., eds., *Air Pollution XVII: Proceedings of the Seventeenth International Conference on Modeling, Monitoring and Management of Air Pollution*. Lecture conducted from Tallinn, Estonia.

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water.* Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23rd Annual International*

Conferences on Soils Sediment and Water. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). Somerville Community Exposure To Contaminants From Wood Treatment Facility Emissions. The *23rd Annual International Conferences on Soils Sediment and Water*. Lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld P. E. (March 2007). Production, Chemical Properties, Toxicology, & Treatment Case Studies of 1,2,3-Trichloropropane (TCP). *The Association for Environmental Health and Sciences (AEHS) Annual Meeting*. Lecture conducted from San Diego, CA.

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Florala, Alabama. *The AEHS Annual Meeting.* Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.,** Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.,** Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition.* Lecture conducted from Boston Massachusetts.

Paul Rosenfeld Ph.D. (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey's C8/PFOA. *Science, Risk & Litigation Conference.* Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

Paul Rosenfeld Ph.D. (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

Paul Rosenfeld Ph.D. (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference.* Lecture conducted from Hilton Hotel in Irvine, California.

Paul Rosenfeld Ph.D. (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey's Groundwater Conference.* Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

Paul Rosenfeld Ph.D. (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus On Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water And Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, Toxicology and Remediation. *2005 National Groundwater Association Ground Water and Environmental Law Conference.* Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference*. Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

Paul Rosenfeld, Ph.D. (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust*. Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives*. Lecture conducted from Parker, AZ.

Paul Rosenfeld, Ph.D. (April 7, 2004). A National Damage Assessment Model For PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association*. Lecture conducted from Radison Hotel, Sacramento, California.

Rosenfeld, P. E., Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference* Orlando, FL.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants*.. Lecture conducted from Hyatt Regency Phoenix Arizona.

Paul Rosenfeld, Ph.D. (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum*. Lecture conducted from Marriott Hotel, Anaheim California.

Paul Rosenfeld, Ph.D. (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable*. Lecture conducted from Sacramento California.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, *Wastewater and Industrial Processes. Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Grey, M. A. (September 22-24, 2002). Biocycle Composting For Coastal Sage Restoration. *Northwest Biosolids Management Association*. Lecture conducted from Vancouver Washington..

Rosenfeld, P.E. and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conferenc*e. Lecture conducted from Indianapolis, Maryland.

Rosenfeld. P.E. (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation.* Lecture conducted from Anaheim California.

Rosenfeld. P.E. (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest.* Lecture conducted from Ocean Shores, California.

Rosenfeld, P.E. (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association*. Lecture conducted from Sacramento California.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America*. Lecture conducted from Salt Lake City Utah.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell.* Lecture conducted from Seattle Washington.

Rosenfeld, P.E., C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest.* Lecture conducted from Lake Chelan, Washington.

Rosenfeld, P.E, C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions From Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America*. Lecture conducted from Anaheim California.

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

National Ground Water Association, Successful Remediation Technologies. Custom Course in Sante Fe, New Mexico. May 21, 2002. Focused on fate and transport of fuel contaminants associated with underground storage tanks.

National Ground Water Association; Successful Remediation Technologies Course in Chicago Illinois. April 1, 2002. Focused on fate and transport of contaminants associated with Superfund and RCRA sites.

California Integrated Waste Management Board, April and May, 2001. Alternative Landfill Caps Seminar in San Diego, Ventura, and San Francisco. Focused on both prescriptive and innovative landfill cover design.

UCLA Department of Environmental Engineering, February 5, 2002. Seminar on Successful Remediation Technologies focusing on Groundwater Remediation.

University Of Washington, Soil Science Program, Teaching Assistant for several courses including: Soil Chemistry, Organic Soil Amendments, and Soil Stability.

U.C. Berkeley, Environmental Science Program Teaching Assistant for Environmental Science 10.

Academic Grants Awarded:

California Integrated Waste Management Board. $41,000 grant awarded to UCLA Institute of the Environment. Goal: To investigate effect of high carbon wood ash on volatile organic emissions from compost. 2001.

Synagro Technologies, Corona California: $10,000 grant awarded to San Diego State University.
Goal: investigate effect of biosolids for restoration and remediation of degraded coastal sage soils. 2000.

King County, Department of Research and Technology, Washington State. $100,000 grant awarded to University of Washington: Goal: To investigate odor emissions from biosolids application and the effect of polymers and ash on VOC emissions. 1998.

Northwest Biosolids Management Association, Washington State. $20,000 grant awarded to investigate effect of polymers and ash on VOC emissions from biosolids. 1997.

James River Corporation, Oregon: $10,000 grant was awarded to investigate the success of genetically engineered Poplar trees with resistance to round-up. 1996.

United State Forest Service, Tahoe National Forest: $15,000 grant was awarded to investigating fire ecology of the Tahoe National Forest. 1995.

Kellogg Foundation, Washington D.C. $500 grant was awarded to construct a large anaerobic digester on St. Kitts in West Indies. 1993

Deposition and/or Trial Testimony:

In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition, 5-14-2021
Trial, October 8-4-2021

In the Circuit Court of Cook County Illinois
Joseph Rafferty, Plaintiff vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a AMTRAK,
Case No.: No. 18-L-6845
Rosenfeld Deposition, 6-28-2021

In the United States District Court For the Northern District of Illinois
Theresa Romcoe, Plaintiff vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail, Defendants
Case No.: No. 17-cv-8517
Rosenfeld Deposition, 5-25-2021

In the Superior Court of the State of Arizona In and For the Cunty of Maricopa
Mary Tryon et al., Plaintiff vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case Number CV20127-094749
Rosenfeld Deposition: 5-7-2021

In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al *Plaintiffs*, vs. CNA Insurance Company et al.
Case Number 1:17-cv-000508
Rosenfeld Deposition: 3-25-2021

In the Superior Court of the State of California, County of San Bernardino
Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021

In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse
Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020

In the Circuit Court of Jackson County, Missouri
Karen Cornwell, *Plaintiff,* vs. Marathon Petroleum, LP, *Defendant.*
Case No.: 1716-CV10006
Rosenfeld Deposition. 8-30-2019

In the United States District Court For The District of New Jersey
Duarte et al, *Plaintiffs,* vs. United States Metals Refining Company et. al. *Defendant.*
Case No.: 2:17-cv-01624-ES-SCM
Rosenfeld Deposition. 6-7-2019

In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk, *Plaintiffs,* vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS "Conti Perdido" *Defendant.*
Case No.: 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition. 5-9-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No.: No. BC615636
Rosenfeld Deposition, 1-26-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No.: No. BC646857
Rosenfeld Deposition, 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado
Bells et al. Plaintiff vs. The 3M Company et al., Defendants
Case No.: 1:16-cv-02531-RBJ
Rosenfeld Deposition, 3-15-2018 and 4-3-2018

In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosciences, LLC, et al., Defendants
Cause No.: 1923
Rosenfeld Deposition, 11-17-2017

In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No C12-01481
Rosenfeld Deposition, 11-20-2017

In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition, 8-23-2017

In United States District Court For The Southern District of Mississippi
Guy Manuel vs. The BP Exploration et al., Defendants
Case: No 1:19-cv-00315-RHW
Rosenfeld Deposition, 4-22-2020

In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC
Case No.: LC102019 (c/w BC582154)
Rosenfeld Deposition, 8-16-2017, Trail 8-28-2018

In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., *Plaintiffs,* vs. Meritor Inc., et al., *Defendants*
Case Number: 4:16-cv-52-DMB-JVM
Rosenfeld Deposition: July 2017

In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No.: No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial, March 2017

In The Superior Court of the State of California, County of Alameda
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No.: RG14711115
Rosenfeld Deposition, September 2015

In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No.: LALA002187
Rosenfeld Deposition, August 2015

In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action N0. 14-C-30000
Rosenfeld Deposition, June 2015

In The Iowa District Court For Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No 4980
Rosenfeld Deposition: May 2015

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case Number CACE07030358 (26)
Rosenfeld Deposition: December 2014

In the County Court of Dallas County Texas
Lisa Parr et al, *Plaintiff*, vs. Aruba et al, *Defendant.*
Case Number cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial: April 2014

In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., *Plaintiffs,* vs. Republic Services, Inc., et al., *Defendants*
Case Number: 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition: October 2012

In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., *Plaintiffs*, vs. International Paper Company, *Defendant*.
Civil Action Number 2:09-cv-232-WHA-TFM
Rosenfeld Deposition: July 2010, June 2011

In the Circuit Court of Jefferson County Alabama
Jaeanette Moss Anthony, et al., *Plaintiffs*, vs. Drummond Company Inc., et al., *Defendants*
Civil Action No. CV 2008-2076
Rosenfeld Deposition: September 2010

In the United States District Court, Western District Lafayette Division
Ackle et al., *Plaintiffs*, vs. Citgo Petroleum Corporation, et al., *Defendants*.
Case Number 2:07CV1052
Rosenfeld Deposition: July 2009

EXHIBIT C

July 9, 2024

Mr. Kevin T. Carmichael
Adams Broadwell Joseph & Cardozo
520 Capitol Mall, Suite 350
Sacramento, CA 95814

Subject: Comments on the Draft Environmental Impact Report for the Campus Project

Dear Mr. Carmichael:

This letter contains my comments on the Draft Environmental Impact Report ("DEIR") prepared by the City of Dixon ("City") for the Campus Project ("Project"). Dixon Venture LLC ("Applicant") proposes a phased, mixed-use development that includes an approximately 48-acre Dixon Opportunity Center, approximately 144 acres of residential uses, and approximately 2.5 acres of commercial uses on a 260-acre site west of Pedrick Road and south of Interstate 80 in the City of Dixon, California.

I am an environmental biologist with 30 years of professional experience in wildlife biology and natural resources management. I have served as a biological resources expert for over 200 projects in California. My experience and scope of work in this regard has included assisting various clients with evaluations of biological resource issues; preparation and peer review of environmental compliance documents prepared pursuant to the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA"); and preparation of written comments that address deficiencies with CEQA and NEPA documents. My work has included written and oral testimony for the California Energy Commission, California Public Utilities Commission, and Federal courts. My educational background includes a B.S. in Resource Management from the University of California at Berkeley, and a M.S. in Wildlife and Fisheries Science from the Pennsylvania State University. A copy of my current curriculum vitae is attached hereto.

The comments herein are based on my review of the environmental documents prepared for the Project, a review of scientific literature pertaining to biological resources known to occur in the Project area, and the knowledge and experience I have acquired during my 30-year career in the field of natural resources management.

PROJECT DESCRIPTION

The DEIR provides inconsistent information on the size of the Project. The Project Description chapter of the DEIR states that the Project site contains a total of approximately 260 acres.[1] This is consistent with the information provided in DEIR Table 2-1. However, according to the Biological Resources chapter of the DEIR: "the Project site contains 261.192 acres of cropland habitat, 17.426 acres developed/disturbed habitat, and 1.143 acres of ditches (which include all roadway infrastructure extensions)."[2] This equates to 279.761 acres. It is unclear why the DEIR provides two different values for the size of the Project site. Because the Project is expected to result in permanent impacts to the entire Project site,[3] the DEIR must ensure that it accurately quantifies, and provides a map of, all areas that would be directly impacted by the Project.

ENVIRONMENTAL SETTING

Yellow-billed Magpie

According to the Biological Resources Assessment ("BRA") that was prepared for the Project, species on the California Department of Fish and Wildlife's ("CDFW") Special Animals List are considered special-status species.[4]

The Applicant's biological resources consultant, HELIX, detected the yellow-billed magpie during their survey of the Project site.[5] The yellow-billed magpie is a U.S. Fish and Wildlife Service Bird of Conservation Concern, and it is included on CDFW's Special Animals List.[6] Birds of Conservation Concern are species that are likely to become candidates for listing under the Endangered Species Act unless additional conservation actions are implemented.[7] The DEIR does not disclose presence of yellow-billed magpie at the Project site, nor does it analyze the Project's impacts on this special-status species.

Swainson's Hawk

The DEIR states: "[t]he Project site contains 261.192 acres of cropland habitats which provide suitable foraging habitat for Swainson's hawks."[8] The DEIR fails to justify why the "developed/disturbed" areas (17.426 acres) and "ditches" (1.143 acres) at the Project site do not constitute potential foraging habitat for Swainson's hawks.[9]

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[1] DEIR, p. 2-1. *See also* DEIR, pp. ES-1, 3.10-2, 3.11-1, and 3.11-8.
[2] DEIR, p. 3.4-34.
[3] *Ibid.*
[4] BRA, pp. 16 and 17.
[5] BRA, Appendix C (Wildlife Species Observed in the Study Area).
[6] California Natural Diversity Database. 2024. Special Animals List. California Department of Fish and Wildlife. Sacramento, CA. April 2024. [accessed 26 Jun 2024]. https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406&inline.
[7] U.S. Fish and Wildlife Service. 2021. Birds of Conservation Concern 2021. United States Department of the Interior, U.S. Fish and Wildlife Service, Migratory Birds, Falls Church, Virginia. p. 4 and Table 6.
[8] DEIR, p. 3.4-31.
[9] The developed/disturbed habitat at the Project site is comprised of dirt access roads, paved roads, and a bare area. *See* BRA, p. 16.

Swainson's hawks forage on mice, gophers, ground squirrels, rabbits, large arthropods, amphibians, reptiles, birds, and, rarely, fish.[10] Swainson's hawks swoop down on their prey, or they walk on the ground to catch invertebrates. Foraging habitat for Swainson's hawks includes a variety of open habitat types where prey items are both available and accessible. This includes roads, irrigation ditches, and barren areas.[11]

The DEIR determined that the entire Project site provides suitable foraging habitat for the white-tailed kite.[12] Similar to the Swainson's hawk, the white-tailed forages in a variety of open habitat types.[13] Therefore, if the entire Project site provides suitable foraging habitat for the white-tailed kite, the entire Project site also provides suitable foraging habitat for the Swainson's hawk.

