



Notice of Preparation of a Draft Environmental Impact Report and Public Scoping Meeting for the Lake Creek Logistics Center

Date: February 7, 2024

To: State Agencies, Responsible Agencies, Local and Public Agencies, and Interested Parties

From/Lead Agency: Town of Apple Valley, Planning Department
14955 Dale Evans Parkway
Apple Valley, California 92307

Project Applicant: Lake Creek Industrial
13681 Newport Ave, Suite 8301
Tustin, CA 92780

Contact Person: Rick Hirsch, Planning Consultant; rhirsch@interwestgrp.com, 415-377-7826

Subject: Notice of Preparation of a Draft Environmental Impact Report and Public Scoping Meeting for the Lake Creek Logistics Center

This Notice of Preparation (NOP) has been prepared to notify agencies and interested parties that the Town of Apple Valley (Town), as lead agency, is commencing preparation of an environmental impact report (EIR) pursuant to the California Environmental Quality Act (CEQA) to evaluate the potential environmental impacts of the Lake Creek Logistics Center Project (Project).

The Town is requesting input from interested individuals, organizations, and agencies regarding the scope and content of the environmental analysis to be included in the upcoming EIR. In accordance with CEQA, the Town requests that agencies provide comments on the environmental issues related to the statutory responsibilities of their particular agency. This NOP contains a description of the Project, its location, and a preliminary determination of the environmental resource topics to be addressed in the EIR.

Project Location and Setting

The Project is bounded by Gustine Street to the north, Central Road to the east, Corwin Road to the south, and the Apple Valley Airport to the west (Project site). Refer to Figure 1, *Regional Map* and Figure 2, *Project Vicinity*. The Project site is comprised of five parcels that total approximately 226.75 gross acres in size (Assessor's Parcel Number (APN): 0463-373-01, -03, -04, -05, -06). Gustine Street is an unimproved dirt road but planned as an industrial road with a 66' right-of-way (ROW). Central Road is currently developed as a two-lane street without curb, gutter, or sidewalk but is designated as a Major Divided Arterial (128' ROW). Corwin Road is currently paved without curb, gutter, or sidewalk but planned as industrial road with a 66' ROW. Fernandez Avenue and Somis Avenue are undeveloped local streets that run through the site in a north-south direction. The property has remained undeveloped since at least 1952.

Existing General Plan and NAVISP Land Use Designations, Zoning

The Project site is located within the North Apple Valley Industrial Specific Plan (NAVISP). The entire Project site is designated as "Specific Plan" in the General Plan Land Use Map and as "SP" Specific Plan on the Town's Zoning Map. Four of the five parcels are designated as I-SP "Specific Plan- Industrial" on the NAVISP Land Use Plan, with the southeasterly parcel (APN 0463-373-06) currently designated as C-G, "General Commercial". The NAVISP I-SP designation is intended to support the development of a broad range of clean, well planned, industrial, quasi-industrial

and supporting commercial uses. Uses generating excessive noise or other environmental impacts are not permitted in the I-SP district.

Surrounding properties to the north, west and south are also located within the NAVISP and designated I-A, "Airport Industrial" and I-SP, Specific Plan- Industrial. Properties to the east are within San Bernardino County and designated as "Apple Valley-Rural Living". Surrounding uses include undeveloped land to the north, undeveloped land and single-family residences to the east, undeveloped land and an Apple Valley Airport runway to the south, and undeveloped land and the Apple Valley Airport to the west.

Project Description

The Project proposes three (3) industrial warehouse and distribution buildings totaling approximately 3,480,736 square feet (sf) on three parcels. Refer to Figure 3, *Master Site Plan*. The Project would provide approximately 548 dock doors, 3,032 automobile parking stalls and 1,565 trailer parking stalls. The Project proposes changing the current NAVISP designation of the southeasterly parcel from C-G to I-SP to align this parcel with the rest of the Project site and to best facilitate the intended use mix. Refer to Figure 4, *Specific Plan Amendment Exhibit*. All uses are to be conducted within enclosed structures. Outdoor storage may be permitted, if completely screened from view.

The Project would include construction of the half-width plus 18-24 feet of the full street classifications of Central Road, Gustine Road and Corwin Road, as well as standard curb, gutter, and sidewalk, on the Project site frontages. A proposed tentative map would result in the abandonment of Fernandez and Somis Avenues through the site, transitioning to interior property lines, and replacing those future roadways with a 30-foot-wide public utilities easement to be dedicated to the Town. Fernandez and Somis Avenues are not designated roadways in the City's General Plan or NAVISP; therefore, no other entitlements or approvals are required for the abandonment of these roadways.

A 10' wide sewer easement would be dedicated to the Town and would extend westerly from the terminus of Corwin Road. The Project will propose one of two off-site sewer route options to provide sewer services to the site. The primary option would be to extend the sewer line as jack and bore construction under the adjacent Apple Valley Airport runway, connecting to an existing sewer main located west of the airport. This option would require the granting of an easement from the San Bernardino County Department of Airports. A back up option would be to construct an on-site sewer lift station and provide a connection within the public right-of-way leading to an existing 15-inch sewer main located at Waalew and Camanche Roads. The proposed Project would also provide on-site sewer as well as on and off-site water, electricity, and gas infrastructure.

Building 1: Parcels 0463-373-04 and -06 (approximately 76.60 gross acres) would be merged to form Parcel 1, measuring 76.36 net acres. Parcel 1 would be developed with an approximate 1,238,320-sf warehouse building that includes 20,000 sf of office space and 1,218,320 sf of warehouse space for floor air ratio (FAR) of 0.37. The code would require 1,249 parking stalls, and a total of 1,775 stalls would be provided: 196 dock doors, 1,017 standard automobile parking stalls, 20 Americans with Disabilities Act (ADA) standard parking stalls, 4 ADA Van parking stalls, 92 Electric Vehicle (EV) ready parking stalls, and 446 trailer parking stalls. The building would be setback approximately 406'-2" from Gustine Road, 245'-7" from Central Road, 446'-1" from Corwin Road, and 225'-10" from the westerly interior property line. It would include a 115'-7" landscape setback from Central Road that slope approximately 18' down from Central Road to the edge of the truck court. The building would have a maximum height of 51'-0".

Building 2: Parcels 0463-373-03 and -05 (approximately 80.08 gross acres) would be merged to form Parcel 2, measuring 80.08 net acres. Parcel 2 would be developed with a 1,238,320-sf warehouse building that includes 20,000 sf of office space and 1,218,320 sf of warehouse space, for a FAR of 0.36. The code would require 1,249 parking stalls, and a total of 1,943 stalls would be provided: 196 dock doors, 1,075 standard automobile parking stalls, 20 ADA standard parking stalls, 4 ADA van parking stalls, 105 EV ready parking stalls, and 543 trailer parking stalls. The building would be setback approximately 423'-4" from Gustine Road, 444' from Corwin Road, 189'-1" from the eastern property line, and 333'- 5" from the western property line. The building would have a maximum height of 51'-0"

Building 3: Parcel 3 (APN 0463-373-01) (approximately 70.07 gross/68.46 net acres) would be developed with a 1,004,096-sf warehouse building that includes 20,000 sf of office space and 984,096 sf of warehouse space, for a FAR of 0.34. The code would require 1,015 parking stalls, and 1,427 would be provided: 156 dock doors, 607 standard automobile parking stalls, 20 ADA parking stalls, 4 ADA van parking stalls, 64 EV ready parking stalls, and 576 trailer

parking stalls. The building would be setback approximately 849' from Gustine Road, 315'-8" from Corwin Road, 145'-7" from the eastern property line, and 102'-6" from the western property line. The building would have a maximum height of 51'-0".

Currently, there are no identified tenants for the proposed buildings. Intended occupants for the proposed Project include distribution firms seeking an Inland Empire location from which to service their client base. Since the tenants are unknown, hours of operation and employee count would vary, but is assumed for planning purposes to operate 24/7. Office workers would likely have typical shifts of Monday through Friday, 8:00AM to 5:00PM, while warehouse staff would work in day, evening, and night shifts. Specific hours of operation would be identified during the tenant improvement process.

