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TOWN OF APPLE VALLEY
PLANNING COMMISSION AGENDA

WEDNESDAY, January 11, 2017

Special Meeting 6:00 p.m.

Town Council Chambers
14955 Dale Evans Parkway
****

PLANNING COMMISSION MEMBERS

Doug Qualls, Chairman
Mark Shoup, Vice-Chairman
Jason Lamoreaux, Commissioner
Bruce Kallen, Commissioner
B. R. “Bob” Tinsley, Commissioner

PLANNING DIVISION OFFICE: (760) 240-7000 Ext. 7200
www.AVPlanning.org

Monday - Thursday 7:30 a.m. to 5:30 p.m.
Alternating Fridays 7:30 a.m. to 4:30 p.m.

TOWN OF APPLE VALLEY
PLANNING COMMISSION AGENDA
SPECIAL MEETING
WEDNESDAY, JANUARY 11, 2017 – 6:00 P.M.

PUBLIC PARTICIPATION IS INVITED. Planning Commission meetings are held in the Town Council Chambers located at 14955 Dale Evans Parkway, Apple Valley, California. If you wish to be heard on any item on the agenda during the Commission's consideration of that item, or earlier if determined by the Commission, please so indicate by filling out a "REQUEST TO SPEAK" form at the Commission meeting. Place the request in the Speaker Request Box on the table near the Secretary, or hand it to the Secretary at the Commission meeting. (G.C. 54954.3 {a}).

Materials related to an item on this agenda, submitted to the Commission after distribution of the agenda packet, are available for public inspection in the Town Clerk's Office at 14955 Dale Evans Parkway, Apple Valley, CA during normal business hours. Such documents are also available on the Town of Apple Valley website at www.applevalley.org subject to staff's ability to post the documents before the meeting.

The Town of Apple Valley recognizes its obligation to provide equal access to those individuals with disabilities. Please contact the Town Clerk's Office, at (760) 240-7000, two working days prior to the scheduled meeting for any requests for reasonable accommodations.

SPECIAL MEETING

The Special meeting, open to the public, will begin at 6:00 p.m.

CALL TO ORDER

ROLL CALL

Commissioners: Lamoreaux_____; Kallen _____;Tinsley_____
Vice-Chairman Shoup_____ and Chairman Qualls _____

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

Anyone wishing to address an item not on the agenda, or an item that is not scheduled for a public hearing at this meeting, may do so at this time. California State Law does not allow the Commission to act on items not on the agenda, except in very limited circumstances. Your concerns may be referred to staff or placed on a future agenda.

PUBLIC HEARING ITEMS

1. **Appeal No. 2016-001 and Appeal No.2016-002 (Relating to Site Plan Review 2015-001, Project Jupiter)** Appeal of the Planning Director's approval of Site Plan Review No. 2015-01 and Mitigated Negative Declaration for a request to construct a 1,360,875 square-foot distribution center and associated ancillary facilities on 106.5 acres within the existing North Apple Valley Industrial Specific Plan. Site Plan Review No. 2015-01 and Mitigated Negative Declaration were approved by the Director on November 28, 2016

   Applicant: Lozeau Drury LLP LLP representing Laborers International Union of North America, Local Union No. 783; and

   Blum Collins LLP representing Golden State Environmental Justice Alliance

   Location: Southwest corner of Lafayette and Navajo Roads; Parcel No. 1 of Parcel Map 19645. New APN not yet assigned. Portion of APNs 0463-231-07,-08,-10,-26,-27,-28,-42,-43 &-60

   Environmental Determination: Staff has determined that based upon an Initial Study, pursuant to the State Guidelines to implement the California Environmental Quality Act (CEQA) a subsequent Mitigated Negative Declaration has been prepared. The proposed Project has been found to be within the scope of the previously certified EIR, and no new information of substantial importance exists under CEQA Guidelines Section 15162. The MND/Initial Study was prepared to examine the proposed project in the light of the Specific Plan EIR to determine if the project would result in any impacts greater than those previously analyzed and disclosed. Accordingly, the conclusion that no further Environmental Impact Report is required is fully supported by substantial evidence and – further – there is no substantial evidence supporting a fair argument that a significant impact may result.

   Project Planner: Carol Miller, Principal Planner

   Recommendation: Adopt Planning Commission Resolution No. 2016-010, which: (1) denies the appeals of the approvals previously issued for SPR No. 2015-01 (Project Jupiter); (2) adopts a Mitigated Negative Declaration; (3) approves a Mitigation Monitoring and Reporting Program; and (4) approves the Project Jupiter Distribution Warehouse Project

OTHER BUSINESS

PLANNING COMMISSION COMMENTS

STAFF COMMENTS

ADJOURNMENT

A Better Way of Life

Agenda Item No. 1

TOWN OF APPLE VALLEY
PLANNING COMMISSION

Staff Report

AGENDA DATE: January 11, 2017

CASE NUMBERS: Appeal No. 2016-01

Appeal No. 2016-02

APPELLANTS: Lozeau Drury LLP representing Laborers International Union of North America, Local Union No. 783; and

Blum Collins LLP representing Golden State Environmental Justice Alliance

PROPOSAL: Appeal of the Planning Director's approval of Site Plan Review No. 2015-01 and Mitigated Negative Declaration for a request to construct a 1,360,875 square-foot distribution center and associated ancillary facilities on 106.5 acres within the existing North Apple Valley Industrial Specific Plan. Site Plan Review No. 2015-01 and Mitigated Negative Declaration were approved by the Director on November 28, 2016.

LOCATION: The site is located on the southwest corner of Lafayette and Navajo Roads; Parcel No. 1 of Parcel Map 19645. New APN not yet assigned. Portion of APNs 0463-231-07,-08,-10,-26,-27,-28,-42,-43 &-60.

ENVIRONMENTAL DETERMINATION: Based upon an Initial Study, pursuant to the State Guidelines to implement the California Environmental Quality Act (CEQA) a subsequent Mitigated Negative Declaration has been prepared. The proposed Project has been found to be within the scope of the previously certified EIR, and no new information of substantial importance exists under CEQA Guidelines Section 15162. The MND/Initial Study was prepared to examine the proposed project in the light of the Specific Plan EIR to determine if the project would result in any impacts greater than those previously analyzed and disclosed. Accordingly, the conclusion that no further Environmental Impact Report is required is fully supported by substantial evidence and – further – there is no substantial evidence supporting a fair argument that a significant impact may result.

CASE PLANNER: Carol Miller, Principal Planner

RECOMMENDATION: Adopt Planning Commission Resolution No. 2016-010, which: (1) denies the appeals of the approvals previously issued for SPR No. 2015-01 (Project Jupiter); (2) adopts a Mitigated Negative Declaration; (3)

approves a Mitigation Monitoring and Reporting Program; and (4) approves the Project Jupiter Distribution Warehouse Project

BACKGROUND:
On June 15, 2015, Haskell Architects and Engineers submitted an application to construct a 1,360,875 square-foot distribution facility on a 106.5 acre site generally located at the southwest corner of Lafayette and Navajo Roads. Under the I-SP zoning designation, distribution facilities are a permitted use subject to the approval of a Site Plan Review. The facility would also include minor ancillary structures, including an approximately 510 square-foot guard house and an approximately 1,080 square-foot fire pump house. On November 28, 2016, after making the appropriate required Findings, the Director of Community Development approved Site Plan Review Permit No. 2015-01, subject to the Conditions of Approval and pursuant to a subsequent Mitigated Negative Declaration. The administrative review file report and Initial Study/Mitigated Negative Declaration, which were used for the basis of the approval are attached.

On December 7, 2016, Lozeau Drury LLP filed an appeal of the Planning Director/Director of Community Development decision on behalf of the Laborers International Union of North American, Local Union No. 783 and Blum Collins LLP also filed an appeal on behalf of Golden State Environmental Justice Alliance. Both filed timely appeals of the Planning Director's action to approve the Project pursuant to a subsequent Mitigated Negative Declaration. The appeal applications cite multiple concerns as outlined in their respective May 24, 2016 comments on the Initial Study/Mitigated Negative Declaration (IS/MND). Following the close of the comment period for the IS/MND and the Notice of Pending Land Use Decision, staff prepared Responses to Comments (attached) to the comments received.

DISCUSSION:
The appellants contend that there is substantial evidence based on their comments on the IS/MND that the project may have a significant effect on the environment in the areas of traffic, biological resources, air quality and emissions, and hazards so that an entirely new Environmental Impact Report (EIR) should be required, rather than the subsequent MND which was prepared as a supplement to the already existing and previously certified EIR.

Appeal No. 2016-01
The appeal filed by Lozeau Drury LLP on behalf of the Laborers International Union of North American, Local Union No. 783 alleges that an EIR is required under CEQA. The bases of their appeal are the twenty-three listed comments provided in their letter dated May 24, 2016 (attached). However, these items can be grouped into four major environmental issues: traffic, air quality, biological resources, and cumulative impacts/mitigation. No additional comments were provided to the Notice of Pending Land Use Decision.

Based on the comments received it does not appear the sources that Lozeau Drury LLP references in its comment letter regarding the project are site specific. Second, such reports merely contain opinions, speculation, and unsubstantiated narrative. Specific responses to the comments made in the May 24, 2016 letter can be found in the Response to Comments which has been attached to this report.

In summary, staff believes that the appellant failed to meet its burden of showing that the Planning Director's decision to approve the project and adopt the subsequent Mitigated Negative Declaration was improper.

Appeal No. 2016-02

The appeal filed by Blum Collins LLP on behalf of Golden State Environmental Justice Alliance alleges that an EIR should have been prepared for the Project for reasons stated in their letter dated May 24, 2016 (attached). The environmental issues asserted were based on biological resources, cultural and paleontological resources, greenhouse gas emissions, and hazards/hazardous materials. The May 24, 2016 letter was in response to the IS/MND. No additional comments were provided to the Notice of Pending Land Use Decision.

The appellant asserts that the "fair argument" test applies to determinations of whether the Project may result in potentially significant environmental impacts and that where substantial evidence supports a fair argument of significant environmental impacts, that an EIR must be prepared. However, this comment misstates the appropriate standard of review and is legally incorrect for the reasons which are discussed in detail in the attached Response to Comments.

The appellant states that the IS/MND failed to adequately analyze impacts to special-status and endangered species and argues several of the mitigation measure related to biological resources are inadequate. However, they provide no evidence, much less substantial evidence, showing that any cumulative impact will occur as a result of the proposed Project. To address possible site specific impacts, the Specific Plan EIR requires biological reports prior to the issuance of a grading permit. As a part of the Site Plan Review application, biological resources reports were prepared and submitted by a qualified biologist. The reports were prepared in accordance with industry standards and mitigation measures, where appropriate, are identified in the IS/MND. In addition, the project applicant has already negotiated a streambed alteration permit from California Department of Fish and Wildlife.

The appellant argues the Town should have evaluated this Project using Bay Area Air Quality Management District (BAAQMD) thresholds. Project-generated GHG emissions were evaluated using the most recent version of the California Emissions Estimator Model (CalEEMod Version 2013.2.2), as set forth in "Project Jupiter Project and North Apple Valley Industrial Specific Plan Air Quality and Greenhouse Gas Emissions Comparison Evaluation," Dudek 2016. The BAAQMD threshold reflects the conditions and circumstances in the San Francisco Bay Area – a highly developed and densely populated area entirely unlike the largely rural and undeveloped area in which the proposed project is located. The project is located within the Mojave Desert Air Quality Management District and is not governed by the rules and regulations of the SCAQMD or BAAQMD.

In summary, staff believes that the appellant failed to meet its burden of showing that the Planning Director's decision to adopt the subsequent Mitigated Negative Declaration was improper. As noted in the Response to Comment, the information provided in support of this assertion is not specific to the project site or even to the project area in general. Further, as stated by the appellant's representative, their consultants have never been to the project site.

Environmental

Based upon an Initial Study, pursuant to the State Guidelines to implement the California Environmental Quality Act (CEQA), a subsequent Mitigated Negative Declaration has been prepared. The proposed Project has been found to be within the scope of the previously certified EIR prepared for the North Apple Valley Industrial Specific Plan, and consistent with the requirements of CEQA Guidelines Section 15162. The MND/Initial Study was prepared to examine the proposed project in the light of the Specific Plan EIR to determine if the project would result in any impacts greater than those previously analyzed and disclosed.

The Notice of Intent to adopt a Mitigated Negative Declaration for this Project was circulated for public review and comment on April 25, 2016. The Town's Planning Division received some comments regarding the Initial Study and Mitigated Negative Declaration. The comments relate to the Project itself, as well as to concerns about potential environmental impacts that may be associated with the project for which Staff prepared Response to Comments (See attached). Based upon staff's assessment of the comments received, there were no issues raised or comments provided that indicate the Project may cause any potentially significant, unmitigated impacts beyond those already addressed in the Specific Plan EIR. As set forth in the Conditions of Approval, the Project is subject to and shall comply with the mitigation measures set forth in the MMRP.

Noticing:

The public hearing for Appeal Nos. 2016-01 and 02 was noticed in the Apple Valley News, and provided to all property owners within a 700-foot radius and those previously requesting project notices on December 23, 2016. On December 24, 2016, an email was received from Mr. Thomas Wan, a nearby property owner indicating his support of the project.

RECOMMENDATION

Based upon the information contained within this report, and any input received from the public at the hearing, it is recommended that the Planning Commission move to:

1. Adopt Planning Commission Resolution No. 2016-010, which: (1) denies the appeals of the approvals previously issued for SPR No. 2015-01 (Project Jupiter); (2) adopts a Mitigated Negative Declaration; (3) approves a Mitigation Monitoring and Reporting Program; and (4) approves the Project Jupiter Distribution Warehouse Project

ATTACHMENTS:

1. Appeal Applications
2. File Report
3. IS/MND (technical reports, the NAVISP and EIR available for review at the Town's Planning Division and on at the Town's website, www.applevalley.org)
4. Responses to Comments
5. Resolution No. 2016-010 (including the Mitigation Monitoring and Reporting Program attached as Exhibit "A" to the Resolution)
6. Site Plan
7. Building Elevations
8. Zoning/Location Map

A Better Way of Life

Town of Apple Valley
Appeal Application

This request must be filed with the Planning Division within ten (10) calendar days following the date of action. An Appeal request received after this time *will not be accepted.* Appeals requiring Town Council consideration will be forwarded to the Town Clerk by the Director.

FOR TOWN USE ONLY

Date Submitted: 12/7/16 Case No.: APL 2016-01 Received By: CM

Planning Fee: $246.- Other Fees: _____ Case Planner: CM

Type or print legibly in ink only

PROPERTY ADDRESS Southwest corner of Navajo Road and Lafayette Street

FEE

	Initial Deposit	Actual Cost not to exceed
☒ Appeal Fee – To Planning Commission	$246	$246
☐ Appeal Fee – To Town Council	$246	$246

The Appeal Fee does not apply to permits the Planning Commission acted to revoke or amend.

APPELLANT INFORMATION

Name Laborers International Union of North America, Local Union No. 783 Telephone 510-836-4200

Fax 510-836-4205 Email meredith@lozeaudrury.com

Address 410 12th Street, Suite 250

City Oakland State California Zip 94607

PROJECT INFORMATION

Project Number Being Appealed 2016041058

Project Description Development of 106.5 acre parcel to accommodate a 1,360,875 sq. ft. distribution center and associated ancillary facilities including administration, shipping and receiving offices.

Assessor's Parcel No. (s) 046-323-107, -108, -110, -160; 046-323-142, -143 Tract _____ Lot _____

APPEAL STATEMENT

1. I am/We do hereby appeal the findings/conditions/interpretations of the Town of Apple Valley:
   (Check one) X Director of Community Development
   _____ Planning Commission _____ Planning Director
   _____ Public Works Director _____ Building Official
   _____ Town Engineer _____ Fire Chief

2. I/We appeal to the Town of Apple Valley:
(check one)
__X__ Planning Commission _____ Town Council

3. I/We am/are appealing the project action taken to:
(Check those which apply)
_____ Deny the project __X__ Adopt a Negative Declaration
__X__ Approve the project
_____ *Approve the project condition of (specify):

_____

_____

Other: _____

4. Detail what is being appealed and what action or change you seek. Specifically address the findings, mitigation measures and/or policies with which you disagree. Also state exactly what action/changes you would seek.
LIUNA appeals the Planning Division's certification of the final Initial Study/ Mitigated Negative Declaration ("IS/MND") and approval of Site Plan Review Permit No. 2015-01. An EIR is required under CEQA because there is a fair argument that the environmental impacts from the Project will be significant. Because the IS/MND is not in compliance with CEQA, it may not form the basis of the approval of the Site Plan Review Permit. (see attached comment letter.)

I/We understand that as appellant I/We have the burden of proof in this matter:

Signature _____ Signature _____

Date 12/5/2016

LOZEAU DRURY

Via Email

May 24, 2016

Carol Miller, Principal Planner
Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307
Email: cmiller@applevalley.org

RE: Comment on the Notice of Intent to Adopt a Mitigated Negative Declaration for Project Jupiter Distribution Warehouse

Dear Ms. Miller:

I am writing on behalf of Laborers International Union of North America, Local Union No. 783 and its members living in San Bernardino County (collectively "LIUNA Local Union No. 783," "LIUNA" or "Commenters") regarding the Initial Study/ Mitigated Negative Declaration (IS/MND) prepared for Project Jupiter Distribution Warehouse (Site Plan Review 2015-001) ("Project").

We have reviewed the IS/MND with the assistance of:

1. Traffic Engineer, Daniel T. Smith Jr., P.E.,
2. Ecologist, Shawn Smallwood, Ph.D., and
3. Hydrogeologist, Matthew Hagemann, C.Hg., MS. and Environmental Scientist Jessie Jaeger of Soil/ Water/Air Protection Enterprise (SWAPE).

These experts have prepared written comments that are attached hereto, and which are incorporated in their entirety. The City of Apple Valley ("City") should respond to the expert comments separately.

After reviewing the IS/MND, together with our team of expert consultants, it is evident that the document contains numerous errors and omissions that preclude accurate analysis of the Project's environmental impacts. As a result of these inadequacies, the IS/MND fails as an informational document. In addition, Commenters ask the City of Apple Valley ("City") to prepare an environmental impact report ("EIR") for the Project because there is a fair argument that the Project may have significant unmitigated impacts, including impacts on air quality, traffic, and biological resources. An EIR is required to analyze these and other impacts and to propose feasible mitigation measures to reduce the impacts to the extent feasible.

I. PROJECT DESCRIPTION

The Project will develop a 106.5 acre parcel to accommodate a 1,360,875 square foot distribution center and associated ancillary facilities. The distribution warehouse will consist of a single, 45-foot high building consisting primarily of warehouse space in addition to ancillary office space. The Project will also include a separate guard house (510 square feet), fire pump house (1,080 square feet) and parking areas to accommodate automobiles, tractors and trailers. The site plan has also been designed to include storm water retention facilities on the west side of the site.

The project also includes off-site improvements. These include roadway improvements to Navajo Road, Lafayette Street, and Dachshund Avenue; water main relocation and extensions on the frontage roadways; and undergrounding of power lines on Navajo Road.

II. STANDING

Members of Local Union No. 783 live, work, and recreate in the immediate vicinity of the Project site and/or areas that will be affected by traffic and air pollution created by the Project. These members will suffer the impacts of a poorly executed or inadequately mitigated Project, just as would the members of any nearby homeowners association, community group, or environmental group.

In addition, construction workers will suffer many of the most significant impacts from the Project as currently proposed, such as from air pollution emissions from poorly maintained or controlled construction equipment, exposure to contaminated soil, noise impacts during construction, etc.. Therefore, LIUNA Local Union No. 783 and its members have a direct interest in ensuring that the Project is adequately analyzed and that its environmental and public health impacts are mitigated to the fullest extent feasible.

III. LEGAL STANDARDS

A. Tiered EIRs

The EIR is the very heart of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.) As the California Supreme Court held, "[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR." (*Communities for a Better Env't v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320, citing, *No Oil, Inc. v. City of Los Angeles* (1974)(*NRDC v. LA*) 13 Cal.3d 68, 75, 88; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504–505.) "Significant environmental effect" is defined very broadly as "a substantial or potentially substantial adverse change in the environment." Pub. Res. Code ["PRC"] § 21068; see also 14 CCR § 15382. An effect on the environment need not be "momentous" to meet the CEQA test for significance; it is enough that the impacts are "not trivial." *No Oil, Inc., supra,* 13 Cal.3d at 83. "The 'foremost principle' in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (*CBE v. CRA* (2002) 103 Cal.App.4th at 109.)

CEQA permits agencies to 'tier' EIRs, in which general matters and environmental effects are considered in an EIR "prepared for a policy, plan, program or ordinance followed by narrower or site-specific [EIRs] which incorporate by reference the discussion in any prior [EIR] and which concentrate on the environmental effects which (a) are capable of being mitigated, or (b) were not analyzed as significant effects on the environment in the prior [EIR]." (Cal. Pub. Res. Code § 21068.5.) "[T]iering is appropriate when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous [EIRs]." (Cal Pub Resources Code § 21093.) The initial general policy-oriented EIR is called a programmatic EIR ("PEIR") and offers the advantage of allowing "the lead agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts." (14 C.C.R. §15168.) CEQA regulations strongly promote tiering of EIRs, stating that "[EIRs] shall be tiered whenever feasible, as determined by the lead agency." (Cal Pub Resources Code § 21093.)

"Subsequent activities in the program must be examined in light of the program EIR to determine whether an additional environmental document must be prepared."

C.C.R. § 15168(c). A PEIR may only serve "to the extent that it contemplates and adequately analyzes the potential environmental impacts of the project." (*Sierra Nevada Conservation v. County of El Dorado* (hereinafter "*El Dorado*") (2012) 202 Cal.App.4th 1156). If the PEIR does not evaluate the environmental impacts of the project, a tiered EIR must be completed before the project is approved. (*Id.*)

In very limited circumstances, an agency may avoid preparing a tiered EIR by issuing a negative declaration, a written statement briefly indicating that a project will have no significant impact thus requiring no EIR (14 Cal. Code Regs.§ 15371), only if there is not even a "fair argument" that the project will have a significant environmental effect. PRC, §§ 21100, 21064.) Since "[t]he adoption of a negative declaration . . . has a terminal effect on the environmental review process," by allowing the agency "to dispense with the duty [to prepare an EIR]," negative declarations are allowed only in cases where "the proposed project will not affect the environment at all." *Citizens of Lake Murray v. San Diego* (1989) 129 Cal.App.3d 436, 440. For these inquiries, the "fair argument test" applies. (*Sierra Club v. County of Sonoma*, 6 Cal.App.4th 1307, 1318; *See also Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1164 ("when a prior EIR has been prepared and certified for a program or plan, the question for a court reviewing an agency's decision not to use a tiered EIR for a later project 'is one of law, i.e., the sufficiency of the evidence to support a fair argument.'")) Under the fair argument test, a new EIR must be prepared "whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact. (*Id.* at 1316 (quotations omitted).) When applying the fair argument test, "deference to the agency's determination is not appropriate and its decision not to require an EIR can be upheld only when there is no credible evidence to the contrary." (*Sierra Club*, 6 Cal. App. 4th at 1312.) "[I]f there is substantial evidence in the record that the later project may arguably have a significant adverse effect on the environment which was not examined in the prior program EIR, doubts must be resolved in favor of environmental review and the agency must prepare a new tiered EIR, notwithstanding the existence of contrary evidence." (*Sierra Club*, 6 Cal.App.4th at 1319.)

IV. A TIERED EIR IS REQUIRED BECAUSE THE PROJECT WILL RESULT IN NEW SIGNIFICANT ENVIRONMENTAL IMPACTS NOT EXAMINED IN THE NORTH APPLE VALLEY INDUSTRIAL SPECIFIC PLAN EIR.

The IS/MND acknowledges that it is a tiered CEQA document from the programmatic EIR for the North Apple Valley Industrial Specific Plan ("Specific Plan"). LIUNA agrees that a tiered EIR is required for the Project. First, a tiered EIR is required because the Specific Plan EIR upon which the City relies explicitly stated that it was a

"programmatic" EIR and that additional environmental analysis would be conducted for new development applications. Because the City made this representation to the public, it is now bound by it. Indeed, courts have required subsequent CEQA review in cases where the programmatic EIR relied upon has informed the public that later environmental review would occur. (Remy, Thomas, *Guide to CEQA*, p. 653 (11th ed. 2007), citing, *NRDC v. LA* (2002) 103 Cal.App.4th 268.) Apple Valley's Specific Plan EIR made clear that it was intended to serve only as a general "program EIR," and clearly contemplates the development of "project level" environmental review for later projects in the Specific Plan area. The Specific Plan states:

> ***This EIR is meant to serve at a program level***. Additional environmental documentation, such as environmental assessments and environmental impact reports, may be required for subdivisions, land use plans and other development applications that may be processed by the Town. (Specific Plan I-5) (emphasis added)

This point was reiterated by the City in the discussion of traffic impacts:

> ***Given the programmatic nature of the Specific Plan and the associated traffic analysis, updated site-specific traffic studies will be required on a project-by-project basis*** prior to the implementation of such projects as tentative tract maps, conditional land uses or plot plan approvals within the boundaries of the Specific Plan. Subsequent traffic studies shall analyses the-existing traffic conditions and potential traffic impacts from each project. The need for subsequent traffic analysis shall be made on a case-by-case [sic] basis by the Town Engineer. (*Id.* at III-46.) (emphasis added)

> ***The programmatic level of the Specific Plan study suggests that on-going and project specific traffic monitoring is required to assure adequate levels of service in the long-term***. The Town shall periodically monitor conditions along roadway segments where General Plan and Specific plan level analyses indicate high levels of traffic congestion (*Id.* at III-47) (emphasis added)

Any member of the public reading the EIR would reasonably expect that the City would conduct project-level environmental review for a specific project within the Specific Plan area. Where the City represented that project level CEQA review would occur later, it must now follow through and conduct full and fair environmental review.

Furthermore, a tiered EIR is required because the PEIR did not analyze the environmental impacts of the Project that is now proposed. A PEIR may only "serve as the EIR for a subsequently proposed project to the extent it contemplates and adequately analyzes the potential environmental impacts of the project." (*El Dorado*, 202 Cal.App.4th at 11671.) The Specific Plan is only a general policy document intended to "guide the future development" of an approximately 4,937 acre tract of land through "development standards and guidelines for the eventual development of a master planned industrial Park." (Specific Plan, p.I-6&7.) The Specific Plan did not commit to any specific project uses or locations for those uses, merely limiting development to "a broad range of clean manufacturing and warehousing uses, ranging from furniture manufacture to warehouse distribution facilities." (*Id.*at p. I-7) This included three types of industrial designations (Industrial –Specific Plan, Industrial – General, and Industrial – Airport) and commercial development to support the industrial development. (*Id.* at III-5.)

Apple Valley's Specific Plan does not even specifically resolve to construct a distribution warehouse, but only lists distribution warehouses as one potential type of industrial use permitted within the area. Consequently, the PEIR for the Specific Plan lacked the specifics to meaningfully analyze the Project's environmental impacts. It therefore, may not relieve the City from conducting a review of the potential environmental impacts of the Project. (*See El Dorado*, (2012) 202 Cal.App.4th 1156, 1171; *See also*, *Save Our Neighborhood v. Lishman*, 14 Cal. App. 4th 12888 (finding that a proposed Project was a new Project even though planned for the same land and involving a similar mix of uses where they had different Project proponents and different configuration of uses.))

Given that the Specific Plan EIR does not fulfill the City's obligation to conduct CEQA review for the Project, it is subject to the "fair argument" standard in determining whether a full tiered EIR is required. (PRC, §§ 21100, 21064). Thus, a negative declaration is only allowed if "the proposed project will not affect the environment at all." (*Citizens of Lake Murray v. San Diego* (1989) 129 Cal.App.3d 436, 440.) This means that a tiered EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency's decision. (14 C.C.R. § 15064(f)(1); *Sierra Club v. County of Sonoma*, 6 Cal.App.4th 1307, 1318; *Pocket Protectors v. City of Sacramento*, 124 Cal. App. 4th 903, 931 (Cal. App. 3d Dist. 2004); *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-15; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.) The "fair argument" standard creates a "low threshold" favoring environmental review through an EIR rather than

through issuance of negative declarations or notices of exemption from CEQA. *Pocket Protectors*, 124 Cal.App.4th at 928. The following discussion demonstrates that there is a fair argument that the Project will have significant and unmitigated environment impacts, including air, traffic and biological impacts. Therefore, a MND is insufficient to meet the City's obligations under CEQA, and the City must prepare a full EIR.

A. The Initial Study Lacks Substantial Evidence to Support Conclusions Regarding the Baseline of Project Impacts

Establishing an accurate baseline is the *sine qua non* to adequately analyzing and mitigating the significant environmental impacts of a project. (*See* 14 C.C.R. § 15125(a); *Save Our Peninsula Committee v. County of Monterey* (2001) 87 Cal.App.4th 99, 121-23 ("*Save Our Peninsula.*")) Every CEQA document must start from a "baseline" assumption. The CEQA "baseline" is the set of environmental conditions against which to compare a project's anticipated impacts. Section 15125(a) of the CEQA Guidelines states in pertinent part that a lead agency's environmental review under CEQA:

> ...must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time [environmental analysis] is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant." (Emphasis added.)

(14 C.C.R. § 15125(a); *See also*, *Save Our Peninsula Committee* (2001) 87 Cal.App.4th at 124-25.) As the Court of Appeal has explained, "the impacts of the project must be measured against the 'real conditions on the ground,'" and not against hypothetical permitted levels. (*Save Our Peninsula Committee* (2001) 87 Cal.App.4th at 121-23.)

1. The Baseline for Analyzing Traffic Impacts Does Not Reflect Current Conditions.

Traffic Engineer Daniel Smith reviewed the MND and found that the traffic analysis conducted for the IS/MND failed to take into account current traffic and roadway conditions surrounding the Project. First, the traffic study relies on outdated traffic conditions. The MND's traffic analysis is based on tiering from the 2006 Specific Plan EIR. While the use of the Specific Plan's EIR is not inherently problematic, Mr. Smith concluded that the city failed to conduct the proper analysis to ensure that the conditions relied upon in the Specific Plan PEIR were still accurate. (*See*, Comment of Daniel Smith, p.2 attached hereto as Appendix A.) Specifically, he found that the IS/ MND failed to consider changes since the PIER in traffic both from development within the Specific Plan boundaries and ambient traffic increases from new development

outside of the Specific Plan boundaries. (*Id.*) The City may not rely on a baseline derived from 10-year-old data without any consideration of its continued applicability.

Furthermore, Mr. Smith concluded that the City used an improper baseline in its traffic analysis by relying on aspirational roadway conditions that do not yet exist. (*Id.* at 3.) As with the baseline traffic, the IS/MND relied on the Specific Plan EIR to determine baseline roadway conditions. However, instead of using the conditions in place when the Specific Plan EIR was drafted in 2006, which consisted of mostly unpaved local roads serving minimal traffic operations, the IS/MND relied on the upgraded road conditions which the Specific Plan intended to be implemented by 2030. Mr. Smith explains that the success of these planned improvements will depend on the course of development within the Specific Plan Boundaries:

> Logically, if development takes place in a coordinated way, sub-area by sub-area, the improvements to the circulation system triggered by individual developments will be mutually supportive and satisfactory transportation service will be maintained throughout the Plan buildout period. However, if initial development is scattered over the entire Plan area, circulation system improvements made may not be mutually sustaining and significant traffic impacts may occur and may continue for years until the Plan nears full development. The IS/MND contains no quantified analysis demonstrating that there would not be traffic impacts with the land developments and circulation system upgrades that will have taken place by the date of completion of the Jupiter Project.

(*Id.*) Even assuming the upgrades are successfully accomplished by 2030, the IS/MND's traffic analysis still fails to take into account the roadway conditions from Project construction and operation (projected to occur in 2017 and 2018 respectively) through 2030. This means over a decade of traffic impacts were not properly considered. Because the roadway conditions utilized to analyze traffic impacts do not reflect conditions "as they exist at the time [environmental analysis] is commenced," the IS/MND violates CEQA. *Save Our Peninsula*, 87 Cal.App.4th at 124-25.

The traffic analysis downplayed the true extent of traffic impacts by using both aspirational roadway conditions and outdated traffic conditions. Therefore, the baseline from which the Project's traffic impacts were analyzed fails to represent accurate conditions presently surrounding the Project. This improper baseline ultimately "mislead(s) the public" by engendering skewed and inaccurate analyses of environmental impacts, mitigation measures and cumulative impacts for biological resources. See *San Joaquin Raptor Rescue Center,* 149 Cal.App.4th at p. 656;

Woodward Park Homeowners, 150 Cal.App.4th at 708-711. Without an accurate baseline, the IS/MND's conclusion that the Project's traffic impacts will be less than significant are unsubstantiated. Proper analysis must be conducted to take into account present day conditions, and all impacts must be mitigated. An EIR must be prepared to remedy these deficiencies.

2. The Initial Study Lacked Substantial Evidence to Support a Conclusion Regarding the Baseline Presence of Special-Status Species

Expert wildlife biologist Shawn Smallwood reviewed the IS/MND and the biological survey for the Project and concluded that the failure of the IS/MND (and supporting documents) to investigate and identify occurrences of sensitive biological resources at the Project site resulted in an inaccurate baseline, unsupported by substantial evidence. (See, Comment of Shawn Smallwood, p.2 attached hereto as Appendix B.)

First, an accurate environmental setting for biological resources was not established because the surveys dismissed the presence of special-status species without conducting adequate surveys. Mr. Smallwood found that the IS/MND inappropriately failed to account for a number of special-status species likely to be impacted by the Project given conditions of the Project site. (*Id.*) Mr. Smallwood explained that "[s]tandard scientific practice when assessing risk to rare or precious resources in the face of high uncertainty is to err on the side of caution," however, the IS/MND assumed no impacts to a number of protected species after only reconnaissance-level surveys. (*Id.*) There was no effort to detect bats even though multiple special-status species are likely to forage over the site. (*Id.* at 5.) Similarly the survey concluded that the Pallid San Diego pocket mouse and Southern grasshopper mouse were absent from the Project site without conducting any mammal trapping. (*Id.*) In total, Mr. Smallwood listed over thirty protected species that the survey concluded were not present at the Project site without conducting protocol-level surveys (*Id.* 2-3.) Unless protocol-level surveys are conducted, these species should be assumed to be likely present at the Project site so that potential impacts can be fully analyzed and mitigated.

The failure of the IS/MND to adequately assess potential impacts on special-status species is demonstrated by its treatment of the burrowing owl. The IS/MND concluded that the borrowing owls would likely be absent from the project site because all of the kit fox burrows (in which they burrow) found on the Project site had been

collapsed. (*Id.* at 3.) However, the IS/MND failed to note that burrowing owls most often use ground squirrel burrows for nesting and refuge, which were also found onsite but were not collapsed. (*Id.*) Moreover, Mr. Smallwood challenged the IS/MND's conclusion that the creosote on the Project would render it unsuitable for burrowing owls. Based on personal observations and experience, he concluded that these conditions would in fact be suitable for burrowing owls. (*Id.*) Mr. Smallwood also noted that the surveys conducted did not comply with the California Department of Fish and Game protocol, which requires surveys to be conducted multiple times across seasons. This omission was particularly egregious because the surveys were "designed to meet burrowing owl . . . survey guidelines" and protocol-level surveys were a requirement established in the Specific Plan EIR. (*Id.*) Mr. Smallwood concluded that, "One-time survey efforts are unreliable for concluding absence of burrowing owl." (*Id.* at p.4.) As such, there was no substantial evidence to warrant the IS/MND's assumptions that the Project would not impact this protected species.

Mr. Smallwood found similar issues with the IS/MND as it pertained to additional protected bird species. Mr. Smallwood found that the failure to observe prairie falcons and golden eagles through reconnaissance surveys does not, as the biological surveys suggest, allow for the conclusion that these species do not rely on the Project site for foraging. (*Id.* at 4.) Given the scarceness of these species combined with their wide range, Mr. Smallwood concluded, "There should be no question that destroying foraging habitat on this site will cause ***significant adverse impacts to prairie falcons and golden eagles***." With respect to migratory birds, the IS/MND flatly dismisses the potential presence of migratory birds at the Project site because of the disturbed condition of the Project site and presence of creosote bushes without any evidence to support its claim. (*Id.* at 4.) To the contrary of this vague and unsubstantiated conclusion, Mr. Smallwood pointed to studies demonstrating that birds nest and forage in creosote shrubs, and therefore, concluded that the project would likely "have ***significant adverse impacts on migratory birds***." (*Id.*)

In sum, the City's conclusion that the Project's impact on biological resources will be less than significant cannot be supported without proper biological resource surveys having been conducted. Eliminating the possibility of protected species on site without conducting protocol-level surveys is unreasonable and fails to inform the public and decision makers of the Project's potential impacts on biological resources. Protocol-level surveys must be conducted or protected species likely to be present on the Project site must be assumed to be present to allow for full mitigation of potential impacts. An EIR must be prepared to remedy these deficiencies.

B. An EIR is Required Because There is a Fair Argument that the Environmental Impacts from the Project will be Significant.

As discussed above, a lead agency must prepare a tiered EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment. (Pub. Res. Code § 21082.2; *Sierra Club v. County of Sonoma*, 6 Cal.App.4th 1307, 1318; *El Dorado* (2012) 202 Cal.App.4th 1156; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1993) 6 Cal. 4th 1112, 1123.) Here, substantial evidence presented in this comment letter, and the supporting technical comments, supports a fair argument that the Project will have significant environmental impacts on air quality, traffic, and biological resources. As a result, the City should withdraw the IS/MND and prepare an EIR.

1. The Project will have significant unmitigated air pollution impacts.

SWAPE reviewed the Project and the IS/MND, and determined that the initial study failed to adequately evaluate the Project's air quality impacts because it relied on improper input parameters when modeling the Project's emissions. SWAPE "found that several of the assumptions used and values inputted into the model were not consistent with procedures and values used in other CEQA evaluations for high-cube warehouse projects, and were not consistent with information disclosed in the IS/MND." (SWAPE Comment, p.2, attached hereto as Appendix C.) Such assumptions included truck trips generated from the Project, projected fleet mix, trip length and unrefrigerated storage.

The IS/MND underestimated the number of truck trips likely to be generated by the Project by using default modeling data instead of more accurate project-specific data. In assessing the likely impacts of the Project, SWAPE noted that while the Mojave Desert Air Quality Management District (MDAQMD) does not have guidance with respect to high-cube warehouse distribution centers, South Coast Air Quality Management District (SCAQMD), which also governs the rest of San Bernardino County, has conducted extensive research on the issue and recommends the use of the Institute of Transportation Engineers (ITE) Trip Generation Manual. *Id.* at p.2-3. SWAPE concluded that given the proximity of the SCAQMD jurisdiction and the agency's expertise, it was reasonable and recommended to follow its recommendations. Use of ITE figures reveals that the IS/MND underestimates the number of daily truck and car trips by 273 trips per day, almost ***100,000 trips per year***. *Id.* at 3. By underestimating the number of truck trips likely to be generated by the Project, the IS/MND's failed to take into account the full extent of air pollution likely to be emitted as a result of the Project.

The IS/MND also underestimated air impacts from the Project by using an inaccurate fleet mix. SWAPE explained that the IS/MND used the model's default fleet mix, which has only approximately 40% of trips by 4+ axle trucks and over 50% of trips by 2 axle trucks. *Id.* at 4. SCAQMD has also provided guidance on fleet mix based on analysis of other high-cube warehouse projects. It recommends a fleet mix of just over 60% 4+ axle trucks, with only 22% of trips from 2 axle trucks and 17.7.% from 3 axle trucks. *Id.* Relying on a fleet mix comprised mostly of smaller vehicles results in lower emission levels because smaller vehicles are less fuel-intensive to operate. SWAPE concluded, "By failing to utilize the warehouse-specific truck trip fleet mix, the IS/MND underestimates the total number of heavy-duty and medium-duty truck trips the Project will generate during operation, and as a result, the Project's operational emissions are underestimated." *Id.* at 5

Further casting doubt on the IS/MND's conclusions, SWAPE concluded that, in using the default figures, the Project substantially underestimated the length of truck trips. The model assumes truck trip lengths of a mere 7.3 miles, a figure which would barely take trucks past the Apple Valley boundary. (*Id. at* 7.) SCAQMD has found that most industrial land use types haul consumer goods from the Ports of Long Beach and Los Angeles, which a simple Google map search reveals are over 100 miles from the Apple Valley. (Id. at 6.) SCAQMD has, therefore, recommended a 40-mile one way trip length, Id. SWAPE also noted recently proposed warehouse projects within the County of San Bernardino have adopted proposed trip lengths of 50 and 24.11 miles. (Id. at 5-6.) Moreover, SCAQMD took issue with the 24.11 proposal, a number that is three times that utilized in the IS/MND. (Id. at 6.) The IS/MND's reliance on a grossly unrealistic trip length resulted in the underestimation of air pollution impacts.

Finally, the IS/MND underestimated operational emissions by failing to consider any cold-storage warehouse uses even though the DEIR acknowledges that the specific tenants remain unknown. (Id. at p. 7.) If tenants do require refrigeration, it will change the scope of the Project's environmental effects because refrigerated warehouses release more air pollutants and greenhouse gas (GHG) emissions when compared to unrefrigerated warehouses. (Id. at 8) Refrigerated trucks tend to idle much longer than typical hauling trucks, even up to an hour. (*Id.*) Energy usage from warehouses equipped with industrial size refrigerators and freezers is also much greater when compared to unrefrigerated warehouses. (*Id.*) In addition, according to the July 2014 SCAQMD Warehouse Truck Trip Study Data Results and Usage presentation, trucks that require refrigeration resulted in greater truck trip rates when compared to non-refrigerated trucks. (*Id.*) By relying exclusively on unrefrigerated land use emissions, the air quality analysis greatly underestimates the Project's potential air quality and

climate change impacts. (*Id.*) Because it is reasonably foreseeable that one or more of the warehouse tenants will require refrigeration, an EIR should be prepared to account for the effects from refrigerated warehouse buildings. (*Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 396.)

In addition to the failure of the modeling to accurately project operational emissions, SWAPE determined that the model also underestimated construction emissions. SWAPE found that the modeling assumed that all off-road construction vehicles would be equipped with oxidation catalysts, which would reduce emissions from construction by 15%. (SWAPE Comment at p.8). However, SWAPE pointed out that the IS/MND does not contain any commitment to use of oxidation catalysts in construction equipment. *Id.* Mitigation measures must be fully enforceable through permit conditions, agreements or other legally binding instruments. (14 C.C.R. § 15126.4(a)(2).) Consequently, if the IS/MND is going to rely on clean construction equipment to ensure that emissions impacts are not significant, it must commit to use of this equipment as a condition of approval for the Project. Without such enforceability, the IS/MND may not rely upon those reductions.

In order to account for the numerous errors in the modeling relied upon in the IS/MND, SWAPE reran the model with corrected parameters and found that "the Project will have a potentially significant impact on regional air quality." (*Id.* at 10.) Specifically, the Project's NO_x emissions exceeded the MDAQMD significance threshold of 137 pounds/day, even after the implementation of mitigation. (*Id.* at 11.) This significant impact must be analyzed in an EIR and fully mitigated. SWAPE's letter details a number of mitigation measures for operational NO_x that could be incorporated into the Project. (*Id.* at 11-12.)

2. The Project will have significant unmitigated traffic impacts.

The Traffic Impact Analysis ("TIA") does not support the findings of not significant in the IS/MND. Traffic engineer Dan Smith's analysis of the TIA revealed that the traffic generation study performed in support of the IS/MND fails to take into account the severity of the traffic impacts expected from the Project. Mr. Smith explains that while the analysis correctly determined that the Project as proposed would generate less overall traffic in the peaks than the PEIR had originally assumed, it failed to mention that the Project would result in ***more*** traffic in the peak direction in both the AM and PM peaks (AM inbound, PM outbound) than assumed for the Specific Plan. Mr. Smith explains, "This concentration of traffic in the peak direction would tend to place greater

stress on the transportation system." Therefore, the IS/MND failed to consider this potentially significant impact.

3. The Project will have significant unmitigated impacts on wildlife movement.

The biological survey's dismissal of the Project's impacts of wildlife movement (relied upon for the IS/MND) is based on vague, unsubstantiated, and misleading rationales. The survey vaguely refers to the "disconnected nature of ... barriers" and "varying degrees of terrestrial exclusion" without providing enough detail to allow even an expert such as Mr. Smallwood to understand the analysis. (Smallwood Comment, p. 5.) Moreover, Mr. Smallwood notes that the biological survey makes broad and optimistic assertions, such as that culverts, bridges and drainage features will act as wildlife travel corridors without any evidentiary support. (*Id.* at 5.)

In addition, the biological survey underestimates impacts on wildlife movement by only asking whether Project would interfere with a specific wildlife movement corridor, instead of wildlife movement in the region as a whole. (*Id.* at 6.) Mr. Smallwood concluded that, given that the Project would block much of the remaining passage space along the valley floor of northern Apple Valley, the Project would "cause a ***significant impact on wildlife movement in the region.***" (*Id.*) Because the Project is likely to have a significant biological impact, the City must prepare a full EIR to analyze the extent of the impacts and mitigate to the extent feasible.

C. An EIR is Required Because the Project Will Have Significant Cumulative Impacts

1. Given the PEIR's finding of significant cumulative air pollution impacts, an EIR is required to evaluate and mitigate those impacts.

An IS must discuss a Project's significant cumulative impacts. (14 CCR § 15130(a).) This requirement flows from CEQA section 21083, which requires a finding that a project may have a significant effect on the environment if "the possible effects of a project are individually limited but cumulatively considerable . . . . 'Cumulatively considerable' means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

"Cumulative impacts" are defined as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." 14 C.C.R. § 15355(a). "[I]ndividual effects may be changes

resulting from a single project or a number of separate projects." *Id.* "The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." *Comm. for a Better Env't v. Cal. Resources Agency ("CBE v. CRA")* (2002) 103 Cal.App.4th 98, 117; 14 C.C.R. § 15355(b). A legally adequate cumulative impacts analysis views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand.

The IS/MND only addresses cumulative impacts briefly, labeling the cumulative impacts as "less than significant with mitigation incorporated" without any underlying analysis. The IS/MND dismisses any need to consider the issue because of the Specific Plan EIR:

> The project will . . . contribute to cumulative impacts to air quality, which will potentially impact human beings at Specific Plan build out. The Town Council, however, when it adopted the Specific Plan and certified the EIR, determined that the benefits of build out of the Specific Plan outweighed the potential impacts associated with air quality, and adopted Findings and a Statement of Overriding Considerations as described above. There is no evidence that the proposed project would result in impacts that are any greater than those already disclosed in the EIR. Accordingly, no further analysis is required under State CEQA Guidelines § 15162."

(Specific Plan EIR p. 57.)

The City's reasoning flips the requirements of CEQA on its head. In the case of *CBE v. CRA*, the Court of Appeal held that when a "first tier" EIR admits a significant, unavoidable environmental impact, then the agency must prepare second tier EIRs for later projects to ensure that those unmitigated impacts are "mitigated or avoided." ((2002) 103 Cal.App.4th at 122-125 (citing CEQA Guidelines §15152(f)).) The court reasoned that the unmitigated impacts was not "adequately addressed" in the first tier EIR since it was not "mitigated or avoided." (*Id.*) Thus, significant effects disclosed in first tier EIRs will trigger second tier EIRs unless such effects have been "adequately addressed," in a way that ensures the effects will be "mitigated or avoided." (*Id.*) In fact, a second tier EIR is required, even if the impact still cannot be fully mitigated and a statement of overriding considerations will be required. The court explained, "The

requirement of a statement of overriding considerations is central to CEQA's role as a public accountability statute; it requires public officials, in approving environmental detrimental projects, to justify their decisions based on counterbalancing social, economic or other benefits, and to point to substantial evidence in support." (*Id.* at 124-125)

Thus, since the Specific Plan EIR admitted that the Specific Plan would result in significant, unmitigated air impacts, a second tier EIR is now required to determine if mitigation measures can now be imposed to reduce or eliminate those impacts as they pertain to the Project. If the impacts still remain significant and unavoidable, a statement of overriding considerations will be required

2. The IS/MND may not rely on the Specific Plan EIR to avoid a full cumulative impacts analysis taking into account the new development proposed or constructed subsequent to the Specific Plan EIR.

The IS/MND makes a second mistake in its reliance on the cumulative impacts analysis conducted for the Specific Plan EIR. The IS/MND states, "There is no evidence that the proposed project would result in impacts that are any greater than those already disclosed in the EIR. Accordingly, no further analysis is required under State CEQA Guidelines § 15162." This conclusion is flawed and misinterprets the requirements of CEQA. As discussed in Section IV, the Project requires a full tiered EIR because it includes new information not available at the time the Specific Plan EIR was drafted and there is a "fair argument" that the Project impacts will be significant even after mitigation. The requirement to conduct a new tiered EIR extends to cumulative impacts analysis just as it does to direct Project impacts. Therefore, the City must consider environmental impacts resulting from the Project in light of the development in the Specific Plan and separate Projects. 14 C.C.R. § 15355(a).

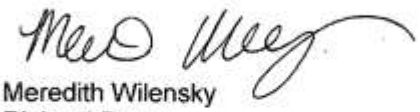
There have been significant changes in the development of the area since the Specific Plan was drafted that may result in significant cumulative environmental impacts when considered with the Project. For example, Desert Renewable Energy Conservation Plan (DRECP) has resulted in a multi-agency effort to develop thousands of acres of industrial-scale wind and solar energy generation. (Smallwood Comment p. 7.) Mr. Smallwood explained that the DRECP would have substantial impacts on wildlife habitat in the region and could extirpate the burrowing owl from the Mojave Desert due to cumulative impacts with industrial development. (*Id.*)

In addition, SWAPE noted that the City's Commercial and Residential Activity Report reported approximately 57 development projects that are or will be developed within the City, five of which are in a three-mile radius of the Project with many more nearby. (SWAPE Comment, p. 13.) SWAPE opined that, taking into account these other projects, there is the potential for the Project to have significant cumulative health impacts. (*Id.* at p.16.) The City may not rely on an outdated PEIR to evade its obligation to conduct a proper cumulative impacts assessment for the Project. An EIR should be prepared taking into account the DRECP and other proposed and approved development efforts that may result in cumulative environmental impacts.

V. CONCLUSION

Apple Valley's 2006 Specific Plan is a broad policy document intended to be used as a guide in the development of future industrial development through 2030. While the Project may have used the Specific Plan to guide its design, the project goes well beyond the scope of Specific Plan, providing new information about the nature of the Project allowing for more in-depth environmental review than would have been possible at the time the Specific Plan EIR was developed. While the City admits that the Project tiers off of the Specific Plan EIR, it fails to acknowledge the full scope of biological, traffic and air pollution impacts that will result from the project, including cumulative impacts. Furthermore, the IS/MND used an inaccurate baseline which precluded it from properly assessing those impacts. Because there is a fair argument that the Project will result in significant impacts on the environment, the City must conduct a full EIR and fully mitigate all environmental impacts to the extent feasible. Thank you for your attention to these comments.

Sincerely,



Meredith Wilensky
Richard Drury
Lozeau Drury LLP

ORIGINAL

A Better Way of Life

Town of Apple Valley
Appeal Application

This request must be filed with the Planning Division within ten (10) calendar days following the date of action. An Appeal request received after this time *will not be accepted.* Appeals requiring Town Council consideration will be forwarded to the Town Clerk by the Director.

FOR TOWN USE ONLY

Date Submitted: 12/07/16 Case No.: APP2016-002 Received By: Rachel Suraci

Planning Fee: $246.00 Other Fees: —— Case Planner: CM

Type or print legibly in ink only

PROPERTY ADDRESS A 106.5-acre site at the Southwest corner of Navajo Rd. and Lafayette St.

FEE

	Initial Deposit	Actual Cost not to exceed
☒ Appeal Fee – To Planning Commission	$246	$246
☐ Appeal Fee – To Town Council	$246	$246

The Appeal Fee does not apply to permits the Planning Commission acted to revoke or amend.

APPELLANT INFORMATION

Name Golden State Environmental Justice Alliance (formerly SoCal Environmental Justice Alliance) c/o Blum Collins LLP Telephone 213-572-0400

Fax 213-572-0401 Email collins@blumcollins.com

Address Blum Collins LLP, 707 Wilshire Blvd., Suite 4880

City Los Angeles State CA Zip 90017

PROJECT INFORMATION

Project Number Being Appealed Site Plan Review 2015-001

Project Description Project Jupiter Distribution Warehouse

Assessor's Parcel No. (s) 046-323-107,-108,-110,-160,-126, -127, -128,-142, -143 Tract _____ Lot _____

APPEAL STATEMENT

1. I am/We do hereby appeal the findings/conditions/interpretations of the Town of Apple Valley:
(Check one)

_____	Planning Commission	X	Planning Director (Director of Community Development)
_____	Public Works Director	_____	Building Official
_____	Town Engineer	_____	Fire Chief

FILED BY FAX

2. I/We appeal to the Town of Apple Valley:
(check one)
__X__ Planning Commission _____ Town Council

3. I/We am/are appealing the project action taken to:
(Check those which apply)
_____ Deny the project __X__ Adopt a Negative Declaration
_____ Approve the project
_____ *Approve the project condition of (specify):
_____
_____
Other: _____

4. Detail what is being appealed and what action or change you seek. Specifically address the findings, mitigation measures and/or policies with which you disagree. Also state exactly what action/changes you would seek.
Golden State Environmental Justice Alliance (formerly SoCal Environmental Justice Alliance) believes that an EIR should have been prepared for this Project, for the reasons stated in our May 24, 2016 letter, a copy of which is attached hereto.

I/We understand that as appellant I/We have the burden of proof in this matter:

Craig M Williams (hb)
Signature

_____
Signature

Date 12/7/16

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May 24, 2016

Carol Miller, Principal Planner
Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307
cmiller@applevalley.org

Via Email & U.S. Mail

Re: *California Environmental Quality Act Comments on Project Jupiter Mitigated Negative Declaration*

Dear Ms. Miller and the Town of Apple Valley:

On behalf of the SoCal Environmental Justice Alliance, this is to comment under the California Environmental Quality Act ("CEQA") upon the above-captioned Project Jupiter. The Project is a 1.3 million square-foot distribution center, apparently for Big Lots. Our comments appear in the order in which matters appear in the MND.