IMPACTS

Yellow-billed Magpie

The yellow-billed magpie is a yearlong resident of the Central Valley, and coastal mountain ranges south from San Francisco Bay to Santa Barbara County. The species prefers open oak and riparian woodland, and farm and ranchland with tall trees in the vicinity of grassland, pasture, and cropland.[14] The Project would directly, indirectly, and cumulatively impact habitat for the yellow-billed magpie. The DEIR fails to provide analysis of these impacts.

Impacts to Habitat for Special-Status Birds

The DEIR provides the following analysis of Project impacts to habitat for special-status birds:

> "As discussed in the impact, the project would result in conversion of potential foraging and/or nesting habitat for special-status and migratory birds, including tricolored blackbird (*Agelaius tricolor*), burrowing owl (*Athene cunicularia*), Swainson's hawk (*Buteo swainsoni*), white-tailed kite (*Elanus leucurus*), and northern harrier (*Circus hudsonius*). Additionally, a number of migratory birds and raptors have the potential to nest in or adjacent to the Project site. This is a potentially significant impact."[15]

Although the DEIR determined that conversion of habitat for the tricolored blackbird, white-tailed kite, and northern harrier would be a potentially significant impact, the DEIR does not incorporate mitigation for this impact. As a result, the DEIR's determination that the proposed mitigation measures would reduce the potential for impacts to special-status bird species to

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[10] California Department of Fish and Wildlife, Biogeographic Data Branch. 2021. California Wildlife Habitat Relationship System, Version 10. Sacramento: California Department of Fish and Wildlife. [accessed 2024 Jun 29]. https://wildlife.ca.gov/Data/CWHR/Life-History-and-Range.
[11] Fleishman E, Anderson J, Dickson BG, Krolick D, Estep JA, Anderson RL, Elphick CS, Dobkin DS, Bell DA. 2016. Space Use by Swainson's Hawk (*Buteo swainsoni*) in the Natomas Basin, California. Collabra 2(1):5, p. 1-12.
[12] DEIR, p. 3.4-33.
[13] *Ibid.*
[14] California Department of Fish and Wildlife, Biogeographic Data Branch, 2021. California Wildlife Habitat Relationship System, Version 10 Sacramento, CA. [accessed 27 Jun 2024]. https://wildlife.ca.gov/Data/CWHR
[15] DEIR, p. 3.4-34.

a less-than-significant level is not supported by evidence.

Compliance with General Plan Policies

The City's General Plan Policy NE-1.13 state:

> "In areas where development (including trails or other improvements) has the potential for adverse effects on special-status species, require project proponents to submit a study conducted by a qualified professional that identifies the presence or absence of special-status species at the proposed development site. If special-status species are determined by the City to be present, require incorporation of appropriate mitigation measures as part of the proposed development prior to final approval."

The DEIR claims the Project is consistent with this General Plan Policy because: "[t]he [Biological Resources] Assessment was conducted by a qualified professional and identifies the presence or absence of special-status species at the proposed development."[16] This is false. Although HELIX recorded the species detected during its field survey, the survey was not designed to determine the presence or absence of special-status species at the Project site. As reported in the BRA, the information from the field survey was used to assess the *potential* for special-status species to occur at the Project site—not to determine presence of absence of those species.[17]

Compliance with the Northeast Quadrant Specific Plan

The City of Dixon Northeast Quadrant Specific Plan ("NEQSP") states: "[p]roponents of development applications within the specific plan area shall consult with CDFW regarding the take of an endangered species or its habitat pursuant to the CESA and CDFW codes."[18] The DEIR determined the Project could significantly impact (i.e., take) the Swainson's hawk and tricolored blackbird.[19] Both of these species are listed under the California Endangered Species Act ("CESA"). The DEIR provides no evidence that the Applicant has consulted with CDFW regarding the take of these species.

Cumulative Impacts

The DEIR provides the following analysis of cumulative impacts:

> "The proposed Project has the potential to result in impacts to special-status species in the region. Although there has been no documented sighting within the immediate area in, or near the Project site, the Project site provides potential habitat for several species. Therefore, the proposed Project would have a

[16] DEIR, p. 3.4-45.
[17] BRA, pp. 1 and 14.
[18] DEIR, p. 3.4-20.
[19] DEIR, p. 3.4-34.

considerable contribution to the impact, and the impact would be potentially significant."[20]

The statement that "there has been no documented sighting [of special-status species] within the immediate area in, or near the Project site" is false. For example, the DEIR indicates the CNDDB has records of: (a) one adult and two juvenile burrowing owls approximately 375 feet from the Project site; and (b) two occurrence records of Swainson's hawks that overlap with the Project site.[21] Moreover, two northern harriers (a special-status species) were observed foraging at the Project site during HELIX's field survey.[22]

The DEIR determined that the cumulative impact to biological resources is potentially significant.[23] The DEIR then determined that implementation of Mitigation Measures 3.4-4(a) through 3.4-4(c), 3.4-7, and 3.4-11 would reduce the Project's contribution to the cumulative impact to a less than significant level.[24] The DEIR's determination is not supported by evidence because the DEIR does not incorporate mitigation for the Project's potentially significant impact on foraging and/or nesting habitat for the tricolored blackbird, northern harrier, and white-tailed kite.[25] In addition, the DEIR does not commit the City to providing compensatory mitigation for impacts to habitat for the Swainson's hawk and burrowing owl. As a result, the Project's contribution to cumulative impacts to habitat for special-status birds has not been mitigated.

MITIGATION

Mitigation Measures 3.4-4(a) through -4(c) require actions by a "qualified biologist." For example, Mitigation Measures 3.4-4(a) requires focused burrowing owl surveys by a "qualified biologist." CDFW's Staff Report on Burrowing Owl Mitigation identifies the requisite qualifications of individuals that conduct burrowing owl habitat assessments, surveys, and impact assessments.[26] Mitigation Measures 3.4-4(a) through 3.4-4(c) do not require a biologist that possesses the qualifications specified by CDFW. Indeed, nowhere does the DEIR identify what would constitute a "qualified biologist." Because the DEIR fails to establish standards (minimum qualifications) for the "qualified biologist" that would implement Mitigation Measures 3.4-4(a) through 3.4-4(c), it does not ensure those mitigation measures would be successfully implemented.

Mitigation Measure 3.4-4(a) -- Burrowing Owl

Mitigation Measures 3.4-4(a) requires focused burrowing owl surveys. It then states: "[i]f active burrowing owl burrows are detected, the avoidance, minimization, and mitigation methodologies outlined in the CDFW's Staff Report on Burrowing Owl Mitigation shall be followed prior to initiating Project related activities that may impact burrowing owls."[27]

[20] DEIR, p. 3.4-47.
[21] DEIR, p. 3.4-31.
[22] BRA, p. 20.
[23] DEIR, p. 3.4-47.
[24] DEIR, p. 3.4-47.
[25] DEIR, p. p. 3.4-34.
[26] California Department of Fish and Game. 2012. Staff Report on Burrowing Owl Mitigation. p. 5.
[27] DEIR, p. 3.4-34.

There are two problems with the proposed mitigation measure. First, the mitigation measure is too vague to ensure Project impacts would be reduced to less-than-significant levels. The DEIR needs to identify the specific avoidance, minimization, and mitigation measures in CDFW's Staff Report that would be required if burrowing owls are detected during the surveys. Most importantly, the DEIR the needs to specify whether the Applicant would be required to provide habitat compensation for the Project's impacts to burrowing owls and their habitat. If habitat compensation would be required, the DEIR must specify the compensation ratio and identify the criteria that will be used for selection of the habitat compensation lands.

Second, the DEIR does not establish performance standards for Mitigation Measure 3.4-4(a), nor does it establish an enforcement mechanism that ensures the Applicant implements the avoidance, minimization, and mitigation methods outlined in the CDFW's Staff Report on Burrowing Owl Mitigation. For these reasons, Mitigation Measure 3.4-4(a) does not ensure impacts on the burrowing owl would be reduced to less-than-significant levels.

Mitigation Measure 3.4-4(b) -- Swainson's Hawk

Surveys

Mitigation Measure 3.4-4(b) states:

> "If construction activities will begin during the Swainson's hawk nesting season (March 20 to September 15), a qualified biologist should conduct at least the minimum number of surveys called for within at least two survey periods prior to the initiation of construction in accordance with the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Swainson's Hawk Technical Advisory Committee 2000) or the current CDFW-approved protocol."[28]

There are two problems with the proposed mitigation. First, the purpose of the Swainson's Hawk Technical Advisory Committee survey protocol is to "maximize the potential for locating nesting Swainson's hawks, and thus reducing the potential for nest failures as a result of project activities/disturbances." The protocol states: "[t]o meet the **minimum level** of protection for the species, surveys should be completed for **at least** the two survey periods immediately prior to a project's initiation."[29] Nowhere does the protocol indicate that protocol-level surveys are unnecessary if construction activities begin outside of the Swainson's hawk nesting season.

Second, the Project would be developed in 3 phases over 8 years.[30] Development of each phase would be based on general market conditions and demand for the particular land use components of the Project.[31] As a result, there may be significant temporal gaps between each construction phase. It appears that Mitigation Measure 3.4-4(b) applies to construction of the entire Project,

[28] Swainson's Hawk Technical Advisory Committee. 2000. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley. p. 1.
[29] *Ibid*, p. 2.
[30] DEIR, p. 2-6.
[31] *Ibid.*

not each phase of construction. To ensure protection of Swainson's hawk nest sites, and due to the spatial and (potentially) temporal separation of each construction phase, protocol-level surveys for Swainson's hawk nest sites must be conducted during each year of Project construction.

Habitat Compensation

To reverse the decline of Swainson's hawk populations, it is CDFW's policy that new development projects that adversely modify nesting or foraging habitat within 10 miles of an active nest should mitigate the project's impacts by providing compensatory mitigation.[32]

Although not disclosed in the DEIR, there is an active Swainson's hawk nest site[33] approximately 300 feet north of the Project's site.[34] Therefore, in accordance with CDFW mitigation guidelines, the Project should provide:

a) One acre of foraging habitat for each acre of development at a ratio of 1:1. Mitigated lands shall consist of 10 percent of the land requirements met by fee title acquisition or a conservation easement allowing for the active management of the habitat, and the remaining 90 percent of the land protected by a conservation easement on agricultural lands or other suitable habitats which provide foraging habitat for Swainson's hawk (grasslands, rangeland, etc.) and no requirements for active management of the habitat; or,

b) One-half acre of foraging habitat for each acre of development authorized at a ratio of 0.5:1. All the land requirements shall be met by fee title acquisition or a conservation easement, which allows for the active management of the habitat for prey production on the land. Prey abundance and availability is determined by land and farming patterns including crop types, agricultural practices, and harvesting regimes. Actively managed land for prey production may result in the land becoming less valuable for crop production due to management limitations but increases the value for Swainson's hawk through functional lift.[35]

Mitigation Measure 3.4-4(b) states: "[t]he City of Dixon as the CEQA lead agency shall make the final determination as to the extent of the proposed Project's impacts to Swainson's hawk foraging habitat and any appropriate mitigation that might be necessary associated with project development."[36] This constitutes deferred mitigation, which is impermissible under CEQA Guidelines, Section 15126.4. As the lead agency, the City must commit itself to the mitigation needed to reduce the Project's potentially significant impacts to less-than-significant levels. In

[32] California Department of Fish and Game. 1994. Staff report regarding mitigation for impacts to Swainson's hawks (*Buteo swainsoni*) in the Central Valley of California.
[33] CDFW defines an active nest site as one that has been used during one or more of the last 5 years. *See* California Department of Fish and Game. 1994. Staff report regarding mitigation for impacts to Swainson's hawks (*Buteo swainsoni*) in the Central Valley of California. p. 1.
[34] California Department of Fish and Wildlife. 2024 May 28. Biogeographic Information and Observation System. Unprocessed Data from CNDDB Online Field Survey Form [ds1002]. Source Code CAP22F0001. [accessed 2024 Jun 29]. https://wildlife.ca.gov/Data/BIOS.
[35] DEIR, pp. 3.4-35 and -36.
[36] DEIR, p. 3.4-36.

this case, the DEIR determined that impacts to Swainson's hawk foraging habitat would be a potentially significant impact, and that provision of compensation habitat would reduce the impact to a less-than-significant level. Because Mitigation Measure 3.4-4(b) allows the City to forgo the compensatory mitigation requirement after adoption of the EIR, the Project's impacts on the Swainson's hawk remain potentially significant.

Mitigation Measure 3.4-4(c) -- Nesting Birds

Mitigation Measure 3.4-4(c) states: "[i]f construction activities occur during the nesting season, a qualified biologist shall conduct a nesting bird survey to determine the presence of any active nests within the Project site. Additionally, the surrounding 500 feet of the Project site shall be surveyed for active raptor nests, where accessible."[37] The DEIR fails to justify why surveys in the surrounding 500-foot buffer zone should be confined to raptors. Noise and human activity associated with construction of the Project has the potential to cause significant indirect impacts to all types of birds nesting outside of the Project's footprint.[38]

Mitigation Measure 3.4-4(c) requires buffer zones around any active nests that are detected during the nesting bird survey. The mitigation measure states: "[i]f active nests are found, then the qualified biologist shall establish a species-specific buffer to prohibit development activities near the nest to and minimize nest disturbance until the young have successfully fledged or the biologist determines that the nest is no longer active. Buffer distances may range from 30 feet for some songbirds and 0.5 mile for some raptors."[39] The 30-foot buffer distance for "some songbirds" is inconsistent with scientific literature[40] and CDFW guidelines for the protection of nesting birds. CDFW has determined that at a minimum, a 250-foot buffer is required for non-listed passerines protected under the Migratory Bird Treaty Act, unless a qualified biologist determines that smaller buffers would be sufficient, after considering the presence of natural buffers provided by vegetation or topography; nest height; locations of foraging territory; and baseline levels of noise and human activity.[41] Because the DEIR does not establish minimum standards for the biologist that would make determinations on the size of nest buffers, it fails to ensure the biologist would have the expertise needed to make effective decisions on nest buffer sizes.