The Project consists of the following requested approvals and land use entitlements:

- Tentative Parcel Map No. 20659 to merge parcels 0463-363-03 and -05 to form Parcel 2 and merge parcels 0463-373-04 and -06 to form Parcel 3;
- Site Plan Review 2022-003 to develop three industrial buildings totaling approximately 3.48 million square feet on a 227-acre site located at the northwest corner of Central Road and Corwin Road in the North Apple Valley Industrial Specific Plan (I-SP). (APNs: 0463-373-01, 03, 04, 05, & 06);
- Specific Plan Amendment (SPA) 2023-001, to change the southeasterly parcel's NAVISP Land Use Plan designation from C-G to I-SP;
- Development Agreement (DA) is proposed between the Project Applicant and the Town of Apple Valley to provide long-term vested right to develop industrial buildings on the Project site and to provide community benefits to the Town.

Potential Environmental Impacts

The Town of Apple Valley has determined that an EIR will be prepared for the Project based on its potential to cause environmental effects. Pursuant to Section 15063(a) of the CEQA Guidelines, where a lead agency determines that an EIR will clearly be required for a project, an Initial Study is not required. Accordingly, an Initial Study will not be prepared for this Project. The Town has determined that the Project would have no impacts or less than significant impacts related to agriculture and forestry resources, mineral resources, population and housing, recreation, and wildfire.

- **Agriculture and Forestry Resources:** According to the California Department of Conservation Farmland Mapping & Monitoring Program, the Project site is designated as grazing land¹. The Project site is not located within lands designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. In addition, the Project site is not zoned for agricultural use or timberland production. No impact would occur.
- **Mineral Resources:** According to the City's General Plan, the Project site is not within an area that has been identified to contain mineral resources². Additionally, the Project site is not zoned for mineral resource extraction operations. No impact would occur.
- **Population and Housing:** The property has remained undeveloped since at least 1952 and no residential uses are proposed as part of the Project. The Project site is within the NAVISP. Four of the five parcels are zoned I-SP and the southeast parcel (APN 0463-373-06) is zoned C-G. Surrounding properties to the north, west and south are also located within the NAVISP and zoned I-A and I-SP. The properties to the east are within San Bernardino County and zoned Apple Valley/Rural Living. The Project would result in the development of 3 industrial warehouse and distribution buildings totaling approximately 3,480,736 sf in an area intended for industrial uses based on the existing land use designation and zoning.

¹ <https://www.conservation.ca.gov/dlrp/fmmp>

² <https://www.applevalley.org/home/showpublisheddocument/4893/635611242901270000>

Construction of the Project would not require the construction of replacement housing and would not displace any existing housing or residents. The Project does not propose the development of residential uses and would not directly increase the resident population; however, the Project would create jobs and increase employment in the Town of Apple Valley. The Project would create short-term jobs during the construction phase which would be filled by workers who, for the most part, would already reside in the local area; therefore, construction of the Project would not generate a substantial temporary or permanent increase in population within the Project area.

Based on Table II-B of SCAG's Employment Density Report with an employment rate of 1,195 s.f. per employee for warehouse uses in San Bernardino County, the Project would generate approximately 2,912 employees³. According to SCAG's *Connect SoCal*, the Town's employment opportunities are estimated to grow up to 10,000⁴ by 2045. As such, the Project-related increase of approximately 2,912 employees would be accounted for in the Town's employment growth estimate upon General Plan build-out, including the NAVISP. Thus, the Project's employment generation due to Project construction and operation is already accounted for in the City's General Plan. According to the California Department of Finance (DOF) Current Month Unemployment Rate and Labor Force Summary, as of August 2023, the most current data available, the Town had a labor force of 30,200 with an unemployment population of 1,700 (5.8 percent)⁵. As such, the Project's temporary and permanent employment requirements could likely be met by the Town's existing labor force without people needed to relocate into the Project region, and the Project would not induce substantial unplanned population growth in the Project area, either directly or indirectly, and would not exceed regional or local growth projections. Therefore, impacts would be less than significant.

- **Recreation:** The Project does not propose any residential uses which would increase the population that would use parks. As discussed above, the Project would develop the Project site in accordance with the underlying General Plan land use designation. Thus, the Project's employment generation due to Project construction and operation is already accounted for in the City's General Plan. The Project would not induce substantial unplanned population growth within the Project area. Therefore, the Project would not directly increase the use of existing neighborhood and regional parks or other recreational facilities in the Town. Additionally, because of the proposed industrial use, the Project does not include any recreational facilities or require the construction or expansion of recreational facilities. No impact would occur.
- **Wildfire:** According to the California Department of Forestry and Fire Protection, the Project site is located within the limits of the Town of Apple Valley outside of the State Responsibility Area (SRA) and is not located within a Very High Fire Hazard Severity Zone⁶. The Project would be required to comply with State and local regulations pertaining to emergency access. In addition, the Project site is generally flat and lacks factors that are typically associated with the uncontrolled spread of wildfire. As mentioned, because the site is generally flat, the Project would not expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability or drainage changes. The proposed Project would provide on-site and off-site water, sewer, electricity, and gas infrastructure improvements which would be constructed in compliance with regulatory requirements and would not exacerbate fire risk. Therefore, no impact would occur.

Accordingly, no further analysis of these five (5) environmental topics will be provided in the Draft EIR.

The EIR will evaluate 15 environmental topics listed in Appendix G to the CEQA Guidelines (as implemented by the Town of Apple Valley), listed below.

³ <https://www.mwco.org/file.aspx?A=QTTITR24POOOUIw5mPNzK8F4d8djdJe4LF9Exj6IXOU%3D>

⁴ https://scag.ca.gov/sites/main/files/file-attachments/0903fconnectsocial_demographics-and-growth-forecast.pdf?1606001579

⁵ <https://labormarketinfo.edd.ca.gov/file/1fmonth/allsubs.xls>

⁶ <https://calfire-forestry.maps.arcgis.com/apps/webappviewer/index.html?id=988d431a42b242b29d89597ab693d008>

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Public Services
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems

The EIR will address each of the 15 environmental issues in the following general manner. The existing conditions/environmental setting as it relates specifically to the environmental topic under evaluation will be described to establish a baseline for conducting the environmental analysis. As necessary and appropriate, a description of key terminology and concepts associated with the environmental issue area will be presented, followed by a discussion of any regulatory requirements that may apply. Next, the significance criteria will be listed and will be accompanied by a justification as to the appropriateness of the criteria selected for evaluation. An analysis will then be presented for each significance criteria, and the analysis will provide a clear description and conclusion as to the level of significance of Project impacts, prior to mitigation. The analysis will include a discussion of potential direct, indirect, and cumulative impacts of the Project, as well as a discussion of potential growth inducing impacts. For each significant impact identified, feasible and enforceable mitigation measures will be presented. Finally, each chapter in the EIR will provide a conclusion as to the level of significance following implementation of recommended mitigation measures.