As you know, the California Environmental Quality Act ("CEQA") requires an Environmental Impact Report ("EIR") "whenever it considers approval of a proposed project that '*may* have a *significant* effect on the environment.'" *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal. App. 4th 1597, 1601, *quoting* Pub. Resources Code § 21100. As you also know, CEQA requires the preparation of an EIR "whenever it can be *fairly argued* on the basis of substantial evidence that the project *may* have significant environmental impact." *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 75 (emphasis added); *see also Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal. 4th 1112, 1123. There is a fair argument that the Jupiter Project may have a significant impact on biological resources, cultural and paleontological resources, and hazards.

Biological Resourcesub

The IS notes that the EIR for the North Apple Valley Industrial Specific Plan required site-specific surveys.

Threshold a. Will the Project have a substantial adverse effect, directly or through habitat modifications, on any species listed as a candidate, sensitive, or special status . . . You conclude the impact will be less than significant with mitigation, but we disagree

with a number of your assumptions. Specifically, you indicate that there were eight inactive kit fox burrows detected and collapsed onsite, and that though those burrows might provide habitat for the burrowing owl, they would not since they had been collapsed. You neglect to mention that the site could be re-colonized by the kit fox or other burrowing species, which would make the site amenable to the owl. You also state that the height of the vegetation is not conducive to the owls' preferred terrain. From what we understand, typical burrowing owl habitat is open, dry, sparsely vegetated terrain such as the Project site.

Regarding the desert tortoise, you state that "the likelihood of the species moving onto the property is low," but you don't provide support for this assumption. The site is, as you note, within the range for the tortoise.

Regarding migratory birds, you concede they may be present on the site.

In light of the potential wildlife on site, you adopt a number of mitigation measures, but we think they are inadequate in a number of respects. First, mitigation measure ("**MM**") **IV.1** indicates "Prior to the initiation of any earth moving or construction activities on the project site, the project proponent shall conduct environmental awareness training for construction staff, including a presentation by a qualified biologist on desert tortoise, project-specific protective measures, and instructions for actions that must be taken if a tortoise is encountered during construction." We are not sure if the MM requires a presentation on "project-specific protective measures" or implementation of them. Moreover, the MM then provides "These measures *could* include:" before coming up with a laundry list of suggested and sometimes contradictory steps. There is nothing enforceable about this MM, which means that you cannot rely upon it to reduce impacts to less than significant levels.

MM IV.1 Item 2 provides for a daily sweep of the work site by a qualified biologist. This sweep should include visual observation off-site. Item 3 provides that if a desert tortoise, desert kit fox or burrowing owl are found on site, work shall immediately cease until the animal has left the site and is at least 250 feet away. It provides that "Listed species may not be handled by anyone," but (a) only the desert tortoise is listed, and (b) with respect to the desert tortoise, this conflicts with Item 10 below, which *calls for* handling by authorized biologists. Item 5 provides that someone (it is not specified who) must notify the biologist of any other animals *or bird nests* encountered on the site and they will be relocated as needed. This is actually illegal under the Migratory Bird Treaty Act. Item 11 provides that immediately prior to the start of any ground-disturbing activities and prior to the installation of any desert tortoise exclusion fencing, there should be clearance surveys by the authorized biologist "as appropriate," and that "If the authorized biologist determines clearance surveys are not needed, clearance surveys would not be required." Again, the entire mitigation measure is unenforceable but Item 11 is as well based on this language.

Item 13 says that permanent or temporary exclusion fencing *may* be required. We take it this is superseded by **MM IV.3**, but it makes the mitigation measures questionable.

MM IV.2 provides for a preconstruction survey no more than 7 days prior to earth moving activities for the desert tortoise, kit fox, burrowing owl, and migratory birds. Given the lack of exclusion fencing, it should be the day before, or else your mitigation will be ineffective to mitigate potentially significant impacts. The MM states that the biologist should do a report, with recommendations which *could* include a variety of items which you list. Again, this is unenforceable, and the conclusion that impacts will be mitigated to less than significant levels is not based on substantial evidence.

In **MM IV.2** Item 1 you state that the avian breeding season is March 1 through September 15. This is inaccurate. It begins in January for raptors, as well as for the loggerhead shrike which was noted on the Project site in the biological survey. *See* Attachment A. Moreover, Item 1 is fully ineffective in that it calls for a survey during this artificially limited breeding season only "no less than 30 days prior to commencement of project activities." Surveys should be no more than 1 day prior to commencement. Item 4 provides for buffers, but Item 6 provides that those buffers may be reduced and sound barriers put in place. This would be wholly ineffective, again. Item 7 calls for nest surveys and/or monitoring at a minimum weekly during nesting season, "unless it is determined that less frequent visits would be necessary." If there is construction ongoing at the site with nests with limited buffers, we see no set of circumstances where less than weekly site visits by the biologist would be appropriate.

Cumulative impacts. Your IS does not assess cumulative impacts to biological resources from the planned project in combination with other projects. While this might have been addressed in the Specific Plan EIR, we do not think it was since it called for site-specific evaluations.

Mitigation Monitoring Program. Program measure IV.A calls for submission of course materials and a sign in sheet for construction staff sometime prior to the issuance of a building permit. If the building permit comes, as we suspect, after the grubbing, grading, and trenching permits, this is too late in the process. Measure IV.C regarding tortoise exclusion fencing is timed more properly, but this fencing does not appear to be required for the offsite improvements. This is a failing both in your MMRP and in **MM IV.3**.

Threshold d. Will the Project interfere substantially with the movement of wildlife or impeded the use of native wildlife nursery sites? Again, you assert a less than significant impact. We disagree, given that you found 8 kit fox burrows on site. This means the site could qualify as a nursery site. With respect to your conclusion that the site is "isolated," the California Department of Fish & Wildlife apparently did not think so based on the multiple conditions it negotiated in the Streambed Alteration Agreement.

Cultural and Paleontological Resources

You indicate here that the Specific Plan EIR called for site-specific studies and these studies were done and that less than significant impacts would occur.

Threshold b. Would the Project cause a substantial adverse change in the significance of an archaeological resource or tribal cultural resource? You state that the San Manuel Band of Mission Indians indicated the site was within its ancestral territory and requested a Native American monitor to be present during site disturbing activities. You omit to mention that your final archaeological and paleontological resource study recommends that independent of this, full-time archaeological resource monitoring is required until it is determined that there is no more potential for archaeological resources to be present. The study mentions that a prehistoric isolate was previously found onsite, though your IS does not mention this.

Mitigation & Monitoring Program. Item **V.A** provides that the Project proponent shall present the Town with agreements with qualified monitors. It says this is to happen upon "receipt of agreement and onsite inspections," but this is totally indeterminate as to time. It needs to be prior to issuance of a grading permit.

Threshold c. Would the Project directly or indirectly destroy a unique paleontological resource of unique geologic feature? You acknowledge that other sites in the area have yielded mammalian resources in Pleistocene sediments, which may occur at depths at the Project site. As a mitigation measure **MM V.2** you provide that a qualified paleontological monitor shall be onsite for excavations greater than five feet below ground. But your final archaeological and paleontological report says that the standard should be three feet below ground. Additionally with regard to your MM&RP, you indicate that the Project proponent shall provide the Town with an agreement with a paleontological monitor, but again this is upon "receipt of agreement and site inspections," a completely indeterminate time. The IS should specify that this needs to be prior to issuance of any grading permit.

Greenhouse Gas Emissions

The two thresholds under the CEQA Guidelines are *a. Whether the Project would generate greenhouse gas emissions that may have a significant impact on the environment,* and *b. Whether the Project would conflict with an applicable plan, policy or regulation adopted for the purpose of reducing greenhouse gas emissions?*

You say there is no significant impact because neither the construction nor the operation of the Project will lead to emissions in excess of the Mojave Desert Air Quality Management District's threshold of 100,000 $MTCO_2e$ a year. First of all, we need to disagree with the threshold on the ground that it is not based on substantial evidence. The California Air Resources Board has identified a goal of 4.7 million $MTCO_2e$ a year from 2007 to 2020. This means that each project the MDAQMD exempts at 100,000 $MTCO_2e$ a year is up to potentially 2% of ARB's annual statewide goal.

We believe you should evaluate this Project in comparison with the far more appropriate threshold proferred by the Bay Area Air Quality Management District of 1,100 $MTCO_2e$ a year for land use projects. *See* Attachment B. *See also* Attachment C (identical

standard proposed by SMAQMD staff). Under this standard, the Project would have a significant impact.

You also assert that the Project is consistent with the Town's Climate Action Plan because it will have high efficiency HVAC and fans. You state that the 30% reduction in construction energy use per the California Building Code is below the Town's Climate Action Plan goal of 15% below 2005 levels by 2020. This isn't an apples to apples comparison. First, you are comparing energy efficiency to GHG reductions. Second, the bulk of the GHG emissions from this Project will come from truck emissions, not building efficiencies or inefficiencies. You also assert that statewide programs and standards "including new fuel-efficient standards for cars and expanding the use of renewable energies" will help reduce long-term emissions. Again the majority of emissions will come from diesel trucks and will be unaffected. And you could have, but have not, provided for the use of solar panels on the building.

Hazards/Hazardous Materials

Threshold b. Would the Project create a significant hazard to the public or the environment through reasonably foreseeable accident conditions involving the release of hazardous materials into the environment? You acknowledge that a portion of the Project site was used by the U.S. military as a bombing site. This means there is the potential for unexploded ordnance – you say in the northwest corner of the site. As you acknowledge, the bombing spilled over into the adjacent site but you have not provided for mitigation there. Moreover, this is along Lafayette Street on the way to Dale Evans Parkway, which seems to us to be the most likely traveled route. This represents a hazard to neighboring uses and any travelers on Lafayette Street.

In **MM VII.1** you state that the bombing target area and within 300 feet of it *within the site* shall be cleared by a qualified technical team. The Proponent should get clearance to clear the areas *adjacent* to the site as well. In **MM VII.5** you state that there should be a Site Management Plan for future grading and site disturbance within 300 feet of the bombing area. The area should be completely cleared under **MM VII.1**, such that there is no need for this further measure.

Mitigation Monitoring. Your MM&RP provides the Project proponent shall provide the Town with an agreement with a qualified ordnance disposal team, but again, the "when" for this measure is indeterminate: it should be prior to grading, grubbing, etc. permits. As the Mitigation Monitoring plan stands now, it is not enforceable.

Please advise us when the Town will be taking action on this Project (via the Planning Commission or the Town Council or both), at collins@blumcollins.com and bentley@blumcollins.com. Thank you for your consideration.

Sincerely,

Craig M. Collins
Blum Collins LLP

A Better Way of Life

TOWN OF APPLE VALLEY

File Report

CASE NUMBER: Site Plan Review No. 2015-001

APPLICANT: Haskell Architects and Engineers

PROPOSAL: A request to approve a Site Plan Review to allow the construction of a 1,360,875 square-foot distribution facility on an approximately 106 acre site located within the North Valley Industrial Specific Plan.

LOCATION: The site is located on the southwest corner of Lafayette and Navajo Roads; Parcel No. 1 of Parcel Map 19645. New APN not yet assigned. Portion of APNs 0463-231-07,-08,-10,-26,-27,-28,-42,-43 &-60.

ENVIRONMENTAL DETERMINATION: Based upon an Initial Study, pursuant to the State Guidelines to implement the California Environmental Quality Act (CEQA) a subsequent Mitigated Negative Declaration has been prepared. The proposed Project has been found to be within the scope of the previously certified EIR, and no new information of substantial importance exists under CEQA Guidelines Section 15162. The MND/Initial Study was prepared to examine the proposed project in the light of the Specific Plan EIR to determine if the project would result in any impacts greater than those previously analyzed and disclosed. Accordingly, the conclusion that no further Environmental Impact Report is required is fully supported by substantial evidence and – further – there is no substantial evidence supporting a fair argument that a significant impact may result.

CASE PLANNER: Carol Miller, Principal Planner

RECOMMENDATION: Approval

PROJECT AND SITE DESCRIPTION:

A. Project Size
The subject site encompasses 106.5 acres.

B. General Plan Designations:
Site- North Apple Valley Industrial Specific Plan
North- North Apple Valley Industrial Specific Plan

South- North Apple Valley Industrial Specific Plan
East- North Apple Valley Industrial Specific Plan
West- North Apple Valley Industrial Specific Plan

C. Surrounding Zoning and Land Use:

Site- Industrial – Specific Plan (I-SP), Vacant
North- Industrial – Specific Plan (I-SP), Vacant and Distribution facility
South- Industrial – Specific Plan (I-SP), Vacant
East- Industrial – Specific Plan (I-SP), Vacant and Distribution facility
West- Industrial – Specific Plan (I-SP), Vacant

D. Setback Analysis:

		Required	**Proposed**
Building	Street frontages	25 Ft.	172 to 631 Ft.
	Rear	15 Ft.	484 Ft.
Landscaping	Street frontage	15 Ft.	15 Ft.
	Rear	5 Ft.	5. Ft.

E. Building Height:

Permitted Maximum:	50 ft.
Proposed Maximum:	47 ft.

F. Parking Analysis:

Total Parking Required:	665
Total Parking Provided:	666

G. Site Coverage Calculations:

Building Coverage:	30%	(45% allowed)
Paved Area	30%	
Non-paved Area	40%	

ANALYSIS:

A. Background

In 2006, the Town of Apple Valley prepared and approved the North Apple Valley Industrial Specific Plan (NAVISP). At that time, an Environmental Impact Report (SCH #2006031112) was also certified. Since this adoption, there have been six (6) amendments to the Specific Plan document. Amendment Nos. 1 and 5 added acreage to the specific plan area, while the four other amendments were text changes to the document only. In 2006, Amendment No. 1 was approved which added an additional 163 acres pursuant to a Mitigated Negative Declaration. In 2012, Specific Plan Amendment No. 5 was approved which added an additional 1,120 acres (Annexation No. 2008-002) with impacts and mitigation measures addressed as part of General Plan update for which an Environmental Impact Report (SCH #2008091077) was certified.

The Specific Plan encompasses approximately 6,220 acres. The NAVISP anticipates approximately 2,593,214 square-feet of commercial and approximately 49,145,523 square-feet of industrial. The estimated total of existing industrial building square footage within the specific plan is approximately 3,392,453 square-feet.

B. General

The applicant proposes to construct a 1,360,875 square-foot distribution facility. Under the I-SP zoning designation, distribution facilities are a permitted use subject to the approval of a Site Plan Review. The facility would also include minor ancillary structures, including a

guard house (of approximately 510 square feet) and fire pump house (of approximately 1,080 square feet).

C. Site Analysis

The subject site is Parcel 1 of Tentative Parcel Map No. 19645. Condition of Approval (No. P15) requires Tentative Parcel Map No. 19645 to record prior to the issuance of a building permit.

The site plan shows decorative fencing along approximately 1,000 feet of Lafayette Road with the remainder proposed with chain link fencing. In accordance with the development standards of the NAVISP, decorative fencing is required along all street frontages. The project, under Condition of Approval No. P16, is required to provide for the installation of decorative fencing along all street frontages that are proposed for construction at this time. Due to the uncertainty for the need of Dachshund Road, the decorative fencing along Dachshund Road is being deferred until such time the road is constructed. If Dachshund Road is deemed unnecessary chain link fencing is permitted along an interior side property line.

Based on 1,360,875 total square feet of building area and a parking ratio of 1 space per 1,000 sq ft of gfa for the first 20,000 s.f. and 1 space per 2,000 sq ft of gfa beyond the first 20,000 s.f., the project is required to provide 665 parking spaces, including handicapped parking. The project is proposing 666 parking spaces. The site plan indicates a total of 672 tractor and trailer parking spaces.

The project proposes a single user. The building will be used for warehousing for distribution of goods. The floor plan shows an open warehouse building with loading doors on two sides. Project floor plans do not show any refrigerated space within the building.

The plans indicate the dumpster enclosure (siding unknown) is designed with a chain link gate with slating. A condition of approval requires the enclosure be consistent with Town standards. Therefore the sides of the enclosure will need to match the adjacent concrete tilt-up and the chain link gate shall be replaced with a solid metal gate.

The site plan provides no indication that any outdoor seating or patio area is being provided for the employees. It is encouraged that the project design include outdoor seating areas for employees.

Chapter 9.75 W*ater Conservation/Landscape Regulations* was amended in January 2015 to adopt the State of California Title 23 model water efficiency landscape ordinance. The new water conservation regulations supersede some of the requirements identified on Page III-112 of the NAVISP EIR and where applicable were added as Conditions of approval.

The Response to Comments identified a number of existing project design features that have been included in the Conditions of Approvals for clarity.

1. Drainage
   Prior to issuance of a grading permit, a final drainage plan is required to be submitted for review and approval by the Town Engineer showing provisions for receiving and conducting offsite and onsite tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties.

2. Traffic and Circulation
   Project site is within the NAVISP, and, therefore, street improvements are required. The Engineering Division is requiring road dedication and road improvements to Navajo, Lafayette, and Dachshund Roads. However, due to the uncertainty surrounding the need for Dachshund Road to be extended, the project is required to pay an in-lieu fee. All projects are also required to pay Development Impact fees in order to address potential cumulative traffic conditions in the area.

3. Sewer
   The project is required to provide sewage disposal by connection to the Town of Apple Valley sewer system.

D. Architectural Analysis

The building elevations indicate a combination tilt-up concrete wall for the first ten (10) feet of the building height and insulated metal wall panels for the remainder of the height for the distribution and warehousing portion of the building. The main office and shipping office are proposed to be entirely concrete tilt-up walls. To emphasize the building entrances to the main offices, a covered entryway is proposed.

The project's building elevations are designed with certain architectural elements that mimic the design of the main office component of the building. These facades incorporate contemporary textured architectural panels that are atop a concrete tilt up base. The tops of the panels are capped with a flashing which reflects a stylized cornice. The stucco textured panels interlock with each other and are designed with vertical reveal cuts, which create a strong architectural contrast with smooth finish concrete base. Parapets of the building facades are designed to screen roof-mounted equipment from the adjacent right-of-ways. The varied roof heights also provide character to the eclectic design of the project. The subtle earth-toned color schemes complement each other. There are two (2) primary colors that are designed as intermittent sections with a uniform theme for the entire building. These earth-toned colors are bisected by two (2) other contrasting colors. The south and west elevations contain the loading bay areas of the building.

Exposed metal buildings are discouraged. Although insulated metal panels are proposed, the panels have an embossed finished. This provides an attractive stucco-like appearance, which staff finds to be consistent with the intent of the Specific Plan.

E. Impact fees

In order to implement the goals and objectives of the General Plan of the Town of Apple Valley and to mitigate the impacts caused by new development within the Town, certain public improvement projects must be or had to be constructed. The Council determined that development impact fees are needed to finance these public improvements and to pay for development's fair share of the construction costs of these improvements. Impact fees are paid at the time of building permit issuance. The proposed project will be subject to the following Development Impact fees.

Development Impact Fees: Per Sq Ft	
Traffic Impact (High Cube)	$0.2024 per sq ft
Law Enforcement	$0.0010 per sq ft
Storm Drainage Facilities, Industrial Uses	$0.1000 per sq ft

General Government Facilities	$0.0300 per sq ft
Quimby or General Park Fee	$0.0052 per sq ft
Park Development or Open Space Fee	$0.0052 per sq ft
Sanitary Sewer Facilities, Industrial Uses	$0.5900 per sq ft
AV Unified School District Fee (pass through)	$0.5400 per sq ft
Fire District, Industrial Uses (pass through)	$0.0890 per sq ft

F. Environmental

Based upon an Initial Study, pursuant to the State Guidelines to implement the California Environmental Quality Act (CEQA) a subsequent Mitigated Negative Declaration has been prepared. The proposed Project has been found to be within the scope of the previously certified EIR prepared for the North Apple Valley Industrial Specific Plan, and consistent with the requirements of CEQA Guidelines Section 15162. The MND/Initial Study was prepared to examine the proposed project in the light of the Specific Plan EIR to determine if the project would result in any impacts greater than those previously analyzed and disclosed.

The Notice of Intent to adopt a Mitigated Negative Declaration for this Project was circulated for public review and comment on April 25, 2016. The Town's Planning Division received some comments regarding the Initial Study and Mitigated Negative Declaration. The comments relate to the Project itself, as well as to concerns about potential environmental impacts that may be associated with the project for which Staff prepared Response to Comments. Based upon staff's assessment of the comments received, there were no issues raised or comments provided that indicate the Project may cause any potentially significant, unmitigated impacts beyond those already addressed in the Specific Plan EIR.

G. Site Plan Review Findings

As required under Section III (G) (1) of the North Apple Valley Industrial Specific Plan, prior to approval of a Site Plan Review, the Director must make specific required "Findings". These Findings, as well as a comment to address each, are presented below and are further supported by substantial evidence in the record.

1. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the North Apple Valley Industrial Specific Plan, Development Code and the development policies and standards of the Town;

   Comment: The site for the proposed distribution facility is adequate in terms of shape and size to accommodate the facility and all landscaping, setbacks, walls and fences, and parking. The 106-acre site will accommodate the proposed building associated with the Project. All setbacks meet or exceed the requirements of the North Apple Valley Industrial Specific Plan for the proposed land use and the existing zoning.

2. That the location, size and design of the proposed structures and improvements are compatible with the site's natural landforms, surrounding sites, structures and streetscapes;

   Comment: The subject site is relatively flat, with no topographic features or constraints and, although the development will occupy a vacant lot

within a predominately undeveloped area, the area is anticipated to develop in accordance with the Specific Plan standards. To the west of the subject site is a 145,000 s.f distribution/warehousing facility and to the northwest is a similarly size distribution facility to the proposed facility.

3. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;

   Comment: The only facility that is comparable in size was constructed prior to the adoption of the NAVISP and is mainly an exposed metal building. The 145,000 s.f facility to the east is a concrete tilt-up style structure constructed in accordance with the NAVISP. The project's use of concrete tilt up and architecturally treated panels provides an attractive stucco-like appearance, which staff finds to be consistent with the intent of the Specific Plan which discourages exposed metal buildings and to be compatible with the surrounding land uses.

4. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures;

   Comment: The building design uses concrete tilt up and architecturally treated insulated panels with an embossed stucco finish. This provides an attractive stucco-like appearance, which staff finds to be consistent with the intent of the Specific Plan which discourages exposed metal buildings and compatible with the surrounding land uses. The project's architectural design will therefore promote quality architecture within the NAVISP and protect the economic value of existing structures.

5. That there are public facilities, services and utilities available at the appropriate levels, or that these shall be installed at the appropriate time, to serve the project as they are needed;

   Comment: Town sewer facilities and other utilities are available at the project site or nearby to accommodate the use. The Apple Valley Fire Protection District provided conditions of approval to address fire protection requirements. The project is required to obtain water service from Liberty Utilities. The project is also subject to development impact fees

6. That access to the site and internal circulation are safe;

   Comment: The site for the distribution facility has adequate access, which means that the site design and proposed conditions of approval provide for the streets surrounding the site to be improved fully to provide legal and physical access to the site, and appropriate regional circulation mitigation has been required. The project site is surrounded by Navajo and Lafayette Roads, which are Town maintained roads that will provide adequate legal and physical access to the project site.

7. That the project is consistent with the uses described in the North Apple Valley Industrial Specific Plan, and analyzed in the North Apple Valley Industrial Specific Plan Environmental Impact Report (SCH No. 2006031112) and General Plan EIR (SCH #2008091077).

Comment: Based upon an Initial Study, pursuant to the State Guidelines to implement the California Environmental Quality Act (CEQA) a subsequent Mitigated Negative Declaration was prepared. The proposed Project has been found to be within the scope of the previously certified EIR prepared for the North Apple Valley Industrial Specific Plan, and no new information of substantial importance exists under CEQA Guidelines Section 15162. The MND/Initial Study was prepared to examine the proposed project in the light of the Specific Plan EIR to determine if the project would result in any impacts greater than those previously analyzed and disclosed.

The Notice of Intent to adopt a Mitigated Negative Declaration for this Project was circulated for public review and comment on April 25, 2016. The Town's Planning Division received some comments regarding the Initial Study and Mitigated Negative Declaration. The comments relate to the Project itself, as well as to concerns about potential environmental impacts that may be associated with the Project for which Staff prepared Response to Comments. Based upon staff's assessment of the comments received, there were no issues raised or comments provided that indicate significant, unmitigated impacts associated with the Project. Accordingly, the conclusion that no further Environmental Impact Report is required is fully supported by substantial evidence and – further – there is no substantial evidence supporting a fair argument that a significant impact may result.

Finally, and in response to comments, amplifications and clarifications of the MND's existing analysis, mitigation, and CEQA conclusions have been incorporated into the MND. None of these revisions show that new significant impacts may result. Accordingly recirculation of the MND is not required under CEQA Guidelines Section 15073.5.

H. Mitigation Monitoring and Reporting Program (MMRP)
As set forth in the Conditions of Approval, above, the Project is subject to and shall comply with the mitigation measures set forth in the MMRP.

I. Custodian of Record
The documents and materials that constitute the record of proceedings on which the proposed action is has been based are located at 14955 Dale Evans Parkway, Apple Valley, CA 92307. The Custodian of Record is Ms. Lori Lamson, Assistant Town Manager – Community Development Services.

CONDITIONS OF APPROVAL
Case No. Site Plan Review No. 2015-001

Please note: *Many of the suggested Conditions of Approval presented herewith are provided for informational purposes and are otherwise required by the Municipal Code. Failure to provide a Condition of Approval herein that reflects a requirement of the Municipal Code does not relieve the applicant and/or property owner from full conformance and adherence to all requirements of the Municipal Code.*

Planning Division Conditions of Approval

P1. This project shall comply with the provisions of State law and the Town of Apple Valley Development Code and the General Plan. This conditional approval, if not exercised, shall expire two (2) years from the date of action of the reviewing authority, unless otherwise extended pursuant to the provisions of application of State law and local ordinance. The extension application must be filed, and the appropriate fees paid, at least sixty (60) days prior to the expiration date. The Site Plan Review becomes effective ten (10) days from the date of the decision unless an appeal is filed as stated in the Town's Development Code.

P2. The applicant shall defend, at its sole expense (with attorneys approved by the Town), hold harmless and indemnify the Town, its agents, officers and employees, against any action brought against the Town, its agents, officers or employees concerning the approval of this project or the implementation or performance thereof, and from any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of this obligation under this condition.

P3. Prior to the issuance of a Building Permit, the following agencies shall provide written verification as necessary to the Planning Division that all pertinent conditions of approval and applicable regulations have been met:

Apple Valley Fire Protection District
Apple Valley Public Services Department
Apple Valley Engineering Division
Liberty Utilities
SBDO County Airports Division
California State Fish and Wildlife

P4. Prior to issuance of any building or grading permit, the applicant(s) shall sign and complete an "Acknowledgment of Conditions", and shall return the executed original to the Planning Division for inclusion in the case records.

P5. It is the sole responsibility of the applicant on any Permit, or other appropriate discretionary review application for any structure, to submit plans, specifications and/or illustrations with the application that will fully and accurately represent and portray the structures, facilities and appurtenances thereto that are to be installed or erected if approved by the Director. Any such plans, specifications and/or illustrations that are reviewed and approved by the Director shall accurately reflect the structures, facilities and appurtenances expected and required to be installed at the approved location without substantive deviations, modifications, alterations, adjustments or revisions of any nature.

P6. No deviation, modification, alteration, adjustment, or revision to or from the appearance, location, fixtures, or features thereto of any type or extent shall be approved without changes being first submitted to the Assistant Town Manager for consideration and approval.

P7. No sign approval is granted with this permit, and plans submitted for plan check shall not reflect any sing areas on the elevations.

P8. Final landscape and irrigation plans shall be submitted prior to the issuance of Building permits and installed prior to issuance of occupancy permits subject to approval by the Planning Division.

P9. All required and installed landscaping shall incorporate and maintain a functioning automatic sprinkler system, and said landscaping shall be maintained in a neat, orderly, disease and weed free manner at all times.

P10. Landscaping shall be installed with appropriate combinations of drought tolerant trees, shrubs, and ground cover, consistent with Chapter 9.75, *Water Conservation Landscape Regulations*, of this Code. In addition, the following conservation measure shall apply:

- No run-off and washing down impervious surfaces such as driveways and sidewalks.
- May not allow water that has been used on premises to flow into gutters and storm drains.
- Irrigation system shall be designed to minimize runoff and evaporation and that maximizes effective watering of plant root systems.

P11. Prior to a certificate of occupancy, all landscaping shall be installed with permanent irrigation.

P12. All parking shall be defined with six (6)-inch curbing and finger planters at each rows end.

P13. Parking requirements shall be met and be in compliance with Town standards. All parking stalls shall be clearly striped and permanently maintained with double or hairpin lines.

P14. Required parking spaces shall be provided for the handicapped in accordance with Town standards and in accordance with Title 24 of the California Administrative Code. The handicapped spaces shall be located as close as practical to the entrance of the facility. Each space must be provided with access ramps and clearly marked in accordance with Title 24 of the California Administrative Code.

P15. Prior to the issuance of a Building Permit, Tentative Parcel Map No. 19645 shall be recorded.

P16. Decorative fencing shall be installed along all street frontages that are proposed for construction at this time. Due to the uncertainty for the need of Dachshund Road, the decorative fencing along Dachshund Road can be deferred until such time the road is construction.

P17. If Native American cultural resources are discovered during construction, all work in the immediate area of the find shall cease and a qualified archaeologist to assess the find.

P18. Prior to the issuance of a grading permit, the applicant shall obtain all the required approvals from Lahontan RWQCB.

P19. Prior to the issuance of a grading permit, the applicant shall obtain all the required approvals from California Department of Fish and Wildlife.

P20. The filing fee for a Notice of Determination (NOD) requires the County Clerk to collect a handling fee of $50.00. Additionally, as of January 1, 2016, a fee of $2,260.25 (includes $50 admin fee) is required to be collected by the County for the processing of a NOD for the State Fish & Game fees. The fees must be paid within five (5) days of the approval of this application in order to reduce the Statute of Limitations to thirty (30) days. All fees must be submitted prior to the issuance of any permits. The check shall be made payable to the Clerk of the Board of Supervisors and submitted to the Planning Division for processing.

P21. All mitigation measures described in the NAVISP EIR and Initial Study/MND and the Mitigation Monitoring and Reporting Program shall be implemented as part of the project.

P22. Prior to the issuance of a building permit, the applicant shall demonstrate compliance with MDAQMD regulations for the control of fugitive dust emissions by preparing and submitting a Dust Control Plan for review and approval by MDAQMD. The Dust Control Plan shall describe all fugitive dust control measures to be implemented before, during, and after any dust generating activity. The measures described in the plan shall be made condition of approval of the ground disturbing permits.

P23. The construction contractor shall select the construction equipment used on site based on low emission factors and high energy efficiency. The construction contractor shall ensure that construction grading plans include a statement that all construction equipment will be tuned and maintained in accordance with the manufacturer's specifications.

P24. The minimum two-way drive aisle width within the parking area is twenty-four (24) feet in width.

P25. All lighting used in parking lots for security purposes or safety-related uses shall be scheduled so that light rays emitted by the fixture are projected below the imaginary horizontal plane passing through the lowest point of the fixture and in such a manner that the light is directed away from streets and adjoining properties.

P26. If lighting is used or is necessary for color rendition, the primary lighting system shall be supplemented with a secondary lighting system which shall serve as security-level lighting and shall be the sole source of lighting during the non-operating hours.

P27. Lighting standards and fixtures shall be of a design compatible with the architecture of on-site buildings.

P28. Parking lot lighting and/or security lighting, when affixed to individual poles or affixed to any structure on site, shall not exceed a height of twenty (20) feet above the parking area surface. All glare shall be directed onto the site and away from adjacent properties.

P29 No deviation, modification, alteration, adjustment, or revision to or from the appearance, location, fixtures, or features thereto of any type or extent shall be approved without

changes being first submitted to the Assistant Town Manager for consideration and approval.

P30. No sign approval is granted with this permit, and plans submitted for plan check shall not reflect any signage on the elevations.

P31. Parking requirements shall be met and be in compliance with Town standards. All parking stalls shall be clearly striped and permanently maintained with double or hairpin lines.

P32. Required parking spaces shall be provided for the handicapped in accordance with Town standards and in accordance with Title 24 of the California Administrative Code. The handicapped spaces shall be located as close as practical to the entrance of the facility. Each space must be provided with access ramps and clearly marked in accordance with Title 24 of the California Administrative Code.

P33. The landscape plan shall indicate that the embankment areas between the landscape setback and parking areas shall be improved with decomposed granite.

P34. Documentation shall be provided during plan check that demonstrates conformity with the Town's Climate Action Plan.

P35. Any equipment, whether on the roof, side of the structure or ground, shall be screened from public view from adjacent property or from a public right-of-way. The method of screening shall be integrated into the architectural design of the building and/or landscaping.

P36. The trash enclosures shall be in accordance with Town Standards. Variation in its configuration may be approved by the Planning Division. Consistent with Town standard, the enclosure walls shall be block, masonry or similar with a solid metal gate.

P37. Project design shall include outdoor seating areas for employees.

P38. The applicant's SWPP shall be submitted to the Lahontan Regional Water Quality Control Board. Proof of said approved plan and associated certification shall be provided to the Town prior to the issuance of grading permits.

P39. Any protected desert plants or discovered Joshua Tree pups impacted by development are subject to the regulations specified in Section 9.76.020 (Plant Protection and Management) of the Development Code.

P40. Prior to the issuance of a grading permit, the NAVISP Recovery/ Reimbursement fee is required to be submitted to the Planning Division.

P41. Should at any time equipment be installed or used on the project site that require permits from the Mojave Desert Air Quality Management District, the applicant shall demonstrate compliance with District permitting requirements in writing.

P42. Should any special equipment subject to separate permitting be used on the project site that require permits from the District, the developer shall demonstrate compliance with District permitting requirements in writing.

P43 The applicant will provide the following services/incentives:

1. The Human Resources office will maintain a bulletin board on which the HR manager will post information on those associates seeking to carpool. The applicant will assist interested associates in finding potential carpooling partners.
2. The applicant will designate up to 20 preferred parking spaces at the facility reserved for those associates who participate in carpooling.
3. The applicant will provide referral services and information on ride share matching.
4. The applicant will provide assistance to associates in forming new carpooling groups and ongoing carpooling support.
5. The applicant will provide associates with regularly updated information about options for using public transportation.
6. Once carpools are established, the applicant will track associate carpooling participation patterns.
7. The applicant will coordinate carpooling events throughout the year to provide associates with information on carpooling and to encourage associates to form and maintain carpooling groups.
8. The applicant will disseminate internet websites to associates to provide carpool opportunities (www.erideshare.com and www.carpoolworld.com).
9. The applicant also will assist interested associates to determine the feasibility of carpooling to and from work and facilitate meetings in which potential carpool groups can initially meet and discuss compatibility. The applicant will provide a list of suggested topics for potential carpooling associates to discuss in forming carpool groups.

P44. Project design features to reduce project-generated criteria air pollutant emissions and GHG emissions shall include the following:

Architecture:

1. The project would use low-emissivity window systems and shades for energy savings.
2. The project would use low VOC content products (e.g., paints and finishes) that meet or exceed the requirements for CALGreen criteria.
3. The project would divert construction waste to recycling facilities in lieu of landfills to reduce emissions associated with landfill off-gassing.
4. The project would use higher R-values roof and building insulation for reduced energy consumption.

Mechanical – HVAC:

1. The project would utilize a high efficiency packaged single zone variable air volume rooftop units with energy saving economizer, automatic temperature setback, occupancy sensors, and optimized controls for maximum energy performance.
2. The project would utilize partial HVAC unit redundancy for times of low cooling demand or maintenance periods; some units can be switched off and still maintain space conditioning to increase energy conservation.
3. The project would utilize demand controlled ventilation controlling CO_2 levels, allowing a reduction in fresh air / outside air intake to reduce the mechanical cooling and optimize energy performance.

Plumbing:

1. The project would use low-flow water efficient lavatories and urinals in all bathrooms with automatic sensors to reduce water demand and increased water efficiency rating.
2. Indoor Water Use

a. The project would install low-flow bathroom faucets, achieving an approximately 77% reduction in water flow.
b. The project would install low-flow toilets, achieving an approximately 31.8% reduction in water flow.

3 Outdoor Water Use
a. The project would install water-efficient irrigations systems, achieving an approximately 50% reduction in water use.

Electrical:

1. The project would use LED lighting in lieu of fluorescent or HID to achieve a lighting design that uses 31% less energy as allowed by Title 24 requirements.
2. The project building's design would exceed Title 24 requirements by approximately 7%.
3. The project would install high efficiency lighting, achieving a 31% reduction in energy use.
4. The project would install energy efficient fans that would reduce energy consumption.

P45. Retention/Detention basins may not exceed a depth of eight (8) feet.

P46. To reduce PM10 emissions, the developer shall implement the following (required on sites 100+ acres, and to be followed to the greatest extent practicable:

- chemically treat soil at construction sites where activity will cease for at least four consecutive days;
- pave on-site construction access roads as they are developed; extend paving at least 120 feet from roadway into construction site and clean roadways at the end of each working day;
- restore vegetative ground cover as soon as construction activities have been completed
- chemically treat unpaved roads that carry 20 vehicle trips per day or more;
- plant tree windbreaks utilizing non-invasive species on the windward perimeter of construction projects, where feasible;
- all construction grading operations and earth moving operations shall cease when winds exceed 30 miles per hour;
- prior to turf raking, implement effective PM10 control programs for turf over-seeding as outlined in the CV-SIP.
- water site and equipment morning and evening and during all earth-moving operations;
- spread soil binders on site, unpaved roads, and parking areas; • operate street-sweepers on paved roads adjacent to site;
- re-establish ground cover on construction site through seeding and watering or other appropriate means;
- pave construction access roads, as appropriate.

To minimize construction equipment emissions, the developer and contractors shall implement the following:

- wash off trucks leaving the site;
- require trucks to maintain two feet of freeboard;
- properly tune and maintain construction equipment;
- use low sulfur fuel for construction equipment.

To reduce construction-related traffic congestion, the developer and contractors shall implement the following:

- configure construction parking to minimize traffic interference;
- provide a flag person to ensure safety at construction sites, as necessary;
- schedule operations affecting roadways for off-peak hours, as practical.

P47. The applicant shall comply with all measures and requirements identified in any Streambed Alteration Agreement approved by the CA Department of Fish and Wildlife.

P48. All off-road construction vehicles will use oxidation catalysts.

Engineering Division Conditions of Approval

EC1. A final drainage plan with street layouts shall be submitted for review and approval by the Town Engineer showing provisions for receiving and conducting offsite and onsite tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties. This plan shall consider reducing the post-development site-developed flow to 90 percent of the pre-development flow for a 100-year design storm. (Town Resolution 2000-50; Development Code 9.28.050.C, 9.28.100)

EC2. A final grading plan shall be approved by the Town Engineer prior to issuance of a grading permit.

EC3. A forty-four (44)-foot wide half-width road dedication along Navajo Road shall be granted to the Town of Apple Valley prior to Issuance of Grading Permit.

EC4. A forty-four (44)-foot wide half-width road dedication along Lafayette Road shall be granted to the Town of Apple Valley prior to Issuance of Grading Permit.

EC5. A forty-four (44)-foot wide half-width road dedication along Dachshund Road shall be granted to the Town of Apple Valley prior to Issuance of a Grading Permit.

EC6. Street improvement plans shall be submitted to the Town Engineer for review and approval.

EC7. Navajo Road adjacent to the property shall be improved to the Town's half-width Secondary Road standards. The plans shall show sidewalks, a Class 2 Bike lane, and ADA access improvements along the frontage of the development. See Town Council approved “Owner Participation Agreement” (OPA).

EC8. Lafayette Road adjacent to the property shall be improved to the Town's half-width Secondary Road standards. Sidewalks, a Class 2 Bike lane, and ADA access improvements along the frontage of the development shall also be included. The plans shall also include additionally widening to accommodate 3 travel lanes. See Town Council approved OPA.

EC9. Lafayette Road from the west boundary of the project, Dachshund Road, to Dale Evans Parkway shall be designed to the Town’s paved access road standards. Turning lanes on Dale Evans Parkway at Lafayette Road shall also be designed to Town Standards. See Town Council approved OPA.

EC10. An in-lieu fee in the amount of $236,000 shall be paid to the Town of Apple Valley for the developer's fair share contribution for the future construction of Dachshund Road along the frontage of the development, prior to building permit issuance. Street plans shall be required for design of Dachshund Road which qualifies for a traffic impact fee credit. See Town Council approved OPA.

EC11. An encroachment permit shall be obtained from the Town prior to performing any work in any public right of way.

EC12. Final improvement plans and profiles shall indicate the location of any existing utility, which would affect construction and shall provide for its relocation at no cost to the Town.

EC13. Utility lines shall be placed underground in accordance with the requirements of the Town. (Municipal Code Section 14.28)

EC14. Traffic impact fees adopted by the Town shall be paid by the developer. See Town Council approved OPA.

EC15. Any developer fees adopted by the Town including but not limited to drainage fees shall be paid by the developer.

Public Works Division Conditions of Approval

PW1. Sewage disposal shall be by connection to the Town of Apple Valley sewer system. Financial arrangements, plans and improvement agreements must be approved by the Town of Apple Valley Public Works Department.

PW2. Sewer connection fees required and sewer development impact fees required.

PW3. Buy-in fees will be required prior to Building Permit / Recordation. Contact the Public Works Department for costs associated with said fees.

PW4. A grease interceptor with minimum capacity of 750 gallons shall be required for all floor drains and service sinks, and all other receptors of grease and oil-bearing wastes. A grease interceptor is required for a commercial kitchen area.

Building and Safety Conditions of Approval

B1. An engineered grading report including soils report shall submitted to and approved by the Building Official prior to recordation of the final map or issuance of permits for grading in excess of 1000 cubic yards.

B2. Grading and drainage plans including a soils report must be submitted to and approved by the Building Department and Engineering Department prior to grading permit issuance.

B3. Submit plans, engineering and obtain permits for all structures, retaining walls, and signs.

B4. A pre-construction permit and inspection are required prior to any land disturbing activity to verify requirements for erosion control, flood hazard native plant protection and desert tortoise habitat.

B5. A Notice of Intent (NOI) and a Storm Water Prevention Plan (SWPP) must be submitted to and approved by the Engineering and Building Departments prior to issuance of a grading permit and or any land disturbance.

B6. All utilities shall be placed underground in compliance with Town Ordinance No. 89.

B7. All cross lot drainage requires easements and may require improvements at the time of development.

B8. Comply with State of California Disability Access requirements

B9. A pre-grading meeting is required prior to beginning any land disturbance. This meeting will include the Building Inspector, General Contractor, Grading Contractor, soils technician and any other parties required to be present during the grading process such as Biologist, Paleontologist.

B10. A dust palliative or hydro seed will be required on those portions of the site graded but not constructed (phased construction)

B11. Page two (2) of the submitted building plans will be the conditions of approval

B12. Construction must comply with current California Building Codes

B13. Best Managements Practices (BMP's) are required for the site during construction.

Environmental & Transit Services Conditions of Approval

ETS1. The developer shall re-orientate the trash enclosures to accommodate trucks for trash bin pickup and provide adequate areas for collecting and loading recyclable materials in compliance with AB 341. The trash enclosures and number of bins must comply with the newly adopted recycling standards. Public Resource Code Section 42910-42912

ETS2. The developer shall complete and submit a Waste Management Plan ("WMP"), on a WMP form approved by the Town for this purpose as part of the application packet for the building or demolition permit. The completed WMP shall indicate all of the following:

(1) The estimated volume or weight of project C&D debris to be generated;

(2) The estimated volume or weight of such materials that can feasibly be diverted via reuse or recycling;

(3) The vendor or facility that the Developer proposes to use to collect or receive that material; and

(4) The estimated volume or weight of C&D materials that will be landfilled.

Town of Apple Valley Municipal Code Section 8.19.020(a)

ETS3. Compliance with Condition of Approval No. ETS2 shall be met by any of the following:

(1) Contract for hauling services with Town's franchise hauler, with all Project debris delivered to San Bernardino County self-haul landfill diversion program, provided the diversion program is currently operating; and provide acceptable proof of recycling to the Town in the form of receipts and/or weigh tickets, in conformance with the WMP

(2) Self-haul all Project debris to San Bernardino County self-haul landfill diversion program, provided the diversion program is currently operating; and provide acceptable

proof of recycling to the Town in the form of receipts and/or weigh tickets, in conformance with the WMP

(3) Self-haul all Project debris to a construction materials recycling facility, and provide acceptable proof of recycling to the Town in the form of receipts and/or weigh tickets, in conformance with the WMP

(4) Contract with a construction site cleanup company to recycle at least 50% of the Project construction debris, and provide acceptable proof of recycling to the Town in the form of receipts and/or weigh tickets, in conformance with the WMP.

Town of Apple Valley Municipal Code Section 8.19.030

ETS4. Prior to issuance of Certificate of Occupancy, the developer shall submit to the WMP Compliance Official documentation proving that it has met the Diversion Requirement for the Project. The Diversion Requirement shall be that the developer has diverted at least fifty percent (50%) of the total C&D debris generated by the Project via reuse or recycling. This documentation shall include all of the following:

(1) Receipts from the vendor or facility that collected or received each material showing the actual weight or volume of that material;

(2) A copy of the previously submitted WMP for the Project adding the actual volume or weight of each material diverted and landfilled;

(3) Any additional information the Developer believes is relevant to determining its efforts to comply in good faith with this Chapter 8.19.

Town of Apple Valley Municipal Code Section 8.19.050

The developer shall make reasonable efforts to ensure that all C&D debris diverted or landfilled are measured and recorded using the most accurate method of measurement available. To the extent practical, all C&D debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For C&D debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the developer shall use the Standardized Conversion Rates approved by the Town for this purpose.

ETS5. ADVISORY CONDITION: The applicant is advised that bulk recycling services are available utilizing the Victor Valley Materials Recycling Facility (MRF) located in Victorville, Ca. The Victor Valley MRF is co-owned by the Town of Apple Valley and the City of Victorville and serves as the primary recycling and collection center in the Victor Valley. The facility is operated by Burrtec Waste Industries, the franchise waste hauler for the Town. Additional information is available by contacting the Town's Environmental and Transit Services Department.

Apple Valley Fire Protection District Conditions of Approval

FD1. The above referenced project is protected by the Apple Valley Fire Protection District. Prior to construction occurring on any parcel, the owner shall contact the Fire District for verification of current fire protection development requirements.

FD2. All new construction shall comply with applicable sections of the California Fire Code, California Building Code, and other statutes, ordinances, rules, and regulations regarding fires and fire prevention adopted by the State, County, or Apple Valley Fire Protection District.

FD3. All combustible vegetation, such as dead shrubbery and dry grasses, shall be removed from each building site a minimum distance of thirty (30) feet from any combustible building material, including the finished structure. This does not apply to single specimens of trees, ornamental shrubbery, or similar plants, which are used as ground cover if they do not form a means of transmitting fire.

California Public Resources Code, Sec. 4291

FD4. Prior to combustible construction, the development and each phase thereof, shall have two points of paved access for fire and other emergency equipment, and for routes of escape which will safely handle evacuations. Each of these points of access shall provide an independent route into the area in which the development is located.

FD5. Fire lanes shall be provided with a minimum width of twenty-six (26) feet, maintained, and identified.

Twenty six (26) feet access will start at both points of ingress and continue through the site. Fire lanes shall be provided with a minimum width of twenty-six (26) feet for the proposed light duty asphalt and the gravel pavement fire maintenance roads. Gravel pavement will require a soils engineers report meeting at least 95% compaction subject to fire apparatus loads.

Apple Valley Fire Protection District Ordinance 52
Install per A.V.F.P.D. Standard Series #202

FD6. A turnaround shall be required at the end of each roadway one hundred fifty (150) feet or more in length and shall be approved by the Fire District. Cul-de-sac length shall not exceed one thousand (1,000) feet.

Turning radius on all roads within the facility shall not be less than twenty-two (22) feet inside and minimum of forty (40) feet outside turning radius with no parking on street, or forty-seven (47) feet with parking. Road grades shall not exceed twelve percent (12%) unless approved by the Chief.

FD7. Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background.

Commercial and industrial developments shall have street addresses and location approved by the Fire District. Where the building setback exceeds 200 feet from the roadway, additional non-illuminated contrasting eighteen (18) inch numbers shall be displayed at the property entrance. When these developments have rear doors of each unit, the unit number shall be a minimum of six (6) inches and shall contrast with their background.

Apple Valley Fire Protection District, Ordinance 52

FD8. Plans for fire protection systems designed to meet the fire flow requirements specified in the Conditions of Approval for this project shall be submitted to and approved by the Apple Valley Fire Protection District and water purveyor prior to the installation of said systems.

Apple Valley Fire Protection District, Ordinance 52

A. Unless otherwise approved by the Fire Chief, on-site fire protection water systems shall be designed to be looped and fed from two (2) remote points.

B. System Standards:

*Fire Flow 4,000 GPM @ 20 psi Residual Pressure
Duration 4 Hour(s)
Hydrant Spacing 330 Feet
*If blank, flow to be determined by calculation when additional construction information is received.

FD9. Prior to issuance of building permit, the developer shall pay all applicable fees as identified in the Apple Valley Fire Protection District Ordinance.

FD10. A Knox Box Rapid Entry System shall be required for this project.
Apple Valley Fire Protection District Ordinance 52

San Bernardino County Dept of Airports (Apple Valley Airport) Conditions of Approval

AVA1. Developer shall submit an avigation easement to the County Department of Airports for review, and the avigation easement shall be recorded in favor of the Apple Valley Airport prior to permit issuance. (Dept will provide template and a sample of recorded easement)

AVA2. Developer shall complete and submit FAA Form 7460-1 “Notice of Proposed Construction or Alteration” to the federal Aviation Administration, Airports Division, and provide evidence of compliance with any requirements prior to occupancy.

END OF CONDITIONS

TOWN OF APPLE VALLEY MITIGATED NEGATIVE DECLARATION/INITIAL STUDY

Project Title:	Project Jupiter Distribution Warehouse
Case No.	Site Plan Review 2015-001
Assessor's Parcel No.	046-323-107, -108, -110, -160; 046-323-126, -127, -128; 046-323-142 and -143
Lead Agency Name and Address:	Town of Apple Valley 14955 Dale Evans Parkway Apple Valley, CA 92307
Project Location:	Southwest corner of Navajo Road and Lafayette Street
Project Sponsor's Name and Address:	Todd Noethen, Vice President AVDC Inc. 300 Phillips Road Columbus, OH 43228
General Plan Designation(s):	Specific Plan (North Apple Valley Industrial Specific Plan)
Zoning:	Specific Plan (North Apple Valley Industrial Specific Plan)
Contact Person:	Carol Miller Principal Planner Town of Apple Valley
Phone Number:	(760) 240-7000, ext. 7222
Date Prepared	April, 2016

Description of the Project

The proposed project will develop a 106.5 acre parcel to accommodate a 1,360,875 square foot distribution center and associated ancillary facilities. The project occurs within the boundary of the North Apple Valley Industrial Specific Plan (Specific Plan), which was adopted by the Town in October of 2006. At that time, the Town also certified an Environmental Impact Report (EIR) for the entire Specific Plan area. Since the certification of the EIR, small projects have developed within the Specific Plan area, but the area remains mostly undeveloped.

The distribution warehouse will consist of a single, 45 foot high building consisting primarily of warehouse space. Ancillary office space, including administration, shipping and receiving offices, are included in the building envelope. Separate guard house (510 square feet) and fire pump house (1,080 square feet) buildings are proposed on the east side of the site, at the project entrance. Parking areas, located on the east and south sides of the site, will accommodate 606 automobiles, as well as 60 tractor spaces, 222 trailer shipping spaces, and 450 trailer receiving spaces. The site plan has also been designed to include storm water retention facilities on the west side of the site consistent with the requirements of the Town, the Regional Water Quality Control Board, and the Specific Plan.

The project also includes off-site improvements. These include roadway improvements to Navajo Road, Lafayette Street, and Dachshund Avenue; water main relocation and extensions on the frontage roadways; and undergrounding of power lines on Navajo Road.

An ephemeral stream crosses the site trending northeast to southwest. The streambed is proposed to be entirely relocated to the margins of the site pursuant to a Streambed Alteration Agreement between the applicant and the California Department of Fish & Wildlife as part of the project (see Biological Resources section, below).

Access to the site will be provided by a two-way driveway on Navajo Road, immediately opposite Burbank Street.

This MND/Initial Study tiers off the Specific Plan Environmental Impact Report (EIR), SCH #2006031112, which is available for review at the Town's Offices (14955 Dale Evans Parkway). This EIR was prepared to review the environmental constraints and opportunities associated with the adoption of the North Apple Valley Industrial Specific Plan. In addition to assessing the impacts associated with the Specific Plan and instituting mitigation measures, the EIR was designed to be used as an information database to facilitate the streamlining, or tiering of the environmental review process for subsequent projects proposed within the Specific Plan boundary. The prior EIR determined that all environmental impacts resulting from the construction and implementation of the Specific Plan would be less than significant with the imposition of appropriate mitigation measures, with the exception of Air Quality impacts, which were identified as significant and unavoidable. The EIR is incorporated into this document in its entirety by this reference.

The proposed project is consistent in size, land use, intensity and design with the development anticipated, analyzed, and approved as part of the approved Specific Plan and EIR. Specifically, the Specific Plan projected – and the EIR analyzed – that over 39,000,000 square feet of industrial development would be constructed and operated on 4,937 acres (EIR, Tables III-1 and III-2). Specific Plan Table III-1, Allowable Uses, specifically permits warehousing and distribution uses, like those proposed by the project, with approval of a Site Plan Review Permit, (Specific Plan page III-3 ff).

Because the proposed Project is within the scope of the previously certified EIR, and consistent with the requirements of CEQA Guidelines Section 15162, this MND/Initial Study has been prepared to examine the proposed project in the light of the Specific Plan EIR in order to determine if the proposed project would result in any impacts greater than those previously analyzed and disclosed.

In the following resource areas, the EIR identified mitigation measures that would be applicable to all subsequent developments: Land Use Compatibility, Traffic/Circulation/Parking, Soils and Geology, Hydrology, Water Resources/Quality, Biological Resources, Cultural Resources, Air Quality, Hazardous and Toxic Materials, Jobs and Housing, and Public Services/Facilities.