Mitigation Measure 3.4-7 -- Jurisdictional Waters

The DEIR provides the following analysis of impacts to jurisdictional waters:

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[37] *Ibid.*
[38] Ortega CP. 2012. Effects of Noise Pollution on Birds: A Brief Review of Our Knowledge. Ornithological Monographs 74:6-22. *See also* Livezey KB, Fernandez-Juricic E, Blumstein DT. 2016. Database of bird flight initiation distances to assist in estimating effects from human disturbance and delineating buffer areas. Journal of Fish and Wildlife Management 7(1):181-191.
[39] DEIR, p. 3.4-37.
[40] Livezey KB, Fernandez-Juricic E, Blumstein DT. 2016. Database of bird flight initiation distances to assist in estimating effects from human disturbance and delineating buffer areas. Journal of Fish and Wildlife Management 7(1):181-191.
[41] California Department of Fish and Wildlife. 2013. CDFW's Conservation Measures for Biological Resources That May Be Affected by Program-level Actions. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=73979&inline>.

> "Implementation of Mitigation Measures 3.4-7 requires that, prior to any activities that would result in discharge, fill, removal, or hydrologic interruption of any of the water features within the Project site, a formal wetland delineation be conducted and an approved jurisdictional determination be obtained from the USACE. Additionally, any impacts on jurisdictional features would be required to obtain the appropriate CWA Section 404 and or 401 permits. The mitigation measure identified above would reduce the above identified impact related to protected wetlands and jurisdictional waters. With implementation of the above mitigation measure, this impact would be considered less than significant."[42]

Requiring the Applicant to comply with state and federal regulatory requirements is not mitigation as defined in the CEQA statutes. As a result, the DEIR must identify the specific mitigation measures (or suite of options) that would reduce impacts to less-than-significant levels. Contrary to what the DEIR suggests, the City cannot defer that responsibility to the U.S. Army Corps of Engineers ("USACE") and Regional Water Quality Control Board ("RWQCB"). For example, in its comment letter to the lead agency for another project, the RWQCB stated:

> "It is inappropriate to rely upon agency regulations for determining that impacts will be at insignificant levels…Water Board staff strongly discourages the County [of Kern] from attempting to defer to the later preparation of Waste Discharge Requirements (WDRs) permits to address the above issues. Such an approach would constitute deferment of mitigation. In the event that this occurs, the Water Board may require substantial modifications to the Project during the course of permitting review to ensure all water quality impacts [are] adequately mitigated. Water Board staff encourages the Project proponents to initiate detailed plans early in the process to allow for full and adequate review of the Project to address the above issues. This planning should be concurrent with the CEQA process as opposed to a sequential permitting approach."[43]

Furthermore, compliance with regulatory permits provides no assurances that impacts to the jurisdictional waters would be less than significant. To the contrary, numerous studies have demonstrated that many compensatory mitigation projects permitted under Sections 401 and 404 of the Clean Water Act are not achieving the goal of "no overall net loss" of wetland acres and functions.[44] For example, Ambrose and Lee (2004) concluded: "the Section 401 program has failed to achieve the goal of no net loss of habitat functions, values and services."[45] Similarly, the National Academy of Sciences (2001) conducted a comprehensive review of compensatory wetland mitigation projects in the U.S. and found that the national "no net loss" goal is not being met because: (a) there is little monitoring of permit compliance, and (b) the permit conditions

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[42] DEIR, p. 3.4-41.

[43] Kern County. 2011 Oct. Final Environmental Impact Report: RE Distributed Solar Projects, Chapter 7-4 (part 1), comment letter 8.

[44] National Research Council. 2001. Compensating for wetland losses under the Clean Water Act. National Research Committee on Mitigating Wetland Losses. National Academy Press, Washington DC, USA. *See also* Environmental Law Institute. 2004. Measuring Mitigation: A Review of the Science for Compensatory Mitigation Performance Standards. Report prepared for the US Environmental Protection Agency. 271 pp. *See also* Kihslinger RL. 2008. Success of Wetland Mitigation Projects. 2008. National Wetlands Newsletter 30(2):14-16.

[45] Ambrose RF, SF Lee. 2004. Guidance Document for Compensatory Mitigation Projects Permitted Under Clean Water Act Section 401 by the Los Angeles Regional Quality Control Board. p. 8.

commonly used to establish mitigation success do not assure the establishment of wetland functions.[46] Ambrose et al. (2007) derived similar results after examining 143 projects permitted by the California State Water Resources Control Board. Specifically, they concluded: (a) only 46% of the projects fully complied with all permit conditions, and (b) very few wetland mitigation projects were successful, especially from the ecological perspective.[47] For these reasons, the DEIR's conclusion that Project impacts to jurisdictional waters would be reduced to less-than-significant levels is unsupported.

This concludes my comments on the DEIR.

Sincerely,

Scott Cashen, M.S.
Senior Biologist

[46] National Research Council. 2001. Compensating for wetland losses under the Clean Water Act. National Research Committee on Mitigating Wetland Losses. National Academy Press, Washington DC, USA.
[47] Ambrose RF, JL Callaway, SF Lee. 2007. An Evaluation of Compensatory Mitigation Projects Permitted Under Clean Water Act Section 401 by the California State Water Resources Control Board, 1991-2002. xxiv + 396 pp.

Scott Cashen, M.S.
Senior Wildlife Biologist

Scott Cashen has 28 years of professional experience in natural resources management. During that time he has worked as a field biologist, forester, environmental consultant, and instructor of Wildlife Management. Mr. Cashen focuses on CEQA/NEPA compliance issues, endangered species, scientific field studies, and other topics that require a high level of scientific expertise.

Mr. Cashen has knowledge and experience with numerous taxa, ecoregions, biological resource issues, and environmental regulations. As a biological resources expert, Mr. Cashen is knowledgeable of the various agency-promulgated guidelines for field surveys, impact assessments, and mitigation. Mr. Cashen has led field investigations on several special-status species, including ones focusing on the yellow-legged frog, red-legged frog, desert tortoise, steelhead, burrowing owl, California spotted owl, northern goshawk, willow flycatcher, Peninsular bighorn sheep, red panda, and various forest carnivores.

Mr. Cashen is a recognized expert on the environmental impacts of renewable energy development. He has been involved in the environmental review process of over 100 solar, wind, biomass, and geothermal energy projects. Mr. Cashen's role in this capacity has encompassed all stages of the environmental review process, from initial document review through litigation support. Mr. Cashen provided expert witness testimony on several of the Department of the Interior's "fast-tracked" renewable energy projects. His testimony on those projects helped lead agencies develop project alternatives and mitigation measures to reduce environmental impacts associated with the projects.

Mr. Cashen was a member of the independent scientific review panel for the Quincy Library Group project, the largest community forestry project in the United States. As a member of the panel, Mr. Cashen was responsible for advising the U.S. Forest Service on its scientific monitoring program, and for preparing a final report to Congress describing the effectiveness of the Herger-Feinstein Forest Recovery Act of 1998.

AREAS OF EXPERTISE

- CEQA, NEPA, and Endangered Species Act compliance issues
- Comprehensive biological resource assessments
- Endangered species management
- Renewable energy development
- Scientific field studies, grant writing and technical editing

EDUCATION

M.S. Wildlife and Fisheries Science - The Pennsylvania State University (1998)
Thesis: *Avian Use of Restored Wetlands in Pennsylvania*
B.S. Resource Management - The University of California, Berkeley (1992)

PROFESSIONAL EXPERIENCE

Litigation Support / Expert Witness

Mr. Cashen has served as a biological resources expert for over 125 projects subject to environmental review under the California Environmental Quality Act (CEQA) and/or the National Environmental Policy Act (NEPA). As a biological resources expert, Mr. Cashen reviews CEQA/NEPA documents and provides his clients with an assessment of biological resource issues. He then submits formal comments on the scientific and legal adequacy of the project's environmental documents (e.g., Environmental Impact Report). If needed, Mr. Cashen conducts field studies to generate evidence for legal testimony, or he can obtain supplemental testimony from his deep network of species-specific experts. Mr. Cashen has provided written and oral testimony to the California Energy Commission, California Public Utilities Commission, and U.S. district courts. His clients have included law firms, non-profit organizations, and citizen groups.

REPRESENTATIVE EXPERIENCE

Solar Energy

- Abengoa Mojave Solar Project
- Avenal Energy Power Plant
- Beacon Solar Energy Project
- Blythe Solar Power Project
- Calico Solar Project
- California Flats Solar Project
- Calipatria Solar Farm II
- Carrizo Energy Solar Farm
- Catalina Renewable Energy
- Fink Road Solar Farm
- Genesis Solar Energy Project
- Heber Solar Energy Facility
- Imperial Valley Solar Project
- Ivanpah Solar Electric Generating
- Maricopa Sun Solar Complex
- McCoy Solar Project
- Mt. Signal and Calexico Solar
- Panoche Valley Solar
- San Joaquin Solar I & II
- San Luis Solar Project
- Stateline Solar Project
- Solar Gen II Projects
- SR Solis Oro Loma
- Vestal Solar Facilities
- Victorville 2 Power Project
- Willow Springs Solar

Geothermal Energy

- Casa Diablo IV Geothermal
- East Brawley Geothermal
- Mammoth Pacific 1 Replacement
- Orni 21 Geothermal Project
- Western GeoPower Plant

Wind Energy

- Catalina Renewable Energy
- Ocotillo Wind Energy Project
- SD County Wind Energy
- Searchlight Wind Project
- Shu'luuk Wind Project
- Tres Vaqueros Repowering Project
- Tule Wind Project
- Vasco Winds Relicensing Project

Biomass Facilities

- CA Ethanol Project
- Colusa Biomass Project
- Tracy Green Energy Project

Other Development Projects

- Cal-Am Desalination Project
- Carnegie SVRA Expansion Project
- Lakeview Substation Project
- Monterey Bay Shores Ecoresort
- Phillips 66 Rail Spur
- Valero Benecia Crude By Rail
- World Logistics Center

Project Management

Mr. Cashen has managed several large-scale wildlife, forestry, and natural resource management projects. Many of the projects have required hiring and training field crews, coordinating with other professionals, and communicating with project stakeholders. Mr. Cashen's experience in study design, data collection, and scientific writing make him an effective project manager, and his background in several different natural resource disciplines enable him to address the many facets of contemporary land management in a cost-effective manner.

REPRESENTATIVE EXPERIENCE

Wildlife Studies

- Peninsular Bighorn Sheep Resource Use and Behavior Study: (*CA State Parks*)
- "KV" Spotted Owl and Northern Goshawk Inventory: (*USFS, Plumas NF*)
- Amphibian Inventory Project: (*USFS, Plumas NF*)
- San Mateo Creek Steelhead Restoration Project: (*Trout Unlimited and CA Coastal Conservancy, Orange County*)
- Delta Meadows State Park Special-Status Species Inventory: (*CA State Parks, Locke*)

Natural Resources Management

- Mather Lake Resource Management Study and Plan – (*Sacramento County*)
- Placer County Vernal Pool Study – (*Placer County*)
- Weidemann Ranch Mitigation Project – (*Toll Brothers, Inc., San Ramon*)
- Ion Communities Biological Resource Assessments – (*Ion Communities, Riverside and San Bernardino Counties*)
- Del Rio Hills Biological Resource Assessment – (*The Wyro Company, Rio Vista*)

Forestry

- Forest Health Improvement Projects – (*CalFire, SD and Riverside Counties*)
- San Diego Bark Beetle Tree Removal Project – (*SDG&E, San Diego Co.*)
- San Diego Bark Beetle Tree Removal Project – (*San Diego County/NRCS*)
- Hillslope Monitoring Project – (*CalFire, throughout California*)

Biological Resources

Mr. Cashen has a diverse background with biological resources. He has conducted comprehensive biological resource assessments, habitat evaluations, species inventories, and scientific peer review. Mr. Cashen has led investigations on several special-status species, including ones focusing on the foothill yellow-legged frog, mountain yellow-legged frog, desert tortoise, steelhead, burrowing owl, California spotted owl, northern goshawk, willow flycatcher, Peninsular bighorn sheep, red panda, and forest carnivores.

