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From:Todd Elliott, Esq.
Truman & Elliott LLP
626 Wilshire Blvd.
Ste:550
Los Angeles , CA 90017
2136295300

PAUL RUFFIN

Billing Reference:LIMPIA

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L.I.M.P.I.A.'s
Petition for Review

Hazardous Waste Facility Permit
for
CleanTech Environmental, Inc.,
5820 Martin Road,
Irwindale, California 91706
(EPA ID # CAL 000330453)

Reviewer

Permit Appeals Officer
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

E-mail: appeals@dtsc.ca.gov

Copy to:

Mr. Alfred Wong
Office of Permitting
Dept. of Toxic Substances Control
700 Heinz Avenue
Berkeley, California 94710
E-mail: Alfred.Wong@dtsc.ca.gov

INDEX OF EXHIBITS

I. EXECUTIVE SUMMARY

We represent L.I.M.P.I.A.– Los Individuos Movilizados para Prohibir Intoxicacion del Agua. L.I.M.P.I.A. is an environmental group dedicated to preserving clean water and a safe environment for all Californians. This petition is submitted for review of DTSC's decision to approve the Final Hazardous Waste Facility Permit (the "Permit") for the proposed CleanTech Environmental, Inc. facility to be located at 5820 Martin Road in Irwindale, California (the "Facility" or "Hazardous Waste Facility") (collectively, the "Project"). The decision to approve the Permit was issued by the Department of Toxic Substances Control ("DTSC") on February 2, 2015.

The Project would place a new hazardous waste facility adjacent to the Santa Fe Dam Recreational Area and within an approved Significant Ecological Area designated by the County of Los Angeles—which is home to endangered species and impaired water bodies and is a beloved recreational resource used by tens of thousands of residents, including many low-income and minority citizens. Despite this, DTSC failed to prepare a legally adequate environmental impact report ("EIR") for the Project under the California Environmental Quality Act ("CEQA"), even though multiple commenters pointed out to DTSC the many deficiencies in the EIR's analysis prior to issuance of the Permit and Certification of the EIR. Specifically:

- The EIR engages in cursory and misleading analysis, and fails the very premise of CEQA – to inform the public. The EIR contains speculative and/or contradictory analysis that is largely unsupported by any substantial evidence.

- The "Project" is not defined in any meaningful way in an effort to inform the public of the hazards and risks posed by the Project.

- The EIR engages in impermissible piecemealing of environmental review.

- The EIR's analysis of cumulative impacts uses an improper geographic scope, which is otherwise unsupported by any evidence.

- The mitigation measures proposed for the Project are illegally deferred and are vague and unenforceable; for example, DTSC acknowledges that a truck crash that releases hazardous waste into the environment is a reasonably foreseeable consequence of the Project, but there is no proposed mitigation for this hazard--the future preparation of a spill plan is not sufficient and constitutes improper deferral of mitigation under CEQA.

- The EIR's analysis of air quality impacts and noise impacts are inadequate because each contains assumptions unsupported by the evidence and contrary to basic common sense.

- The EIR's analysis of the impacts of a hazardous waste spill in transit is legally insufficient because it fails to acknowledge that spills often are uncontrolled and because it relies on mitigation measures that are improperly deferred, unenforceable and ineffective.

- The Project Objectives are impermissibly narrow and fail to consider protections to the environment as objectives.

- The range of alternatives studied in the EIR is impermissibly narrow. The EIR improperly rejects a feasible alternative that may reduce potentially significant environmental impacts to biological resources and traffic.

- The analysis of biological impacts is cursory, insufficient and violates CEQA. DTSC failed to conduct a biological survey of baseline conditions in the adjacent Santa Fe Dam Recreational Area, contrary to CEQA's requirements as the Project is in a sensitive ecological area. The EIR failed to analyze the impacts of a release of hazardous waste into habitat despite the fact that it acknowledges that a truck crash that releases hazardous waste is a reasonably foreseeable consequence of the Project.

- The EIR's analysis of potential impacts to water quality is conclusory and lacks supporting evidence. The EIR acknowledges that the release of hazardous waste into a water body could occur however, fails to analyze this impact and relies almost entirely on an improperly deferred mitigation measure. A deferred, improper mitigation measure is not substitute for actual analysis.

- The EIR's analysis of land use and planning is inadequate. This Project is inconsistent with the City of Irwindale's General Plan and Zoning Code. The EIR purports to analyze the consistency with the General Plan, but entirely fails to address the main inconsistency; namely that the General Plan specifically lists permitted hazardous waste facilities on a map, and <u>this Project is not on the list</u>. The Zoning Code expressly prohibits facilities that process "hazardous materials, including but not limited to automotive fluids."

- The EIR fails to analyze environmental justice issues. State law explicitly requires DTSC to conduct all of its activities in a manner that "ensures the fair treatment of people of all races, cultures, and income levels." There is no exception for CEQA review. DTSC's attempt does not meet this threshold. DTSC must find another location for this Project and not locate it on the working-class, largely minority community that uses the Santa Fe Dam Recreational Area.

- DTSC's analysis of geologic impacts in the EIR is insufficient. This site is seismically active. DTSC acknowledges that a moderate earthquake could cause a release of hazardous waste, but, instead of analyzing this impact and mitigating it, DTSC avoids it by referring to Mitigation Measure Haz 1.1. This mitigation measure is illegally deferred and, notwithstanding there is no actual evidence or analysis showing how this mitigation measure will protect the community from hazardous waste releases caused by reasonably foreseeable earthquakes.

- The EIR must be revised to address our comments and recirculated for public comment. The Draft EIR and the Responses to Comments are both fail CEQA requirements and the important goals of CEQA to inform the public and analyze and mitigate environmental impacts have not been met.

Accordingly, Petitioner requests DTSC exercise its discretion and review the entire Permit approval in the context of the issues raised below and in our previous comment letter.[1]

II. JURISDICTION

DTSC has jurisdiction over hazardous waste facility permits pursuant to California Health and Safety Code section 25200 and California Code of Regulations, title 22 section 66271.14 and the appeal of permits pursuant to California Health and Safety Code section 25186.1, subd. (b)(1) and California Code of Regulations, title 22, section 66271.18.

Petitioner previously submitted comments on the draft permit.

Pursuant to California Code of Regulations, title 22, section 66271.18, a petition for review must be filed within 30 days after the permit decision. DTSC issued the final permit decision February 2, 2015. Accordingly, the deadline for filing a petition for review is March 4, 2015. As this petition was filed prior to March 4, 2015, it is timely.

III. FACILITY BACKGROUND

The applicant for the Facility is CleanTech Environmental, Inc. (the "Applicant"). The Hazardous Waste Facility site is a rectangular shaped parcel that is approximately 0.98 acres (42,508 sq. ft.). There are currently no authorized hazardous waste processing activities at the Facility site. The proposed Hazardous Waste Facility's operations, pursuant to the Permit, would be new operations and would process approximately 1.5 million gallons of used oil per month.[2]

Multiple sensitive receptors are located nearby the Hazardous Waste Facility. Several schools are located in close vicinity to the Project. For example, Mountain View Elementary School, located 201 North Vernon Avenue in Azusa is approximately 1.2 miles northeast of the Facility. Valleydale Elementary School located at 700 South Lark Ellen Avenue in Azusa is approximately 1.5 miles southeast of the Facility.

The Facility site is physically located within the currently adopted and applicable boundaries of a Los Angeles County-designated Significant Ecological Area and has been proposed to be designated as an "Ecological Transition Area." The Facility site also is virtually adjacent (approximately 600 feet from the entrance of the San Gabriel River Trail) to the Santa Fe Dam Recreational Area ("SFDRA"), which is a 836-acre county park maintained by the Los Angeles County Department of Parks and Recreation. The SFDRA includes a 70-acre lake used year-round for recreational fishing and nonmotorized watercraft. During the summer, the Recreational Area activities include a five-acre chlorinated swim beach, which serves as a special water play area for small children. The Hazardous Waste Facility site is mere <u>feet</u> to the north of this beach. The Santa Fe Dam Recreational Area is home to many endangered and threatened species. And it is one of the few recreational opportunities in this low-income,

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[1] LIMPIA's September 25, 2014 comment letter is incorporated by reference and attached hereto as Exhibit 1. None of our comments was adequately addressed and we also ask that DTSC include all of the issues raised in that comment letter as issues for appeal.

[2] Draft EIR at ES-2.

largely minority community.

IV. STATEMENT OF REASONS

A. DTSC Must Stay The Permit Pending This Administrative Appeal.

DTSC must stay the Permit pending this administrative appeal. (California Code of Regulations, title 22 and sections 66271.14, subd. (b)(2), 66271.15.)[3] Failure to stay the permit could result in irreparable harm to the environment.

B. DTSC Can Not Exclude Consideration of CEQA Objections.

To the extent DTSC's administrative appeal process excludes consideration of CEQA objections, the process violates California law by improperly restricting public participation and is therefore legally deficient. DTSC's administrative appeal process violates CEQA in two primary ways: DTSC cannot limit the issues the public may raise in appealing the project to only those comments raised during the first public comment period.[4] Further, DTSC cannot prohibit the public from raising any objections based on CEQA.[5]

DTSC's attempt to limit the appeal process improperly limits public participation in contradiction with CEQA and its purposes. Public participation is the heart of CEQA.[6] Accordingly, courts have consistently held that CEQA allows comments by **any person at any time before the close of public hearing prior to issuance of the notice of determination.**[7] DTSC must consider and respond to those comments.

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[3] See also DTSC, Permit Appeals Frequently Asked Questions, https://www.dtsc.ca.gov/HazardousWaste/AppealingPermit.cfm (last visited Feb. 17, 2015) ("If an appeal is filed on a permit for a new facility, the entire permit is stayed, i.e., it will not go into effect until DTSC completes the appeal process.").

[4] See Cal. Code Regs., title 22, § 66271.18(a).

[5] Although DTSC regulations do not prohibit CEQA arguments, DTSC previously has barred the public from raising CEQA objections. For example, in *In re Bakersfield Transfer Inc.*, Docket No. PAT-FY08/09-1, Order Denying Petition for Review of Permit Decision, at p. 8 (Oct. 22, 2008), the petitioners tried to appeal the project approval under CEQA. DTSC refused to hear CEQA arguments, stating, "To the extent that Petitioner bases this argument on alleged violation of CEQA requirements, such arguments cannot be considered in this forum because California Public Resources Code 21167 provides a separate, exclusive remedy for adjudicating such allegations." In 2009, in another administrative appeal, DTSC stated, "Finally, CEQA provides a separate process for appealing CEQA issues and it is outside the scope of the permit appeal process." *In the Matter of Advanced Environmental, Inc.*, Docket No. HWCA 07/08-P003, Final Appeal Decision and Order, at p. 35 (May 11, 2009).

[6] *Ocean View Estates Homeowners Ass'n, Inc. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 400 ("Environmental review derives its vitality from public participation.").

[7] *See, Galante Vineyards v. Monterey Peninsula Water Mgmt. Dist.* (1997) 60 Cal.App.4th 1109, 1121 ("[A]ny alleged grounds for noncompliance with CEQA provisions may be raised by any person prior to the close of the public hearing on the project before the issuance of the notice of determination.").

DTSC has not issued a notice of determination for the CleanTech project. Accordingly, any comments made during the course of the administrative appeal process must be accepted under CEQA and addressed by DTSC in the appeal. CEQA and its case law clearly provide that comments to an agency regarding the project, before a final decision has been made and even after any formal public comment period, preserve issues for future litigation and must be considered by the agency.[10]

CEQA does not allow project approval to be "segregated" from its environmental review, as occurs in DTSC's administrative appeal process. In fact, courts have routinely held to the contrary – a project's environmental review is and must be part of the project-approval process, because it necessarily informs the agency and the public as to whether the project approval should go forward.[11]

DTSC must consider all arguments including CEQA arguments raised in this Petition. DTSC also must notify the public that final approval of the Project has not yet occurred and that, under CEQA, additional comments submitted – by any party on any potential environmental issue or problem – before DTSC makes final decision on the permit will become part of the administrative record.

C. The EIR's Analysis of Water Quality Impacts is Inadequate.

The EIR needs to analyze more fully the potential impacts of a hazardous waste spill in transit and the potential this spill could reach the Santa Fe Dam Recreational Area. DTSC's response that the hazardous materials response plan would "avoid adverse effects through safety training for emergency response, required procedures for spill response, required procedures for reporting accidents, and required procedures for third-party transporters" (referred to as mitigation measure HAZ 1.1),[12] is insufficient, particularly because DTSC acknowledges that hazardous waste could reach water in the event of a traffic accident.[13]

First, as discussed below, the Final EIR ("FEIR") response mischaracterizes MM HAZ 1.1. This mitigation measure is an improperly deferred, standardless and unenforceable mitigation that violates CEQA. There is no evidence in the EIR that it would be effective in protecting the Santa Fe Dam Recreational Area or the public from an accident that released hazardous waste.

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[10] *See, e.g., Gray v. Cnty. of Madera* (2008) 167 Cal.App.4th 1099, 1111 (Even if comments "are untimely, [courts] will address those allegations of errors that were identified in the untimely expert opinions, as well as in any other late comments, that bear upon the issue of whether" environmental review is adequate.).

[12] *Bakersfield Citizens for Local Control, supra*, 124 Cal.App.4th at p. 1200 ("environmental review is not supposed to be segregated from project approval . . . 'If an agency provides a public hearing on its decision to carry out or approve a project, the agency should include environmental review as one of the subjects for the hearing.'").

[12] Final EIR at 3-39.

[13] Draft EIR at 3.6-11.

Second, the EIR mischaracterizes the nature of a hazardous materials spill, which necessarily is the uncontrolled spill of hazardous waste.[14] The nature of a catastrophic spill is such that it will not neatly divert itself to "existing stormwater drainage systems" (disregarding the fact that hazardous waste is not supposed to drain into stormwater drainage systems). Major traffic accidents, including overturned trucks, busses, big rigs, and other large vehicles are common in this area and have even accidentally run off the Freeway. (See Exhibit 2.) Notwithstanding existing stormwater drainage systems, there remains a reasonably foreseeable chance a hazardous waste spill from an overturned truck would not be 100% contained by existing drainage systems and would reach a sensitive ecological area or waterway (see *id.*). DTSC's conclusion that the impacts of such a spill could be "quickly and effectively managed" is speculative and unsupported by any evidence or enforceable mitigation.[15]

Because the EIR dismisses this risk with an ineffectual mitigation measure, it violates CEQA's requirement to assess the reasonably foreseeable environmental impacts of a project.[16]

D. The EIR's Mitigation Measures are Improperly Deferred, Unenforceable and Violate CEQA.

The EIR's mitigation measures are improperly deferred, vague, and therefore unenforceable in violation of CEQA.

As previously discussed, MM HAZ-1.1, or the Hazardous Materials Transportation Emergency Response Plan, is improperly deferred and unenforceable. There are no standards by which the plan can be deemed adequate to mitigate the potential catastrophic impact of a hazardous spill of thousands of gallons of hazardous waste next to or within a sensitive ecological area such as the Santa Fe Preserve, and no analysis of how merely "ensur[ing] the plan is provided to" employees mitigates this potentially significant impact. There is no substantial evidence of how the preparation of this plan mitigates the potentially significant impact of a spill of hazardous materials or waste.[17] As such, this mitigation measure violates

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[14] Final EIR at 3-40 ("Project access would utilize established roadways with existing stormwater drainage systems that would divert surface runoff into designated areas; any accidentally released wastes would not be allowed to flow freely into the SFDRA, as suggested by the commenter, but, rather, would be contained and cleaned up to avoid contamination of the surrounding environment.").

[15] See Draft EIR at 3.6-12.

[16] See, *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1182.

[17] See, e.g., *Sierra Club v. County of Fresno* (2014) 226 Cal.App.4th 704, 753--54 ("Because the formulation of the substitute provisions is deferred, they must qualify for an exception to the general rule that prohibits the deferred formulation of mitigation measures—that is, there must be specific performance standards so that the substitute measures may be evaluated to determine whether, in fact, they are equally effective as or superior to the measure they replaced. Many of the specific provisions in mitigation measure No. 3.3.2 lack performance standards that would allow either County or the public to determine whether the substitute measure works as well as the original provisions. . . . Therefore, the substitution clause, when read together with the 12th measure, violates CEQA because

CEQA.[18] Common sense dictates that the plan will not be able to mitigate an accident that releases hazardous waste into the environment. If there is a crash of a truck carrying hazardous waste or a spill from the Project, thousands of gallons of hazardous waste could be released into the Sensitive Ecological Area or nearby waterways.

In addition, MM TR-1.1, Traffic Control Plan, also is inadequate under CEQA. There are no provisions for enforcement of this illusory mitigation measure; for example, it only requires the applicant to "work with truck operators to minimize deliveries and haul out[s]" during specified time periods[19] and "to the extent feasible," but does not actually require deliveries and haul outs to occur at any specific time. In addition, there is no provision for monitoring or standards by which to assess whether this mitigation measure succeeds in mitigating the potentially significant impact. Further, MM TR-1.1 does not specify who determines whether deliveries and haul-outs during certain times are "feasible" and does not specify who determines, and under what conditions, the primary truck route will be deemed "unavailable."[20] This information is critical because part of the determination of a "less than significant" impact relies on the assumption that "daily trips would be spread throughout a 24-hour day and would not all be concentrated during either the a.m. or p.m. peak periods."[21] Because MM TR-1.1 does not require anything with respect to when project-related traffic operations occur, daily trips could be concentrated during the a.m. or p.m. periods, thus resulting in an unmitigated significant impact on traffic.

MM NOI-1.2, Truck Noise Mitigation, similarly is unenforceable because it does not specify how or when truck noise will be evaluated or who will do the evaluating.[22]

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it allows for the deferred formulation of mitigation measures when there are no specific performance standards to evaluate the effectiveness of the substitute measure.").

[18] E.g., *Sierra Club v. County of Fresno* (2014) 226 Cal.App.4th 704, 750–51 ("Based on the foregoing, we conclude that the provisions in mitigation measure No. 3.3.2 are vague on matters essential to enforceability and, therefore, County has violated the requirement in CEQA that it 'shall provide' mitigation measures that 'are fully enforceable through permit conditions, agreements, or other measures.' (§ 21081.6, subd. (b).)"); see also *Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1169 (proposed mitigation insufficient under CEQA due to lack of analysis of and "meaningful implementation efforts" for mitigation).

[19] Draft EIR at ES-10.

[20] *Sierra Club v. County of Fresno* (2014) 226 Cal.App.4th 704, 750–51 (mitigation measure invalid as vague and unenforceable because it "d[id] not identify who will determine if the system is 'reasonably available and economically feasible.'").

[21] Draft EIR at 3.8-6. This mitigation measure also does not specify what it means for the Applicant to "work with" truck operators to minimize truck traffic during peak hours, who decides whether the Applicant's efforts to "work with" truck operators are sufficient to satisfy this mitigation measure, or what standards under which such a determination would be made.