Those mitigation measures were imposed by the Town through a Mitigation Monitoring and Reporting Program, and will be applied to this project, if approved.

Finally, as depicted in the Initial Study's significance checkboxes for each resource only those resources for which site-specific mitigation (beyond that already imposed through the EIR) are imposed are identified as "less than significant with mitigation." Impacts to all other resources are either "less than significant" or "no impact" with the imposition of the mitigation measures imposed through the certified EIR.

Environmental Setting and Surrounding Land Uses

The project site is currently vacant desert land. Adjacent to the site, surrounding land uses include the following:

North: Existing Walmart distribution center and vacant land.

South: Vacant land.

East: Existing industrial building at the northeast corner of Navajo Road and Lafayette Street, vacant land on the east side of Navajo Road.

West: Vacant land, and Dale Evans Parkway beyond.

Other public agencies whose approval is required

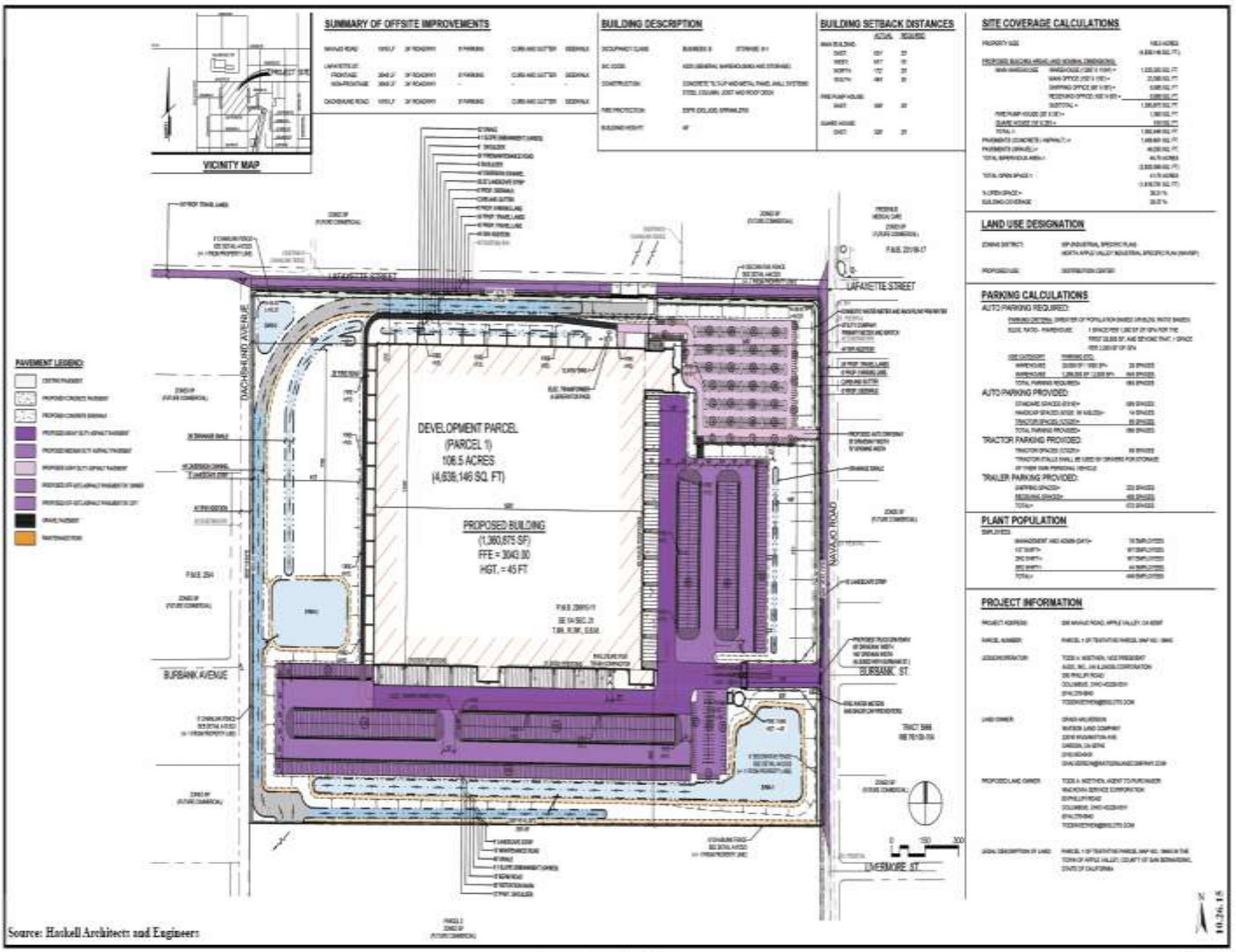
California Regional Water Quality Control Board (Waste Discharge Requirements)
California Department of Fish and Wildlife (Streambed Alteration Permit)
State Water Resources Control Board/Regional Water Quality Control Board (Construction Stormwater Permit)

Exhibit 1 – Regional Location Map


Barstow
Victorville
Hesperia
Ontario
San Bernardino
Twentynine Palms
N
Exhibit
TERRA NOVA
PLANNING & RESEARCH, INC.

Exhibit 2 – Project Aerial

Exhibit 3 – Project Site Plan



TERRA NOVA®

Project Jupiter Initial Study
Site Plan
Apple Valley, California

Exhibit 3

Environmental Factors Potentially Affected:

The environmental factors checked below would be potentially affected by this project, as indicated by the checklist and corresponding site-specific discussion on the following pages.

☐ Aesthetics	☐ Agricultural Resources	☒ Air Quality
☒ Biological Resources	☒ Cultural Resources	☐ Geology/Soils
☐ Greenhouse Gases	☐ Hydrology/Water Quality	☐ Land Use/Planning
☒ Hazards & Hazardous Materials		
☐ Mineral Resources	☐ Noise	☐ Population/Housing
☐ Public Services	☐ Recreation	☐ Transportation/ Traffic
☐ Utilities/Service Systems	☒ Mandatory Findings of Significance	

DETERMINATION: The Town of Apple Valley Planning Department has determined, on the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Carol Miller
Principal Planner

Date

PURPOSE OF THIS INITIAL STUDY

This Initial Study has been prepared consistent with CEQA Guidelines Section 15063, to determine if the project, as proposed, may have a significant effect upon the environment. Based upon the findings contained within this report, the Initial Study will be used in support of the preparation of a Mitigated Negative Declaration.

EVALUATION OF ENVIRONMENTAL IMPACTS

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on project-specific screening analysis).
2) All answers must take into account the whole action involved, including offsite as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
    a) Earlier Analysis Used. Identify and state where they are available for review.
    b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
    c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures, which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) The explanation of each issue should identify:

   a) The significance criteria or threshold, if any, used to evaluate each question; and

   b) The mitigation measure identified, if any, to reduce the impacts to less than significance.

I. AESTHETICS Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☒	☐
d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

Introduction

The Specific Plan EIR found that the development of the Specific Plan had the potential to impact Aesthetics, but that with the implementation of mitigation measures, build out of the Specific Plan would result in less than significant impacts. The proposed project will be subject to these mitigation measures.

Discussion of Impacts

a) Less Than Significant Impact. The proposed project site is currently vacant, and located in the heart of the Town's industrial area. Lands on all sides are zoned Industrial Specific Plan, and are part of the Specific Plan. Lands on and surrounding the project site are generally flat, and consist of alluvial deposits bisected by minor drainage features. Lands surrounding the proposed project are generally vacant on its west, east and south sides. Lands to the north of the project site are vacant at its eastern border, but consist primarily of the existing Walmart distribution center, a use and site layout very similar to that proposed for the project site.

The EIR identified sensitive viewsheds as those visible from Dale Evans Parkway and from surrounding residential development, locating in the Specific Plan vicinity. The proposed project is located 2,900 feet east of Dale Evans Parkway and approximately 1.25 miles from the nearest residence. Therefore, the project will not have any site-specific impacts on scenic vistas.

As previously set forth in the EIR, views in the area consist primarily of distant mountain views to the west and north. The proposed project site is located in an area that is generally flat, and will result in blockage of views from industrially zoned properties to its south and east. From surrounding streets, views to the north on Navajo Road will not be impacted by the proposed project, but views to the west will be temporarily reduced as cars travel the road, particularly the view of Bell Mountain to the west. Views from Lafayette Street will not be impacted by the proposed project, insofar as the views from

this street are to the west and north. The site and surrounding lands are designated for industrial development, which, unlike residential development, is not impacted by the reduction of scenic vistas. Impacts associated with scenic vistas are expected to be less than significant.

b) No Impact. There are no scenic trees, rock outcroppings or historic buildings on the project site, nor is the proposed project located on a scenic highway. There will be no impact to scenic resources.

c) Less Than Significant Impact. The proposed project will have a less than significant impact on the visual character of the area. The area surrounding the project site includes native lands, a large warehouse building to the north, and smaller industrial buildings to the northeast. The proposed project consists of the same type of industrial building as those that occur to its north and northeast. The proposed project will consists of a 45 foot tall warehouse building, which is below the maximum building height permitted in the Specific Plan and analyzed in the EIR. (See EIR pp. III-147 through III-149.). The project's finishes and colors will be reviewed for consistency with the Specific Plan's design guidelines prior to the issuance of building permits. Impacts associated with visual character are expected to be less than significant.

d) Less Than Significant Impact. The proposed project will generate light and glare, primarily from truck and automobile lights and building security lighting associated with the project's 24-hour operation. These light and glare characteristics are consistent with those allowed in the Specific Plan and analyzed in the EIR. Specifically, the EIR requires that all lighting be consistent with the dark sky policies in the Town's General Plan. The project shall limit outdoor lighting to the minimum needed for security and identification, and light levels at the boundaries of the project site are not permitted to spill past its boundary. As shown on the photometric plan submitted for the proposed project, as currently designed, site lighting will comply with the Specific Plan's and the Town's requirements for lighting. Accordingly, impacts associated with light and glare will be less than significant.

II. AGRICULTURAL RESOURCES

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	☐	☐	☐	☒

Introduction

The Specific Plan EIR, in its Notice of preparation, found that the development of the Specific Plan would have no impact on agricultural resources, because there are no agricultural land in the Plan area. There have been no changes in conditions, and no agricultural activities have been initiated in the area of the Specific Plan since the certification of the EIR.

Discussion of Impacts

a-c) *No Impact.* The proposed project is located in an area that currently consists of vacant desert lands. The project area, and all surrounding lands, are designated for industrial development. No agricultural development occurs on or in the vicinity of the proposed project. There are no Williamson Act contracts on or in the vicinity of the proposed project. There will be no impact to agricultural resources.

III. AIR QUALITY Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☒	☐
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☒	☐
d) Result in significant construction-related air quality impacts?	☐	☐	☒	☐
e) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐
f) Create objectionable odors affecting a substantial number of people?	☐	☐	☒	☐

Introduction

The Specific Plan EIR found that the development of the Specific Plan had the potential to impact Air Quality, and included a number of mitigation measures to reduce these impacts to the greatest extent feasible. The proposed project will be subject to these mitigation measures. However, the EIR also found that even with implementation of mitigation measures, the impacts associated with air quality at build out of the Specific Plan would remain significant and unavoidable. The Town adopted Findings and a Statement of Overriding Considerations, which found that the benefits associated with build out of the Specific Plan outweighed the potential impacts to air quality.

Discussion of Impacts

The Specific Plan and EIR provided a comprehensive mitigation program to reduce all construction and operational air quality emissions to the fullest extent feasible. The EIR mitigation measures are provided below. In view of this, the EIR does not impose any requirement for further site-specific analysis where, as here, site-specific proposals are consistent with and within the scope of the EIR's analysis.

Nonetheless, in order to confirm the project's impacts to air quality are within the scope of the EIR's analysis, the CalEEMOD model was used. Development of the proposed project will impact air quality during construction activities and over the long term operation of the project. These impacts are discussed below.

a) Less Than Significant Impact. The Town of Apple Valley is subject to the jurisdiction of the MDAQMD which sets forth policies and other measures designed to help the District achieve federal and state ambient air quality standards. These rules, along with the MDAQMD CEQA and Federal Conformity Guidelines[1], are intended to satisfy the planning requirements of both the federal and state Clean Air Acts. The MDAQMD also monitors daily pollutant levels and meteorological conditions throughout the District.

The Apple Valley General Plan Land Use Plan serves as the basis for the assumptions used in the MDAQMD's planning documents for air quality maintenance and improvement. The project is consistent with the Town's General Plan, and with development already occurring in the area. Therefore, it will not exceed AQMP assumptions or criteria, or result in inconsistencies with the AQMP.

b)-e) Less Than Significant Impact. In order to calculate the potential impacts to air quality from the proposed project, it was assumed that construction would occur in 2017, and that the first operational year for the project would be 2018.

Criteria Air Pollutants

Criteria air pollutants will be released during both the construction and operational phases of the project. The California Emissions Estimator Model (CalEEMod Version 2013.2.2) was used to project air quality emissions generated by the proposed project.

Construction Emissions

The EIR fully analyzed worst-case construction emissions. (See EIR p. III-58.) Based on those worst-case assumptions, all construction emission impacts were projected to be less than significant. Nonetheless, site-specific construction emission modeling was performed for the proposed project. The construction analysis includes all aspects of project development, including site preparation, grading, building construction, paving, and application of architectural coatings. As shown in Table 1, none of the analyzed criteria pollutants will exceed regional emissions thresholds during the construction phase. Construction air quality impacts of the proposed project will be less than significant.

Table 1
Construction-Related Emissions Summary
Jupiter, Apple Valley
(pounds per day)

Construction Emissions[1]	CO	NO_x	ROG	SO_2	PM_{10}	$PM_{2.5}$
2016	203.02	99.14	123.34	0.29	21.15	12.67
2017	185.02	89.60	121.24	0.29	18.77	7.66
MDAQMD Thresholds	548.00	137.00	137.00	137.00	82.00	82.00
Exceed?	No	No	No	No	No	No

[1] Average of winter and summer emissions, unmitigated.
Source: CalEEMod model, version 2013.2.2 output tables generated 10.3.15

[1] "Mojave Desert Air Quality Management District California Environmental Quality Act and Federal Conformity Guidelines," prepared by the Mojave Desert Air Quality Management District, May 2006.

Operational Emissions

Operational emissions are ongoing emissions that will occur over the life of the project. Emission sources include area sources (such as consumer products and landscape equipment), energy consumption, and mobile sources.

As set forth above, the EIR analyzed operational emission that would occur as a result of build out of the Specific Plan and found them to be significant and unavoidable. (EIR Table III-25.) Site-specific operational emission analysis was conducted in order to confirm whether the proposed project – on its own – would result in significant operational air quality impacts. Table 2 summarizes the results of that site-specific analysis. The data represent worst-case averaged summer or winter emissions. As shown, none of the analyzed criteria pollutants will exceed emissions thresholds, and site-specific operational impacts will be less than significant.

Table 2
Operational Emissions Summary
Jupiter, Apple Valley
(pounds per day)

	CO	NO_x	ROG	SO_2	PM_{10}	$PM_{2.5}$
Operational Emissions[1]	218.26	49.22	81.88	0.35	22.74	6.61
MDAQMD Thresholds	548.00	137.00	137.00	137.00	82.00	82.00
Exceed?	No	No	No	No	No	No

[1] Average of winter and summer emissions, unmitigated.
Source: CalEEMod model, version 2013.2.2

The proposed project will be required to implement the mitigation measures included in the certified EIR, which will further reduce air quality impacts emanating from the project site. The proposed project is a small fraction of the 3.9 million square feet of industrial space analyzed in the EIR, and as such was fully considered in that document. Although modeling tools have changed, the level of impact is consistent with that previously analyzed, and impacts of the proposed project will be less than significant. Although the project's direct construction and operational impacts will not exceed MDAQMD thresholds and will be less than significant, it can be expected that the emissions of this project will contribute to the emissions of the overall build out of the Specific Plan. The prior EIR disclosed that the Specific Plan's overall emissions would be significant and unavoidable, and the Town Council adopted CEQA findings and a Statement of Overriding Considerations addressing those impacts.

f) *Less Than Significant Impact.* Objectionable odors, including those emitted by diesel-operated vehicles and the application of asphalt pavement and paints/solvents, may be emitted during the construction phase of the project, and during operations, because of the number of diesel trucks expected to come and go from the project site. However, the site occurs in the center of the Specific Plan area, and is not in the immediate vicinity of sensitive receptors such as residences, schools, parks, or other areas of concentrated human activity. As a result, impacts associated with odors are expected to be less than significant.

EIR Mitigation Measures

II-1. Grading and development permits shall be reviewed and conditioned to require the provision of all reasonably available methods and technologies to assure the minimal emissions of pollutants from the development (see Table III-27 below), including proper vehicle maintenance and site watering schedules (see detailed list below under Developer's Air Quality Management Resources). The Town Planning and Building Divisions shall review grading plans to ensure compliance with the mitigation measures set forth in the project's environmental documentation and as otherwise conditioned by the Town.

II-2. The Town shall coordinate with the project developers to encourage the phasing and staging of development to assure the lowest construction-related pollutant emission levels practical. As part of the Town's grading permit process, the applicant shall concurrently submit a dust control plan as required by MDAQMD in compliance with Rule 403. Mitigation measures to be implemented through this plan include, but are not limited to, the use of water trucks and temporary irrigation systems, post-grading soil stabilization, phased roadway paving, as well as other measures which will effectively limit fugitive dust emissions resulting from construction or other site disturbance (see Table III-27 below).

Table III-27
Fugitive Dust Control Methods
Daily PM10 Reduction

Apply Soil Stabilizers to Inactive Areas	30%
Replace Ground Cover in Disturbed Areas Quickly	15%
Water Exposed Surfaces 2 Times Daily	34%
Water Exposed Surfaces 3 Times Daily	50%

Source: Urban Emissions Model (URBEMIS2002) version 8.7.0, April 2005.

II-3. As future demand warrants, developers shall work with the Town to promote and support the development of bus routes/public transit that serve those residing at and employed by the project.

Developer's Air Quality Management Resources

In response to requirements of MDAQMD to monitor air quality impacts associated with fugitive dust from site disturbance and grading activities, all construction activities within the project boundary shall be subject to Rule 401 Visible Emissions, Rule 402 Nuisance, and Rule 403 Fugitive Dust.16 A wide variety of methods for controlling impacts and a list of vendors providing dust control and other pollution management services is also available from the Town and MDAQMD. Consistent with these management programs, developers shall assure implementation of appropriate grading and construction management programs.

To reduce PM10 emissions, the developer shall implement the following (required on sites 100+ acres, and to be followed to the greatest extent practicable:

- chemically treat soil at construction sites where activity will cease for at least four consecutive days;
- pave on-site construction access roads as they are developed; extend paving at least 120 feet from roadway into construction site and clean roadways at the end of each working day;
- restore vegetative ground cover as soon as construction activities have been completed
- chemically treat unpaved roads that carry 20 vehicle trips per day or more;
- plant tree windbreaks utilizing non-invasive species on the windward perimeter of construction projects, where feasible;

- all construction grading operations and earth moving operations shall cease when winds exceed 30 miles per hour;
- prior to turf raking, implement effective PM10 control programs for turf over-seeding as outlined in the CV-SIP.
- water site and equipment morning and evening and during all earth-moving operations;
- spread soil binders on site, unpaved roads, and parking areas;
- operate street-sweepers on paved roads adjacent to site;
- re-establish ground cover on construction site through seeding and watering or other appropriate means;
- pave construction access roads, as appropriate.

To minimize construction equipment emissions, the developer and contractors shall implement the following:

- wash off trucks leaving the site;
- require trucks to maintain two feet of freeboard;
- properly tune and maintain construction equipment;
- use low sulfur fuel for construction equipment.

To reduce construction-related traffic congestion, the developer and contractors shall implement the following:

- configure construction parking to minimize traffic interference;
- provide a flag person to ensure safety at construction sites, as necessary;
- schedule operations affecting roadways for off-peak hours, as practical.

To minimize indirect source emissions, the developer shall:

- Install low-polluting and high-efficiency appliances;
- install energy-efficient street lighting;
- landscape with native and other appropriate drought-resistant species to reduce water consumption and to provide passive solar benefits.

To minimize building energy requirements, the developer may also implement the following:

- assure the thermal integrity of buildings and reduce the thermal load with automated time clocks or occupant sensors;
- use efficient window glazing, wall insulation and ventilation methods;
- introduce efficient heating and other appliances, such as water heaters, cooking equipment, refrigerators, furnaces and boiler units;
- incorporate appropriate passive solar design, including solar heaters, and solar water heaters, to the greatest extent feasible;
- use devices that minimize the combustion of fossil fuels;
- capture waste heat and re-employ this heat, where feasible.

IV. BIOLOGICAL RESOURCES Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	☐	☒	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	☐	☐	☒	☐
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☒	☐	☐
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☒	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

Introduction

The Specific Plan EIR found that the development of the Specific Plan had the potential to impact biological resources, but that with the implementation of mitigation measures, build out of the Specific Plan would result in less than significant impacts. The proposed project will be subject to these mitigation measures.

The EIR required that certain site-specific surveys be completed for certain biological species prior to development. (EIR pp. III-80 through III-81.) Those studies were completed for the

proposed project site, and the results are summarized below. These studies confirm that, with mitigation, no significant impacts will result from implementation of the proposed project.

Discussion of Impacts

a) Less Than Significant Impact with Mitigation. A biological resource study was conducted for the project site and a surrounding buffer area[2]. The survey found that the site's vegetative community is dominated by Creosote Bush and Burrobush, with considerable barren ground as a result of site disturbance and previous sheep grazing on the site. Flora and fauna identified on the site was typical of the area, and did not identify protected species.

Eight inactive kit fox burrows were identified on and around the project site. A study specifically undertaken to determine activity of the species on the site was conducted in December of 2015. The study identified nocturnal activity on the site, and confirmed that the burrows were inactive. That study concluded with the collapsing of the burrows conducted to CDFW standards, to prevent future habitation.

Although no burrowing owl sign was identified on the project site, the species is known to use kit fox burrows. The species prefers open terrain, and the height of native vegetation on the site is not conducive to the owls' preferred terrain. With the collapsing of the kit fox burrows on the site, suitable burrows have been eliminated.

A loggerhead shrike was observed on a creosote bush on the eastern edge of the site. The site provides foraging and nesting habitat for the species.

The project site is also located within the range of the desert tortoise, but no sign of the species was found in or around the project site during protocol surveys, and the likelihood of the species moving onto the property is low[3].

The site is suitable habitat for migratory birds covered by the Migratory Bird Treaty Act. For example, cactus wren nests were identified in the buffer area studied around the project site. The species is likely to forage on the project site, but no nests, or habitat suitable for nests, was identified on the project site.

The site was determined to have potential to impact migratory birds. As a result, mitigation measures are required to assure that impacts to sensitive species are less than significant. These mitigation measures are provided below.

Mitigation Measures

IV.1 Prior to initiation of any earth moving or construction activities on the project site, the project proponent shall conduct environmental awareness training for construction staff, including a presentation by a qualified biologist on desert tortoise, project-specific protective measures, and instructions for actions that

[2] "Jupiter Project Updated Biological Resources Report," prepared by AMEC Foster Wheeler, January 2016.

[3] "Jupiter Project Focused Desert Tortoise Survey Report," prepared by AMEC Foster Wheeler, April 2015.

must be taken if a tortoise is encountered during construction. These measures include:

1. Prior to initiation of work, all project personnel will attend a WEAP and sign agreement to comply with the measures. Refresher daily at morning tailgate meeting.
2. Sweep of work site(s), staging areas, and access routes will be done daily by biological monitor prior to any work being conducted.
3. If a desert tortoise, kit foxes and/or burrowing owls are found on site, work will immediately cease until the animal has left the area (it must be at least 250 feet away). Listed species may not be handled by anyone.
4. Do not disturb any burrows encountered. Notify biologist.
5. Notify biologist of any other animals or birds nest encountered on site. *Special status animals encountered* will be relocated as needed, if possible *and as allowed under existing regulations.*
6. Keep equipment and vehicles on cleared and approved routes and areas. Watch for and avoid animals, especially tortoises, kit foxes and burrowing owls when driving.
7. Vehicles that have been parked on site should be checked underneath for tortoises/ animals before starting engine or moving.
8. All fueling and maintenance of vehicles and other equipment and staging areas shall occur along the road only. A spill kit should be available during the work.
9. All food and trash debris will be disposed of in closed containers and removed from the project area at the end of each workday.
10. Desert tortoises can only be handled by authorized biologists. Trained individuals must follow the guidelines outlined in the Desert Tortoise Field Manual (USFWS 2010), chapters 6 and 7. No one is authorized to handle or move any desert tortoise.
11. Immediately prior to the start of any ground-disturbing activities and prior to the installation of any desert tortoise exclusion fencing, clearance surveys for the desert tortoise will be conducted by the authorized biologist, as appropriate. The entire project area will be surveyed for desert tortoise and their burrows by an authorized biologist or approved desert tortoise monitor before the start of any ground-disturbing activities following the 2010 field survey protocol (USFWS 2010) or more current approved protocol. If burrows are found, they will be examined by an authorized biologist to determine if desert tortoises are present. If a tortoise is present and the burrow cannot be avoided, it will be relocated in accordance with USFWS protocol (USFWS 2010). If the authorized biologist determines clearance surveys are not needed, clearance surveys would not be required. If desert tortoises are found at a project site where the authorized biologist had previously concluded they were unlikely to occur, the USFWS and CDFW will be contacted to determine if the implementation of additional protective measures would be appropriate.
12. The area of disturbance will be confined to the smallest practical area, considering topography, placement of facilities, location of burrows, public health and safety, and other limiting factors. This measure includes temporary haul roads, staging/storage areas, or access roads. Work area boundaries will be clearly and distinctly delineated with flagging or other marking to minimize surface disturbance associated with vehicle movement. Special habitat

features, such as desert tortoise burrows, will be identified and marked as environmentally sensitive areas by the authorized biologist, if they are to be avoided and will be discussed and identified during the worker education program. To the extent possible, previously disturbed areas within the project site will be used for equipment storage, office trailer locations, and vehicle parking. The development of all temporary access and work roads associated with construction will be minimized and constructed without blading where feasible. Project-related vehicle traffic will be restricted to established roads, construction areas, staging/storage areas, and parking areas. The authorized biologist or approved desert tortoise monitor will ensure that blading is conducted only where necessary.

13. Permanent or temporary exclusion fencing may be used to prevent entry by desert tortoises into a work site. Exclusion fencing will be installed following USFWS guidelines (2005) or more current protocol. The authorized biologist will ensure that desert tortoises cannot pass under, over, or around the fence. Authorized biologists or desert tortoise monitors will not be required to be present at the site at all times; however, they will be present during the installation of the exclusion fence. However, the authorized biologist must periodically check the fenced area to search for breaks in the fence and to ensure no desert tortoises have breached the fence. Preconstruction surveys for tortoise and tortoise sign will be performed within all proposed construction areas prior to the fence being installed. In addition, prior to ground disturbing activities beginning in a previously undisturbed or unfenced area, preconstruction surveys will be performed.
14. Upon locating a dead or injured tortoise within a project site, the authorized biologist will immediately notify USFAWS within 24 hours of the observation via telephone. Written notification must be made to the appropriate Fish and Wildlife field office within 5 days of the finding. The information provided must include the date and time of the finding or incident (if known), location of the carcass or injured animal, a photograph, cause of death or injury, if known, and other pertinent information (i.e., size, sex, recommendations to avoid future injury or mortality).
15. Injured desert tortoises will be transported to a veterinarian for treatment at the expense of the applicant. Only the authorized biologist or an approved desert tortoise biological monitor will be allowed to handle an injured tortoise. If an injured animal recovers, the appropriate Fish and Wildlife field office will be contacted for final disposition of the animal.
16. If working outside of a desert tortoise-proof fenced area, auger holes or other excavations will be covered following inspection at the end of each workday to prevent desert tortoises from becoming trapped.
17. Construction vehicles will be cleaned of all mud, dirt, and debris from other sites prior to entering the project area. The purpose of this measure is to minimize the spread of weedy plant species that may degrade desert tortoise habitat.
18. Except on maintained public roads designated for higher speeds or within a desert tortoise-proof fenced area, driving speed will not exceed 20 miles per hour through potential desert tortoise habitat on both paved and unpaved roads.
19. Any fuel or other hazardous materials spills will be promptly cleaned up; any leaks from equipment will be stopped and repaired immediately. Vehicle and equipment fluids that are no longer useful will be transported to an

appropriate off-site disposal location. Fuel and lubricant storage and dispensing locations will be constructed to fully contain spilled materials until disposal can occur. Hazardous waste, including used motor oil waste and coolant, will be stored and transferred in a manner consistent with applicable regulations and guidelines.

20. Upon completion of construction, all refuse, including, but not limited to equipment parts, wrapping material, cable, wire, strapping, twine, buckets, metal or plastic containers, and boxes will be removed from the site and disposed of properly.
21. No firearms or pets, including dogs, will be allowed within the work area. Firearms carried by authorized security and law enforcement personnel and working dogs under the control of a handler will be exempt from this protective measure.
22. To preclude attracting predators, such as the common raven (*Corvus corax*) and coyotes (*Canis latrans*), food-related trash items will be removed daily from the work site and disposed of at an approved refuse disposal site. Workers are prohibited from feeding all wildlife.
23. Boring locations will not be established within 35 feet of an active desert tortoise burrow. If an active burrow is found within 35 feet after the boring location is established, the boring location will be moved until it is at least 35 feet from the active burrow.
24. An authorized biologist will be onsite during all drilling activities.
25. Desert tortoise exclusion fence construction will follow the guidelines in Chapter 8 of the Desert Tortoise Field Manual (USWFS 2010).
26. Desert tortoise-proof fencing will not cross washes. When washes and culverts are encountered, the desert tortoise-proof fence will follow the wash to the roadway and either tie into the existing bridge or cross over the top of a culvert.
27. During fence inspections and repairs, if any desert tortoises are observed, workers are to notify the authorized biologist because only authorized biologists and approved biological monitors are permitted to handle tortoise. All desert tortoises encountered within the roadway side of the fence will be relocated across the fence to safety in accordance with USFs protocol (USFWS 2010). Any such incident will be reported in the annual report.
28. On a case by case basis, individual active burrows may be fenced if the authorized biologist determines this protective measure is necessary to prohibit desert tortoises from repeatedly entering work areas. Fencing around individual burrows will be removed when adjacent construction is complete.
29. When gates are installed within the fence line, desert tortoise-proof fencing will be installed along the gate bottom beginning at least 2 feet above the fence bottom and extending towards the ground leaving less than a 1-inch gap (USFWS 2010).

Any and all recommendations included in the study shall be implemented by the Town and/or the developer.

IV.2 A pre-construction survey shall be completed by a qualified biologist not more than *3* days of initiation of any earth moving activity on site. The pre-construction survey shall include an intensive site survey for desert tortoise, Mojave Ground Squirrel, kit fox, burrowing owl and migratory birds. Should any affected species

be identified, the biologist shall include recommendations for avoidance in his/her report, and could include:

1. The avian breeding season is generally defined as February 1 through September 15 for most nesting birds. If project activities cannot be avoided between *February* 1 and 15 September, a qualified biological monitor (biologist) shall survey the entirety of the project site, and within a 500 foot buffer surrounding the project site for both diurnal and nocturnal nesting birds, prior to commencement of project activities (including soil disturbance and/or vegetation removal). Surveys shall be conducted by the biologist at an appropriate time of day, no less than thirty days prior to commencement of project activities.

2. If an active nest is found prior to commencement of project activities, the biologist will monitor it for a minimum of one hour and note behaviors such as incubation times and duration, time away from nest, feeding schedule, flushing, etc. This will establish baseline behavior prior to construction, which can be compared to behavior after construction commences. Monitoring will consist of quietly approaching and observing the nest at a distance where the nesting bird will not be disturbed by the biologist's presence.

3. If no nesting birds are detected, project activities may begin.

4. If an active nest is located during nesting bird surveys, a 300-foot minimum avoidance buffer will be implemented around it. For raptors, a 500-foot minimum avoidance buffer should be established. For burrowing owls, buffers be established according to guidelines included in the March 7, 2012 DFG *Staff Report on Burrowing Owl Mitigation* if located between February 1 and August 31. Those buffers are shown in Table 1 below.

Table 1. Burrowing Owl Exclusion Buffers

Location	Time of Year	Level of Disturbance		
		Low	Medium	High
Nesting sites	April 1-Aug 15	200 m (656 feet)	500 m (1,640 feet)	500 m (1,640 feet)
Nesting sites	Aug 16-Oct 15	200 m (656 feet)	200 m (656 feet)	500 m (1,640 feet)
Nesting sites	Oct 16-Mar 31	50 m (164 feet)	100 m (328 feet)	500 m (1,640 feet)

m = meters

5. Any breeding habitat/ nest site detected shall be fenced and/or flagged in all directions as an Environmentally Sensitive Area (ESA) as directed by the biologist. The nest site area shall not be disturbed until the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, and the young will no longer be impacted by the project. Buffer areas may be increased if active nests of any endangered, threatened, or CDFW species of special concern not already discussed are detected.

6. Buffers may be reduced at the discretion of the biological monitor. A reduction may be warranted based upon factors such as the life history of individual species; the species' and/or individual bird's sensitivity to noise,

vibration, and general disturbance; ambient levels of human activity, current site conditions that may shield the nest from disturbance, such as screening vegetation or topography; and the exact nature of project activities that will be conducted in the vicinity of the nest. Additional mitigation measures may need to be implemented if nest buffers are reduced. This additional mitigation could include measures such as sound barriers and increased monitoring.

7. The following measures will minimize the likelihood that active nests will be abandoned or fail due to project activities. Once construction has commenced, nest surveys and/or monitoring will be conducted weekly at a minimum during the nesting season unless it is determined that less frequent site visits would be satisfactory. If the buffer of an active nest overlaps the project site, the biologist will monitor the nest daily and will be present on site at all times while work is occurring in order to ensure that construction activities occur outside the delineated buffer, that any installed fencing/flagging is maintained at the buffer boundaries, and to observe for any potential indication of stress of the nesting birds. In other words, to ensure that the nesting birds are exhibiting normal behaviors as compared to behaviors observed by the nesting birds prior to commencement of construction. These behaviors depend on the stage of the nest (i.e. building, egg incubation, nestling age, etc.), and include incubation, feeding, fecal sac removal, foraging, etc.

8. After commencement of construction the biologist will have the authority to halt construction activities if it appears that those activities are causing stress to nesting birds. Such direction shall be taken through the project foreman on site. Determination of "stress" will be based on the results of nest monitoring prior to any construction. Stress would be defined by behaviors such as increased flushing frequency, less nest visits, etc.

9. If a nesting bird or burrowing owl is encountered, the biologist will document the species and location on a survey form. Location will be determined utilizing a global positioning device. The location of active nests and attempted nests will be recorded. Nesting bird behaviors will be recorded, which will also track the nest and its outcome. Monitoring memo reports will be prepared for each day of monitoring activity.

10. Biological Monitors shall conduct the pre-construction surveys for desert kit fox and American badger no more than 30 days prior to initiation of construction activities, including pre-construction site mobilization. Surveys shall also address the potential presence of active dens within 100 feet of the project boundary (including utility corridors and access roads). If dens are detected, each den shall be classified as inactive, potentially active, or definitely active den and a report shall be submitted to the Department for review prior to collapsing the burrows.

Any and all recommendations included in the study shall be implemented by the Town and/or the developer.

IV.3 Following completion of the pre-construction survey, a CDFW compliant desert tortoise exclusion fence shall be provided in addition to chain link construction fencing.

IV.4 Following completion of the exclusion fence, a survey for animal burrows shall be completed. If identified, animal burrows shall be carefully excavated to assure they are not occupied by desert tortoise. Should the species be found on the site, it shall be trans-located to native habitat by a qualified biologist, according to strict CDFW protocol.

IV.5 A trash management plan shall be developed and implemented during construction on the project site that provides for closed raven-proof containers for trash and food.

With implementation of these mitigation measures, impacts associated with biological resources will be reduced to less than significant levels.

Mitigation Monitoring Program

IV.A The project proponent shall provide course materials and an attendance sign in sheet for construction staff environmental awareness training to the Town prior to the initiation of any construction activity on the site.
Responsible Party: Planning Department
Timing: Prior to issuance of building permit.

IV.B A qualified biologist shall submit a report on pre-construction survey(s) to the Town for review and approval prior to any ground disturbing activity on the site.
Responsible Party: Planning Department
Timing: Prior to issuance of grubbing, trenching or grading permit.

IV.C A tortoise exclusion fence shall be constructed on the project site.
Responsible Party: Planning Department
Timing: Prior to issuance of grubbing, trenching or grading permit.

IV.D A qualified biologist shall conduct a pre-construction survey for animal burrows. If identified, any burrow shall be excavated, and a report of findings provided to the Town.
Responsible Party: Planning Department
Timing: Prior to issuance of grubbing, trenching or grading permit.

IV.E A trash management plan shall be submitted to the Town for review and approval.
Responsible Party: Building Department
Timing: Inspections during the building process.

b, c) Less Than Significant Impact. An ephemeral wash was identified on the project site, and as a result, a jurisdictional delineation was prepared[4]. The delineation included records

[4] "Jurisdictional Delineation Report Project Jupiter," prepared by AMEC Foster Wheeler, May 2015.

searches, review of mapping and aerial photographs, and on site investigation. The delineation contained an analysis of both Waters of the United States and Waters of the State of California, consistent with current professional standards and regulations.

The delineation determined that there are no wetlands on the property, but did identify one jurisdictional drainage and a tributary to that drainage. The delineation found that the project site contains 0.23 acres of land that qualifies as Waters of the State of California, and that there were no Waters of the US on the site, because of the lack of connectivity. The project site contains Waters of the State, and construction of the proposed project will result in the elimination and relocation of the onsite wash pursuant to Waste Discharge Requirements issued by the Regional Water Quality Control Board.

The project proponent negotiated a Streambed Alteration Agreement from the California Department of Fish and Wildlife. The Agreement includes avoidance and minimization measures, including the monitoring of the site by a qualified biologist with stop-work authority; the implementation of a worker environmental awareness program; the use of Best Management Practices; restrictions on work activities within the wash to dry weather only; storm event inspections; protection measures specifically geared to desert tortoise and Mojave ground squirrel, including construction material checks, escape ramps in trenches, and pre-construction sweeps; protection measures specifically geared to protect native birds, including the preparation of a burrowing owl habitat assessment, the preparation and implementation of a Burrowing Owl Plan, and the preparation of nesting bird surveys during prescribed periods; and protection measures relating to vegetation removal and habitat restoration. Finally, the Agreement requires the acquisition of habitat off-site on a 3:1 ratio. The implementation of the measures contained in the Agreement, are project design features that will assure that any impacts associated with waters of the State are less than significant.

d) *Less Than Significant Impact.* The biological resources study did not identify any wildlife nurseries on the project site. The study also found that the site is isolated and not conducive to wildlife movement. Impacts associated with wildlife movement are expected to be less than significant.

e, f) *No Impact.* Neither the Town nor any other agency has in place any ordinances, conservation plans or other approved programs relating to wildlife conservation that apply to the project site. The project area is within the range of the desert tortoise, but is not within an area of critical habitat, nor was the species identified or likely to occur on the project site. No impact is expected.

V. CULTURAL RESOURCES Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in 15064.5?	☐	☐	☒	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to 15064.5 or Tribal Cultural Resources?	☐	☒	☐	☐
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☒	☐	☐
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☒	☐	☐

Introduction

The Specific Plan EIR found that the development of the Specific Plan had the potential to impact cultural resources, but that with the implementation of mitigation measures, build out of the Specific Plan would result in less than significant impacts. The proposed project will be subject to these mitigation measures.

The EIR required that site-specific surveys be completed for cultural and paleontological resources prior to development. (EIR pp. III-122, III-123.) Those studies were completed for the project site, and the results are summarized below. These studies confirm that, with mitigation, no significant impacts will result from implementation of the proposed project.

Discussion of Impacts

a) *Less Than Significant Impact.* Multiple cultural resource studies were conducted for the project site[5]. The studies included both records searches for archaeological and historic resources, and on site surveys. The records searches found that two potentially historic sites had previously been identified on the project site, as well as three isolates. The 2016 on site survey relocated one of the potentially historic sites and one isolate. An additional historic site and five isolates were newly found in the 2016 site survey. The newly identified site consisted of three artifacts: one tin can and two glass bottle/bottle fragment. The site was determined to date to the mid-20th Century, and to be non-eligible as a significant resource. As a result, impacts to historic resources are considered less than significant.

b) *Less Than Significant Impact with Mitigation.* The 2016 study found no prehistoric resources on the project site, but identified six resources recorded within a mile of the site. The study also included outreach and consultation with Native American Tribes. In addition, the

[5] "Archaeological and Paleontological Resources Phase I Assessment," prepared by Northgate Environmental Management, March 2016. "Phase 1 Cultural Resource Assessment and Paleontological Records Review Navajo Road Project," prepared by Michael Brandman Associates, June 2007.

Town completed Tribal consultation, pursuant to the requirements of Assembly Bill 52. The San Manuel Band of Mission Indians indicated that the site is within the Tribe's ancestral territory and requested that a qualified Native American monitor be required a mitigation measure. Additionally, the studies determined that there was potential for buried resources on the site, and that project construction activities could result in an impact to archaeological resources. As a result, mitigation measures are required, as follows:

Mitigation Measures

V.1 A qualified archaeological monitor and a Native American monitor shall be on site during all ground disturbing activities. The monitor shall be empowered to stop or redirect earth moving activities, if a resource is identified. Should a resource be identified, the monitor shall make recommendations regarding the measures needed to protect the resource. When the monitor determines that there are no resources, or the potential for resources is low, monitoring activities will be suspended. Within 30 days of completion of monitoring, the monitor shall prepare, and deliver to the Town, a report of his/her findings.

Mitigation Monitoring Program

V.A The project proponent shall provide the Town with agreement(s) with qualified monitors. The Town shall assure that the monitors are on site during earth moving activities.
Responsible Party: Planning Department
Timing: Receipt of agreement prior to issuance of grading permits, and on site inspections.

c) Less Than Significant Impact with Mitigation. The 2016 cultural resource study found that the general area has yielded mammalian resources in Pleistocene sediments. Although the project site is covered with a veneer of Holocene soils, Pleistocene sediment may occur at depth on the project site. These sediments have a high probability of yielding fossilized remains. The unearthing and damage of these resources would represent a potentially significant impact, without mitigation.

Mitigation Measures

V.2 A qualified paleontological monitor shall be on site for any and all excavations that reach more than 3 feet below ground. The monitor shall be empowered to stop or redirect earth moving activities, if a resource is identified. Should a resource be identified, the monitor shall make recommendations regarding the measures needed to protect the resource. Any and all recommendations included in the study shall be implemented by the Town and/or the developer. When the monitor determines that there are no resources, or the potential for resources is low, monitoring activities will be suspended. Within 30 days of completion of monitoring, the monitor shall prepare, and deliver to the Town, a report of his/her findings.

Mitigation Monitoring Program

V.B The project proponent shall provide the Town with an agreement with a qualified monitor. The Town shall assure that the monitor is on site during earth moving activities.
Responsible Party: Planning Department
Timing: Receipt of agreement prior to issuance of grading permit and on site inspections.

d) Less Than Significant Impact. The 2015 survey identified that there are no known cemeteries in the area of the proposed project, but found that there is a small possibility that human remains could be identified on the site during site grading. Public Resources Code section 5097.98 imposes a mandatory reporting requirement and the cessation of all construction activity in the event of the discovery of human remains. Compliance with these mandatory provisions would ensure that any impacts to human remains would remain less than significant.

VI. GEOLOGY AND SOILS Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☒
ii) Strong seismic ground shaking?	☐	☐	☒	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☒	☐
iv) Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☒	☐
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒

Introduction

The Specific Plan EIR found that the development of the Specific Plan had the potential to impact geology and soils, but that with the implementation of mitigation measures, build out of the Specific Plan would result in less than significant impacts. The proposed project will be subject to these mitigation measures.

The EIR requires that site-specific geotechnical investigations be completed prior to the approval of development plans. (EIR pp. III-88.) That study was completed for the proposed project, and the results are summarized below[6]. The study confirms that impacts associated with geotechnical and soil hazards will be less than significant.

Discussion of Impacts

a.i) *No Impact.* The subject property is not located in an Alquist-Priolo Earthquake Fault Zone, and no fault rupture will occur on site. The Mojave Desert segment of the San Andreas fault passes through the region approximately 25 miles south-southwest of Apple Valley. This fault extends from the Tejon Pass to the San Bernardino valley, where it becomes the San Bernardino strand. No impacts are expected.

a.ii, c) *Less Than Significant Impact.* The Town will be subject to ground shaking from earthquakes on regional faults, particularly on the Mojave Desert segment of the San Andreas fault. The distance to the fault segment, however, will result in lesser ground shaking than would be expected if the site were in closer proximity to the fault. The proposed project will be required to comply with the Town's Building Code seismic requirements in place at the time that building permits are issued. In addition, the certified EIR included a number of mitigation measures to further reduce impacts associated with ground shaking and soils. The Town's standard requirements and the EIR's mitigation measures are designed to reduce impacts associated with ground shaking to less than significant levels.

a.iii) *Less Than Significant Impact.* Liquefaction occurs when groundwater is located near the surface (within 50 feet), and mixes with surface soils during an earthquake. The Specific Plan area generally consists of granular soils with historic groundwater depths ranging from approximately 105 feet below the surface to 155 feet below the surface. The Geotechnical Study found that water levels at the site likely are 150 feet below the ground surface. Therefore the study found that there is no potential for liquefaction. . Impacts associated with liquefaction are less than significant.

a.iv) *No Impact.* The project site is located in a flat area, and is not adjacent to any slope or mountainside. No impact associated with slope instability is anticipated.

b) *No Impact.* Soils identified as occurring in the Specific Plan area include, Cajon sand, Cajon loamy sand, Cajon-Arizo complex, Cajon Wasco, Helendale loamy sand, Mirage-Joshua complex, Nebona-cuddleback complex and Rosamond loam. Helendale-Bryman loamy sands are predominant across the project site and are a series of the Aridosol Soil Order occurring on 0 to 2 percent slopes. Bryman soils are found on terraces and older alluvial fans, and are formed by the mixing of alluvium derived mainly from granitite sources in combination with erosion caused by wind and water. The proposed project will be required to implement the dust control measures included in the EIR to address wind and water erosion, and will also be required to implement best management practices associated with storm water management. These mitigation measures and standard requirements will assure that impacts associated with erosion remain less than significant.

[6] "Geotechnical Engineering Study," prepared by Geosphere Consultants, Inc., June 2015.

d) *No Impact.* As identified in the certified EIR, the soils within the Specific Plan area, and on the project site, are not expansive. The study confirmed that expansive soils do not occur on the site. No impact is anticipated.

e) *No Impact.* The proposed project will connect to the existing sewer system. No septic tanks or alternative wastewater disposal systems are proposed. No impacts will occur.

VII. GREENHOUSE GAS EMISSIONS Would the project:	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐

Discussion of Impacts

a-b) Less Than Significant Impact. Both construction and operation of the project will generate greenhouse gas (GHG) emissions. Construction emissions will be generated by a variety of sources, including the operation of construction equipment and energy usage. Construction impacts will be temporary and will end once the project is complete. Typically, they can be minimized by limiting idling times, proper maintenance of heavy machinery, and efficient scheduling of construction activities. Long-term operation of the project will generate GHG emissions from area sources, energy and water usage, mobile sources, and waste disposal.

The California Emissions Estimator Model (CalEEMod Version 2013.2.2) was used to estimate greenhouse gases emitted by the project. The results are shown in Table 3.

Table 3
GHG Emissions from Construction and Operation
Jupiter, Apple Valley
(Metric Tons/Year)

	CO2e	Threshold	Exceeds?
Construction Activities	2,487.71	100,000	No
Operational Activities	8,671.17	100,000	No

CalEEMod model, version 2013.2.2. Values shown represent the total annual, unmitigated GHG emission projections for construction and operation of the proposed project.

The threshold for MDAQMD GHG impacts is 100,000 tons per year. The project will not, therefore, exceed the threshold for GHG emissions. When taken in context with the Specific Plan as a whole, the proposed project's square footage represents 6% of the Specific Plan area's industrial square footage. Additionally, the Project will reduce GHG emissions that would otherwise result from energy and water use by complying with the Specific Plan and EIR's requirements to use low-polluting and high efficiency appliances, drought-tolerant landscaping, and by providing passive solar benefits. These will include building orientation optimizations and efficient fenestration. Statewide programs and standards, including new fuel-efficient standards for cars and expanding the use of

renewable energies, will help reduce GHG emissions over the long-term. The project will be required to comply with standards and regulations for reducing GHG emissions, including the Town's Climate Action Plan and other GHG reducing strategies, including high efficiency HVAC and high efficiency fans. The proposed project will also be required to comply with Title 24 of the California Building Code, which in 2016 requires a further 30% reduction in energy use for construction. This reduction in energy use exceeds the Town's Climate Action Plan target for reduction of GHG emissions. The Plan, adopted with the General Plan and updated in 2013, targets a 15% reduction below 2005 levels by the year 2020. The reductions included in the current building code result in a 30% reduction in energy use. Therefore, the proposed project's construction is expected to exceed the Town's reduction target. These standard requirements and Town initiatives will ensure that GHG emissions from the project are less than significant.

VII. HAZARDS AND HAZARDOUS MATERIALS Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☒	☐	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☒	☐
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒

Introduction

The Specific Plan EIR found that the development of the Specific Plan had the potential to result in impacts from hazardous materials, but that with the implementation of mitigation measures,

build out of the Specific Plan would result in less than significant impacts. The proposed project will be subject to these mitigation measures.

The EIR required that site-specific surveys for unexploded ordnance be conducted in areas of the Specific Plan that are within the Victorville pre-bomb range. (EIR pp. III-155, III-157, III-158.) Because the project site is within that range, a survey was completed, and the results are summarized below. The study confirms that, with mitigation, no significant impacts will result from the Project.

Discussion of Impacts

a) *Less Than Significant Impact.* The proposed project site will be used as a distribution facility for a chain store retailer of domestic goods. As such, the facility may store household cleaners, oils, and similar chemicals for shipment to its retail outlets. The facility will be required to comply to Fire Department and County standards regarding high cube storage, including the safe storage of hazardous materials, and the implementation of emergency response plans in case of a spill or fire. These measures are subject to regular inspection to ensure compliance. These standard requirements will assure that the storage and transport of hazardous materials result in less than significant impacts.

b) *Less Than Significant Impact with Mitigation.* A portion of the proposed project site was used by the US military as a bombing range during the 1940s, and has been identified as a Formerly Used Defense Site (FUDS). Previous site investigations conducted in 2006 and 2008 determined that there was a potential for munition constituent contamination on the site as a result. In 2015, an Ordnance Investigation was conducted for the project site[7]. The report included both review of the 2008 analysis, and surveying and research of the site. The on site investigation identified half of the bombing range target at the northwest corner of the site. The balance of the target area occurs on adjacent property to the west. Within and surrounding the target area, bomb ordnance scrap was identified on and in the ground. A metal detector investigation was also conducted, including transects of the property at 125 foot distances. The metal detector identified high concentrations of materials in the area of the bombing target at the northwest corner of the site. There is therefore a potential for munition materials in this area of the site, which could, when disturbed, result in upset or accident. This represents a potentially significant impact and requires mitigation, as follows:

Mitigation Measures

VII.1 The bombing target area, and the area within 300 feet of the bombing target within the site, including off-site improvement areas, shall be cleared by a qualified technical team, and all ordnance or ordnance scrap removed to a depth acceptable to the technical team.

VII.2 All ground disturbing activities within 300 feet of the existing bombing target area shall be monitored by a two-man team qualified to detect and dispose of ordnance and ordnance scrap.

[7] "Revised Ordnance Investigation Services Report, Jupiter Project – Navajo Road," prepared by Northgate Environmental Management, July 17, 2015.

VII.3 Ordnance uncovered during clearing and ground disturbing activities shall be collected, handled and disposed of consistent with accepted professional standards by the qualified technical team.

VII.4 Any fill placed within 300 feet of the target area shall be a minimum of 2 feet in depth.

VII.5 A Site Management Plan shall be prepared prior to the issuance of a certificate of occupancy for any structure on the site. The Site Management Plan shall include all required techniques to be used for any future grading or other site disturbance within 300 feet of the bomb target area, which could include:

1. During intrusive grading, full time construction support using a two-man technician crew (unexploded ordnance [UXO] Technician II and Technician II) should be performed to identify any ordnance related scrap or munitions or explosives of concern (MEC) items.
2. Where little or no filling is proposed, required techniques will consist of the area being cleared with a two-man UXO technician crew using excavation, stockpiling, and sifting to remove the ordnance-related scrap metal. A depth of 2 feet is recommended for this operation. The cleared soil will then be returned to this area.
3. For deeper cut areas such as the roadway and storm transfer ditch, required techniques will consist of excavation and sifting to a depth of 3 feet.
4. For areas where fill is required and no intrusive grading into the subgrade is needed, no excavation or sifting will be required as long as the area has been surface cleared (inspection by UXO crew) and a minimum of two feet of fill is emplaced.

Mitigation Monitoring Program

VII.A The project proponent shall provide the Town with an agreement with a qualified ordnance disposal team. The Town shall assure that the monitor is on site during earth moving activities.
Responsible Party: Planning Department
Timing: Receipt of agreement and on site inspections.

VII.B The project proponent shall provide the Town with Site Management Plan which describes how future grading or excavation in the area within 300 feet of the bomb target area is to be undertaken.
Responsible Party: Planning Department
Timing: Receipt of Site Management Plan prior to issuance of Certificate of Occupancy for first building on the site.

c) *No Impact.* The proposed project will handle household cleaners and chemicals, but will not store or handle hazardous materials within proximity of a school. The closest school to the project site is Sycamore Rocks Elementary, located approximately 3.5 miles southeast of the project site.

d) *No Impact.* The project site is not listed as a hazardous materials site, cleanup site, or hazardous waste facility and, therefore, the proposed project will not create a significant

hazard to the public or environment. (Envirostor map database, California Department of Toxic Substances Control).

e) *Less Than Significant Impact.* The project site is located ¼ mile west of the north end of the Apple Valley airport. The project proposes a warehouse, which is a compatible land use, consistent with the industrial development proposed within the Specific Plan boundary. The Town will, as required in the certified EIR, consult with the County to assure compatibility between the proposed project and the Airport Land Use Plan. The implementation of this EIR mitigation measure will assure that impacts associated with proximity to the airport will remain less than significant.

f) *No Impact.* The proposed project is not located in the vicinity of a private airstrip. No impact is expected.

g) *No Impact.* The proposed project is located on Navajo Road, south of Johnson Road. The Town will require the improvement of Navajo Road and Lafayette Street to Town standards, to assure access by emergency vehicles is unimpeded. The implementation of these standard requirements will assure that there is no impact associated with emergency response.

h) *No Impact.* The proposed project is located in the center of the Specific Plan area, in an area dominated by sparse vegetation. There are no wildlands in the vicinity of the proposed project. No impacts associated with wildland fire are expected.