REPRESENTATIVE EXPERIENCE

Biological Assessments/Biological Evaluations ("BA/BE")

- Aquatic Species BA/BE – Reliable Power Project (*SFPUC*)
- Terrestrial Species BA/BE – Reliable Power Project (*SFPUC*)
- Management Indicator Species Report – Reliable Power Project (*SFPUC*)
- Migratory Bird Report – Reliable Power Project (*SFPUC*)
- Terrestrial and Aquatic Species BA – Lower Cherry Aqueduct (*SFPUC*)
- Terrestrial and Aquatic Species BE – Lower Cherry Aqueduct (*SFPUC*)
- Terrestrial and Aquatic Species BA/BE – Public Lands Lease Application (*Society for the Conservation of Bighorn Sheep*)
- Terrestrial and Aquatic Species BA/BE – Simon Newman Ranch (*The Nature Conservancy*)
- Draft EIR (Vegetation and Special-Status Plants) - Wildland Fire Resiliency Program (*Midpeninsula Regional Open Space District*)

Avian

- Study design and Lead Investigator - Delta Meadows State Park Special-Status Species Inventory *(CA State Parks: Locke)*
- Study design and lead bird surveyor - Placer County Vernal Pool Study *(Placer County: throughout Placer County)*
- Surveyor - Willow flycatcher habitat mapping *(USFS: Plumas NF)*
- Surveyor - Tolay Creek, Cullinan Ranch, and Guadacanal Village restoration projects *(Ducks Unlimited/USGS: San Pablo Bay)*
- Study design and Lead Investigator - Bird use of restored wetlands research *(Pennsylvania Game Commission: throughout Pennsylvania)*
- Study design and surveyor - Baseline inventory of bird species at a 400-acre site in Napa County *(HCV Associates: Napa)*
- Surveyor - Baseline inventory of bird abundance following diesel spill *(LFR Levine-Fricke: Suisun Bay)*

- Study design and lead bird surveyor - Green Valley Creek Riparian Restoration Site *(City of Fairfield: Fairfield, CA)*
- Surveyor - Burrowing owl relocation and monitoring *(US Navy: Dixon, CA)*
- Surveyor - Pre-construction burrowing owl surveys *(various clients: Livermore, San Ramon, Rio Vista, Napa, Victorville, Imperial County, San Diego County)*
- Surveyor - Backcountry bird inventory *(National Park Service: Eagle, Alaska)*
- Lead surveyor - Tidal salt marsh bird surveys (*Point Reyes Bird Observatory: throughout Bay Area*)
- Surveyor – Pre-construction surveys for nesting birds (*various clients and locations)*

Amphibian

- Crew Leader - Red-legged frog, foothill yellow-legged frog, and mountain yellow-legged frog surveys *(USFS: Plumas NF)*
- Surveyor - Foothill yellow-legged frog surveys *(PG&E: North Fork Feather River)*
- Surveyor - Mountain yellow-legged frog surveys *(El Dorado Irrigation District: Desolation Wilderness)*
- Crew Leader - Bullfrog eradication *(Trout Unlimited: Cleveland NF)*

Fish and Aquatic Resources

- Surveyor - Hardhead minnow and other fish surveys *(USFS: Plumas NF)*
- Surveyor - Weber Creek aquatic habitat mapping (*El Dorado Irrigation District: Placerville, CA*)
- Surveyor - Green Valley Creek aquatic habitat mapping *(City of Fairfield: Fairfield, CA)*
- GPS Specialist - Salmonid spawning habitat mapping *(CDFG: Sacramento River)*
- Surveyor - Fish composition and abundance study (*PG&E: Upper North Fork Feather River and Lake Almanor*)
- Crew Leader - Surveys of steelhead abundance and habitat use *(CA Coastal Conservancy: Gualala River estuary)*
- Crew Leader - Exotic species identification and eradication *(Trout Unlimited: Cleveland NF)*

Mammals

- Principal Investigator – Peninsular bighorn sheep resource use and behavior study (*California State Parks: Freeman Properties*)

- Scientific Advisor –Study on red panda occupancy and abundance in eastern Nepal *(The Red Panda Network: CA and Nepal)*
- Surveyor - Forest carnivore surveys *(University of CA: Tahoe NF)*
- Surveyor - Relocation and monitoring of salt marsh harvest mice and other small mammals *(US Navy: Skagg's Island, CA)*
- Surveyor – Surveys for Monterey dusky-footed woodrat. Relocation of woodrat houses (*Touré Associates: Prunedale*)

Natural Resource Investigations / Multiple Species Studies

- Scientific Review Team Member – Member of the scientific review team assessing the effectiveness of the US Forest Service's implementation of the Herger-Feinstein Quincy Library Group Act.
- Lead Consultant - Baseline biological resource assessments and habitat mapping for CDF management units *(CDF: San Diego, San Bernardino, and Riverside Counties)*
- Biological Resources Expert – Peer review of CEQA/NEPA documents (*various law firms, non-profit organizations, and citizen groups)*
- Lead Consultant - Pre- and post-harvest biological resource assessments of tree removal sites *(SDG&E: San Diego County)*
- Crew Leader - T&E species habitat evaluations for Biological Assessment in support of a steelhead restoration plan *(Trout Unlimited: Cleveland NF)*
- Lead Investigator - Resource Management Study and Plan for Mather Lake Regional Park *(County of Sacramento: Sacramento, CA)*
- Lead Investigator - Biological Resources Assessment for 1,070-acre Alfaro Ranch property *(Yuba County, CA)*
- Lead Investigator - Wildlife Strike Hazard Management Plan *(HCV Associates: Napa)*
- Lead Investigator - Del Rio Hills Biological Resource Assessment *(The Wyro Company: Rio Vista, CA)*
- Lead Investigator – Ion Communities project sites (*Ion Communities: Riverside and San Bernardino Counties*)
- Surveyor – Tahoe Pilot Project: Validation of California's Wildlife Habitat Relationships (CWHR) Model *(University of California: Tahoe NF)*

Forestry

Mr. Cashen has five years of experience working as a consulting forester on projects throughout California. Mr. Cashen has consulted with landowners and timber operators on forest management practices; and he has worked on a variety of forestry tasks including selective tree marking, forest inventory, harvest layout, erosion control, and supervision of logging operations. Mr. Cashen's experience with many different natural resources enable him to provide a holistic approach to forest management, rather than just management of timber resources.

REPRESENTATIVE EXPERIENCE

- Lead Consultant - CalFire fuels treatment projects *(SD and Riverside Counties)*
- Lead Consultant and supervisor of harvest activities – San Diego Gas and Electric Bark Beetle Tree Removal Project *(San Diego)*
- Crew Leader - Hillslope Monitoring Program *(CalFire: throughout California)*
- Consulting Forester – Forest inventories and timber harvest projects *(various clients throughout California)*

Grant Writing and Technical Editing

Mr. Cashen has prepared and submitted over 50 proposals and grant applications. Many of the projects listed herein were acquired through proposals he wrote. Mr. Cashen's clients and colleagues have recognized his strong scientific writing skills and ability to generate technically superior proposal packages. Consequently, he routinely prepares funding applications and conducts technical editing for various clients.

PERMITS

U.S. Fish and Wildlife Service Section 10(a)(1)(A) Recovery Permit for the Peninsular bighorn sheep

PROFESSIONAL ORGANIZATIONS / ASSOCIATIONS

The Wildlife Society

Cal Alumni Foresters

Mt. Diablo Audubon Society

OTHER AFFILIATIONS

Scientific Advisor and Grant Writer – *The Red Panda Network*

Scientific Advisor – *Mt. Diablo Audubon Society*

Grant Writer – *American Conservation Experience*

TEACHING EXPERIENCE

Instructor: Wildlife Management - The Pennsylvania State University, 1998

Teaching Assistant: Ornithology - The Pennsylvania State University, 1996-1997

PUBLICATIONS

Gutiérrez RJ, AS Cheng, DR Becker, S Cashen, et al. 2015. Legislated collaboration in a conservation conflict: a case study of the Quincy Library group in California, USA. Chapter 19 *in*: Redpath SR, et al. (eds). Conflicts in Conservation: Navigating Towards Solutions. Cambridge Univ. Press, Cambridge, UK.

Cheng AS, RJ Gutiérrez RJ, S Cashen, et al. 2016. Is There a Place for Legislating Place-Based Collaborative Forestry Proposals?: Examining the Herger-Feinstein Quincy Library Group Forest Recovery Act Pilot Project. Journal of Forestry.

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EDMOND STRICKLAND
Environmental Health Manager
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DEPARTMENT OF RESOURCE MANAGEMENT

SOLANO COUNTY

Environmental Health Division

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July 9, 2024

City of Dixon
Community Development Department
Attn: Brian Millar, Contract Planner
600 East A St.
Dixon, CA 95620

Re: Solano County Local Enforcement Agency comments on Draft Environmental Impact Report for The Campus project, City of Dixon

Dear Mr. Millar,

Thank you for the opportunity to provide comments pertaining to the Draft Environmental Impact Report (DEIR). The Solano County Local Enforcement Agency (LEA) for the regulation of solid waste has reviewed the DEIR. In earlier comments submitted to the City of Dixon, the LEA expressed concerns with how the abandoned closed landfill mitigation area and prohibitions would be handled during the development of the project, especially during the earthwork phase of the project and then once the project is occupied by the public and businesses.

The LEA understands that the restricted area will be not be divided into separate parcels but rather remain as one parcel owned by the City. The use of the restricted area will be a dog park, and a walking path including decorative plants, trees and sidewalks. However, the LEA still has concerns on how the area will be handled during the construction of The Campus and the long-term post construction maintenance of the area. The environmental hazards presented by the closed landfill have not been analyzed sufficiently in the DEIR, nor have they been characterized accurately.

For example, in section 3.9.1 of the DEIR 3.9.1 Environmental Setting "A Post Excavation Soil Gas Survey (Phase II ESA) was also prepared; refer to Appendix J. The Phase II ESA included background information regarding the property and the landfill clean closure process a description of the post excavation soil gas sampling activities; laboratory data; and a discussion regarding results." For clarification, the State of California Water Board is the agency with authority to determine the property is "Clean Closed" under the meaning of the appropriate statute.

To date this site is not officially "Clean Closed" with documentation of such by the California State Water Board. Instead, the LEA required the site to go through the process described in the regulations to assist in assessing the risks.

1) Potential risks during implementation of project are not fully analyzed, as construction can cause the release of VOCs present in the soil, as well as encountering contaminated soil.

On p. 297, the following is noted: "the Phase II ESA notes that it may be possible to allow for some construction in the area of the closed landfill with deed restricted areas provided that agency approved vapor intrusion mitigation measures (such as properly designed vapor barriers and venting

systems) are implemented." Therefore, Impact 3.9.1 is deemed less than significant. This seems to make the analysis internally inconsistent, as vapor mitigation measures such as properly designed vapor barriers and venting systems are already mitigations that the LEA will require in order to approve any construction adjacent and/or near the closed landfill boundaries. Moreover, the potential hazards of VOC exposure to the workers who will be constructing the site and employing these mitigation measures is not analyzed, nor is the possibility of encountering and needing to dispose of contaminated soil other than to recognize the deed restriction requirements. The DEIR should be revised to evaluate these risks properly.

2) Inherent risks of development at the site, especially around and adjacent to the closed landfill, are not fully analyzed

The analysis of the impacts of development as less than significant (Impact 3.9-3) is based entirely on the fact that the site is not listed under Government Code section 65962.5. Again, this analysis incorporates the deed restriction requirements for removal of hazardous soils. Moreover, the analysis of gas sampling minimizes the presence of VOCs and concludes that gas sampling in deeper levels is of no concern to future vapor intrusion risks. (p. 296.) The less than significant determination does not appear to consider a future potential for migration of deep landfill gases such as methane gas to migrate to the upper soil layers in this area and potentially release gasses through the soil into the atmosphere. The DEIR should be revised to evaluate the risks of the presence of gas more carefully, including whether additional monitoring should occur in the future as development progresses and how the Project will meet other post closure land use regulations.

Sincerely,

Jeff Bell, REHS
Environmental Health Supervisor

DIXON
RESOURCE
CONSERVATION DISTRICT

707.678.1655 | PHONE
1170 N. Lincoln Street, Ste. 110, Dixon, CA 95620

July 9, 2024

Attn: Brian Millar
City of Dixon Community Development Department
600 East A. St.,
Dixon, CA 95620
bmillar@cityofdixon.us

Re: Comments Regarding The Campus / Dixon 257 Project – Draft Environmental Impact Report (SCH #2023080739)

Dixon Resource Conservation District (Dixon RCD) thanks the City of Dixon (City) for the opportunity to provide comments on the Draft Environmental Impact Report for The Campus Project (DEIR).

Dixon RCD's review of the DEIR and supporting documentation demonstrates that the DEIR fails to comply with the requirements of the California Environmental Quality Act (CEQA). As explained in these comments, the DEIR lacks substantial evidence to support its conclusions with regard to the Project's significant drainage impacts. The City may not approve the Project until the City revises and recirculates the Project's DEIR to accurately analyze or minimize these impacts to the greatest extent feasible.

The DEIR Fails To Disclose, Analyze And Mitigate Potentially Significant Impacts

Dixon RCD's primary concern continues to be potential impacts from the plan to re-route water that originates offsite. Specifically, the DEIR does not sufficiently demonstrate the basis for its determination that impacts 3.10-3 and 3.10-8, related to drainage will be less than significant, with or without mitigation measures. Dixon RCD has determined that the technical analyses of changes to overland flow routing and the impacts to locations, depths and durations of flooding are missing from the DEIR. Please see attached detailed technical issues that should be resolved in a revised DEIR that is recirculated prior to consideration by City Council.

The Project has the potential to have the following significant impacts:

1. **Substantially alter the existing drainage pattern of the area**
2. **Substantially increase the rate and/or amount of surface runoff in a manner which would result in flooding offsite**
3. **Contribute runoff water which would exceed the capacity of existing stormwater drainage systems**
4. **Redirect flood flows**

Additionally, the DEIR and associated drainage study fails to demonstrate that there will not be significant impacts downstream as a result of the Project's plan to re-direct, channelize and accelerate flood flows originating offsite and discharge them to downstream properties and facilities that are without adequate capacity to accept them.

The DEIR fails to address the cumulative effects of conveyance of offsite water around the Project site, with or without additional pipes under Highway 80, or the channel and storm drain system that would re-route water from offsite around the NEQ and The Campus / Dixon 257 Project. In fact the DEIR does not even discuss the planned conveyance of water around the Project site.