[22] See Final EIR at B-6; *Sierra Club v. County of Fresno* (2014) 226 Cal.App.4th 704, 750–51 (mitigation measure invalid as unenforceable because "the reader is left to speculate whether [agency] or the [applicant] will perform the [mitigation measure].").

MM GCC-2.1 also is improperly vague and constitutes deferred mitigation in violation of CEQA. The Mitigation Monitoring and Reporting Program provides that to mitigate potentially significant impacts to air quality and climate change, the applicant must "find construction waste recycling facilities" and "recycle wastes to the extent feasible," but does not provide any further detail.[23] There is no guidance or requirements on how to identify such facilities or what constitutes "feasibility". Case law is clear that this type of vague and ambiguous mitigation is impermissible. (See *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1118 [the Court found a mitigation measure violated CEQA because "the EIR does not explain how the water bottles that are used will be replaced or recycled."].)

Accordingly, mitigation measures in the EIR must be revised to comply with CEQA and then recirculated for public review and comment. In particular, the Hazardous Materials Transportation Emergency Response Plan and Traffic Control Plans must be enforceable, and the EIR must analyze how the measures contained in such plans address the significant impacts they are meant to mitigate. Other mitigation measures similarly must be revised to include meaningfully enforceable provisions. Otherwise, such measures are not legally sufficient to mitigate significant environmental impacts under CEQA.

E. The EIR Alternatives Analysis Fails to Comply with CEQA.

The EIR's range of alternatives is impermissibly narrow. DTSC analyzed only two alternatives--an alternative site in Long Beach and a reduced-size alternative. An EIR must "describe all reasonable alternatives to the project."[24] An alternative DTSC failed to analyze is a project site located somewhere between Long Beach and the proposed site that is <u>not</u> adjacent to a Sensitive Ecological Area and a frequented County Recreational Area. Failure to examine this alternative invalidates DTSC's entire alternatives analysis.

Regardless, the studied range of alternatives is inadequate. First, as previously noted, an alternate location in Long Beach would have the environmental benefit of not being sited adjacent to the Santa Fe Dam Recreational Area and not being within a Significant Ecological Area.[25] The EIR contains no substantive analysis comparing the alternate Project location in

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[23] Final EIR at B-3.

[24] *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 200.

[25] Exhibit 3. The Final EIR erroneously states that the Project site is not within a Significant Ecological Area. (Final EIR at 3-2.) The Project site's inclusion in the SEA is not an "error," and it is fundamentally misleading and contrary to the informational purposes of CEQA to make such an assertion. The *currently adopted* SEA clearly includes the Project site. (See County of Los Angeles General Plan, Significant Ecological Areas and Coastal Resource Areas (April 2014 DRAFT), *available at* http://planning.lacounty.gov/assets/upl/sea/SEA_adopted_proposed_2014.pdf [showing difference between proposed boundaries and adopted boundaries].) Although a *draft* SEA currently proposes to remove the Project site from the SEA (see *ibid.*), these boundaries have not been approved. Moreover, in previous versions of the County's SEA ordinance, the Project site was included in an area called an "Ecological Transition Area" (San Gabriel Canyon – Proposed SEA, http://planning.lacounty.gov/assets/img/entry/img_sea-san-gabriel-canyon-map.jpg), which was defined as "any portion of a lot or parcel of land within an SEA where the natural ecological features or systems have been degraded as a result of past or on-going land use activities but are deemed

Long Beach with the proposed Project site in Irwindale, other than asserting that the Long Beach alternative "would just cause those adverse impacts to move to the alternative project location"[26] and that the presence of the SFDRA and the local SEA are "not relevant."[27] This conclusion is nonsensical because the Long Beach alternative does not involve the treatment of millions of gallons of hazardous waste adjacent to the Santa Fe Dam Recreational Area and within a Significant Ecological Area.[28] As there is no sufficient analysis weighing whether the environmental benefits of the Long Beach location (i.e., not being sited next to or within a sensitive biological area and removing localized adverse impacts in the Irwindale area) would outweigh the "slight increase in transportation for this alternative,"[29] the EIR fails to fulfill CEQA's informational purposes. Such error is prejudicial to the public and grounds for reversing the Project's approval.[30]

Second, DTSC fails to reconcile factual inconsistencies in the EIR. For example, in our previous comment letter, we noted that the Draft EIR used substantially different numbers for distances from the Project site to Long Beach.[31] The FEIR ignores addressing this inconsistency, asserting that "different routes" and different points of origin account for the inconsistency in these numbers.[32] This assertion is improper and is contradicted by the EIR. The FEIR notes that the only difference between points of origin for truck routes between current and future operation

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functionally integral to the SEA or support important plant or animal populations." (Proposed Section 22.52.2610 of Los Angeles County Planning and Zoning Code, http://planning.lacounty.gov/assets/upl/sea/December_2012_SEA_Ordinance_Draft_public_release.pdf.) Until the SEA Ordinance is finalized and adopted, it is entirely inappropriate for DTSC to first, misrepresent the boundaries of the SEA by asserting – with no support – that the currently SEA boundaries are "erroneous," and second, to rely on a *draft, unapproved* map that had previously designated the Project site as "degraded . . . but . . . deemed functionally integral to the SEA or support important plant or animal populations."

26 Draft EIR at 5-11.

27 Final EIR at 3-46 (and again misrepresenting the actual, adopted boundaries of the County SEA).

28 Furthermore, the Long Beach alternative would also have the clear environmental benefit to be located far from the newly designated San Gabriel National Monument. (See Brian Frank, Staffwriter, *USFS releases detailed map of San Gabriel National Monument*, 89.3 KPCC (Oct. 23, 2014), *available at* http://www.scpr.org/news/2014/10/23/47606/usfs-releases-detailed-map-of-san-gabriel-national/.)

29 As discussed further below, this conclusion that the Long Beach alternative results in even a "slight increase" in transportation is not supported by substantial evidence, but relies upon impermissible speculation regarding CleanTech's business goals and desires.

30 See, e.g., *Neighbors for Smart Rail v. Exposition Metro Line Construction Auth.* (2013) 57 Cal.4th 439, [Liu, J., conc. & dis. opn.] ("Without knowing how significant this transient impact on traffic congestion might be, how are the public and decision makers to decide whether the short-term pain is worth the long-term gain promised by the light-rail project?"); *Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336, 1355 (EIR alternatives analysis violated CEQA because "it lacked 'detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully'" the alternative).

31 Draft EIR at 5-8 (stating that distance to Long Beach is 35 miles or 50 miles).

32 Final EIR at 3-46.

is a mere 225 feet,[33] so it appears irregular that the route from Irwindale to Long Beach increased by 15 miles under evaluation of the Long Beach alternative. This clear informational error causes substantial prejudice[34] given that the EIR analysis purported to find only a "slight increase in transportation" miles from the Long Beach alternative. Without this error, perhaps the Long Beach alternative would have no difference in transportation miles, or even a lower number. The EIR's failure to adequately explain or account for this clear factual inconsistency is fatal to its analysis and renders it legally inadequate under CEQA.

Further compounding the EIR's prejudicial informational errors, the selection of the proposed Project as the "environmentally superior alternative" is erroneous based on substantial evidence. The EIR states that the proposed Project site presents "synergy"[35] with the nearby Veolia facility (without describing the reasons for this synergy)[36] and may present greater transportation benefits "[a]ssuming CleanTech is able to expand its customer base . . . as desired."[37]

Use of speculative assumption regarding CleanTech's "future goals" to "develop a broader customer base over the next few years" "as desired" is improper. DTSC asserts the proposed Project will "save" approximately 300 miles per day when compared to the Long Beach alternative, but there is no evidence or analysis regarding whether CleanTech's "future goals" will be achieved, how, when, or even the extent of those ambiguous "future goals." DTSC concedes that these benefits only materialize if CleanTech expands its local customer base "as desired." Using desired "future business goals" to justify the selection of the proposed Project as the "environmentally superior alternative" due to a hypothetical savings in transportation miles constitutes pure, impermissible speculation.

These inconsistencies and information gaps must be corrected in a revised EIR, which must then be recirculated for public review and comment.

F. The EIR Engages in Impermissible Piecemealing.

The EIR for the CleanTech Project engages in impermissible piecemealing by ignoring CleanTech's clear plans to "remove and relocate" existing operations at the Project site to a "new location . . . proposed to be within 2 miles of the Project site."[38] The law is clear that when multiple project components such as these are contemplated, they must be analyzed together in the environmental review.[39]

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[33] Final EIR at 3-4.

[34] Whether the analysis was conducted in "good faith," as the Final EIR claims (see Final EIR at 3-46), is irrelevant, because the analysis is clearly and prejudicially erroneous.

[35] Draft EIR at 5-11.

[36] Draft EIR at 5-10.

[37] Draft EIR at 5-8.

[38] Draft EIR at 2-6.

[39] E.g., *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1233.

DTSC unsuccessfully responds to this issue by deleting the reference to the removal and relocation of existing processes in the Final EIR, and then claiming that "[i]t would be speculative to evaluate this unknown and uncertain future action."[40] DTSC's explanation is not only arbitrary, but contrary to the informational purposes of CEQA. The applicant, CleanTech, clearly contemplates the removal and relocation of existing processes to another site within the area, and its plans are clear enough that it stated expressly that it anticipated the relocation to be within 2 miles of the Project site. DTSC cannot "unring the bell" and subsequently declare the relocation proposal is suddenly "speculative and unknowable."[41] Indeed, DTSC only revised the Project Description to delete the reference to the future relocation project,[42] but neglected to revise the many other references in the EIR to the "new location" for existing processes.[43] DTSC cannot refuse to analyze the foreseeable relocation project through a conclusory assertion that it is "speculative and unknowable," particularly when the applicant's own admission contradicts that assertion.[44]

Accordingly, DTSC must revise the EIR to include this new location for existing manufacturing operations, analyze the potential impacts of this new location and recirculate the revised EIR for further public review and comment. Without these revisions, the EIR is not a meaningful, informative document and violates CEQA.

G. The EIR Contains an Improper Analysis of Cumulative Impacts.

1. The EIR Misunderstands and Misapplies Cumulative Impact Analysis Under CEQA.

An analysis of cumulative impacts is critical to preserving the integrity of the CEQA process:[45]

> One of the most important environmental lessons evident from past experience is that environmental damage often occurs incrementally

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[40] Final EIR at 3-36.

[41] *See, e.g.*, *Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180, 194–95 (acknowledgement in public comments or the EIR of a specific project contemplated by the applicant or others cannot be brushed aside as "'unknown' or merely speculative": "The fact future development is not certain to occur and the fact the environmental consequences of a general plan amendment changing a land use designation are more amorphous does not lead to the conclusion no EIR is required.").

[42] Final EIR at 4-3.

[43] E.g., Draft EIR at 3.5-1 ("If the proposed Project is approved and permitted, these two processes could be removed from the proposed Project site and relocated to another site that is expected to be located no more than 2 miles away.").

[44] *California Unions for Reliable Energy v. Mojave Desert Air Quality Management District* (2009) 178 Cal.App.4th 1225, 1245 (rejecting agency's refusal to analyze an environmental impact because evidence in the record demonstrated that the potential impact was not speculative).

[45] *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 720.

> from a variety of small sources. These sources appear insignificant, assuming threatening dimensions only when considered in light of the other sources with which they interact. . . . CEQA has responded to this problem of incremental environmental degradation by requiring analysis of cumulative impacts. Because of the critical nature of this concern, courts have been receptive to claims that environmental documents paid insufficient attention to cumulative impacts. . . . [A]bsent meaningful cumulative analysis, there would never be any awareness or control over the speed and manner of . . . development. Without that control, 'piecemeal development would inevitably cause havoc in virtually every aspect of the urban environment.

The EIR, makes a fatal mistake in substituting its project-specific environmental impact analysis for the cumulative impacts analysis. CEQA requires more than conclusory statements. CEQA requires substantial evidence and analysis to support its conclusions, even where the environmental impact may be small or less than significant.[46]

DTSC's response in the FEIR is insufficient to correct an improper cumulative impacts analysis under CEQA. DTSC asserts, "[t]he Project has minimal or no impacts for many of the environmental issue areas, which clearly means that they would have no, or inconsequential, contributions to cumulative impacts."[47]

However, this conclusion this confuses the analysis of direct impacts with the analysis of cumulative impacts. The cumulative impacts analysis is a separate inquiry under CEQA and uses a different, *more stringent* standard. "Project-specific analysis considers the effect of the project on the environment. Cumulative impacts analysis evaluates the incremental impact of the project in conjunction with, or collectively with, other closely related past, present, and reasonably foreseeable probable future projects."[48] Cumulative impacts analysis must also "assess the collective or combined effect" and must not "improperly focus[] upon the individual project's relative effects and omit facts relevant to an analysis of the collective effect" of cumulative projects.[49] "In the end, the greater the existing environmental problems are, the lower the threshold should be for treating a project's contribution to cumulative impacts as significant."[50]

With respect to many environmental impacts, there is no analysis in either the Draft EIR or the Final EIR regarding the extent of existing environmental impacts and whether the Project's contribution to such impacts is significant. For example, with respect to Impact AQ-

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[46] E.g., *Whitman v. Board of Supervisors* (1979) 88 Cal.App.3d 397, 411.

[47] Final EIR at 3-45 (Response to Comment Nos. L-24, L-25, L-26, and L-27).

[48] *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 912.

[49] *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 721.

[50] *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 120.

1,[51] the Draft EIR states, "This impact is project specific and has no potential for cumulative impacts. Therefore, there are no cumulative impacts related to conformance with applicable air quality plans."[52] This conclusion is a clear misstatement and misapplication of the law. DTSC may not forgo a cumulative impacts analysis because it asserts an impact is project specific. Rather, it must assess the current existing environmental problems and evaluate whether the project's incremental addition to that problem is significant, using a threshold that depends on the severity of the existing environmental problem.

Similarly, DTSC forgoes an adequate cumulative impacts analysis for potential impacts related to hazards and hazardous materials, confusing "localized impacts" with "cumulative impacts," and asserting that if an impact is localized, it cannot be a cumulative impact.[53] This is not a proper cumulative impacts analysis. The EIR fails to mention or analyze the Project's contribution of risk of spill in conjunction with the past, present, and reasonably foreseeable projects in the area – in other words, there is no substantial evidence for DTSC's conclusion.

DTSC's analysis of the cumulative traffic impacts contains this same error. DTSC states that "due to the small amount of net new daily trips," the Project is "not considered to have a cumulatively considerable impact."[54] The proper inquiry is whether the Project's contribution, *given the severity of the existing traffic problem* (the Draft EIR notes that that the 210 Freeway already operates at LOS F during peak periods), is significant. DTSC fails to conduct this analysis, simply skipping from data to its conclusion without following the proper analytical approach.[55] It is a violation of CEQA to conclude that there is no or less-than significant cumulative impact using a "ratio theory" that merely compares the project's "incremental" impact to the overall, collective cumulative impact.[56] As noted above, CEQA requires that "the

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[51] This impact relates to whether the Project would conflict with or obstruct the implementation of the applicable air quality plan.

[52] Draft EIR at 4-3.

[53] Draft EIR at 4-6 ("With the implementation of MM HAZ-1.1 and MM TR-1.1, any potential impacts would be localized and not expected to result in a cumulatively considerable impact.").

[54] Draft EIR at 4-8.

[55] In fact, DTSC made the exact same methodological error as the one the Court of Appeal rejected in *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 720–21

[56] In *Kings County*, the Court of Appeal rejected the project proponent's cumulative impacts analysis: "According to GWF, the standard is defined by the use of the word "incremental," which means the analysis measures the amount by which the individual project adds to air quality problems, and since the project's emissions are relatively minor when compared with other sources, the EIR properly concluded the project would have no significant impact on air quality. . . . We find the analysis used in the EIR and urged by GWF avoids analyzing the severity of the problem and allows the approval of projects which, when taken in isolation, appear insignificant, but when viewed together, appear startling." (221 Cal.App.3d at pp. 720–21.) CleanTech makes essentially the same error, stating in the EIR that "the Project is not considered to have a cumulatively considerable impact due to the small amount of net new daily trips (less than 0.2 percent) of the ADT of this freeway." (Draft EIR at 4-8.)

greater the existing environmental problems are, the lower the threshold should be for treating a project's contribution to cumulative impacts as significant," and DTSC failed to take this into account in conducting its cumulative impacts analysis for traffic.

These errors violate CEQA and fail to inform and protect the public. CEQA prohibits the approach taken by DTSC. DTSC must be more conservative in analyzing cumulative impacts when there are existing environmental problems such as traffic in the project area.

2. The EIR Uses an Improper Geographic Scope for Analysis of Cumulative Impacts.

DTSC's selection of an arbitrary geographic scope for its cumulative impacts analysis violates CEQA. The EIR selected an arbitrary 1-mile radius for all environmental resources and did not explain how or why it selected this distance. The City of Irwindale and City of Azusa submitted several projects for inclusion in the cumulative projects list that were within 2 miles of the Project but were rejected by DTSC. These projects include the construction of a 246,022 square foot materials recovery facility and transfer station with a permitted maximum capacity of over 2,000,000 tons per year of municipal solid waste.

The CEQA Guidelines (Title 14 of the California Code of Regulations), section 15130, require that "lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used."[58] In our initial comment letter, we requested DTSC provide an explanation for its choice of a 1-mile radius for the selection of cumulative projects. Neither the Draft EIR nor the Final EIR contains any explanation or analysis for the selection of this distance.

An examination of the Project's vicinity demonstrates that DTSC's choice of a 1-mile radius is unreasonable. For example, the intersection of Interstates 210 and 605 – the two major freeways that the Project will use – is over 1 mile away from the Project site. The intersection of Interstate 605 and Arrow Highway – the primary freeway intersection for the Project's contingency truck route – is over 2 miles away. Indeed, most of the Project's contingency truck route using Arrow Highway is over 1 mile from the Project and there are at least two major exits off Interstate 210 between 1 and 2 miles from the Project site which could be impacted by traffic and/or risks of hazardous material spill caused by operation of the Project. Other projects

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This approach was rejected again in *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019,1025, 1026 ("The EIR in the present case reasons the noise level around the schools is already beyond the maximum level permitted under Department of Health guidelines so even though traffic noise from the new development will make things worse, the impact is insignificant. This same reasoning was rejected in the *Kings County* case.").

[58] Cal. Code Regs., title 14, § 15130(b)(3); *see also Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1216 ("Furthermore, Guidelines section 15130, subdivision (b)(3) directs agencies to 'define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.' Neither the Gosford EIR nor the Panama EIR complied with this requirement. The EIR's state what has been determined to be the appropriate geographic area for each category of potential impacts, but no explanation was offered as to the criterion upon which this determination was made.").

outside of a 1-mile radius from the Project would be using the same roadways and they should have been included in the EIR's cumulative impacts analysis.