Public Scoping Comment Period and Meeting

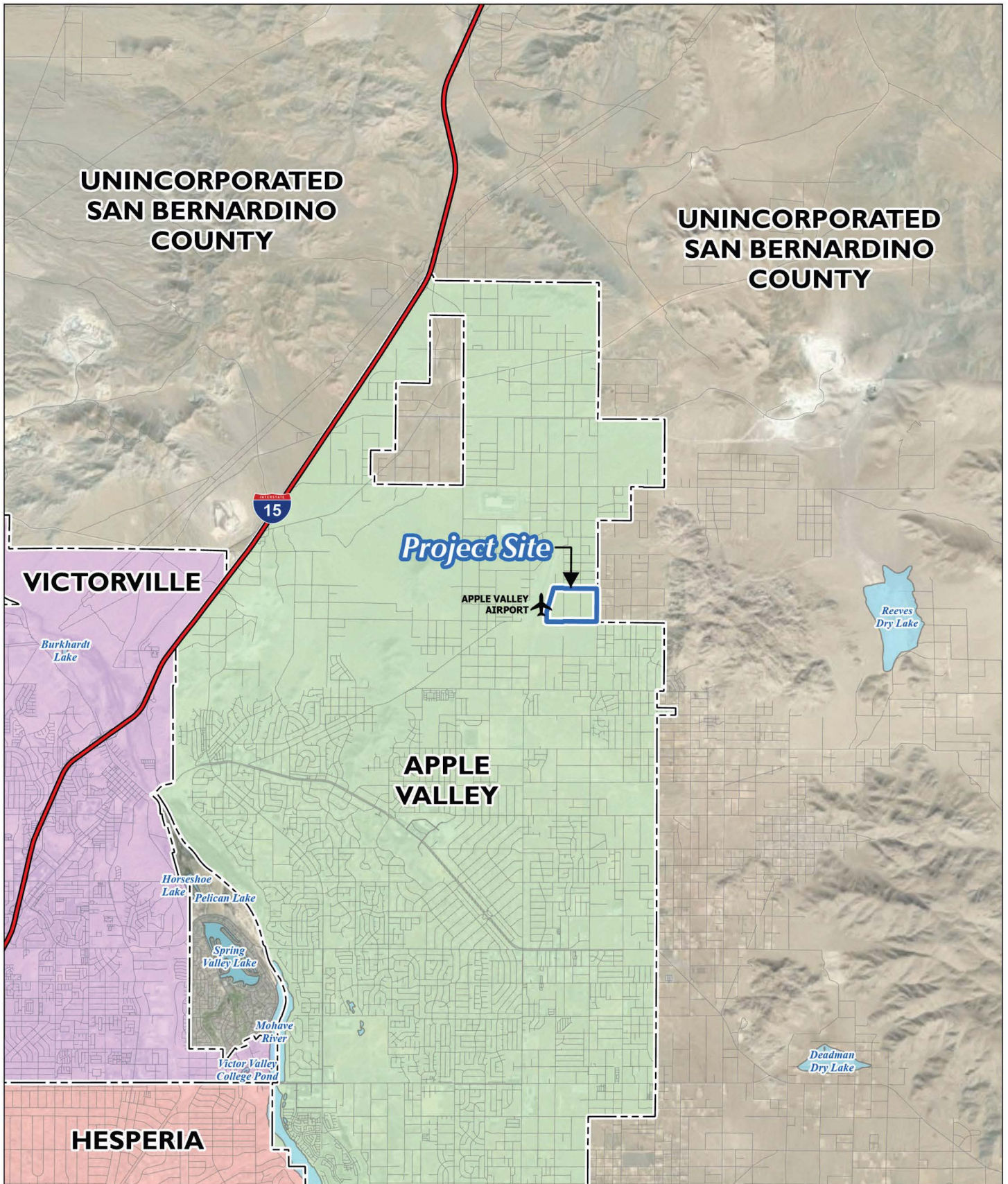
The Town has established a 30-day public scoping period from February 9, 2024 through March 11, 2024. During the scoping period, the Town's intent is to disseminate Project information to the public and solicit comments from agencies, organizations, and interested parties, including nearby residents and business owners, regarding the scope and content of the environmental information to be included in the EIR, including mitigation measures or Project alternatives to reduce potential environmental effects. During this period, the NOP may be accessed electronically at the following website: <https://www.applevalley.org/services/planning-division/environmental>.

During the 30-day public scoping period, the Town will also hold a public scoping meeting on Monday, February 26, 2024, from 5:00 p.m. – 6 p.m., via virtual meeting participation on Microsoft Teams. Please navigate to this web address: <http://tinyurl.com/Lake-Creek-scoping>.

The public scoping meeting will provide an additional opportunity to receive and disseminate information, identify potential environmental issues of concern, and discuss the scope of analysis to be included in the EIR. The scoping meeting is not a public hearing, and no decisions on the Project will be made at this meeting. It is an additional opportunity for agencies, organizations, and the public to provide scoping comments regarding environmental issues to be addressed in the EIR. Public agencies, organizations, and any interested parties are encouraged to attend and participate in this meeting.

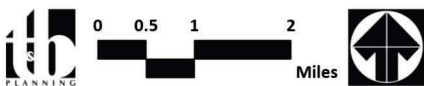
All scoping comments must be received in writing by 5:00 p.m. on March 11, 2024, which marks the end of the 30-day public scoping period. All written comments should indicate an associated contact person for the agency or organization, if applicable, and reference the Project name in the subject line. Pursuant to CEQA, responsible agencies are requested to indicate their statutory responsibilities in connection with the Project when responding.

Please direct any scoping comments and Project-related questions to:
Rick Hirsch, Consulting Planner, email: rhirsch@interwestgrp.com



Source(s): ESRI, NearMap Imagery (2022), San Bernardino County (2023)

Figure 1

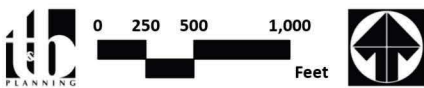


Regional Map

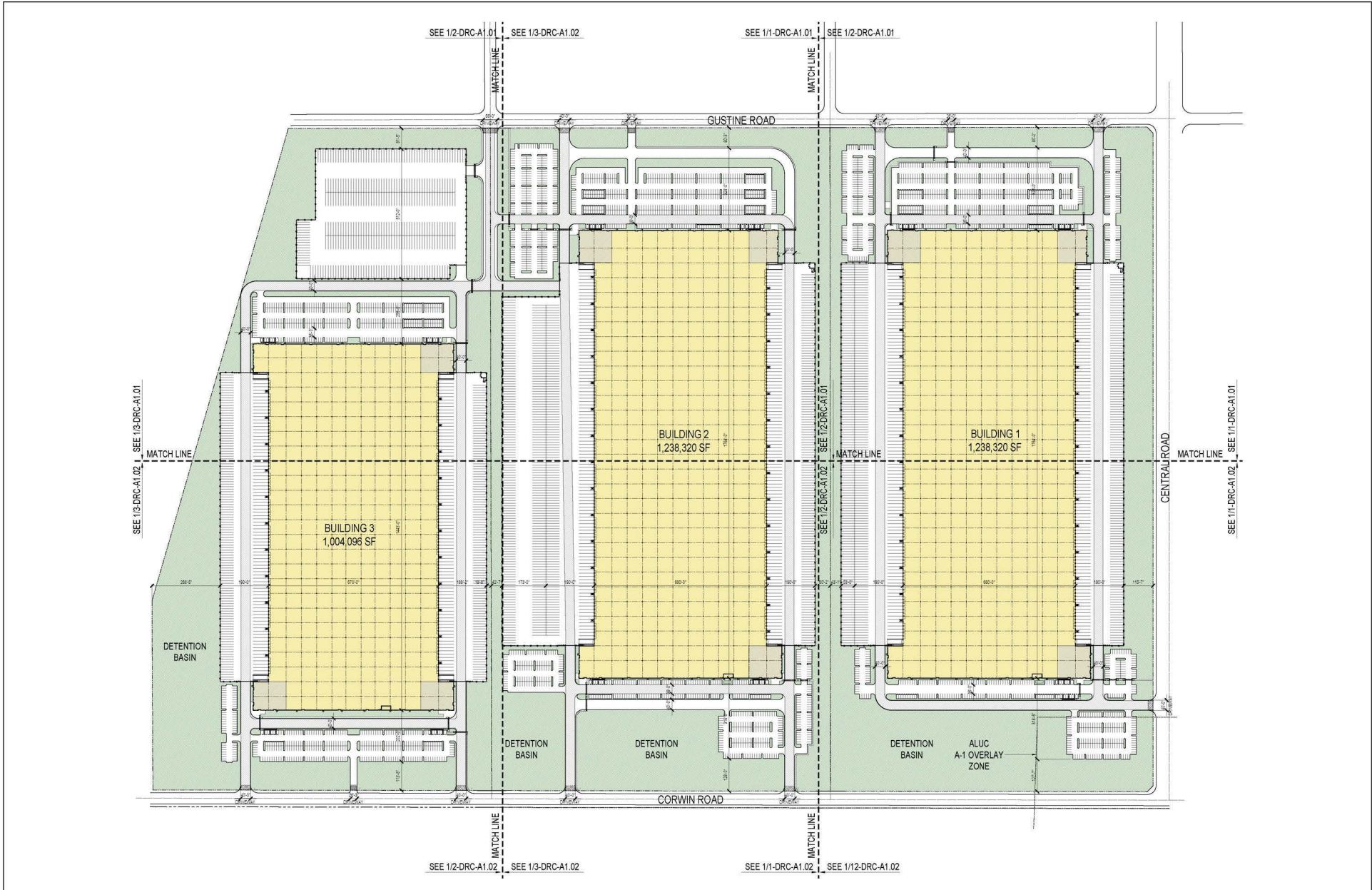


Source(s): ESRI, NearMap Imagery (2022)

Figure 2



Project Vicinity



Source(s): S K Architects (11-09-2023)