The DEIR's discussion of existing drainage conditions and the drainage study fails to disclose and analyze the impacts of the Project related to historical ponding and detention of storm water on the Project site.

The "Regional Drainage System and Regional Detention Basin as a Potential Alternative to the Proposed Retention Basin" referenced on page 5 of the Project's Drainage Study relies on technical work that is ongoing and regional drainage project(s) that have not yet been decided on. The DEIR does not adequately address possible future scenarios by developing performance standards that will ensure no significant impacts on the existing drainage system. In addition, there are inconsistencies, related to calculations of existing flood storage on the Project site, between the technical work for the regional drainage efforts from West Yost and the Dixon 257 Drainage Study and DEIR from Morton & Pitalo.

The plan to re-route offsite water is in direct conflict with a key term in the Joint Powers Agreement between the City of Dixon, Dixon RCD, Reclamation District 2068 and Maine Prairie Water District, to not concentrate or accelerate drainage originating outside of the Northeast Quadrant of the City.

For the reasons discussed above, and in the attached "Detailed Technical Review Comments and Questions", the DEIR for the Project is inadequate under CEQA. It must be thoroughly revised to provide legally adequate analysis of, and mitigation for all of the Project's potentially significant impacts. These revisions will necessarily require that the DEIR be recirculated for public review. Until the DEIR has been revised and recirculated, as described herein, the City may not lawfully approve the Project.

Sincerely,

Kelly Huff, District Manager
Dixon Resource Conservation District

Attachments:

2019 Flooded Areas Map – West Yost Associates
Detailed Technical Review, Comments & Questions

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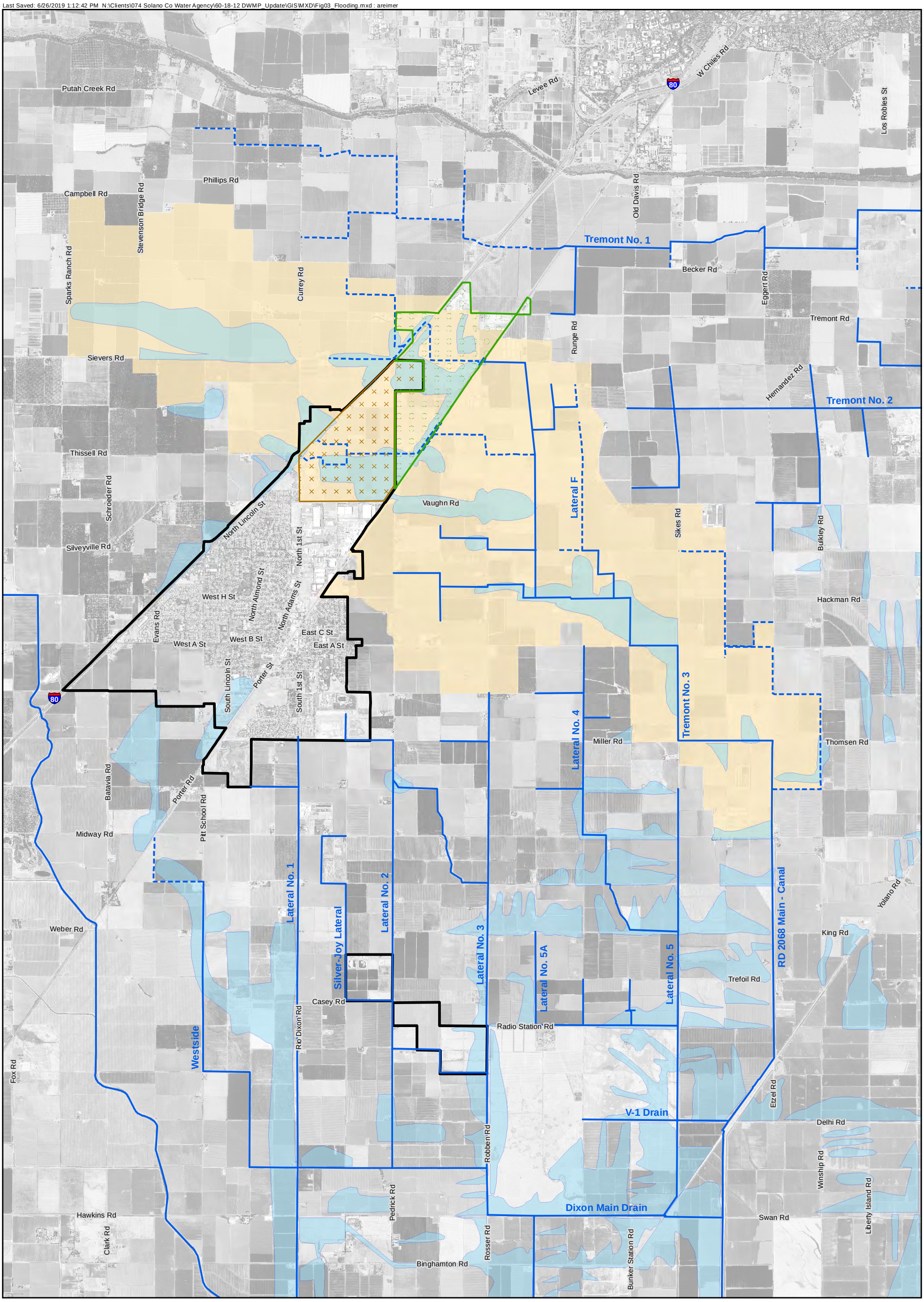

Symbology

- JPA Member Ditch
- Other Ditch
- Dixon Northeast Quadrant
- County Agricultural Industrial Service Area
- Tremont No. 3 Watershed
- Localized Flooding
- Dixon City Limits

Notes:
1. Flood delineation is from the January 1-2, 1997 storm event.

N

0 2,500 5,000

Scale in Feet

WEST YOST ASSOCIATES

Figure 3

Local/Routine Flooding Areas

Solano County Water Agency
Dixon Watershed Managment
Plan Update for the
Tremont 3 Watershed

Dixon RCD Detailed Technical Review, Comments and Questions,

based on review by Patrick Ho, MBK Engineers 6/30/2024

- **General Comment: Links to HEC-HMS model files were provided in the drainage study but download access was disabled by the uploader and files are not viewable on the browser. Without access to the model files the District cannot fully comment and the City should not move forward until making those files available. Please forward any links to new data to both kelly-huff@dixonrcd.org and ho@mbkengineers.com**

- Page 4 of drainage study: The swale starts with up to 57 cfs for 10 year / up to 193 cfs for 100 year and at Pedrick it is 135.9 cfs for 10 year and 204.3 cfs for 100 year**. These flow rates cannot be verified based on the report.**

- **Figure 2 on page 5 of the Drainage Study titled "Pre-Development vs. Post-Development Flow Rates at UPRR" cannot be understood for the following reasons:**

    - **Axes units are not labeled,**
    - **UPRR location is unknown.**
    - **The title Pre- and post- development flow would imply that there would be 2 lines. What do the other two lines mean**?

- The detention basin sizing, as well as analysis leading to it, is not complete. The retention basin water balance analysis shows a maximum stored volume of 233.1 ac-ft using the City of Dixon retention basin spreadsheet. The percolation loss assumed is 20 times larger than the spreadsheet template provided by the City of Dixon. The report states that the engineer assumes a loss of 4 inches per day and a specific geotechnical report documenting the long-term percolation rate shall be performed prior to final basin design approval. **The City is deferring an analysis that must occur before the CEQA document is certified.**

- **Please report the change in peak flows at Pedrick Road between with-Project and without-Project conditions during the 10-year and the 100-year flood events.**

- Per Section 3.1. Pre-Development Conditions, the report states that "The flow is conveyed across the NQSP lands via irrigation ditches and sheet flow."

  Does the model simulate sheet flow or is this anecdotal? Moreover, does the model consider that under existing conditions, the pre-development site detains a reasonable volume of water behind roads and embankments before flowing over Pedrick Road?

  Elevation versus storage rating curves should be developed using existing digital elevation model (DEM) to validate that the volume of water stored behind roads and major embankments reflects the calculated stages behind them. The report should demonstrate that lands and fields that had the ability to store water is reasonable calculated by the model.

- Per Section 3.2. Post-Development Conditions, the report states that offsite flows will now being collected and conveyed around the project site in a pipe / landscape swale to the existing drainage at Pedrick Road. **Under existing conditions the project site has the ability to detain or store water, the narrative implies that the post-project conditions will route water away from the proposed development and simply release offsite drainage onto neighboring properties without an attempt to detain or lag peak flows on the project site. This would alter the existing drainage pattern of the area and contribute runoff water which would exceed the capacity of existing drainage systems.**
- Figure 6-5 "Existing Drainage" in the drainage study fails to show the historical flooding on the Dixon 257 Project site. Figure 6-5 is not referenced in the main body of the drainage study. **If the intent is to show inundation extent. What flood event is this representing?**

  Please provide the basis and calculations that estimate that the project site currently provides 30 acre feet of flood storage during a 100-year event and that conclude that "about 14 ac-ft in the 100-year, 4-day design storm) from off-site needed to eliminate downstream drainage impacts."

- The Summary of Results on Page 9 of the Drainage Study concludes that the loss of existing flood storage on-site will not result in any significant increase of off-site flows or increase in downstream water surface elevations, which is mainly a result of removing 260 acres for the existing drainage shed area.

  Please provide the modeling and calculations that led to this conclusion.

- It also concludes that there will not be an increase in peak flow and water surface elevations downstream (Union Pacific Railroad) of the project site.

  Please provide the modeling and calculations that led to this conclusion.

AVDIS & CUCCHI, LLP
LAND USE + REAL ESTATE + ADVOCACY

July 9, 2024

VIA ELECTRONIC MAIL

City of Dixon
Community Development Department
Attn: Brian Millar, Contract Planner
600 East A St.
Dixon, CA 95620
bmillar@cityofdixon.us

Mr. Millar:

On behalf of Dixon 133, LLC ("Dixon 133"), we appreciate the opportunity to review and comment on the Draft EIR for the Campus Project. First, we commend City staff and the applicant for all their efforts. As an existing neighbor to the project site, Dixon 133 welcomes the addition of this project.

Just as Dixon 133 has made substantial contributions toward important right-of-way and infrastructure improvements along Dorset Drive, Vaughn Road and North 1st Street, so too will the Campus Project. We look forward to collaborating with the City and the applicant to ensure that shared infrastructure is efficiently planned and cost burdens are appropriately shared.

Please do not hesitate to contact Angelo K. Tsakopoulos or Mark Enes at (916) 383-2500.

Sincerely,

Daniel S. Cucchi

DEPARTMENT OF RESOURCE MANAGEMENT

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Planning Services Division

July 9, 2024

Mr. Brian Millar bmillar@cityofdixon.us
Project Planner
City of Dixon Community Development Department
600 East A. Street
Dixon, CA 95620

RE: Campus Project DEIR Comments

Dear Mr. Millar:

We appreciate the opportunity to provide the following comments on the Draft EIR for The Campus Project (Project).

Solano County previously provided comments on the Dixon Campus project application proposed in the Northeast Quadrant Specific Plan area in three letters dated June 2, 2023 and September 9, 2023 and March 3, 2024.

Impacts to Agricultural Operations and Economy

The County is concerned with the proposed location of commercial, office/business space and residential development, including high-density residential units, in proximity to existing agricultural and associated agricultural supported businesses along Pedrick Road and in the adjacent Industrial-Agricultural Services Area. This includes placing residences across from the Campbell's Soup Supply Company facility (Campbell's), an agricultural processing facility.

As identified in the previous comment letters, prime agricultural areas and critical agricultural supported businesses, including agricultural processors and trucking facilities, are located adjacent to the proposed Project site. This includes the Industrial-Agricultural Service (I-AS) zoning area located east and north of the Project. Campbell's, located on Pedrick Road, employs 200 people during tomato season and processes approximately 450,000 tons of tomatoes / year as it supports our local and regional tomato farmers. The tomato crop is typically one of the highest economic drivers in agricultural processing in the County, yielding approximately $46 million dollars in 2022. Its continuing operation in the County is of the highest priority. Any project that would cause Campbell's and other ag-supported industries to relocate is of serious concern to the County.

Residential development is proposed to be located directly along Pedrick Road across from the Campbell's and other critical ag-supported industry facilities. The proposed proximity of residences to an existing agricultural processing facility and support businesses creates a potential conflict. The Illustrative Land Use Plan (Figure 2-7) provided in the DEIR does not provide an adequate ag-urban

buffer, aside from landscaping, between the various uses contemplated in the Project and the agricultural production and agriculturally supporting land uses adjacent to the Project along Pedrick Road.

The March 3, 2024 letter requested the incorporation of a buffer along the Project's Pedrick Road frontage to mitigate potential noise, traffic, air quality, and aesthetic impacts between the existing and proposed opposing land uses. Further, the County requested that the Draft EIR evaluate alternative configurations on the geographic locations of the residential and commercial units within the Project site, ingress and egress points, and buffer space between the residence units and the surrounding agricultural-industrial facilities to mitigate potential conflicts in traffic congestion, noise / nuisance, and other environmental issues at this ag-industrial / Project interface. Based on Figure 2-7, it does not appear that any buffer is being proposed and that land uses have not been reconfigured. The County requests further analysis and discussion of including such a buffer or reconfiguration of land uses to minimize potential noise, air qualify, and traffic related impacts.

Transportation

The development proposes significant changes to the circulation of the area that raises concerns that the transportation impacts as outlined in SECTION 3.15 of the project report are not fully developed and may have significant impacts to local and regional traffic.