VIII. HYDROLOGY AND WATER QUALITY Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☒	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☒	☐
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☒	☐
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☒	☐
f) Otherwise substantially degrade water quality?	☐	☐	☐	☒
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? (Source:	☐	☐	☐	☒
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☒

VIII. HYDROLOGY AND WATER QUALITY Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒

Introduction

The Specific Plan EIR found that the development of the Specific Plan had the potential to impact hydrology and water quality, but that with the implementation of mitigation measures, build out of the Specific Plan would result in less than significant impacts. The proposed project will be subject to these mitigation measures.

The EIR required that site-specific Stormwater Pollution Prevention Plans and surveys for the presence of federal or state jurisdictional waters be completed. (EIR pp. III-99, III-100.) A draft SWPPP has been prepared and submitted to the Regional Water Quality Control Board, and a site-specific Jurisdictional Delineation was approved by the Army Corps of Engineers. The Jurisdictional Delineation confirms that no federal jurisdictional waters exist on the site. The SWPPP is discussed below. Overall, with mitigation, no significant impacts will result from the Project.

Discussion of Impacts

a, f) *No Impact.* The proposed project will be required to connect to the Town's domestic water and sanitary sewer systems. Liberty Utilities, formerly Apple Valley Ranchos Water Company, provides water service to the site, and the Victor Valley Wastewater Reclamation Authority provides sanitary sewage treatment for the site. Both these agencies are required to comply with the requirements of the State Regional Water Quality Control Board relating to water quality standards and wastewater discharge requirements. Furthermore, as a development project with a disturbance area of greater than 1 acre, and a significant increase in impervious surfaces, the Applicant will be required to obtain coverage under the State Water Resources Control Board (SWRCB) Construction General Permit (SWRCB Order 2010-0014-DWQ) and be consistent with the General Permit for Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (SWRCB Order 2013-0001 DWQ, or Small MS4 Permit). Each of these permits are described below:

The Construction General Permit requires the development and implementation of a stormwater pollution prevention plan (SWPPP), which would include and specify water quality best management practices (BMPs) designed to prevent pollutants from contacting stormwater and keep all products of erosion from moving off site into

receiving waters. Routine inspection of all BMPs is required under the provisions of the Construction General Permit, and the SWPPP must be prepared and implemented by qualified individuals as defined by the SWRCB. The project applicant must submit a Notice of Intent (NOI) to the SWRCB to be covered by a NPDES permit and prepare the SWPPP prior to the beginning of construction. The applicant will be required to provide the Town of Apple Valley with its waste discharge identification number (WDID) as evidence that it has met the requirements of the Construction General Permit prior to beginning construction activities.

Furthermore, the SWRCB has designated the Town of Apple Valley as a Traditional Small MS4. As part of Phase II regulations promulgated by the U.S. Environmental Protection Agency, the SWRCB adopted the Small MS4 Permit, which requires MS4s serving populations of 100,000 people or less to develop and implement a stormwater management plan with the goal of reducing the discharge of pollutants to the maximum extent possible. As a permittee under the Small MS4 Permit, the Town of Apple Valley is required to condition development projects to be compliant with the standards contained in Section E.12 of the Small MS4 Permit. All development projects (that create or replace more than 5,000 square feet of impervious surfaces) seeking approvals from the Town are required integrate source control BMPs and low impact development (LID) designs into the proposed project to the maximum extent feasible to reduce the potential for pollutants to enter stormwater runoff. This includes site design best management practices (as applicable), such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas, incorporating trees and landscaping, and conserving natural areas. Facilities must be designed to evapotranspire, infiltrate, harvest/use, and/or biotreat storm water to meet at least one of the hydraulic sizing design criteria contained in the Phase II Small MS4 Permit.

The Mitigation Monitoring and Reporting Program for the Specific Plan EIR requires project compliance with these water quality laws and regulations (e.g., Clean Water Act, Waste Discharge Requirements, SWRCB permits) through a combination of specific plan design standards, drainage impact fees, and general Mitigation Measures. As compliance with these permits would be required as a condition to receive authorization to construct, no impact is expected.

b) *Less Than Significant Impact.* The proposed project will result in the consumption of domestic water for employee use and landscaping. The certified EIR included a Water Supply Assessment (WSA) that considered all development within the Specific Plan area, and assessed the availability of water during dry, normal and wet years. The WSA found that AVR had resources available to supply water to the Specific Plan area, including during multiple dry years. The proposed project will be required to comply with current requirements of AVR as relates to water conservation. Because the proposed project is consistent in type and scale to that studied in the WSA, the proposed project's water use is expected to be consistent with that analyzed in the WSA and EIR, and result in annual water use of approximately 271 acre feet annually.

Since the adoption of the WSA and the certification of the EIR, California has entered into a multi-year drought. The drought has resulted in mandates for water conservation across all land uses and locations in the State, stemming from the requirements of the

Governor's Executive Order B-29-15. Within AVR's service area, the mandate for a 28% reduction has resulted in the publication of prohibited activities, and the implementation of water conservation measures. As a result of these measures, AVR's service area reduced water use by 33% in September of 2015. The proposed project will be subject to the mandated water reductions in place at the time that development occurs, These mandates will assure that water use at the project site will be less than significant.

c-e) *Less Than Significant Impact.* The project site, as with the rest of the Specific Plan area, is located in a FEMA Zone D, and is outside the 100 year flood plain. The project site is currently vacant, and includes an ephemeral drainage through the center of the site. The drainage was found to be unconnected to other drainages, and represents one of many areas of sheet flow in this area of Town, where drainage facilities are limited. Please also see Section IV., Biological Resources.

The proposed project will be required to contain storm water runoff on site, and proposes the construction of retention basins on the south and west sides of the project, pursuant to the Waste Discharge Requirements permit issued by the Regional Water Quality Control Board under the Porter-Cologne Water Quality Act.The retention basins on the project site were designed to hold the 100 year storm, as required. According to the Stormwater Management Plan prepared for the project[8], the total capacity necessary to accommodate these flows is 22.47 acre feet, as provided in the retention basins. A draft SWPPP has been prepared to address best management practices for stormwater pollution control[9]. In the case of the project site, these include erosion control methods such as soil binders, sedimentation control methods such as street sweeping, and site stabilization measures such as stabilized construction roads. These requirements are imposed through the Town's NPDES standards and pursuant to the State Water Board's General Construction Stormwater Permit. In addition, the Town imposes drainage impact fees on all development, to offset the cost of drainage improvements on a fair share basis. These standard requirements are designed to assure that impacts associated with runoff water remain less than significant.

g)- j) *No Impact.* The proposed project is not located in a flood zone, and does not propose residential development. The proposed project will have no impact on 100 year flood plain hazards.

[8] "Stormwater Management Plan," prepared by The Haskell Company, February 2016.

[9] "Stormwater Pollution Prevention Plan," prepared by the Haskell Company, February 2016.

IX. LAND USE AND PLANNING Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Physically divide an established community?	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

Introduction

The Specific Plan EIR found that the development of the Specific Plan had the potential to impact surrounding land uses, but that with the implementation of mitigation measures, build out of the Specific Plan would result in less than significant impacts. The proposed project will be subject to these mitigation measures.

The proposed project is consistent in size, land use, intensity and design with the development anticipated, analyzed, and approved as part of the approved Specific Plan and EIR. Specifically, the Specific Plan projected – and the EIR analyzed – that over 39,000,000 square feet of industrial development would be constructed and operated on 4,937 acres (EIR, Tables III-1 and III-2). Specific Plan Table III-1, Allowable Uses, specifically permits warehousing and distribution uses, like those proposed by the project, with approval of a Site Plan Review Permit, (Specific Plan page III-3 ff).

Finally, because the project site is located in the middle of the Specific Plan area, the development of the site will not present any potential land use conflicts with regard to uses that will occur outside of the Specific Plan area. Accordingly, the project is within the scope of the EIR's analysis.

Discussion of Impacts

a-c) *No Impact.* The project site is currently vacant, and will not divide any established community. The proposed project will result in the development of 1.3 million square feet of warehouse distribution space within the North Apple Valley Industrial Specific Plan. The project is consistent with the land use, development standards and guidelines of the Specific Plan. The project area is designated for Industrial development in the Town's General Plan. There are no conservation plans currently in effect in Town. There will be no impacts associated with land use as a result of the proposed project.

X. MINERAL RESOURCES Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

Discussion of Impacts

a-b) No Impact. The NOP for the Specific Plan EIR determined that there were no lands designated for mineral resources within the Specific Plan area, and that no mineral resource extraction occurred or was projected to occur within the Specific Plan area. The proposed project site has been designated for industrial development for a number of years. No mineral resources are known to occur on the project site. There will be no impacts to mineral resources as a result of implementation of the proposed project.

XI. NOISE Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☒	☐
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

Introduction

The Specific Plan EIR found that the development of the Specific Plan had the potential to result in noise impacts, but that with the implementation of mitigation measures, build out of the Specific Plan would result in less than significant impacts. The proposed project will be subject to these mitigation measures.

The EIR imposed a requirement for further site-specific noise studies only where a proposed project's stationary noise sources may adversely impact sensitive noise receptors in the site vicinity. (EIR pp. III-145.) The project site is in the middle of the Specific Plan area and surrounded by other industrially zoned lands, and there are no sensitive receptors in the site's vicinity that would require such site-specific analysis. The nearest sensitive receptor, a single family home is approximately 1.25 miles east of the project site.

Discussion of Impacts

a, c) *Less Than Significant Impact.* The proposed project will result in the development of a warehouse distribution facility, which includes stationary noise sources such as sliding

dock doors and rooftop mechanical equipment, as well as on-site mobile sources such as back-up beepers and forklift operations. The project site is currently vacant, and is surrounded by either vacant lands or existing industrial development of a similar nature. There are no sensitive receptors located in the vicinity of the proposed project.

The certified EIR found that noise levels within 100 feet of centerline on Navajo Road were approximately 64 dBA CNEL. Since the certification of the EIR, little development has occurred in the area, and it can be expected that noise levels are generally consistent with those conditions. The certified EIR further found that noise levels would reach 67.6 dBA CNEL at Specific Plan build out.

For light industrial development, the Town's Noise Control Ordinance allows noise levels of 70 dBA in exterior areas. The project site will experience noise levels of up to 67.6 dBA at build out of the Specific Plan, which is less than the maximum allowed under the Town's Noise Ordinance, and impacts are therefore expected to be less than significant.

b) *Less Than Significant Impact.* The primary source of vibration at the site is expected to be during construction, from the use of heavy equipment; and during operation from the heavy truck trips the project will generate. The level of vibration, however, will be periodic and temporary, and because of the project site's location away from sensitive receptors, is expected to represent a less than significant impact.

d) *Less Than Significant Impact.* Temporary noise generated during the construction phase of the proposed project could exceed acceptable noise levels, particularly during site preparation. Primary noise sources will be heavy equipment. These impacts, however, will be periodic and temporary, and are allowed in the Town's Municipal Code, as long as they occur during specified daytime hours. The project will be required to comply with these requirements. Further, the site is not located near sensitive receptors who would be impacted by construction noise. The location of the proposed project in an industrially designated area, and the Town's standards will assure that impacts are less than significant.

e) *Less Than Significant Impact.* The Apple Valley Airport is located approximately 1/4 mile east of the subject property. The proposed project is likely to be subjected to noise from airplane traffic during the life of the project. The airport's noise contours show that the project site is in an area that experiences noise levels of 60 dBA CNEL from airport operations. This noise level is well below the 70 dBA that is allowed for industrial properties. Impacts associated with airport noise are expected to be less than significant.

f) *No Impact.* The subject property is not located in the vicinity of a private airstrip, and no impacts associated with such a noise source will occur.

XII. POPULATION AND HOUSING Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☒	☐
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Introduction

The Specific Plan EIR found that the development of the Specific Plan had the potential to result in impacts associated with population and housing, but that with the implementation of mitigation measures imposed on the Town, build out of the Specific Plan would result in less than significant impacts.

Discussion of Impacts

a) *Less Than Significant Impact.* The proposed project will result in a demand for approximately 448 employees. The certified EIR identified a job generation from the development of the Specific Plan area of 29,551 industrial jobs. The proposed project represents 1.5% of that total job generation. The EIR found that the increase in jobs could be supported for multiple reasons. First, the Town's residents currently commute to work outside of Town, and the proposed Specific Plan would generate jobs that would improve the Town's jobs/housing balance. Further, the EIR found that the Town had a capacity for an additional 15,078 housing units. Based on the Town's average of 1.09 jobs per household, the proposed project would generate a need for 488 housing units, if all the project's employees were to be new residents. The Town has capacity and resources to accommodate this level of growth, and the proposed project will have a less than significant impact on population growth.

b-c) *No Impact.* The project site is currently vacant, and will not result in the demolition of existing housing, or the displacement of people. No impact is expected.

XIII. PUBLIC SERVICES Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
Substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
a) Fire protection?	☐	☐	☒	☐
b) Police protection?	☐	☐	☒	☐
c) Schools?	☐	☐	☒	☐
d) Parks?	☐	☐	☒	☐
e) Other public facilities?	☐	☐	☒	☐

Introduction

The Specific Plan EIR found that the development of the Specific Plan had the potential to impact public services, but that with the implementation of mitigation measures, build out of the Specific Plan would result in less than significant impacts. The proposed project will be subject to these mitigation measures.

Discussion of Impacts

a-e) Less Than Significant Impact. The development of the project will not increase the demand on public services beyond that already anticipated and analyzed in the EIR.

Fire Protection

The Apple Valley Fire Protection District is responsible for fire protection in the Specific Plan area. The closest fire station to the project site is Station 332, which is located on Highway 18.

The proposed project will result in additional demand on fire services from the District. The proposed project includes a fire pump house, water storage tank and associated facilities to provide added fire resources at the project site. The proposed project will increase revenues to the Town, in the form of direct property tax increases, and indirect sales tax increases from discretionary spending by employees. These revenues will help to offset the added costs of fire services to the proposed project.

As required in the Building Code, project construction plans will be reviewed by the Fire Department to ensure they meet applicable fire standards and regulations. Overall impacts to fire protection services will be less than significant.

Police Protection

The San Bernardino Sheriff's Department provides police services to the Town and the proposed project site, under contract with the Town. Police service demand will increase marginally as a result of build out of the proposed project, as industrial development does not generate a high demand for service.

The proposed project will increase revenues to the Town, in the form of direct property tax increases, and indirect sales tax increases from discretionary spending by employees. These revenues will help to offset the added costs of police services to the proposed project.

Schools

The proposed project will have an indirect impact on schools within the Apple Valley Unified School District, insofar as the proposed industrial development will not, in and of itself, generate a demand for school facilities. The additional school children are likely to result from the employment generated by the project, however. The project applicant shall pay all statutorily imposed school mitigation fees as part of the project. As set forth in the EIR, no significant impacts to schools are anticipated.

Parks

The proposed project will not directly impact parks. The increase in employees, however, could increase the demand on the Town's park facilities. The proposed project, and the homes resulting from the creation of new households for employees of the project, will result in increased revenues to the Town, that will offset the indirect impact on parks. Impacts are expected to be less than significant.

Other Public Facilities

The proposed project will also include the undergrounding of a power line along Navajo Road. The undergrounding will not alter the pattern or capacity of electrical service, such that no significant impacts are anticipated.

XIV. RECREATION Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☒	☐
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	☐	☐	☒	☐

Discussion of Impacts

a-b) Less Than Significant Impact. The proposed project will not directly impact recreational facilities. The increase in employees, however, could increase the demand on the Town's recreational facilities. The proposed project, and the homes resulting from the creation of new households for employees of the project, will result in increased revenues to the Town that will offset the indirect impact on recreational facilities. Impacts are expected to be less than significant.

XV. TRANSPORTATION/TRAFFIC Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	☐	☐	☒	☐
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☒	☐
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☒	☐
f) Result in inadequate parking capacity?	☐	☐	☐	☒
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☒

Introduction

The Specific Plan EIR found that the development of the Specific Plan had the potential to impact traffic, although these impacts were less than significant. The implementation of mitigation measures would assure that build out of the Specific Plan would result in less than significant impacts. The proposed project will be subject to these mitigation measures.

The EIR required that site-specific traffic studies would be required only on a project-by-project basis. (EIR pp. III-46.) A traffic validation analysis prepared for the proposed project confirmed that there are no materials changes in existing conditions or anticipated impacts as compared to what was analyzed in the EIR. Accordingly, no further site-specific mitigation is required for the project. The results of the traffic validation analysis are summarized below.

Discussion of Impacts

a) & b) Less Than Significant Impact. The proposed land use is consistent with the land uses analyzed in the certified EIR. The proposed project will result in 1.3 million square feet of warehouse distribution space, with access on Navajo Road. In order to assure that the

proposed project would not have an impact on the traffic and circulation patterns for the area, the traffic engineer who prepared the EIR traffic impact analysis reviewed the proposed project as well[10]. The purpose of the review was to assure that the analysis in the traffic study would not be changed by the proposed project.

The evaluation considered the potential trip generation of a high-cube distribution center, consistent with the project's use. The EIR traffic impact analysis had used the ITE Industrial Park category, in order to include those ancillary businesses which typically occur in an industrial park setting. The High-Cube Distribution Center ITE category presents a more accurate representation of the proposed project, and resulted in findings that the proposed project would generate 211 vehicle trips during the morning peak hour, and 244 vehicle trips during the evening peak hour. By comparison, the Industrial Park designation, applied in the EIR traffic impact analysis, would generate 225 morning peak hour trips, and 249 evening peak hour trips. The proposed project will therefore generate marginally fewer trips than were studied in the certified EIR, and the project's impacts are therefore consistent with the analysis in the EIR.

The certified EIR found that at Specific Plan build out, all intersections would operate at Level of Service (LOS) C, including the Navajo Road/Johnson Road intersection which will be the primary access point for the project, with standard improvements. These improvements are those required to bring all streets within the Specific Plan to General Plan standards, including the construction of roadway half-widths, curb, and gutter, and do not include any additional requirements.

As a result of the current evaluation, it is concluded that impacts associated with level of service and capacity will be less than significant with build out of the proposed project.

c) *No Impact.* The Apple Valley Airport is located approximately ¼ mile southeast of the proposed project. None of the improvements proposed by the project will adversely impact air traffic patterns, airport functions, or safety.

d) *No Impact.* The project does not propose any hazardous design features. The project will be required to provide improvements to public streets, project driveways and interior roadways consistent with Town standards. No impact is expected.

e) *Less Than Significant Impact.* The proposed project will be accessed from Navajo Road. The project will result in the elimination of Burbank Avenue west of Navajo Road. This roadway, however, is a local street, and not a General Plan roadway. It does not provide regional access, and its elimination will have no impact on emergency access. The Town will impose standard conditions on the proposed project for the construction of public streets, including Navajo and Lafayette, and interior drives and roads to assure that they meet emergency access requirements. These standard requirements will assure that impacts are less than significant.

f) *No Impact.* The proposed project includes parking spaces for passenger vehicles, trailers and heavy duty trucks in excess of the requirements of the Development Code. No impact is expected.

[10] "Project Jupiter Trip Generation Evaluation," prepared by Urban Crossroads, September 2015.

g) *No Impact.* Victor Valley Transit provides bus service to the Town. Current service includes a route along Dale Evans Parkway which includes a stop at Johnson Road. Local service would also be provided on Lafayette, between Navajo Road and Dale Evans Parkway, with the completion of the proposed project. The certified EIR included measures to assure that transit service needs are monitored, and service established in the future when warranted. No impact is anticipated.

XVI. UTILITIES AND SERVICE SYSTEMS Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☒	☐
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☒	☐
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☒	☐
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☒	☐

Introduction

The Specific Plan EIR found that the development of the Specific Plan had the potential to impact utilities, but that with the implementation of mitigation measures, build out of the Specific Plan would result in less than significant impacts. The proposed project will be subject to these mitigation measures.

Discussion of Impacts

a-e) Less Than Significant Impact.

Wastewater Treatment

Wastewater generated by the proposed project will be treated by the Victor Valley Reclamation Authority (VVRA) treatment plant, which has a current capacity of 14.5 million gallons per day (MGD). The treatment plant, located in Victorville, includes

capabilities for tertiary treatment, which allow the use of treated water for landscaping. In addition, the VVRA is constructing sub-regional plants, including one in Apple Valley to allow local tertiary treatment and distribution.

The proposed project will connect to an existing line in Navajo Road, and will generate approximately 0.44 MGD of wastewater. The VVRA plant has capacity to treat the wastewater generated by the project. Impacts associated with project build out are expected to be less than significant.

Domestic Water

Liberty Utilities, formerly Apple Valley Ranchos Water Company, provides domestic water services to the subject property and vicinity. The WSA prepared for the Specific Plan demonstrated that AVR has sufficient water supplies to provide service to the project site and all areas of the Specific Plan in normal, wet and dry years (please also see Section VIII). The proposed project will generate a demand for 271 acre feet annually, consistent with the quantity contained and analyzed in the WSA. Further, the proposed project will be required to comply with current Building Code requirements, which are more stringent regarding water use than those in place when the EIR was prepared, and with all water conservation measures currently being implemented as a result of State mandates for water conservation during the current drought. The Project will reduce water usage that might otherwise occur through compliance with the Specific Plan and EIR's requirements to use native and drought-tolerance species in all landscaping.

Finally, the project will include the relocation and extension of a water main located in Navajo Road. Impacts associated with domestic water are expected to be less than significant.

Stormwater Management

The proposed project will be required to retain the 100 year storm on site, consistent with Town standards. Impacts are expected to be less than significant. Please also see Section VIII.

f-g) *Less Than Significant Impact.* The Town contracts for solid waste disposal with Burrtec Waste Industries. Solid waste is hauled to the Victorville landfill, which is a County operated facility. The proposed project will generate solid waste consistent with that analyzed in the certified EIR, and can be expected to result in up to 15,000 tons of solid waste annually. This represents 3.7% of the total solid waste for the Specific Plan area, and is well within the capacity of the landfill. Impacts associated with solid waste generation are expected to be less than significant.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE

NOTE: If there are significant environmental impacts which cannot be mitigated and no feasible project alternatives are available, then complete the mandatory findings of significance and attach to this initial study as an appendix. This is the first step for starting the environmental impact report (EIR) process.

Does the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐
b) Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐
c) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☒	☐	☐

a) *Less Than Significant Impacts with Mitigation Incorporated.* As detailed in this Initial Study, the proposed project has the potential to impact both biological and cultural resources. With the implementation of mitigation measures in both the certified EIR and this Initial Study, these impacts will be reduced to less than significant levels.

b) *Less Than Significant Impact.* As described in this Initial Study, the project's direct construction and operational air quality impacts will not exceed MDAQMD thresholds, and its impacts will be less than significant. However, it can be expected that the emissions of this project will contribute to the emissions of the overall build out of the Specific Plan. The EIR determined that the Specific Plan's overall emissions would be significant and unavoidable, and the Town Council adopted CEQA findings and a Statement of Overriding Considerations addressing those impacts. Specifically, as identified in the Findings adopted with the certification of the EIR (Town Council Resolution 2006-81), the Town found as follows:

"The Town Council finds and determines that the significant environmental effects

identified in the EIR have been reduced to an acceptable level in that: (1) all significant effects that can feasibly be avoided have been eliminated or substantially lessened as determined through the findings set forth in this Resolution; (2) based upon the EIR, Exhibits to this Resolution, and other documents in the record, specific economic, social and other considerations make infeasible other project alternatives identified in said EIR; and (3) based upon the EIR, Exhibits to this Resolution and other documents in the record, all remaining, unavoidable effects of the Specific Plan, General Plan Amendment and Zone Change are overridden by the benefits of the project as described in Exhibit A, which the Town Council is adopting as a Statement of Overriding Considerations for the proposed Project."

As concerns the currently proposed project, there is no evidence that the proposed project would result in impacts that are any greater than those already disclosed in the EIR. Accordingly, no further analysis is required under State CEQA Guidelines § 15162.

c) *Less Than Significant Impacts with Mitigation Incorporated.* As described in this Initial Study, the proposed project will not, in and of itself, have significant impacts on air quality, noise or traffic, or other categories impacting human beings. The project will however, contribute to cumulative impacts to air quality, which will potentially impact human beings at Specific Plan build out. The Town Council, however, when it adopted the Specific Plan and certified the EIR, determined that the benefits of build out of the Specific Plan outweighed the potential impacts associated with air quality, and adopted Findings and a Statement of Overriding Considerations as described above. There is no evidence that the proposed project would result in impacts that are any greater than those already disclosed in the EIR. Accordingly, no further analysis is required under State CEQA Guidelines § 15162.

REFERENCES

Town of Apple Valley General Plan, Climate Action Plan, and General Plan EIR.

Town of Apple Valley Development Code.

North Apple Valley Industrial Park Specific Plan and EIR.

Mojave Desert Air Quality Management District California Environmental Quality Act and Federal Conformity Guidelines.

CalEEMOD Model Runs, Project Jupiter, Terra Nova Planning & Research, October 2015.

Jupiter Project Updated Biological Resources Report, AMEC Foster Wheeler, January 2016.

Jupiter Project Focused Desert Tortoise Survey Report, AMEC Foster Wheeler, April 2015.

Jurisdictional Delineation Report Project Jupiter, AMEC Foster Wheeler, December 3, 2015.

Archaeological and Paleontological Resources Phase I Assessment, prepared by Northgate Environmental Management, March 2016.

Phase 1 Cultural Resource Assessment and Paleontological Records Review Navajo Road Project, Michael Brandman Associates, June 2007.

Geotechnical Engineering Study, Geosphere Consultants, Inc., June 2015.

Revised Ordnance Investigation Services Report, Jupiter Project – Navajo Road, Northgate Environmental Management, July 17, 2015.

Stormwater Management Plan, The Haskell Company, February 2016.

Stormwater Pollution Prevention Plan, The Haskell Company, February 2016.

Project Jupiter Trip Generation Evaluation, Urban Crossroads, September 2015.

Please note: All special studies and documents listed above are available for review at Town Hall, 14955 Dale Evans Parkway, in Apple Valley.

Appendix A

Environmental Matrix
North Apple Valley Industrial Specific Plan
Environmental Impact Report

This Environmental Impact Report (EIR) has been prepared to assess the potential environmental impacts that may result from the development of the North Apple Valley Industrial Specific Plan. The North Apple Valley Industrial Specific Plan site is located in the western Mojave Desert Region of Southern California in the southwestern portion of San Bernardino County. The subject property is within the northern portion of the Town of Apple Valley and encompasses a total of approximately 4,937± acres. The project site is bounded on the west by Dale Evans Parkway, on the north by Quarry Road, by Central Street on the east, and by Waalew Road on the south. The project location may also be described as Sections 15, 16, 21, 22, 27, 28, and portions of Sections 10, 33, and 34, Township 6 North, Range 3 West, San Bernardino Baseline and Meridian, in the County of San Bernardino.

The area is currently sparsely developed with a mix of industrial and scattered single-family residential development. The Apple Valley Airport is located in the center of the Specific Plan area. Lands designated by the California Department of Transportation (CalTrans) for the future High Desert Corridor occur within the southwestern portion of the Specific Plan area.

The subject project would establish development standards and guidelines for the eventual development of a master planned industrial park. Land use designations would allow for clean manufacturing, warehousing, more intense manufacturing, industrial uses within the Airport Area of Influence, and general commercial. Industrial uses would comprise the largest portion of the Specific Plan area.

The following discussion briefly summarizes each category of analysis, including existing conditions, project impacts and applicable mitigation measures recommended to reduce impacts to acceptable or insignificant levels. Levels of impact include:

Significant Impacts: Those impacts that constitute a potentially significant adverse change in the environment.

Insignificant Impacts: Those impacts which, by virtue of the environmental conditions, predisposing existing development, or the implementation of mitigation measures, are reduced to acceptable or “insignificant” levels.

Unavoidable Impacts: Those impacts that occur as a result of project development whose adverse effects cannot be entirely eliminated or reduced to a level of insignificance.

Existing Conditions	*Project Impacts*	*Mitigation Measures*
LAND USE COMPATIBILITY The subject property is within the corporate limits of the Town of Apple Valley. The Specific Plan area is comprised of 4,937± acres. Currently, lands within the Specific Plan area are General Plan-designated Planned Industrial and Community Reserve; a pocket of Commercial land occurs immediately west of the airport, zoned General Commercial. Current zoning designations on the project site are General Commercial, Planned Industrial, Light Industrial and General Industrial, Very Low Density Residential (1 du/5+ gross acres) and Low Density Residential (1 du/2.5 to 5 gross acres). Lands in the southwestern portion of the Specific Plan area are CalTrans-designated for development of the future High Desert Corridor. The latter is not a General Plan designation. Lands to the west of the Specific Plan area within Town limits are designated Community Reserve, with residential densities not to exceed 2 du/gross acre subject to criteria defined for this designation. Community Reserve is intended to provide for a mix of residential, commercial and industrial development that will support viable neighborhoods or villages. Lands to the north are designated Low Density Residential; to the east within Town limits are Estate Residential, (1 du/1.0 to 2.5 gross acres); to the south are Community Reserve and Planned Industrial (light manufacturing and industry).Lands to the east outside Town limits are designated Rural Living, Regional Industrial, Community Industrial, and Resource Conservation in the San Bernardino County General Plan. Lands to the west outside the Town limits are designated Rural Living in the San Bernardino County General Plan.	With the implementation of mitigation measures, impacts associated with traffic, provision of infrastructure, impacts to air and water quality, visual resources and the potential for buildout of the Specific Plan to generate hazardous and toxic materials are expected to be less than significant. The Specific Plan provides for the most potentially intense industrial land uses to be located furthest from existing and approved residential development within the Town. It provides for landscaping and building setbacks on the perimeter streets within the Specific Plan to assure that sufficient distance is provided between the industrial and commercial uses and the residences across each of these streets. It provides for land uses and development standards within the Airport Influence Area that are compatible with airport operations. The proposed Specific Plan is consistent with the provisions and requirements of the Town of Apple Valley General Plan and Zoning Ordinance, as required by state law. The Specific Plan does not propose development that would physically divide an existing community, or conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project.	In the overall, with the implementation of mitigation set forth in this EIR, land use impacts are expected to be less than significant. The Town General Plan incorporates a wide range of policies and programs, the implementation of which will address land use compatibility issues as they arise. Development guidelines set forth in the proposed Specific Plan, which are typically more restrictive than those set forth in the General Plan and Town development code, will further address potential issues. To further assure that potential changes in land use are adequately assessed, individual projects, especially those located nearby or adjacent to sensitive lands or uses, shall be fully evaluated during the project review process to assure that all land use compatibility issues are addressed and mitigated.

Existing Conditions	*Project Impacts*	*Mitigation Measures*
TRAFFIC/CIRCULATION/PARKING A traffic study was prepared for this project and traffic counts along roadways in the project vicinity were collected in Spring of 2006. Traffic analysis was based on the Comprehensive Transportation Plan (CTP) and consistent with requirements of the San Bernardino County Congestion Management Plan (CMP). The Specific Plan area has existing and planned access to major transportation links in the immediate vicinity, including US Interstate-15, Dale Evans Parkway, State Highway 18 (Happy Trail Highway), Stoddard Wells Road and the future High Desert Corridor. Local access is provided by a variety of arterial roadways, including Quarry Road, Johnson Road, Saugus Road, Gustine Street, Corwin Road, Waalew Road and Central Road. Currently (2006), all but seven of the 40 intersections studied are operating at acceptable levels of service (LOS C or better). Of the seven intersections with unacceptable Levels of Service, current traffic volumes at six of these intersections warrant signalization.	The project traffic study estimates that the proposed project (Preferred Alternative) will generate approximately 168,609 average daily trips (ADT) at buildout (Year 2030). The incremental growth in background traffic, based upon General Plan land use designations and the County CMP and CTP models, has also been calculated and added to the projected Preferred Alternative 2030 (buildout) Specific Plan traffic projections. Based on the analysis, all study area intersections are expected to operate at LOS C or better during the AM and/or PM peak hour periods upon buildout of the Specific Plan and at the 2030 Horizon Year. The proposed project is not expected to have a significant adverse impact on local or regional traffic conditions, either during the construction of operational phases of the project. There is no need for special off-site improvements to accommodate the projected additional traffic the project will generate. Costs associated with the buildout of on-site and off-site roadway/intersections for the Specific Plan Preferred Alternative (and other alternatives) are analyzed in the Traffic Study, and represent rough order of magnitude cost estimates. Based on this analysis, it is estimated that the costs of the on-site intersection improvements for the Specific Plan are approximately 20% higher than costs projected for buildout under the existing General Plan. The off-site intersection improvement costs for the Specific plan project are estimated to be about 14% higher than costs associated with the existing General Plan.	The proposed project is not expected to have a significant adverse impact on local or regional traffic conditions, or to create a need for special off-site improvements to accommodate the projected additional project-related traffic. However, additional measures are recommended to further reduce potential impacts during both the construction and operational phases of the project. These include: on-site roadway improvements required in conjunction with buildout, and a requirement for updated site-specific traffic studies on a project-by-project. Required off-site intersection and roadway improvements to mitigate potential impacts of the Specific Plan are those generally set forth in the Town and County General Plans, and as planned by CalTrans. Development within the Specific Plan project area should be required to contribute towards the cost of necessary study area improvements on a fair-share basis, via payment of development impact fees and/or additional fair-share contributions. The Town shall make a good faith effort to assure that intersections operate at LOS C or better. The Town shall periodically monitor conditions along roadway segments where General Plan and Specific plan level analyses indicate high levels of traffic congestion. A well-developed bus transportation system could potentially reduce vehicle traffic substantially for workers within the Specific plan area. The General Plan includes goals and policies designed to enhance the operation and efficiency of all aspects of the transportation system serving the Specific Plan area and address the on-going monitoring and management of traffic volumes and operating conditions, and the timing of required improvements to maintain acceptable levels of service.
SOILS AND GEOLOGY The Specific Plan area is located in proximity to	Onsite soils may pose some challenges to the	Based on soils surveys and geotechnical literature,

Existing Conditions	*Project Impacts*	*Mitigation Measures*
major earthquake faults and is susceptible to a range of geotechnical conditions. These include strong ground shaking and seismically induced settlement. The site is not located within an Alquist-Priolo Fault Zone, nor are any active or potentially active faults known to occur on site. The entire site occurs within an area of moderate wind in Sidewinder Valley and close to the foothills and edges of the San Bernardino Mountains. It has a moderate level of susceptibility to brush fires and wind related soil erosion.	construction of future development and other site improvements. Proper design, site preparation, and grading procedures can eliminate any difficulties, however. The sandy and soils in the Specific Plan area site are not considered to be expansive. The alluvial soils found on site have various strengths and may not be sufficiently uniform or compact to support the foundation loads of new buildings. Reliance upon these existing soils to support new buildings could lead to unacceptable levels of post-construction settlement. Therefore, grading will be required in order to remove any low-density soils that have the potential to collapse and to be compressed. After grading, post-construction settlements onsite is expected to be within tolerable limits. Due to the arid alluvial nature of the soils on site, conditions associated with shrinkage and subsidence are not expected on site. The site is not considered susceptible to liquefaction during seismic events in nearby fault, nor is groundwater expected to impact grading or foundation construction activities. The Specific Plan area has a moderate level of susceptibility to brush fires and wind related soil erosion. The site is not located within an Alquist-Priolo Fault Zone, nor are any active or potentially active faults known to occur on site. Therefore, the likelihood of significant rupture at ground surface is low.	development of the Specific Plan is feasible on the project site from a geotechnical perspective. With the implementation of standard construction practices for the area, damage to structures from potential earthquakes will be mitigated to less than significant levels. Additional site-specific geotechnical investigations will be necessary to refine engineering design parameters such as site preparation, grading, and foundation design, and to assure that design criteria are responsive to onsite soils and to the effects of differential settlements resulting from potential ground shaking. Any refinements to the geotechnical analysis will need to be completed prior to the approval of development plans. Potential impacts from geotechnical and soil-related factors can be mitigated through the implementation of a wide range of measure, including removal of vegetation and alluvial soils, site and pad preparation so as to avoid mixed foundational support and potential for differential settlement, monitoring for potential settlement of fill soils, and post-construction planting and other erosion measures.
HYDROLOGY The region is susceptible to localized, high-intensity thunderstorms, tropical storms, and winter storm conditions. Natural drainage features of the site have	Improvements to the site are expected to include buildings totaling approximately 39,438,701 square feet of space, interior roads, and landscaped areas along	In addition to regional facilities, on-site retention will continue to be required for individual projects, to ensure water reclamation and conservation; control

Existing Conditions	*Project Impacts*	*Mitigation Measures*
been altered to some extent due to the introduction of roadway and the sparse development on site. The Specific Plan area drains naturally from the northeast to the southwest, and slopes are generally one percent or less throughout the area. The Specific Plan area includes several shallow dry wash "blue-line streams," some of which flow off-site and eventually into the Mojave River. No riparian vegetation was identified was identified within these streambeds, nor were any seeps, springs, ponds, lakes or other wetlands noted to occur within the Specific Plan area. Based on FEMA maps, the Specific Plan area is located in Flood Zone D ("Undetermined"), which is outside of the 100-year and 500-year flood zones. The 100-year flood zone is located approximately one-half mile south of the project at the Apple Valley Dry Lake. The most flood prone areas in Town are located at the Mojave River, approximately four miles southwest of the Specific Plan area. The Town's Master Plan for Drainage proposes numerous drainage courses and regional drainage facilities in the northern part of Town. Maintenance of, and improvements to, flood control facilities in the northern part of town will expedite development of the Specific Plan area.	building perimeters, interior roadways, and parking lots. Build-out of the site will result in construction of impermeable surfaces that will significantly increase storm water runoff potential generated at the site. Without mitigation, portions of the project and those areas immediately south of the project may be susceptible to storm-induced flooding, primarily from sheet flow and ponding of water behind embankments. To minimize potential flooding impacts, flood control structures will be installed throughout the Specific Plan area. In general, proposed drainage systems shall be designed to limit flood hazards, protect natural watersheds, and protect lives and properties in areas subject to flooding. Water runoff from the site will be controlled through future flood control structures and detention basins. Existing storm water infrastructure south of the project site will not be overburdened or negatively impacted by the project. There are no levees or dams whose failure would cause property damage or loss of life in the Specific Plan area; threats from mudflow are less than significant on site. The General Plan establishes goals and policies to address potential flooding hazards and hydrology issues in the Town and Study Area; it establishes measures directed at minimizing impacts of increased development on storm water control facilities. No substantial new sources of polluted runoff are expected. The proposed development will not violate water quality standards or waste discharge requirements.	of nuisance flows such as runoff from over-irrigation of landscaping; flood control; and flood channel erosion control. Future development must meet certain drainage criteria prior to the issuance of building permits. The Town of Apple Valley requires developers to pay mitigation fees depending upon their runoff potential. For the proposed development footprint of 39.4 million square feet, total drainage impact fees would exceed $4.5 million. Project developers shall prepare a Storm Water Pollution Prevention Plan (SWPPP). Developers shall be required to periodically clean interior roads and parking courts, control and monitor use of pesticides and fertilizer, and treat runoff prior to discharge into detention basins. Disturbance of any of the shallow dry wash blue-line streams shall require additional analysis to determine if they have definable bed or bank, and if they have any connection to waters of the United States. If these blue-line streams meet state and or federal requirements, specialized permitting shall be required. All development in the Specific Plan area shall conform to any future updates or revisions to the Town's Master Plan of Drainage. Site specific hydrology analysis may be required of development within the Specific Plan area, as determined by the Town of Apple Valley Engineering Division.

Existing Conditions	*Project Impacts*	*Mitigation Measures*
WATER RESOURCES/QUALITY The Apple Valley Ranchos Water Company (AVR) is the Town's primary water provider. AVR provides water to the Specific Plan area. AVR extracts all of its water from a large underlying aquifer, the Alto Subarea of the Mojave Groundwater Basin, which is managed by the Mojave Basin Area Watermaster. AVR's Urban Water Management Plan (WMP) indicates that the subbasin's net volume of water is estimated at 34,700 ac-ft of water. Most groundwater recharge occurs from the Mojave River and the upstream stormwater and snowmelt, although the Mojave Water Agency (MWA) imports water from the California State Water (SWP) project that is spread in the Mojave River to assist groundwater recharge in the basin. The Victor Valley Wastewater Reclamation Authority operates an 11 MGD wastewater treatment water reclamation facility for Apple Valley and other high desert communities. The plant is currently being expanded to increase capacity by an additional 3.5 MGD. AVR contracts with MWA for SWP water. AVR is located in the Mojave Water Basin, is subject to the Mojave Basin Judgment, and has a free production allowance of 8,567 acre-feet per year. Groundwater beyond this amount is subject to replacement. The project is also subject to the MWA's Regional Water Management Plan (November 2005). Based on water quality testing, the water provided by AVR does not exceed any federal or state drinking water standards.	Water demand at buildout of the Specific Plan was estimated in the North Apple Valley Industrial Specific Plan Water Supply Assessment (WSA) to be 5.5 million gallons per day, or 6,199.7 acre-feet per year at buildout. Based on the information and findings documented in this WSA, there is evidence to support a determination that there will be sufficient water supplies to meet the demands of the project during normal years, single dry years, and multiple dry years though 2025. This is based on the fact that AVR has existing water entitlements, rights and contracts to meet future demand as needed over time, and has committed sufficient capital resources and planned investments in various water programs and facilities to serve all of its existing and planned customers. The proposed Specific Plan will facilitate development within the project boundaries, though the actual rate of buildout is unknown. Overall, the total amount of water required by the project represents a decrease of approximately 13% in consumption as compared to the development potential of the existing General Plan land use designations within the project boundary. The development proposed for the project site is not expected to have significant impacts upon waste discharge requirements or operations. In summary, development of the proposed Specific Plan on the project site is expected to have a less than significant impact upon potable water use and overall water quality in the project vicinity and the Town.	The EIR sets forth mitigation measures to ensure that project impacts are reduced to levels below significance. These include a requirement that project developers prepare a Storm Water Pollution Prevention Plan (SWPPP), and provide periodic cleaning of interior roads and parking courts, careful control and monitoring of pesticides and fertilizer, and treatment of runoff prior to discharge into detention basins. As part of the Mojave Water Basin Stipulated Judgment, the average annual obligation of any Subarea to another was set equal to the estimated average annual natural flow between the Subareas over a 60 year period (water years 1930-1931 through 1989-1990). The average obligation of the Alto Subarea has been set at 23,000 acre-feet per year. If this obligation is not met, the producers in the upstream Subarea must pay the Watermaster for makeup water to be delivered to the downstream Subarea. In addition, the Judgment requires that the producer replace all water produced in excess of the producer's share of the free production allowance. According to the MWA 2005 UWMP update, as water demands increase over the next 20 years, additional projects and water management actions are needed to continue to recharge the groundwater basins to maintain groundwater levels and protect groundwater quality for municipal, agricultural, industrial, recreational, and environmental uses. If such projects are not implemented and groundwater overdraft persists or intensifies, the presiding Judge for the Mojave Basin Area Judgment could require mandatory cutbacks in production.
BIOLOGICAL RESOURCES An assessment of the biological resources within the	The primary impacts to biological resources expected to	To ensure that impacts to biological resources are

Existing Conditions	*Project Impacts*	*Mitigation Measures*
Specific Plan area was prepared for this EIR. The Specific Plan area, particularly the southern half, has been significantly impacted by human activity. Clearing and grubbing, dirt roads, and scattered development have affected the native environment in the area. The Specific Plan area is composed of the Ruderal Scrub Plant Community, the Saltbush Scrub Plant Community and the Creosote Scrub Plant Community. A number of common species are expected to occur in the Specific Plan area, most of which are associated with disturbed Creosote Bush Scrub and Saltbush Scrub habitats. A total of eleven Special Status Species have the potential to occur within the Specific Plan area. These are Booth's evening primrose, Desert Cymopterus, Joshua Trees, Burrowing Owl, LeConte's Thrasher, Prairie Falcon, Mohave Ground Squirrel, Pale Big-eared Bat, Pallid San Diego Pocket Mouse, Coast Horned Lizard and Desert Tortoise.	result from build out of the proposed Specific Plan include the loss, fragmentation and degradation of viable habitat. Secondary impacts to biological resources may include the introduction of non-native plant species, which can disrupt and overrun natural communities, increased vehicle use and foot traffic, and predation of wildlife by domestic pets. Grading and development of lands within the Plan area have the potential to result in the destruction of entire populations of common and sensitive plant species. Urbanization has the potential to affect special status animals, including migratory birds, Desert Tortoise and LeConte's Thrasher. Permanent loss of this habitat has the potential to impact individual animals. Build out of the Plan area has the potential to impact the federally and state listed Desert Tortoise, which has a potential of occurring north of the Apple Valley airport. Development in the area has the potential to destroy burrows and eliminate habitat for the species. As a listed species, the Desert Tortoise requires special consideration, and survey requirements are listed in this EIR to assure that impacts are reduced to less than significant levels.	reduced to a less than significant levels, mitigation measures shall be implemented, including: pre-construction biological surveys for burrowing owls shall be performed by a qualified biologist on all lands within the Specific Plan area, consistent with the protocol established by CDFG at the time the survey is proposed. Should the species be identified on-site, the biologist shall recommend avoidance or relocation measures to assure that there is no impact to the species. Pre-construction biological surveys shall be conducted by a qualified biologist for Desert Tortoise, Burrowing Owl, and Mohave Ground Squirrel in specially-designated areas, as discussed in this EIR, and shall be consistent with applicable protocol established by the USFWS and CDFG at the time any survey is proposed. In addition, any project proposing land disturbing activities between February 1 and June 30 shall be required to perform a nesting bird survey consistent with the requirements of the Migratory Bird Treaty Act.

Existing Conditions	*Project Impacts*	*Mitigation Measures*
CULTURAL RESOURCES In preparation of this EIR, cultural and paleontological resource studies were prepared. With the exception of two cultural resources surveys performed for the Airport Master Plan and the Wal-Mart Distribution Center, the Specific Plan area has not been comprehensively surveyed for archaeological resources. These small-scale surveys have identified and recorded seven archaeological/historic sites and two isolates within the Specific Plan area. Outside the Specific Plan area and within one half mile, three pre-historic sites have been identified. Regional records indicate that six historic sites have been identified within the Specific Plan area in previous studies. None of the historic resources have been identified as eligible for designation in either the National or the California Registers of Historic Places. The northern portion of the Specific Plan area has the potential for high sensitivity for pre-historic resources, as an area for collection of stone for tool making. The area at the southern end of the Specific Plan, south of Papago Road, occurs in an area that would have been the shoreline of the ancient lake, and is likely to be highly sensitive for pre-historic sites. In these areas, the resources are likely to have been buried by alluvial sediments, and not detectable at the surface. Based on the soils in the Specific Plan area, the majority of the area contains rocky soils which have a low probability of yielding paleontological resources. The finer alluvial soils located in the southern portion of the Plan area, however, may include fossil remains.	Based on the findings of the cultural resources study, the Specific Plan area includes lands of high sensitivity for prehistoric and archaeological artifacts, as well as moderate sensitivity for historic structures. Future development projects of the Specific Plan area could result in direct and/or indirect disturbance or destruction of sensitive archaeological and historic resources. Site surveys should be conducted on all future development projects in areas of sensitivity, to determine the presence and significance of archaeological and historic resources. Future development in the Specific Plan area could also impact paleontological resources, should Pleistocene-age soils be disturbed by grading or excavation. Since the depth of the Holocene-age soils is not known, Pleistocene-age soils may be sufficiently close to the surface to be disturbed by grading activities. Monitoring of grading activities should occur in areas where Pleistocene-age soils will be disturbed.	To assure that development and build out of the Specific Plan area will not have a significant effect on cultural resources, mitigation measures shall be implemented, including: cultural resource studies shall be required prior to development for all lands identified in this EIR as having a high potential for historic or archaeological resources. The studies shall be reviewed and approved by the Town Planning Division prior to the issuance of any ground disturbing permit. The recommendations of the studies shall be made conditions of approval of the ground disturbing permits. Paleontological resource studies shall be required prior to development for all lands identified as having a high potential for paleontological resources as shown in this EIR. The studies shall be reviewed and approved by the Town Planning Division prior to the issuance of any ground disturbing permit. The recommendations of the studies shall be made conditions of approval of the ground disturbing permits.

Existing Conditions	*Project Impacts*	*Mitigation Measures*
AIR QUALITY Over the past few decades the Town's air quality has noticeably deteriorated due to increased local development and population growth, traffic, construction activity and various site disturbances. Although air pollution is emitted from various sources in Apple Valley and the local vicinity, some of the degradation of air quality can be attributed to sources outside of the area, including Los Angeles County and other air basins to the west and southwest. The Mojave Desert Air Basin and the Town of Apple Valley are susceptible to air inversions, which trap a layer of stagnant air near the ground where it can be further loaded with pollutants. The Town of Apple Valley is located within the Mojave Desert Air Basin (MDAB). The Mojave Desert Air Quality Management District (MDAQMD) is responsible for establishing air quality measurement criteria and relevant management policies for the basin and neighboring air basins. Air in the Mojave Desert Basin (which includes the Town of Apple Valley) exceeds federal standards for fugitive dust, and the area is considered to be in extreme non-attainment for ozone. However, air quality in the Town does not exceed state and federal standards related to carbon monoxide, nitrogen oxides, and sulfur dioxide.	The project will result in the direct and indirect generation and emission of air pollutants both locally and regionally. Emissions will contribute to regional air quality degradation in the Town of Apple Valley. The most significant impacts are expected to come from the emission of pollutants generated by vehicular and truck traffic. Other important sources of pollutants will be emissions generated during site preparation activities and from project operations, including the utilization of natural gas and electricity. Site preparation and grading related activities are expected to exceed one threshold criteria pollutant, nitrogen oxide, without the implementation of mitigation measures. Based on a worst-case projected emissions in pounds per day from construction related activities for the proposed project, no threshold criteria are expected to be exceeded during construction activities. The level of impact anticipated with operation of the proposed project is expected to be significant. These impacts can be mitigated, however, once mitigated, development of the Specific Plan will still represent a significant additional increment to the cumulative air quality impacts in the Apple Valley area. The proposed project represents a 25% increase in operational air quality impacts over the development potential of the existing General Plan land use designations. It is important to recognize that these pollutants will not be emitted in any short-term or concentrated manner, but represent 24-hour emissions.	Mitigation measures are embodied in the Town's General Plan Policies and associated EIR, and other measures promulgated by the Town and Mojave Desert Air Quality Management District to mitigate development impacts in the Town of Apple Valley and the surrounding areas. These measures will be applied to project development and are expected to reduce air quality impacts to the greatest extent possible. However, operational air quality impacts are expected to be significant, even with the implementation of mitigation measures. Mitigation measures in this EIR are designed to further reduce construction-related air quality impacts, and to reduce air quality impacts related to operation of the project as much as feasible. The Town shall review and condition grading and development permits to require the provision of all reasonably available methods and technologies to assure the minimal emissions of pollutants from the development. As part of the Town's grading permit process, the applicant shall submit a dust control plan as required by MDAQMD in compliance with Rule 403. To reduce PM_{10} emissions, the developer shall implement measures, as required on sites of 100+ acres, and to be followed to the greatest extent practicable. To minimize indirect source emissions, the developer shall install low-polluting and high-efficiency appliances; landscape with native and other appropriate drought-resistant species to reduce water consumption and to provide passive solar benefits. Implementation of the mitigation measures outlined above under the General Control and Mitigation Measures and the Developer's Air Quality Management Resources will reduce the potential air quality impacts to the greatest extent practicable.
NOISE Generally, the Town of Apple Valley enjoys a quiet	Based on the noise analysis, traffic associated with the	Continued growth and development in the Specific Plan

Existing Conditions	*Project Impacts*	*Mitigation Measures*
noise environment, with existing community noise being dominated primarily by constant motor vehicle traffic on highways and major arterials. The noise environment of the Specific Plan study area is currently especially affected by local airport operations, which on a daily basis averages approximately 348 flight operations (take-offs and landings) per day. All of these operations are associated with general aviation aircraft. Currently, airport operations have no significant adverse effect on the local noise environment. There are currently very few sensitive receptors within the Specific Plan study area, all of which are scattered single-family development. A rail line located adjacent to Quarry Road serves the Mojave Northern Mining quarry located to the east and generates approximately 2 to 4 trains per day. The principal noise generator within the community of Apple Valley is vehicular traffic. Noise contour evaluation conducted for the project indicates that the noise environment in the Specific Plan study area currently ranges from 50.9 CNEL at Stoddard Wells Road west of Dale Evans Parkway, to 71.3 CNEL along SR 18 west of Corwin Road, at a distance of 100 feet from the street centerline.	buildout of the North Apple Valley Industrial Specific Plan will have a less than significant impact on the noise environment on all but eleven (11) roadway segments in the planning area. These segments may be potentially impacted by a 3 dBA or greater increase in noise levels that contribute to an exceedance of 65 dBA CNEL, and their respective increases in CNEL dBA. These potentially significant impacts range from very marginal for five segments, to moderately significant for the other six segments. Impacts are for unmitigated conditions and do not consider the noise buffering effects of masonry walls, earthen berms or other buffers that may be constructed in the future. Traffic noise associated with the Specific Plan will create limited but potentially significant permanent increases in transportation-related ambient noise levels or potentially expose persons to noise levels in excess of the standards established by the Town. Stationary noise sources associated with the buildout of the Specific Plan include truck deliveries, loading and unloading docks and areas, manufacturing and transport machinery and equipment noise, HVAC equipment, and others. No residential land uses are proposed within the Specific Plan area under the Preferred Alternative, which further reduces the potential for stationary noise impacts to sensitive residential receptors. The rail line located adjacent to Quarry Road is expected to remain at its current operational level. Anticipated future growth in airport operation will generate very modest and less than significant increases in the CNEL contours generated by the operation of this airport. Due to distances from the site and with consideration for existing and future traffic noise on these roadways, construction noise levels are expected to be below the 75 dBA standard for mobile grading equipment for daytime hours between 7 AM and 7 PM, and the 60 dBA Leq standards for stationary equipment.	study area may result in potentially significant noise impacts. The Specific Plan land use plan appears to minimize the potential adverse noise impacts of planning area buildout with surrounding land uses. The Town Noise Control Ordinance provides regulations for noise measurement and monitoring and cites special provisions of, and exemptions to, the ordinance. This EIR provides specific categorical mitigation measures to address identified impacts, including construction, stationary source, and off-site traffic noise. These measures include but are not limited to fitting construction equipment with well maintained functional mufflers, and locating earth moving and hauling routes away from nearby existing residences. For on-site stationary noise sources, they include but are not limited to design, selection and placement of the mechanical equipment for various buildings within the Specific Plan study area in consideration of potential noise impacts on nearby residences. All development in the Specific Plan area shall comply with Town stationary source standards in the Town Noise Control Ordinance. On a case-by-case basis, the Town shall require the preparation of project-specific noise impact studies that evaluate and minimize the potential for stationary noise sources to adversely impact sensitive noise receptors in the vicinity. Potential off-site traffic noise impacts shall be considered in the final site plans for all proposed projects within the Specific Plan study area. Land uses that are compatible with higher noise levels shall be located adjacent to the Town's major arterial roads and highways to maximize noise related land use compatibility. The Town shall encourage a project circulation pattern that places primary traffic loads on major arterials and preserves local neighborhood noise environments by limiting roadways to local traffic to the greatest extent practical.