Figure 3



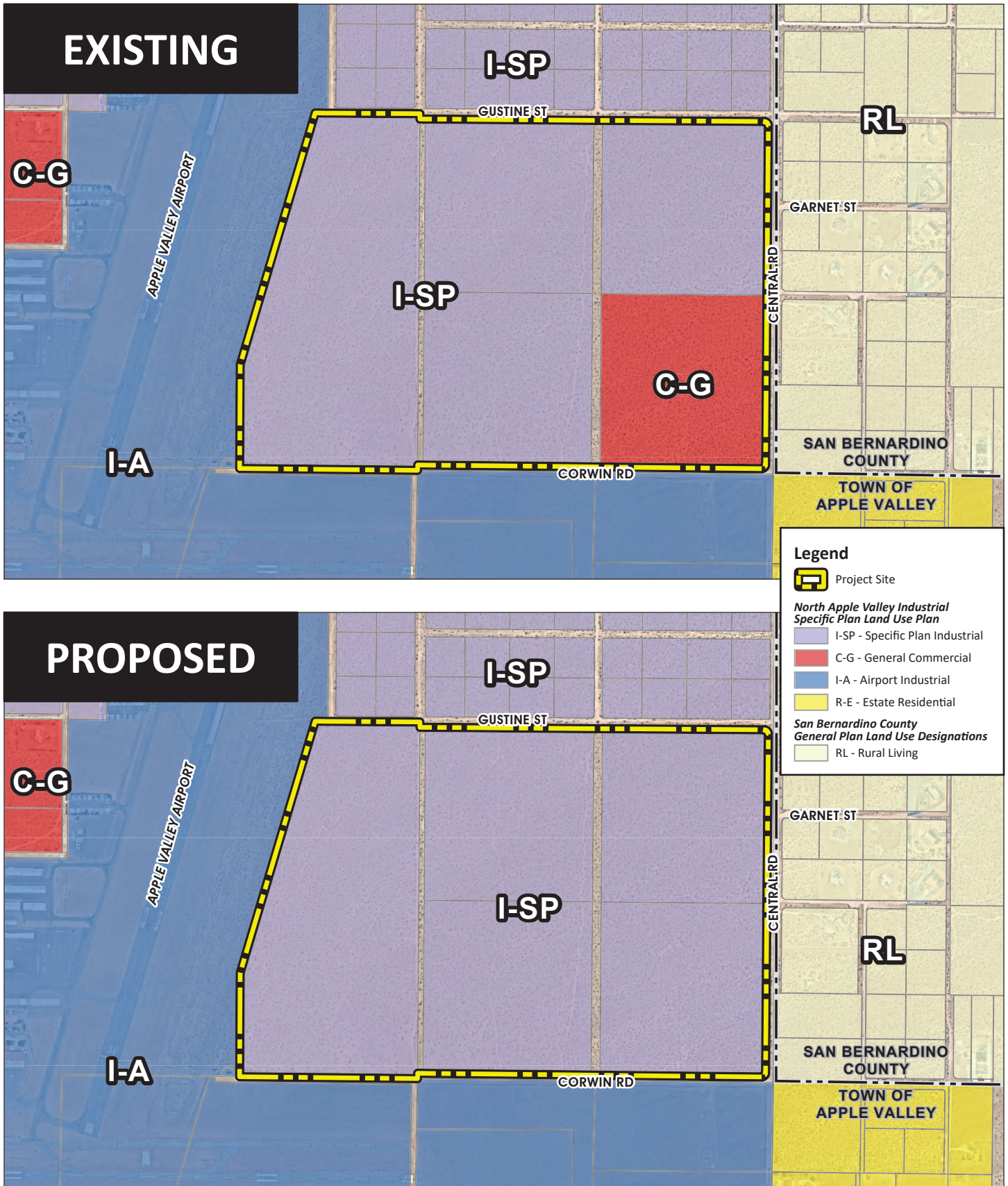
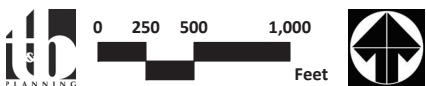


Figure 4

Existing & Proposed Specific Plan Land Use Designations



March 6, 2024

Rick Hirsch
Planning Consultant
Town of Apple Valley, Planning Department
Town of Apple Valley
14955 Dale Evans Parkway
Town of Apple Valley, California 92307
rhirsch@interwestgrp.com



Sent via email

Dear Rick Hirsch:

Thank you for providing the California Air Resources Board (CARB) with the opportunity to comment on the Notice of Preparation (NOP) for the Lake Creek Logistics Center Project (Project) Draft Environmental Impact Report (DEIR), State Clearinghouse No. 2024020235. The Project proposes to construct three industrial warehouse distribution buildings totaling 3,480,736 square feet on approximately 227 acres of vacant undeveloped land. The Project site is located within the Town of Apple Valley (Town), California, which is the lead agency for California Environmental Quality Act (CEQA) purposes.

Industrial developments, such as the Project, can result in high daily volumes of heavy-duty diesel truck traffic and operation of on-site equipment (e.g., forklifts and yard tractors) that emit toxic diesel particulate matter, and contribute to regional air pollution and global climate change.¹ The Project will expose nearby communities to elevated levels of air pollution. Existing residences are located east and south-east of the Project with the closest residence located within 450 feet from the Project's eastern boundary. Due to the Project's proximity to existing residences, CARB is concerned with the potential health impacts associated with the construction and operation of the Project.

The DEIR Should Quantify and Discuss the Potential Cancer Risks from Project Operation

Since the Project could generate diesel-powered truck traffic along roadways adjacent to residential communities, CARB urges the Town to prepare a health risk assessment (HRA) for the Project. The HRA should account for all potential operational health risks from Project-related diesel particulate matter (diesel PM) emission sources, including, but not

¹ With regard to greenhouse gas emissions from this project, CARB has been clear that local governments and project proponents have a responsibility to properly mitigate these impacts. CARB's guidance, set out in detail in the Scoping Plan issued in 2017, explains that in CARB's expert view, local mitigation is critical to achieving climate goals and reducing greenhouse gases below levels of significance.

limited to, back-up generators, on-site diesel-powered equipment, and heavy-duty trucks. The HRA should also determine if the operation of the Project in conjunction with past, present, and reasonably foreseeable future projects or activities would result in a cumulative cancer risk impact on nearby residences. To reduce diesel PM exposure and associated cancer risks, CARB urges the Town to include all the air pollution reduction measures listed in Attachment A.

Since the Project description provided in the NOP does not explicitly state that the proposed industrial land uses would not be for cold storage, there is a possibility that trucks and trailers visiting the Project site would be equipped with Transport Refrigeration Units (TRU).² TRUs on trucks and trailers can emit large quantities of diesel exhaust while operating within the Project site. Residences and other sensitive receptors (e.g., daycare facilities, senior care facilities, and schools) located nearby would be exposed to diesel emissions that would result in a significant cancer risk impact to the community. If the Project would be used for cold storage, CARB urges the Town to model air pollutant emissions from on-site TRUs in the DEIR, and to include potential cancer risks from on-site TRUs in the Project's HRA. If the Project will not be used for cold storage, CARB urges the Town to include one of the following design measures in the DEIR:

- A Project design measure requiring contractual language in tenant lease agreements that prohibits tenants from operating diesel-powered TRUs within the Project-site; or
- A condition requiring a restrictive covenant over the parcel that prohibits the applicant's use of diesel-powered TRUs on the property unless the applicant seeks and receives an amendment to its conditional use permit allowing such use.

The HRA prepared in support of the Project should be based on the latest Office of Environmental Health Hazard Assessment's (OEHHA) guidance (2015 Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments).³ The Town has the option to use CARB's Hot Spots Analysis and Reporting Program (HARP2 model) when estimating and analyzing the proposed Project's health risk impacts to the surrounding communities. The Project's mobile diesel PM emissions used to estimate the Project's cancer risk impacts should be based on CARB's latest 2021 Emission Factors model (EMFAC2021). Mobile emission factors can be easily obtained by running the EMFAC2021 Web Database: <https://arb.ca.gov/emfac/>.

The HRA should evaluate and present the existing baseline (current conditions), future baseline (full build-out year, without the Project), and future year with the Project. The health risks modeled under both the existing and the future baselines should reflect all applicable

² TRUs are refrigeration systems powered by integral diesel engines that protect perishable goods during transport in an insulated truck and trailer vans, rail cars, and domestic shipping containers.

³ Office of Environmental Health Hazard Assessment (OEHHA). Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments. February 2015. Accessed at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>.

federal, state, and local rules and regulations. By evaluating health risks using both baselines, the public and planners will have a complete understanding of the potential health impacts that would result from the Project.