In addition, DTSC expressly was informed of a major project in the vicinity, just 1.7 miles southwest of the Project – the Irwindale Materials Recovery Facility. This project uses the very same highways and routes, yet DTSC declined to consider the cumulative impacts of this project by selecting an artificially narrow geographic scope. The Irwindale Materials Recovery project, in fact, is expected to cause *significant and unavoidable impacts* to "cumulative impacts to existing deficiencies or projected deficiencies on the I-210 freeway mainline segments eastbound and westbound of the Irwindale Avenue on and off ramps, and the I-605 northbound off-ramp at Live Oak Avenue and the I-210 westbound off-ramp at Irwindale Avenue."[59] As noted above, *these are the very same routes – both primary and contingent – that the Project will use.*[60] The EIR's conclusion that the CleanTech project will not also add to this cumulative impact is illogical and violates CEQA.

The EIR's use of an arbitrary geographic scope for cumulative impacts constitutes legal error.

H. The EIR's Analysis of Air Quality Impacts Is Deficient.

In our previous comment letter, we noted that the EIR used the improper localized significance thresholds ("LSTs") to evaluate the potential air quality impacts from the Project. DTSC's response that "[t]he issue isn't whether operations at the site or at nearby sites may exist for 24 hours but whether a given worker would be at a location near the site for 24 hours, which is not the case"[61] is improper. It is true that whether "a given worker would be at a location near the site for 24 hours," is the relevant issue, however, the EIR still fails under CEQA because there is no substantial evidence that a given worker will not be at the Project site or an adjacent site for 24 hours. There are no guarantees or mitigation measures requiring the applicant to ensure that no worker remains on site for more than 8 hours. Without such a guarantee or enforceable mitigation measure, the EIR used the improper LSTs, which assume that a worker will only be on site for one to eight hours. Therefore, the air quality analysis is deficient.

The EIR must include a guarantee or mitigation measure that no worker will be on site for more than 8 hours, or one shift. Alternatively, the EIR must revise its air quality analysis to incorporate the use of more conservative LSTs that account for the fact that a given worker may remain on site for 24 hours.

I. The EIR's Analysis of Noise Impacts From Traffic is Improper.

We previously indicated to DTSC that the EIR overlooked numerous sensitive receptors along both the primary and contingency truck routes for purposes of the noise analysis. Rather

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[59] Recirculated Draft EIR for Irwindale Materials Recovery Facility and Transfer Station Project (July 2014) at ES-44, *available at* http://www.ci.irwindale.ca.us/DocumentCenter/View/951 (Exhibit 4).

[60] See Exhibit 4 (excerpt from Irwindale Materials Recovery & Transfer Station project EIR).

[61] Final EIR at 3-37.

than investigating our comments further, which were supported by aerial photographic evidence, DTSC ignored it based on the reasoning that the residences we identified were "unverified as residential uses."[62] DTSC then stated that it did not overlook any sensitive receptors either in the area of the Project site or along the primary and contingency truck routes."[63]

The EIR is incorrect. There is a sensitive receptor (Irwindale Industrial Clinic) along the primary truck route – which the EIR misidentifies as a "daytime clinic."[64] This clinic is staffed 24 hours a day, 7 days a week, which makes it reasonably foreseeable that a given individual may stay there for a 24-hour stretch – thus making it a sensitive receptor that the EIR failed to analyze.[65]

Similarly, along the contingency truck route, there are several residences much closer to Arrow Highway – some directly adjacent – than what the EIR analyzed. These residences are "verified" residential uses – aerial photographic evidence shows this and reports from the Los Angeles County Geographic Information System verify that these parcels are indeed residences – single-family homes and duplexes.[66]

DTSC's conclusion regarding its refusal to investigate these sensitive receptors are unconvincing. First, DTSC provides that the analysis is "conservative" because noise measurements were taken from a farther distance away. This is not supported by any evidence and defies common sense. Those residences that are adjacent to or nearly adjacent to the Arrow Highway truck route are going to be more impacted by traffic noise and vibration. However, the public remains uninformed because DTSC did not undertake this study (such as with an expert traffic and/or noise study) and analyze the impacts.

Similarly, DTSC's conclusion that use of the Arrow Highway truck route would be "short-term and very infrequent" and thus have "no impact to the ambient noise conditions at this location" is also unsupported by any evidence and defies common sense. The primary truck route off of Interstate 210 is frequently congested by volume and traffic accidents, often by volume or accidents that happen a substantial distance away, and so alternate routes would have to be used quite frequently. (See also Exhibit 2.) DTSC's assertion that truck operators would only need to use the Arrow Highway truck route "infrequently" should have been supported by evidence, however, DTSC did not undertake a study and arrived at its conclusion without *any* data at all.

This analysis is a violation of CEQA, and the EIR must be revised to include a traffic and noise analysis at these verified, identified sensitive receptors and recirculated for public review.

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62 Final EIR at 3-43.

63 Final EIR at 3-43 – 3-44.

64 Final EIR at 3-43.

65 Exhibit 5 (exceprt from Irwindale Industrial Clinic webpage showing 24-hour staffing).

66 Exhibit 6 (parcel map reports showing residences abutting or adjacent to Arrow Highway truck routes).

J. The EIR's Project Objectives are Impermissibly Narrow.

The project objectives are impermissibly narrow; there is nothing in the objectives regarding protecting the environment and protecting citizens, which is DTSC's main mission. Some "public objectives" are identified by the EIR, but the protection of the public and the surrounding community was conspicuously omitted.

This lack of proper objectives violates CEQA. Project objectives may not be "artificially narrow," like they are here, and they should have included not only business goals and desires, but also objectives related to DTSC's mission, which is to "protect California's people and environment from harmful effects of toxic substances."[68]

K. The EIR's Analysis of Impacts to Biological Resources is Insufficient.

The EIR's analysis of biological impacts continues to fail CEQA review.

First, DTSC did not conduct a biological survey of baseline conditions in the adjacent Santa Fe Dam Recreational Area; instead, it engaged in the improper exercise of using *outdated* information from *different* projects to substitute for environmental analysis for this project.[70] This reuse of old data is contrary to CEQA's requirements because the Project is actually sited within a County-designated Significant Ecological Area, as noted above. Similarly, there is no disclosure or analysis of buffers required for nesting species of birds.

Moreover, there is no proper analysis of the impacts of a release of hazardous waste into sensitive habitat. An examination of the Project area reveals that local access routes to the site are limited, and many of those routes involve traversing the boundary of the Santa Fe Dam Recreational Area. The EIR acknowledges that a truck crash that releases hazardous waste is a reasonably foreseeable consequence of the Project,[71] but when it comes to analyzing meaningfully the impact, the EIR ignores the Recreational Area entirely, even though the project site is actually within a County-designated Significant Ecological Area, is within a mere 350 feet of native habitat, and will be using a primary truck route (along 1st Street) that runs adjacent to 40 acres of native habitat and dedicated open space.[72]

DTSC's failure to analyze and mitigate the impacts to biological resources that could occur with a release of hazardous waste into the environment violates CEQA.

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[68] DTSC, *Who We Are and What We Do*, https://www.dtsc.ca.gov/InformationResources/DTSC_Overview.cfm (last visited Feb. 18, 2015).

[70] Draft EIR 3.3-2 (relying on environmental documents for the Veolia project (2010) and the Santa Fe Dam Sediment Stockpile Management Project (2013)).

[71] E.g., Final EIR at 3-40.

[72] Draft EIR at p. 3-3.1 [Draft EIR].

L. The EIR's Analysis of Impacts to Land Use and Planning Remains Inadequate.

The EIR's analysis of land use and planning is inadequate. As described in our earlier comment letter, this Project is inconsistent with the City of Irwindale's General Plan and Zoning Code. The EIR purported to analyze the consistency with the General Plan, but entirely failed to analyze one of the main inconsistencies: **this Project is not on the City of Irwindale's General Plan list of specifically permitted hazardous waste facilities.** In addition, the Zoning Code expressly prohibits facilities that process "hazardous materials, including but not limited to automotive fluids" – this definition clearly includes the Project.

DTSC may not abdicate its responsibilities under CEQA merely because the City of Irwindale staff has represented to DTSC that it has chosen to accede to the Project. Based on the plain text of the City of Irwindale's ordinances and regulations, it is reasonably foreseeable that the Project will require a general plan amendment (to include the new hazardous waste facility on the General Plan's maps), a zoning code amendment (to address the clear prohibition of the project as noted above), and a conditional use permit. These foreseeable land use and planning impacts must be analyzed. DTSC, *as lead agency*, must conduct this analysis and cannot pass responsibility to another agency.

CEQA also specifically requires an EIR to include a discussion of inconsistencies with applicable plans, including general plans.[73] By failing to identify the Project's inconsistency with the City of Irwindale's General Plan, the EIR violates CEQA.

M. The EIR and Permit Process did not Adhere to the Principle of Environmental Justice.

The EIR contains essentially no analysis of environmental justice issues. DTSC's Responses to Comments reveal a lack of concern toward this important issue, stating that CEQA does not require a review of environmental justice.[74] However, state law explicitly requires DTSC to conduct all of its activities in a manner that "ensures the fair treatment of people of all races, cultures, and income levels".[75] Accordingly, there is no exception to considering environmental justice issues for CEQA review.

Merely studying the environmental justice aspects of this Project is not sufficient. To do justice, DTSC must find another feasible location for this Project and not locate it on the working-class, largely non-English speaking Hispanic community that uses the Santa Fe Dam Recreational Area.

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[73] Cal. Code Regs., title 14, § 15125(d); *Napa Citizens for Honest Gov't v. Napa County Bd. of Supervisors* (2001) 91 Cal. App. 4th 342, 356.

[74] Final EIR at 3-47.

[75] *Ibid.*

N. The EIR's Analysis of Geology and Soils Remains Inadequate.

As described in our initial comment letter, the Project site and its vicinity is seismically active. DTSC's Responses to Comments acknowledge that a moderate earthquake could cause a release of hazardous waste.[76] However, rather than analyzing this impact and mitigating it, DTSC avoids it by referring to the mitigation measure HAZ 1.1, which is improperly deferred mitigation. There is no substantial evidence or analysis showing how this mitigation measure would protect the community from hazardous waste releases caused by a reasonable foreseeable earthquake.

O. Responses to Comment Failed to Correct a Defective EIR.

Our September 25, 2014 letter indicated numerous errors in the DEIR. However, DTSC failed to consider these errors including but not limited to:

- The fact that the Project site is actually with the boundaries of the current SEA, and there is no evidence that these boundaries were "errors" or "mistakes." Proposed boundaries that do not include the Project site are just that – proposed.
- The fact that there are residences must closer – in fact directly adjacent – to the Project's truck routes.
- The fact that there are several sensitive receptors near the Project site, such as the Irwindale Industrial Clinic, which is a 24-hour clinic, not a "daytime" clinic, and the Santa Fe Dam Recreational Area camping grounds.

These facts were not difficult to uncover, and DTSC's refusal to acknowledge these facts (much less take the independent effort to discover them for itself and analyze them) tends to show a lack of independent judgment in studying this Project's environmental impacts. This is a violation of CEQA.

P. The Final EIR Certification is Defective under Section 15090 of the CEQA Guidelines.

The CEQA Guidelines, Section 15090, requires the following certification by a lead agency prior to approval of a project:

> (1) The final EIR has been completed in compliance with CEQA;
>
> (2) The final EIR was presented to the decisionmaking body of the lead agency and that the decisionmaking body reviewed and considered the information contained in the final EIR prior to approving the project; and
>
> (3) The final EIR reflects the lead agency's independent judgment

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[76] Final EIR at 3-39.,

and analysis.

The Final EIR Certification for the Project, however, does not contain the proper certification, including, that it was "presented to the decisionmaking body of the lead agency and that the decisionmaking body reviewed and considered the information contained in the final EIR prior to approving the project." Rather, the Project's certification states only (and vaguely) that the Final EIR "was reviewed and considered prior to the project being approved."[78] Accordingly, the Final EIR Certification for the Project is defective and must be re-issued in compliance with the CEQA Guidelines, Section 15090.

Q. The Project Description is Inadequate.

The Project Description in the Draft EIR is distorted, unstable, and incomplete. For example, the location of the Project is described as a 0.98-acre site located at 5820 Martin Road in the City of Irwindale.[79] But under the section entitled "Existing Conditions," the Draft EIR discloses that not only will the Project comprise a hazardous waste treatment facility at 5820 Martin Road, but it will also include the "removal and relocation" of recycled oil filtering and used oil filter crushing operations to a "new location . . . proposed to be within 2 miles of the Project site."[80] Then, literally in the very next paragraph, the Draft EIR reverts to describing the Project as "entirely constructed within the existing 0.98-acre CleanTech site."[81] This is precisely the type of amorphous and shifting project description that is impermissible under CEQA.

As indicated above, CleanTech, clearly contemplates the removal and relocation of existing processes to another site within the area, and its plans are clear enough that it stated expressly that it anticipated the relocation to be within 2 miles of the Project site. DTSC cannot "unring the bell" and subsequently declare the relocation proposal is suddenly "speculative and unknowable."[82] Indeed, DTSC only revised the Project Description to delete the reference to the future relocation project,[83] but neglected to revise the many other references in the EIR to the

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78 Environmental Impact Report Certification, CleanTech Environmental Inc. Hazardous Waste Facility Permit (Jan. 30, 2015).

79 Draft Environmental Impact Report for the CleanTech Environmental, Inc. Hazardous Waste Facility Permit, SCH #2011111065, prepared for the Department of Toxic Substances Control by the Aspen Environmental Group, at 2-2 (Aug. 2014) [hereinafter "DEIR"] (Aug. 2014).

80 *Id.* at p. 2-4, 2-6.

81 *Id.* at p. 2-6.

82 *See, e.g., Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180, 194–95 (acknowledgement in public comments or the EIR of a specific project contemplated by the applicant or others cannot be brushed aside as "'unknown' or merely speculative": "The fact future development is not certain to occur and the fact the environmental consequences of a general plan amendment changing a land use designation are more amorphous does not lead to the conclusion no EIR is required.").

83 Final EIR at 4-3.

"new location" for existing processes.[84] Without an accurate project description, the public cannot be accurately informed as to the nature and scope of potential environmental impacts.

Accordingly, DTSC must revise the EIR, and in particular the Project Description, to include this new location for existing manufacturing operations, analyze the potential impacts of this new location and recirculate the revised EIR for further public review and comment. Without these revisions, the EIR is not a meaningful, informative document and violates CEQA.

R. Project General Condition 3 Cannot Be Met.

As indicated above, DTSC has not met its duty to prepare a legally adequate EIR. Accordingly, General Condition 3 of the Permit has not been met. Among other things, the EIR failed to analyze properly the Projects proposed impacts on air quality and climate change, biological resources, geology and soils, hazards and hazardous materials, land use and planning, noise, recreation, project alternatives, mitigation measures and cumulative impacts. Accordingly, the Permit cannot take effect until these errors are corrected and a revised and recirculated EIR is prepared.

S. CEQA Requires Revision and Recirculation of the EIR.

"[R]ecirculation is required, when among other things, new information added to an EIR discloses: (1) a new substantial environmental impact resulting from the project or from a new mitigation measure proposed to be implemented; (2) a substantial increase in the severity of an environmental impact unless mitigation measures are adopted that reduce the impact to a level of insignificance; (3) a feasible project alternative or mitigation measure that clearly would lessen the environmental impacts of the project, but which the project's proponents decline to adopt; or (4) that the draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment on the draft was in effect meaningless."[85]

As noted throughout this Petition, the EIR should be revised and recirculated for public review and comment, pursuant to the Supreme Court's direction in *Laurel Heights*. This Project, if approved, requires additional mitigation because the existing mitigation is vague, unenforceable, and improperly and improperly deferred. New mitigation measures would require a revised, recirculated EIR.

Also noted above, the Long Beach Alternative was improperly rejected because the EIR's analysis of this alternative was cursory and inaccurate. If the analysis of this Alternative were correct, with consistent and reasonable assumptions and data, it clearly would have been the environmentally superior alternative, as it would not be adjacent to the Santa Fe Dam Recreational Area.

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[84] E.g., Draft EIR at 3.5-1 ("If the proposed Project is approved and permitted, these two processes could be removed from the proposed Project site and relocated to another site that is expected to be located no more than 2 miles away.").

[85] *Laurel Heights Improvement Assn. v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1130 (internal citations omitted).

Finally, as noted throughout this Petition, the EIR (Draft and Final) was "so fundamentally and basically inadequate and conclusory in nature that public comment on the draft was in effect meaningless." Despite the fact that L.I.M.P.I.A. and other commenters expressly alerted DTSC to many errors thought the EIR, these errors persist. The EIR also makes important significance conclusions about environmental impacts without any data or analysis. The Final EIR made limited but insubstantial changes in response to public comment, so in effect, "public comment on the draft was in effect meaningless."

Accordingly, the EIR must be revised to correct the deficiencies identified in this Petition as well as any others that may be presented and recirculated for public review. Otherwise, this EIR and this process will remain in violation of CEQA.

V. CONCLUSION

Petitioner respectfully requests DTSC grant this petition for review all of the issues raised above and set a briefing schedule pursuant to California Code of Regulations, title 22, section 66271.18, subd. (c). In addition, in accordance with California Code of Regulations, title 22, sections 66271.14, subd. (b)(2), 66271.15, DTSC must stay the operation of the Permit pending resolution of the administrative appeal.

EXHIBIT 1

TRUMAN & ELLIOTT LLP

626 Wilshire Boulevard, Suite 550
Los Angeles, California 90017
Tel: (213) 629-5300
Fax: (213) 629-1212
www.trumanelliott.com

September 25, 2014

VIA E-MAIL AND OVERNIGHT MAIL

Mr. Alfred Wong
DTSC Project Manager
Department of Toxic Substances Control
700 Heinz Avenue
Berkeley, California 94710

Re: Draft Environmental Impact Report
CleanTech Environmental, Inc. Hazardous Waste Facility ("Project")
5820 Martin Road, Irwindale, California 91706

Dear Mr. Wong

We are writing on behalf of L.I.M.P.I.A. – Los Individuos Movilizado para Prohibir Intoxicación del Agua – and we appreciate the opportunity to review and submit public comments on the Draft Environmental Impact Report for the CleanTech Environmental, Inc. Hazardous Waste Facility Permit, SCH #2011111065, prepared for the Department of Toxic Substances Control by the Aspen Environmental Group, dated August 2014 (hereinafter "Draft EIR" or "DEIR").

We have reviewed the Draft EIR and have concluded it is inadequate in its analysis of potential environmental impacts of the Project, as well as its analysis of alternatives, mitigation measures, and cumulative impacts under the California Environmental Quality Act ("CEQA"). It also violates the environmental justice requirements of CEQA. Accordingly, the Draft EIR should be revised to address adequately these issues in a manner that satisfactorily informs the public and then should be recirculated for further public comment. Without these substantial revisions, which are explained in more detail below, the Project will present a substantial danger to the local community of Irwindale, natural ecological resources in the area, including the Santa Fe Dam Recreational Area, and other sensitive receptors. In particular, the failure to properly account for the fact that the Project is located directly adjacent to—if not in—a Los Angeles County-designated Significant Ecological Area renders the Draft EIR entirely inadequate as an informational document. A revised Draft EIR that accounts for this and other important misstated or omitted facts must be recirculated to the public and to the appropriate trustee and responsible agencies before the Project may be considered for approval.