Existing Conditions	*Project Impacts*	*Mitigation Measures*
VISUAL RESOURCES In general, the project site slopes from north to south, with the highest elevation at approximately 3,200 feet above sea level in the northeastern-most portion of the site. The lowest elevation occurs at approximately 2,920± feet in the southwestern most portion of the site. The terrain of adjacent mountains, hills and terraces, as well as the warm earth tones of surrounding landforms and features provide dramatic contrasts that create the backdrop for the project area. The visual character of the project site and vicinity is somewhat impacted by urban development. Development in the vicinity includes scattered residential and industrial uses, the Apple Valley Airport, and local roadways. The Specific Plan area and vicinity also includes large areas of undeveloped desert lands. The Town General Plan sets forth dark sky and lighting policies designed to preserve views of night skies. Further, the Town municipal code has established development performance standards for exterior lighting.	Approval of the proposed Specific Plan will provide for development of commercial and industrial land uses approximately 4 miles northwest of the most urbanized portions of the Town. Development in this area is currently sparse. and development of the proposed Specific Plan area over time is expected to change the existing character of the Specific Plan area, and to some extent, that of surrounding lands. Sensitive viewsheds include those visible from Dale Evans Parkway and from surrounding residential development located in the project vicinity. These viewsheds have already been somewhat impacted by existing development, including existing industrial and residential land uses. Viewsheds have also been impacted by existing development of the Apple Valley airport in the central portion of the Specific Plan area. Development within the Specific Plan area will result in changes to the existing visual character. The Specific Plan provides for development of buildings of 50 to 100 feet in height, as well as additional sources of light and glare from building lighting, night-time operations and vehicle headlights, which may particularly impact the more sensitive residential land uses surrounding the project site. The Specific Plan sets forth development guidelines that establish setbacks, maximum building heights, and landscape, lighting and signage standards.	Project design guidelines, architecture and materials used in the development shall conform with the project design guidelines set forth in the North Apple Valley Industrial Specific Plan, as reviewed and amended by the Town of Apple Valley. Measures to further reduce potential impacts to visual resources include but are not limited to the following: landscaping plans and materials applied to development area boundaries shall serve to create a harmonious transition and complement to the built environment. Walls and fences shall be constructed in conformance with the Specific Plan Design Guidelines, and shall utilize materials consistent with other structures in the Specific Plan area. Walls shall incorporate landscaping to obscure or soften hard edges.. All outdoor lighting shall be in compliance with the dark sky policies of the General Plan. Outdoor lighting shall be limited to the minimum height, number and intensity of fixtures needed to provide security and identification, taking every reasonable effort to preserve the community's night skies. All development plans, including grading and site plans, detailed building elevations and landscape plans shall be submitted to the Town for review and approval prior to the issuance of building permits. Development within the Specific Plan area shall be designed with particular attention to limiting the lighting impacts on adjacent residential neighborhoods.
HAZARDOUS AND TOXIC MATERIALS	The proposed Specific Plan will not result in increased	Project proponents for future development within the

Existing Conditions	*Project Impacts*	*Mitigation Measures*
The Town and the Specific Plan area are located in proximity to transportation facilities that may carry hazardous materials, and there is potential for spills and leaks from moving sources. The Apple Valley Airport is located in the central portion of the Specific Plan area. A review of environmental databases conducted in May 2006 and covering the Specific Plan area and adjoining properties identified 15 properties in the geographic area studied that are currently listed on environmental databases. Four of these are described as having a moderate potential for hazardous materials spills. The former Victorville Pre-Bomb Range site occurs on approximately 560 acres in the planning area and was used as a practice bombing range for military training purposes during World War II. Although database records indicate that this site is undeveloped, a portion of the site has been developed for the Wal-Mart distribution facility, located at the southwest corner of Dale Evans Parkway and Johnson Road. Based on the EDR review of database records the site is "known or suspected of containing military munitions and explosives of concern (unexploded ordnance)." Investigation and/or removal of unexploded ordnance have been underway for over a decade, with approximately $1.3 million budgeted for this effort.	generation or disposal of hazardous materials and wastes associated with existing facilities, but is expected to provide for development of new businesses within the Specific Plan area that will increase the exposure of people to existing sources of potential hazard. Future commercial and industrial development in the Specific Plan area may have potential to store, transport or distribute hazardous materials, and to generate hazardous wastes. Future development within the Specific Plan area has potential to impact airport operations, although the Specific Plan is designed to ensure land use compatibility between the airport and surrounding uses. Scattered single-family residential development is located within and near the Specific Plan area. The Rio Vista Elementary School is located approximately one-half mile south/southeast of the Specific Plan area. The Specific Plan designates lands with potential for heaviest industrial uses at the northeastern portion, furthest from these sensitive receptors. The Victorville Pre-Bomb Range site is considered a high risk due to unexploded military weapons (bombs). Existing threat or impacts to soil and groundwater quality are not known, based on information available in environmental databases surveyed. Unexploded ordnance, such as that thought to be present at this site, has potential to contain lead, nitrates, and other chemicals that were used in the manufacture of military ordinance during World War II. The Town should require site-specific hazardous materials assessments prior to approval of future development plans within this site.	Specific Plan area shall comply with all applicable federal, state, regional and local permitting requirements for hazardous and toxic materials generation, handling and disposal; shall coordinate with the Apple Valley Fire District and others to reduce the level of risk and facilitate fire department response to emergency events; and shall ensure that storage of hazardous materials and waste is secured to minimize the risk of upset associated with groundshaking. The Town, and County Department of Airports shall review all proposed development plans within the Airport area of influence to assure that land uses constructed therein do not pose a hazard to airport operations. The Town of Apple Valley shall review all proposed development plans within one mile of sensitive residential development and school facilities to assure that no land use incompatibilities with potential to expose sensitive receptors to risk of hazardous substances, or accidental release of materials occur. Project proponents for future development within the "Victorville Pre-Bomb Range" area shall handle and dispose of all hazardous wastes and materials in the manner specified by the State of California Hazardous Substances Control Law and according to the California Code of Regulations, Title 22, Division 4.5. Prior to issuance of grading permits for future development within this same area, on-site investigations and assessments (Environmental Site Assessment) for the potential presence of hazardous materials shall be conducted by a qualified environmental consultant.
JOBS AND HOUSING The Town of Apple Valley is currently (2006) estimated to have a population of 67,507. The Southern California Association of Governments	Build out of the proposed Specific Plan will result in the development of industrial and commercial land uses which will directly result in new jobs within the Town, and indirectly result in a need for additional housing. It is	In order to mitigate potential impacts associated with jobs and housing, mitigation measures shall be implemented, as follows: within five years of adoption of the Specific Plan, or in conjunction with

Existing Conditions	*Project Impacts*	*Mitigation Measures*
(SCAG) estimates that Apple Valley's population will increase by 28,168, or 41.7%, by year 2030. The Town's unemployment rate varies, but is currently (2006) approximately 4.5%. As of 2006, the Town has 23,782 households, with an estimated vacancy rate of 7.96%, and an average of 3.07 persons per household. According to the Inland Empire Quarterly Economic Report, the median home price in Town in the second quarter of 2005 was $255,185 for existing homes and $284,966 for new homes. This compares with $310,000 and $335,000 for existing and new homes in San Bernardino County for the same period. Build out of the General Plan is expected to generate a total of 86,814 housing units, 12,268 of which would be multiple family units, and 74,546 of which would be single family homes.	difficult to estimate the number of jobs that the project could generate, since the nature of development is not known at this time. Depending on the type of industrial development that occurs within the Specific Plan area, jobs created could vary considerably. The majority of Town residents commute outside of Town for work. Although it cannot be determined what percentage of these residents commute, an average of 33 minutes for commuting clearly indicates that the majority of jobs are outside the Town limits, most likely in Victorville, and communities to the south. Given that the jobs to be created by the proposed project will provide a broad range of opportunities, the proposed project has the potential to allow residents of Apple Valley to find employment within their community, and reduce commuting time for many. The potential creation of jobs and associated need for housing for the households of these employees will also result in the need for additional housing. The long term impacts associated with the provision of housing for this project, however, cannot be effectively quantified immediately, and will require on-going monitoring.	the next General Plan update, whichever occurs first, the Town shall process General Plan Amendment(s) which result in the potential for an additional 1,916 housing units north of Highway 18. This amendment can be accomplished by either increasing density on existing residentially designated lands, or converting lands designated for other uses to residential development. Annually through build out of the Specific Plan area, the Town shall prepare, or shall cause to be prepared, an inventory of the development occurring within the Specific Plan Area, the number of jobs created, and the city or town of residence of the employees. This data shall be supplemented by the equivalent data for projects approved but not yet constructed within the Specific Plan area. After the first year, the data shall be cumulative. The data shall be compared analytically with the residential units approved for construction, under construction or proposed north of Highway 18 during the same time period. The analysis shall consider whether there are sufficient units available or planned to accommodate at least 80% of the employees added to the Specific Plan area in that year. Units permitted under General Plan residential land use categories can be included in the analysis. Should the analysis show a shortfall, the Town shall consider General Plan Amendments to assure that sufficient land is designated for housing 80% of the employees of the Specific Plan area.

Existing Conditions	*Project Impacts*	*Mitigation Measures*
PUBLIC SERVICES/FACILITIES The project site is located within the service boundaries of the following providers: Apple Valley Ranchos Water Company, Victor Valley Wastewater Reclamation Authority, Burrtec Waste Industries, San Bernardino County Sheriff's Department, Apple Valley Fire Protection District, Southwest Gas, Southern California Edison, Charter Communications, and the Apple Valley Unified School District.	The proposed project is not expected to place an undue burden on any service provider, and demand for these services will occur gradually over the buildout period. To some extent, water, sewer, natural gas, and electricity, as well as other utilities are already located within or in proximity to the Specific Plan area. Fire and police response times are within acceptable levels. The project is expected to generate demand for additional police protection from the San Bernardino County Sheriff's Department, as well as an incremental impact on the current level of services. Future commercial and industrial development plans will be subject to review by the Sheriff's Department and the Apple Valley Fire District Fire Marshall. These plans are expected to incorporate security measures into project design to limit additional demand for police services. There are currently several points of access into the planning area. Buildout of the Specific Plan will require construction and paving of existing and new roadway to provide access to future development and ensure adequate emergency access to all parts of the Specific Plan area. The Town shall review all future development plans to assure that adequate emergency access is provided to all sites. Project buildout will generate a limited cumulative increase in demand for public services and facilities, but is not expected to have any significant adverse impacts on these resources.	The Town shall assure provisions of adequate on-site stormwater retention/detention basins that enhance bio-filtration and percolation.The Town shall make extensive use of xerophytic (drought-tolerant) landscaping as part of the overall water efficiency program. All development plans shall be required to conform with the Facilities Master Plan landscape guidelines. As the project site is developed, development plans shall be reviewed by the Town and made available to the Apple Valley Ranchos Water Company for review. The subject property will require connections to the existing sewer system, Sewer system connection fees and facility fees shall be collected as the development builds out and will finance plant and other facility expansions as needed. All new development shall establish recycling programs as part of the planning process. The Town shall strictly enforce Title 24 of the California Code of regulations, and every reasonable effort shall be made to assure the highest level of energy conservation possible. The Town shall assist the Apple Valley Unified School District in assuring that statutory school mitigation fees are paid.

TOWN OF APPLE VALLEY

SITE PLAN REVIEW 2015-001

MITIGATED NEGATIVE DECLARATION (SCH #2016041058)

RESPONSE TO COMMENTS

The following response to comments has been prepared following circulation of the Initial Study/Mitigated Negative Declaration prepared for Site Plan Review 2015-001. The Response to Comments first provides a verbatim transcription of the commenter's statement, followed by the Town's response.

A. Lahontan Regional Water Quality Control Board, May 20, 2016

Comment A-1 The California Regional Water Quality Control Board, Lahontan Region (Water Board) staff received the Notice of Intent (NOI) to adopt a Mitigated Negative Declaration (MND) for the above-referenced project (Project) on March 25,2016. The NOI, which included an Initial Study (IS) environmental checklist, was prepared by the Town of Apple Valley (Town) and submitted in compliance with provisions of the California Environmental Quality Act (CEQA). Water Board staff, acting as a responsible agency, are providing these comments to specify the scope and content of the environmental information germane to our statutory responsibilities pursuant to CEQA Guidelines, California Code of Regulations, title 14, section 15096. Based on our review of the IS/MND, we recommend that further investigation be conducted In the vicinity of the former "bombing target area" identified on the Project site, particularly to evaluate the potential for residual chemicals to be present in surface and subsurface soils as a result of former land uses at the site. Our comments on the Project are outlined below.

PROJECT DESCRIPTION

The proposed Project is to develop a 106.5-acre parcel with a 1.3 million square foot warehouse and associated infrastructure including access roads, aboveground and underground utilities, and storm water collection and detention facilities. The proposed development includes the construction of an engineered channel along the perimeter of the site to redirect run-on flows in a natural ephemeral stream to the northern and western perimeters of the proposed development. The constructed channel will return flows back to the natural channel at the southwest corner of the site. The Project site is located southwest of the intersection between Lafayette Street and Navajo Road within the planning area of the North Apple Valley Industrial Specific Plan.

AUTHORITY

All groundwater and surface waters are considered waters of the State. Surface waters include streams, lakes, ponds, and wetlands, and may be ephemeral, intermittent, or perennial. All waters of the State are protected under California law. State law assigns responsibility for protection of water quality in the Lahontan Region to the Lahontan Water Board. Some waters of the State are also waters of the U.S. The Federal Clean Water Act (CWA) provides additional protection for those waters of the State that are also waters of the U.S.

The *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains policies that the Water Board uses with other laws and regulations to protect the quality of waters of the State within the Lahontan Region. The Basin Plan sets forth water quality standards for surface water and groundwater of the Region, which include designated beneficial uses as well as narrative and numerical objectives which must be maintained or attained to protect those uses. The Basin Plan can be accessed via the Water Board's web site at http://www.waterboards.ca.gov/lahontanlwater_issues/programs/basin_plan/references.shtml.

Response A-1 As regards the first paragraph, please see Responses A-3 through A-5. The balance of the comment simply summarizes the project description and the Board's authority as it relates to water quality. Because these comments do not raise specific concerns on the Project or the MND's analysis under CEQA, no further response is necessary.

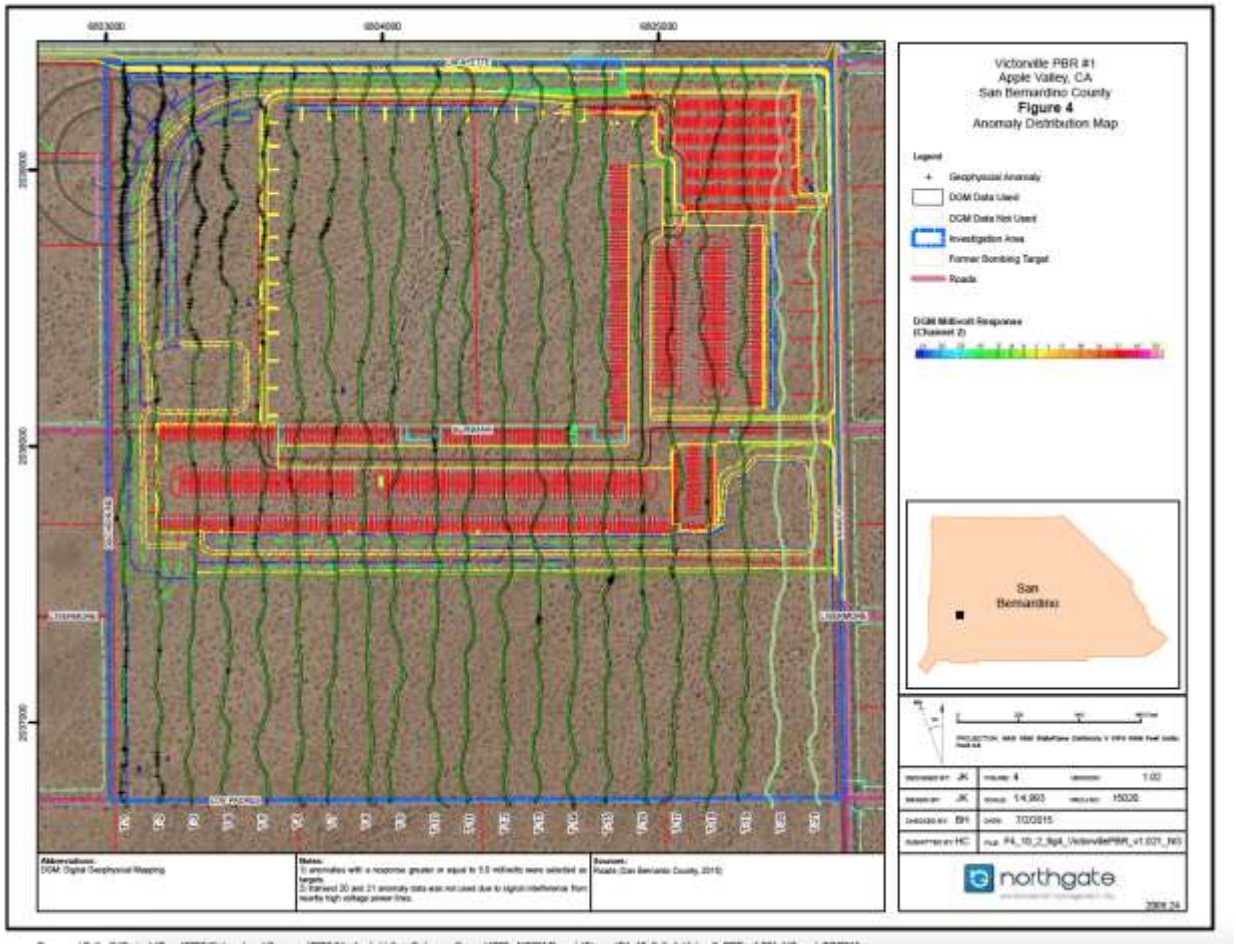
Comment A-2 Our specific comments on the Project and environmental review, as they pertain to water quality and hydrology, are outlined below.

1. Section VII, Hazards and Hazardous Materials - This section of the IS/MND describes a portion of the Project site as being part of a larger area formerly used as a practice bombing range for military training purposes during the 1940's. The boundaries of the former bombing range were not delineated in the IS/MND, rather the location was roughly identified as the northwest corner of the site.

A review of the Water Board's GeoTracker database indicates that the Project site was part of a larger "Formerly Used Defense Site" (FUDS) subject to cleanup requirements under the oversight of the California Department of Toxic Substances Control (DTSC [Site ID.No. 80000405]). This is consistent with the reported former land uses described in the IS/MND. Based on the information provided in the NOI, it does not appear that DTSC was provided a copy of the IS/MND for review and comment. We request that the lead agency consult with and request comments from DTSC with respect to the proposed development of this site.

Response A-2 The location of the site is clearly identified in the referenced Ordnance Report, and correctly described in the IS/MND. A reproduction of Figure 4 of the Ordnance Report is provided below.

The DTSC's Envirostor map database identifies active hazardous waste sited in San Bernardino County. As indicated on page 38 of the IS/MND, a DTSC's Envirostor site/facility search was conducted for the proposed project site, and the search determined that the site is not listed as a hazardous materials site, cleanup site, or hazardous waste facility. In addition, as noted in Response A-3, while the former Victorville Precision Bombing Range (PBR) No. 1 was located on a portion of the proposed project site, the only type of munitions used at the former bombing range were M38A2 practice bombs filled with sand and a M1A1 spotting charge. Also, as noted in Response A-3, prior soil sampling within the bombing range for metals and explosives did not indicate the presence of



Therefore, since the DTSC Envirostor database has not identified the site as a hazardous waste site and sampling within the bombing range has not identified the presence of contamination at the site, the proposed project would not create a significant hazard to the public or environment and no

further coordination with the DTSC is required. Nevertheless, the DTSC was provided the Initial Study/Mitigated Negative Declaration through the State Clearinghouse. The Town specifically identified DTSC as an agency to which the document should be routed. No comments were received from DTSC.

Comment A-3 In addition to the presence of ordnance and ordnance scrap at the surface. The soils in the vicinity of the former bombing range and target area may contain residual chemicals (waste) at the surface and/or at depth, and is an important factor that must be considered in the evaluation of the environmental resources potentially affected by this Project. We request that the IS/MND be revised to include a discussion of the potential for residual chemicals to be in the soil as a result of former land uses and to summarize any investigations or remedial actions that may have occurred to date.

Response A-3: The former Victorville Precision Bombing Range (PBR) No. 1 was located on a portion of the project site. As stated in the 2015 Northgate Revised Ordnance Investigative Services Report, the former Victorville PBR No. 1 was a practice bombing range that used 100-pound sand-filled bombs equipped with spotting charges. No energetic materials have been found on the project site.

In order to obtain more information about the practice bombs used at the proposed project Site, the Town reviewed the following materials:

1. *Final Site Inspection Report, Former Victorville Precision Bombing Range No. 1, San Bernardino County, California. Parsons. March 2008.*

This document, produced for the US Army Corps of Engineers by Parsons, confirms the 2015 findings by Northgate: No munitions of explosives of concern were observed at the bombing range. Additionally, the report notes that the munitions observed were M38A2 practice bomb debris and associated spotting charges. The report notes that historical records support the visual observations and note that military munitions used at the practice bombing range were limited to 100-pound M38A2 practice bombs and M1A1, M3, and M5 spotting charges.

This document notes the following chemical composition of these practice bombs and charges:

Chemical Composition of MEC and Potential MC
Victorville Precision Bombing Range No. 1

General Munition Type	Type/Model	Case Composition	Filler	Potential Constituent
Bomb, 100-lb, Practice	M38A2	Sheet Metal	Sand, wet sand, water, or concrete Spotting charge contains black powder	Nitrocellulose, Potassium Nitrate
Signal, Spotting Charge	M1A1	Tin	Black Powder, Smokeless Powder, Primer Mix	Antimony Sulfide, Dinitrotoluene Diphenylamine, Lead Styphnate Nitrocellulose, Pentaerythritoltetranitrate, Potassium Nitrate, Tetracene
Signal, Spotting Charge	M3	Tin	Black Powder, Dark Smoke Composition, Primer Mix	Antimony Sulfide, Dinitrotoluene, Diphenylamine, Lead Styphnate, Magnesium, Nitrocellulose, Pentaerythritoltetranitrate, Potassium, Potassium Nitrate, Tetracene
Signal, Spotting Charge	M5	Glass	FM Smoke Mixture	Titanium Tetrachloride

Source – Munitions information for Table 4.1 was supplied by the 1996 ASR, 2004 ASR Supplement, and other government reports.

The report documents soil sampling and analysis conducted to evaluate the bombing range site for potential soil contaminants. Eight soil samples were collected from within the bombing range site and analyzed for metals (EPA 6010B/6020) and explosives (SW-846-8321A). No explosives were detected at concentrations greater than the laboratory reporting limit. No metals were detected at concentrations greater than EPA Regional Screening Levels for the residential or commercial scenarios.

"2. *Phase I Environmental Site Assessment, Lots 1-10, Halverson South Assemblage, Apple Valley, California. Northgate Environmental Management, Inc. October 12, 2006.*

A file review of US Army Corp files for the former Victorville PBR No. 1 was conducted during the Phase I Environmental Site Assessment. Based on the file review, the only type of munitions used on the former bombing range was the M38A2 practice bomb (100-pound sheet metal casing filled with sand), using a M1A1 spotting charge. The M1A1 spotting charge contained 3 pounds of black powder.

The files reviewed indicated a potential for select metals and explosives contamination in the soil at the former bombing range. However, soil samples collected within the bombing range did not detect contamination at the site. To further explain and clarify the findings in the IS/MND, this discussion will be added to the IS/MND."

Comment A-4 Mitigation Measure VII.1 and VII.2-These mitigation measures require qualified technical teams to detect and remove any ordnance found within the former bombing range and the area within 300 feet of the bombing target. We recommend that in areas where ordnance is found, representative soil samples be collected after ordnance removal to verify whether residual chemical constituents of concern exist at the surface or

in the subsurface and at what concentrations. Constituents of concern include, but are not limited to, perchlorate, heavy metals, manufacturing byproducts (dioxins and furans), and polycyclic aromatic hydrocarbons (PAHs). Depending on the detected concentrations of these constituents in the soil, additional soils investigations may be warranted to characterize the extent of soil impacts and for cleanup and/or disposal requirements.

Response A-4 As noted in Response A-3, the only type of munitions used at the former bombing range were M38A2 practice bombs filled with sand and a M1A1 spotting charge. The table provided in Response A-3 notes the contents of these items and the potential related constituents (metal, sand, and black power). Also as noted in Response A-3, prior soil sampling within the bombing range (for metals and explosives) did not indicate the presence of contamination at the site. Some of the soil samples were collected near observed ordnance debris, while others were collected elsewhere within the former bombing range.

Based on the potential related constitutes listed in the table above, there is no need for analysis of additional constituents. Thus, the Mitigation Measures do not need to be revised.

Comment A-5 Section V.lll, Hydrology and Water Quality- Section VIII, Hydrology and Water Quality, of the IS/MND should be revised to include a full evaluation of the potential water quality impacts posed by construction and implementation of the Project on land where the former bombing range operations are known or suspected to be present.

a. The Site Plan included as Exhibit 3 of the IS/MND shows the engineered diversion channel and several storm water conveyance and retention facilities sited in the area of the former bombing range. An investigation of the soils beneath the engineered diversion channel and storm water conveyance and retention facilities may be warranted depending on the results soils testing performed during ordnance removal activities (see Comment No. 2 above).

b. Due to the potential for the onsite soils to contain elevated concentrations of various chemical constituents that may pose a threat to water quality, as a precaution, we recommendation that the Project proponent consider alternative site plan development configurations such that the engineered diversion channel and storm water conveyance and retention facilities are sited to avoid areas potentially affected by the former bombing range operations.

Response A-5 As noted in Responses A-3 and A-4, the constituents which may be found on site do not pose a threat to water quality and therefore, there is no need to consider alternative site plan development configurations.

B. San Bernardino County Sheriff's Department, May 16, 2016

Comment B-1 I am in receipt of the Notice of Intent for the Project Jupiter Distribution Warehouse with the proposed project site of the southwest comer of Navajo Road and Lafayette Street in the Town of Apple Valley. I have reviewed the notice and, based on the project location and description, do not foresee any significant public safety issues arising as a result of this project.

Response B-1 The Town thanks the Sheriff's Department for reviewing the MND and for its comment. Comment noted.

C. San Bernardino County Department of Public Works, May 24, 2016

Comment C-1 The MND/IS does not specifically address the requirement to comply with both the State (of California) Water Resources Control Board Construction General Permit (Order 2010-0014- DWQ) or the General Permit for WDR for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (Order 2013-001-DWQ). These discussions need to be included.

Response C-1 The required approvals from the State Water Resources Control Board/Regional Water Quality Control Board in regards to waste discharge requirements and the Construction General Permit are disclosed on Page 3 of the IS/MND under the heading "Other public agencies whose approval is required." The Initial Study explicitly states that the project will be required to comply with "the requirements of the State Regional Water Quality Control Board relating to water quality standards and wastewater discharge requirements." (page 41) The Initial Study further describes the pollution control measures contained in the Stormwater Management Plan for the proposed project, and compliance with the "State Water Board's General Construction Stormwater Permit." (page 42)

The Town has and will continue to assure that all applicants comply with these standards. The project is required to comply with Development Code 9.28.050.C through its conditions of approval, and that development code section also requires compliance with the applicant MS4 and General Construction Stormwater Permit.

To further clarify the requirements related to water quality. Item a,f) on IS/MND Page 41 is amended as follows:

"The proposed project will be required to connect to the Town's domestic water and sanitary sewer systems. Liberty Utilities, formerly Apple Valley Ranchos Water Company, provides water service to the site, and the Victor Valley Wastewater Reclamation Authority provides sanitary sewage treatment for the site. Both these agencies are required to comply with the requirements of the State Regional

Water Quality Control Board relating to water quality standards and wastewater discharge requirements. Furthermore, as a development project with a disturbance area of greater than 1 acre, and a significant increase in impervious surfaces, the Applicant will be required to obtain coverage under the State Water Resources Control Board (SWRCB) Construction General Permit (SWRCB Order 2010-0014-DWQ) and be consistent with the General Permit for Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (SWRCB Order 2013-0001 DWQ, or Small MS4 Permit). Each of these permits are described below:

The Construction General Permit requires the development and implementation of a stormwater pollution prevention plan (SWPPP), which would include and specify water quality best management practices (BMPs) designed to prevent pollutants from contacting stormwater and keep all products of erosion from moving off site into receiving waters. Routine inspection of all BMPs is required under the provisions of the Construction General Permit, and the SWPPP must be prepared and implemented by qualified individuals as defined by the SWRCB. The project applicant must submit a Notice of Intent (NOI) to the SWRCB to be covered by a NPDES permit and prepare the SWPPP prior to the beginning of construction. The applicant will be required to provide the Town of Apple Valley with its waste discharge identification number (WDID) as evidence that it has met the requirements of the Construction General Permit prior to beginning construction activities.

Furthermore, the SWRCB has designated the Town of Apple Valley as a Traditional Small MS4. As part of Phase II regulations promulgated by the U.S. Environmental Protection Agency, the SWRCB adopted the Small MS4 Permit, which requires MS4s serving populations of 100,000 people or less to develop and implement a stormwater management plan with the goal of reducing the discharge of pollutants to the maximum extent possible. As a permittee under the Small MS4 Permit, the Town of Apple Valley is required to condition development projects to be compliant with the standards contained in Section E.12 of the Small MS4 Permit. All development projects (that create or replace more than 5,000 square feet of impervious surfaces) seeking approvals from the Town are required integrate source control BMPs and low impact development (LID) designs into the proposed project to the maximum extent feasible to reduce the potential for pollutants to enter stormwater runoff. This includes site design best management practices (as applicable), such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas, incorporating trees and

landscaping, and conserving natural areas. Facilities must be designed to evapotranspire, infiltrate, harvest/use, and/or biotreat storm water to meet at least one of the hydraulic sizing design criteria contained in the Phase II Small MS4 Permit.

The Mitigation Monitoring and Reporting Program for the Specific Plan EIR requires project compliance with these water quality laws and regulations (e.g., Clean Water Act, Waste Discharge Requirements, SWRCB permits) through a combination of specific plan design standards, drainage impact fees, and general Mitigation Measures. As compliance with these permits would be required as a condition to receive authorization to construct, no impact is expected."

Comment C-2 Mitigated Negative Declaration Biological Resources section is confusing and contradictory. For example, mitigation measure IV.1 lists 29 measures, with desert tortoise fencing provisions mentioned in 11, 13, 25-29 and IV.3, along with generic measures (fueling, equipment speed, etc.), nest avoidance, and desert tortoise avoidance. To provide clarity, similar measures should be included either together, or under their own heading.

Response C-2 The commenter is incorrect. The performance standards listed in the Initial Study each identify a different component of desert tortoise avoidance and minimization techniques, and are appropriate as listed. Please note that Mitigation Measure IV.1 references the education program to be conducted for construction personnel prior to the initiation of project activities; while Mitigation Measure IV-3 references actions to be taken following the pre-construction survey by the project biologist or others.

Comment C-3 There is also conflicting information throughout the document. Section IV.1 MM 5 states that bird nests encountered would be relocated, yet most of IV.2 discusses establishing buffers. In addition, the project site is described as having "considerable barren ground as a result of site disturbance and previous sheep grazing on the site (Discussion of Impacts Section a); page 20)". However, in the third paragraph, the report suggests that the site is not suitable to burrowing owl because "they prefer open terrain".

Response C-3 Please note that Mitigation Measure IV.1 references the education program to be conducted for construction personnel prior to the initiation of project activities, while Mitigation Measure IV-2 references specific actions to be taken as part of the pre-construction survey by the project biologist or others. Furthermore, Mitigation Measure IV.1, subsection 5 addresses the unanticipated discovery of "any other animals or bird nests," and confirms that relocation would only be permitted "if possible." Thus, the measure clearly anticipates that the education program requires the biologist to be notified, and *for the biologist* to assess what animal was located and whether relocation is appropriate. In the case of bird nests, the more

specific provisions of Mitigation Measure IV-2 would apply, and that measure requires the implementation of buffers and other mitigation to protect against impacts. Contrary to the commenter's assertion, these measures are not contradictory.

To clarify and ensure no ambiguity exists, Mitigation Measure IV.1, item 5 will be revised as follows (italics indicate new text):

> Notify biologist of any other animals or birds nest encountered on site. ~~And~~ *Special status animals encountered* ~~they~~ will be relocated as needed, if possible *and as allowed under existing regulations.*

The site is not densely vegetated and does include areas of barren ground, but also includes native brush scattered across the site that rise to a height of two to four feet. Regarding the burrowing owl habitat, the biological report provides further clarification that, although there is considerable barren ground in between the creosote bushes, the height of the bushes are not conducive to burrowing owl use. Burrowing owl generally perch at their burrows, on the ground, and prefer areas where they have clear line of sight for some distance all around their burrow. The presence of relatively tall brush (when compared to the size of the owl) even where scattered intermittently across the site, lowers the quality of the habitat for the species. Accordingly, the Initial Study is not contradictory as the commenter asserts.

Despite the relatively low quality habitat, a habitat assessment for burrowing owl, including a burrow survey, was conducted and had negative results (i.e., no owls or burrows were located). Further, the requirements of the SAA are incorporated as project design features (as stated under criteria b and c of Section IV, Biological Resources, of the IS/MND) and condition 2.12 of the SAA requires a habitat assessment and, if suitable habitat is present, focused surveys in accordance with the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) no more than one year prior to initiation of project activities.

Comment C-4 Along with a need for reorganization, some of the mitigation measures should be reconsidered. The California Burrowing Owl Consortium developed the Survey Protocol and Mitigation Guidelines. The process begins with a four-step survey protocol to document the presence of burrowing owl habitat, and evaluate burrowing owl use of the project site and a surrounding buffer zone. Thus, to determine the presence of burrowing owl, four survey visits should be conducted: 1) at least one site visit between 15 February and 15 April, and 2) a minimum of three survey visits, at least three weeks apart, between 15 April and 15 July with at least one visit after 15 June. If surveys confirm occupied habitat, the avoidance and mitigation measures to minimize impacts to burrowing owls,

their burrows and foraging habitat on the site should be followed with oversight from the California Department of Fish and Wildlife.

Response C-4 Please see "Jupiter Project Updated Biological Resources Report," prepared by AMEC Foster Wheeler, January 2016 and referenced in the Initial Study. As described in the Report, the proposed project followed the measures recommended in the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game March 2012), which is the CDFW official guidance that is based in part on the Guidelines recommended in the comment. The first step under this approach is to conduct a habitat assessment to assist investigators in determining whether or not occupancy surveys are needed. As described in the Report, a habitat assessment for burrowing owl was conducted following the transect and buffer method outlined in the survey protocol. The only suitable burrows on the site or the buffer were kit fox burrows, which were collapsed in coordination with CDFW. There were no other small mammal burrows suitable for burrowing owl documented and there was no burrowing owl sign present on site. Under the protocol, no surveys were therefore required as the site does not contain habitat and there was no sign present. Further, the requirements of the SAA are incorporated as project design features (as stated under criteria b and c of Section IV, Biological Resources, of the IS/MND) and condition 2.12 of the SAA requires a habitat assessment and, if suitable habitat is present, focused surveys in accordance with the Staff Report no more than one year prior to initiation of project activities. Accordingly, nothing more is required.

Comment C-5 Finally, MM IV.2 states that a preconstruction survey will be performed not more than 7 days prior to any earth moving activity from March 1 through September 15. It should be kept in mind that although most species of birds do nest between March and September, a few, namely hummingbirds, owls, and some raptors, have been documented to nest earlier. Therefore, a more conservative approach would be to use February 1 to begin nesting bird surveys. Also, a survey conducted seven days before ground disturbing activities does not afford enough protection to nests, with nests being built in less time and other construction activities (grading roads, staging equipment, etc.) having similar potential to disturb nests. Thus, a more appropriate measure would be that a nesting bird survey will be conducted no more than three days prior of any construction activity.

Response C-5 The project is conditioned on complying with the timing requirements proposed in this comment. The requirements of the SAA are incorporated as project designed features (as stated under criteria b and c of Section IV, Biological Resources, of the MND). Condition 2.10 of the SAA requires that a Nesting Bird/Burrowing Owl Plan be submitted to CDFW for review and approval prior to construction and the Plan must address avoidance and minimization measures for nesting birds. Therefore, the timing of the Nesting Bird/Burrowing Owl surveys will be per CDFW requirements.

Additionally, SAA condition 2.11 specifically requires that the surveys be conducted no more than 3 days prior to construction activities and, as previously noted, this measure is incorporated in the project as a design feature. To clarify this timing requirement, Mitigation Measure IV.2 is modified as follows:

> "A pre-construction survey shall be completed by a qualified biologist not more than ~~7~~ *3* days of initiation of any earth moving activity on site."

Further, the North Apple Valley Industrial Specific Plan (NAVISP) Environmental Impact Report (EIR) Mitigation Measure number 3 requires nesting bird surveys between February 1st and June 30th. To clarify the timing requirements for these surveys, Mitigation Measure IV.2, item 1 is modified as follows:

> ". . .If project activities cannot be avoided between ~~March~~ *February* 1 and 15 September . . .".

D. San Bernardino County Department of Airports, May 18, 2016

Comment D-1 The Department of Airports has reviewed the Notice of Intent to Adopt a Mitigated Negative Declaration for the project noted above. The proposed site is located under the horizontal surface of the airport as defined by Federal Aviation Regulations Part 77. The horizontal surface is an imaginary surface located 150 feet above the elevation of the runways. Due to topography the proposal for structures on this property should be coordinated with the Federal Aviation Administration (FAA) through the Form 7460 process for the review of potential obstructions to airspace. The Town should obtain the results of the FAA review prior to issuing any building permits. The website for the obstruction review process is located at:https://oeaaa.faa.gov/oeaaa/external/portal.jsp

There is a possibility of overflight across the project site. While not expected to be a safety concern, the developer should be aware of this possibility. The following requirement should be applied to the development:

1. Developer shall submit an avigation easement to the County Department of Airports for review, and the avigation easement shall be recorded in favor of the Apple Valley Airport prior to occupancy.

The County Department of Airports will provide a template and a sample of a recorded avigation easement.

Response D-2 As stated in the Initial Study, page 39 and as required in the EIR, the Town will require compliance with airport requirements for this project and will

assure that this requirement is met through consultation with the County. Here, the Town will impose the following conditions of approval:

San Bernardino County Dept. of Airports (Apple Valley Airport) Conditions of Approval

AVA1. Developer shall submit an avigation easement to the County Department of Airports for review, and the avigation easement shall be recorded in favor of the Apple Valley Airport prior to permit issuance. (Dept. will provide template and a sample of recorded easement)

AVA2. Developer shall complete and submit FAA Form 7460-1 “Notice of Proposed Construction or Alteration” to the federal Aviation Administration, Airports Division, and provide evidence of compliance with any requirements prior to occupancy.

E. Mojave Desert Air Quality Management District, April 25, 2016

Comment E-1 The District has reviewed the Initial Study and concurs with the finding of "Less Than Significant Impact" and "No Impact" for Air Quality. Based on the information provided in the Initial Study, the District recommends the Town of Apple Valley to require submittal of a Dust Control Plan in compliance with the provisions of District Rule 403.2 - *Fugitive Dust Control for the Mojave Desert Planning Area.* There is also equipment that may require application for permits. The District recommends that the Town of Apple Valley require the submission of applicable permit applications and the associated application and permit fees to the District as a condition of approval.

Response E-1 As the regional air management agency for the project site, the Town appreciates the District’s concurrence with the Town’s findings. As stated in the Initial Study, the project is required to prepare a dust control plan, as was required in the Specific Plan EIR and is reiterated in the Initial Study. The performance standards for that plan shall be compliance with District Rule 403.2, as identified by the commenters. As a non-refrigerated distribution warehouse, it is not expected that any special equipment subject to separate permitting will be required for the operation of the project. However, the Town has also included a requirement in the conditions of approval for the project that, should equipment used on the project site require permits from the District, the developer shall demonstrate compliance with District permitting requirements in writing.

F. California Department of Fish and Wildlife, May 23, 2016

Comment F-1 The Department has discretionary authority over activities that could result in the "take" of any species listed as candidate, threatened, or endangered,

pursuant to the California Endangered Species Act (CESA; Fish and Game Code,§ 2050 *et* seq.). The Department considers adverse impacts to CESA-listed species, for the purposes of CEQA, to be significant without mitigation. Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Consequently, if a Project, including Project construction or any Project-related activity during the life of the Project, results in take of CESA-listed species, the Department recommends that the Project proponent seek appropriate authorization prior to Project implementation. This may include an incidental take permit {ITP) or a consistency determination in certain circumstances (Fish and Game Code,§§ 2080.1 & 2081).

Please note that the Department must comply with CEQA prior to issuance of an ITP for a Project. As such, the Department may consider the lead agency's CEQA documentation for the Project. To minimize additional requirements by the Department and/or under CEQA, the CEQA avoidance, minimization, mitigation, monitoring and reporting measures for issuance of the ITP.

IV. Biological Resources. Discussion of Impacts a)- The Department conducted a site visit on September 10, 2015. While on site the Department did not notice "considerable barren ground as a result of site disturbance..." as described in the MND on page 20. If the site was previously disturbed the Department feels that the native vegetation has grown back and the site has suitable habit for multiple listed and none (sic) listed desert species.

Response F-1 Comment noted. The Initial Study includes all feasible mitigation measures, including avoidance, minimization, mitigation, monitoring and reporting measures required to enable the Department to issue an ITP. The description of the site's ground cover was taken from the biological resource study for the proposed project which indicates the creosote bushes present are widely spaced with open space in between as a result of sheep grazing at the site. The Town defers to the Department's observation and agrees that the site supports desert vegetation typical of the area and supports habitat for multiple species despite any previous disturbance at the site. The biological report prepared for the proposed project and the IS/MND also recognizes and addresses the potential for the site to support special status species. In the IS/MND, the Town analyzed all the potential impacts to species.

Comment F-2 Although many of the kit fox burrows have been collapsed to the Departments specifications, the Department recommends the Applicant complete pre-construction surveys to confirm that the kit foxes have not returned to the site. Biological Monitors shall conduct the pre-construction surveys for desert kit fox and American badger no more than 30 days prior to initiation of construction activities, including pre-construction site mobilization. Surveys shall also address the potential presence of active

dens within 100 feet of the project boundary (including utility corridors and access roads). If dens are detected, each den shall be classified as inactive, potentially active, or definitely active den and a report shall be submitted to the Department for review prior to collapsing the burrows.

Response F-2 As provided in the Initial Study, Mitigation Measure IV.2 requires the completion of pre-construction surveys for Desert kit fox, and several other species. Should they be identified, the procedures for identification as active or inactive, and collapse will continue to comply with the Department's requirements, as was done and acknowledged by the Department in its letter. To further clarify these requirements for the preconstruction surveys, the following is added to Mitigation Measures IV.2:

"10. Biological Monitors shall conduct the pre-construction surveys for desert kit fox and American badger no more than 30 days prior to initiation of construction activities, including pre-construction site mobilization. Surveys shall also address the potential presence of active dens within 100 feet of the project boundary (including utility corridors and access roads). If dens are detected, each den shall be classified as inactive, potentially active, or definitely active den and a report shall be submitted to the Department for review prior to collapsing the burrows."

Comment F-3 Take of individual burrowing owls and their nests is defined by Fish and Game Code section 86, and prohibited by sections 3503, 3503.5 and 3513. Take is defined in FGC Section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill."

The Department recommends that the Lead Agency follow the recommendations and guidelines provided in the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012); available for download from the Department's website: https://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html. The Department expects that City of Hesperia (sic) will follow the Staff Report on Burrowing Owl Mitigation, which specifies that the steps for project impact evaluations include:

a. A habitat assessment;

b. Surveys; and

c. An impact assessment

If burrowing owls and/or their habitat may be impacted from the project, the Department recommends that the Lead Agency include specific mitigation in the environmental document for public review. Please note that mitigation must be roughly proportional to the level of impacts, including cumulative impacts, in accordance with the provisions of CEQA (CEQA Guidelines, §§

15126.4(a)(4)(B), 15064, 15065, and 16355). Furthermore, in order for mitigation measures to be effective, they must be specific, enforceable, and feasible actions that will improve environmental conditions. Current scientific literature supports the conclusion that mitigation for permanent burrowing owl habitat loss necessitates replacement with an equivalent or greater habitat area for breeding, foraging, wintering, dispersal, presence of burrows, burrow surrogates, presence of fossorial mammal dens, well drained soils, and abundant and available prey within close proximity to the burrow.

Response F-3 Comment noted. The Town notes that the biological report completed for the Project included a habitat assessment for burrow owl. In accordance with the referenced 2012 Staff Report, transects were walked throughout the proposed project site as well as the required buffer and all suitable burrows documented. The only suitable burrows within the site or the buffer were potential kit fox burrows, which were collapsed in coordination with CDFW. There were no other small mammal burrows suitable for burrowing owl documented on the site and no burrowing owl sign was observed. The Initial Study provided, in Mitigation Measure IV.2, not only a requirement for pre-construction surveys, but a comprehensive list of performance standards for burrowing owl mitigation, all taken from the Staff Report on Burrowing Owl Mitigation cited by the Department in its letter. Further. The requirements of the Streambed Alteration Agreement (SAA) are incorporated as project design features (as stated under criteria b and c of Section IV, Biological Resources, of the IS/MND) and condition 2.12 of the SAA required a habitat assessment and, if suitable habitat is present, focused surveys in accordance with the referenced Staff Report no more than one year prior to initiation of the project activities. If focused surveys are positive, avoidance, minimization and mitigation measures will be implemented in accordance with the 2012 guidelines and in coordination with CDFW. Accordingly, this issue is adequately addressed in the analysis and the potential impact is mitigated to a less than significant level with mitigation incorporated.

Comment F-4 The applicant should implement sweeps within the proposed project site, the sweeps shall be conducted before construction, to ensure that desert tortoises are absent from the project area. Additionally, biological monitors will be on site during construction of the desert tortoise exclusion fencing. Upon completion of construction of the desert tortoise exclusion fencing, an on-call biologist will be available should desert tortoise be encountered during construction activities. No desert tortoises may be moved or handled without an Incidental Take Permit (ITP).Take of any CESA-listed species is prohibited except as authorized by state law (Fish and Game Code, §§ 2080 & 2085). Consequently, if a project, including project construction or any project-related activity during the life of the project, results in take of CESA-listed species, the Department recommends that the project proponent seek

appropriate authorization prior to project implementation. This may include an incidental take permit (ITP) or a consistency determination (Fish and Game Code, §§ 2080.1 & 2081).

Response F-4 Comment noted. The mitigation measure cited by the commenter is included in the Initial Study, Mitigation Measure IV.2. The Initial Study requires pre-construction surveys, the construction of a tortoise exclusion fence, and on-going monitoring for the species. The Town modifies Mitigation Measure IV-1, item 13 as follows (italics indicate addition) to clarify the requirements related to the fence construction: " . . . Authorized biologist or desert tortoise monitors will not be required to be present at the site at all times; *however, will be present during the installation of the exclusion fence . . .."* Mitigation Measure IV.1 requires construction worker education, including warnings against handling or moving the species, except as allowed by law by a qualified biologist. The Town recognizes and agrees that no desert tortoise may be moved or handled without an ITP. To clarify this point, the following is added to item 10 under Mitigation Measures IV.1: "No one is authorized to handle or move any desert tortoise." The Initial Study therefore fully implements the Department's requirements, and the appropriate sections of the Fish and Game Code.

Comment F-5 Please note that it is the Lead Agency's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Migratory non-game native bird species are protected by international treaty under the federal Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 et seq.). In addition, sections 3503, 3503.5, and 3513 of the Fish and Game Code (FGC) stipulate the following: Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by FGC or any regulation made pursuant thereto; Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders FALCONIFORMES or STRIGIFORMES (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by FGC or any regulation adopted pursuant thereto; and Section 3513 states that it is unlawful to take or possess any migratory nongame bird except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA.

Breeding bird season is usually February 15 through August 31, but note that some species of raptors (e.g., owls) may commence nesting activities in January, and passerines may nest later than August 31. The Department recommends that the Lead Agency complete nesting bird surveys and consult with a qualified ornithologist for advice in developing specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur and that the Project complies with all applicable laws related to nesting birds and birds of prey, including Burrowing Owl. The Department recommends that Project-specific avoidance and minimization measures include, but not be limited to: Project phasing and timing,

monitoring of project-related noise (where applicable), sound walls, and buffers, where appropriate.

Response F-5 The Town notes that the requirements of the SAA are incorporated as project design features (as stated under criteria b and c of Section IV, Biological Resources, of the IS/MND) Condition 2.10 of the SAA requires that a Nesting Bird/Burrowing Owl Plan be submitted to CDFW for review and approval prior to construction and address avoidance and minimization measures for nesting birds. Therefore, the timing and scope of the Nesting Bird/Burrowing Owl will be per CDFW requirements. Further, avoidance of nesting birds will be accomplished through implementation of Mitigation Measure IV.2, which requires nesting bird surveys, implementation of buffers, monitoring and implementation of other measures if needed based on monitoring. The North Apple Valley Industrial Specific Plan EIR Mitigation Measure number 3 requires nesting bird surveys between February 1st and June 30th. As noted previously, Mitigation Measure IV.2, item 1 has been modified to clarify the timing requirements (surveys required between February 1 and September 15). These performance standards assure that impacts to nesting birds will be less than significant.

Comment F-6 The Department's jurisdiction includes any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream or use material from a streambed, the project applicant (or "entity") must provide written notification to the Department pursuant to Section 1602 of the Fish and Game Code. Based on this notification and other information, the Department then determines whether a Lake and Streambed Alteration (LSA) Agreement is required. The Department's issuance of an LSA Agreement is a "project" subject to CEQA (see Pub. Resources Code 21065). To facilitate issuance of an LSA Agreement, if necessary, the environmental document should fully identify the potential impacts to the lake, stream or riparian resources and provide adequate avoidance, mitigation, and monitoring and reporting commitments. Early consultation with the Department is recommended, since modification of the proposed project may be required to avoid or reduce impacts to fish and wildlife resources. To obtain a Lake or Streambed Alteration notification package, please go to http://www.dfg.ca.gov/habcon/1600/forms.html.

Response F-6 As stated in the Initial Study, the applicant and the Town have already consulted with the Department regarding the need for a SAA. The Initial Study identifies that the site contains 0.23 acres classified as waters of the State. The Initial Study further describes that the applicant and the Department negotiated a SAA (Notification No. 1600-2015-0086-R6), which includes a number of requirements imposed by the Department. The Department will require that the Agreement is implemented fully throughout the development of the site. The avoidance, minimization and mitigation measures required in the SAA are incorporated as project design features,

as indicated under criteria b and c of Section IV, Biological Resources, of the IS/MND. The SAA is provided as Appendix E of the Project's Biological Resources Report.

G. Blum Collins LLP, May 19, 2016

Comment G-1 The California Environmental Quality Act ("CEQA") requires an Environmental Impact Report ("EIR") "whenever it considers approval of a proposed project that '*may* have a *significant* effect on the environment.'" *Quail Botanical Gardens Found, Inc. v. City of Encinitas* (1994) 29 Cal. App. 4th 1597, 1601, *quoting* Pub. Resources Code § 21100. As you also know, CEQA requires the preparation of an EIR "whenever it can be *fairly argued* on the basis of substantial evidence that the project *may* have significant environmental impact." *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 75 (emphasis added); *see also Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal. 4th 1112, 1123. There is a fair argument that the Jupiter Project may have a significant impact on biological resources, cultural and paleontological resources, and hazards.

Response G-1 The commenter asserts that the "fair argument" test applies to determinations of whether the Project may result in potentially significant environmental impacts. Specifically, the commenter implies that that where substantial evidence supports a fair argument of significant environmental impacts, that an EIR must be prepared. However, this comment misstates the appropriate standard of review and is legally incorrect for at least three reasons.