Per the EIR, SECTION 3.15—TRANSPORTATION and Mixed-Use Zoning Traffic Impacts

SECTION 3.15—TRANSPORTATION

- **Impact 3.15-1**: The project does not conflict with any program plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities. *This impact is considered less than significant, and no mitigation is required.*
- **Impact 3.15-2**: The project is potentially inconsistent with CEQA Guidelines Section 15064.3, subdivision (b) concerning Vehicle Miles Traveled (VMT). This is a potentially significant impact, requiring mitigation measures. *However, even with mitigation, the impact remains significant and unavoidable.*
- **Impact 3.15-3**: The project does not substantially increase hazards due to a geometric design feature or incompatible uses. *This impact is considered less than significant, and no mitigation is required.*
- **Impact 3.15-4**: The project would not result in adverse impacts due to construction activities. *This impact is considered less than significant, and no mitigation is required.*
- **Impact 3.15-5**: The project, in combination with other cumulative developments, would be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b) regarding VMT. This is a cumulatively considerable and significant impact. *Mitigation measures are required, but the impact remains significant and unavoidable.*
- **Impact 3.15-6**: The project, in combination with other cumulative developments, could substantially increase hazards due to a geometric design feature or incompatible uses. *This impact is considered less than significant, and no mitigation is required.*

Solano County Comments on Mixed-Use Zoning Traffic Impacts

1. **Local Traffic Impacts**: The higher density housing in the Mixed-Use zoning area will create significant traffic impacts on the County's unincorporated roads due to local service trips

generated by residents of the new development. This aligns with **Impact 3.15-1**, which notes that the project does not conflict with circulation system policies, but the increased local traffic and VMT on unincorporated roads is an overlooked concern. The project proposes to close Vaughn Road which will create congestion and VMT impacts to general circulation in the area. Specific roads that will be minimally impacted include:

- **Pedrick Road**: from the railroad tracks south to Midway Road.
- **Vaughn Road**: from Pedrick Road to Dixon city limit.
- **Dixon Avenue East**: from Pedrick Road to Dixon city limit.

2. **Regional Traffic Impacts**: The higher density housing will also create significant impacts on the County's unincorporated roads due to regional traffic. As noted in **Impact 3.15-2** and **Impact 3.15-5**, the project is inconsistent with CEQA Guidelines Section 15064.3 regarding VMT, indicating that regional traffic impacts are significant and unavoidable. The congestion on Interstate 80 leads to off-route trips using Solano County roads to reduce travel time. Increased traffic will minimally impact:

   - **Currey Road**
   - **Mace Boulevard**
   - **Midway Road**
   - **Pedrick Road**
   - **Pitt School Road**
   - **Robben Road**
   - **Sievers Road**
   - **Sparling Lane**
   - **Tremont Road**
   - **Vaughn Road**

   It is highly recommended that the EIR consider further analysis and review with the Napa Solano Activity Based Traffic Model to identify the actual impacts on the County roads. Off-site impacts should include potential improvements needed to potentially mitigate the project impacts.

3. **Vehicle Miles Traveled (VMT)**: The development does not adequately mitigate vehicle miles traveled from trips that generate significant lengths to access services needed to support dense residential development. This concern is validated by **Impact 3.15-2** and **Impact 3.15-5**, which highlight the significant and unavoidable VMT impacts even with mitigation efforts. Road closure and intensive land uses not fully considered within the zoning of this area in the City's General Plan will create greater traffic impacts and VMT. These issues needs more robust mitigation measures to reduce overall environmental impacts.

Proper planning and adjustments are necessary to ensure the long-term success and sustainability of the development.

Groundwater Sustainability

1) The DEIR states on Pg. 3.16-24 that "*The City is a participant in the Solano Subbasin Groundwater Sustainability Agency (SSGSA) for the purpose of working collaboratively to*

sustainably mange the groundwater basin as required by the Sustainable Groundwater Management Act of 2014 (SGMA).", However, it is not clear whether the City of Dixon has consulted with the Solano Subbasin GSA or solicitated input from the GSA regarding the Dixon Campus project water supply proposal. Similar concerns were noted in an earlier county staff comment letters to the City of Dixon dated June 2 and October 1, 2023 (attached).

2) The DEIR has indicated that the technical analyses presented in the Dixon 257 Water Supply Assessment and Study in Appendix H and I, respectively, have shown that the City's projected water supplies are sufficient to meet existing and projected future water demands. However, the analysis only broadly evaluated the sufficiency of the groundwater supply by stating that the Solano Subbasin is not in overdraft and the City does not have a contract that limits its groundwater use (Appendix H, pg. 16). The project does not demonstrate or provide any evidence of how the additional future project demand may impact the sustainability of the Solano Subbasin in the Northwest Focus Area where the proposed new wells will be located. The groundwater levels in this localized area, as designated in the Groundwater Sustainability Plan, have been consistently declining in the last 20 years.

3) The DEIR does not address how the future pumping capacity of 14,500 gpm at full buildout as compared to the current pumping capacity of 8,500 gpm may impact or interfere any shallow wells in the vicinity and outside city limits.

Recommendations - The City of Dixon should initiate engagement and coordination with the Solano Subbasin GSA (GSA) to evaluate the level of impacts that may be contributed by the additional groundwater supply and pumping capacity.

Water Quality

This proposed well site for a public water system at full buildout will be located in the vicinity of the historic Dixon Downs / Mistler Farms landfill site and the Dixon Consultation Zone. Further evaluation should be conducted as it appears that the potential for pumping contaminated water for potable use and the exposure to harmful chemicals to the public for health and safety concern have not been considered and addressed in the DEIR. Further details of these concerns for the proposed well may be found in county staff's earlier comment letters dated June 2 and October 1, 2023.

Drainage and Floods

The proposed on-site drainage design for the project is to route all surface runoff to the 255 AF retention basin at the south end of the Campus Project site and proposed to retain project water to reduce impacts to Dixon RCD facilities. However, County staff encourages the City of Dixon not only to develop and implement nature-based drainage and basin design solutions on-site for the project, but also to continue to coordinate and partner with regional drainage agencies to the design of the project drainage system as an integrated regional drainage solution to managing regional floods and water supply issues such as reuse or/and groundwater recharge.

Per the EIR, page ES-33:

Impact 3.10-3: Implementation of the proposed Project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite; create or contribute runoff water which would exceed the

capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or impede or redirect flood flows.

Comments:

1) The drainage report shows only post total development drainage outflows. The plan should include reduced outflows and capture for all phases of development.
    a. Development in phases may increase rates of runoff unless drainage system is built first.
2) Figure 2-10 (Proposed NEQSP Drainage System) is too vague and does not provide drainage specificity for the development:
    a. Areas with the highest impervious development will create increased stormwater runoff.
    b. Show post development pipe sizes for each SD and the drainage sheds that each pipe manages.
3) Discrepancy between the map provided for this draft report and the map provided for the previous draft reports; it seems that the prior drainage plan had more variance in stormwater mitigation systems with the combination of channels, swales, and pipes.
4) What is the maintenance plan for the drainage system? Possible concern due to only four SD pipes and one main drainage pipe to available to intake the increase of post development stormwater. Without any redundancy, failure of any pipe/drain may impact the adjacent properties within County jurisdiction.

Closed Landfill

The Solano County Local Enforcement Agency (LEA) for the regulation of solid waste has reviewed the DEIR. In earlier comments submitted to the City of Dixon, the LEA expressed concerns with how the abandoned closed landfill mitigation area and prohibitions would be handled during the development of the project, especially during the earthwork phase of the project and then once the project is occupied by the public and businesses.

The LEA understands that the restricted area will be not be divided into separate parcels but rather remain as one parcel owned by the City. The use of the restricted area will be a dog park, and a walking path including decorative plants, trees and sidewalks. However, the LEA still has concerns on how the area will be handled during the construction of The Campus and the long-term post construction maintenance of the area. The environmental hazards presented by the closed landfill have not been analyzed sufficiently in the DEIR, nor have they been characterized accurately.

For example, in section 3.9.1 of the DEIR 3.9.1 Environmental Setting “A Post Excavation Soil Gas Survey (Phase II ESA) was also prepared; refer to Appendix J. The Phase II ESA included background information regarding the property and the landfill clean closure process a description of the post excavation soil gas sampling activities; laboratory data; and a discussion regarding results.” For clarification, the State of California Water Board is the agency with authority to determine the property is “Clean Closed” under the meaning of the appropriate statute.

To date this site is not officially “Clean Closed” with documentation of such by the California State Water Board. Instead, the LEA required the site to go through the process described in the regulations to assist in assessing the risks.

1) Potential risks during implementation of project are not fully analyzed, as construction can cause the release of VOCs present in the soil, as well as encountering contaminated soil.

On p. 297, the following is noted: “the Phase II ESA notes that it may be possible to allow for some construction in the area of the closed landfill with deed restricted areas provided that agency approved vapor intrusion mitigation measures (such as properly designed vapor barriers and venting systems) are implemented.” Therefore, Impact 3.9.1 is deemed less than significant. This seems to make the analysis internally inconsistent, as vapor mitigation measures such as properly designed vapor barriers and venting systems are already mitigations that the LEA will require in order to approve any construction adjacent and/or near the closed landfill boundaries. Moreover, the potential hazards of VOC exposure to the workers who will be constructing the site and employing these mitigation measures is not analyzed, nor is the possibility of encountering and needing to dispose of contaminated soil other than to recognize the deed restriction requirements. The DEIR should be revised to evaluate these risks properly.

2) Inherent risks of development at the site, especially around and adjacent to the closed landfill, are not fully analyzed

The analysis of the impacts of development as less than significant (Impact 3.9-3) is based entirely on the fact that the site is not listed under Government Code section 65962.5. Again, this analysis incorporates the deed restriction requirements for removal of hazardous soils. Moreover, the analysis of gas sampling minimizes the presence of VOCs and concludes that gas sampling in deeper levels is of no concern to future vapor intrusion risks. (p. 296.) The less than significant determination does not appear to consider a future potential for migration of deep landfill gases such as methane gas to migrate to the upper soil layers in this area and potentially release gasses through the soil into the atmosphere. The DEIR should be revised to evaluate the risks of the presence of gas more carefully, including whether additional monitoring should occur in the future as development progresses and how the Project will meet other post closure land use regulations.

We appreciate the opportunity to provide comments on the proposed Project. Please do not hesitate to contact me (jmbezek@solanocounty.com) if you have any questions or require additional information.

Sincerely,

James Bezek,
Solano County Director of Resource Management

Cc: Bill Emlen, CAO

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DEPARTMENT OF RESOURCE MANAGEMENT

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June 2, 2023

Brian Millar
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530.902.9218

RE: Project Application Referral for a 257-acre parcel in the Northeast Quadrant Specific Plan Area, referred to as Dixon 257 (City Planning Application (PA23-16) - Rezoning (RZ23-01), Specific Plan Amendment (SP23-01), Tentative Map (TM23-01).

Mr. Millar,

Thank you for the opportunity to provide early comments pertaining to the Dixon 257 project application and for providing access to the documents "*Agency Referral Dixon 257 Formal Application*" and "*23.0314 The Campus NEQSP Amendment – Project Description*" for county staff review. This project involves amendment to the City's Northeast Quadrant Specific Plan and Municipal Code to support a proposed mixed-use development of approximately 257 acres that will include:

- 47-acre technical campus with approximately 660,000 sq. ft. of building space
- Within the technical campus would be 2 acres of commercial uses
- 10 acres of high-density residential housing, with up to 250 residential units
- 142 acres of low-density residential housing, with 800-850 residential units
- Parks and paseos
- Storm drainage detention basin
- Well/tank site
- Related improvements and infrastructure.

The site is bounded by Pedrick Road to the east; commercial and industrial uses and Vaughn Road to the south, commercial and industrial uses and Interstate 80 to the west; and agricultural and industrial uses to the north. The project is expected to be developed pursuant to a phasing plan, with project build-out occurring over many years.

The proposed plan for the 257 project features an ambitious mixed-use layout that is housing centric. Based on the current housing shortage that exists region wide, the plan has potential to meet identified needs. The mix of housing units seems tilted towards low density residential dwellings, which may not fully meet regional needs for workforce type housing. As the plan evolves, hopefully there will be consideration for a range of housing types accessible to all income levels. In terms of the overall plan, the County has some specific issues with the juxtaposition of certain residential uses and adjacent agricultural uses and activities, and requests possible reconfiguration of the land plan and consideration of more substantive buffers, especially to the existing and potential agricultural support industries located in the adjacent Industrial-Agricultural Services Area. These fundamental suggestions and other more detailed recommendations are highlighted as follows.

The Project's Current Development Plan May Impact the Sustainability of the Region's Agricultural Operations and Economy

Campbell's Soup Supply Company (Campbell's), located on Pedrick Road, employs 200 people during tomato season and processes approximately 450,000 tons of tomatoes / year as it supports our local and regional tomato farmers. The 2022 tomato crop yielded approximately $46 million dollars and is projected to be well over $60 million for the 2023 season. It is of the highest priority to retain Campbell's at their current location. Any project that would cause Campbell's to relocate is of serious concern to the County. Campbell's would likely cause an unpredictable landscape shift in local agriculture, forcing growers to move to less valuable crops and would have a substantial impact on local jobs, trucking companies, fuel suppliers, other ag support services and more, due to the loss of a regional tomato processing facility that supports their farming operations. Hence, this vital agricultural support facility must be supported and protected from impact.