The DEIR Should Quantify and Discuss the Potential Cancer Risks from Project Construction

In addition to the health risks associated with operational diesel PM emissions, health risks associated with construction diesel PM emissions should be included in the air quality section of the DEIR and the Project's HRA. Construction of the Project would result in short-term diesel PM emissions from the use of both on-road and off-road diesel equipment. The OEHHA guidance recommends assessing cancer risks for construction projects lasting longer than two months. Since construction would very likely occur over a period lasting longer than two months, the HRA prepared for the Project should include health risks for existing residences near the Project site during construction.

The HRA should account for all diesel PM emission sources related to Project construction, including, but not limited to, off-road mobile equipment, diesel generators, and on-road heavy-duty trucks. As stated in Section I of this letter, the cancer risks evaluated in the construction HRA should be based on the latest OEHHA guidance, and CARB's HARP2 model. The cancer risks reported in the HRA should be calculated using the latest emission factors obtained from CARB's latest EMFAC (currently EMFAC 2021) and off-road models.

Conclusion

To reduce the exposure of toxic diesel PM emissions in disadvantaged communities already impacted by air pollution, the final design of the Project should include all existing and emerging zero-emission technologies to minimize diesel PM and NOx emissions, and to minimize the greenhouse gases that contribute to climate change. CARB encourages the Town and applicant to implement the applicable measures listed in Attachment A of this letter.

Given the breadth and scope of projects subject to CEQA review throughout California that have air quality and greenhouse gas impacts, coupled with CARB's limited staff resources to substantively respond to all issues associated with a project, CARB must prioritize its substantive comments here based on staff time, resources, and its assessment of impacts. CARB's deliberate decision to substantively comment on some issues does not constitute an admission or concession that it substantively agrees with the lead agency's findings and conclusions on any issues on which CARB does not substantively submit comments.

Rick Hirsch
March 6, 2024
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CARB appreciates the opportunity to comment on the NOP for the Project and can provide assistance on zero-emission technologies and emission reduction strategies, as needed. Please include CARB on your State Clearinghouse list of selected State agencies that will receive the DEIR as part of the comment period. If you have questions, please contact Stanley Armstrong, Air Pollution Specialist via email at stanley.armstrong@arb.ca.gov.

Sincerely,



Matthew O'Donnell, Chief, Risk Reduction Branch

Attachment

cc: State Clearinghouse
state.clearinghouse@opr.ca.gov

Yassi Kavezade, Organizer, Sierra Club
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Alan De Salvio, Deputy Director of Mojave Desert Operations, Mojave Desert Air Quality Management District
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Morgan Capilla, NEPA Reviewer, U.S. Environmental Protection Agency, Air Division, Region 9
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Taylor Thomas, Research and Policy Analyst, East Yard Communities for Environmental Justice
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Stanley Armstrong, Air Pollution Specialist, Risk Reduction Branch

Attachment A

Recommended Air Pollution Emission Reduction Measures for Warehouses and Distribution Centers

The California Air Resources Board (CARB) recommends developers and government planners use all existing and emerging zero to near-zero emission technologies during project construction and operation to minimize public exposure to air pollution. Below are some measures, currently recommended by CARB, specific to warehouse and distribution center projects. These recommendations are subject to change as new zero-emission technologies become available.

Recommended Construction Measures

1. Ensure the cleanest possible construction practices and equipment are used. This includes eliminating the idling of diesel-powered equipment and providing the necessary infrastructure (e.g., electrical hookups) to support zero and near-zero equipment and tools.
2. Implement, and plan accordingly for, the necessary infrastructure to support the zero and near-zero emission technology vehicles and equipment that will be operating on site. Necessary infrastructure may include the physical (e.g., needed footprint), energy, and fueling infrastructure for construction equipment, on-site vehicles and equipment, and medium-heavy and heavy-heavy duty trucks.
3. In construction contracts, include language that requires all off-road diesel-powered equipment used during construction to be equipped with Tier 4 or cleaner engines, except for specialized construction equipment in which Tier 4 engines are not available. In place of Tier 4 engines, off-road equipment can incorporate retrofits, such that, emission reductions achieved are equal to or exceed that of a Tier 4 engine.
4. In construction contracts, include language that requires all off-road equipment with a power rating below 19 kilowatts (e.g., plate compactors, pressure washers) used during project construction be battery powered.

5. In construction contracts, include language that requires all heavy-duty trucks entering the construction site during the grading and building construction phases be model year 2014 or later. All heavy-duty haul trucks should also meet CARB's lowest optional low-oxides of nitrogen (NO_x) standard starting in the year 2022.⁴
6. In construction contracts, include language that requires all construction equipment and fleets to be in compliance with all current air quality regulations. CARB is available to assist in implementing this recommendation.

Recommended Operation Measures

1. Include contractual language in tenant lease agreements that requires tenants to use the cleanest technologies available, and to provide the necessary infrastructure to support zero-emission vehicles and equipment that will be operating on site.
2. Include contractual language in tenant lease agreements that requires all loading/unloading docks and trailer spaces be equipped with electrical hookups for trucks with transport refrigeration units (TRUs) or auxiliary power units. This requirement will substantially decrease the amount of time that a TRU powered by a fossil-fueled internal combustion engine can operate at the project site. Use of zero-emission all-electric plug-in TRUs, hydrogen fuel cell transport refrigeration, and cryogenic transport refrigeration are encouraged and can also be included in lease agreements.⁵
3. Include contractual language in tenant lease agreements that requires all TRUs entering the project-site be plug-in capable.
4. Include contractual language in tenant lease agreements that requires future tenants to exclusively use zero-emission light and medium-duty delivery trucks and vans.
5. Include contractual language in tenant lease agreements that requires all service equipment (e.g., yard hostlers, yard equipment, forklifts, and pallet jacks) used within the project site to be zero-emission. This equipment is widely available and can be

⁴ In 2013, CARB adopted optional low-NO_x emission standards for on-road heavy-duty engines. CARB encourages engine manufacturers to introduce new technologies to reduce NO_x emissions below the current mandatory on-road heavy-duty diesel engine emission standards for model-year 2010 and later. CARB's optional low-NO_x emission standard is available at: <https://ww2.arb.ca.gov/our-work/programs/optional-reduced-nox-standards>

⁵ CARB's technology assessment for transport refrigerators provides information on the current and projected development of TRUs, including current and anticipated costs. The assessment is available at: https://www.arb.ca.gov/msprog/tech/techreport/tru_07292015.pdf

purchased using incentive funding from CARB's Clean Off-Road Equipment Voucher Incentive Project (CORE).⁶

6. Include contractual language in tenant lease agreements that requires all heavy-duty trucks entering or on the project site to be zero-emission vehicles, and be fully zero-emission. A list of commercially available zero-emission trucks can be obtained from the Hybrid and Zero-emission Truck and Bus Voucher Incentive Project (HVIP).⁷ Additional incentive funds can be obtained from the Carl Moyer Program and Voucher Incentive Program.⁸
7. Include contractual language in tenant lease agreements that requires the tenant to be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation,⁹ Advanced Clean Trucks Regulation,¹⁰ Periodic Smoke Inspection Program (PSIP),¹¹ and the Statewide Truck and Bus Regulation.¹²
8. Include contractual language in tenant lease agreements restricting trucks and support equipment from idling longer than two minutes while on site.
9. Include rooftop solar panels for each proposed warehouse to the extent feasible, with a capacity that matches the maximum allowed for distributed solar connections to the grid.