First, the Town's MND is not a stand-alone CEQA document. Instead, it is subsequent MND undertaken pursuant to State CEQA Guidelines section 15162 to confirm whether implementation of the North Apple Valley Industrial Specific Plan Project on this specific site will result in different or substantially greater impacts than those already analyzed in the Specific Plan EIR. (MND p. 3.) Accordingly, it is the substantial evidence test, not the fair argument test that governs what level of CEQA review is required. Specifically, case law confirms that where an EIR has previously been prepared and the subsequent environmental review is within the scope of the previously certified EIR, that the relevant standard of review asks only whether the lead agency's conclusions concerning a subsequent approval are supported by substantial evidence. (See *Coastal Hills Rural Preservation v. County of Sonoma* (2016) 2 Cal.App.5th 1234; *Long Beach Savings & Loan Association v. Long Beach Redevelopment Agency* (1986) 188 Cal.App.3d 249, 266 [where an EIR "already had been certified and a negative declaration has been prepared in lieu of a subsequent supplemental or site specific EIR, the test is whether the record as a whole contains substantial evidence to support the agency's determination that a particular project will not have a significant adverse effect on the environment"]; *Citizens for a Sustainable Treasure Island v. City & County of*

San Francisco (2014) 227 Cal.App.4th 1036, 1049 [finding that the "substantial evidence standard applies to subsequent environmental review for a project reviewed in a program EIR or project EIR"]; *Citizens for Responsible Equitable Environmental Development v. City of San Diego Redevelopment Agency* (2005) 134 Cal.App.4th 598, 610 ["[o]nce an agency has prepared [a program] EIR, its decision not to prepare a supplemental or subsequent EIR for a later project is reviewed under the deferential substantial evidence standard"]; *Latinos Unidos de Napa v. City of Napa* (2013) 221 Cal.App.4th 192, 201-202, 204 [substantial evidence standard applies in reviewing an agency's determination that a project's potential environmental impacts were adequately analyzed in a prior program EIR].)

Second, even if the "fair argument" test applied, the commenter fails to provide any substantial evidence of site-specific significant impacts that may result from the Project. Indeed, substantial evidence under CEQA "includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." (State CEQA Guidelines, § 15384(b).) In contrast, substantial evidence does not include ["[a]rgument, speculation, unsubstantiated opinion, or narrative, evidence which is clearly erroneous, or inaccurate." (State CEQA Guidelines, § 15384(a).) Substantial evidence of significant impacts also does not include generalized information that fails to connect a project to the alleged impacts identified by a commenter. (*Citizens for Responsible Equitable Environmental Development v. City of San Diego* (2011) 196 Cal.App.4th 515, 528 [an agency "cannot be expected to pore through thousands of documents to find something that arguably supports [the commenter's] belief the project should not go forward"]; see also State CEQA Guidelines, § 15204(c) [commenters "should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments"].) Here, the reports attached to the commenter's letter do not contain any facts regarding the Project or its potential impacts, nor does the commenter explain with facts how those reports demonstrate that a potentially significant impact may result. Thus, even under the less deferential "fair argument" test, the commenter is still incorrect that an EIR is required.

Third, even if there were substantial evidence showing that some level of impact may occur, the commenter fails to address why those impacts are potentially significant and beyond those already analyzed and disclosed in the EIR previously prepared for the North Apple Valley Industrial Specific Plan. Indeed, not every impact is necessarily significant. (State CEQA Guidelines, § 15382; *National Parks & Conservation Association v. County of Riverside* (1999) 71 Cal.App.4th 1341, 1359 [the standard of review under CEQA "allow[s] for a finding of an insignificant degree of impact, [even where there is] not necessarily a zero impact"]; *Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 899 ["[a] less than

significant impact does not necessarily mean no impact at all"].) Further, it is only those significant impacts resulting from the Project that are beyond those already fully analyzed and disclosed in the prior EIR that are relevant. (See, e.g., *Citizens for Responsible Equitable Environmental Development v. City of San Diego Redevelopment Agency* (2005) 134 Cal.App.4th 598, 617 [confirming appropriateness of foregoing *any* further CEQA review where "cumulative impacts would not be greater than those identified in the [previous] EIR"].)

Comment G-2 The IS notes that the EIR for the North Apple Valley Industrial Specific Plan required site-specific surveys.

Threshold a. Will the Project have a substantial adverse effect, directly or through habitat modifications, on any species listed as a candidate, sensitive, or special status . . . You conclude the impact will be less than significant with mitigation, but we disagree with several assumptions. Specifically, you indicate there were eight inactive kit fox burrows detected and collapsed onsite, and that though those burrows might provide habitat for the burrowing owl, they would not since they had been collapsed. You neglect to mention that the site could be re-colonized by the kit fox or other burrowing species, which would make the site amenable to the owl. You also state that the height of the vegetation is not conducive to the owls' preferred terrain. From what we understand, typical burrowing owl habitat is open, dry, sparsely vegetated terrain such as the Project site.

Response G-2 As stated in the Initial Study and biological resource surveys conducted on the project site, the potential for burrowing owl and kit fox to occur on the site remains. As a result, the Initial Study correctly requires that a pre-construction survey for these species and several others be conducted, including an intensive survey for burrowing owl. The Initial Study further describes in detail the performance standards associated with that survey, including what is to be implemented should either burrowing owl or Desert kit fox be identified on the property. Further, the requirements of the SAA are incorporated as project design features (as stated under criteria B and c of Section IV, Biological Resources, of the IS/MND) and condition 2.12 of the SAA requires a habitat assessment and, if suitable habitat is present, focused surveys in accordance with the *Staff Report on Burrowing Owl Mitigation* (Department of Fish and Game, March 2012) no more than one year prior to initiation of project activities and condition 2.11 requires that preconstruction surveys be conducted no more than 3 days prior to initiation of construction activities. The Initial Study correctly assesses all the potential impacts associated with construction on these two species, and provides all feasible mitigation measures to assure that impacts are reduced to less than significant levels. Regarding the site's suitability for burrowing owl, see Response to C-3, above.

Comment G-3 Regarding the desert tortoise, you state that "the likelihood of the species moving onto the property is low," but you don't provide support for this assumption. The site is, as you note, within the range for the tortoise.

Regarding migratory birds, you concede they may be present on the site.

Because of the potential wildlife on site, you adopt several mitigation measures, but we think they are inadequate in several respects. First, mitigation measure ("MM") IV.1 indicates "Prior to the initiation of any earth moving or construction activities on the project site, the project proponent shall conduct environmental awareness training for construction staff, including a presentation by a qualified biologist on desert tortoise, project-specific protective measures, and instructions for actions that must be taken if a tortoise is encountered during construction." We are not sure if the MM requires a presentation on "project-specific protective measures" or implementation of them. The MM then provides "These measures *could* include:" before coming up with a laundry list of suggested and sometimes contradictory steps. There is nothing enforceable about this MM, so you cannot rely upon it to reduce impacts to less than significant levels.

Response G-3 A focused survey for desert tortoise was conducted in April 2015 and a focused desert tortoise survey report was prepared by Amec Foster Wheeler. This study determined the potential for tortoise to move onto the site was low based on a combination of literature review, documented occurrences, habitat suitability and adjacent land uses.

As regards the presence of migratory birds, the biologist correctly determined that the habitat present on the project site has the potential to accommodate migratory birds, and recommended mitigation measures, specifically the preparation of MBTA compliant surveys immediately prior to construction. The implementation of this mitigation measure will reduce impacts to this species to less than significant levels.

The commenter's statement that there "is nothing enforceable about this MM" is not supported. The mitigation measure is entirely enforceable, and clearly states that pre-construction environmental awareness will be conducted; when it will be conducted; and provides a comprehensive list of performance standards that could be included in this education program. The mitigation measure is further supported by the associated Mitigation Monitoring Program item IV.A, which requires that all course materials and attendance records be provided to the Town prior to the issuance of building permits. Further, the SAA, which is incorporated as project design features (as stated under criteria b and C of Section IV, Biological Resources of the IS/MND), requires that this information be provided in the worker training program. To clarify this requirement, Mitigation Measure IV.1 is modified as follows:

IV.1 Prior to initiation of any earth moving or construction activities on the project site, the project proponent shall conduct environmental awareness training for construction staff, including a presentation by a qualified biologist on desert tortoise, project-specific protective measures, and instructions for actions that must be taken if a tortoise is encountered during construction. These measures ~~could~~ include:

Comment G-4 MM IV.1 Item 2 provides for a daily sweep of the work site by a qualified biologist. This sweep should include visual observation off-site. Item 3 provides that if a desert tortoise, desert kit fox or burrowing owl are found on site, work will immediately cease until the animal has left the site and is at least 250 feet away. It provides that "Listed species may not be handled by anyone," but (a) only the desert tortoise is listed, and (b) regarding the desert tortoise, this conflicts with Item 10 below, which *calls for* handling by authorized biologists. Item 5 provides that someone (it is not specified who) must notify the biologist of any other animals *or bird nests* encountered on the site and they will be relocated as needed. This is actually illegal under the Migratory Bird Treaty Act. Item 11 provides that immediately prior to the start of any ground-disturbing activities and prior to the installation of any desert tortoise exclusion fencing, there should be clearance surveys by the authorized biologist "as appropriate," and that "If the authorized biologist determines clearance surveys are not needed, clearance surveys would not be required." Again, the entire mitigation measure is unenforceable but Item 11 is as well based on this language.

Response G-4 The daily sweeps for the project footprint were determined adequate for general biological resources. Resources that require buffers adjacent to the project footprint (such as desert tortoise, kit fox, burrowing owl and nesting birds) are addressed in specific Mitigation Measures. As stated in Response G-3, the numerically listed items under Mitigation Measure IV.1 are performance standards that describe the course work that could be included in the environmental education program. The description of the course work includes informing construction personnel that they are not handle the species, which is the correct protocol for desert tortoise. Should the species be found at any time, it is appropriate to state that a qualified biologist would be the only person who could, based on State and federal requirements, handle the species if necessary. See Response F-4 for clarification regarding the need to obtain an ITP before moving handling any Desert Tortoise. Specific mitigation for potential impacts to Desert tortoise is provided in Mitigation Measures IV.2, IV.3 and IV.4.

As regards mitigation measure IV.1.5., the performance standard references the educational course work, and the fact that construction personnel must notify the project biologist if a bird's nest is found by them. The performance standard goes on to state that the nest would be relocated "if possible." The project biologist will not relocate a nest for a species covered by MBTA if active and occupied, and will comply with the requirements of law.

Finally, as regards mitigation measure IV.1.11., the performance standard is again related to the course work that is to be presented to the construction personnel. The mitigation measure applicable to the actual pre-construction survey for tortoise is contained in mitigation measure IV.2. Further we note that the authorized biologist who will be making decisions regarding how measures need to be implemented on the ground is approved by the United States Fish and Wildlife Service and California department of Fish and Wildlife based in part by a demonstrated expertise in Desert Tortoise and a track record of implementing measures in accordance with the federal and state Endangered Species Act. As such, the authorized biologist has discretion as to where clearance surveys are required based on the identification of suitable habitat and their expertise on the species and its habitat. The measure is enforceable through the process of ensuring an authorized biologist is identified and approved for the project and that avoidance measures for tortoise are provided by the authorized biologist.

Comment G-5 Item 13 says that permanent or temporary exclusion fencing *may* be required. We take it this is superseded by MM IV.3, but it makes the mitigation measures questionable.

Response G-5 As described in Response G-4, the performance standard contained in IV.1.13. describes the course work to be implemented with construction personnel. The standards to be implemented for tortoise fencing are contained in mitigation measure IV.3. It should be noted that exclusion fence will be used for the project site; however, it is not proposed for off-site improvements as it is not deemed necessary for all the reasons set forth in Response G-9.

Comment G-6 MM IV.2 provides for a preconstruction survey no more than 7 days prior to earth moving activities for the desert tortoise, kit fox, burrowing owl, and migratory birds. Given the lack of exclusion fencing, it should be the day before, or else your mitigation will be ineffective to mitigate potentially significant impacts. The MM states that the biologist should do a report, with recommendations which *could* include many items which you list. Again, this is unenforceable, and the conclusion that impacts will be mitigated to less than significant levels is not based on substantial evidence.

Response G-6 As with Mitigation Measure IV.1, Mitigation Measure IV.2 provides performance standards for the pre-construction survey that is required by the mitigation measure and identifies potential avoidance measures based on the result of the pre-construction surveys (which will be conducted 3 days prior to commencement of construction – see Response G-2).

As regards the performance standards listed in the mitigation measure, they are entirely appropriate and are described to provide a range of options that could result based on the pre-construction survey itself. The preparation of a

report is mandated. What that report includes will depend on the findings of the survey, and the best practices applicable based on these findings. The measure further provides "Any and all recommendations included in the study shall be implemented . . .."; therefore, this measure is clearly enforceable.

See also comments and responses under item F, above.

Comment G-7 In MM IV.2 Item 1 you state that the avian breeding season is March 1 through September 15. This is inaccurate. It begins in January for raptors, and for the loggerhead shrike noted on the Project site in the biological survey. *See* Attachment A. Moreover, Item 1 is fully ineffective because it calls for a survey during this artificially limited breeding season only "no less than 30 days prior to commencement of project activities." Surveys should be only 1 day prior to commencement. Item 4 provides for buffers, but Item 6 provides those buffers may be reduced and sound barriers put in place. This would be wholly ineffective, again. Item 7 calls for nest surveys and/or monitoring at a minimum weekly during nesting season, "unless it is determined that less frequent visits would be necessary." If construction is ongoing at the site with nests with limited buffers, we see no set of circumstances where less than weekly site visits by the biologist would be appropriate.

Response G-7 As noted above, Mitigation Measure IV.2 has been clarified to note that the Project is required to conduct nesting bird surveys beginning February 1. Further, the requirements of the SAA are incorporated as project design features (as stated under criteria b and c of Section IV, Biological Resources, of the IS/MND) and condition 2.11 of the SAA states that nesting bird surveys will be conducted 3 days prior to commencement of project activities. Further, condition 2.10 of the SAA requires that a Nesting Bird/Burrowing Owl Plan be submitted to CDFW for review and approval prior to construction. The Plan must address avoidance and minimization measures for nesting birds. A nesting bird log will be submitted to CDFW. Therefore, nesting buffers and avoidance measures will meet the CDFW's performance standards.

Comment G-8 *Cumulative impacts.* Your IS does not assess cumulative impacts to biological resources from the planned project in combination with other projects. While this might have been addressed in the Specific Plan EIR, we do not think it was since it called for site-specific evaluations.

Response G-8 The commenter is incorrect. Please see Specific Plan EIR pages VIII-3 through VIII-4. The Specific Plan EIR addressed the need for pre-construction surveys and for species-specific surveys. It also acknowledged the loss of habitat resulting from development of the Specific Plan area. It also described that the Specific Plan area is already impacted by human activity, with the scattered development of properties, roads and other

infrastructure. The EIR also identified that the Town was preparing a multiple species habitat conservation plan, which would, when adopted, address the loss of habitat and the preservation of areas for long term conservation of habitat and species. Moreover, the commenter points to no evidence, much less substantial evidence, showing that any cumulative impact will occur as a result of the proposed Project. Accordingly, no further response is required.

Comment G-9 *Mitigation Monitoring Program*. Program measure IV.A calls for submission of course materials and a sign in sheet for construction staff sometime prior to the issuance of a building permit. If the building permit comes, as we suspect, after the grubbing, grading, and trenching permits, this is too late in the process. Measure IV.C regarding tortoise exclusion fencing is timed more properly, but this fencing does not appear to be required for the offsite improvements. This is a failing both in your MMRP and in MM IV.3.

Response G-9 The commenter is incorrect. Mitigation Measure IV.1 clearly states that the education program is to be constructed "prior to the initiation of any earth moving or construction activities on the project site" and the Applicant will obtain sign in when the training is conducted. The assembly of the materials and delivery to the Town is to occur prior to the issuance of building permits, to allow sufficient time for the biologist to collect the information and prepare his report. However, for the sake of clarity regarding the timing of the education programs, the Timing section under Measure IV.A is modified to require that the course materials and sign in sheet for construction staff be provided "prior to initiation of any construction activity."

As regards Mitigation Measure IV.3, the commenter is correct exclusionary fencing is not required for off-site improvements which consists of roadway improvements, pipe water main relocation and extensions on the frontage roadways and undergrounding of power lines on Navajo Road. Exclusion fencing is not practicable around roadways given that they must remain accessible for vehicular use. A biological monitor will ensure impacts to Desert Tortoise will not occur from off-site improvements. All mitigation measures apply to the entire project.

Comment G-10 *Threshold d. Will the Project interfere substantially with the movement of wildlife or impeded the use of native wildlife nursery sites?* Again, you assert a less than significant impact. We disagree, given you found 8 kit fox burrows on site. This means the site could qualify as a nursery site. Regarding your conclusion that the site is "isolated," the California Department of Fish & Wildlife apparently did not think so based on the multiple conditions it negotiated in the Streambed Alteration Agreement.

Response G-10 The commenter's statement that the site "could qualify as a nursery site' is unsupported. As described in detail in the biological resource survey prepared for the project, extensive effort was made to determine whether kit

fox burrows were occupied. This included the application of an inert powder at each burrow, and nocturnal monitoring to identify the species, if on site. No kit fox paw marks were found at any of the burrows. Furthermore, the surveys in April of 2015 and May of 2016 occurred when kit fox pups would be emerging from their dens. Therefore, the site is not a "nursery" site, and the commenter's statement remains unsubstantiated.

As regards the SAA conditions, it is unclear whether the commenter is referring to kit fox or other species. However, the Department imposed conditions which are entirely consistent with the mitigation measures and performance standards provided in the Initial Study.

Comment G-11 You indicate here that the Specific Plan EIR called for site-specific studies and these studies were done and that less than significant impacts would occur.

Threshold b. Would the Project cause a substantial adverse change in the significance of an archaeological resource or tribal cultural resource? You state that the San Manuel Band of Mission Indians indicated the site was within its ancestral territory and requested a Native American monitor to be present during site disturbing activities. You omit to mention that your final archaeological and paleontological resource study recommends that independent of this, full-time archaeological resource monitoring is required until it is determined there is no more potential for archaeological resources to be present. The study mentions that a prehistoric isolate was previously found onsite, though your IS does not mention this.

Response G-11 The commenter is incorrect. Mitigation Measure V.1 specifically states that both an archaeological monitor and a Tribal monitor are to be on site during all ground disturbing activities. There was no omission in the Initial Study.

The Initial Study correctly states that the currently completed resource study did not identify any resources. The Initial Study further includes multiple cultural resource reports, including the report completed in 2007 which identified a prehistoric isolate that was found to be less than significant, as isolates usually are. The Initial Study and associated documents provide a comprehensive description of the cultural resource conditions on the site, fully address the protection of these resources, and provides for monitoring to assure that unidentified resources, if found, are properly mitigated. For example, Mitigation Measures V.1 and V.2 empower the archeological, Native American, and paleontological monitors to stop construction if any unanticipated resource is located during construction.

Comment G-12 *Mitigation & Monitoring Program.* Item V.A provides that the Project proponent shall present the Town with agreements with qualified monitors. It says this is to happen upon "receipt of agreement and onsite inspections,"

but this is indeterminate as to time. It needs to be prior to issuance of a grading permit.

Response G-12 The Monitoring Program item specifically states that the Town will inspect the project site to assure that monitoring is occurring during earth moving activities. Nonetheless, and to further clarify the timing, the MMRP shall be revised to clarify that monitoring agreements must be submitted to the Town prior to the issuance of a grading permit.

Comment G-13: *Threshold c. Would the Project directly or indirectly destroy a unique paleontological resource of unique geologic feature?* You acknowledge that other sites in the area have yielded mammalian resources in Pleistocene sediments, which may occur at depths at the Project site. As a mitigation measure MM V.2 you provide that a qualified paleontological monitor shall be onsite for excavations greater than five feet below ground. But your final archaeological and paleontological report says that the standard should be three feet below ground. Additionally, regarding your MM&RP, you indicate that the Project proponent will provide the Town with an agreement with a paleontological monitor, but again this is upon "receipt of agreement and site inspections," a completely indeterminate time. The IS should specify this needs to be prior to issuance of any grading permit.

Response G-13 Comment noted. Although the Town believes that a requirement for monitors where excavation exceeds five feet is all that is needed to fully mitigate for impacts, the Town will nonetheless amend Mitigation measure V-2 to require monitoring for all excavation of more than 3 feet below ground. The distinction between when work will occur three to five feet below ground is not meaningful at this site give the nature of the excavation that will occur (i.e., any excavation that would disturb soils three feet below the surface would also likely disturb soils five feet below the surface). This will further reduce this already insignificant impact. See also Response G-12.

Comment G-14 The two thresholds under the CEQA Guidelines are *a. Whether the Project would generate greenhouse gas emissions that may have a significant impact on the environment,* and *b. Whether the Project would conflict with an applicable plan, policy or regulation adopted for the purpose of reducing greenhouse gas emissions?*

You say there is no significant impact because neither the construction nor the operation of the Project will lead to emissions over the Mojave Desert Air Quality Management District's threshold of 100,000 MTCO2e a year. First, we need to disagree with the threshold on the ground it is not based on substantial evidence. The California Air Resources Board has identified a goal of 4.7 million MTCO2e a year from 2007 to 2020. This means that each project the MDAQMD exempts at 100,000 MTCO2e a year is up to potentially 2% of ARB's annual statewide goal.

We believe you should evaluate this Project in comparison with the far more appropriate threshold proffered by the Bay Area Air Quality Management District of 1,100 MTCO2e a year for land use projects. *See* Attachment B. *See also* Attachment C (identical standard proposed by SMAQMD staff). Under this standard, the Project would have a significant impact.

Response G-14 The MDAQMD GHG threshold is an established threshold adopted by the District July 31 of 1995, and amended February 28, 2011, that is specific to the conditions and circumstances in the air basin within which the proposed project would be located. Furthermore, the BAAQMD threshold reflects the conditions and circumstances in the San Francisco Bay Area – a highly developed and densely populated area entirely unlike the largely rural and undeveloped area in which the proposed project would be located – and the BAAQMD has no legal authority over the air basin within which the proposed project would be located. Ultimately, the project is located within the Mojave Desert Air Quality Management District and is not governed by the rules and regulations of the SCAQMD or BAAQMD. The Initial Study correctly uses an adopted threshold of the air quality management district in which the project's facilities are located.

The commenter is incorrect in implying that the project will result in emissions equating to 2% of the statewide GHG emissions. Even under the conservative assumptions made for the project, the project will potentially generate approximately 46,050 CO_2E tons per year, equivalent to 0.98% of ARB's annual statewide goal.

Project-generated GHG emissions were evaluated using the most recent version of the California Emissions Estimator Model (CalEEMod Version 2013.2.2), as set forth in "Project Jupiter Project and North Apple Valley Industrial Specific Plan Air Quality and Greenhouse Gas Emissions Comparison Evaluation," Dudek 2016 ("Dudek AQA 2016"), attached to and incorporated into this Response to Comments as Exhibit A.

Operation of the project would result in GHG emissions through energy use (electricity and natural gas); motor vehicle trips; electricity usage associated with water supply, treatment, and distribution and wastewater treatment; and solid waste disposal. Annual GHG emissions from these sources were estimated using CalEEMod. The project would primarily generate GHG emissions from mobile sources including truck and employee trips.

CalEEMod was used to estimate project-generated mobile source emissions from employee trips and truck trips based on the assumptions provided in Dudek AQA 2016 Section 5. CalEEMod was also used to estimate emissions from the project's area sources, which includes operation of gasoline-powered landscape maintenance equipment, which produce minimal GHG emissions.

The estimation of operational energy emissions was based on CalEEMod land use defaults and units or total area (i.e., square footage) of the project. Annual natural gas and electricity emissions were estimated in CalEEMod using the emissions factors for Southern California Edison, which would be the energy source provider for the project. The project would meet the 2013 California Building Energy Efficiency Standards (Title 24, Part 6, of the California Code of Regulations). The energy input ratios for Title 24 for electricity and natural gas were updated to meet the 2013 Title 24 standards, while default values as provided in CalEEMod, were assumed for Non-Title 24 electricity and natural gas.

Supply, conveyance, treatment, and distribution of water for the project require the use of electricity, which would result in associated indirect GHG emissions. Similarly, wastewater generated by the project requires the use of electricity for conveyance and treatment, along with GHG emissions generated during wastewater treatment. Water consumption estimates for both indoor and outdoor water use were based on CalEEMod default values.
The project would generate solid waste and would therefore result in CO_2E emissions associated with landfill off-gassing. CalEEMod default values for solid waste generation were used to estimate GHG emissions associated with solid waste.

Dudek AQA 2016 Table 12 presents estimated maximum daily project-generated GHG emissions from area sources, energy sources, and motor vehicles. It was assumed that all project-generated emissions, including all mobile source emissions, would occur within the MDAQMD jurisdictional boundaries. Additional details regarding these calculations are provided in Dudek AQA 2016 Attachment A.

Dudek AQA 2016 Table 12
Estimated Project-Generated Maximum Daily Operational Greenhouse Gas Emissions

EMISSION SOURCE	CO_2 (POUNDS/DAY)	CH_4 (POUNDS/DAY)	N_2O (POUNDS/DAY)	CO_2E (POUNDS/DAY)
Area	0.62	0.00	0.00	0.65
Energy (natural gas)	785.16	0.02	0.01	789.94
Mobile (employee trips)	7,613.00	0.41	0.00	7,621.50
Mobile (truck trips)	226,805.23	1.67	0.00	226,831.73
Total	**235,204.01**	**2.10**	**0.01**	**235,243.82**
MDAQMD threshold	-	-	-	*548,000*
Threshold exceeded?	-	-	-	No

Notes: See Dudek AQA 2016 Attachment A for detailed results.
Area sources = landscape maintenance equipment. Energy sources = natural gas. Mobile sources = motor vehicles.
CO_2 = carbon dioxide; CH_4 = methane; N_2O = nitrous oxide; CO_2E = carbon dioxide equivalent; - = not applicable

As shown in Dudek AQA 2016 Table 12, estimated total maximum daily operational project-generated GHG emissions would be approximately 235,244 CO_2E pounds

per day would not exceed the significance threshold established by the MDAQMD of 548,000 CO_2E pounds per day.

Dudek AQA 2016 Table 13 presents estimated annual project-generated GHG emissions from area sources, energy sources, motor vehicles, solid waste generation, water consumption, and wastewater treatment. All project-generated emissions were assumed to occur within the MDAQMD jurisdictional boundaries.

Dudek AQA 2016 Table 13
Estimated Project-Generated Annual Operational Greenhouse Gas Emissions

EMISSION SOURCE	CO_2 (MT/YEAR)	CH_4 (MT/YEAR)	N_2O (MT/YEAR)	CO_2E (MT/YEAR)	CO_2E (TONS/YEAR)
Area	0.05	0.00	0.00	0.05	0.06
Energy (natural gas and electricity)	1,320.16	0.07	0.02	1,326.79	1,462.54
Mobile sources (employee trips)	1,137.20	0.07	0.00	1,138.60	1,255.09
Mobile sources (truck trips)	37,394.41	0.21	0.00	37,398.78	41,225.10
Solid waste	259.67	15.35	0.00	581.94	641.48
Water supply and wastewater	1,035.16	10.31	0.25	1,330.00	1,466.07
Total	**41,146.65**	**26.01**	**0.27**	**41,776.16**	**46,050.34**
MDAQMD threshold	-	-	-	-	*100,000*
Threshold exceeded?	-	-	-	-	No

Notes: See Dudek AQA 2016 Attachment A for detailed results.
Area sources = landscape maintenance equipment. Energy sources = natural gas and electricity. Mobile sources = motor vehicles. Solid waste = solid waste landfill off-gassing. Water supply and wastewater = supply, conveyance, treatment, and distribution of water and wastewater.
MT = metric tons; CO_2 = carbon dioxide; CH_4 = methane; N_2O = nitrous oxide; CO_2E = carbon dioxide equivalent; - = not applicable

As shown in Dudek AQA 2016 Table 13, estimated total annual project-generated GHG emissions would be approximately 46,050 CO_2E tons per year as a result of project operations, does not exceed the significance threshold established by the MDAQMD of 100,000 CO_2E tons per year.
The SCAQMD has not adopted recommended numeric CEQA significance thresholds for GHG emissions for lead agencies to use in assessing GHG impacts of residential and commercial development projects[11]. In October 2008, SCAQMD presented to the Governing Board the Draft Guidance Document – Interim CEQA Greenhouse Gas (GHG) Significance Threshold (SCAQMD 2008). The guidance document was not adopted or approved by the Governing Board. The SCAQMD

[11] To be clear, the South Coast AQMD has adopted a threshold of significance of 10,000 MT/yr CO2eq for industrial project stationary sources for which the SCAQMD is the lead agency. However, this threshold is inapplicable to the proposed Project because (i) the SCAQMD is not the lead agency for the Project; (ii) the Project's emissions from buildings and other stationary sources are under regulation by MDAQMD, not the SCAQMD; and (iii) the SCAQMD's threshold expressly applies to *stationary* sources, whereas the only emissions that the Project may cause within the SCAQMD's jurisdiction are *mobile* source emissions.

formed a GHG CEQA Significance Threshold Working Group to work with SCAQMD staff on developing GHG CEQA significance thresholds until statewide significance thresholds or guidelines are established. The most recent working group meeting on September 28, 2010 (SCAQMD 2010), proposed a tiered threshold approach. Tier 3 consists of screening values, which the lead agency can choose, but must be consistent with all projects within its jurisdiction. Under Tier 3, if a project's emissions are under one of the following screening thresholds, then the project is less than significant: (a) All land use types: 3,000 MT CO_2E per year, (b) Based on land use type: residential: 3,500 MT CO_2E per year; commercial: 1,400 MT CO_2E per year; industrial: 10,000 MT CO_2E per year; or mixed use: 3,000 MT CO_2E per year. The SCAQMD recommends that a project's construction emissions are averaged over 30 years and are added to a project's operational emissions.

It is not appropriate to divide GHG emissions by air district or air basin because GHG emissions have a global effect on climate change. Nonetheless, truck emissions were presented by air district in Dudek AQA 2016 for disclosure purposes. To estimate the GHG emissions by air district, the unmitigated mobile source truck emissions shown in Dudek AQA 2016 Table 15 were apportioned to each air district according to the relative average weekday truck VMT discussed in Section 3 of the Dudek memorandum. For disclosure, Dudek AQA 2016 Table 17 presents a summary of estimated annual operational mobile source truck trip GHG emissions for each air district.

Dudek AQA 2016 Table 17
Estimated Project-Generated Annual Operational Mobile Source - Truck Trips Greenhouse Gas Emissions by Air District

MOBILE SOURCE – TRUCK TRIPS LOCATION	CO_2 (MT/YEAR)	CH_4 (MT/YEAR)	N_2O (MT/YEAR)	CO_2E (MT/YEAR)	CO_2E (TONS/YEAR)
MDAQMD	23,932.42	0.13	0.00	23,935.22	26,384.06
SCAQMD	13,461.99	0.08	0.00	13,463.56	—

Notes: See Dudek AQA 2016 Attachment A for detailed results.
MT = metric tons; CO_2 = carbon dioxide; CH_4 = methane; N_2O = nitrous oxide; CO_2E = carbon dioxide equivalent

Based on the distribution of truck trips and trip distances, it was estimated that 64% of the project's emissions would occur within the MDAQMD and 36% would occur within the SCAQMD.

Comment G-15 You also assert that the Project follows the Town's Climate Action Plan because it will have high efficiency HVAC and fans. You state that the 30% reduction in construction energy use per the California Building Code is below the Town's Climate Action Plan goal of 15% below 2005 levels by 2020. This isn't an apples-to-apples comparison. First, you are comparing energy efficiency to GHG reductions. Second, the bulk of the GHG emissions from this Project will come from truck emissions, not building efficiencies or inefficiencies. You also assert that statewide programs and standards "including new fuel-efficient standards for cars and expanding the use of renewable energies" will help reduce long-term emissions. Again the majority of emissions will come from diesel trucks and will be unaffected. And you could have, but have not, provided for solar panels on the building.

Response G-15 The Initial Study correctly describes that the project will not conflict with the Climate Action Plan. Mention of HVAC efficiency and adherence to California building codes were used as limited examples of how the project will comply with the CAP. The CAP does not speak to or seek to regulate vehicle emissions, and performance standards as a project specific issue, and therefore vehicle emission measures are not a requirement to demonstrate compliance with the Town's CAP. The Initial Study does not, as the commenter implies, conclude that development of this project will result in a 15-30% reduction in GHG emissions from *all* potential sources, although the Initial Study *does* analyze and disclose the GHG emissions from all potential sources and Dudek AQA 2016 has confirmed that the project's estimated GHG emissions will not exceed the thresholds set by the MDAQMD (see Tables 12, 13, 17 and response to Comment G-14). Accordingly, no mitigation measures are required under CEQA. (State CEQA Guidelines § 15126.4(a)(3) ("Mitigation measures are not required for effects which are not found to be significant.").)

Nonetheless,, the applicant has reconfirmed the details regarding project features that are already incorporated into the proposed Project's design in compliance with the Town's CAP. Although these features are already an inherent part of the Project description, the Town will nonetheless expressly include these features as conditions of approval for informational purposes. These features include:

Ridesharing Program:

- To encourage associates to participate in carpooling for transportation to and from the DC, the applicant will provide the following services/incentives (AVDC Inc. 2016.).
    1. The Human Resources office will maintain a bulletin board on which the HR manager will post information on those associates seeking to carpool. The applicant will assist interested associates in finding potential carpooling partners.
    2. The applicant will designate up to 20 preferred parking spaces at the facility reserved for those associates who participate in carpooling.
    3. The applicant will provide referral services and information on ride share matching.
    4. The applicant will provide assistance to associates in forming new carpooling groups and ongoing carpooling support.
    5. The applicant will provide associates with regularly updated information about options for using public transportation.
    6. Once carpools are established, the applicant will track associate carpooling participation patterns.
    7. The applicant will coordinate carpooling events throughout the year to provide associates with information on carpooling and to encourage associates to form and maintain carpooling groups.

8. The applicant will disseminate internet websites to associates to provide carpool opportunities (www.erideshare.com and www.carpoolworld.com).

- The applicant also will assist interested associates to determine the feasibility of carpooling to and from work and facilitate meetings in which potential carpool groups can initially meet and discuss compatibility. The applicant will provide a list of suggested topics for potential carpooling associates to discuss in forming carpool groups.

Architecture:

- The project would use low-emissivity window systems and shades for energy savings.
- The project would use low VOC content products (e.g., paints and finishes) that meet or exceed the requirements for CALGreen criteria.
- The project would divert construction waste to recycling facilities in lieu of landfills to reduce emissions associated with landfill off-gassing.
- The project would use higher R-values roof and building insulation for reduced energy consumption.

Mechanical – HVAC:

- The project would utilize a high efficiency packaged single zone variable air volume rooftop units with energy saving economizer, automatic temperature setback, occupancy sensors, and optimized controls for maximum energy performance.
- The project would utilize partial HVAC unit redundancy for times of low cooling demand or maintenance periods; some units can be switched off and still maintain space conditioning to increase energy conservation.
- The project would utilize demand controlled ventilation controlling CO_2 levels, allowing a reduction in fresh air / outside air intake to reduce the mechanical cooling and optimize energy performance.

Plumbing:

- The project would use low-flow water efficient lavatories and urinals in all bathrooms with automatic sensors to reduce water demand and increased water efficiency rating.
- Indoor Water Use
  1. The project would install low-flow bathroom faucets, achieving an approximately 77% reduction in water flow.
  2. The project would install low-flow toilets, achieving an approximately 31.8% reduction in water flow.
- Outdoor Water Use
  1. The project would install water-efficient irrigations systems, achieving an approximately 50% reduction in water use.

Electrical:

- The project would use LED lighting in lieu of fluorescent or HID to achieve a lighting design that uses 31% less energy as allowed by Title 24 requirements.

- The project building's design would exceed Title 24 requirements by approximately 7%.
- The project would install high efficiency lighting, achieving a 31% reduction in energy use.
- The project would install energy efficient fans that would reduce energy consumption.

Implementation of the aforementioned project design features, which are required elements of the proposed Project's design, would reduce project-generated criteria air pollutant emissions and GHG emissions. Energy efficiency features would reduce the consumption of natural gas and electricity, specifically energy consumed for building heating, cooling, and lighting, and associated emissions. Water use reduction features would reduce indirect GHG emissions associated with water supply, treatment, and distribution, and wastewater, which are primarily associated with electricity consumed and the treatment process. The diversion of construction solid waste to recycling facilities would reduce CO_2 and CH_4 emissions associated with the decomposition of waste disposed of at a landfill.

Furthermore, the discussion of statewide fuel-efficiency standards was provided for public disclosure and background purposes. The conclusion that the project's vehicle GHG emissions will be less than significant is not dependent on the implementation of those fuel-efficiently standards. The Initial Study fully accounted for and disclosed the anticipated GHG emissions from all sources, including those from truck operations.

Ultimately, the significance of vehicle emissions was addressed by the established Mojave Desert AQMD GHG threshold, which showed the project to have a less than significant impact.

Finally, solar is not required as part of the CAP or established GHG regulation. Because GHG emissions were already found to be less than significant, further mitigation to reduce energy demand and any related GHG emissions is not required for the project. (State CEQA Guidelines § 15126.4(a)(3) ("Mitigation measures are not required for effects which are not found to be significant.").)

Comment G-16 *Threshold b. Would the Project create a significant hazard to the public or the environment through reasonably foreseeable accident conditions involving the release of hazardous materials into the environment?* You acknowledge that a portion of the Project site was used by the U.S. military as a bombing site. This means there is the potential for unexploded ordnance – you say in the northwest corner of the site. As you acknowledge, the bombing spilled over into the adjacent site but you have not provided for mitigation there. This is along Lafayette Street on the way to Dale Evans Parkway, which seems to us to be the most likely traveled

route. This represents a hazard to neighboring uses and any travelers on Lafayette Street.

Response G-16 Comment noted. See responses A-2 and G-17. The Ordnance Investigation conducted for the proposed project was comprehensive, and included analysis of all the potential impacts associated with past use of the site and its surroundings for bomber training. The mitigation measures include in the Initial Study cover any and all portions of the project, including off-site improvements. Therefore, the pertinent measures will be applied to those portions of improvements on Lafayette Street that cross the range area. Nonetheless, to provide further clarification, MM VII.1 shall be revised to clarify that it applies to all areas within the site "including off-site improvement areas." The Initial Study correctly describes the potential impacts, and provides mitigation measures to assure that impacts associated with ordnance scrap are less than significant.

Comment G-17 In MM VII.1 you state that the bombing target area and within 300 feet of it *within the site* shall be cleared by a qualified technical team. The Proponent should get clearance to clear the areas *adjacent* to the site as well. In MM VII.5 you state there should be a Site Management Plan for future grading and site disturbance within 300 feet of the bombing area. The area should be completely cleared under MM VII.1, such that there is no need for this further measure.

Response G-17 The basis for the commenter's assertion is unclear. The project proponent is responsible for mitigating impacts associated with the project on any area where the project could have an impact. The mitigation measures included in the Initial Study cover any and all portions of the project, including off-site improvements. Therefore, the pertinent measures will be applied to those portions of improvements on Lafayette Street that cross the range area. The project proponent will do so by implementing conditions of approval and mitigation measures. Nonetheless, to provide further clarification, MM VII.1 shall be revised to clarify that it applies to all areas within the site "including off-site improvement areas." The project proponent is not responsible for conducting investigations and remediation on other parties' private property, nor would it be appropriate for the Town to impose mitigation measures on a third party. Specifically, to be valid under CEQA, a mitigation measure "must be consistent with all applicable constitutional requirements, including the following: (A) [t]here must be an essential nexus (i.e., connection)" between the measure and the project; and (B) the measure must bear a "rough proportionality" to the impacts of the project. (State CEQA Guidelines, § 15126.4(a)(4)(A)-(B) [citing *Nollan v. California Coastal Commission* (1987) 483 U.S. 825 and Dolan v. City of Tigard (1994) 512 U.S. 374].) Here, there is no evidence, much less substantial evidence, showing that the proposed project may result in off-site impacts relative to unexploded ordnance (if any). Thus, there is no nexus between the project and the commenter's request that the applicant survey and mitigate for potential unexploded

ordnance off-site. (See *Bowman v. California Coastal Commission* (2014) 230 Cal.App.4th 1146 [finding that a condition in a coastal development permit that required an applicant to mitigate for impacts outside of the coastal zone violated the Nollan/Dolan standard].)

Additionally, a mitigation measure requiring remediation of off-site ordnance (if any) is unnecessary because the impacts of the project have already been found to be less than significant. CEQA does not require the imposition of mitigation for insignificant impacts. (State CEQA Guidelines § 15126.4(a)(3) ("Mitigation measures are not required for effects which are not found to be significant.").)

Finally, and even if there were a potentially significant impact (which there isn't), the imposition of such an off-site obligation would be legally infeasible and unenforceable, because the Town cannot impose a mandatory requirement on the applicant to trespass onto adjacent lands not owned by the applicant. (See (Pub. Resources Code, § 21081 6(b); State CEQA Guidelines, § 15126.4(a)(2).)

Comment G-18 *Mitigation Monitoring.* Your MM&RP provides the Project proponent will provide the Town with an agreement with a qualified ordnance disposal team, but again, the "when" for this measure is indeterminate: it should be prior to grading, grubbing, etc. permits. As the Mitigation Monitoring plan stands now, it is not enforceable.

Response G-18 The commenter is incorrect. The Monitoring measure specifically states that the Town will assure that the monitor is on site during all earth moving activities. The agreement, therefore, must be presented before the initiation of these activities." See also Response G-12, describing clarification to MMRP timing requirement.

H. Lozeau Drury, May 24, 2016

Comment H-1 We have reviewed the IS/MND with the assistance of:

1. Traffic Engineer, Daniel T. Smith Jr., P.E.,
2. Ecologist, Shawn Smallwood, Ph.D., and
3. Hydrogeologist, Matthew Hagemann, C.Hg., MS. and Environmental Scientist Jessie Jaeger of Soil/ Water/Air Protection Enterprise (SWAPE).

These experts have prepared written comments that are attached hereto, and which are incorporated in their entirety. The City (sic) of Apple Valley ("City") should respond to the expert comments separately.

Response H-1 Please note that the correct reference is Town of Apple Valley, not City of Apple Valley. The comment letter also includes three attachments, which are reports the commenter claims are prepared by "experts." Those general

reports do not constitute substantial evidence showing that a potentially significant impact for at least three reasons.

- First, such reports are not supported by factual conditions on the site. For example, none of the experts have any direct experience with the project area: none has visited the site; they do not understand that the DRECP is first a multiple species habitat conservation plan, or that it extends from north of the Owens Valley to the Mexican border; do not provide their modeling assumptions, and instead cite unsubstantiated results.
- Second, such reports merely contain opinions, speculation, and unsubstantiated narrative. Most egregious of these is the analysis by SWAPE, which asserts that their air quality modeling showed significant impacts, but provides no information whatever on their assumptions, or the model runs on which their assertions were based. Further, the biologist made no site visit, and relied on a bird nesting investigation paper for an area of central Mexico. Finally, the traffic engineer clearly has not reviewed development records for the area, and relies on an assumption that development has occurred "on the portions of the Industrial Specific Plan area that have been developed in the decade subsequent to initiation of the Specific Plan…or changes in ambient traffic over that time period." Clearly, the traffic engineer has no understanding that little development has occurred, and that the recession and other factors resulted in decreases in annual ambient traffic growth rates, and not increases in those growth rates.
- Third, the project-specific reports and studies prepared as part of the MND demonstrate that the commenter's reports are clearly erroneous and inaccurate, as described above.

Because CEQA specifically states that substantial evidence showing potentially significant impacts does not include factual deficiencies, opinion/speculation/narrative, and clearly erroneous and inaccurate information and only extends to expert testimony that is actually supported by *fact* (State CEQA Guidelines, § 15384(b), none of the three reports attached to the comment letter constitute substantial evidence.

Comment H-2 After reviewing the IS/MND, together with our team of expert consultants, it is evident that the document contains numerous errors and omissions that preclude accurate analysis of the Project's environmental impacts. As a result of these inadequacies, the IS/MND fails as an informational document. In addition, Commenters ask the City (sic) of Apple Valley ("City") to prepare an environmental impact report ("EIR") for the Project because there is a fair argument that the Project may have significant unmitigated impacts, including impacts on air quality, traffic, and biological resources. An EIR is required to analyze these and other impacts and to propose feasible mitigation measures to reduce the impacts to the extent feasible.

Response H-2 The commenter asserts throughout the comment letter that the "fair argument" test applies to determinations of whether the Project may result in potentially significant environmental impacts. Specifically, the commenter implies that that where substantial evidence supports a fair argument of significant environmental impacts, that an EIR must be prepared. However, this comment misstates the appropriate standard of review and is legally incorrect. Please see Response G-1 for a comprehensive explanation. Furthermore, even if the fair argument test did apply, there is no evidence – much less substantial evidence – supporting a fair argument that the project will result in potentially significant impacts as set forth in the responses to comment below.

Comment H-3 The EIR is the very heart of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.) As the California Supreme Court held, "[i]f no EIR has been prepared for a nonexempt project, but substantial evidence in the record supports a fair argument that the project may result in significant adverse impacts, the proper remedy is to order preparation of an EIR." (*Communities for a Better Env't v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 319-320, citing, *No Oil, Inc. v. City of Los Angeles* (1974)(*NRDC v. LA*) 13 Cal.3d 68, 75, 88; *Brentwood Assn. for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491, 504–505.) "Significant environmental effect" is defined very broadly as "a substantial or potentially substantial adverse change in the environment." Pub. Res. Code ["PRC"] § 21068; see also 14 CCR § 15382. An effect on the environment need not be "momentous" to meet the CEQA test for significance; it is enough that the impacts are "not trivial." *No Oil, Inc., supra,* 13 Cal.3d at 83. "The 'foremost principle' in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (*CBE v. CRA* (2002) 103 Cal.App.4th at 109.)

CEQA permits agencies to 'tier' EIRs, in which general matters and environmental effects are considered in an EIR "prepared for a policy, plan, program or ordinance followed by narrower or site-specific [EIRs] which incorporate by reference the discussion in any prior [EIR] and which concentrate on the environmental effects which (a) are capable of being mitigated, or (b) were not analyzed as significant effects on the environment in the prior [EIR]." (Cal. Pub. Res. Code § 21068.5.) "[T]iering is appropriate when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous [EIRs]." (Cal Pub Resources Code §21093.) The initial general policy-oriented EIR is called a programmatic EIR ("PEIR") and offers the advantage of allowing "the lead agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts." (14 C.C.R. §15168.) CEQA

regulations strongly promote tiering of EIRs, stating that "[EIRs] shall be tiered whenever feasible, as determined by the lead agency." (Cal Pub Resources Code § 21093.)

"Subsequent activities in the program must be examined in light of the program EIR to determine whether an additional environmental document must be prepared." C.C.R. § 15168(c). A PEIR may only serve "to the extent that it contemplates and adequately analyzes the potential environmental impacts of the project." (*Sierra Nevada Conservation v. County of El Dorado* (hereinafter "*El Dorado*") (2012) 202 Cal.App.4th 1156). If the PEIR does not evaluate the environmental impacts of the project, a tiered EIR must be completed before the project is approved. (*Id.*)

In very limited circumstances, an agency may avoid preparing a tiered EIR by issuing a negative declaration, a written statement briefly indicating that a project will have no significant impact thus requiring no EIR (14 Cal. Code Regs.§ 15371), only if there is not even a "fair argument" that the project will have a significant environmental effect. PRC, §§ 21100, 21064.) Since "[t]he adoption of a negative declaration . . . has a terminal effect on the environmental review process," by allowing the agency "to dispense with the duty [to prepare an EIR]," negative declarations are allowed only in cases where "the proposed project will not affect the environment at all." *Citizens of Lake Murray v. San Diego* (1989) 129 Cal.App.3d 436, 440. For these inquiries, the "fair argument test" applies. (*Sierra Club v. County of Sonoma*, 6 Cal.App.4th 1307, 1318; *See also Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1164 (**"**when a prior EIR has been prepared and certified for a program or plan, the question for a court reviewing an agency's decision not to use a tiered EIR for a later project 'is one of law, i.e., the sufficiency of the evidence to support a fair argument.'")) Under the fair argument test, a new EIR must be prepared "whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact. (*Id.* at 1316 (quotations omitted).) When applying the fair argument test, "deference to the agency's determination is not appropriate and its decision not to require an EIR can be upheld only when there is no credible evidence to the contrary." (*Sierra Club*, 6 Cal. App. 4th at 1312.) "[I]f there is substantial evidence in the record that the later project may arguably have a significant adverse effect on the environment which was not examined in the prior program EIR, doubts must be resolved in favor of environmental review and the agency must prepare a new tiered EIR, notwithstanding the existence of contrary evidence." (*Sierra Club*, 6 Cal.App.4th at 1319.)

The IS/MND acknowledges that it is a tiered CEQA document from the programmatic EIR for the North Apple Valley Industrial Specific Plan ("Specific Plan"). LIUNA agrees that a tiered EIR is required for the Project. First, a tiered EIR is required because the Specific Plan EIR upon which the City (sic) relies explicitly stated that it was a "programmatic" EIR and that

additional environmental analysis would be conducted for new development applications. Because the City (sic) made this representation to the public, it is now bound by it. Indeed, courts have required subsequent CEQA review in cases where the programmatic EIR relied upon has informed the public that later environmental review would occur. (Remy, Thomas, *Guide to CEQA*, p. 653 (11th ed. 2007), citing, *NRDC v. LA* (2002) 103 Cal.App.4th 268.) Apple Valley's Specific Plan EIR made clear that it was intended to serve only as a general "program EIR," and clearly contemplates the development of "project level" environmental review for later projects in the Specific Plan area. The Specific Plan states:

This EIR is meant to serve at a program level. Additional environmental documentation, such as environmental assessments and environmental impact reports, may be required for subdivisions, land use plans and other development applications that may be processed by the Town. (Specific Plan I-5) (emphasis added)

This point was reiterated by the City (sic) in the discussion of traffic impacts:

Given the programmatic nature of the Specific Plan and the associated traffic analysis, updated site-specific traffic studies will be required on a project-by-project basis prior to the implementation of such projects as tentative tract maps, conditional land uses or plot plan approvals within the boundaries of the Specific Plan. Subsequent traffic studies shall analyses the-existing traffic conditions and potential traffic impacts from each project. The need for subsequent traffic analysis shall be made on a case-by-case [sic] basis by the Town Engineer. (*Id*. at III-46.) (emphasis added)

The programmatic level of the Specific Plan study suggests that on-going and project specific traffic monitoring is required to assure adequate levels of service in the long-term. The Town shall periodically monitor conditions along roadway segments where General Plan and Specific plan level analyses indicate high levels of traffic congestion (*Id.* at III-47) (emphasis added)

Any member of the public reading the EIR would reasonably expect that the City (sic) would conduct project-level environmental review for a specific project within the Specific Plan area. Where the City (sic) represented that project level CEQA review would occur later, it must now follow through and conduct full and fair environmental review.
Furthermore, a tiered EIR is required because the PEIR did not analyze the environmental impacts of the Project that is now proposed. A PEIR may only "serve as the EIR for a subsequently proposed project to the extent it contemplates and adequately analyzes the potential environmental impacts of the project." (*El Dorado*, 202 Cal.App.4th at 11671.) The Specific Plan is only a general policy document intended to "guide the future development" of an approximately 4,937 acre tract of land through "development

standards and guidelines for the eventual development of a master planned industrial Park." (Specific Plan, p.I-6&7.) The Specific Plan did not commit to any specific project uses or locations for those uses, merely limiting development to "a broad range of clean manufacturing and warehousing uses, ranging from furniture manufacture to warehouse distribution facilities." (*Id.*at p. I-7) This included three types of industrial designations (Industrial –Specific Plan, Industrial – General, and Industrial – Airport) and commercial development to support the industrial development. (*Id.* at III-5.)

Apple Valley's Specific Plan does not even specifically resolve to construct a distribution warehouse, but only lists distribution warehouses as one potential type of industrial use permitted within the area. Consequently, the PEIR for the Specific Plan lacked the specifics to meaningfully analyze the Project's environmental impacts. It therefore, may not relieve the City (sic) from conducting a review of the potential environmental impacts of the Project. (*See El Dorado*, (2012) 202 Cal.App.4th 1156, 1171; *See also*, *Save Our Neighborhood v. Lishman,* 14 Cal. App. 4th 12888 (finding that a proposed Project was a new Project even though planned for the same land and involving a similar mix of uses where they had different Project proponents and different configuration of uses.))

Given that the Specific Plan EIR does not fulfill the City's (sic) obligation to conduct CEQA review for the Project, it is subject to the "fair argument" standard in determining whether a full tiered EIR is required. (PRC, §§ 21100, 21064). Thus, a negative declaration is only allowed if "the proposed project will not affect the environment at all." (*Citizens of Lake Murray v. San Diego* (1989) 129 Cal.App.3d 436, 440.) This means that a tiered EIR is required if any substantial evidence in the record indicates that a project may have an adverse environmental effect—even if contrary evidence exists to support the agency's decision. (14 C.C.R. § 15064(f)(1); *Sierra Club v. County of Sonoma*, 6 Cal.App.4th 1307, 1318; *Pocket Protectors v. City of Sacramento*, 124 Cal. App. 4th 903, 931 (Cal. App. 3d Dist. 2004); *Stanislaus Audubon Society v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150-15; *Quail Botanical Gardens Found., Inc. v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.) The "fair argument" standard creates a "low threshold" favoring environmental review through an EIR rather than through issuance of negative declarations or notices of exemption from CEQA. *Pocket Protectors*, 124 Cal.App.4th at 928. The following discussion demonstrates that there is a fair argument that the Project will have significant and unmitigated environment impacts, including air, traffic and biological impacts. Therefore, a MND is insufficient to meet the City's (sic) obligations under CEQA, and the City (sic) must prepare a full EIR.

Response H-3 Please see Response H-2 regarding the previously certified Program EIR and the standard of review.

Second, contrary to the commenter's claim, the Town did not commit in its prior Specific Plan EIR process to preparing further EIRs for every development proposal brought forward within the Specific Plan. To the contrary, the Town committed to reviewing subsequent proposals to confirm what further review under CEQA (if any) was required. (See, e.g., State CEQA Guidelines § 15162(c) (once an agency has certified a CEQA document, its obligation under CEQA is complete until and unless it issues a new discretionary approval).)