I. INTRODUCTION

CEQA's basic purpose is to inform the public of the environmental consequences of proposed activities and to provide a forum through which such environmental consequences can be lessened or avoided entirely.[1] Specifically, the CEQA process should accomplish the following tasks:

- "inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities";
- "identify ways that environmental damage can be avoided or significantly reduced";
- "prevent significant, avoidable damage to the environment by" recommending feasible mitigation measures or alternatives; and
- "disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose. . . ."[2]

The EIR is the "heart of CEQA".[3] The EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected.[4] Here, the Draft EIR has not accomplished these fundamental purposes, rendering it legally inadequate under CEQA. In particular, the Draft EIR is legally deficient in the following respects:

The Draft EIR inadequately analyzed the Project's potential impacts on the Santa Fe Dam Recreational Area. The Recreational Area is a 836-acre nature preserve at the foot of the San Gabriel Mountains, with a 70-acre lake, fishing, boating, swimming, and play areas for children. It also is home to a vast array of flora and fauna species, including numerous endangered species. Yet, the Draft EIR essentially ignores the impacts of putting a large hazardous waste treatment facility--with the capacity to process 1,500,000 gallons of hazardous waste per month--literally footsteps from this ecological and recreational treasure. It is clear this Project would have significant impacts, but the DEIR ignores those impacts.

Further, the DEIR analyzes only one offsite alternative--in Long Beach. It is inconceivable that there is no offsite alternative between Long Beach and the facility that is not adjacent to a Significant Ecological Area, and DTSC must analyze such an alternative.

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1 *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449.

2 Cal. Code Regs. tit. 14, §15002, subd. (a). ("CEQA Guidelines")

3 *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795.

4 *Ibid.*

In addition, the Draft EIR does not adequately inform the public because it misstates or omits important facts and analysis regarding the Project or its environmental impacts, including, for example, the following:

- Project description and environmental baseline;
- Air quality and climate change;
- Biological resources;
- Geology and soils;
- Hazards and hazardous materials;
- Land use and planning;
- Noise;
- Recreation;
- Public services;
- Cumulative environmental impacts;
- Project alternatives; and
- Mitigation measures.

Finally, the Draft EIR entirely fails to consider impacts on environmental justice issues.

II. THE DRAFT EIR IS LEGALLY DEFICIENT

A. The Project Description Is Inadequate Under CEQA.

1. The Project Description is distorted, unstable, and incomplete.

CEQA requires that a proposed project be described accurately, consistently, and definitively.[5] The converse is true: an inaccurate, inconsistent, or indefinite project description can render an environmental analysis under CEQA legally deficient. "A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the 'no project' alternative) and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR."[6]

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5 *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-93.

6 *Id.* at pp. 192-93.

The Project Description in the Draft EIR is distorted, unstable, and incomplete. For example, the location of the Project is described as a 0.98-acre site located at 5820 Martin Road in the City of Irwindale.[7] But under the section entitled "Existing Conditions," the Draft EIR discloses that not only will the Project comprise a hazardous waste treatment facility at 5820 Martin Road, but it will also include the "removal and relocation" of recycled oil filtering and used oil filter crushing operations to a "new location . . . proposed to be within 2 miles of the Project site."[8] Then, literally in the very next paragraph, the Draft EIR reverts to describing the Project as "entirely constructed within the existing 0.98-acre CleanTech site."[9] This is precisely the type of amorphous and shifting project description that is impermissible under CEQA.

It is impossible to ascertain throughout the Draft EIR whether the analysis of environmental impacts, mitigation measures, and project alternatives refers to the Project at the Martin Road site or the Project at the Martin Road site in conjunction with the "new location" for the existing manufacturing processes. On one hand, the Draft EIR claims "the proposed Project is considering in full without offsetting any of the effects of the current operations . . . **that would be removed as part of the proposed Project.**"[10] But on the other hand, the Draft EIR completely reverses course and states that "**these impacts . . . would continue to occur at the new location** for these existing operations which is proposed to be within 2 miles of the Project site."[11] The Draft EIR later contradicts this statement by asserting in a footnote that "[t]hese two existing processes may actually be retained/relocated on site . . . ."[12]

It is impossible to tell what project is being analyzed and this fundamental flaw in the Draft EIR renders the entire document useless as a meaningful informational document. DTSC must revise the project description in the Draft EIR so that it is accurate, stable, and intelligible and then recirculate the DEIR for public review and comment. Without an accurate project description, the public cannot be accurately informed as to the nature and scope of potential environmental impacts.

2. The deficient Project Description results in impermissible piecemealing of the project.

It is axiomatic that under CEQA, "an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of

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7 Draft Environmental Impact Report for the CleanTech Environmental, Inc. Hazardous Waste Facility Permit, SCH #2011111065, prepared for the Department of Toxic Substances Control by the Aspen Environmental Group, at 2-2 (Aug. 2014) [hereinafter "DEIR"] (Aug. 2014).

8 *Id.* at p. 2-4, 2-6.

9 *Id.* at p. 2-6.

10 *Ibid.* (emphasis added).

11 *Ibid.* (emphasis added).

12 *Id.* at p. 2-11.

the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects."[13] The Project clearly contemplates not only the facility at Martin Road, but also a "new location" for the existing manufacturing processes. This "new location" is thus a "reasonably foreseeable consequence of" the Martin Road project and should have been fully evaluated in the Draft EIR.

Aside from the cursory description of the existing on-site manufacturing processes, the Draft EIR ignores this reasonably foreseeable project and therefore engages in project piecemealing (also known as segmentation) in violation of CEQA. The law is clear that when multiple projects such as these are contemplated, they must be analyzed together in the environmental review. "[T]here may be improper piecemealing when the purpose of the reviewed project is to be the first step toward future development."[14] That is evidently the case here, as the Martin Road project is essentially causing the "removal and relocation" of existing manufacturing processes to a "new location . . . within 2 miles of the Project site."[15] The Draft EIR even acknowledges that "[a]ll necessary permitting for these two processes would be completed for their new operating site prior to their removal and relocation," yet it does not discuss the potential environmental impacts of these new approvals at all, even though there are a host of sensitive receptors such as a community center, elementary schools, a high school, and a Significant Ecological Area all within two miles of the Project site.[16]

The inability to devise a legally adequate project description leads the Draft EIR into an arbitrary and unreasonable analysis. With regards to the removal and relocation of existing manufacturing operations from the Martin Road site, the Draft EIR assumes that because these manufacturing processes currently exist at the Martin Road site, the environmental impacts will not change when they are relocated. But it does not state this assumption, nor does it explain why it would make such an irrational assumption.[17] The Draft EIR does not even disclose where the new location for existing manufacturing operations will be other than to say that it will be within two miles of the Martin Road project site. As noted above, there are a host of sensitive receptors within two miles of the project site. Clearly, the environmental impacts of the existing manufacturing operations at the Martin Road site will be different if such operations are moved to reside next door to an elementary school, senior center, or to the Santa Fe Dam Recreational

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13 *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 396.

14 *Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1223.

15 DEIR, *supra* note 5, at p. 2-6.

16 *Id.* at pp. 2-6, 2-2.

17 An EIR may be legally deficient for failure to identify and explain its assumptions. (See, e.g., *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 659 ["The real problem, however, is that the EIR does not clearly identify the baseline assumptions regarding mine operations in its description of the existing environmental setting."].)

Area beach or lake. The Draft EIR does not address this issue because it has engaged in impermissible piecemealing by artificially segmenting the new location for the existing manufacturing operations from the environmental review.

DTSC must revise the Draft EIR's project description to include this new location for existing manufacturing operations and require the revised Draft EIR to be recirculated for public review and comment. Without these revisions, the Draft EIR is not a meaningful, informative document and does not comply with CEQA.

3. The Draft EIR fails to provide an adequate environmental baseline.

The Draft EIR also is fatally deficient for its failure to provide an intelligible environmental baseline. "The decision makers and general public should not be forced to sift through obscure minutiae or appendices in order to ferret out the fundamental baseline assumptions that are being used for purposes of the environmental analysis."[18] Yet, this is precisely what the Draft EIR forces its readers to do, and even then, a fundamental baseline and its assumptions cannot be ascertained.

As noted above, the Draft EIR fluctuates in in its description of the project and the existing environmental setting. It states that existing manufacturing processes may remain on site. It also states that existing manufacturing processes are taken into account when evaluating environmental impacts, but then states that existing manufacturing processes may be removed, or may be "phased" out.[19] This shifting description of the Project makes it impossible to ascertain the environmental baseline against which the Draft EIR evaluates environmental impacts.

For example, the Draft EIR claims it considers the Project "in full without offsetting any of the effects of the current operations, such as traffic trips. . . ."[20] But this is not true, and the analysis in the Draft EIR directly contradicts this supposed "Key Methodological Approach." In its analysis of transportation impacts, for instance, the Draft EIR bases its analysis on "net trips" and expressly states that "existing trips are already included under existing ADT levels . . . these existing trips are subtracted from proposed Project-related trips to show the net daily trip generation."[21] The Draft EIR's air quality analysis engages in the same bait-and-switch. Buried in the Appendix is the disclosure that "Emissions from existing processes, if retained on-site are part of the baseline and are not included in the emissions estimates for the proposed project."[22] The Draft EIR's shifting analytical framework thus renders the proposed environmental baseline

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18 *San Joaquin Raptor Rescue Center*, 149 Cal.App.4th at p. 659.

19 DEIR, *supra* note 5, at p. 2-11 fn. 1.

20 *Id.* at p. 2-6, 3.1-3 ("[I]t has been assumed that the proposed new activities would occur without any reduction in existing activity levels. This maximizes the potential impacts for several resources, such as air quality, traffic, and noise.").

21 *Id.* at p. 3.8-5.

22 *Id.* at p. A-12.

a nullity. It is impossible to determine and places the burden on the public to "sift through obscure minutiae or appendices in order to ferret out the fundamental baseline assumptions that are being used for purposes of the environmental analysis"[23], therefore violating CEQA.

The Draft EIR must be revised to clarify its baseline assumptions and apply that baseline consistently throughout the document. The DEIR may not claim one methodological approach and then use it only sporadically throughout the document with unintelligible qualifiers of possibilities to which the analysis refuses to commit. After such revision, the Draft EIR must be recirculated for public review and comment to ensure that such deficiencies have been corrected in a satisfactory manner.

B. The Draft EIR's Analysis of Environmental Impacts and Alternatives Is Deficient.

As explained more fully below, we are seeking substantial revisions, modifications, and additions to the Draft EIR, after which the revised Draft EIR should be recirculated for public review and comment so that L.I.M.P.I.A. and other members of the public can review and comment on the environmental impacts of the proposed Project. It is difficult to do so now because, as explained above, the Draft EIR failed to evaluate the environmental impacts of removing and relocating the existing manufacturing operations to a new location in the area, which includes sensitive receptors such as elementary schools and protected ecological areas that are home to federally and state-protected threatened and endangered animal species, as well as animal and plant species of concern. Notwithstanding this particular fatal flaw in the analysis, we identified a number of factual and analytical errors in the Draft EIR, which require the Draft EIR to be substantially modified and recirculated for further public review.

1. The Draft EIR's analysis of air quality and climate change impacts is inadequate.

The Draft EIR makes serious errors with respect to its air quality analysis that need to be corrected and recirculated for further public review and comment. The air quality analysis does not explain its assumptions and/or makes irrational and arbitrary assumptions, and it does not apply the SCAQMD significance thresholds properly. This is due in part from the ambiguity as to what constitutes the Project, i.e., whether the evaluation of environmental impacts includes consideration of existing manufacturing processes or not.

One of the assumptions the Draft EIR does not explain is why it chooses to use a receptor distance of 50 meters for the Localized Significance Threshold ("LST") analysis.[24] The proper distance is 25 meters, because a simple review of an aerial photograph of the Project area reveals that there are open air operations immediately adjacent to the Project site where workers may be

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23 *San Joaquin Raptor Rescue Center*, 149 Cal.App.4th at p. 659.

24 DEIR, *supra* note 5, at p. 3.2-11.

present.[25] According to the South Coast Air Quality Management District's Final Localized Significance Threshold Methodology, "[p]rojects with boundaries located closer than 25 meters to the nearest receptor should use the LSTs for receptors located at 25 meters."[26] Therefore, the Draft EIR's choice to use 50 meters as a receptor distance was not only left wholly unexplained, but is factually incorrect and must be corrected.

The Draft EIR similarly does not adequately explain its choice to use a 500-meter receptor distance for the PM10 and PM2.5 LSTs, and its choice is unsupported by the facts. The Draft EIR's explanation for this choice is that "since workers do not remain all day . . . located within a mile of the site in the area," a 500-meter distance was "appropriate."[27] But the Draft EIR ignores the fact that in this area, workers may in fact "remain all day," since the Project site is reportedly "surrounded by other commercial/industrial properties."[28] In fact, the existing operations at the Project site appear to operate nearly all day (either 16 or 24 hours, even though it is impossible to tell because the Draft EIR does not fully describe the current facility's operations).[29] And the proposed Project is proposed to run "all day."[30] There is no indication or explanation as to the nature of work in the surrounding commercial and industrial properties, and it is reasonable there will be workers who remain all day. Therefore, absent further explanation or evidence, the appropriate LST for PM10 and PM2.5 was 25 meters, not 500 meters.

The choice to use a 500-meter receptor distance was also erroneous as a matter of fact. The SCAQMD's instructions on choosing the appropriate receptor distance provides that "Receptor locations are off-site locations where persons may be exposed to the emissions from project activities. Receptor locations include . . . commercial and industrial land use areas; and … parks, bus stops, and sidewalks . . ."[31] The nearest bus stop appears to be approximately 400 meters away, and there also appears to be a park approximately 200 meters to the northeast of the project site.[32]

Finally, the Draft EIR's air quality analysis was deficient because it possibly misapplied the LST tables by not explaining or adjusting for the different assumptions embodied in the LST methodology. The LST Methodology assumes the Project is limited to 8 hours of operation per

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25 See Area Map, p. 1 [attached hereto]

26 South Coast Air Quality Management Dist., *Final Localized Significance Threshold Methodology*, at 3-3 (July 2008) [hereinafter "SCAQMD LST Methodology"].

27 DEIR, *supra* note 5, at p. 3.2-11.

28 *Id.* at p. 2-2.

29 *Id.* at p. 2-4, 2-6 (current operations run for 2–3 "shifts" per day).

30 *Id.* at p. 2-13 ["The proposed new facility, as described above in Section 2.3, would be operated 24 hours per day, 6 days per week (Sunday through Friday), 52 weeks per year."].

31 *SCAQMD LST Methodology*, *supra* note 4, at p. 3-2.

32 Area Map, *supra* note 23, at p. 2.

day and only operations during the day.[33] However, the Project will be operating for 24 hours a day, which exceeds the LST Methodology's assumption regarding operations by a factor of 3. In this case, SCAQMD recommends these projects "should complete a site specific localized significance analysis."[34] There is no indication that the Draft EIR undertook this analysis.

Accordingly, the Draft EIR must be revised to include such a site-specific localized significance analysis and/or account for the reality of the Project's operations (24 hours a day) and the assumptions underlying the LST look up tables (8 hours). Under either scenario, the Draft EIR must be recirculated for public review and comment, considering that the deficiencies described above are serious and need to be corrected before the public can be meaningfully informed of the environmental impacts of the proposed Project. In addition, there are other substantive errors which make it difficult to comprehend the analysis contained in the air quality analysis, and these errors need to be corrected and the Draft EIR recirculated in order for the public to have a meaningful opportunity to review and comprehend this information.[35]

2. The Draft EIR's analysis of biological resource impacts is inadequate.

The Draft EIR makes a serious error in not clearly delineating the boundaries of the Santa Fe Dam Recreational Area. By failing to do so, it misleads the public as to the potential environmental impacts on this adjacent sensitive ecological preserve. In addition, this error demonstrates the Draft EIR did not undertake a serious analysis of potential impacts on the Santa Fe Dam Recreational Area because it completely omits any discussion or analysis of the fact that access to the Project site necessarily requires traversing the boundaries of this preserve, exposing it to potentially catastrophic impacts if a spill were to occur.

The Santa Fe Dam Recreational Area (the "Santa Fe Preserve") is a Significant Ecological Area, a designation assigned by the Los Angeles County Department of Regional Planning to "to land that contains ***irreplaceable*** biological resources" in order to "preserve the genetic and physical diversity of the County by designing biological resource areas capable of sustaining themselves into the future."[36] The Santa Fe Preserve, like other Significant Ecological Areas, contains "undisturbed or lightly disturbed habitat supporting valuable and threatened

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33 *SCAQMD LST Methodology, supra* note 24, at p. 3-4.

34 *Ibid.* [SCAQMD LST Methodology]

35 E.g., DEIR, *supra* note 5, at p. 3.2-17. Table 3.2-12 shows the Annual GHG emissions for Alternative 1. What are the annual GHG emissions for the proposed project? This clear deficiency in the presentation of information requires that the Draft EIR be corrected and recirculated for public review, especially given the sheer number of factual and legal deficiencies endemic to the entire document.

36 Los Angeles County Department of Regional Planning, *SEA Program*, <http://planning.lacounty.gov/sea/> (last visited Sept. 13, 2014) [emphasis added].

species, linkages and corridors to promote species movement, and is sized to support sustainable populations of its component species."[37]

The Draft EIR's most egregious error is the misidentification of the Santa Fe Preserve. The Draft EIR asserts that the "closest point" of the Santa Fe Preserve is "approximately 860 feet . . . south of the Project site"; however, the Draft EIR fails to disclose that this is a ***proposed*** boundary for the Santa Fe Preserve, not the actual boundary.[38] **The actual boundary to the Santa Fe Preserve includes the project site, and the Draft EIR fails to disclose this.**[39]

The fact the Draft EIR misstates the boundaries of an important and sensitive ecological preserve to exclude the Project site (when in reality the preserve includes the Project site) is a serious informational deficiency in the Draft EIR which requires it to be corrected, re-analyzed, and recirculated for public review and comment. As noted in the Draft EIR, the Santa Fe Preserve is home to a myriad of threatened, endangered, and special status plant and animal species.[40] The public is entitled to correct information if it is to meaningfully be informed of the potential environmental consequences of the Project, particularly when it involves a sensitive ecological area, such as the Santa Fe Preserve.