⁶ Clean Off-Road Equipment Voucher Incentive Project. Accessible at: <https://californiacore.org/how-to-participate/>

⁷ Zero-Emission Truck and Bus Voucher Incentive Project. Accessible at: <https://californiahvip.org/>

⁸ Carl Moyer Program and Voucher Incentive Program. <https://ww2.arb.ca.gov/carl-moyer-program-apply>

⁹ In December 2008, CARB adopted a regulation to reduce greenhouse gas emissions by improving the fuel efficiency of heavy-duty tractors that pull 53-foot or longer box-type trailers. The regulation applies primarily to owners of 53-foot or longer box-type trailers, including both dry-van and refrigerated-van trailers, and owners of the heavy-duty tractors that pull them on California highways. CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation is available at: <https://ww2.arb.ca.gov/our-work/programs/ttghg>

¹⁰ On June 25, 2020, CARB approved the Advanced Clean Trucks Regulation. The regulation requires manufacturers to start the transition from diesel trucks and vans to zero-emission trucks beginning in 2024. The rule is expected to result in about 100,000 electric trucks in California by the end of 2030 and about 300,000 by 2035. CARB is expected to consider a fleet regulation in 2021 that would be compatible with the Advanced Clean Trucks regulation, requiring fleets to purchase a certain percentage of zero-emission trucks and vans for their fleet operations. <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-trucks>

¹¹ The PSIP program requires that diesel and bus fleet owners conduct annual smoke opacity inspections of their vehicles and repair those with excessive smoke emissions to ensure compliance. CARB's PSIP program is available at: <https://www.arb.ca.gov/enf/hdvp/hdvp.htm>

¹² The regulation requires that newer heavier trucks and buses must meet particulate matter filter requirements beginning January 1, 2012. Lighter and older heavier trucks must be replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 2010 model-year engines or equivalent. CARB's Statewide Truck and Bus Regulation is available at: <https://www.arb.ca.gov/msprog/onrdiesel/onrdiesel.htm>

10. Include contractual language in tenant lease agreements, requiring the installing of vegetative walls¹³ or other effective barriers that separate loading docks and people living or working nearby.
11. Include contractual language in tenant lease agreements, requiring all emergency generators to be powered by a non-diesel fuel.
12. The project should be constructed to meet CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking, and achieve a certification of compliance with LEED green building standards.

¹³Effectiveness of Sound Wall-Vegetation Combination Barriers as Near-Roadway Pollutant Mitigation Strategies (2017) is available at: <https://ww2.arb.ca.gov/sites/default/files/classic/research/apr/past/13-306.pdf>



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



March 4, 2024
Sent via email.

Governor’s Office of Planning & Research

March 04 2024

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STATE CLEARINGHOUSE

Subject: Notice of Preparation of a Draft Environmental Impact Report
Lake Creek Logistics Center Project
State Clearinghouse No. 2024020235

Dear Mr. Hirsch:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the Town of Apple Valley (Town) for the Lake Creek Logistics Center Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California’s Trustee Agency for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may

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

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need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

The Project proposes to construct three (3) industrial warehouse and distribution buildings totaling approximately 3,480,736 square feet on three parcels. The Project would provide approximately 548 dock doors, 3,032 automobile parking stalls and 1,565 trailer parking stalls. Outdoor storage may be permitted, if completely screened from view.

In addition, the Project would include construction of road improvements of Central Road, Gustine Road and Corwin Road, as well as standard curb, gutter, and sidewalk, on the Project site frontages.

The Project will propose one of two off-site sewer route options to provide sewer services to the site. The primary option would be to extend the sewer line as jack and bore construction under the adjacent Apple Valley Airport runway, connecting to an existing sewer main located west of the airport. This option would require the granting of an easement from the San Bernardino County Department of Airports. A back up option would be to construct an on-site sewer lift station and provide a connection within the public right-of-way leading to an existing 15-inch sewer main located at Waalew and Camanche Roads. The proposed Project would also provide on-site sewer as well as on and off-site water, electricity, and gas infrastructure,

Discretionary approvals include a specific plan amendment, tentative parcel map, site plan review, and development agreement on five parcels that total approximately 227 acres (Assessor Parcel Numbers (APN) 0463-373-01, -03, -04, -05, -06).

The Project is bounded by Gustine Street to the north, Central Road to the east, Corwin Road to the south, and the Apple Valley Airport to the west, in the Town of Apple Valley, San Bernardino County, California.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Town in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

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CDFW recommends that the forthcoming DEIR address the following:

Assessment of Biological Resources

Section 15125(c) of the CEQA Guidelines states that knowledge of the regional setting of a project is critical to the assessment of environmental impacts and that special emphasis should be placed on environmental resources that are rare or unique to the region. To enable CDFW staff to adequately review and comment on the Project, the DEIR should include a complete assessment of the flora and fauna within and adjacent to the Project footprint, with particular emphasis on identifying rare, threatened, endangered, and other sensitive species and their associated habitats.

The CDFW recommends that the DEIR specifically include:

1. An assessment of the various habitat types located within the Project footprint, and a map that identifies the location of each habitat type. CDFW recommends that floristic, alliance- and/or association based mapping and assessment be completed following *The Manual of California Vegetation*, second edition (Sawyer et al. 2009). Adjoining habitat areas should also be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.
2. A general biological inventory of the fish, amphibian, reptile, bird, and mammal species that are present or have the potential to be present within each habitat type onsite and within adjacent areas that could be affected by the Project. CDFW's California Natural Diversity Database (CNDDDB) in Sacramento should be contacted at (916) 322-2493 or CNDDDB@wildlife.ca.gov to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code, in the vicinity of the proposed Project.

Please note that CDFW's CNDDDB is not exhaustive in terms of the data it houses, nor is it an absence database. CDFW recommends that it be used as a starting point in gathering information about the *potential presence* of species within the general area of the Project site.

3. A complete, *recent* inventory of rare, threatened, endangered, and other sensitive species located within the Project footprint and within offsite areas with the potential to be affected, including California Species of Special Concern (CSSC) and California Fully Protected Species (Fish and Game Code § 3511). Species to be addressed should include all those which meet the CEQA definition (CEQA Guidelines § 15380). The inventory should address seasonal variations in use of the Project area and should not be limited to resident species. Focused species-specific surveys, completed by a qualified biologist and conducted at the appropriate time of

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year and time of day when the sensitive species are active or otherwise identifiable, are required. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service, where necessary. Note that CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if the Project is proposed to occur over a protracted time frame, or in phases, or if surveys are completed during periods of drought.

4. A thorough, recent, floristic-based assessment of special status plants and natural communities, following CDFW's Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (see <https://www.wildlife.ca.gov/Conservation/Plants>).
5. Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region (CEQA Guidelines § 15125[c]).
6. Species specific surveys for special status species that the Project footprint has the potential to support, including burrowing owl, Mohave ground squirrel, Crotch's bumble bee, and Agassiz's desert tortoise.

Burrowing Owl (*Athene cunicularia*)

The Project site has the potential to provide suitable foraging and/or nesting habitat for burrowing owl. 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 Fish and Game Code section 86 as "hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill."

CDFW recommends that Town 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 CDFW's website:

<https://www.wildlife.ca.gov/conservation/survey-protocols>. The Staff Report on Burrowing Owl Mitigation, specifies three steps for Project impact evaluations:

- a. A habitat assessment;
- b. Surveys; and
- c. An impact assessment

As stated in the Staff Report on Burrowing Owl Mitigation, the three progressive steps are effective in evaluating whether a project will result in impacts to burrowing owls, and the information gained from the steps will inform any subsequent

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avoidance, minimization, and mitigation measures. Habitat assessments are conducted to evaluate the likelihood that a site supports burrowing owl. Burrowing owl surveys provide information needed to determine the potential effects of proposed projects and activities on burrowing owls, and to avoid take in accordance with Fish and Game Code sections 86, 3503, and 3503.5. Impact assessments evaluate the extent to which burrowing owls and their habitat may be impacted, directly or indirectly, on and within a reasonable distance of a proposed CEQA project activity or non-CEQA project.

Within the 2012 Staff Report, the minimum habitat replacement recommendation was purposely excluded as it was shown to serve as a default, replacing any site-specific analysis and discounting the wide variation in natal area, home range, foraging area, and other factors influencing burrowing owls and burrowing owl population persistence in a particular area. It hypothesized that mitigation for permanent impacts to nesting, occupied, and satellite burrows and burrowing owl habitat should be on, adjacent or proximate to the impact site where possible and where habitat is sufficient to support burrowing owls present. If mitigation occurs offsite, it should include (a) permanent conservation of similar vegetation communities (grassland, scrublands, desert, urban, and agriculture) to provide for burrowing owl nesting, foraging, wintering, and dispersal (i.e., during breeding and non-breeding seasons) comparable to or better than that of the impact area, and (b) be sufficiently large acreage with the presence of fossorial mammals. Furthermore, the report noted that suitable mitigation lands should be based on a comparison of the habitat attributes of the impacted and conserved lands, including but not limited to: type and structure of habitat being impacted or conserved; density of burrowing owls in impacted and conserved habitat; and significance of impacted or conserved habitat to the species range-wide.