In addition, the Specific Plan EIR quantified all potential impacts of build out of the proposed project, including traffic, water resources and air quality impacts associated with build out of the entire Specific Plan. The Initial Study reviewed and reanalyzed the specific impacts associated with the proposed project, and correctly found that conditions in the Specific Plan area had not substantially changed; that growth and construction in the Specific Plan area had been considerably slower than that anticipated at the time the Specific Plan and EIR were prepared; that the impacts associated with the proposed project do not represent a substantial change in the impacts identified in the Specific Plan EIR; and that the proposed project's site-specific impacts could be mitigated to less than significant levels with the implementation of the Specific Plan EIR mitigation measures and associated site-specific mitigation measures.

Comment H-4 Establishing an accurate baseline is the *sine qua non* to adequately analyzing and mitigating the significant environmental impacts of a project. (*See* 14 C.C.R. §15125(a); *Save Our Peninsula Committee v. County of Monterey* (2001) 87 Cal.App.4th 99, 121-23 ("*Save Our Peninsula.*")) Every CEQA document must start from a "baseline" assumption. The CEQA "baseline" is the set of environmental conditions against which to compare a project's anticipated impacts. Section 15125(a) of the CEQA Guidelines states in pertinent part that a lead agency's environmental review under CEQA:

…must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time [environmental analysis] is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant." (Emphasis added.)

(14 C.C.R. § 15125(a); *See also*, *Save Our Peninsula Committee* (2001) 87 Cal.App.4th at 124-25.) As the Court of Appeal has explained, "the impacts of the project must be measured against the 'real conditions on the ground,'" and not against hypothetical permitted levels. (*Save Our Peninsula Committee* (2001) 87 Cal.App.4th at 121-23.)

Traffic Engineer Daniel Smith reviewed the MND and found that the traffic analysis conducted for the IS/MND failed to take into account current traffic and roadway conditions surrounding the Project. First, the traffic study relies on outdated traffic conditions. The MND's traffic analysis is based on tiering from the 2006 Specific Plan EIR. While the use of the Specific Plan's EIR is not inherently problematic, Mr. Smith concluded that the city (sic) failed to conduct the proper analysis to ensure that the conditions relied upon in the Specific Plan PEIR were still accurate. (*See,* Comment of Daniel Smith, p.2 attached hereto as Appendix A.) Specifically, he found that the IS/ MND failed to consider changes since the PIER in traffic both from development within the Specific Plan boundaries and ambient traffic increases from new development outside of the Specific Plan boundaries. (*Id.*) The City (sic) may not rely on a baseline derived from 10-year-old data without any consideration of its continued applicability.

Furthermore, Mr. Smith concluded that the City (sic) used an improper baseline in its traffic analysis by relying on aspirational roadway conditions that do not yet exist. (*Id.* at 3.) As with the baseline traffic, the IS/MND relied on the Specific Plan EIR to determine baseline roadway conditions. However, instead of using the conditions in place when the Specific Plan EIR was drafted in 2006, which consisted of mostly unpaved local roads serving minimal traffic operations, the IS/MND relied on the upgraded road conditions which the Specific Plan intended to be implemented by 2030. Mr. Smith explains that the success of these planned improvements will depend on the course of development within the Specific Plan Boundaries:

> Logically, if development takes place in a coordinated way, sub-area by sub-area, the improvements to the circulation system triggered by individual developments will be mutually supportive and satisfactory transportation service will be maintained throughout the Plan buildout period. However, if initial development is scattered over the entire Plan area, circulation system improvements made may not be mutually sustaining and significant traffic impacts may occur and may continue for years until the Plan nears full development. The IS/MND contains no quantified analysis demonstrating that there would not be traffic impacts with the land developments and circulation system upgrades that will have taken place by the date of completion of the Jupiter Project.

(*Id*.) Even assuming the upgrades are successfully accomplished by 2030, the IS/MND's traffic analysis still fails to take into account the roadway conditions from Project construction and operation (projected to occur in 2017 and 2018 respectively) through 2030. This means over a decade of traffic impacts were not properly considered. Because the roadway conditions utilized to analyze traffic impacts do not reflect conditions "as they exist at the time [environmental analysis] is commenced," the IS/MND violates CEQA. *Save Our Peninsula*, 87 Cal.App.4th at 124-25.

The traffic analysis downplayed the true extent of traffic impacts by using both aspirational roadway conditions and outdated traffic conditions. Therefore, the baseline from which the Project's traffic impacts were analyzed fails to represent accurate conditions presently surrounding the Project. This improper baseline ultimately "mislead(s) the public" by engendering skewed and inaccurate analyses of environmental impacts, mitigation measures and cumulative impacts for biological resources. See *San Joaquin Raptor Rescue Center,* 149 Cal.App.4th at p. 656; *Woodward Park Homeowners,* 150 Cal.App.4th at 708-711. Without an accurate baseline, the IS/MND's conclusion that the Project's traffic impacts will be less than significant are unsubstantiated. Proper analysis must be conducted to take into account present day conditions, and all impacts must be mitigated. An EIR must be prepared to remedy these deficiencies.

Response H-4 The commenter claims that the MND contains an insufficient description of the baseline environmental conditions against which impacts are measured. This is incorrect because the commenter inappropriately references the standard for assessing a project's environmental setting where a lead agency is preparing an EIR. That is, the commenter fails to recognize that CEQA establishes a less-stringent standard for describing baseline conditions where a lead agency is considering approving a project via a negative declaration. (See State CEQA Guidelines, § 15071 [requiring MNDs to describe "[t]he location of the project, preferably shown on a map"]; *Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270 [finding that an agency's description of a project's existing environmental setting in a negative declaration will be valid so long as the agency's description "represents an objective, good faith effort to comply with CEQA"].)

As clearly stated in the Initial Study, there has been almost no development in the Specific Plan Area since adoption of the document, and the small development projects that have occurred have been entirely consistent with the uses considered in the Specific Plan and Specific Plan EIR. The Town regularly prepares, and posts on its website, traffic counts performed in the Town (http://applevalley.org/home/showdocument?id=1152). As shown in that statistical data, traffic growth from 2007 to 2016 has increased in most locations by less than 1% annually. The growth projections in the EIR assumed annual growth rates of 2% annually. Actual growth, therefore, has been lower than that anticipated in the EIR, and the projections in that document are therefore conservative. The baseline analysis has not substantially changed, and the analysis of traffic and other impacts was based on accurate conditions. Please see the two pictures below, showing 2007 and 2015 conditions. Furthermore, since the project is consistent with the analysis in the EIR, and since the EIR analysis included an ambient growth rate, the analysis in the EIR is valid, and the impacts of the project will be no greater than the impacts identified in the EIR.

Google Earth image, 1/2007

Google Earth image, 1/2015

The traffic analysis prepared for the proposed project was based not only on the original analysis performed by Urban Crossroads for the Specific Plan EIR, but also an evaluation of development occurring since that time. That analysis concluded that little development had occurred in the area, and that

conditions had not substantially changed since the completion of the Specific Plan EIR. Further, Traffic counts were conducted in August 2015 by Newport Traffic Studies, an independent traffic data collection company. The updated traffic counts demonstrate that conditions in the study are have not significantly changed since the analysis for the NAVISP EIR was completed. In fact, traffic conditions in the peak hour have improved since the NAVISP EIR was completed. See Table X below for a comparison of baseline conditions studied in the NAVISP EIR and current conditions.

Table X: Level of Service (LOS) Baseline Comparison

Intersection	AM Peak Hour LOS		PM Peak Hour LOS	
	2006	2015	2006	2015
Johnson Road and Navajo Road	-	A	-	A
Dale Evans Pkwy and Johnson Road	B	A	C	A
Dale Evans Pkwy and I-15 Freeway NB Ramps	B	A	B	A
Dale Evans Pkwy and I-15 Freeway SB Ramps	A	A	B	A

Source: Urban Crossroads: North Apple Valley Specific Plan Traffic Impact Analysis (Revised) 2007, Table 3-1; and David Evans and Associates 2015: Project Jupiter Distribution Center Traffic Impact Study 2015.

The commenter's traffic engineer also does not appear to consider the location of the proposed project in context when asserting that the Specific Plan's roadway system will develop over a long period of time. As stated in the Initial Study, and shown in Exhibit 2, the proposed project is located immediately south of an existing, developed distribution center which resulted in the construction of major road improvements on Johnson Road, to which the proposed project will connect. Johnson Road intersects Dale Evans Parkway less than ½ mile west of the proposed project. Dale Evans Parkway is developed and provides direct access to the I-15. The improvements required to accommodate the proposed project on the regional roadway system are therefore already in place. Furthermore, although the EIR analyzed a build out year of 2030, the year of build out is irrelevant, since build out assumes concurrent development and build out of the region, not only the project area. Therefore, whether build out occurs in 2030, 2020 or 2035, the EIR analyzed regional growth, and since the supply of available land is finite, considered the development on surrounding lands at an equivalent pace.

Finally, the proposed project will be conditioned to pay the Town's traffic impact fees, which are specifically designed to provide for regional transportation improvements consistent with the General Plan roadway classifications for Town streets.

Comment H-5 Expert wildlife biologist Shawn Smallwood reviewed the IS/MND and the biological survey for the Project and concluded that the failure of the IS/MND (and supporting documents) to investigate and identify occurrences of sensitive biological resources at the Project site resulted in an inaccurate baseline, unsupported by substantial evidence. (See, Comment of Shawn Smallwood, p.2 attached hereto as Appendix B.)

First, an accurate environmental setting for biological resources was not established because the surveys dismissed the presence of special-status species without conducting adequate surveys. Mr. Smallwood found that the IS/MND inappropriately failed to account for a number of special-status species likely to be impacted by the Project given conditions of the Project site. (*Id*.) Mr. Smallwood explained that "[s]tandard scientific practice when assessing risk to rare or precious resources in the face of high uncertainty is to err on the side of caution," however, the IS/MND assumed no impacts to a number of protected species after only reconnaissance-level surveys. (*Id.*) There was no effort to detect bats even though multiple special-status species are likely to forage over the site. (*Id.* at 5.) Similarly the survey concluded that the Pallid San Diego pocket mouse and Southern grasshopper mouse were absent from the Project site without conducting any mammal trapping. (*Id.)* In total, Mr. Smallwood listed over thirty protected species that the survey concluded were not present at the Project site without conducting protocol-level surveys (*Id.* 2-3.) Unless protocol-level surveys are conducted, these species should be assumed to be likely present at the Project site so that potential impacts can be fully analyzed and mitigated.

Response H-5 The commenter is incorrect. Protocol level surveys are required only for special status species with a probability of occurring on the project site, or those species identified as occurring (through the sighting of the species, sign or scat) when a general survey is conducted.
For this project, consistent with the requirements of CEQA, potential impacts to special status species has been analyzed based on the potential for a species to occur based on presence/absence of suitable habitat for that species. An analysis of species with a potential to occur and impacts to those species was conducted in the NAVISP EIR. The EIR identified Mitigation Measures for biological resources including preconstruction surveys for burrowing owl and desert tortoise, surveys for nesting birds if construction took place during breeding season, and focused surveys for Mohave ground squirrel within identified suitable habitat (not applicable to the proposed project site). To ensure there are no additional impacts to special status species, a biological resources study was conducted for the

proposed project and conclusions incorporated into the IS/MND. With respect to species identified in Table 1 of the comment: coast horned lizard was analyzed in the NAVISP EIR which determined that marginally suitable habitat was present and mitigation for this species was not required; species with a status of CDFW 3503.5 (turkey vulture, red tailed hawk, sharp-shinned hawk, Cooper's hawk, American kestrel, merlin, prairie falcon, barn owl, and great-horned owl) are addressed through Mitigation Measure IV.2 which discusses avoidance of impacts to nesting birds; the project's biological resources report determined there is no nesting habitat present for golden eagle; pale big eared bat was addressed in the NAVISP EIR; desert tortoise, desert kit fox, and burrowing owl were addressed in the IS/MND with mitigation measures incorporated; Pallid San Diego pocket mouse was addressed in the NAVISP EIR and potential impacts determined to be less than significant; the remaining species were not identified as species with a potential to occur on the project site and have not been documented in the vicinity of the project site based on a query of the California Natural Diversity Database provided in the project's biological resources report. However, preconstruction surveys and biological monitors required by Mitigation Measure IV.2 would result in avoidance of impacts to these species should they be present.

Significantly, Mr. Smallwood's list is not sourced, and it is impossible to determine where his data was obtained. As noted, the project biologist conducted a search of the California Natural Diversity Database, and searched the California Department of Fish and Game Occurrence Reports. These searches were performed for the Apple Valley North Quadrangle, in which the project occurs. These sources of information are the most commonly used references for biological occurrence, because of their comprehensive nature, and are appropriate in this case. The search identified 12 species with the potential to occur on the site and those species are analyzed and considered. Neither search identified bats as having the potential to occur in the area.

Comment H-6 The failure of the IS/MND to adequately assess potential impacts on special- status species is demonstrated by its treatment of the burrowing owl. The IS/MND concluded that the borrowing owls would likely be absent from the project site because all of the kit fox burrows (in which they burrow) found on the Project site had been collapsed. (*Id.* at 3.) However, the IS/MND failed to note that burrowing owls most often use ground squirrel burrows for nesting and refuge, which were also found onsite but were not collapsed. (*Id.*) Moreover, Mr. Smallwood challenged the IS/MND's conclusion that the creosote on the Project would render it unsuitable for burrowing owls. Based on personal observations and experience, he concluded that these conditions would in fact be suitable for burrowing owls. (*Id.*) Mr. Smallwood also noted that the surveys conducted did not comply with the California Department of Fish and Game protocol, which requires surveys to be conducted multiple times across seasons. This omission was

particularly egregious because the surveys were "designed to meet burrowing owl…survey guidelines" and protocol-level surveys were a requirement established in the Specific Plan EIR. (*Id.*) Mr. Smallwood concluded that, "One-time survey efforts are unreliable for concluding absence of burrowing owl." (*Id.* at p.4.) As such, there was no substantial evidence to warrant the IS/MND's assumptions that the Project would not impact this protected species.

Response H-6 First, the Initial Study did not determine that there were no impacts to burrowing owl. The Initial Study correctly determined that there could be impacts to the species, but that the impacts to burrowing owl could be mitigated, and included mitigation measures to reduce those impacts to less than significant levels.

Second, although the project site was judged marginally suitable for burrowing owl, the project biologists followed the procedures described in the Staff Report on Burrowing Owl Mitigation (Department of Fish and Game, March 2012) (which we assume to be what Mr. Smallwood is referencing when he cites a California Department of Fish and Game protocol). For a discussion of the assessment of potential impacts to burrowing owl and the required mitigation, please see Responses C-3, C-4 and F-3.

Finally, it is worth noting that the burrowing owl located in the area, unlike those in northern California are not migratory and its presence can be detected year round. Surveys at one time of year versus another would not yield a differing result.

Therefore, the Initial Study correctly identified, studied, and mitigated for impacts to burrowing owls.

Comment H-7 Mr. Smallwood found similar issues with the IS/MND as it pertained to additional protected bird species. Mr. Smallwood found that the failure to observe prairie falcons and golden eagles through reconnaissance surveys does not, as the biological surveys suggest, allow for the conclusion that these species do not rely on the Project site for foraging. *(Id.* at 4.) Given the scarceness of these species combined with their wide range, Mr. Smallwood concluded, "There should be no question that destroying foraging habitat on this site will cause ***significant adverse impacts to prairie falcons and golden eagles***." With respect to migratory birds, the IS/MND flatly dismisses the potential presence of migratory birds at the Project site because of the disturbed condition of the Project site and presence of creosote bushes without any evidence to support its claim. (*Id.* at 4.) To the contrary of this vague and unsubstantiated conclusion, Mr. Smallwood pointed to studies demonstrating that birds nest and forage in creosote shrubs, and therefore, concluded that the project would likely "have ***significant adverse impacts on migratory birds***." (*Id.*)

Response H-8 The commenter is incorrect. The Initial Study did not, in any way "flatly dismiss" the potential presence of migratory birds. The NAVISP EIR analyzes potential impacts to prairie falcon foraging habitat (see Figure III-14 of the NAVISP EIR) and the biological resources report prepared for the project acknowledges the presence of foraging habitat for prairie falcon and golden eagle within the project site. The loss of foraging habitat for raptors is a potential cumulative long term impact of a project. Cumulative impacts are discussed in section VIII of the NAVISP EIR and loss of foraging habitat is stated as a cumulative impact of the NAVISP.

Furthermore, and as an informational item, the Town anticipates further managing potential cumulative impacts to biological resources through preparation of a multiple species habitat conservation plan (MSHCP), as discussed in the NAVISP EIR. Both golden eagle and prairie falcon are anticipated to be covered species in the MSHCP. However, the goal of the IS/MND for *this* Project is to address impacts specific to the project that were not identified in the NAVISP EIR. Because the Project will not result in any raptor or cumulative biological impacts greater than those already analyzed and disclosed in the prior NAVISP EIR, loss of foraging habitat was not addressed further in the IS/MND.

Comment H-9 In sum, the City's conclusion that the Project's impact on biological resources will be less than significant cannot be supported without proper biological resource surveys having been conducted. Eliminating the possibility of protected species on site without conducting protocol-level surveys is unreasonable and fails to inform the public and decision makers of the Project's potential impacts on biological resources. Protocol- level surveys must be conducted or protected species likely to be present on the Project site must be assumed to be present to allow for full mitigation of potential impacts. An EIR must be prepared to remedy these deficiencies.

Response H-9 The Initial Study fully analyzed the potential impacts to biological resources, determined that those impacts could be significant, and provided extensive mitigation measures to reduce those impacts to less than significant levels. The Initial Study's findings are consistent with the findings of the Specific Plan EIR, and no new species has been identified, and no new or substantially greater impact found as a result of the analysis. An EIR is therefore not required by CEQA.

Comment H-10 As discussed above, a lead agency must prepare a tiered EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment. (Pub. Res. Code §21082.2; *Sierra Club v. County of Sonoma*, 6 Cal.App.4th 1307, 1318; *El Dorado* (2012) 202 Cal.App.4th 1156; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1993) 6 Cal.

4th 1112, 1123.) Here, substantial evidence presented in this comment letter, and the supporting technical comments, supports a fair argument that the Project will have significant environmental impacts on air quality, traffic, and biological resources. As a result, the City should withdraw the IS/MND and prepare an EIR.

Response H-10 Please see Response H-2.

Comment H-11 SWAPE reviewed the Project and the IS/MND, and determined that the initial study failed to adequately evaluate the Project's air quality impacts because it relied on improper input parameters when modeling the Project's emissions. SWAPE "found that several of the assumptions used and values inputted into the model were not consistent with procedures and values used in other CEQA evaluations for high-cube warehouse projects, and were not consistent with information disclosed in the IS/MND." (SWAPE Comment, p.2, attached hereto as Appendix C.) Such assumptions included truck trips generated from the Project, projected fleet mix, trip length and unrefrigerated storage.

The IS/MND underestimated the number of truck trips likely to be generated by the Project by using default modeling data instead of more accurate project-specific data. In assessing the likely impacts of the Project, SWAPE noted that while the Mojave Desert Air Quality Management District (MDAQMD) does not have guidance with respect to high-cube warehouse distribution centers, South Coast Air Quality Management District (SCAQMD), which also governs the rest of San Bernardino County, has conducted extensive research on the issue and recommends the use of the Institute of Transportation Engineers (ITE) Trip Generation Manual. *Id.* at p.2-3. SWAPE concluded that given the proximity of the SCAQMD jurisdiction and the agency's expertise, it was reasonable and recommended to follow its recommendations. Use of ITE figures reveals that the IS/MND underestimates the number of daily truck and car trips by 273 trips per day, almost ***100,000 trips per year***. *Id.* at 3. By underestimating the number of truck trips likely to be generated by the Project, the IS/MND's failed to take into account the full extent of air pollution likely to be emitted as a result of the Project.

Response H-11 Project-generated criteria air emissions were evaluated using the most recent version of the California Emissions Estimator Model (CalEEMod Version 2013.2.2), as set forth in Dudek AQA 2016, attached to and incorporated into this Response to Comments as Exhibit A.

Mobile emissions from passenger vehicles and heavy-duty trucks were modeled separately using different CalEEMod runs since each vehicle class is assumed to have a different trip length. The emissions from both sources were estimated using the CalEEMod model for estimating of regional emissions. Trip generation rates and fleet mix assumptions from the trip

generation evaluation (Urban Crossroads 2015) were used in this analysis. Passenger Car Equivalents (PCE) factors have been applied to the trip generation rates for heavy trucks (e.g., large two-axles, three-axles, four-plus-axles). Consistent with the San Bernardino County Congestion Management Program and standard traffic engineering practice in Southern California, PCE factors have been utilized due to the expected heavy truck component for the proposed project uses. PCE factors allow the typical "real-world" mix of vehicle types to be represented as a single, standardized unit, such as the passenger car, for the purposes of capacity and LOS analyses. A PCE factor of 1.5 has been applied to large two-axle trucks, a factor of 2.0 for three-axle trucks, and a factor of 3.0 for four-plus axle trucks.

The trip generation evaluation provided the Project's trips during the AM and PM peak hour. The Project is anticipated to generate a total of 211 net PCE trips during the AM peak hours and 244 net PCE trips during the PM peak hours.

The trip generation evaluation provided a truck trip generation rate of 0.64 for the project which accounts for 38.1 percent of the project's total daily traffic. The evaluation did not provide a passenger vehicle trip generation rate, however, the passenger vehicle trip generation rate was calculated as 1.04. Therefore, the project would have an overall trip rate of 1.68 for the project which is consistent with the trip rate for a high-cube warehouse found within the Institute of Transportation Engineers' *Trip Generation Manual, 9th Edition*. The specific fleet mix and trip length assumptions used in this analysis are set forth in detail in Exhibit A, Dudek AQA 2016.

In addition, CalEEMod was used to estimate operational emissions from area sources, including emissions from consumer product use, architectural coatings, and landscape maintenance equipment. With respect to building operation, emissions associated with interior natural gas usage are included in the building energy use module of CalEEMod. While building electricity use would contribute indirectly to criteria air pollutant emissions, the building-specific emissions from electricity use are only quantified for GHGs in CalEEMod, since criteria pollutant emissions occur at the site of the power plant, which is typically off site. As the Project does not use wood or natural gas fired stove or fireplaces, these emission sources were excluded. CalEEMod defaults were used for emissions from power plants that would generate electricity for the Project, reflecting Southern California Edison's renewable energy portfolio. CalEEMod's default assumptions and categories for electricity and natural gas consumption were used: title-24 regulations compliant, consumption outside the scope of title-24 regulations, and (for electricity) lighting. CalEEMod's default assumptions were used for water supply, wastewater and solid waste disposal. Further detail regarding all of the modelling assumptions is provided in Dudek AQA 2016.

The Project has been proposed and will be occupied by one, known, tenant. The applicant has not requested and the Town will therefore not approve cold-storage use. The site plan shown as Exhibit 3 clearly shows an open warehouse building with loading doors on two sides. Project floor plans do not show any refrigerated space within the building. The applicant has confirmed that the Project does not include any cold-storage or refrigerated truck use.

Comment H-12 The IS/MND also underestimated air impacts from the Project by using an inaccurate fleet mix. SWAPE explained that the IS/MND used the model's default fleet mix, which has only approximately 40% of trips by 4+ axle trucks and over 50% of trips by 2 axle trucks. *Id.* at 4. SCAQMD has also provided guidance on fleet mix based on analysis of other high-cube warehouse projects. It recommends a fleet mix of just over 60% 4+ axle trucks, with only 22% of trips from 2 axle trucks and 17.7.% from 3 axle trucks. *Id.* Relying on a fleet mix comprised mostly of smaller vehicles results in lower emission levels because smaller vehicles are less fuel-intensive to operate. SWAPE concluded, "By failing to utilize the warehouse-specific truck trip fleet mix, the IS/MND underestimates the total number of heavy-duty and medium-duty truck trips the Project will generate during operation, and as a result, the Project's operational emissions are underestimated." *Id.* at 5

Response H-12 As set forth in more detail in Dudek AQA 2016, mobile emissions from passenger vehicles and heavy-duty trucks were modeled separately using different CalEEMod runs since each vehicle class is assumed to have a different trip length. The emissions from both sources were estimated using CalEEMod model for estimating of regional emissions. Trip generation rates and fleet mix assumptions from the trip generation evaluation (Urban Crossroads 2015) were used in this analysis. Passenger Car Equivalents (PCE) factors have been applied to the trip generation rates for heavy trucks (e.g., large two-axles, three-axles, four-plus-axles). Consistent with the San Bernardino County Congestion Management Program and standard traffic engineering practice in Southern California, PCE factors have been utilized due to the expected heavy truck component for the proposed project uses. PCE factors allow the typical "real-world" mix of vehicle types to be represented as a single, standardized unit, such as the passenger car, for the purposes of capacity and LOS analyses. A PCE factor of 1.5 has been applied to large two-axle trucks, a factor of 2.0 for three-axle trucks, and a factor of 3.0 for four-plus axle trucks. The trip generation evaluation provided the Project's trips during the AM and PM peak hour. The Project is anticipated to generate a total of 211 net PCE trips during the AM peak hours and 244 net PCE trips during the PM peak hours.

Comment H-13 Further casting doubt on the IS/MND's conclusions, SWAPE concluded that, in using the default figures, the Project substantially underestimated the length of truck trips. The model assumes truck trip lengths of a mere 7.3

miles, a figure which would barely take trucks past the Apple Valley boundary. (*Id. at 7.*) SCAQMD has found that most industrial land use types haul consumer goods from the Ports of Long Beach and Los Angeles, which a simple Google map search reveals are over 100 miles from the Apple Valley. (Id. at 6.) SCAQMD has, therefore, recommended a 40-mile one way trip length, Id. SWAPE also noted recently proposed warehouse projects within the County of San Bernardino have adopted proposed trip lengths of 50 and 24.11 miles. (Id. at 5-6.) Moreover, SCAQMD took issue with the 24.11 proposal, a number that is three times that utilized in the IS/MND. (Id. at 6.) The IS/MND's reliance on a grossly unrealistic trip length resulted in the underestimation of air pollution impacts.

Response H-13 A trip length of 97 miles, calculated based on applicant-provided trip data, was used in the analysis of the heavy-duty truck fleet in Dudek AQA 2016.

Trip lengths were measured assuming that trucks would travel from the project site to the following locations:

- Northern direction (17% inbound and 51% outbound) – MDAQMD boundary (trip length of 57.4 miles)
- Southern direction (4% inbound and 17% outbound) – SCAQMD boundary (trip length of 108 miles)
- Eastern direction (50% inbound and 13% outbound) – MDAQMD boundary (trip length of 94 miles)
- Western Direction (29% inbound and 19% outbound) – Port of Long Beach (trip length of 158 miles)

The customized truck trip length was estimated by taking the weighted average of the inbound and outbound trip distances above based on the percentage of their occurrence. This results in an average trip length of 97 miles. The estimated truck trip length was assumed in CalEEMod in place of the default trip length values.

Further details are set forth in Dudek AQA 2016.

Comment H-14 Finally, the IS/MND underestimated operational emissions by failing to consider any cold-storage warehouse uses even though the DEIR acknowledges that the specific tenants remain unknown. (Id. at p. 7.) If tenants do require refrigeration, it will change the scope of the Project's environmental effects because refrigerated warehouses release more air pollutants and greenhouse gas (GHG) emissions when compared to unrefrigerated warehouses. (Id. at 8) Refrigerated trucks tend to idle much longer than typical hauling trucks, even up to an hour. (*Id*.) Energy usage from warehouses equipped with industrial size refrigerators and freezers is also much greater when compared to unrefrigerated warehouses. (*Id*.) In addition, according to the July 2014 SCAQMD Warehouse Truck Trip Study Data Results and Usage presentation, trucks that require refrigeration

resulted in greater truck trip rates when compared to non- refrigerated trucks. (*Id*.) By relying exclusively on unrefrigerated land use emissions, the air quality analysis greatly underestimates the Project's potential air quality and climate change impacts. (*Id.*) Because it is reasonably foreseeable that one or more of the warehouse tenants will require refrigeration, an EIR should be prepared to account for the effects from refrigerated warehouse buildings. (*Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 396.)

Response H-14 The Project has been proposed and will be occupied by one, known, tenant. The applicant has not requested and the Town will therefore not approve cold-storage use. The site plan shown as Exhibit 3 clearly shows an open warehouse building with loading doors on two sides. Project floor plans do not show any refrigerated space within the building. The applicant has confirmed that the Project does not include any cold-storage or refrigerated truck use. Therefore, there is no basis for assuming refrigeration in the Initial Study's analysis, and no such analysis is required.

Comment H-15 In addition to the failure of the modeling to accurately project operational emissions, SWAPE determined that the model also underestimated construction emissions. SWAPE found that the modeling assumed that all off-road construction vehicles would be equipped with oxidation catalysts, which would reduce emissions from construction by 15%. (SWAPE Comment at p.8). However, SWAPE pointed out that the IS/MND does not contain any commitment to use of oxidation catalysts in construction equipment. *Id.* Mitigation measures must be fully enforceable through permit conditions, agreements or other legally binding instruments. (14 C.C.R. §15126.4(a)(2).) Consequently, if the IS/MND is going to rely on clean construction equipment to ensure that emissions impacts are not significant, it must commit to use of this equipment as a condition of approval for the Project. Without such enforceability, the IS/MND may not rely upon those reductions.

Response H-15 The applicant has re-confirmed that its existing proposed Project includes as a construction feature that all off-road construction vehicles will use oxidation catalysts, thus re-confirming the Initial Study's conclusion that the Project's unmitigated NOx emissions will not exceed thresholds and therefore do not require mitigation measures. Nonetheless, the Town will again add this existing Project design feature to the Conditions of Approval to ensure that the record is clear. The Initial Study found impacts to be less than significant, and did not require mitigation measures beyond those included in the Specific Plan EIR.

Comment H-16 In order to account for the numerous errors in the modeling relied upon in the IS/MND, SWAPE reran the model with corrected parameters and found that "the Project will have a potentially significant impact on regional air quality." (*Id.* at 10.) Specifically, the Project's NOx emissions exceeded the

MDAQMD significance threshold of 137 pounds/day, even after the implementation of mitigation. (*Id.* at 11.) This significant impact must be analyzed in an EIR and fully mitigated. SWAPE's letter details a number of mitigation measures for operational NOx that could be incorporated into the Project. (*Id*. at 11-12.)

Response H-16 As set forth in Dudek AQA 2016, the Project's daily operational emissions were evaluated against the CEQA significance thresholds of the Mojave Desert Air Quality Management District (MDAQMD). For a summary of the assumptions used in the Dudek AQA 2016 CalEEMod modelling, please refer to Reponses H-11, H-12, H-13, and H-14; further detail is provided in Dudek AQA 2016.

The MDAQMD CEQA Guidelines, updated in August 2016, sets forth emission-based significance thresholds which are used to determine whether a project would have a significant impact on air quality. Project-related air quality impacts estimated in this environmental analysis would be considered significant if any of the applicable significance thresholds presented in Dudek AQA 2016 Table 3 are exceeded.

Dudek AQA 2016 Table 3
MDAQMD Air Quality Significance Thresholds

POLLUTANT	ANNUAL THRESHOLD (TONS/YEAR)	DAILY THRESHOLD (POUNDS/DAY)
VOC	25	137
NO_x	25	137
CO	100	548
SO_x	25	137
PM_{10}	15	82
$PM_{2.5}$	12	65

Source: MDAQMD 2016.
Notes: CO = carbon monoxide; NO_x = oxides of nitrogen; VOC = volatile organic compound; SO_x = sulfur oxides; PM_{10} = coarse particulate matter; $PM_{2.5}$ = fine particulate matter.

Dudek AQA 2016 Table 8, Estimated Maximum Daily Operational Emissions, presents the maximum daily area source emissions, energy source emissions, and vehicle source emissions for the year 2017. The values shown are the maximum summer or winter daily emissions (i.e., worst-case) results from CalEEMod. Details of the emission calculations are provided in Dudek AQA 2016 Attachment A.

Dudek AQA 2016 Table 8
Estimated Project-Generated Maximum Daily Operational Criteria Air Pollutant Emissions

Emission Source	VOC (pounds/day)	NO_x (pounds/day)	CO (pounds/day)	SO_x (pounds/day)	PM_{10} (pounds/day)	$PM_{2.5}$ (pounds/day)
Area	102.15	0.00	0.29	0.00	0.00	0.00
Energy	0.07	0.65	0.55	0.00	0.05	0.05
Mobile - employee vehicle trips	3.87	4.82	54.64	0.10	7.90	2.12
Mobile - truck trips	33.54	630.78	397.58	2.29	91.06	36.47
Total	**139.63**	**636.25**	**453.06**	**2.39**	**99.01**	**38.64**
MDAQMD pollutant threshold	*137*	*137*	*548*	*137*	*82*	*65*
Threshold exceeded?	**Yes**	**Yes**	No	No	**Yes**	No

Source: MDAQMD 2016.

Notes: The values shown for mobile, energy and area sources are the maximum summer or winter daily emissions results from CalEEMod.
Area sources = consumer product use, architectural coatings, and landscape maintenance equipment. Energy sources = natural gas. Mobile sources = motor vehicles.
VOC = volatile organic compound; NO_x = oxides of nitrogen; CO = carbon monoxide; SO_x = sulfur oxides; PM_{10} = coarse particulate matter; $PM_{2.5}$ = fine particulate matter

As shown in Dudek AQA 2016 Table 8, the combined daily area, energy, and vehicular source emissions would not exceed the MDAQMD operational thresholds for CO and PM2.5. While Project emissions would exceed the MDAQMD operational thresholds for VOC, NOx and PM10, the estimated project maximum daily emissions are less than, and do not represent a disproportionate share of, the increase in NAVISP buildout emissions over the development potential of the existing General Plan land use designations as estimated in the Specific Plan EIR, as shown in Dudek AQA 2016 Table 10.

Dudek AQA 2016 Table 10
Comparison of the Project and General Plan EIR Town-Wide Buildout Maximum Daily Operational Criteria Air Pollutant Emissions

EMISSION SOURCE	VOC (POUNDS/DAY)	NO_x (POUNDS/DAY)	CO (POUNDS/DAY)	SO_x (POUNDS/DAY)	PM (PM_{10})[1] (POUNDS/DAY)	$PM_{2.5}$ (POUNDS/DAY)
2006 NAVISP EIR Buildout (2025) Total	1,089.0	7,149.2	7,310.4	1,192.3	456.0	N/A
Project Emissions (2017) Total	139.63	636.25	453.06	2.39	99.01	38.64
Project Emissions Inconsistent with Estimate for 2006 NAVISP EIR Buildout?	No	No	No	No	No	N/A

Sources: Town of Apple Valley 2006, Dudek 2016.

Notes: NAVISP emissions Based on Table III-25 Anticipated Cumulative Project-Related Emissions Associated with Buildout of the Proposed Project of the 2006 NAVISP EIR. NAVISP Emissions were estimated in the EIR using URBEMIS 2002 Version 8.7 and the SCAQMD 1993 CEQA Air Quality Handbook.

Project-generated emissions estimated using CalEEMod.

VOC = volatile organic compound; NO_x = oxides of nitrogen; CO = carbon monoxide; SO_x = sulfur oxides; PM = particulate matter; PM_{10} = coarse particulate matter; $PM_{2.5}$ = fine particulate matter; N/A = not available.

[1] Estimated project-generated PM_{10} emissions are compared to the 2006 NAVISP EIR-estimated PM emissions for the purposes of this comparison.

In addition, Dudek AQA Table 9, Estimated Annual Operational Emissions, presents the total annual project-generated emissions from area, energy, and vehicle sources for the year 2017 that occur within the MDAQMD.

Dudek AQA 2016 Table 9
Estimated Project-Generated Annual Operational Criteria Air Pollutant Emissions

Emission Source	VOC (tons/year)	NO_x (tons/year)	CO (tons/year)	SO_x (tons/year)	PM_{10} (tons/year)	$PM_{2.5}$ (tons/year)
Area	18.64	0.00	0.03	0.00	0.00	0.00
Energy	0.01	0.12	0.10	0.00	0.01	0.01
Mobile - employee vehicle trips	0.61	0.93	8.90	0.02	1.41	0.38
Mobile - truck trips	6.19	116.61	75.38	0.42	16.35	6.58
Total	**25.45**	**117.66**	**84.41**	**0.44**	**17.77**	**6.97**
MDAQMD pollutant threshold	*25*	*25*	*100*	*25*	*15*	*12*
Threshold exceeded?	**Yes**	**Yes**	No	No	**Yes**	No

Source: MDAQMD 2016, Dudek 2016.

Notes: Emissions estimated using CalEEMod.

Area sources = consumer product use, architectural coatings, and landscape maintenance equipment. Energy sources = natural gas. Mobile sources = motor vehicles.

VOC = volatile organic compound; NO_x = oxides of nitrogen; CO = carbon monoxide; SO_x = sulfur oxides; PM_{10} = coarse particulate matter; $PM_{2.5}$ = fine particulate matter

As shown in Dudek AQA 2016 Table 11, similarly to project daily emissions, the combined annual area, energy, and vehicular source emissions would not exceed the MDAQMD significant thresholds for CO, SOx and PM2.5. While estimated annual project emissions would exceed the MDAQMD

operational thresholds for VOC, NOx and PM10, the estimated project maximum daily emissions are less than, and do not represent a disproportionate share of, the increase in NAVISP buildout emissions over the development potential of the existing General Plan land use designations as estimated in the Specific Plan EIR.

Dudek AQA 2016 Table 11
Comparison of the Project and General Plan EIR Town-Wide Buildout Maximum Annual Operational Criteria Air Pollutant Emissions

EMISSION SOURCE	VOC (TONS/YEAR)	NO_x (TONS/YEAR)	CO (TONS/YEAR)	SO_x (TONS/YEAR)	PM (PM_{10})[1] (TONS/YEAR)	$PM_{2.5}$ (TONS/YEAR)
2006 NAVISP EIR Buildout (2025) Total	142.1	933.0	954.0	155.6	59.5	N/A
Project Emissions (2017) Total	25.45	117.66	84.41	0.44	17.77	6.97
Project Emissions Inconsistent with Estimate for 2006 NAVISP EIR Buildout?	No	No	No	No	No	N/A

Sources: Town of Apple Valley 2006, Dudek 2016.

Notes: NAVISP emissions Based on Table III-25 Anticipated Cumulative Project-Related Emissions Associated with Buildout of the Proposed Project of the 2006 NAVISP EIR. NAVISP Emissions were estimated in the EIR using URBEMIS 2002 Version 8.7 and the SCAQMD 1993 CEQA Air Quality Handbook.
Project-generated emissions estimated using CalEEMod.
VOC = volatile organic compound; NO_x = oxides of nitrogen; CO = carbon monoxide; SO_x = sulfur oxides; PM = particulate matter; PM_{10} = coarse particulate matter; $PM_{2.5}$ = fine particulate matter; N/A = not available.
[1] Estimated project-generated PM_{10} emissions are compared to the 2006 NAVISP EIR-estimated PM emissions for the purposes of this comparison.

With respect to the conclusions arrived at by the commenter, the commenter did not provide model run outputs to allow for proper analysis of SWAPE's claim and it is therefore unclear if proper and necessary assumptions and mitigation measures were employed in the commenter's analysis. The commenter has not provided any new substantiated evidence that impacts will be any greater than those analyzed, and no further analysis is required. Finally, the mitigation measures proposed by the commenter are not required to be imposed or implemented by the Project, because substantial evidence supports the Town's conclusion that the impacts are already less than significant, and to the extent any significant impacts have been identified they are less than, and do not represent a disproportionate share of, the significant impacts resulting from an increase in NAVISP buildout emissions over the development potential of the existing General Plan land use designations as estimated in the Specific Plan EIR. (State CEQA Guidelines § 15126.4(a)(3) ("Mitigation measures are not required for effects which are not found to be significant.").)

Comment H-17 The Traffic Impact Analysis ("TIA") does not support the findings of not significant in the IS/MND. Traffic engineer Dan Smith's analysis of the TIA revealed that the traffic generation study performed in support of the IS/MND fails to take into account the severity of the traffic impacts expected

from the Project. Mr. Smith explains that while the analysis correctly determined that the Project as proposed would generate less overall traffic in the peaks than the PEIR had originally assumed, it failed to mention that the Project would result in ***more*** traffic in the peak direction in both the AM and PM peaks (AM inbound, PM outbound) than assumed for the Specific Plan. Mr. Smith explains, "This concentration of traffic in the peak direction would tend to place greater stress on the transportation system." Therefore, the IS/MND failed to consider this potentially significant impact.

Response H-17 Please see Response H-4. As regards the concentration of traffic in the "peak direction" described by the commenter, the traffic analysis for the project found that the proposed project would generate 18 more trips inbound in the AM peak hour, and 7 trips inbound in the PM peak hour. The EIR found that, for example, the off-ramps at I-15 at Dale Evans Parkway, Stoddard Wells Road, the High Desert Corridor, and all other studied locations would operate at LOS C or better in both the AM and PM peak hour. The addition of up to 18 or 7 trips (since trips will be coming from different directions), as described by the commenter, will not significantly impact the intersection. The same is true of intersections along both Dale Evans Parkway, which will be the most likely regional access point directly to the site. LOS on Dale Evans Parkway at all studied intersections will be LOS C or better at build out. In the AM peak hour, for example, the intersection of Dale Evans at Johnson Road will accommodate 1,801 trips and operate at LOS C. The addition of up to 18 trips will represent an increase of less than 1% to that intersection.

Comment H-18 The biological survey's dismissal of the Project's impacts of wildlife movement (relied upon for the IS/MND) is based on vague, unsubstantiated, and misleading rationales. The survey vaguely refers to the "disconnected nature of … barriers" and "varying degrees of terrestrial exclusion" without providing enough detail to allow even an expert such as Mr. Smallwood to understand the analysis. (Smallwood Comment, p. 5.) Moreover, Mr. Smallwood notes that the biological survey makes broad and optimistic assertions, such as that culverts, bridges and drainage features will act as wildlife travel corridors without any evidentiary support. (*Id.* at 5.)

In addition, the biological survey underestimates impacts on wildlife movement by only asking whether Project would interfere with a specific wildlife movement corridor, instead of wildlife movement in the region as a whole. (*Id.* at 6.) Mr. Smallwood concluded that, given that the Project would block much of the remaining passage space along the valley floor of northern Apple Valley, the Project would "cause a ***significant impact on wildlife movement in the region.***" (*Id.*) Because the Project is likely to have a significant biological impact, the City must prepare a full EIR to analyze the extent of the impacts and mitigate to the extent feasible.

Response H-18 As shown in the aerial in Exhibit 2 of the Initial Study, the proposed project occurs immediately south of a very large existing distribution warehouse. The site is less than ½ mile from Dale Evans Parkway, a major arterial, and the Apple Valley Airport. Scattered development occurs on surrounding lots, including roadways and small scale industrial buildings. The site does not provide a wildlife corridor, since wildlife would have to cross streets or existing development to come through the site. The Initial Study and biological resource report accurately represent the current conditions, and the fact that the site is not a wildlife corridor. Accordingly, CEQA does not require the preparation of an EIR.

Comment H-19 An IS must discuss a Project's significant cumulative impacts. (14 CCR §15130(a).) This requirement flows from CEQA section 21083, which requires a finding that a project may have a significant effect on the environment if "the possible effects of a project are individually limited but cumulatively considerable . . . . 'Cumulatively considerable' means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

"Cumulative impacts" are defined as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." 14 C.C.R. § 15355(a). "[I]ndividual effects may be changes resulting from a single project or a number of separate projects." *Id.* "The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." *Comm. for a Better Env't v. Cal. Resources Agency ("CBE v. CRA*") (2002) 103 Cal.App.4th 98, 117; 14 C.C.R. § 15355(b). A legally adequate cumulative impacts analysis views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand.

The IS/MND only addresses cumulative impacts briefly, labeling the cumulative impacts as "less than significant with mitigation incorporated" without any underlying analysis. The IS/MND dismisses any need to consider the issue because of the Specific Plan EIR:

> The project will . . . contribute to cumulative impacts to air quality, which will potentially impact human beings at Specific Plan build out. The Town Council, however, when it adopted the Specific Plan and certified the EIR, determined that the benefits of build out of the Specific Plan outweighed the potential impacts associated with air quality, and adopted Findings and a Statement of Overriding Considerations as

described above. There is no evidence that the proposed project would result in impacts that are any greater than those already disclosed in the EIR. Accordingly, no further analysis is required under State CEQA Guidelines § 15162."(Specific Plan EIR p. 57.)

The City's reasoning flips the requirements of CEQA on its head. In the case of *CBE v. CRA*, the Court of Appeal held that when a "first tier" EIR admits a significant, unavoidable environmental impact, then the agency must prepare second tier EIRs for later projects to ensure that those unmitigated impacts are "mitigated or avoided." ((2002) 103 Cal.App.4th at 122-125 (citing CEQA Guidelines §15152(f)).) The court reasoned that the unmitigated impacts was not "adequately addressed" in the first tier EIR since it was not "mitigated or avoided." (*Id*.) Thus, significant effects disclosed in first tier EIRs will trigger second tier EIRs unless such effects have been "adequately addressed," in a way that ensures the effects will be "mitigated or avoided." (*Id*.) In fact, a second tier EIR is required, even if the impact still cannot be fully mitigated and a statement of overriding considerations will be required. The court explained, "The requirement of a statement of overriding considerations is central to CEQA's role as a public accountability statute; it requires public officials, in approving environmental detrimental projects, to justify their decisions based on counterbalancing social, economic or other benefits, and to point to substantial evidence in support." (*Id*. at 124-125)

Thus, since the Specific Plan EIR admitted that the Specific Plan would result in significant, unmitigated air impacts, a second tier EIR is now required to determine if mitigation measures can now be imposed to reduce or eliminate those impacts as they pertain to the Project. If the impacts still remain significant and unavoidable, a statement of overriding considerations will be required.

Response H-20 The commenter claims that an MND is inappropriate because the EIR prepared for the Apple Valley North Industrial Specific Plan identified significant and unavoidable impacts to air quality, such that every project implementing the Specific Plan must likewise be subject to its own EIR. This is incorrect.

The *Communities for a Better Environment* case cited by the commenter confirmed that a subsequent project with significant impacts of its own could not merely rely upon a previously adopted statement of overriding considerations in order to avoid analyzing and disclosing those impacts. (*Communities for a Better Environment v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 124-125.)

However, subsequent case law has made clear that implementing projects subsequent to an EIR that identified significant and unavoidable impacts may proceed forward without a further EIR where those subsequent

implementing projects do not involve new significant impacts of their own. (E.g., *Citizens for Responsible Equitable Environmental Development v. City of San Diego Redevelopment Agency* (2005) 134 Cal.App.4th 598, 604, 616-617 [Where an EIR identified significant and unavoidable impacts, it was nonetheless appropriate to forego further CEQA review for a subsequent implementing project where the subsequent project's" cumulative impacts would not be greater than those identified in the [prior] EIR".].)

Ultimately, the MND fully documents that the impacts of the Project will not be greater than those previously analyzed and disclosed in the EIR, and the commenter provides no substantial evidence showing that this Project will result in new significant unavoidable impacts of its own. Accordingly, the commenter is incorrect that this subsequent Project requires another EIR.

Comment H-21 The IS/MND makes a second mistake in its reliance on the cumulative impacts analysis conducted for the Specific Plan EIR. The IS/MND states, "There is no evidence that the proposed project would result in impacts that are any greater than those already disclosed in the EIR. Accordingly, no further analysis is required under State CEQA Guidelines § 15162." This conclusion is flawed and misinterprets the requirements of CEQA. As discussed in Section IV, the Project requires a full tiered EIR because it includes new information not available at the time the Specific Plan EIR was drafted and there is a "fair argument" that the Project impacts will be significant even after mitigation. The requirement to conduct a new tiered EIR extends to cumulative impacts analysis just as it does to direct Project impacts. Therefore, the City must consider environmental impacts resulting from the Project in light of the development in the Specific Plan and separate Projects. 14 C.C.R. § 15355(a).

Response H-21 Please see Response H-2, H-3 and H-20

Comment H-22 There have been significant changes in the development of the area since the Specific Plan was drafted that may result in significant cumulative environmental impacts when considered with the Project. For example, Desert Renewable Energy Conservation Plan (DRECP) has resulted in a multi-agency effort to develop thousands of acres of industrial-scale wind and solar energy generation. (Smallwood Comment p. 7.) Mr. Smallwood explained that the DRECP would have substantial impacts on wildlife habitat in the region and could extirpate the burrowing owl from the Mojave Desert due to cumulative impacts with industrial development. (*Id.*)

Response H-22 Please see Response H-4. Please also note, as stated in Response H-1, the DRECP extends from north of the Owens Valley to the Mexican border, and is not a regionally significant document. The commenter fundamentally misunderstands the purpose of the DRECP. It is intended to provide

regional mitigation and prevent the very same impacts that the commenter claims it will create.

Comment H-23 In addition, SWAPE noted that the City's Commercial and Residential Activity Report reported approximately 57 development projects that are or will be developed within the City, five of which are in a three-mile radius of the Project with many more nearby. (SWAPE Comment, p. 13.) SWAPE opined that, taking into account these other projects, there is the potential for the Project to have significant cumulative health impacts. *(Id.* at p.16.) The City may not rely on an outdated PEIR to evade its obligation to conduct a proper cumulative impacts assessment for the Project. An EIR should be prepared taking into account the DRECP and other proposed and approved development efforts that may result in cumulative environmental impacts.

Response H-23 Please see Response H-20. As relates to the air quality impacts associated with the build out of the proposed project and other cumulative projects in Apple Valley, the Initial Study correctly found that, consistent with the EIR, cumulative air quality impacts could be significant, and the Town correctly adopted Findings and a Statement of Overriding Considerations as it related to cumulative air quality impacts. Finally, see response H-22 as it relates to the DRECP.

I. State of California Office of Historic Preservation, Department of Parks and Recreation, June 2, 2016

Comment I-1 Pursuant to 36 CFR §800.4(d) we do not object to your determination that no historic properties will be affected by the undertaking. However, your agency may have additional section 106 responsibilities under certain circumstances set forth at 36 CFR Part 800. For example, in the event that cultural or historical resources are discovered during implementation of the undertaking your agency is required to consult further pursuant to §800.13(b).

Response I-1 Comment noted. The Town will comply with all applicable laws and regulations pertaining to cultural or historical resources in the event of an unanticipated discovery. For example, and as stated in the Initial Study, Mitigation Measures V.1 and V.2 requires on-site monitoring of construction activities by qualified archeological, Native American, and paleontological monitors, to assure that any unanticipated buried resources that are discovered are not impacted by the proposed project. The mitigation measures further empower the monitors to recommend the actions necessary to appropriately protect the find in the field, including the cessation of construction and other measures. This mitigation measure will assure that the Department's concerns regarding undiscovered resources are adequately addressed.

J. Lozeau Drury, April 28, 2016

Comment J-1: I am writing on behalf of the Laborers International Union of North America, Local Union 783 and its members living in City of Apple Valley ("LiUNA"), regarding the Project Jupiter Distribution Warehouse SCH2016041058, Site Plan Review 2015-001, including all actions related or referring to the proposed plan to develop a 106.5 acre parcel to accommodate a 1,360,875 square foot distribution center and associated ancillary facilities located on the Southwest corner of Navajo Road and Lafayette Street on APN Nos: 046-323-107, -108, -110, -160; 046-323-126, -127, -128; 046-323-142 and -143 in the City of Apple Valley. ("Project").

We hereby request that the City of Apple Valley ("City") send by electronic mail or U.S. Mail to our firm at the address below notice of any and all actions or hearings related to activities undertaken, authorized, approved, permitted, licensed, or certified by the City and any of its subdivisions, and/or supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from the City, including, but not limited to the following:

 Notice of any public hearing in connection with the Project as required by California Planning and Zoning Law pursuant to Government Code Section 65091.

 Any and all notices prepared for the Project pursuant to the California Environmental Quality Act ("CEQA"), including, but not limited to:

 Notices of any public hearing held pursuant to CEQA.
 Notices of determination that an Environmental Impact Report ("EIR") is required for a project, prepared pursuant to Public Resources Code Section21080.4.
 Notices of any scoping meeting held pursuant to Public Resources CodeSection 21083.9.
 Notices of preparation of an EIR or a negative declaration for a project, prepared pursuant to Public Resources Code Section 21092.
 Notices of availability of an EIR or a negative declaration for a project, prepared pursuant to Public Resources Code Section 21152 and Section 15087 of Title 14 of the California Code of Regulations.
 Notices of approval and/or determination to carry out a project, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
 Notices of approval or certification of any EIR or negative declaration, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
 Notices of determination that a project is exempt from CEQA, prepared pursuant to Public Resources Code section 21152 or any other provision of law.

 Notice of any Final EIR prepared pursuant to CEQA.

Please note that we are requesting notices of CEQA actions and notices of any public hearings to be held under any provision of Title 7 of the California Government Code governing California Planning and Zoning Law. **This request is filed pursuant to Public Resources Code Sections 21092.2 and 21167(f), and Government Code Section 65092**, which requires agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

Response J-1: Comment noted. The commenter has been added to the Town's notification list.

K. Johnson & Sedlack, June 24, 2016

Comment K-1: Please allow this letter to serve as a written request to receive all public notices concerning "Project Jupiter," or "Apple Valley Distribution Center" project, a development proposal by AVDC, Inc. to develop an approximately 1.3 million square foot distribution center on approximately 106.4 acres within the North Apple Valley Industrial Specific Plan. (Parcel Map No. 19645)
This written request is intended to include all public notices issued pursuant to the Town of Apple Valley ordinances, as well as pursuant to the California Environmental Quality Act ("CEQA"), including notice of any CEQA determination regarding the subject Project. This written request is also intended to include any notices of public hearings regarding the Project.

Response K-1: Comment noted. The commenter has been added to the Town's notification list.

L. Governor's Office of Planning & Research, State Clearinghouse, May 23, 2016

Comment L-1: The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on May 20, 2016, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within

an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Pl ease contact the State Clearinghouse at (91 6) 445-0613 if you have any questions regarding the environmental review process.

Response L-1: Comment noted. The State Clearinghouse attached a letter from the Lahontan Regional Water Quality Control Board, presented above as letter A.

M. Mojave Group San Gorgonio Chapter, November 23, 2016

The Town notes that the comments received were in response to the Notice of Pending Land Use Decision distributed by the Town on November 14, 2016. The comments below were made well after the circulation of the Initial Study for public comment. However, as a courtesy to the Sierra Club, and since the comments do not raise any issue that was not raised during the comment period by the commenters above, the following responses have been prepared.