In the project's current configuration, the Preliminary Land Plan creates the potential for negative impacts to Campbell's. Conflict is especially likely during the mid-July to Mid-October harvest season when Campbell's operates 24 hours a day and receives an average of 240-250 trucks per day. As portrayed in the information reviewed by the Department, the project places housing directly across from the Campbell's and includes several intersections along Pedrick Road, one of which is directly across from their facility. This intersection, and Pedrick Road in general, could be expected then to have a substantial increase in residential and commercial traffic associated with construction and from the on-going occupancy of the project's residential and commercial/technical development. The increase traffic at these intersections, and along Pedrick Road, is anticipated to have a significant impact on Campbell's, and agricultural trucking in general, that utilizes Pedrick Road.

Recommendations:

- With a site plan alteration and relocation of the proposed "Tech Park" adjacent to Campbell's and relocation of residential units aways from Campbell's may provide improved buffering between the proposed residences and the existing agricultural-industrial operations.
- If the site plan is not altered as suggested above, significant agricultural/landscape buffers (landscape berms and mixed height plantings) should be incorporated along the west side of Pedrick Road to reduce noise issues the residents may perceive from Campbell's and other industrial uses and potential residents should be notified of county right-to-farm policies. Additionally, the 225 proposed high-density units could be relocated to the west, closer to Professional Drive to further mitigate the potential for noise disturbances from agricultural operations at Campbell's.
- Project should be designed such that its roads and intersections would not significantly impact existing agricultural support facilities and trucking routes associated with Campbell's.

Creation of Nuisances

The Preliminary Land Plan creates residential neighborhoods that are in proximity to the County's Industrial-Agricultural Service Area that supports around the clock agricultural operations, including processing operations during harvest season. This design ignores current activity and creates a condition where the City is placing its future residents and existing agricultural support operations in direct conflict with each other. It is highly anticipated that conflicts related to noise, light, odors, and traffic will occur from implementation of this design.

Recommendations:
The project should be redesigned to minimize creation of nuisance from Urban-Agriculture interface, including Industrial-Agricultural operations that support the County's agricultural activity.

Regional traffic impacts

The higher density housing in the Mixed-Use zoning area will create significant traffic impacts to the County's unincorporated roads from local traffic. This includes increased traffic on:

a. Pedrick Road, from the railroad tracks south to Midway Road
b. Vaughn Road, from Pedrick Road to Dixon city limit
c. Dixon Avenue East, from Pedrick Road to Dixon city limit

The project will also create significant impacts to the County's unincorporated roads from regional traffic (from Dixon to outside Dixon). The traffic congestion hours on Interstate 80 create off-route trip impacts along the County's unincorporated roads which provide travel time relief. The regional service trip generation from residents of the new development will generate increased traffic on:

a. Currey Road
b. Mace Boulevard
c. Midway Road
d. Pedrick Road
e. Pitt School Road
f. Robben Road
g. Sievers Road
h. Sparling Lane
i. Tremont Road
j. Vaughn Road

The development needs to specify adequate mitigation for the vehicle miles traveled from trips generated to reach the services needed to support the residential development. This could include improved bicycle and sidewalk connectors, improved transit, realignment of roads, and/or more commercial opportunities within the development to reduce the number and length of vehicle trips from the project. Also, the project needs to account for impacts to Pedrick Road and other unincorporated County roads when I-80 is impacted.

Concerns Regarding the Project's Protection of Public Health and Safety and Comments on Infrastructure (Water, Sewer, Drainage)

Development is proposed in Close Proximity to a Closed Landfill:

On page 34 of the document "347-001 Pedrick Road Property Phase 1 ESA" the former Mistler Farm Facility identifies an abandoned landfill area. A portion of the parcel was used as a landfill and is under regulation by the Solano County Local Enforcement Agency (LEA). The LEA has worked with the City and its consultants over the last several years, including reviewing the waste removal that recently occurred. At no time did the City share with the LEA its immediate plans to rezone and develop the area surrounding the parcel. As the City's documents indicate, a deed restriction is located along a portion of the western boundary of parcels 0111-040-010 and 0111-040-040. The deed restriction defines the

former closed landfill mitigation area and prohibits not only any residential structure but also any building whatsoever to be built there. Post waste extraction gas testing revealed that the mitigation area contains Volatile Organic Chemicals, in the form of soil gas, which are a known hazard to the public health and safety. A cursory review of the Preliminary Land Plan shows that at least two, maybe three lots are placed over this prior landfill area.

The LEA has concerns with how this restricted area will be handled during the development of the project, especially during earthwork of the project area and then once the project is occupied by the public and businesses. Questions include:

- How is this restricted area going to be managed and who is responsible?
- Is the restricted area going to be dug out, trenched, etc. and if trenching or digging is done, what will happen with the contaminated soil? How will the owner ensure that the soil is handled properly?
- Will the restricted area be roped off from the earthwork? How will the restricted area be used during the development of the project (e.g.- staging, parking, etc.)?
- How will the restricted area be identified and kept separate during re-zoning and parcel development?
- What will be the ultimate use of the restricted area be after the development is complete?

Recommendation:

- The LEA requests a detailed plan of the proposed work in the restricted area. The plan should include and identify current parcels, proposed parcels, work proposed, project use of the area, soil handling, and disposal. The LEA needs this information to determine if the project meets the post closure land use regulations and ensures that the public will not be exposed to these chemicals.
- Identify the measure and test results (hydrology and soil and groundwater testing) demonstrating the water supply is safe from contamination.

Groundwater and Water Supply:

The Draft Water Study, dated January 2023, prepared by Morton & Pitalo ("Water Study") includes a proposed Public Water System (PWS) water well location within the boundaries of parcel 0111-040-010. This lies in proximity (450-700 ft.) to the historic Dixon Downs / Mistler Farms landfill site, which is listed under the California State Calrecycle Solid Waste Information System (SWIS) #48-CR-0024 as described above. What measures will be taken to protect residents from residual contaminants associated with the former site usage and landfill?

Also, the Dixon Consultation Zone, which is the Dixon Business Park, is an open remediation site due to nitrate contamination of groundwater from a former stockyard, Monfort meat processing facility, which had unlined wastewater disposal ponds. One of the proposed water supply wells for the development is less than one mile north of this Dixon Consultation Zone (Zone). The Regional Water Quality Control Board (RWQCB) requires that Solano County coordinate and consult with them during the permitting process on the location and design of any new potable water supply wells proposed within the Zone.

The applicant will need to secure a water well drilling permit from Solano County Environmental Health to drill the proposed water well supplying the development. Due to the proposed location's proximity to the closed landfill and Zone, Environmental Health will require approval for the well location from the Division of Drinking Water (DDW) to approve and issue a water well drilling permit at this location. Environmental Health encourages the applicant to contact the Division of Drinking Water: Marco Pacheco, P.E., Senior Water Resource Control Engineer, San Francisco District, Division of Drinking

Water, State Water Resources Control Board, 850 Marina Bay Parkway, Bldg. P-2nd Fl., Richmond, CA 94804; Phone: (510) 620-3454; E-mail: marco.pacheco@waterboards.ca.gov.

The provided application materials do not contain approval of a Preliminary Technical Report (PTR), or any documentation from DDW, which indicates that they have approved the siting of a PWS water well in this location, nor expansion of the existing City of Dixon Public Water System CA4810009.
Additionally, the Water Study proposes a single 12-inch diameter point of connection from the existing Dixon water infrastructure, on Vaughn Road, to the project area. The Water Study acknowledges that this contrasts with the four points of connection proposed under the existing City of Dixon Water System Master Plan (WSMP). SCEH highly recommends multiple points of connection between the existing water infrastructure and the proposed development water infrastructure to allow for easier repair and maintenance and provides system redundancy in case of an emergency or damage to the system.

Environmental Health is not familiar with the 2016 City of Dixon Water System Master Plan (WSMP) but would encourage the City of Dixon to ensure the WSMP Demand Value calculations used in the Water Study have taken the State's recent (circa 2021-2023) lessening of restrictions on the construction of Accessory Dwelling Units (ADUs). While not every residential lot within the proposed development will seek to construct an ADU, a significant percentage may, and this additional water demand may need to be factored into the 2016 WSMP.

Since the City of Dixon is a member of the Solano Subbasin Groundwater Sustainability Agency (GSA) and overlies the Solano Subbasin, any changes in the City's groundwater supply will need to be documented in the Groundwater Sustainability Plan (GSP) Annual Groundwater Reporting to monitor any unintended consequences. One of the proposed wells is located east of the Northwest Focus Area identified in the Solano Subbasin GSP where consistent decline in groundwater levels have been documented over the last twenty years. Due to the capacity of the proposed well (1,500 gpm) and its vicinity to this area of declining water table, it is prudent to have a better understanding of the wells hydro-geological impacts on surrounding wells and the aquifer.

Recommendation:

- The city and developer(s) should coordinate with the Regional Water Quality Control Board and County regarding any new well siting and requirements for municipal purposes due to onsite and surrounding past and existing land uses even though it is not exactly within the Dixon Consultation Zone. Evaluation should be done to ensure that a municipal well in this area would not substantially change hydrology and lead to expansion of impacted areas.
- The City shall keep the Solano GSA informed and updated for any future changes in its water supply and coordinate with the Solano GSA in any future groundwater development.

Sewer

The Draft Sewer Study, dated February 16, 2023, prepared by Morton & Pitalo ("Sewer Study") includes Table 4: Sewer Capacity Analysis Summary, which appears to propose that some sewer mains (21-inch diameter) are installed with as little as a 0.0009 (0.09%) slope. The study also appears to propose that sewer lines (6-inch diameter) can be installed with as little as a 0.0011 (0.11%) slope. Environmental Health is concerned that these slopes may not provide adequate sewage velocity and encourages the applicant to provide justification for these slopes.

Additionally, the Sewer Study proposes a single point of connection between the existing City of Dixon sewer infrastructure and the project area. SCEH highly recommends multiple points of connection between the existing sewer infrastructure and the proposed development sewer infrastructure – this may allow for easier repair and maintenance and provides system redundancy in case of an emergency or damage to the system.

Recommendation:

- Work with permitting agencies (Regional Water Quality Control Board; Public Works) to ensure that the design of the sewer system provides proper slopes and redundancy reduce public health hazards from blockages.

Drainage

Solano County is currently working on a One Water Framework to facilitate an integrated approach to water resource planning and management. The planning of drainage, water supply, and sewer system within the Dixon 257 project should consider approaches to address drainage, groundwater protection, and other beneficial regional solutions. Water flows across jurisdictional boundaries as noted in the draft Drainage Study that the drainage water temporarily stored in the detention basin will eventually be discharged into the Tremont 3 drainage system, which is in the unincorporated area. We encourage the City and project proponents to consider drainage and basin designs to maximize groundwater recharge or other potential reuse, a much-needed resource for the local area through multi-benefits.

Recommendation:

- The city, developer, GSA, and the surrounding drainage agencies (i.e., SID, RCDs, RD 2068) should coordinate and collaborate in their efforts of finding integrated solutions to drainage, sewer, and water supply challenges by maximizing benefits in their project development.

Note: The project proposes sewer, water, and drainage improvements in areas immediately adjacent to the County's existing Industrial-Agricultural Service Area that contains existing agricultural support facilities, including Campbell's. These ag-service industries utilize individual wastewater collection and disposal systems, water supply wells and on-site drainage facilities. The County Board of Supervisors held a priority setting session on April 18, 2023 that identified the need for a countywide master utility study to help support economic development and agricultural development and preservation. Provision of community sewer, water, and drainage could be beneficial for existing businesses and allow further development of agricultural support industry in this zoning district. Opportunity exists for the City and County to evaluate potential partnerships that may be beneficial to both entities to determine and provide the infrastructure needs throughout the area to further promote economic development and agricultural preservation/development.

Again, thank you for the opportunity to comment. Please contact me with any questions at 707-784-3157 or tschmidtbauer@solanocounty.com.

Sincerely,

Terry Schmidtbauer

Terry Schmidtbauer
Director of Resource Management

TERRY SCHMIDTBAUER
Director
tschmidtbauer@solanocounty.com

JAMES BEZEK
Assistant Director
jmbezek@solanocounty.com

DEPARTMENT OF RESOURCE MANAGEMENT

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September 29, 2023

Mr. Raffi Boloyan rboloyan@cityofdixon.us
Community Development Director
City of Dixon Community Development Department
600 East A. Street
Dixon, CA 95620

RE: Notice of Availability and Intent to Prepare an Environmental Impact Report for the Campus Project

Dear Mr. Boloyan:

We appreciate the opportunity to provide the following comments on the Notice of Preparation (NOP) for the Environmental Impact Report for The Campus Project (Project). Based on the NOP, the Campus Project site comprises approximately 260 acres, or 40%, of the City's Northeast Quadrant Specific Plan area and is proposed to include the following:

- A mixed-use development, including a 48-acre Dixon Opportunity Center (DOC) comprised of Light industrial uses, a Tech-Campus, and a business park; and
- Approximately 144 acres of residential uses to include 1,041 units of varying densities; and
- Approximately 2.5 acres of commercial uses.

The Project is located entirely within the City of Dixon and its Municipal Service Area (MSA) boundaries, immediately west of the unincorporated area designated as Limited Industrial by the 2008 Solano County General Plan (GP Figure LU-7). Uses within the Dixon Limited Industrial area are intended to be agriculturally related and permitted uses include agricultural services such as the storage or sales of product for commercial agriculture, agricultural processing, and corporation yards for the storage and maintenance of agricultural equipment. County Zoning identifies this area as Industrial-Agricultural Service "I-AS".