Mohave ground squirrel (*Xerospermophilus mohavensis*)

The proposed Project occurs within the range of Mohave ground squirrel (MGS), a state listed threatened species under the California Endangered Species Act (CESA). CDFW recommends that a qualified permitted biologist conduct protocol surveys for MGS following the methods described in the "Mohave Ground Squirrel Survey Guidelines" (CDFG 2003) during the appropriate survey season prior to Project implementation, including any vegetation- or ground-disturbing activities. Results of the MGS surveys are advised to be submitted to the CDFW. Please note MGS surveys are valid for one year and should be conducted within a year of the start of ground-disturbing activities.

If MGS are found within the Project area during surveys, CDFW recommends the Town require species-specific mitigation to offset impacts and avoidance, minimization, and monitoring measures aimed at avoiding direct impacts to the Mohave ground squirrel cat be incorporated into the DEIR.

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If Mohave ground squirrel are found within the Project area during surveys or construction activities, and complete avoidance is not possible CDFW recommends the Town acquire a CESA Incidental Take Permit (ITP) prior to any vegetation- or ground-disturbing activities. Any take of Mohave ground squirrel without take authorization would be a violation of Fish and Game Code section 2080.

Crotch's bumble bee (*Bombus crotchii*)

The proposed Project occurs within the range of Crotch's bumble bee (CBB), as state Candidate for listing as a threatened or endangered species. CDFW recommends that a qualified biologist conduct protocol surveys for CBB following the methods described in the "Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species" (CDFG 2023) during the appropriate survey season prior to Project implementation, including any vegetation- or ground-disturbing activities. Results of the CBB surveys are advised to be submitted to the CDFW. Please note CBB surveys are valid for one year and should be conducted within a year of the start of ground-disturbing activities.

If CBB are found within the Project area during surveys, CDFW recommends the Town require species-specific mitigation to offset impacts and avoidance, minimization, and monitoring measures aimed at avoiding direct impacts to the CBB can be incorporated into the DEIR.

If CBB are found within the Project area during surveys or construction activities, and complete avoidance is not possible CDFW recommends the Town acquire a CESA ITP prior to any vegetation- or ground-disturbing activities. Any take of CBB without take authorization would be a violation of Fish and Game Code section 2080.

Agassiz's desert tortoise (*Gopherus agassizii*)

The proposed Project occurs within the range of Agassiz's desert tortoise; a state and federally-listed threatened species. CDFW recommends that the Town complete protocol level surveys over all areas (i.e., 100 percent coverage) proposed to be directly or indirectly affected by the Project, using appropriately qualified biologists, following the USFWS Desert Tortoise Field Manual, accessible here: https://www.fws.gov/nevada/desert_tortoise/documents/field_manual/Desert-Tortoise-Field-Manual.pdf. To reduce the likelihood of nonconcurrency with proposed surveys, methodology, and qualifications of biologists, CDFW recommends working with the USFWS and CDFW concurrently to ensure a consistent and adequate approach to planning your work (USFWS, 2018).

CDFW recommends that biologists retained to complete desert tortoise protocol level surveys submit their qualifications to CDFW and the USFWS prior to initiation

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of surveys. Should the Town desire CDFW to pre-approve the qualifications of biologists conducting protocol level desert tortoise surveys, CDFW requests information by provided on the Desert Tortoise Authorized Biologist Qualifications Form (Section 3.2) of the USFWS Desert Tortoise Field Manual for all biologists participating in survey efforts to the following email address:
Christopher.Bill@wildlife.ca.gov.

If desert tortoise are found within the Project area during surveys or construction activities, and complete avoidance is not possible CDFW recommends the Town acquire a CESA ITP prior to any vegetation- or ground-disturbing activities. Any take of desert tortoise without take authorization would be a violation of Fish and Game Code section 2080.

Analysis of Direct, Indirect, and Cumulative Impacts to Biological Resources

1. The DEIR should provide a thorough discussion of the direct, indirect, and cumulative impacts expected to adversely affect biological resources as a result of the Project (including the plan's land use designations, policies and programs). To ensure that Project impacts to biological resources are fully analyzed, the following information should be included in the DEIR:
2. A discussion of potential impacts from lighting, noise, human activity (e.g., recreation), defensible space, and wildlife-human interactions created by zoning of development projects or other project activities adjacent to natural areas, exotic and/or invasive species, and drainage. The latter subject should address Project-related changes on drainage patterns and water quality within, upstream, and downstream of the Project site, including: volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site.
3. A discussion of potential indirect Project impacts on biological resources, including resources in areas adjacent to the Project footprint, such as nearby public lands (e.g. National Forests, State Parks, etc.), open space, adjacent natural habitats, riparian ecosystems, wildlife corridors, and any designated and/or proposed reserve or mitigation lands (e.g., preserved lands associated with a Natural Community Conservation Plan, or other conserved lands).
4. A cumulative effects analysis developed as described under CEQA Guidelines section 15130. The DEIR should analyze the cumulative effects of the plan's land use designations, policies and programs on the environment. Please include all potential direct and indirect Project related impacts to riparian areas, wetlands, vernal pools, alluvial fan habitats, wildlife corridors or wildlife movement areas, aquatic habitats, sensitive species and other sensitive habitats, open lands, open space, and adjacent natural habitats in the cumulative effects analysis. General and specific

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plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.

Alternatives Analysis

CDFW recommends the DEIR describe and analyze a range of reasonable alternatives to the Project that are potentially feasible, would “feasibly attain most of the basic objectives of the Project,” and would avoid or substantially lessen any of the Project’s significant effects (CEQA Guidelines § 15126.6[a]). The alternatives analysis should also evaluate a “no Project” alternative (CEQA Guidelines § 15126.6[e]). The no Project alternative should evaluate how the changing environment, such as climate change and drought, may affect the community if a new or revised general plan were not adopted.

Avoidance, Minimization and Mitigation Measures for Project Impacts to Biological Resources

The DEIR should identify mitigation measures and alternatives that are appropriate and adequate to avoid or minimize potential impacts, to the extent feasible. The Town should assess all direct, indirect, and cumulative impacts that are expected to occur as a result of the implementation of the Project and its long-term operation and maintenance. When proposing measures to avoid, minimize, or mitigate impacts, CDFW recommends consideration of the following:

1. *Fully Protected Species*: Fully protected species may not be taken or possessed at any time. Project activities described in the DEIR should be designed to completely avoid any fully protected species that have the potential to be present within or adjacent to the Project area. CDFW also recommends that the DEIR fully analyze potential adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends that the Lead Agency include in the analysis how appropriate avoidance, minimization, and mitigation measures will reduce indirect impacts to fully protected species.
2. *Sensitive Plant Communities*: CDFW considers sensitive plant communities to be imperiled habitats having both local and regional significance. Plant communities, alliances, and associations with a statewide ranking of S-1, S-2, S-3, and S-4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by querying the CNDDDB and are included in *The Manual of California Vegetation* (Sawyer et al. 2009). The DEIR should include measures to fully avoid and otherwise protect sensitive plant communities from Project-related direct and indirect impacts.
3. *California Species of Special Concern (CSSC)*: CSSC status applies to animals generally not listed under the federal Endangered Species Act or the CESA, but

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which nonetheless are declining at a rate that could result in listing, or historically occurred in low numbers and known threats to their persistence currently exist. CSSCs should be considered during the environmental review process. CSSC that have the potential or have been documented to occur within or adjacent to the Project area, including, but not limited to: burrowing owl, Le Conte's thrasher, golden eagle, and loggerhead shrike.

4. *Mitigation*: CDFW considers adverse Project-related impacts to sensitive species and habitats to be significant to both local and regional ecosystems, and the DEIR should include mitigation measures for adverse Project-related impacts to these resources. Mitigation measures should emphasize avoidance and reduction of Project impacts. For unavoidable impacts, onsite habitat restoration and/or enhancement, and preservation should be evaluated and discussed in detail. Where habitat preservation is not available onsite, offsite land acquisition, management, and preservation should be evaluated and discussed in detail.

The DEIR should include measures to perpetually protect the targeted habitat values within mitigation areas from direct and indirect adverse impacts in order to meet mitigation objectives to offset Project-induced qualitative and quantitative losses of biological values. Specific issues that should be addressed include restrictions on access, proposed land dedications, long-term monitoring and management programs, control of illegal dumping, water pollution, increased human intrusion, etc.