Comment M-1: Please accept these comments on the Mitigated Negative Declaration/Initial Study (MND/IS) for the Project Jupiter Distribution Warehouse project (Site Plan Review 2015-001). I write representing the Mojave Group of the Sierra Club. The Sierra Club is a nationwide nonprofit organization consisting of several hundred thousand members. The Mojave Group of the Sierra Club represents members in the desert areas of San Bernardino County, including the Town of Apple Valley.

We have reviewed the MND/IS along with other documentation relevant to the project. We find that the MND/IS does not adequately address the environmental issues as required by state law. Therefore we request that the Town prepare an environmental impact report (EIR) to address the concerns we have about biological and human resources in the area affected by the project.

This is no small project. It proposes to create a warehouse of 1,360,875 square feet on 106.5 acres in northern Apple Valley, along with supporting infrastructure in the surrounding area. A negative declaration is only

appropriate in cases where the environmental impacts of a project can be shown to be minimal. That is not the case here.

Response M-1: Please see Responses H-2, H-3 and H-20.

Comment M-2: The project will have impacts on the biological resources in the area. The MND/IS admits that it will reduce habitat for many species, and could potentially impact several sensitive and threatened species, such as the desert tortoise and kit fox. The project will inevitably reduce habitat supply for species, regardless of any mitigation measures in place to reduce impacts on current nesting birds or tortoises that are discovered during construction. In addition, the MNS/IS failed to study the presence of other sensitive species that could potentially be present, such as bats or the Southern grasshopper mouse. The MND/IS also too hastily dismissed the potential for burrowing owls to be present. Furthermore, the MND/IS also failed to adequately assess the impacts on wildlife movement in the region.

Response M-2: Please see Response H-5.

Comment M-3: The traffic impacts of the study used outdated values from the 2006 Specific Plan. It also assumes completion of a road network anticipated for 2030. The MND/IS does not adequately incorporate study of current conditions, and therefore falls short of an adequate analysis of impacts.

Response M-3: Please see Responses H-1 and H-4.

Comment M-4: The uncertainty regarding traffic impacts leads to potential impacts on air quality. The number and proportion of truck trips generated by the warehouse could be much higher than the MND/IS estimates. The modeling used in the MND/IS does not appear to adequately reflect standards used in other studies. The MND/IS also assumes a grossly low estimate of average trip length of 7.3 miles. These problems are likely to have significantly underestimated the impacts on air pollution as well as on greenhouse gas emissions.

Response M-4: Please see Responses H-11 and H-12.

Comment M-5: The fact that a Specific Plan is in place for the area does not relieve the Town of the obligation to prepare an EIR for the project. The Specific Plan was prepared only with a programmatic EIR under a tiered concept, and it explicitly stated that individual developments would be subject to more extensive environmental review. Since the Specific Plan did not lay out the types of development and use that would occur within Plan area, it could not adequately assess impacts from actual development.

In light of these issues with the MND/IS, the Town should move to prepare a full EIR. Only with a full EIR can the impacts of the project on the people

and environment of Apple Valley and surrounding region be adequately assessed.

Response M-5: Please see Response H-3.

N. Johnson & Sedlack, November 28, 2016

The Town notes that the comments received were in response to the Notice of Pending Land Use Decision distributed by the Town on November 14, 2016. The comments below were made well after the circulation of the Initial Study for public comment. However, as a courtesy to Johnson & Sedlack, and since the comments do not raise any issue that was not raised during the comment period by the commenters above, the following responses have been prepared.

Comment N-1: The following comments are submitted on behalf of concerned area residents and environmental organizations regarding the proposed Jupiter Distribution Warehouse project, Site Plan Review 2015-001. The Town has proposed approval of this project on the basis of a Mitigated Negative Declaration pursuant to the California Environmental Quality Act ("CEQA"). We submit that the Initial Study/Mitigated Negative Declaration ("IS/MND") is inadequate and an Environmental Impact Report ("EIR") is required for at least the following reasons.

Response N-1: Please see Response H-3.

Comment N-2: Public Noticing
Initially we comment that a Notice of Pending Land Use Decision ("Notice") was mailed on November 14, 2016 indicating that a public hearing before the Planning Commission would be held on November 28, 2016. This is incorrect information. According to the City's website, there is no Planning Commission hearing scheduled for November 28, 2016. Moreover, to the extent the Town intends to approve the Project administratively, the Notice is misleading to the public.

Response N-2: The commenter is incorrect. The Notice correctly stated that the project was subject to an Administrative decision, not a Planning Commission meeting. That Administrative decision was rendered on November 28, 2016.

Comment N-3: Tiering
It has not been demonstrated that an MND is appropriate for this Project. Because of changed regulatory conditions and new information since 2006, the prior EIR analysis may no longer be accurate or relevant. Further analysis in the form of an EIR is necessary.

Response N-3: Please see Responses H-2 and H-3.

Comment N-4: Air Quality

Construction Air Quality

The IS/MND fails to include or disclose relevant information with respect to construction air quality. The conclusions of the Air Quality analysis are based on the CalEEMOD model but the data does not appear with the IS/MND and the air quality study does not appear with the materials available online. IS/MND Tables 1 and 2 merely summarize the construction air quality data. In other words, the inputs are not available for public review and comment. For instance, there is no disclosure whether the Project will require off-site haul trips, and, if so, whether those trips are included in the construction air quality analysis. Also for instance, IS/MND Table 1 notes that "Construction Emissions" refers to the "Average of winter and summer emissions, unmitigated" (p. 15). Data should be made available which breaks down the emissions associated with the individual construction phases for years 2016 and 2017. For instance, site grading, due to the operation of diesel equipment, and depending on the amount of grading, can result in higher emissions of criteria pollutants as compared to other construction phases. Data should be made available distinguishing between summer and winter. Often, due to atmospheric conditions or other reasons, there are differences in air quality emissions between summer and winter. In short, the air quality model and data must be disclosed. Additionally, in terms of total NOx emissions (2016 + 2017), i.e., NOx emissions for the "construction phase," the Project will exceed the applicable construction NOx threshold of 13 7 pounds per day. This same is true of ROG emissions.

Response N-4: The commenter is incorrect. All appendices were available for public review during the public comment period for the Initial Study. Also see Responses H-11 through H-16. http://applevalley.org/services/planning-division/spr-2015-001-jupiter

Comment N-5: Operational Air Quality

It is known that the greatest source of operational emissions from a project of this type are mobile emissions particularly diesel truck trips. It is imperative that air emissions due to diesel trucks be accurately disclosed and fully mitigated. The conclusions of the air quality study are based on the traffic study but it is not clear that the assumptions of the traffic study are accurate or consistent with new information. Also, the average truck trip lengths are not disclosed in the MND's traffic study. The operational air quality mitigation measures identified on page 18 are permissive rather than mandatory and do not appear to require anything of the operator above and beyond existing regulations. Actual mitigation would come in the form of mitigation for diesel emissions, such as the requirement that the operator mandate the use of cleaner trucks; for instance, the Project should require that all trucks transporting goods shall meet 2010 emission standards or better at opening, or a phase-in of cleaner trucks faster than regulatory standards.

Response N-5: Please see Responses H-11 through H-16.

Comment N-6: Lastly, in terms of cumulative impacts, these must be deemed significant where the IS/MND acknowledges that overall build out of the Specific Plan will result in significant and unavoidable impacts.

Response N-6: Please see Responses H-21 and H-23.

RESOLUTION NO. 2016-010

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF APPLE VALLEY DENYING TWO APPEALS OF THE PLANNING DIVISION'S PRIOR APPROVALS OF SITE PLAN REVIEW NO. 2015-01 (PROJECT JUPITER), ADOPTING A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING AND REPORTING PROGRAM UNDER THE CALIFORNIA ENVIROMENTAL QUALITY ACT, AND APPROVING THE PROJECT JUPITER DISTRIBUTION WAREHOUSE PROJECT

WHEREAS, in 2006, the Town of Apple Valley ("Town") prepared and approved the North Apple Valley Industrial Specific Plan ("Specific Plan") pursuant to an Environmental Impact Report (SCH #200603112) under the California Environmental Quality Act (Pub. Resources Code, §§ 21000 et seq.) ("CEQA") and the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15000 et seq.) ("Specific Plan EIR"); and

WHEREAS, the Specific Plan established long-term development goals, standards, and guidelines for industrial and commercial development and land uses within the Specific Plan boundary; and

WHEREAS, the Specific Plan was developed to provide land owners, developers, business owners, and the Town with development standards and guidelines which facilitate long-term economic growth, clean industry, a streamlined permitting process, high quality construction, and a wide range of employment opportunities, among other reasons; and

WHEREAS, in accordance with CEQA, the Specific Plan EIR analyzed and disclosed the potentially significant environmental impacts associated with the Specific Plan; and

WHEREAS, in addition to assessing the environmental impacts associated with the Specific Plan and instituting mitigation measures, the Specific Plan EIR was designed to be used to facilitate the streamlining, or tiering, of the environmental review process for subsequent projects proposed within the Specific Plan boundary; and

WHEREAS, the Specific Plan EIR determined that all environmental impacts resulting from the construction and implementation of the Specific Plan would be less than significant with the imposition of appropriate mitigation measures, with the exception of Air Quality impacts, which were identified as significant and unavoidable; and

WHEREAS, the proposed Project Jupiter Distribution Warehouse Project ("Project") would develop a 106.5 acre parcel to accommodate a 1,360,875 square foot distribution center and associated ancillary facilities within the Specific Plan boundary; and

WHEREAS, pursuant to Section 21067 of the Public Resources Code and Section 15367 of the State CEQA Guidelines, the Town is the lead agency for the proposed Project; and

WHEREAS, in accordance with Public Resources Code section 21166 and State CEQA Guidelines Sections 15063 and 15162, the Town prepared an Initial Study that tiers off of the Specific Plan EIR to determine if the Project is within the scope of the previously certified Specific Plan EIR; and

WHEREAS, based on the information contained in the Initial Study, which concluded that the Project would not have a significant impact on the environment with mitigation incorporated, the Town determined that a subsequent Mitigated Negative Declaration/Initial Study ("MND") should be prepared for the Project, and an MND was prepared pursuant to CEQA and the State CEQA Guidelines; and

WHEREAS, in accordance with State CEQA Guidelines Section 15072(b), on April 25, 2016, the Town mailed a Notice of Intent to Adopt the MND to all responsible and trustee agencies, the Office of Planning and Research, and members of the public. The Town also published the Notice of Intent to Adopt the MND in the Apple Valley News; and

WHEREAS, as required by State CEQA Guidelines Section 15072(d), the Notice of Intent to Adopt the MND was concurrently posted by the Clerk of the Board for the County of San Bernardino; and

WHEREAS, pursuant to State CEQA Guidelines Section 15073, the MND was circulated for at least 30 days; and

WHEREAS, several public comments on the proposed MND were received by the Town regarding the Project; and

WHEREAS, the Town prepared written responses to these comment letters and the responses are included in the Final MND; and

WHEREAS, on November 28, 2016, the Town's Planning Division adopted the MND and approved the Project and directed Town staff to file and post a Notice of Determination with the County of San Bernardino and the State Clearinghouse; and

WHEREAS, two appeals were thereafter filed challenging the Planning Division's determination, each of which requesting that the Division's determination be reviewed by the Planning Commission. One appeal was filed by Lozeau Drury LLP on behalf of Laborers International Union of North America on December 7, 2016. The second was filed by Blum Collins LLP on behalf of Golden State Environmental Justice Alliance (formerly SoCal Environmental Justice Alliance) on December 7, 2016 ("Appeals"); and

WHEREAS, a notice of public hearing relating to the Appeals was duly given and posted in the manner and for the time frame prescribed by law, and notice of the public hearing conducted by the Planning Commission for review of this item was mailed out to property owners within a 700 foot radius of the Project site boundaries; and

WHEREAS, all the requirements of the Public Resources Code and the State CEQA Guidelines have been satisfied by the Town in connection with the preparation of the MND, which is sufficiently detailed so that all of the potentially significant environmental effects of the Project, as well as feasible mitigation measures, have been adequately evaluated; and

WHEREAS, the MND prepared in connection with the Project sufficiently analyzes the feasible mitigation measures necessary to avoid or substantially lessen the Project's potentially significant environmental impacts; and

WHEREAS, all of the findings and conclusions made by the Planning Commission pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and the

entirety of the administrative record for the Project, which are incorporated herein by this reference, and not based solely on the information provided in this Resolution; and

WHEREAS, prior to taking action, the Planning Commission has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including, but not limited to, the Specific Plan EIR, MND, and Mitigation Monitoring and Reporting Program, and all oral and written evidence presented to it during all meetings and hearings; and

WHEREAS, the MND reflects the independent judgment of the Planning Commission and is deemed adequate for purposes of making decisions on the merits of the Project; and

WHEREAS, no comments made during the public review period, or in the public hearings conducted by the Planning Commission and no additional information submitted to the Town have produced substantial new information requiring recirculation of the MND or additional environmental review of the Project under State CEQA Guidelines Section 15073.5; and

WHEREAS, on January 11, 2017, commencing at 6:00 P.M. in the Town Council Chambers at Apple Valley Town Hall, the Planning Commission conducted a public hearing at which time all persons wishing to testify in connection with said Appeals were heard, and said Appeals were fully studied; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, it is hereby found, determined, and resolved by the Planning Commission of the Town of Apple Valley as follows:

SECTION 1. RECITALS. The Planning Commission hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

SECTION 2. APPEALS. Based on the entire record before the Planning Commission, and all written and oral evidence presented, the Planning Commission hereby finds that the Appeals are without merit and are therefore denied.

SECTION 3. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. As a decision-making body for the Project, the Planning Commission has reviewed and considered the information contained in the Specific Plan EIR, MND, comments received, and other documents contained in the administrative record for the Project. The Planning Commission finds that the Specific Plan EIR, MND, and administrative record contain a complete and accurate reporting of the environmental impacts associated with the Project, and that the MND has been completed in compliance with CEQA and the State CEQA Guidelines.

SECTION 4. FINDINGS ON ENVIRONMENTAL IMPACTS. Based on the whole record before it, including the Specific Plan EIR, MND, Initial Study, the administrative record and all other written and oral evidence presented to the Planning Commission, the Planning Commission finds that all environmental impacts of the Project are either less than significant or can be mitigated to a level of less than significant pursuant to the mitigation measures outlined in the Specific Plan EIR, MND, and the Mitigation Monitoring and Reporting Program. The Planning Commission finds that substantial evidence fully supports the conclusion that no significant and unavoidable impacts will occur and that, alternatively, there is no substantial evidence in the administrative record supporting a fair argument that the Project may result in any significant environmental impacts. The Planning Commission finds that the MND contains a complete, objective, and accurate reporting of the

environmental impacts associated with the Project and reflects the independent judgment and analysis of the Planning Commission.

SECTION 5. ADOPTION OF THE MITIGATED NEGATIVE DECLARATION. The Planning Commission hereby approves and adopts the MND.

SECTION 6. ADOPTION OF THE MITIGATION MONITORING AND REPORTING PROGRAM. Pursuant to Public Resources Code section 21081.6, the Planning Commission hereby adopts the Mitigation Monitoring and Reporting Program attached to this Resolution as Exhibit A. In the event of any inconsistencies between the Mitigation Measures as set forth in the MND and the Mitigation Monitoring and Reporting Program, the Mitigation Monitoring and Reporting Program shall control.

SECTION 7. PROJECT APPROVAL. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing on January 11, 2017, including written and oral staff reports together with public testimony, the Planning Commission hereby approves the Project.

SECTION 8. LOCATION AND CUSTODIAN OF RECORDS. The documents and materials associated with the project and the MND that constitute the record of proceedings on which these findings are based are located at Apple Valley Town Hall, 14955 Dale Evans Parkway, Apple Valley, CA 92307. The Custodian of Record is Ms. Lori Lamson, Assistant Town Manager—Community Development Services.

SECTION 9. NOTICE OF DETERMINATION. Town staff shall cause a Notice of Determination to be filed and posted with the County of San Bernardino Clerk of the Board and the State Clearinghouse within five (5) working days of the Planning Commission's final Project approval.

PASSED, APPROVED, AND ADOPTED this 11th day of January 2017.

AYES:
NOES:
ABSENT:
ABSTAINED:

_____
Chairman Doug Qualls

ATTEST:

_____
Ms. Yvonne Rivera,
Secretary, Planning Commission

EXHIBIT "A"

TOWN OF APPLE VALLEY

MONITORING PROGRAM FOR CEQA COMPLIANCE

DATE:	November 28, 2016	**ASSESSORS PARCEL NO.:**	046-323-107, -108, -110, -160; 046-323-126, -127, -128; 046-323-142 and -143
CASE NO.:	Site Plan Review 2015-001	**PROJECT LOCATION:** Southwest corner of Navajo Road and Lafayette Street	
EA/EIR NO:		**APPROVAL DATE:** In Process	
APPLICANT:	AVDC Inc.		

THE FOLLOWING REPRESENTS THE CITY'S MITIGATION MONITORING PROGRAM IN CONNECTION WITH THE MITIGATED NEGATIVE DECLARATION FOR THE ABOVE CASE NUMBER

SUMMARY MITIGATION MEASURES	RESPONSIBLE FOR MONITORING	TIMING	CRITERIA	COMPLIANCE CHECKED BY	DATE
II. AIR QUALITY					
II-1. Grading and development permits shall be reviewed and conditioned to require the provision of all reasonably available methods and technologies to assure the minimal emissions of pollutants from the development (see Table III-27 below), including proper vehicle maintenance and site watering schedules (see detailed list below under Developer's Air Quality Management Resources). The Town Planning and Building Divisions shall review grading plans to ensure compliance with the mitigation measures set forth in the project's environmental documentation and as otherwise conditioned by the Town.	Planning Division	Prior to ground disturbance	Approved air quality management plan.		
II-2. The Town shall coordinate with the project developers to encourage the phasing and staging of development to assure the lowest construction-related pollutant emission levels practical. As part of the Town's grading permit process, the applicant shall concurrently submit a dust control plan as required by MDAQMD in compliance with Rule 403. Mitigation measures to be implemented through this plan include, but are not limited to, the use of water trucks and temporary irrigation systems, post-grading soil stabilization, phased roadway paving, as well as other measures which will effectively limit fugitive dust emissions resulting from	Planning Division	Prior to ground disturbance	Approved dust control plan.		

construction or other site disturbance (see Table III-27 below). II-3. As future demand warrants, developers shall work with the Town to promote and support the development of bus routes/public transit that serve those residing at and ployed by the project.	Planning Division	Annual review of transit routes	Throughout the life of the project.		

SUMMARY MITIGATION MEASURES	RESPONSIBLE FOR MONITORING	TIMING	CRITERIA	COMPLIANCE CHECKED BY	DATE
IV. BIOLOGICAL RESOURCES					
IV.1 Prior to initiation of any earth moving or construction activities on the project site, the project proponent shall conduct environmental awareness training for construction staff, including a presentation by a qualified biologist on desert tortoise, project-specific protective measures, and instructions for actions that must be taken if a tortoise is encountered during construction. These measures include: 1. Prior to initiation of work, all project personnel will attend a WEAP and sign agreement to comply with the measures. Refresher daily at morning tailgate meeting. 2. Sweep of work site(s), staging areas, and access routes will be done daily by biological monitor prior to any work being conducted. 3. If a desert tortoise, kit foxes and/or burrowing owls are found on site, work will immediately cease until the animal has left the area (it must be at least 250 feet away). Listed species may not be handled by anyone. 4. Do not disturb any burrows encountered. Notify biologist. 5. Notify biologist of any other animals or birds nest encountered on site. *Special status animals encountered* will be relocated as needed, if possible *and as allowed under existing regulations.*	Planning Division	The project proponent shall provide course materials and an attendance sign in sheet for construction staff environmental awareness training to the Town prior to the initiation of any construction activity on the site.	Report by biologist.		

6. Keep equipment and vehicles on cleared and approved routes and areas. Watch for and avoid animals, especially tortoises, kit foxes and burrowing owls when driving. 7. Vehicles that have been parked on site should be checked underneath for tortoises/ animals before starting engine or moving. 8. All fueling and maintenance of vehicles and other equipment and staging areas shall occur along the road only. A spill kit should be available during the work. 9. All food and trash debris will be disposed of in closed containers and removed from the project area at the end of each workday. 10. Desert tortoises can only be handled by authorized biologists. Trained individuals must follow the guidelines outlined in the Desert Tortoise Field Manual (USFWS 2010), chapters 6 and 7. No one is authorized to handle or move any desert tortoise. 11. Immediately prior to the start of any ground-disturbing activities and prior to the installation of any desert tortoise exclusion fencing, clearance surveys for the desert tortoise will be conducted by the authorized biologist, as appropriate. The entire project area will be surveyed for desert tortoise and their burrows by an authorized biologist or approved desert tortoise monitor before the start of any ground-disturbing activities following the 2010 field survey protocol (USFWS 2010) or more current approved protocol. If burrows are found, they will be examined by an authorized biologist to determine if desert tortoises are present. If a tortoise is present and the burrow cannot be					

avoided, it will be relocated in accordance with USFWS protocol (USFWS 2010). If the authorized biologist determines clearance surveys are not needed, clearance surveys would not be required. If desert tortoises are found at a project site where the authorized biologist had previously concluded they were unlikely to occur, the USFWS and CDFW will be contacted to determine if the implementation of additional protective measures would be appropriate. 12. The area of disturbance will be confined to the smallest practical area, considering topography, placement of facilities, location of burrows, public health and safety, and other limiting factors. This measure includes temporary haul roads, staging/storage areas, or access roads. Work area boundaries will be clearly and distinctly delineated with flagging or other marking to minimize surface disturbance associated with vehicle movement. Special habitat features, such as desert tortoise burrows, will be identified and marked as environmentally sensitive areas by the authorized biologist, if they are to be avoided and will be discussed and identified during the worker education program. To the extent possible, previously disturbed areas within the project site will be used for equipment storage, office trailer locations, and vehicle parking. The development of all temporary access and work roads associated with construction will be minimized and constructed without blading where feasible. Project-related vehicle traffic will be restricted to established roads,					

construction areas, staging/storage areas, and parking areas. The authorized biologist or approved desert tortoise monitor will ensure that blading is conducted only where necessary. 13. Permanent or temporary exclusion fencing may be used to prevent entry by desert tortoises into a work site. Exclusion fencing will be installed following USFWS guidelines (2005) or more current protocol. The authorized biologist will ensure that desert tortoises cannot pass under, over, or around the fence. Authorized biologists or desert tortoise monitors will not be required to be present at the site at all times; however, they will be present during the installation of the exclusion fence. However, the authorized biologist must periodically check the fenced area to search for breaks in the fence and to ensure no desert tortoises have breached the fence. Preconstruction surveys for tortoise and tortoise sign will be performed within all proposed construction areas prior to the fence being installed. In addition, prior to ground disturbing activities beginning in a previously undisturbed or unfenced area, preconstruction surveys will be performed. 14. Upon locating a dead or injured tortoise within a project site, the authorized biologist will immediately notify USFAWS within 24 hours of the observation via telephone. Written notification must be made to the appropriate Fish and Wildlife field office within 5 days of the finding. The information provided must include the date and time of the finding or incident (if known), location of the carcass or injured					

animal, a photograph, cause of death or injury, if known, and other pertinent information (i.e., size, sex, recommendations to avoid future injury or mortality). 15. Injured desert tortoises will be transported to a veterinarian for treatment at the expense of the applicant. Only the authorized biologist or an approved desert tortoise biological monitor will be allowed to handle an injured tortoise. If an injured animal recovers, the appropriate Fish and Wildlife field office will be contacted for final disposition of the animal. 16. If working outside of a desert tortoise-proof fenced area, auger holes or other excavations will be covered following inspection at the end of each workday to prevent desert tortoises from becoming trapped. 17. Construction vehicles will be cleaned of all mud, dirt, and debris from other sites prior to entering the project area. The purpose of this measure is to minimize the spread of weedy plant species that may degrade desert tortoise habitat. 18. Except on maintained public roads designated for higher speeds or within a desert tortoise-proof fenced area, driving speed will not exceed 20 miles per hour through potential desert tortoise habitat on both paved and unpaved roads. 19. Any fuel or other hazardous materials spills will be promptly cleaned up; any leaks from equipment will be stopped and repaired immediately. Vehicle and equipment fluids that are no longer useful will be transported to an appropriate off-site disposal location. Fuel and					

lubricant storage and dispensing locations will be constructed to fully contain spilled materials until disposal can occur. Hazardous waste, including used motor oil waste and coolant, will be stored and transferred in a manner consistent with applicable regulations and guidelines. 20. Upon completion of construction, all refuse, including, but not limited to equipment parts, wrapping material, cable, wire, strapping, twine, buckets, metal or plastic containers, and boxes will be removed from the site and disposed of properly. 21. No firearms or pets, including dogs, will be allowed within the work area. Firearms carried by authorized security and law enforcement personnel and working dogs under the control of a handler will be exempt from this protective measure. 22. To preclude attracting predators, such as the common raven (*Corvus corax*) and coyotes (*Canis latrans*), food-related trash items will be removed daily from the work site and disposed of at an approved refuse disposal site. Workers are prohibited from feeding all wildlife. 23. Boring locations will not be established within 35 feet of an active desert tortoise burrow. If an active burrow is found within 35 feet after the boring location is established, the boring location will be moved until it is at least 35 feet from the active burrow. 24. An authorized biologist will be onsite during all drilling activities. 25. Desert tortoise exclusion fence construction will follow the guidelines in Chapter 8 of the					

Desert Tortoise Field Manual (USWFS 2010). 26. Desert tortoise-proof fencing will not cross washes. When washes and culverts are encountered, the desert tortoise-proof fence will follow the wash to the roadway and either tie into the existing bridge or cross over the top of a culvert. 27. During fence inspections and repairs, if any desert tortoises are observed, workers are to notify the authorized biologist because only authorized biologists and approved biological monitors are permitted to handle tortoise. All desert tortoises encountered within the roadway side of the fence will be relocated across the fence to safety in accordance with USFs protocol (USFWS 2010). Any such incident will be reported in the annual report. 28. On a case by case basis, individual active burrows may be fenced if the authorized biologist determines this protective measure is necessary to prohibit desert tortoises from repeatedly entering work areas. Fencing around individual burrows will be removed when adjacent construction is complete. 29. When gates are installed within the fence line, desert tortoise-proof fencing will be installed along the gate bottom beginning at least 2 feet above the fence bottom and extending towards the ground leaving less than a 1-inch gap (USFWS 2010). Any and all recommendations included in the study shall be implemented by the Town and/or the developer.					

IV.2A pre-construction survey shall be completed by a qualified biologist not more than *3* days of initiation of any earth moving activity on site.The pre-construction survey shall include an intensive site survey for desert tortoise, Mojave Ground Squirrel, kit fox, burrowing owl and migratory birds. Should any affected species be identified, the biologist shall include recommendations for avoidance in his/her report, and could include: 1. The avian breeding season is generally defined as February 1 through September 15 for most nesting birds. If project activities cannot be avoided between *February* 1 and 15 September, a qualified biological monitor (biologist) shall survey the entirety of the project site, and within a 500 foot buffer surrounding the project site for both diurnal and nocturnal nesting birds, prior to commencement of project activities (including soil disturbance and/or vegetation removal). Surveys shall be conducted by the biologist at an appropriate time of day, no less than thirty days prior to commencement of project activities. 2. If an active nest is found prior to commencement of project activities, the biologist will monitor it for a minimum of one hour and note behaviors such as incubation times and duration, time away from nest, feeding schedule, flushing, etc. This will establish baseline behavior prior to construction, which can be compared to behavior after construction commences.	Planning Division	Within 3 days of initiation of grading	Report by biologist		

Monitoring will consist of quietly approaching and observing the nest at a distance where the nesting bird will not be disturbed by the biologist's presence. 3. If no nesting birds are detected, project activities may begin. 4. If an active nest is located during nesting bird surveys, a 300-foot minimum avoidance buffer will be implemented around it. For raptors, a 500-foot minimum avoidance buffer should be established. For burrowing owls, buffers be established according to guidelines included in the March 7, 2012 DFG *Staff Report on Burrowing Owl Mitigation* if located between February 1 and August 31. Those buffers are shown in Table 1 below. 5. Any breeding habitat/ nest site detected shall be fenced and/or flagged in all directions as an Environmentally Sensitive Area (ESA) as directed by the biologist. The nest site area shall not be disturbed until the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, and the young will no longer be impacted by the project. Buffer areas may be increased if active nests of any endangered, threatened, or CDFW species of special concern not already discussed are detected. 6. Buffers may be reduced at the discretion of the biological monitor. A reduction may be warranted based upon factors such as the life history of individual species; the species' and/or individual bird's sensitivity to noise, vibration, and general disturbance; ambient levels of					

human activity, current site conditions that may shield the nest from disturbance, such as screening vegetation or topography; and the exact nature of project activities that will be conducted in the vicinity of the nest. Additional mitigation measures may need to be implemented if nest buffers are reduced. This additional mitigation could include measures such as sound barriers and increased monitoring. 7. The following measures will minimize the likelihood that active nests will be abandoned or fail due to project activities. Once construction has commenced, nest surveys and/or monitoring will be conducted weekly at a minimum during the nesting season unless it is determined that less frequent site visits would be satisfactory. If the buffer of an active nest overlaps the project site, the biologist will monitor the nest daily and will be present on site at all times while work is occurring in order to ensure that construction activities occur outside the delineated buffer, that any installed fencing/flagging is maintained at the buffer boundaries, and to observe for any potential indication of stress of the nesting birds. In other words, to ensure that the nesting birds are exhibiting normal behaviors as compared to behaviors observed by the nesting birds prior to commencement of construction. These behaviors depend on the stage of the nest (i.e. building, egg incubation, nestling age, etc.), and include incubation, feeding, fecal sac removal, foraging, etc. 8. After commencement of construction the					

biologist will have the authority to halt construction activities if it appears that those activities are causing stress to nesting birds. Such direction shall be taken through the project foreman on site. Determination of "stress" will be based on the results of nest monitoring prior to any construction. Stress would be defined by behaviors such as increased flushing frequency, less nest visits, etc. 9. If a nesting bird or burrowing owl is encountered, the biologist will document the species and location on a survey form. Location will be determined utilizing a global positioning device. The location of active nests and attempted nests will be recorded. Nesting bird behaviors will be recorded, which will also track the nest and its outcome. Monitoring memo reports will be prepared for each day of monitoring activity. 10. Biological Monitors shall conduct the pre-construction surveys for desert kit fox and American badger no more than 30 days prior to initiation of construction activities, including pre-construction site mobilization. Surveys shall also address the potential presence of active dens within 100 feet of the project boundary (including utility corridors and access roads). If dens are detected, each den shall be classified as inactive, potentially active, or definitely active den and a report shall be submitted to the Department for review prior to collapsing the burrows. Any and all recommendations included in the study					

shall be implemented by the Town and/or the developer.					
IV.3 Following completion of the pre-construction survey, a CDFW compliant desert tortoise exclusion fence shall be provided in addition to chain link construction fencing.	Planning Division	Prior to initiation of ground disturbing activity	Site inspection of completed fence and report by biologist.		
IV.4 Following completion of the exclusion fence, a survey for animal burrows shall be completed. If identified, animal burrows shall be carefully excavated to assure they are not occupied by desert tortoise. Should the species be found on the site, it shall be trans-located to native habitat by a qualified biologist, according to strict CDFW protocol.	Planning Division	Prior to initiation of ground disturbing activity	Report by biologist.		
IV.5 A trash management plan shall be developed and implemented during construction on the project site that provides for closed raven-proof containers for trash and food.	Building Division	During construction	Filing of management plan and site inspections.		

SUMMARY MITIGATION MEASURES	RESPONSIBLE FOR MONITORING	TIMING	CRITERIA	COMPLIANCE CHECKED BY	DATE
V. CULTURAL RESOURCES					
V.1 A qualified archaeological monitor and a Native American monitor shall be on site during all ground disturbing activities. The monitor shall be empowered to stop or redirect earth moving activities, if a resource is identified. Should a resource be identified, the monitor shall make recommendations regarding the measures needed to protect the resource. When the monitor determines that there are no resources, or the potential for resources is low, monitoring activities will be suspended. Within 30 days of completion of monitoring, the monitor shall prepare, and deliver to the Town, a report of his/her findings.	Planning & Building Divisions	Prior to initiation of ground disturbing activity.	The project proponent shall provide the Town with agreement(s) with qualified monitors. The Town shall assure that the monitors are on site during earth moving activities.		
V.2 A qualified paleontological monitor shall be on site for any and all excavations that reach more than 3 feet below ground. The monitor shall be empowered to stop or redirect earth moving activities, if a resource is identified. Should a resource be identified, the monitor shall make recommendations regarding the measures needed to protect the resource. Any and all recommendations included in the study shall be implemented by the Town and/or the developer. When the monitor determines that there are no resources, or the potential for resources is low, monitoring activities will be suspended. Within 30 days of completion of	Planning & Building Divisions	Prior to initiation of ground disturbing activity.	The project proponent shall provide the Town with an agreement with a qualified monitor. The Town shall assure that the monitor is on site during earth moving		

monitoring, the monitor shall prepare, and deliver to the Town, a report of his/her findings.			activities.		

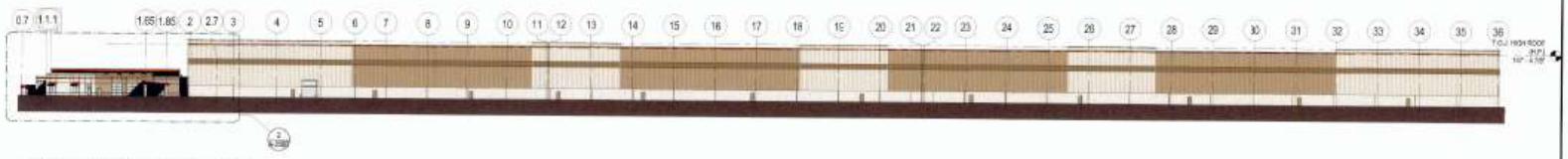
SUMMARY MITIGATION MEASURES	RESPONSIBLE FOR MONITORING	TIMING	CRITERIA	COMPLIANCE CHECKED BY	DATE
VII. HAZARDS & HAZARDOUS MATERIALS					
VII.1 The bombing target area, and the area within 300 feet of the bombing target within the site, including off-site improvement areas, shall be cleared by a qualified technical team, and all ordnance or ordnance scrap removed to a depth acceptable to the technical team.	Planning & Building Divisions	During ground disturbing activity.	The project proponent shall provide the Town with an agreement with a qualified ordnance disposal team.		
VII.2 All ground disturbing activities within 300 feet of the existing bombing target area shall be monitored by a two-man team qualified to detect and dispose of ordnance and ordnance scrap.	Planning & Building Divisions	During ground disturbing activity.	The project proponent shall provide the Town with an agreement with a qualified ordnance disposal team.		
VII.3 Ordnance uncovered during clearing and ground disturbing activities shall be collected, handled and disposed of consistent with accepted professional standards by the qualified technical team.	Planning & Building Divisions	During ground disturbing activity.	The project proponent shall provide the Town with an agreement with a		

			qualified ordnance disposal team.		

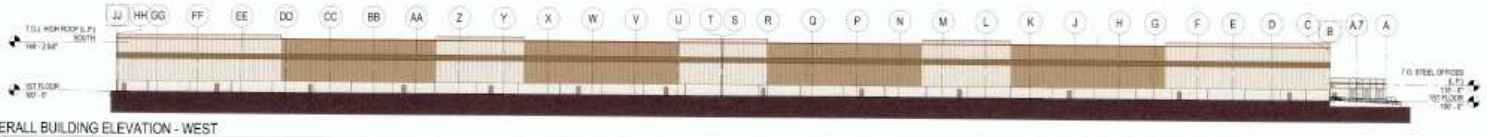
VII.4 Any fill placed within 300 feet of the target area shall be a minimum of 2 feet in depth.	Planning & Building Divisions	During ground disturbing activity.	The project proponent shall provide the Town with an agreement with a qualified ordnance disposal team.		
VII.5 A Site Management Plan shall be prepared prior to the issuance of a certificate of occupancy for any structure on the site. The Site Management Plan shall include all required techniques to be used for any future grading or other site disturbance within 300 feet of the bomb target area, which could include: 5. During intrusive grading, full time construction support using a two-man technician crew (unexploded ordnance [UXO] Technician II and Technician II) should be performed to identify any ordnance related scrap or munitions or explosives of concern (MEC) items. 6. Where little or no filling is proposed, required techniques will consist of the area being cleared with a two-man UXO technician crew using excavation, stockpiling, and sifting to remove the ordnance-related scrap metal. A depth of 2 feet is recommended for this operation. The cleared soil will then be returned to this area.	Planning & Building Divisions	Prior to issuance of Certificate of Occupancy.	Approved Site Management Plan.		

7. For deeper cut areas such as the roadway and storm transfer ditch, required techniques will consist of excavation and sifting to a depth of 3 feet. 8. For areas where fill is required and no intrusive grading into the subgrade is needed, no excavation or sifting will be required as long as the area has been surface cleared (inspection by UXO crew) and a minimum of two feet of fill is emplaced.					

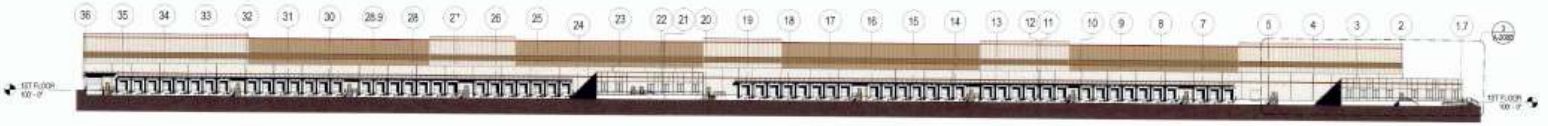
SUMMARY MITIGATION MEASURES	RESPONSIBLE FOR MONITORING	TIMING	CRITERIA	COMPLIANCE CHECKED BY	DATE
XII. NOISE					
All fixed and mobile construction equipment to be properly mufflered.	Public Works Department	During grading.	Site inspections.		
		During construction.	Site inspections.		
All stationary equipment to emit noise away from sensitive receptors and be located as far as possible from sensitive receptors.	Public Works Department	During construction.	Site inspections.		
Equipment to be shut down and not left to idle.	Building Department	During construction.	Site inspections.		
Portable stationary equipment to be shielded, and directed away from sensitive receptors.	Building Department	Operations.	Site inspections.		
Car Wash hours to be limited to 1 AM to 10 PM.	Code Compliance				



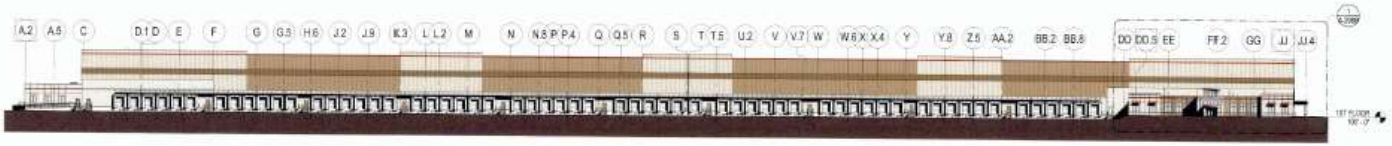
1 OVERALL BUILDING ELEVATION - NORTH



2 OVERALL BUILDING ELEVATION - WEST



3 OVERALL BUILDING ELEVATION - SOUTH



4 OVERALL BUILDING ELEVATION - WEST

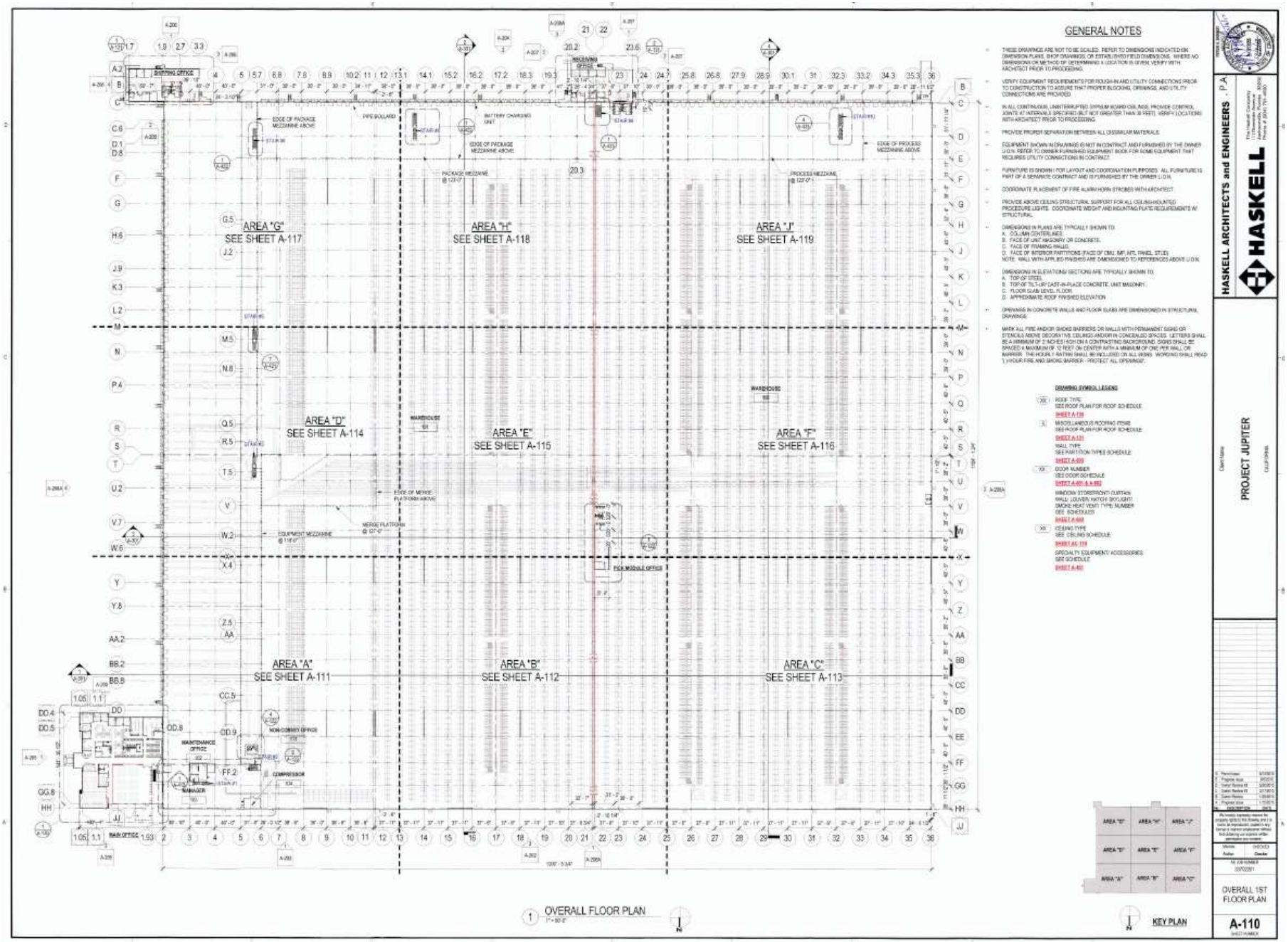
HASKELL ARCHITECTS and ENGINEERS, P.A.

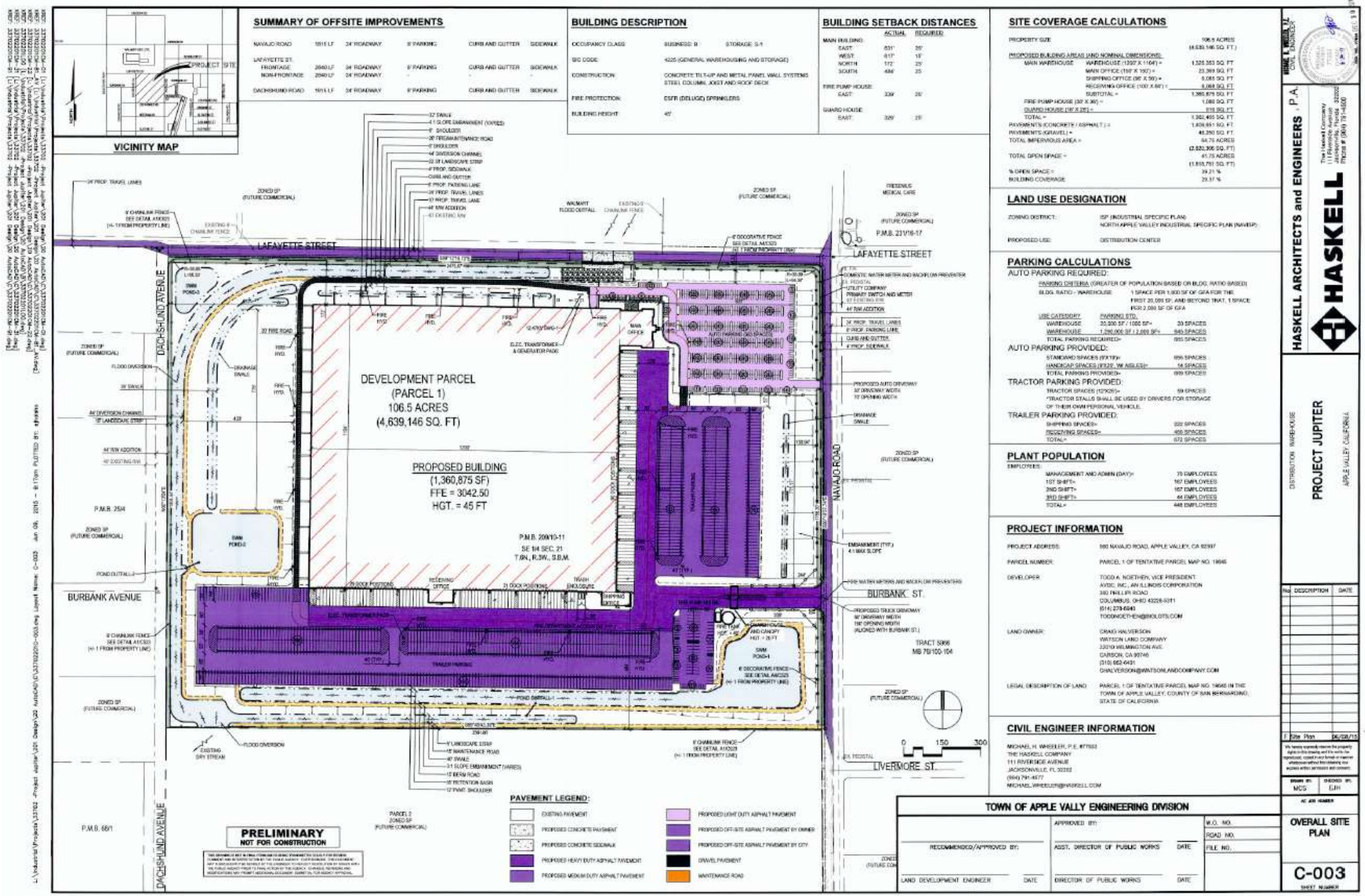
HASKELL

PROJECT JUPITER

EXTERIOR COLOR ELEVATIONS

A-208A


GENERAL NOTES
THESE DRAWINGS ARE NOT TO BE SCALED. REFER TO DIMENSIONS INDICATED ON DIMENSION PLANS, SHOP DRAWINGS, OR ESTABLISHED FIELD DIMENSIONS. WHERE NO DIMENSION OR METHOD OF DETERMINING A LOCATION IS GIVEN, VERIFY WITH ARCHITECT PRIOR TO PROCEEDING.
VERIFY EQUIPMENT REQUIREMENTS FOR ROUGH-IN AND UTILITY CONNECTIONS PRIOR TO CONSTRUCTION TO ASSURE THAT PROPER BLOCKING, OPENINGS, AND UTILITY CONNECTIONS ARE PROVIDED.
IN ALL CONTINUOUS, UNINTERRUPTED GYPSUM BOARD CEILINGS, PROVIDE CONTROL JOINTS AT INTERVALS SPECIFIED BUT NOT GREATER THAN 30 FEET. VERIFY LOCATIONS WITH ARCHITECT PRIOR TO PROCEEDING.
PROVIDE PROPER SEPARATION BETWEEN ALL DISSIMILAR MATERIALS.
EQUIPMENT SHOWN IN DRAWINGS IS NOT IN CONTRACT AND FURNISHED BY THE OWNER U.O.N. REFER TO OWNER FURNISHED EQUIPMENT BOOK FOR SOME EQUIPMENT THAT REQUIRES UTILITY CONNECTIONS IN CONTRACT.
FURNITURE IS SHOWN FOR LAYOUT AND COORDINATION PURPOSES. ALL FURNITURE IS PART OF A SEPARATE CONTRACT AND IS FURNISHED BY THE OWNER U.O.N.
COORDINATE PLACEMENT OF FIRE ALARM HORN STROBES WITH ARCHITECT.
PROVIDE ABOVE CEILING STRUCTURAL SUPPORT FOR ALL CEILING MOUNTED PROCEDURE LIGHTS. COORDINATE WEIGHT AND MOUNTING PLATE REQUIREMENTS W/ STRUCTURAL.
DIMENSIONS IN PLANS ARE TYPICALLY SHOWN TO:
A. COLUMN CENTERLINES
B. FACE OF UNIT MASONRY OR CONCRETE.
C. FACE OF FRAMING WALLS.
D. FACE OF INTERIOR PARTITIONS (FACE OF CMU, IMP, MTL PANEL, STUD)
NOTE: WALLS WITH APPLIED FINISHES ARE DIMENSIONED TO REFERENCES ABOVE U.O.N.
DIMENSIONS IN ELEVATIONS/ SECTIONS ARE TYPICALLY SHOWN TO:
A. TOP OF STEEL
B. TOP OF TILT-UP/ CAST-IN-PLACE CONCRETE, UNIT MASONRY.
C. FLOOR SLAB LEVEL FLOOR.
D. APPROXIMATE ROOF FINISHED ELEVATION
DRAWINGS IN CONCRETE WALLS AND FLOOR SLABS ARE DIMENSIONED IN STRUCTURAL DRAWINGS.
MARK ALL FIRE AND/OR SMOKE BARRIERS OR WALLS WITH PERMANENT SIGNS OR STENCILS ABOVE DECORATIVE CEILINGS AND/OR IN CONCEALED SPACES. LETTERS SHALL BE A MINIMUM OF 2 INCHES HIGH ON A CONTRASTING BACKGROUND. SIGNS SHALL BE SPACED A MAXIMUM OF 12 FEET ON CENTER WITH A MINIMUM OF ONE PER WALL OR BARRIER. THE HOURLY RATING SHALL BE INCLUDED ON ALL SIGNS. WORDING SHALL READ "( ) HOUR FIRE AND SMOKE BARRIER - PROTECT ALL OPENINGS".
DRAWING SYMBOL LEGEND
ROOF TYPE
SEE ROOF PLAN FOR ROOF SCHEDULE
SHEET A-139
MISCELLANEOUS ROOFING ITEMS
SEE ROOF PLAN FOR ROOF SCHEDULE
SHEET A-131
WALL TYPE
SEE PARTITION TYPES SCHEDULE
SHEET A-600
DOOR NUMBER
SEE DOOR SCHEDULE
SHEET A-601 & A-602
WINDOW STOREFRONT CURTAIN WALL/ LOUVER/ MONITOR SKYLIGHT/ SMOKE HEAT VENT TYPE/ NUMBER
SEE SCHEDULES
SHEET A-602
CEILING TYPE
SEE CEILING SCHEDULE
SHEET AC-119
SPECIALTY EQUIPMENT/ ACCESSORIES
SEE SCHEDULE
SHEET A-401
AREA "G" SEE SHEET A-117
AREA "H" SEE SHEET A-118
AREA "I" SEE SHEET A-119
AREA "D" SEE SHEET A-114
AREA "E" SEE SHEET A-115
AREA "F" SEE SHEET A-116
AREA "A" SEE SHEET A-111
AREA "B" SEE SHEET A-112
AREA "C" SEE SHEET A-113
EDGE OF PACKAGE MEZZANINE ABOVE
EDGE OF PROCESS MEZZANINE ABOVE
PACKAGE MEZZANINE @ 123'-0"
PROCESS MEZZANINE @ 125'-0"
EDGE OF MERGE PLATFORM ABOVE
MERGE PLATFORM @ 127'-0"
EQUIPMENT MEZZANINE @ 116'-0"
PICK MODULE OFFICE
WAREHOUSE
MAINTENANCE OFFICE
NON-CONVEY OFFICE
COMPRESSOR
MANAGER
MAIN OFFICE
SHIPPING OFFICE
RECEIVING OFFICE
BATTERY CHARGING UNIT
PIPE BOLLARD
STAIR #6
STAIR #5
STAIR #4
STAIR #3
STAIR #2
STAIR #1
AREA "A" AREA "B" AREA "C" AREA "D" AREA "E" AREA "F" AREA "G" AREA "H" AREA "I"
KEY PLAN
1 OVERALL FLOOR PLAN
1" = 80'-0"
HASKELL ARCHITECTS and ENGINEERS, P.A.
HASKELL
PROJECT JUPITER
OVERALL 1ST FLOOR PLAN
A-110


SUMMARY OF OFFSITE IMPROVEMENTS
BUILDING DESCRIPTION
BUILDING SETBACK DISTANCES
SITE COVERAGE CALCULATIONS
VICINITY MAP
PROJECT SITE
DEVELOPMENT PARCEL
(PARCEL 1)
106.5 ACRES
(4,639,146 SQ. FT)
PROPOSED BUILDING
(1,360,875 SF)
FFE = 3042.50
HGT. = 45 FT
LAFAYETTE STREET
DACHSHUND AVENUE
BURBANK AVENUE
NAVAJO ROAD
BURBANK ST.
LIVERMORE ST.
PAVEMENT LEGEND:
PRELIMINARY
NOT FOR CONSTRUCTION
LAND USE DESIGNATION
PARKING CALCULATIONS
PLANT POPULATION
PROJECT INFORMATION
CIVIL ENGINEER INFORMATION
TOWN OF APPLE VALLY ENGINEERING DIVISION
HASKELL ARCHITECTS and ENGINEERS
PROJECT JUPITER
OVERALL SITE PLAN
C-003

ZONING/LOCATION MAP

Appeal No. 2016-01 and Appeal No. 2016-02