The Draft EIR seems oblivious that the Santa Fe Preserve is essentially adjacent to the Project site, which is demonstrated by the fact that there is virtually no discussion of the potential catastrophic impact of a hazardous waste spill into sensitive native habitat in the immediate vicinity of the site. Clearly, this is a significant impact. An examination of the Project area reveals that local access routes to the site are limited, and many of those routes involve traversing the boundary of the Santa Fe Preserve. The Draft EIR ignores this reality entirely, even though the Project site is actually within the Santa Fe Preserve, is within a mere 350 feet of native habitat, and will be using a primary truck route (along 1st Street) that runs adjacent to 40 acres of native habitat and dedicated open space.[41]

Accordingly, the Draft EIR must be revised to reflect the correct boundaries of the Santa Fe Preserve, re-evaluate its analysis of potential biological resources impacts to account for the Santa Fe Preserve, and discuss and analyze the potential impact on the Santa Fe Preserve and native habitat in the area of hauling tens of thousands of gallons of hazardous waste per day along the immediate boundaries of such areas. After this revision, the Draft EIR must be

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37 *Ibid.*

38 DEIR, *supra* note 5, at p. 3.3-11; Area Map, *supra* note 23, at pp. 9–10 [emphasis added].

39 Los Angeles County Department of Regional Planning, Significant Ecological Areas and Coastal Resource Areas Map (Apr. 2014), <http://planning.lacounty.gov/assets/upl/sea/SEA_adopted_proposed_2014.pdf>; Area Map, *supra* note 23, at pp. 9–10 [emphasis added].

40 DEIR, *supra* note 5, at p. 3.3-5 – 3-9.

41 *Id.* at p. 3-3.1; *SEA Boundary Map, supra* note 37.

recirculated for public review and comment in order for the public to be informed meaningfully of the potential environmental impacts of this new hazardous waste treatment plant.

3. The Draft EIR's analysis of geology and soils impacts is inadequate.

The Draft EIR's conclusion of no impact related to geology and soils is arbitrary because it ignores the unique circumstances of the area (which includes being within and/or directly adjacent to the Santa Fe Preserve) and essentially ignores Safety Risk of Upset. These unique circumstances require the development of a Health and Safety Assessment and Work Plan prior to approval of the project, as well as a statement of overriding considerations because the Safety Risk of Upset is a significant and unmitigable adverse impact. Failure to complete the Health and Safety Assessment and Work Plan before the Project is approved would constitute improper deferred mitigation, and appears to be designed to obscure the fact that the potential impacts to the Santa Fe Dam Recreational Area cannot be mitigated--an upset or accident that caused a release into the Recreational Area would be catastrophic.

First, there is a confluence of earthquake faults in the project area, which is highly unusual. Nine separate faults are located within 31 miles of Irwindale.[42] Five active earthquake faults are located within 3.5 miles of the city's core, which covers only 8.8 square miles. Furthermore, the Duarte fault (Segment D of the Sierra Madre Fault) runs through the entire city.[43] Segment E of the Sierra Madre Fault meets up with several other faults in a complex zone northwest of the town of Upland near the epicenter of the 1990 Upland earthquake.[44] The general trend of the Sierra Madre Fault Zone continues eastward from this point along the base of the San Gabriel Mountain, but this eastern continuation is known as the Cucamonga Fault Zone.[45] The Cucamonga Fault Zone "seems to be more active (has a higher slip rate) than the Sierra Madre fault zone."[46] Although rupture on the Sierra Madre Fault Zone could be limited to one segment at a time, it has recently been suggested by seismologists studying this area that a large event on the San Andreas fault to the north could cause simultaneous rupture on reverse faults south of the San Gabriel Mountains—the Sierra Madre Fault Zone being a prime example of such.[47]

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42 City of Irwindale General Plan, at 130 (2008).

43 Southern California Earthquake Data Center, Sierra Madre Fault Zone, California Institute of Technology < http://www.data.scec.org/significant/sierramadre.html> [last visited Sept. 13, 2014].

44 *Ibid.*

45 *Ibid.*

46 *Ibid.*

47 Ibid.

Second, the California State Department of Conservation, in its official maps, identifies a body of water less than 2,000 linear feet from the proposed Project site. The state of California State Geologist labels the body of water and other areas around it as potential areas for:

> Earthquake Induced Landsides: Areas where previous occurrence of landslide movement, or local topographic, geological, geotechnical, and subsurface water conditions indicate a potential for permanent ground displacements such that mitigation as defined in Public Resources Code Section 2693(c) would be required.[48]

The United States Geological Service estimates an **87.3% probability** of an earthquake of greater than 6.0 magnitude occurring within 31 miles of the subject site.[49]

Therefore, given the confluence of faults that exist within and surrounding the subject site, the fact that the Project site is within and/or directly adjacent to the Santa Fe Preserve, and the fact that State Department of Conservation has identified a water body fewer than 2,000 feet from the project site situated on land where previous landslide movement occurred, it is irrational to conclude, as the Draft EIR did, that the project has no potential to expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as result of the failure of a levee or damn. Should even a moderate earthquake occur, as it likely will, it could have disastrous consequences on the local population and wildlife due to a spill from the Project site—an impact that is not only significant, but unmitigable. The impact on geology and soils, the potential for earthquakes, and potential flooding were not properly disclosed and analyzed, and the Draft EIR's conclusion of no significant effect is irrational.

4. The Draft EIR's analysis of hazards and hazardous materials impacts is inadequate.

Although the Draft EIR purports to analyze the impact of a hazardous waste spill, its arbitrary choice to essentially ignore the potential for a hazardous waste spill during transit renders the analysis deficient.

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48 *Ibid.*

49 U.S.G.S. 2009 Probability Earthquake Mapping. [Copy attached].
Note for this citation: the information in the letter is not available online. However, if you follow this link:
http://www.dtsc.ca.gov/HazardousWaste/upload/CleanTech_Petition_TElliott.pdf and go to pages 19-20, a copy of the website where the information originated is available.

The Draft EIR's analysis of a potential for a spill during transport is cursory, conclusory, and irrational. For instance, the Draft EIR focuses on the impact of a spill after it has already happened, but does not substantially address the risk of a spill, or preventing a spill from occurring in the first place.[50] This misplaced focus further demonstrates the Draft EIR's obliviousness of the Santa Fe Preserve. The Santa Fe Preserve is a Significant Ecological Area with ***irreplaceable*** natural resources; therefore, addressing the only impacts of a spill is insufficient—rather, the Draft EIR must discuss, analyze, and mitigate the risk of a spill occurring in the first place. And because the Santa Fe Preserve is home to irreplaceable natural resources, the hazards and hazardous materials impact is a significant, unavoidable, and unmitigable impact for which a statement of overriding considerations will be required before DTSC may approve the Project.

The Draft EIR's willful ignorance of the Santa Fe Preserve is further evident in its discussion of how a spill might affect sensitive biological resources. The Draft EIR states "there is no potential for toxic materials to be washed from the site, or washed from trucking accidents into the SFDRA. . . ."[51] This conclusory statement misses the point and is factually impossible, as the Project site actually resides within the boundaries of the Santa Fe Dam Recreational Area. The statement that there is "no potential" for toxic materials to be washed from trucking accidents into the Santa Fe Preserve is incorrect and reflects the cursory nature of the Draft EIR's analysis. The Project proposes truck routes hauling tens of thousands of gallons of hazardous waste along routes which are directly adjacent to the Santa Fe Preserve and other natural habitat and park space.[52] One risk, as the Draft EIR provides, is that an accident on-site or on a roadway would migrate to these sensitive ecological areas and cause biological damage. Another risk, entirely ignored by the Draft EIR, is the risk that during transport, hazardous waste is spilled directly into these sensitive ecological areas. Directly adjacent to the truck route along 1st Avenue is natural habitat and park open space. Similarly, directly adjacent to the truck route along Arrow Highway is the San Gabriel River Trail, which is frequented by visitors and cyclists to the Santa Fe Preserve's recreational area. Therefore, the statement that there is "no potential" for toxic materials to end up in the Santa Fe Preserve cannot be correct.[53]

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50 DEIR, *supra* note 5, at p. 3.5-11 ["Along the proposed traffic route of the proposed Project, an accidental spill or leak could occur which would require procedures for cleanup and removal of the hazardous material. The proposed Project would implement Mitigation Measure (MM) HAZ-1.1 to reduce impacts of a hazardous material spill or leak during transport of hazardous waste to the proposed Project site."].

51 *Id.* at p. 3.3-20.

52 Area Map, *supra* note 23, at p. 3.

53 It also contradicts other statements in the Draft EIR. (E.g., DEIR, *supra* note 5, at p. 3.6-11 ["During transport to and/or from the Project site, . . . it is possible that the released material(s) could migrate to surface waters (including stormwater drainage facilities), particularly if a precipitation event occurs at the same time or immediately following the accidental release."].)

Accordingly, DTSC should revise the analysis in the Draft EIR to consider the very real potential that a spill could occur directly into the Santa Fe Preserve from on-site operations or from an accident hauling waste to the project site. Statements such as "no potential" are not only factually impossible—there will always be some risk as long as the project exists—they are also misleading and run directly counter to the informational purposes of CEQA. The Draft EIR should be corrected to appropriately explain the level of risk involved, and once it has been corrected, it must be recirculated for further public review and comment.

5. The Draft EIR's analysis of land use and planning impacts is inadequate.

The Draft EIR inexplicably failed to analyze the Project's inconsistency with the City of Azusa General Plan, even though it conceded the Project site is "directly adjacent to the City of Azusa and would use at least one road located in the City of Azusa. . . ."[54] In addition, the Project will be serviced by the Azusa Light and Water Department. The Draft EIR merely states the City of Azusa "did not provide an official response,"[55] but that does not mean that the Draft EIR may simply ignore this analysis. Similarly, the Draft EIR completely omitted any mention of the City of Baldwin Park's General Plan, even though one of the two main truck routes proposed for the Project (along Arrow Highway) is directly adjacent to the Baldwin Park.

In addition, the Draft EIR failed to analyze potential inconsistencies with City of Irwindale General Plan policies regarding land use, environmental justice and resource management, including the following:[56]

- The City of Irwindale's General Plan lists facilities that handle hazardous waste, but the CleanTech facility is not listed.[57] The General Plan must be amended to allow this facility.
- Resource Management Element Policy 5. The City of Irwindale will maintain and improve the existing park facilities in the City for the benefit and enjoyment of future generations.[58]
- Issue Area – Resource Preservation. The City of Irwindale will maintain and preserve those natural and man-made amenities that contribute to the City's livability.[59]

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54 DEIR, *supra* note 5, at p. 2-28.
55 *Ibid.*
56 See also *infra* Section II.C.
57 City of Irwindale General Plan, at 136 <http://www.ci.irwindale.ca.us/DocumentCenter/View/38> (last visited, Sept. 16, 2014.)
58 *Id.* at p. 118.
59 *Ibid.*

- Resource Management Element Policy 13. The City will encourage environmental considerations and the City's discretionary authority over land use entitlements.[60]

- Resource Management Element Policy 19. The City of Irwindale will consider environmental justice issues as they are related to potential health impact associated with air pollution and ensure that all land use decisions, including enforcement actions, are made in an equitable fashion to protect residents, regardless of age, culture, ethnicity, gender, race, socioeconomic status, or geographic location from the health effects of air pollution.[61]

The Draft EIR should be revised to include an analysis of applicable General Plan policies from the Cities of Irwindale, Azusa, and Baldwin Park and be recirculated for public review and comment once this analysis has been completed. Without it, the Draft EIR has omitted important analysis regarding potential impacts to directly adjacent jurisdictions and fails as an informational document under CEQA.

In addition, the proposed Project is inconsistent with the City of Irwindale's Zoning Code. For the project to proceed, the Zoning Code must be amended and the Project must obtain a major use permit. As the DEIR acknowledges, the Project is in the M-2 zone. The Zoning Code specifically prohibits processing facilities, like this Project, from accepting "hazardous materials, including but not limited to, automotive fluids."[62] Thus, the Project is inconsistent with the Zoning Code, resulting in a significant land use impact. Even if the Project were consistent with the Zoning Code (which it is not), the Zoning Code clearly requires a conditional use permit. Indeed, the DEIR acknowledges that a conditional use permit is required because a conditional use permit is required for "petroleum refining" and "recycling facilities" in the M-2 zone. Yet, inexplicably, the DEIR concludes the "City of Irwindale has categorized the site use to be appropriate for the M-2 zone and has noted that the proposed Project would be an intensification of an existing use that would not require a conditional use permit."[63] The DEIR's conclusion is factually incorrect--the Project is a new large hazardous waste processing facility. Moreover, the City cannot just waive the requirements of its Zoning Code. Without an amendment to the Zoning Code and a conditional use permit, the Project cannot be legally sited. The DEIR must find a significant land use impact based on this inconsistency (unaddressed by the DEIR) with the current General Plan and Zoning Code.

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60 *Ibid.*

61 *Id.* at p. 119.

62 City of Irwindale Municipal Code § 17.56.090(B)(12).

63 DEIR, *supra* note 5, at p. 2-28.

6. The Draft EIR's analysis of noise impacts is inadequate.

The Draft EIR's noise analysis is fatally flawed due to factual inaccuracies and a misapplication of the definition of "sensitive receptor." The cursory analysis contained in this section demonstrates the lack of seriousness paid to the Project's potential impacts in this sensitive ecological and recreational area.

Again, the Draft EIR misidentifies the Santa Fe Preserve, despite the fact the Project is within the current boundaries of the Santa Fe Preserve. The Draft EIR erroneously asserts that "[t]he nearest sensitive receptor to the Project site is the Santa Fe Dam Recreational Use Area. Site reconnaissance showed the nearest Santa Fe Dam recreational trail is located approximately 3,000 feet southwest of the proposed project and is separated by several blocks of industrial uses and open space."[64] This is incorrect.

The entrance into the San Gabriel River Trail into the Santa Fe Preserve is just over 600 feet to the southeast of the Project site boundary.[65] The trail then runs east-west at the northern edge of natural habitat in the Santa Fe Preserve at a distance of approximately 600 to 800 feet south of the project boundary. The Draft EIR's noise analysis begins with an egregious factual error.

Similarly, the Draft EIR misidentifies the sensitive receptors that could be affected by Project-related traffic. The Draft EIR asserts that "No sensitive receptors were identified as being located with 1,000 feet of the primary truck route. The nearest sensitive receptors to the contingency truck route are residential properties located approximately 800 to 1,000 feet south of Arrow Highway."[66] This is also incorrect. There are sensitive receptors directly adjacent to these truck routes, and the Draft EIR misidentified them because it misapplied the concept of "sensitive receptor."

The Draft EIR purports that sensitive receptors are limited to "schools, hospitals, residences, and recreational facilities."[67] The Draft EIR's statements regarding the proximity of sensitive receptors to the contingency and primary truck routes were clearly erroneous. With respect to the contingency truck route along Arrow Highway, recreational facilities in the area include the San Gabriel River Trail, which runs parallel to Arrow Highway fewer than 400 feet from Arrow Highway at its closest point and fewer than 600 feet from the Santa Fe Preserve and its recreational area.[68] With respect to the primary truck route along North Irwindale Avenue, there is a park and a medical clinic directly adjacent to this route.[69] Therefore, the Draft EIR's

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64 DEIR, *supra* note 5, at p. 3.7-1.
65 Area Map, *supra* note 23, at p. 4.
66 DEIR, *supra* note 5, at p. 3.7-1.
67 *Ibid.*
68 Area Map, *supra* note 23, at p. 5.
69 *Id.* at p. 6.

ambient noise measurements were performed at the wrong distances and must be substantially revised.[70]

In addition, the Irwindale Recreational Department is fewer than 600 feet from this intersection, and there appears to be single family homes within 200 feet south of Arrow Highway west of Irwindale Avenue.[71] Again, the Draft EIR's noise measurements were made from the incorrect sensitive-receptor locations and require substantial revisions that need to be recirculated for the public for review and comment.

The Draft EIR's noise analysis is seriously flawed. The Draft EIR overlooked a number of sensitive receptors both in the area of the Project site and the Project's truck routes. These serious errors must be corrected and the analysis revised for further public review and comment in a revised Draft EIR.

7. The Draft EIR's analysis of recreation impacts is inadequate.

As noted earlier, the Project site is located within hundreds of feet of the Santa Fe Preserve, which is unique in the area in offering over 800 acres of natural open space for fishing, camping, swimming, boating, cycling, hiking, and bird watching, among other outdoor recreational activities.

Should an accident occur at the Project site, or with a truck loaded with hazardous waste traveling to or from the Project site along the boundary of natural habitat and park space (such as along 1st Street) or the Santa Fe Preserve (along Arrow Highway) and hazardous waste spills or leaches into or across the ground, the Santa Fe Preserve would be detrimentally affected and tens of thousands residents affected.

But in a mere five sentences, the Draft EIR asserts there will be no significant impact on recreation, offering nothing more than a series of conclusory statements (e.g., "The proposed Project's construction and operation would not affect the level of use of the areas recreational facilities") and incorrect statements (e.g., "The proposed Project site and the immediate area surrounding the site are characterized by industrial uses."),[72] The Draft EIR can only make these statements by ignoring that the site is actually adjacent to and/or within the Santa Fe Preserve, within hundreds of feet of natural habitat and parks, and proposes to haul tens of thousands of gallons of hazardous waste per day directly adjacent to these uses. A proper environmental analysis under CEQA cannot ignore the obvious, and therefore the Draft EIR must be corrected, revised, and recirculated for public review and comment.

8. The Draft EIR's analysis of impacts to public services is inadequate.

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70 DEIR, *supra* note 5, at p. 3.7-2.

71 *Id.* at pp. 7–8.

72 DEIR, *supra* note 5, at p. 2-31.

Based on a series of unsupported conclusory statements, the Draft EIR irrationally concludes the Project "does not substantially alter the fire or police response requirements that occur at the existing site" in a less than one-page "analysis" of impacts to public services.[73] This conclusion is arbitrary for a number of reasons:

First, there is an unwarranted and arbitrary focus on the Project site, even though there is a risk that a hazardous waste spill, which would require emergency response services from multiple jurisdictions in the area, could occur off-site. An accident on Irwindale Avenue or 1st Street would require a coordinated response from the Cities of Azusa and Irwindale. An accident on Arrow Highway would require a coordinated response from the Cities of Baldwin Park and Irwindale. An accident in the area of the Santa Fe Preserve may even involve federal agencies, as the Recreational Area is a U.S. Army Corps of Engineers Facility. Finally, an accident in the vicinity of the intersection of Irwindale Avenue and Arrow Highway may require a coordinated response from the emergency response services of the Cities of Irwindale, Azusa, and Baldwin Park, and perhaps other agencies. Yet, there is no evidence provided in the DEIR that any of these jurisdictions were consulted with respect to this risk.

Second, the analysis contained in this section, aside from being conclusory and unsupported by evidence, contains factual inaccuracies. For example, the Draft EIR incorrectly states that "No . . . parks, or other public facilities are located within or are directly adjacent to the proposed project site, and the construction and operation of the proposed Project would not impact the use, directly or indirectly, of these public facilities."[74] Again, the Draft EIR myopically focuses on on-site operations and neglects that a necessary part of the Project's operations requires the transport of tens of thousands of gallons of hazardous waste per day adjacent to the Santa Fe Preserve and other open space parks and natural habitat, which are only hundreds of feet away. In addition, the Draft EIR misstates facts regarding the Project's location. The Project site is actually within the Santa Fe Preserve, so it is untrue that it is not "located within or . . . directly adjacent to" a park or other public facility.