Solano County previously provided comments on the Dixon 257 project application proposed in the Northeast Quadrant Specific Plan area in a letter dated June 2, 2023, which is attached. Many of the comments in the June 2nd letter pertain to this Project in terms of the plan for the area. Specifically, the County is concerned with the proposed location of commercial, office/business space and residential development, including high-density residential units, in proximity to existing agricultural and associated agricultural supported businesses along Pedrick Road and in the adjacent Industrial-Agricultural Services Area. This includes placing residences across from the Campbell's Soup Supply Company facility (Campbell's), an agricultural processing facility. The County recommends reconfiguration of the Project's land plan and consideration of a more substantive spatial buffer within City limits to mitigate potential conflict between the Project and the County's Industrial-Agricultural Service Area and other nearby agricultural businesses and uses. Other concerns regarding noise, traffic, water, sewer, and drainage remain relevant in the preparation of CEQA document. These

fundamental suggestions and others are highlighted below and emphasize the need for specific environmental resources to be analyzed in the DEIR for potentially significant impacts associated with the implementation of the Project.

Impacts to Agricultural Operations and Economy

As identified in the June 2, 2023 letter, prime Agricultural areas and critical agricultural supported businesses, including agricultural processors and trucking facilities, are located adjacent to the proposed Project site. This includes the Industrial-Agricultural Service (I-AS) zoning area located east and north of the Project. Campbell's, located on Pedrick Road, employs 200 people during tomato season and processes approximately 450,000 tons of tomatoes / year as it supports our local and regional tomato farmers. The tomato crop is typically one of the highest economic drivers in agricultural processing in the County, yielding approximately $46 million dollars in 2022. Its continuing operation in the County is of the highest priority. Any project that would cause Campbell's and other ag-supported industries to relocate is of serious concern to the County.

Residential development is proposed to be located directly along Pedrick Road across from the Campbell's and other critical ag-supported industry facilities. The proposed proximity of residences to an existing agricultural processing facility and support businesses creates a potential conflict. The Illustrative Land Use Plan (Figure 6) provided in the NOP does not provide an adequate ag-urban buffer, aside from landscaping, between the various uses contemplated in the Project and the agricultural production and agriculturally supporting land uses adjacent to the Project along Pedrick Road. The increased congestion from the Project at the intersections along Pedrick Road will substantially impact Campbell's and the other ag-supported industry utilizing Pedrick Road accesses.

Incorporating a buffer along the Project's Pedrick Road frontage to mitigate potential noise, traffic, and aesthetic impacts between the existing and proposed opposing land uses should be considered. Clearly define the ag-urban buffer components which may include the width, proposed uses or landscaping. The Draft EIR should also evaluate alternative configurations on the geographic locations of the residential and commercial units within the Project site, ingress and egress points, and buffer space between the residence units and the surrounding agricultural-industrial facilities to mitigate potential conflicts in traffic congestion, noise / nuisance, and other environmental issues at this ag-industrial / Project interface.

Regional Traffic Impacts

As identified in the June 2, 2023 letter, high density residential usage proposed in the Project will create significant traffic and congestion impacts to the county roads and connectors. The Project needs to thoroughly examine and mitigate the potential local and regional traffic and road impacts. Please refer to the June 2, 2023 letter for specific concerns.

Redesign of ingress and egress points to minimize impact on existing agricultural support facilities and processing plants should be considered and evaluated. The DEIR should analyze impacts associated with the Pedrick Road / I-80 intersection and the potential traffic conflicts of the proposed urban development and the commercial agricultural and industrial operations on Pedrick Road and other County roads (refer to the June 2, 2023 letter).

Water Facilities & Groundwater Quality & Quantity

The Project is proposing to serve domestic water through a new water infrastructure and municipal well. The new well is proposed on the north side of the Project site, adjacent to Professional Drive. As identified in our letter dated June 2, 2023, the former Dixon Consultation Zone/Dixon Business Park is a contaminated site within the Project area due to its groundwater nitrate plume. Operations from a new municipal well may cause the residual contaminant plume from this and other known or unknown sites in the region to spread and create impacts to the new well or surrounding wells. Additionally, the NOP does not discuss the potential for off-site impacts.

To continue to protect the health and safety of the Project residents, a groundwater quality monitoring network should be proposed in coordination with the Solano Subbasin Groundwater Sustainability Agency (GSA) to track any movement and migration of contaminant plumes that may have accelerated due to the pumping of the proposed nearby well. The City of Dixon (City) should coordinate with the Regional Water Quality Control Board and County regarding the well permitting process and requirements for the siting and construction of the new well.

The City is a member of the Solano Subbasin Groundwater Sustainability Agency (Solano GSA). Any changes in the City's groundwater supply and quality will need to be documented in the Groundwater Sustainability Plan (GSP) including annual groundwater reporting to monitor any unintended consequences. The proposed well is located east of the Northwest Focus Area, which is identified in the GSP as an area of declining groundwater levels over the last twenty years. Due to the high capacity of the proposed well (1,500 gallons per minute) and its vicinity to this area of declining water table, it is prudent to understand the well's hydro-geological impacts on surrounding wells and the sustainability of the aquifer. The City will need to keep the Solano GSA informed and updated for any future changes in its water supply and quality and coordinate with the Solano GSA in any future groundwater development.

A water well drilling permit will also need to be obtained from Solano County Environmental Health to drill the proposed water well supplying the development. Approval for the well location from the Division of Drinking Water (DDW) may also be required to approve and issue a water well drilling permit at this location, and will be required to operate a public water system

An analysis of impacts on Hydrology and Water Quality, specifically on the Project's impact on groundwater supplies and drainage within the area, including the impact potential on the Dixon Limited Agricultural Service area adjacent to the Project site should be provided. This would include evaluation of impacts to groundwater supplies and the GSP, along with any impact related to movement of contaminants.

Closed Landfill

The Dixon Downs/Mistler Farm closed landfill is within the Project site and adjacent to proposed residential units. The Solano County Local Enforcement Agency's (LEA) concerns were included in the June 2, 2023 letter. The LEA continues to have concerns about how the area of the closed landfill will be handled during development of the Project. The closed landfill did undergo excavation, though

post excavation soil gas analytical data shows various chemical constitutes (including the Volatile Organic Compounds of concern) remain from 4 ft to 14 ft below ground. The LEA understands that the restricted area will be developed into roadways, a sidewalk with tree and shrub landscape and will be dedicated to the City with no intention of splitting the restricted area into several parcels. Public use is not intended for the restricted area and no buildings will be built within the restricted area.

Development for the Project will include earthwork and trenching throughout the restricted area to a depth of at least 7 feet. This requires that the hazardous soil be handled properly to protect workers from exposure and the environment during development. Maintenance of the restricted area after development is completed is also a concern. If further trenching or excavation work is needed, worker and public safety needs to be addressed. Additionally, mitigation to address the long-term safety of the public and residents in nearby dwellings (such as those directly across the street from the restricted area) is necessary. The DEIR will need to address these issues and how the Project meets the post closure land use regulations to ensure that the public will not be exposed to hazards.

Drainage/Stormwater Control Basin location & Consider Groundwater Recharge

The County recommends coordinating with the Solano GSA agencies and other local agencies to identify prime location(s) for drainage and other facilities to augment stormwater capture and groundwater recharge to enhance additional groundwater supply. The County is concerned that utilizing the existing culvert at Pedrick Road may not be of sufficient size and capacity for additional flows and may cause downstream impacts and increased flooding potential outside the NEQSP area. We therefore request the City consider other means to reduce drainage off site from the Project as much as possible through the use of recharge and infiltration areas. Any additional flows from the Project must not add to the downstream flows without adequate mitigation including accounting for effects of climate changes.

The planning of drainage, water supply, and sewer system within the Project should also consider multi-use approaches to address beneficial regional solutions. Water flows across jurisdictional boundaries as noted in the proposed Project description where drainage water temporarily stored in the detention basin will eventually be discharged into the Tremont 3 drainage system, which is in the unincorporated area. We encourage the City and GSA, and surrounding drainage agencies including Solano County Water Agency, Dixon Resource Conservation District, and others to coordinate and collaborate in their efforts of finding integrated solutions to drainage, sewer, and water supply challenges by maximizing benefits in this Project development such as developing nature-based drainage and basin designs to maximize groundwater recharge or other potential reuse, a much-needed resource for the local area.

Integrated "One Water" Multi-benefit Opportunities and Alternatives

The Project proposes sewer, water, and drainage improvements in areas immediately adjacent to the County's existing I-AS area that contains existing agricultural support facilities, including Campbell's. These existing ag-service industries utilize individual wastewater collection and disposal systems, water supply wells, and on-site drainage facilities. The County Board of Supervisors held a priority setting session on April 18, 2023 that identified the need for a countywide One Water master utility study to help support economic development and agricultural development and preservation. Provision of community sewer, water, and drainage services could be beneficial for existing

businesses and allow further development of agricultural support industry in this zoning district. Opportunity exists for the City and County to evaluate potential partnerships that may be beneficial to both entities to determine and provide the infrastructure needs more efficiently throughout the area to further promote economic development and agricultural preservation/development with a One Water mindset. It is recommended that various alternatives should be explored and considered in the DEIR in relation to water and wastewater infrastructure planning and design with a regional and integrated One Water approach.

Aesthetics

It is unclear from the materials supplied in the NOP on the design and architecture of the proposed Project, in particular the commercial and industrial land uses within the Dixon Opportunity Center. Architectural drawings and photo simulations of the Project are necessary to assess potential Aesthetic impacts in the DEIR.

Airport Land Use Commission Review required

The property is located outside of the Bird Strike Zone but within Compatibility Zone E, which does not restrict land uses or hazards to flight; however, ALUC review is required for consistency with the Travis AFB LUCP due to the legislative actions required.

We appreciate the opportunity to provide comments on the proposed Project. Please do not hesitate to contact me (TSchmidtbauer@solanocounty.com) if you have any questions or require additional information.

Sincerely,

Terry Schmidtbauer,
Solano County Director of Resource Management

Cc: Bill Emlen, CAO

Attachment: June 2, 2023 Solano County Department of Resource Management comment letter (incorporated by reference)

DEPARTMENT OF RESOURCE MANAGEMENT

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Planning Services Division

March 12, 2024

Mr. Brian Millar bmillar@cityofdixon.us
Project Planner
City of Dixon Community Development Department
600 East A. Street
Dixon, CA 95620

RE: Planning Commission public study session for the Campus Project

Dear Mr. Millar:

We appreciate the opportunity to provide the following comments to the Planning Commission public study session for The Campus Project (Project). Based on the NOP, the Campus Project site comprises approximately 260 acres, or 40%, of the City's Northeast Quadrant Specific Plan area and is proposed to include the following:

- An approximately 48-acre mixed-use development with up to 650,000 square feet of research and development uses, known as the Dixon Opportunity Center (DOC) comprised of Light industrial uses, a Tech-Campus, and a business park; and
- Approximately 144 acres of residential uses to include 1,041 units of varying densities; and
- Approximately 2.5 acres of commercial uses.

The Project is located entirely within the City of Dixon and its Municipal Service Area (MSA) boundaries, immediately west of the unincorporated area designated as Limited Industrial by the 2008 Solano County General Plan (GP Figure LU-7). Uses within the Dixon Limited Industrial area are intended to be agriculturally related and permitted uses include agricultural services such as the storage or sales of product for commercial agriculture, agricultural processing, and corporation yards for the storage and maintenance of agricultural equipment. County Zoning identifies this area as Industrial-Agricultural Service "I-AS".

Solano County previously provided comments on the Dixon 257 project application proposed in the Northeast Quadrant Specific Plan area in two letters dated June 2, 2023 and September 9, 2023 which are attached. Many of the comments in the June 2nd and the September 9th letter pertain to this Project in terms of the plan for the area and general county comments about the proposed project. Specifically, the County is concerned with the proposed location of commercial, office/business space and residential development, including high-density residential units, in proximity to existing agricultural and associated agricultural supported businesses along Pedrick Road and in the adjacent Industrial-Agricultural Services Area. This includes placing residences across from the Campbell's Soup Supply Company facility (Campbell's), an agricultural processing facility. The County recommends reconfiguration of the Project's land plan and consideration of a more substantive spatial buffer within City limits to mitigate potential conflict between the Project and the County's Industrial-Agricultural

Service Area and other nearby agricultural businesses and uses. Other concerns regarding noise, traffic, water, sewer, and drainage remain relevant in the preparation of CEQA document. These fundamental suggestions and others are highlighted below and emphasize the need for specific environmental resources to be analyzed in the DEIR for potentially significant impacts associated with the implementation of the Project.

Impacts to Agricultural Operations and Economy

As identified in the June 2, 2023 letter, prime Agricultural areas and critical agricultural supported businesses, including agricultural processors and trucking facilities, are located adjacent to the proposed Project site. This includes the Industrial-Agricultural Service (I-AS) zoning area located east and north of the Project. Campbell's, located on Pedrick Road, employs 200 people during tomato season and processes approximately 450,000 tons of tomatoes / year as it supports our local and regional tomato farmers. The tomato crop is typically one of the highest economic drivers in agricultural processing in the County, yielding approximately $46 million dollars in 2022. Its continuing operation in the County is of the highest priority. Any project that would cause Campbell's and other ag-supported industries to relocate is of serious concern to the County.

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wastewater infrastructure planning and design with a regional and integrated One Water approach.

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Architectural drawings and photo simulations of the Project are necessary to assess potential Aesthetic impacts in the DEIR.

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We appreciate the opportunity to provide comments on the proposed Project. Please do not hesitate to contact me (jmbezek@solanocounty.com) if you have any questions or require additional information.

Sincerely,

James Bezek,
Solano County Director of Resource Management

Cc: John Vasquez, Solano County Board of Supervisors – District 2
Bill Emlen, CAO
City of Dixon Planning Commissioners

Attachment: June 2, 2023 and September 9th Solano County Department of Resource Management comment letters (both incorporated by reference)