The Draft EIR's purported analysis of public service's impacts needs to be substantially revised to correct serious factual misstatements and to incorporate evidence of its assertions. After the Draft EIR is corrected, it must be recirculated for public review and comment in order to satisfy CEQA.[75]

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73 *Id.* at p. 2-30.

74 *Ibid.*

75 *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1130 ["[R]ecirculation is required, for example, when the new information added to an EIR discloses: . . . that the draft EIR was so fundamentally and basically inadequate and conclusory in nature that public comment on the draft was in effect meaningless."] [citation omitted].

9. The Draft EIR's analysis of cumulative impacts is inadequate.

The Draft EIR's refusal to undertake any cumulative impacts analysis with respect to certain impacts renders the entire DEIR legally deficient and indefensible. DTSC may not simply choose to ignore cumulative impacts under the guise that the project-specific analysis considered cumulative impacts. Not only is this nonsensical, but defeats the purpose of undertaking a cumulative impacts analysis and, therefore, violates CEQA.[76]

The Draft EIR's neglect to undertake any analysis in the cumulative impact analysis of air quality and climate change impacts underscores this violation. The Draft EIR asserts that a cumulative impact analysis of the air quality and climate change impacts is unnecessary because (1) the impacts are project-specific; and (2) the SCAQMD's thresholds "reflect the existing ambient conditions and air quality planning efforts for the air basin[] and reflect the SCAQMD's determination for what constitutes a substantial contribution to existing impacts."[77]

DTSC cannot avoid conducting a cumulative impacts analysis simply because the impact is phrased in terms of a project-specific impact.[78] By definition, a cumulative impacts analysis not only looks at project-specific impacts, but the impacts of reasonably foreseeable future projects: "The purpose of a cumulative impacts analysis is to assess whether the incremental effects of a project *combined with the effects of other development* would cause a significant environmental impact."[79] If CEQA permitted the exclusion of cumulative impacts analysis based merely on the analysis of the project-specific analysis, then the cumulative impacts analysis would be wholly unnecessary and would defeat CEQA's informational purposes:

> The significance of a truthful, complete and public dissemination of information relating to the cumulative environmental impact of a proposed project was emphasized in *Mountain Lion Coalition v. Fish & Game Com.* (1989) 214 Cal.App.3d 1043, 1051 [263

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76 *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, 1025 ["Assessment of a project's cumulative impact on the environment is a critical aspect of the EIR."]; *Joy Road Area Forest & Watershed Assn. v. California Department of Forestry and Fire Protection* (2006) 142 Cal.App.4th 656, 676 ["[T]he cumulative impact analysis must be substantively meanlngful."].

77 DEIR, *supra* note 5, at p. 4-3.

78 *See ibid.* ["This impact is project specific and has no potential for cumulative impacts. Therefore, there are no cumulative impacts related to conformance with applicable air quality plans."]; *see also id.* at p. 4-4 ["The proposed Project's air pollutant emissions were determined to be well below the magnitude needed to contribute substantially to an existing or projected air quality standard violation. Therefore, cumulative impacts would be less than significant."].

79 *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 278 [emphasis in original].

> Cal.Rptr. 104]: 'The requirement of public review has been called "the strongest assurance of the adequacy of the EIR . . . ." "It is vitally important that an EIR avoid minimizing the cumulative impacts. Rather, it must reflect a conscientious effort to provide public agencies and the general public with adequate and relevant detailed information about them." "A cumulative impact analysis which understates information concerning the severity and significance of cumulative impacts impedes meaningful public discussion and skews the decisionmaker's perspective concerning the environmental consequences of the project, the necessity for mitigation measures, and the appropriateness of project approval.'" [80]

The Draft EIR makes this same analytical error of substituting its project-specific analysis for the cumulative impacts analysis with respect to biological resources,[81] cultural resources, hazards and hazardous materials, hydrology and water quality, noise, transportation,[82] and other impacts.[83] These sections are replete with conclusory statements and the lack of any substantial evidence or analysis, with almost no mention of the other cumulative projects in the area. This type of cursory, insubstantial analysis violates CEQA.[84]

This analytical error is compounded by the fact that the Draft EIR misapplied the SCAQMD local significance thresholds, again substituting the cumulative impacts analysis with

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80 *Ultramar, Inc. v. South Coast Air Quality Management Dist.* (1993) 17 Cal.App.4th 689, 703.

81 DEIR, *supra* note 5, at p. 4-5 ["The cumulative effects of past development (e.g., land use changes, water use, habitat degradation, and human disturbance) and the current and foreseeable future projects listed in Table 4.1 have significantly affected biological resources in the region. However, the proposed Project would not increase impacts to biological resources (vegetation, special-status plants, common wildlife, nesting birds, special-status wildlife, and wildlife movement), or jurisdictional wetland resources over baseline conditions (see Section 3.3.3). Therefore, the Project would not have a considerable contribution to cumulative impacts to biological and jurisdictional wetland resources."].

82 E.g., *id.* at p. 4-8 ["With respect to traffic, only the Waste Management and Veolia projects are of concern cumulatively."].

83 *Id.* at pp. 4-5 – 4-9.

84 See, e.g., *Whitman v. Board of Supervisors* (1979) 88 Cal.App.3d 397, 411 ["Here, the cumulative impact discussion in the EIR lacks even a minimal degree of specificity or detail. Rather, the 'discussion' is but a conclusion utterly devoid of any reasoned analysis . . . . The use of phrases such as 'increased traffic' and 'minor increase in air emissions,' without further definition and explanation, provides neither the responsible agency nor the public with the type of information called for under CEQA."].

its project-specific analysis.[85] Even though SCAQMD's LSTs and other thresholds consider local ambient conditions, this does not mean it is a threshold for cumulative impacts, as the Draft EIR erroneously assumes. This is because ambient conditions include a consideration of impacts from past projects, and the cumulative impacts analysis requires an analysis of ***past, present, and future projects***. This clear error in the analytical approach requires wholesale revision of the cumulative impacts analysis and recirculation of the Draft EIR.

The Draft EIR's cumulative impact analysis is erroneous for another independent reason: it is conclusory and unsupported by any evidence. For example, the Draft EIR asserts the cumulative projects listed are "similar to the proposed Project in the fact that their operating emissions are primarily due to transportation emissions and they do not have high levels of unmitigated on-site emissions during operation that would cause a cumulative increase in emissions above SCAQMD thresholds."[86] However, this statement and other substantive assertions are not accompanied by any citations to any evidence.

The Draft EIR's methodological assertions also are unsupported by any substantial evidence. For instance, the Draft EIR asserts that "SCAQMD regional thresholds are often applied to assess cumulative impacts by considering the on-site emissions from nearby projects (typically a one-mile radius)."[87] As elsewhere, this statement is unsupported by any citations or reference to any actual evidence. CEQA, however, requires the geographic scope of a cumulative impacts analysis to be an area that is affected by the project.[88] The Draft EIR, in other sections, notes multiple sensitive receptors within two miles of the Project area.[89] Also, similar to its analysis in other sections, the Draft EIR focuses only on the Project site but ignores that part of the Project includes the hauling of tens of thousands of gallons of hazardous waste along two primary routes in the area, both of which run adjacent to sensitive ecological areas

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85 DEIR, *supra* note 5, at p. 4-4 – 4-5 ["SCAQMD LSTs and TAC significance thresholds are project-specific impact analyses that identify if a project would have the potential to expose sensitive receptors to substantial pollutant concentrations considering the existing background cumulative air quality conditions. The project's LST and TAC impacts were found to be less than significant, so they will not cumulatively contribute to impacts to sensitive receptors. Cumulative impacts would be less than significant."].

86 DEIR, *supra* note5, at p. 4-4.

87 *Ibid.*

88 *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1216 ["An EIR is required to discuss significant impacts that the proposed project will cause in the area that is affected by the project. (CEQA Guidelines, § 15126.2, subd. (a).) This area cannot be so narrowly defined that it necessarily eliminates a portion of the affected environmental setting. Furthermore, Guidelines section 15130, subdivision (b)(3) directs agencies to 'define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.'"].

89 DEIR, *supra* note 5, at p. 2-2.

such as the Santa Fe Preserve and other parks and open-space natural habitat. Accordingly, the choice to limit the scope of cumulative projects to a 1-mile radius violates CEQA—it is wholly unsupported by any evidence and contradicts facts noted elsewhere in the Draft EIR. At a minimum, the cumulative projects scope should extend at least at least a 2-mile radius from the Project site.

Finally, as noted earlier, the Draft EIR impermissibly uses an amorphous baseline to avoid a meaningful cumulative impacts analysis. For example, the Draft EIR excludes the evaluation of certain cumulative projects but then purports to claim that such exclusion satisfies the cumulative impacts analysis:

> [T]he Waste Management project has been included in baseline conditions for the transportation analysis. Therefore, this project is cumulatively considered in the proposed Project transportation analysis. [90]

It is completely unclear, however, whether the Draft EIR included the under-construction Waste Management Project as part of the baseline or the completed Waste Management Project as part of the baseline. This distinction is important because when an activity is included within the baseline, this actually ***excludes*** the impact of that activity from the environmental impact analysis because it is considered as part of existing environmental conditions.[91] Under CEQA, the baseline is typically the existing conditions at the time of environmental review, and the Waste Management project is not completed.[92] Therefore, simply stating that the Waste Management project, given its incomplete status, is included in the baseline is legally insufficient under CEQA, because it is impossible to ascertain the scope of the cumulative impacts analysis.[93] A proper cumulative impacts analysis should have specified that the baseline included the construction impacts of the Waste Management project and then evaluated the cumulative impact of the project plus the impacts associated with the completed Waste Management project's operation.

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90 *Id.* at p. 4-8.

91 *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 122 ["[A]pplicants . . . clearly had a vested interest in establishing a water use baseline high enough to allow the project to go forward."].

92 *Woodward Park Homeowners Assn., Inc. v. City of Fresno* (2007) 150 Cal.App.4th 683, 710 ["The proposition that an agency sometimes can choose a baseline other than existing physical conditions is implicit in the Guideline's statement that existing physical conditions are 'normally' the baseline. Even so, in this case, neither the city nor Zinkin has advanced any reason why the normal approach was not required here."]; DEIR, *supra* note 5, at p. 4-3.

93 See *ibid.*

The Draft EIR's cumulative impacts analysis must be revised and corrected to include evidence or reasoned explanation for its various conclusions and assertions and to conduct a meaningful, substantial analysis of cumulative impacts, including a legally adequate baseline discussion. The revised Draft EIR then must be recirculated for public review and comment because the current Draft EIR failed to conduct a cumulative impacts analysis for a substantial number of environmental impacts.

10. The Draft EIR's analysis of project alternatives is inadequate

The Draft EIR conclusion that Alternative 3 – Alternate Project Location (Long Beach) is infeasible is unsupported by reason, common sense, and substantial evidence. Based on the current Draft EIR, it is not clear that the proposed Project is the "environmentally superior alternative," but in fact appears that the only reason the proposed Project is presented as such is due to the applicant's various business considerations. But "environmentally superior alternative" does not necessarily equate to the "most profitable alternative."

The Draft EIR states that one of the basic objectives for the Project is to allow the applicant to "serve a diverse client base, including clients at the Ports of Los Beach/Los Angeles, recycled base oil market in Azusa, and remote boiler/fuel burners in Nevada and Arizona."[94] The primary—and indeed the only—reason Alternative 3 is deemed unacceptable is because it is in Long Beach and would purportedly require increased transportation miles.[95] But this conclusion is unsupported by any substantial evidence, other than what appears to be the applicant's own bare statements.

The Draft EIR undertakes a simplistic analysis that is supported only by the applicant's statements regarding potential extra mileage from siting the Project in Long Beach, and much of the underlying data is omitted.[96] The omission of the underlying data makes it impossible to evaluate the credibility of the various assertions and conclusory statements made in the analysis of Alternative 3.

In addition, the Draft EIR's analysis in this section is not internally consistent. In the first paragraph, the Draft EIR states that "the accumulated mileage each day for driving semi-tankers to Long Beach is approximately 35 miles one way or 70 miles round trip."[97] However, two sentences later, it asserts that "[i]nbound used oil tankers delivering to Veolia from Fresno . . . would need to go an extra 50 miles per load to deliver in Long Beach as opposed to Irwindale. This would require an additional 100 miles per day of delivery tanker travel."[98] There is no

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94 DEIR, *supra* note5, at p. 5-1.
95 *Id.* at pp. 5-8 – 5-9.
96 *Id.* at p. 5-8.
97 DEIR, *supra* note5, at p. 5-8.
98 *Ibid.*

reasoned explanation why the distance between Long Beach and Irwindale would increase from 35 miles to 50 miles (or from 70 miles round trip to 100 miles round trip) under Alternative 3.

The proposed Project appears to have been designated the "environmentally superior alternative" due to the applicant's desire for future expansion, which is not an environmental concern.[99] But the Draft EIR does not make any serious attempt to compare the environmental impacts of Alternative 3 to those of the proposed Project. Rather, the Draft EIR makes several conclusory statements that Alternative 3 would "create similar or increased localized impacts in the Long Beach area" but does so ignoring the fact that Alternative 3 might not be directly adjacent to and/or within a designated Significant Ecological Area.[100] In particular, the statement that "the impacts associated with Alternative 3 should be virtually indistinguishable from the proposed Project for . . . biological resources" defies common sense and logic and demonstrates the extent to which the Draft EIR seems to ignore reality in order to declare the proposed Project as the "environmentally superior alternative."[101]

The Draft EIR needs to contain a more serious analysis of alternatives, and in particular Alternative 3. With respect to Alternative 3, the Draft EIR must, at a minimum, meaningfully evaluate the benefit gained from not siting a hazardous waste treatment plant in a Significant Ecological Area, including the benefit gained from not transporting tens of thousands of gallons of hazardous waste per day adjacent to such sensitive ecological areas, against the marginal increase in transportation impacts that may occur with an alternative location in Long Beach.

11. The Draft EIR's recommended mitigation measures constitute impermissible deferred mitigation.

CEQA requires that mitigation measures be "feasible and enforceable" and does not permit deferred or insufficiently detailed mitigation.[102] The mitigation contained in the Draft EIR, however, comprises both impermissible deferred and insufficiently detailed mitigation, and thus needs to be revised and recirculated in order to comply with CEQA.

For example, MM HAZ-1.1: Hazardous Materials Transportation Emergency Response Plan provides that the applicant shall prepare a plan, but this mitigation measure is unenforceable.[103] It contains no standards by which the plan can be deemed adequate to mitigate the potential catastrophic impact of a hazardous spill of thousands of gallons of hazardous waste next to or within a sensitive ecological area such as the Santa Fe Preserve. Accordingly, this

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99 See *id.* at p. 5-11.

100 *Id.* at p. 5-9.

101 *Ibid.*

102 E.g., *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 95.

103 DEIR, *supra* note 5, at p. ES-10.

mitigation fails to satisfy CEQA and must be substantially revised to include enforceable and transparent requirements, including more specific requirements as to substantive content.[104]

Accordingly, the mitigation measures in the Draft EIR must be revised and supplemented, if necessary, to comply with CEQA. In particular, the Hazardous Materials Transportation Emergency Response Plan must actually be developed and presented for public review; when the plan is developed, it must also include performance standards, monitoring, or some other mechanisms to ensure that they are enforceable and actually address the significant impacts they are meant to mitigate. Otherwise, the Draft EIR in its current form has presently only nonbinding aspirations to mitigate significant environmental impacts and is thus legally inadequate.

C. The Draft EIR Fails Entirely To Consider Impacts On Environmental Justice Issues.

DTSC must consider the public health burdens of a project as such burdens relate to environmental justice for certain communities. "The benefits of a healthy environment should be available to everyone, and the burdens of pollution should not be focused on sensitive populations or on communities that already are experiencing its adverse effects."[105]

"Environmental justice" is defined in the Government Code as "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies."[106] The cursory analysis described in depth above is just one example that the Draft EIR did not achieve "the fair treatment" of the citizens of this area.[107] In addition, the fact that the Draft EIR was made available only in the English language does not satisfy the environmental justice requirements of state law.

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104 *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 280–81; *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 884.

105 Office of the Attorney General, California Dept. of Justice, *Environmental Justice at the Local and Regional Level*, at 1 (2012).

106 Govt. Code, § 65040.12, subd. (e).

107 See, e.g., *supra* Section II.B.5 (Draft EIR failed to analyze potential inconsistency with City of Irwindale General Plan Resource Element Policy 19, relating to environmental justice). See also *supra* Section II.B.1 (Draft EIR failed to properly apply LST thresholds). Failure to properly apply LSTs violates principles of environmental justice because the one of the primary purposes of using LSTs is to facilitate a conservative assessment of localized air impacts to help ensure that the local community is not disproportionately disadvantaged by a project's air-quality impacts. (See *SCAQMD LST Methodology*, *supra* note24, at p. 4-1.)

The Project is being forced on a largely Latino community—over 90%—[108]without communication with the community. A majority of the surrounding community uses Spanish as the primary language.[109] Although notices and fact sheets regarding the Project may have been published in Spanish, only the Executive Summary portion of the Draft EIR was available in Spanish. However, the Executive Summary indicates that "[t]he reader should not rely on the Executive Summary as the sole basis for judgment of the Project and alternatives."[110] Accordingly, the Spanish-speaking Latino community could read only the Executive Summary in Spanish but could not rely on it to make decisions or judgments regarding the Project. This oversight defeats the purpose of CEQA by removing the ability to learn about the Project by the community most affected by the Project, and therefore violates the environmental justice requirements of CEQA. The public review of this Project's environmental impacts has not been designed to be accessible to a majority of the local population, effectively defeating CEQA's "informational purpose."

To remedy this deficiency, DTSC should 1) re-circulate the entire DEIR in Spanish for public review; and 2) hold a public hearing on the issue in both English and Spanish for the community to understand the effects of this Project. Allowing this Project to go forward as approved would subject tens, if not hundreds, of thousands of underserved citizens to the effects of a Project they do not know about.

III. CONCLUSION

The DEIR is defective in a myriad of ways, as described in detail above. Fundamentally, the Draft EIR fails to satisfy the informational purpose of CEQA, and thereby it fails to satisfy CEQA's purpose of protecting the environment. In general, it is impossible to evaluate the potential environmental impacts because the project description and environmental baseline is unstable, inaccurate, and non-definite. And even assuming that the project description was adequate (which it is not), the evaluation of environmental impacts suffers from serious factual deficiencies and inaccuracies, including the lack of evidence to support its assertions and conclusions, such as errors in the locations of sensitive receptors and the failure to acknowledge that the project site is actually within a designated Significant Ecological Area, where Project operations entail hauling of tens of thousands of gallons of hazardous waste—on a daily basis—directly adjacent to and into these sensitive ecological and recreational areas. These deficiencies and errors render the Draft EIR essentially meaningless as an informational document.

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108 *Irwindale, California*, WIKIPEDIA <http://en.wikipedia.org/wiki/Irwindale, California> [last visited Sept. 15, 2014].

109 *Irwindale, California language data*, LOCALLABS.ORG <http://locallabs.org/hartsville/irwindale-california-language> [last visited Sept. 15, 2014].

110 DEIR, *supra* note 5, at p. ES-1 (emphasis added).

The Draft EIR must be corrected, revised, and recirculated for public review and comment, as the errors and deficiencies described throughout this letter will require substantial, wholesale revisions of major portions of the document. Anything less would be a violation of the California Environmental Quality Act.

Sincerely,

Todd Elliott
of TRUMAN & ELLIOTT LLP

Attachments:

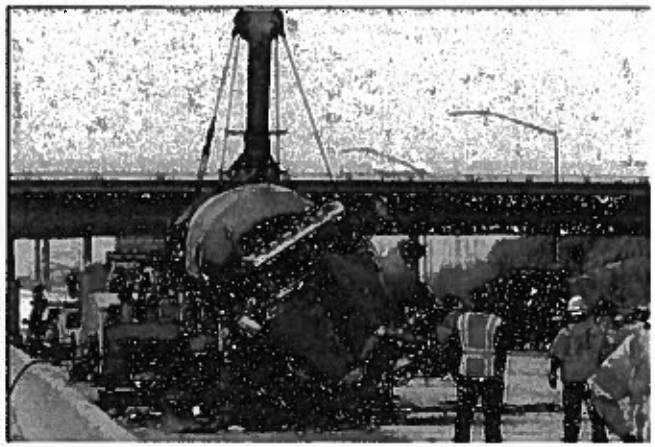
Area Maps (10 pages)
South Coast Air Quality Management District Localized Threshold Methodology (49 pages)
City of Irwindale General Plan Selected Pages (5)
Irwindale Earthquake Information (3 pages)

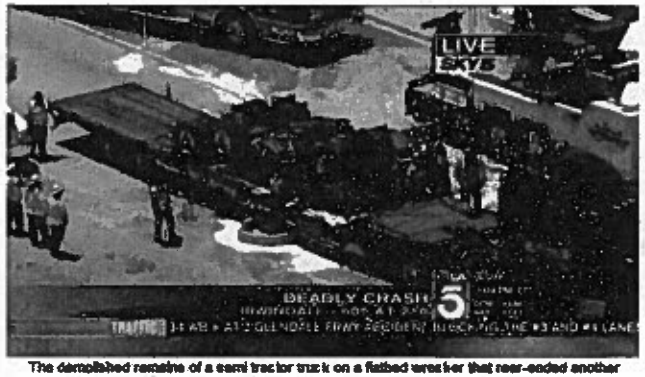
EXHIBIT 2

Overturned Truck Accidents and Heavy Traffic Congestion are a Common Occurrence, particularly on Interstate 210 and Interstate 605 near Irwindale and Azusa, California

Date	Description	Link
2014-08-18	Overturned truck shuts down part of 210 Freeway in Irwindale (San Gabriel Valley Tribune)	http://www.sgvtribune.com/general-news/20140818/overturned-truck-shuts-down-part-of-210-freeway-in-irwindale
2014-08-11	3 Hospitalized in Big Rig Crash That Shut Down Lanes of 210 Freeway (NBC Los Angeles)	http://www.nbclosangeles.com/news/local/Big-Rig-Crash-Shuts-Down-Lanes-of-210-Freeway-in-Pasadena-270814851.html 
2014-03-21	Big rig loaded with cement blocks overturns on 210 Freeway in Irwindale (San Gabriel Valley Tribune)	http://www.sgvtribune.com/general-news/20140321/big-rig-loaded-with-cement-blocks-overturns-on-210-freeway 

Date	Description	Link
2014-02-27	Tanker truck overturns on Highway 101 in Morgan Hill	http://www.ksbw.com/news/central-california/hollister-gilroy/tanker-truck-overturns-on-highway-101-in-morgan-hill/24718228 
2013-09-08	Person dies in big rig crash on the 210 Freeway in Irwindale (Inside SoCal)	http://www.insidesocal.com/sgvcrime/2013/09/08/person-dies-in-big-rig-crash-on-the-210-freeway-in-irwindale/
2013-08-22	Tour bus overturns on 210 Freeway in Irwindale; 52 hurt (ABC7 Los Angeles)	http://abc7.com/archive/9215433/ 

Date	Description	Link
2013-06-25	12 Injured in Overturned Cement Truck Accident, 3 Critically, Entering 605 Freeway near Irwindale at Arrow Highway (San Gabriel Valley Tribune)	http://photos.sgvtribune.com/2013/06/25/photos-cement-truck-overturns-on-605-fwy-in-irwindale/#2 
2013-05-20	Big Rig Carrying 35,000 Pounds of Grapes Crashes Into Freeway Divider	http://www.nbclosangeles.com/news/local/Big-Rig-Truck-Crash-210-Freeway-Traffic-208113311.html 
2012-12-24	UPDATE: Overturned Semi-Truck Collision on the 210 East	http://patch.com/california/arcadia/overturned-semi-truck-collision-on-the-210-east

Date	Description	Link
2012-07-16	Big-rig driver killed in crash on 605-210 freeway transition (LA Times)	http://latimesblogs.latimes.com/lanow/2012/07/big-rig-driver-killed-after-crashing-into-parked-semi-near-irwindale.html  The demolished remains of a semi tractor truck on a flatbed wrecker that rear-ended another tractor trailer on the northbound I-605 at the I-210 interchange in Irwindale, CA on July 16, 2012.
2009-03-27	Deadly Irwindale crash snarls traffic on 210 for hours (Contra Costa Times)	http://www.contracostatimes.com/california/ci_12015517 
2009-01-14	Chemical spill closes eastbound 210 Freeway in Azusa (LA Times)	http://latimesblogs.latimes.com/lanow/2009/01/a-semi-trailer.html

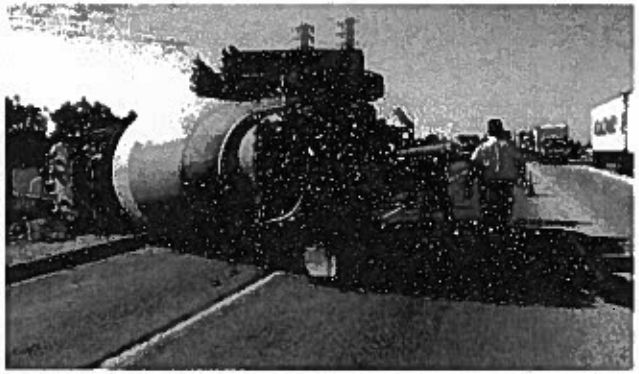
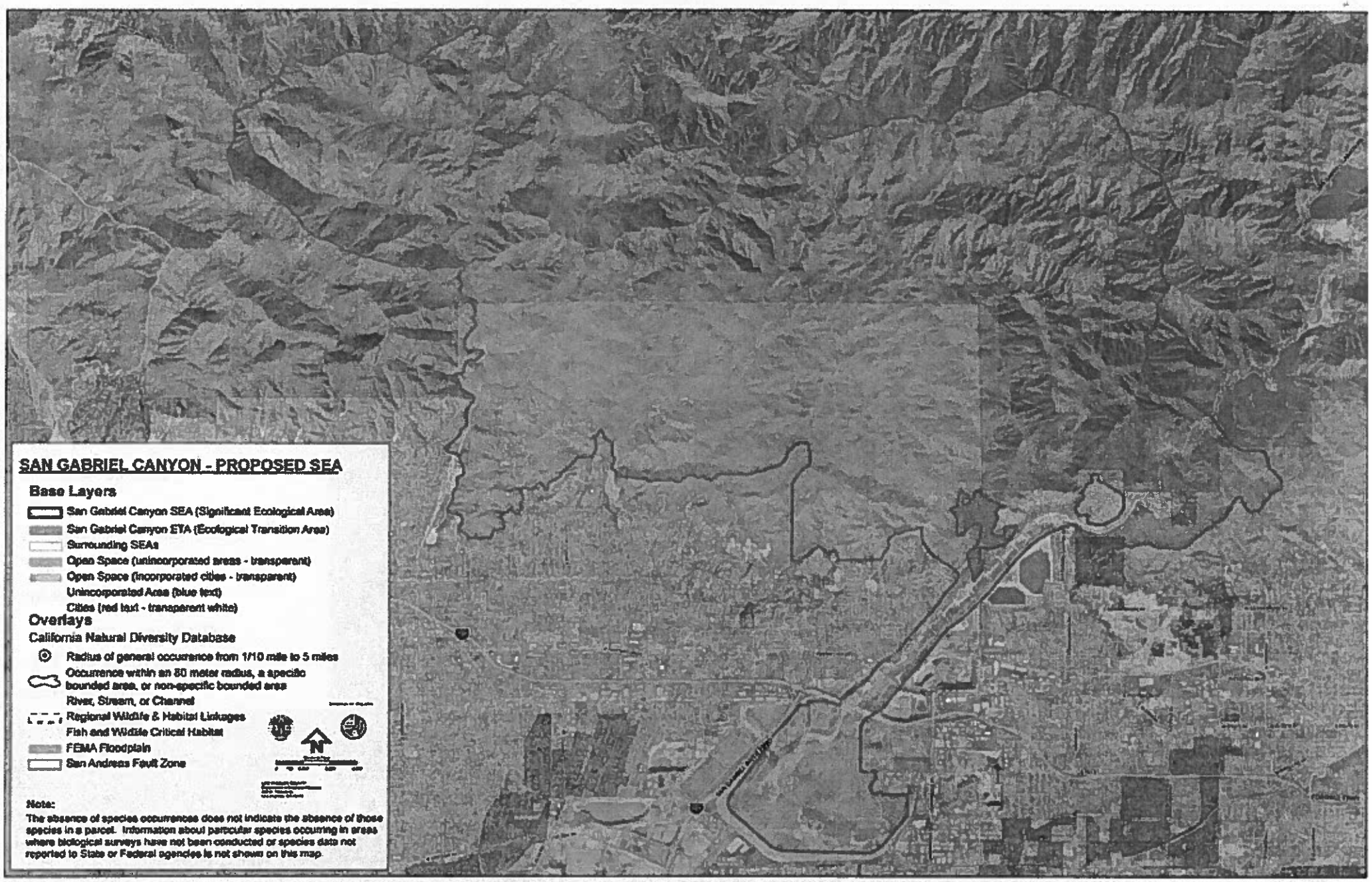
Date	Description	Link
2008-10-18	210 Freeway Closure This Weekend Means Detours (LAist)	http://laist.com/2008/10/18/210_freeway_closure_this_weekend_me.php
2007-09-10	An overturned cement truck on the northbound 605 freeway near Live Oak Ave. snarled traffic throughout the morning on Monday September 10, 2007 (San Gabriel Valley Tribune)	http://sgvtribune.mycapture.com/mycapture/folder.asp?event=329310 

EXHIBIT 3


SAN GABRIEL CANYON - PROPOSED SEA
Base Layers
San Gabriel Canyon SEA (Significant Ecological Area)
San Gabriel Canyon ETA (Ecological Transition Area)
Surrounding SEAs
Open Space (unincorporated areas - transparent)
Open Space (incorporated cities - transparent)
Unincorporated Area (blue text)
Cities (red text - transparent white)
Overlays
California Natural Diversity Database
Radius of general occurance from 1/10 mile to 5 miles
Occurrence within an 80 meter radius, a specific bounded area, or non-specific bounded area
River, Stream, or Channel
Regional Wildlife & Habitat Linkages
Fish and Wildlife Critical Habitat
FEMA Floodplain
San Andreas Fault Zone
N
Note:
The absence of species occurrences does not indicate the absence of those species in a parcel. Information about particular species occurring in areas where biological surveys have not been conducted or species data not reported to State or Federal agencies is not shown on this map.


GIS-NET3 Public
Planning & Zoning Information
Department of Regional Planning for UNINCORPORATED LA County
Map Tool: Pan
Getting Started
5820 martin road, irwindale, ca
Search
Welcome to GIS-NET3 Public!
Search Parcels By APN or Address
Map Layers
Layers
Legend
City and Community
INCORPORATED CITY
UNINCORPORATED AREA
DRP Field Office
SEA (Significant Ecological Area)
Supervisorial District
Zoning (Boundary)
Land Use Plan Categories
Search and Locate
Tasks
Identify
Query
Location
Parcels
Select/Search
Enter or choose name...
Add
Remove
Go To
Named Extents/Bookmarks
I Want To...
Base Maps
IRWINDALE
SEA: SANTA FE DAM FLOODPLAIN
District 1
AZUSA
SANTA FE DAM RECREATIONAL AREA
S Peckham Rd
S Motor Ave
S IRWINDALE AVE
W Gladstone St
1000 ft

rpgis.isd.lacounty.gov/GIS-NET3_Public/Viewer.html

GIS-NET3 Public
Planning & Zoning Information for UNINCORPORATED LA County
Department of Regional Planning

Map Tool: Pan | Getting Started | 5820 MARTIN RD IRWINDALE CA 91706 | Search

Welcome to GIS-NET3 Public!

Map Layers

Layers | Legend

Layer Name | Visible

- Master Plan of Highways
- Parcel Boundary
- Parcel Fabric
- River, Channel, or Stream
- Rural Outdoor Lighting District (Dark Skies)
- Rural Outdoor Lighting District Changes
- Safety Related Stations
- SCAG Existing Land Use (2005)
- Scenic Highway
- SEA (Significant Ecological Area)
- SEA Connectivity and Constriction Lines
- SEA Proposed - Developed Areas
- SEA Proposed - DRAFT
- Section Line
- Setback District Setbacks
- Significant Ridgelines
- Specific Plan - 3rd Street (East LA)
- Specific Plan - La Vina (Altadena)
- Specific Plan - Newhall Ranch (SCV)
- Specific Plan - NorthLake (SCV)
- Specific Plan - Universal Studios
- Street Labels
- Subdivision Activity
- Subdivision Inactive
- Supervisorial District
- Town Council Area

Filter Layers: | Clear

Search Parcels By APN or Address

Search and Locate | Tasks

Identify | Query | Location | Parcels | Select/Search

Enter or choose name... | Add | Remove | Go To | Named Extents/Bookmarks

I Want To...

Base Maps

IRWINDALE

District 1

SEA: SANTA FE DAM FLOODPLAIN

SANTA FE DAM RECREATIONAL AREA

AZUSA

N IRWINDALE AVE

S IRWINDALE AVE

S Peckham Rd

Ayala Ave

S Motor Ave

400 m

1000 ft

COUNTY OF LOS ANGELES

GENERAL PLAN

Significant Ecological Areas and Coastal Resource Areas

April, 2014

DRAFT

LEGEND:

- Significant Ecological Area (Proposed)
- Coastal Resource Area*
- Significant Ecological Areas (Adopted)
- Open Space

Base Features

- Perennial Water Body
- Intermittent Water Body
- Dry Water Body
- City Boundaries**
- Unincorporated Area
- National Forest

* REGULATORY INFORMATION:

The County considers the biological resources in the Santa Catalina Island and Santa Monica Mountains Coastal Zones to be of significance. The management and review of biological resources in the Coastal Zones differs from the countywide Significant Ecological Area regulatory program. Biological resource management and regulation in the Santa Catalina Island Coastal Zone is implemented through the Santa Catalina Island Local Coastal Program. Biological resource management in the Santa Monica Mountains Coastal Zone is currently implemented through the Malibu Land Use Plan (when certified, resource protection in this area will be implemented through the Santa Monica Mountains Local Coastal Program).

** SEAs WITHIN CITIES:

Emphasis is given for the Significant Ecological Areas in the unincorporated areas. Therefore, any SEA within an incorporated city will have a more muted green color.

NOTES:

This map is a component of the Los Angeles County General Plan Update Program. It is a working draft subject to revision. This map will not be official until adopted by the Board of Supervisors. Information within cities is for reference only. Suggestions for modifications to its contents will be considered by County staff when revising the map for public hearings by the Regional Planning Commission. Written comments and supporting documentation should be submitted to the Department of Regional Planning General Plan Development Section (address: 320 W. Temple Street, Los Angeles, CA 90012; fax: 213-626-0434; or email: generalplan@planning.lacounty.gov).

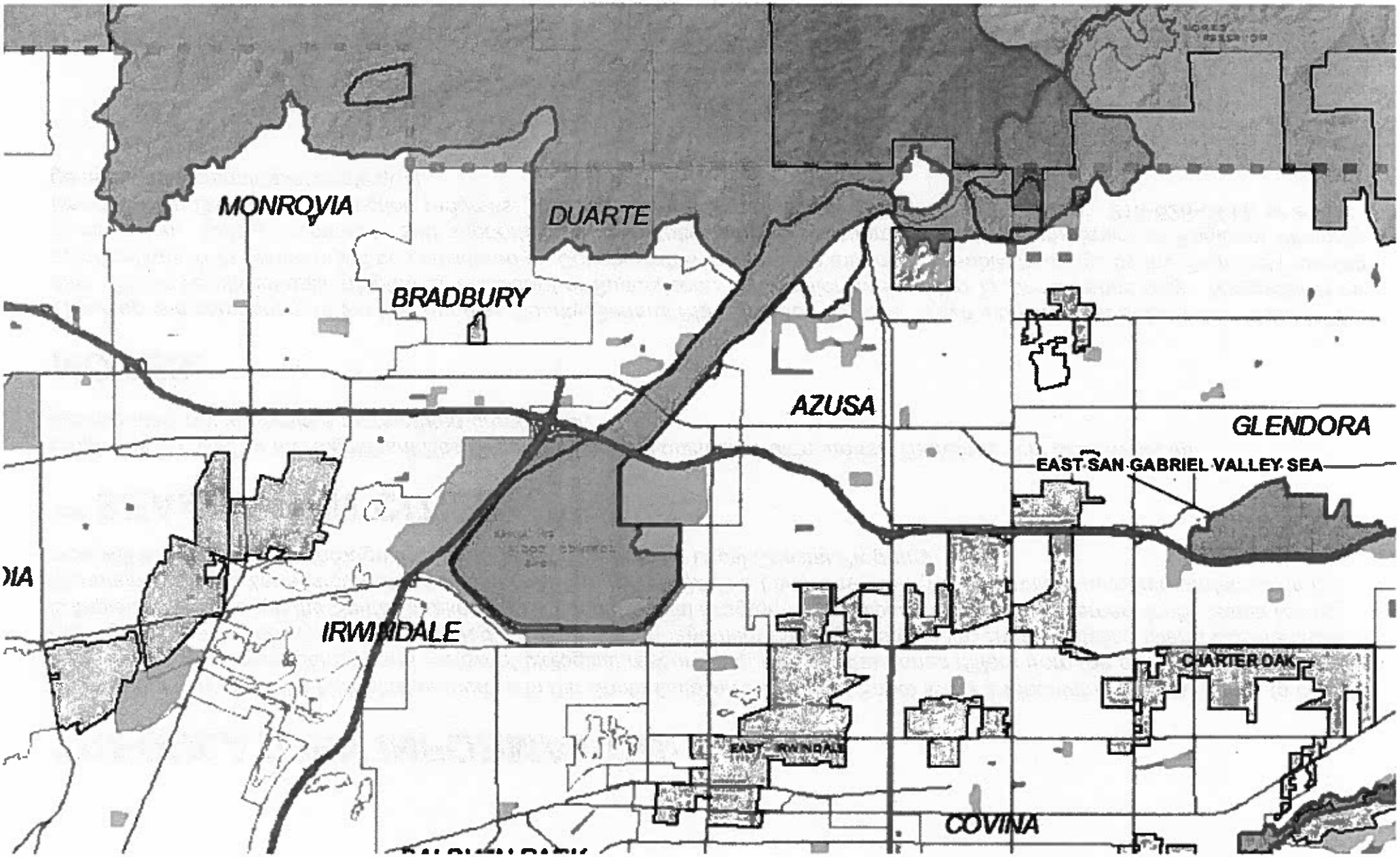

MONROVIA
DUARTE
BRADBURY
AZUSA
GLENDORA
EAST SAN GABRIEL VALLEY SEA
IRWINDALE
CHARTER OAK
EAST IRWINDALE
COVINA

EXHIBIT 4

Table ES-2 Potentially Significant Effects and Mitigation Program *Irwindale Materials Recovery Facility and Transfer Station EIR*		
Potentially Significant Effects	**Proposed Mitigation Measures**	**Level of Impact After Mitigation**
3.11 Public Services		
No significant impacts on public services or utilities systems would result from either construction or operation of the Proposed Project.	No mitigation measures relative to this resource topic are proposed or required.	No impacts.
3.12 Traffic Generation and Circulation		
Potential traffic impacts attributable to the project include high volume heavy duty trucks used in waste hauling and for transport of processed materials, as well as lighter duty vehicles for self-haul operations, employee trips, and trips for convenience store customers. The traffic impact assessment examined traffic flow and routing at the site and adjacent roadways, and haul routes to and from the freeway system,	**Recommended Off-Site Improvements** **MM T-1** consists of the following improvements at the I-605 NB Off-Ramp (NS) / Live Oak Avenue (EW) intersection: • Install a traffic signal • Construct a 2nd northbound right turn lane. • Provide a 3rd westbound through lane by modifying the existing raised median. This will also provide additional queuing storage for the westbound left turn lane at the intersection of I-605 SB On-Ramp (NS) / Live Oak Avenue (EW). **MM T-2** consists of the following improvements at the I-605 SB Off-Ramp (NS) / Arrow Highway (EW) intersection, as highlighted in Exhibit 3.12-38: • Construct a 2nd southbound left turn lane.	Significant and unavoidable. ~~Less than significant with mitigation.~~ The Proposed Project is expected to contribute to cumulative impacts to existing deficiencies or projected deficiencies on the I-210 freeway mainline segments eastbound and westbound of the Irwindale Avenue on and off ramps, and the I-605 northbound off-ramp at Live Oak Avenue and the I-210 westbound off-ramp at Irwindale Avenue.

EXHIBIT 5

IIC Medical Staff

IIC Philosophy

IIC Facility

Contact IIC

Home

IIC SERVICES

The many services Irwindale Industrial Clinic provides include:

Work Related Injuries:

- Open 24 hours a day, 7 days a week for treatment of all types of industrial injuries. IIC maintains a licensed physician on premises 24 hours a day / 7 days a week.
- Complimentary round-trip van service for all injured employees.
- On-site dispensary for prescription and OTC medications.
- First aid direct billing available on a case-by-case basis.
- Monthly computerized cost analysis.

Physicals/Examinations

- Pre-employment physicals including: basic physicals, DOT and non-DOT exams, annual and return-to-work physicals, comprehensive vision and audiometric testing, x-ray, spirometry, EKG and laboratory services.
- Cardiac treadmill stress testing. Readings analyzed by cardiologist.
- Carpal tunnel screening.
- Back evaluations utilizing the Promotron 3000 lift simulation system.
- 24 hour Drug Screening: Legal chain of custody drug testing, (DOT or non-DOT) random and post-accident testing as well as probable cause. Guaranteed "next day" results including GCMS confirmation.
- Physical abilities testing in compliance with Americans with Disabilities Act (ADA).
- OSHA compliance exams including asbestos monitoring, respirator fit testing and bloodborne pathogens.

Plus:

A variety of wellness programs including CPR and first aid classes, on-site back seminars, ergonomic evaluation, cholesterol, and blood pressure screening.

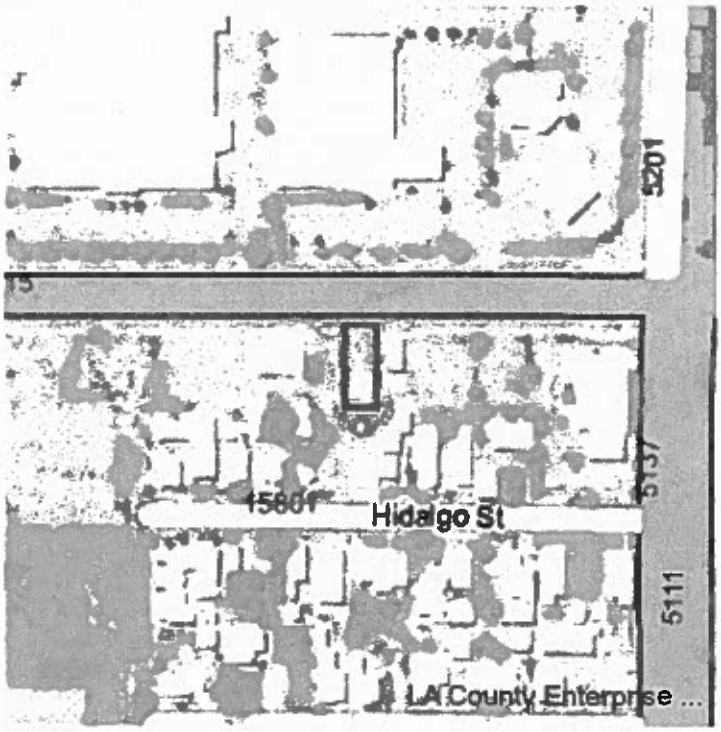
EXHIBIT 6

Parcel Profile Report

Report date: Friday, February 13, 2015 2:56 PM

APN: 8417-028-005

Address: 15824 ARROW HWY, IRWINDALE, CA 91706



Site Address : 15824 ARROW HWY

City : IRWINDALE CA 91706

Lot Size Sq Ft : 0

Lot Size Acres : 0

Use Code: 0100

Use Type : Residential

Use Description: Single

Legal Description :

Tax Rate Area : 03057

Transfer Date : 1967-02-45

Building 1

Design Type : 0110

Year Built : 0000

Effective Yr : 1948

Units: 0

Bedrooms: 0

Baths : 0

Bldg Sq Ft: 860

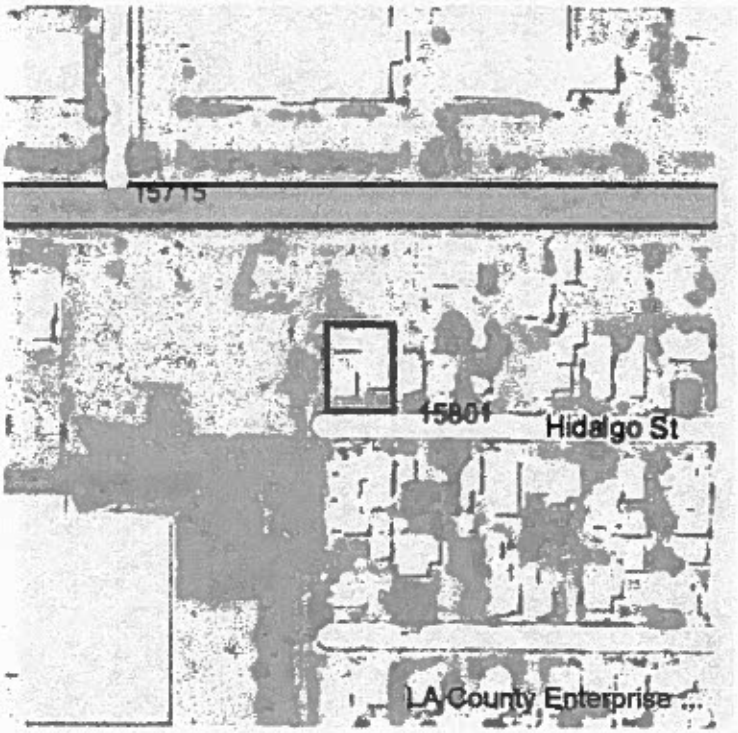
NOTE: The information and materials contained herein are provided as a public service to provide planning and zoning information for the unincorporated areas of Los Angeles County. Parcel Information shown on this page is from the Assessor's Office. The County has made every reasonable effort to ensure the accuracy of the information and materials contained within.

Parcel Profile Report

Report date: Friday, February 13, 2015 3:36 PM

APN: 8417-028-008

Address: 15807 HIDALGO ST, IRWINDALE, CA 91706



Site Address : 15807 HIDALGO ST

City : IRWINDALE CA 91706

Lot Size Sq Ft : 0

Lot Size Acres : 0

Use Code: 0200

Use Type : Residential

Use Description: Two Units

Legal Description :

Tax Rate Area : 03057

Transfer Date : 1988-12-21

Building 1

Design Type : 0120

Year Built : 1967

Effective Yr : 1988

Units: 1

Bedrooms: 2

Baths : 2

Bldg Sq Ft: 1,867

Additional Buildings

Bldg 2 Sq Ft: 832

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Parcel Profile Report

Report date: Friday, February 13, 2015 3:36 PM

APN: 8417-028-009

Address: 15809 HIDALGO ST, IRWINDALE, CA 91706

Site Address : 15809 HIDALGO ST

City : IRWINDALE CA 91706

Lot Size Sq Ft : 0

Lot Size Acres : 0

Use Code: 0100

Use Type : Residential

Use Description: Single

Legal Description :

Tax Rate Area : 03057

Transfer Date : 2010-07-27

Building 1

Design Type : 0110

Year Built : 1962

Effective Yr : 1962

Units: 1

Bedrooms: 2

Baths : 1

Bldg Sq Ft: 825

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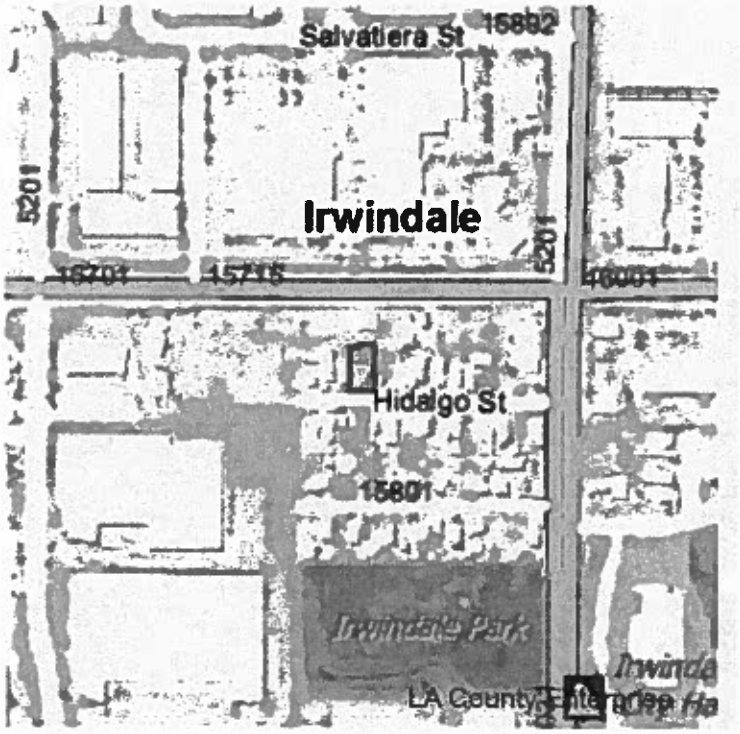
Parcel Profile Report

Report date: Friday, February 13, 2015 3:35 PM

APN: 8417-028-010

Address: 15815 HIDALGO ST, IRWINDALE, CA 91706



Site Address : 15815 HIDALGO ST

City : IRWINDALE CA 91706

Lot Size Sq Ft : 0

Lot Size Acres : 0

Use Code: 0100

Use Type : Residential

Use Description: Single

Legal Description :

Tax Rate Area : 03057

Transfer Date : 2008-07-25

Building 1

Design Type : 0100

Year Built : 1927

Effective Yr : 1930

Units: 1

Bedrooms: 2

Baths : 1

Bldg Sq Ft: 574

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Parcel Profile Report

Report date: Friday, February 13, 2015 3:35 PM

APN: 8417-028-908

Address: 15821 HIDALGO ST, IRWINDALE, CA 91706

Site Address : 15821 HIDALGO ST

City : IRWINDALE CA 91706

Lot Size Sq Ft : 0

Lot Size Acres : 0

Use Code: 010V

Use Type : Residential

Use Description: Single

Legal Description :

Tax Rate Area : 03057

Transfer Date : 2011-05-31

Building 1

Design Type : N/A

Year Built : N/A

Effective Yr : N/A

Units: N/A

Bedrooms: N/A

Baths : N/A

Bldg Sq Ft : N/A

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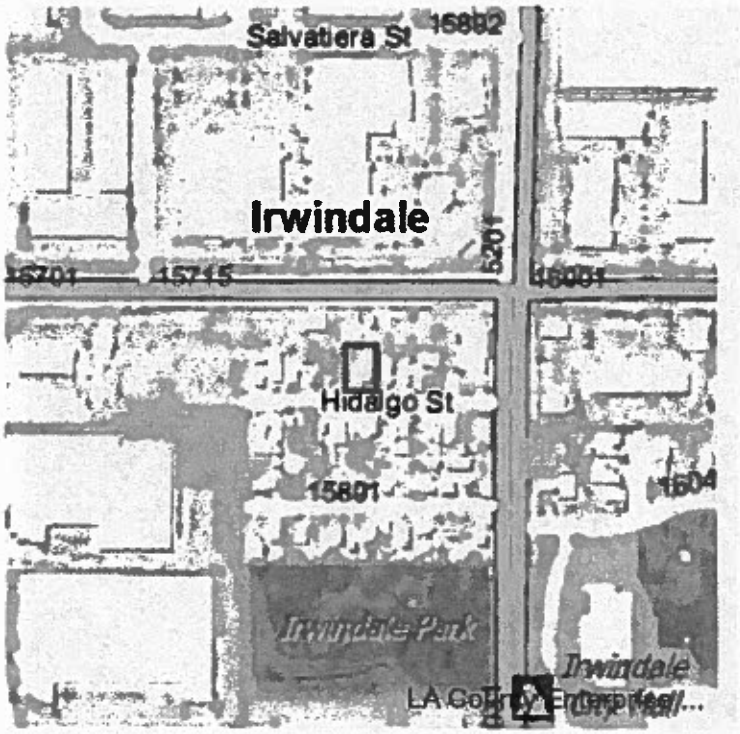
Parcel Profile Report

Report date: Friday, February 13, 2015 2:52 PM

APN: 8417-028-012

Address: 15829 HIDALGO ST, IRWINDALE, CA 91706



Site Address : 15829 HIDALGO ST

City : IRWINDALE CA 91706

Lot Size Sq Ft : 9,232

Lot Size Acres : 0.21

Use Code: 0200

Use Type : N/A

Use Description: N/A

Legal Description : LICENSED SURVEYORS MAP AS PER BK 14 PG 32 OF L S EX OF ST LOT 10

Tax Rate Area : 03057

Building 1

Design Type : 0110

Year Built : 1948

Effective Yr : 1948

Units: 1

Bedrooms: 1

Baths : 1

Bldg Sq Ft: 575

Additional Buildings

Bldg 2 Sq Ft: 1,983

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Parcel Profile Report

Report date: Friday, February 13, 2015 3:33 PM

APN: 8417-028-013

Address: 15833 HIDALGO ST, IRWINDALE, CA 91706

Site Address : 15833 HIDALGO ST

City : IRWINDALE CA 91706

Lot Size Sq Ft : 0

Lot Size Acres : 0

Use Code: 0200

Use Type : Residential

Use Description: Two Units

Legal Description :

Tax Rate Area : 03057

Transfer Date : 2014-02-07

Building 1

Design Type : 0120

Bedrooms: 3

Year Built : 1965

Baths : 2

Effective Yr : 1965

Bldg Sq Ft: 1,385

Units: 1

Additional Buildings

Bldg 2 Sq Ft: 1,400

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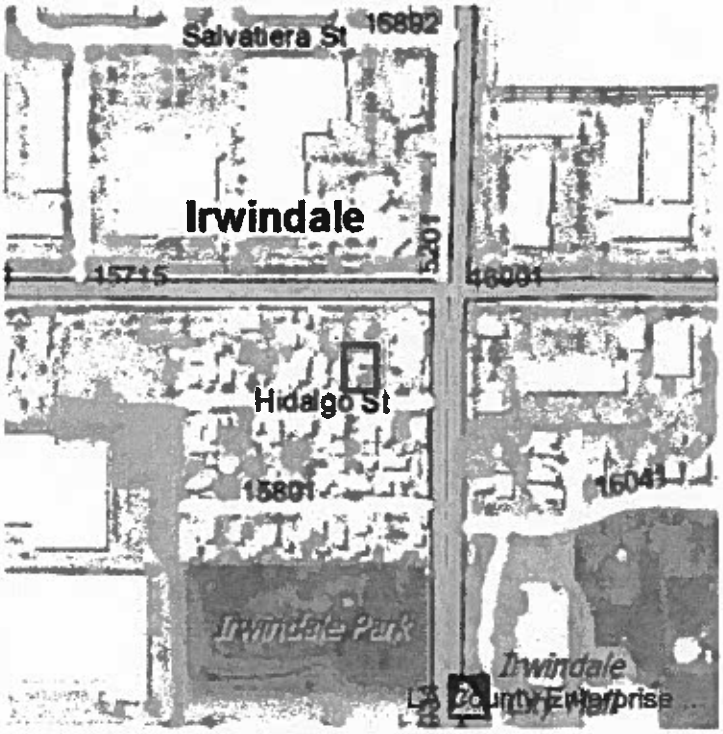
Parcel Profile Report

Report date: Friday, February 13, 2015 3:34 PM

APN: 8417-028-014

Address: 15847 HIDALGO ST, IRWINDALE, CA 91706



Site Address : 15847 HIDALGO ST

City : IRWINDALE CA 91706

Lot Size Sq Ft : 0

Lot Size Acres : 0

Use Code: 0200

Use Type : Residential

Use Description: Two Units

Legal Description :

Tax Rate Area : 03057

Transfer Date : 2007-05-31

Building 1

Design Type : 0110	**Bedrooms**: 1
Year Built : 1921	**Baths** : 1
Effective Yr : 1923	**Bldg Sq Ft** : 672
Units: 1	

Additional Buildings

Bldg 2 Sq Ft: 1,874

NOTE: The information and materials contained herein are provided as a public service to provide planning and zoning information for the unincorporated areas of Los Angeles County. Parcel information shown on this page is from the Assessor's Office. The County has made every reasonable effort to ensure the accuracy of the information and materials contained within.