If sensitive species and/or their habitat may be impacted from the Project, CDFW recommends the inclusion of specific mitigation in the DEIR. CEQA Guidelines section 15126.4, subdivision (a)(1)(8) states that formulation of feasible mitigation measures should not be deferred until some future date. The Court of Appeal in *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645 struck down mitigation measures which required formulating management plans developed in consultation with State and Federal wildlife agencies after Project approval. Courts have also repeatedly not supported conclusions that impacts are mitigable when essential studies, and therefore impact assessments, are incomplete (*Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d. 296; *Gentry v. City of Murrieta* (1995) 36 Cal. App. 4th 1359; *Endangered Habitat League, Inc. v. County of Orange* (2005) 131 Cal. App. 4th 777).

5. CDFW recommends that the DEIR specify mitigation that is roughly proportional to the level of impacts, in accordance with the provisions of CEQA (CEQA Guidelines, §§ 15126.4(a)(4)(B), 15064, 15065, and 16355). The mitigation should provide long-term conservation value for the suite of species and habitat being impacted by the Project. Furthermore, in order for mitigation measures to be effective, they need to be specific, enforceable, and feasible actions that will improve environmental conditions.

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6. *Nesting Birds and Migratory Bird Treaty Act*: Please note that it is the Project proponent's responsibility to comply with all applicable laws related to nesting birds and birds of prey. Fish and Game Code sections 3503, 3503.5, and 3513 afford protective measures as follows: Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it 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 Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it 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 Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. § 703 et seq.).

CDFW recommends that the DEIR include the results of avian surveys, as well as specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur. Project-specific avoidance and minimization measures may include, but not be limited to: Project phasing and timing, monitoring of Project-related noise (where applicable), sound walls, and buffers, where appropriate. The DEIR should also include specific avoidance and minimization measures that will be implemented should a nest be located within the Project site. If pre-construction surveys are proposed in the DEIR, the CDFW recommends that they be required no more than three (3) days prior to vegetation clearing or ground disturbance activities, as instances of nesting could be missed if surveys are conducted sooner.

7. *Moving out of Harm's Way*: To avoid direct mortality, CDFW recommends that the lead agency condition the DEIR to require that a CDFW-approved qualified biologist be retained to be onsite prior to and during all ground- and habitat-disturbing activities to move out of harm's way special status species or other wildlife of low or limited mobility that would otherwise be injured or killed from Project-related activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should be moved only as far as necessary to ensure their safety (i.e., CDFW does not recommend relocation to other areas). Furthermore, it should be noted that the temporary relocation of onsite wildlife does not constitute effective mitigation for the purposes of offsetting Project impacts associated with habitat loss.
8. *Translocation of Species*: CDFW generally does not support the use of relocation, salvage, and/or transplantation as mitigation for impacts to rare, threatened, or endangered species as studies have shown that these efforts are experimental in nature and largely unsuccessful.

California Endangered Species Act

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CDFW is responsible for ensuring appropriate conservation of fish and wildlife resources including threatened, endangered, and/or candidate plant and animal species, pursuant to CESA. CDFW recommends that a CESA ITP be obtained if the Project has the potential to result in "take" (California Fish and Game Code Section 86 defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") of State-listed CESA species, either through construction or over the life of the Project. It is the policy of CESA to conserve, protect, enhance, and restore State-listed CESA species and their habitats.

CDFW encourages early consultation, as significant modification to the proposed Project and avoidance, minimization, and mitigation measures may be necessary to obtain a CESA ITP. CDFW must comply with CEQA for issuance of a CESA ITP. CDFW therefore recommends that the DEIR addresses all Project impacts to listed species and specify a mitigation monitoring and reporting program that will meet the requirements of CESA.

Based on review of CNDDDB, and/or knowledge of the Project site/vicinity/general area, CDFW is aware that the following CESA-listed species have the potential to occur onsite/have previously been reported onsite: Desert tortoise (*Gopherus agassizii*), Mojave ground squirrel (*Xerospermophilus mohavensis*), and Crotch's bumble bee (*Bombus crotchii*).

Lake and Streambed Alteration Program

Based on review of material submitted with the NOP and review of aerial photography multiple drainage features traverse the site. Based on the Project plans included in the NOP, it is likely that the Project applicant will need to notify CDFW per Fish and Game Code section 1602. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow.

Upon receipt of a complete notification, CDFW determines if the proposed Project activities may substantially adversely affect existing fish and wildlife resources and whether a Lake and Streambed Alteration (LSA) Agreement is required. An LSA Agreement includes measures necessary to protect existing fish and wildlife resources. CDFW may suggest ways to modify your Project that would eliminate or reduce harmful impacts to fish and wildlife resources.

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CDFW'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 DEIR 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 CDFW is recommended, since modification of the proposed Project may be required to avoid or reduce impacts to fish and wildlife resources. To submit a Lake or Streambed Alteration notification package, please go to <https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS>.

ADDITIONAL COMMENTS AND RECOMMENDATIONS

To ameliorate the water demands of this Project, CDFW recommends incorporation of water-wise concepts in Project landscape design plans. In particular, CDFW recommends xeriscaping with locally native California species, and installing water-efficient and targeted irrigation systems (such as drip irrigation). Local water agencies/districts, and resource conservation districts in your area may be able to provide information on plant nurseries that carry locally native species, and some facilities display drought-tolerant locally native species demonstration gardens. Information on drought-tolerant landscaping and water-efficient irrigation systems is available on California's Save our Water website: <http://saveourwater.com/what-you-can-do/tips/landscaping/>

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). Information can be submitted online or via completion of the CNDDDB field survey form at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

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

Mr. Rick Hirsch, Planning Consultant
Town of Apple Valley, Planning Department
March 4, 2024
Page 13

CONCLUSION

CDFW appreciates the opportunity to comment on the NOP of a DEIR for the Lake Creek Logistics Center Project (SCH No. 2024020235) and recommends that the Town of Apple Valley address CDFW's comments and concerns in the forthcoming DEIR. If you should have any questions pertaining to the comments provided in this letter, please contact Jason Bill, Senior Environmental Scientist, Specialist, at (909) 987-7449 or at Christopher.Bill@wildlife.ca.gov.

Sincerely,

DocuSigned by:

84FBB8273E4C480...
Alisa Ellsworth
Environmental Program Manager

ec: Brandy Wood, Senior Environmental Scientist, Supervisor
Inland Deserts Region
Brandy.Wood@wildlife.ca.gov

Office of Planning and Research, State Clearinghouse, Sacramento
state.clearinghouse@opr.ca.gov

REFERENCES

Sawyer, J. O., T. Keeler-Wolf, and J. M. Evens. 2009. A manual of California Vegetation, 2nd ed. California Native Plant Society Press, Sacramento, California.
<http://vegetation.cnps.org/>

NATIVE AMERICAN HERITAGE COMMISSION

February 12, 2024

Governor's Office of Planning & Research

Feb 16 2024**STATE CLEARINGHOUSE**

Rick Hirsch
Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307

Re: 2024020235, Lake Creek Logistics Center, San Bernadino County

Dear Mr. Hirsch:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b))). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1))). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

[AB 52](#)

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1550 Harbor Boulevard
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California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- a. A brief description of the project.
- b. The lead agency contact information.
- c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
- d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subs. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1 (b)).

- a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).

4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.
- d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b.** A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a.** Avoidance and preservation of the resources in place, including, but not limited to:
 - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i.** Protecting the cultural character and integrity of the resource.
 - ii.** Protecting the traditional use of the resource.
 - iii.** Protecting the confidentiality of the resource.
 - c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf.

Some of SB 18's provisions include:

1. **Tribal Consultation**: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation**. There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality**: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation**: Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (https://ohp.parks.ca.gov/?page_id=30331) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.

4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: Murphy.Donahue@nahc.ca.gov.

Sincerely,



Murphy Donahue
Cultural Resources Analyst

cc: State Clearinghouse



Department of Public Works

- Flood Control
- Operations
- Solid Waste Management
- Special Districts
- Surveyor
- Transportation

www.SBCounty.gov

Noel Castillo, P.E.
Director

David Doublet, M.S., P.E.
Assistant Director

March 5, 2024

Transmitted Via Email

File: 10(ENV)-4.01

Town of Apple Valley, Planning Department
Attn: Rick Hirsch, Planning Consultant
14955 Dale Evans Parkway
Apple Valley, CA 92307
rhirsch@interwestgrp.com

RE: CEQA COMMENT – NOTICE OF PREPARATION (NOA) OF A DRAFT ENVIRONMENTAL IMPACT REPORT AND PUBLIC SCOPING MEETING FOR THE LAKE CREEK LOGISTICS CENTER IN THE TOWN OF APPLE VALLEY. APN: 0463-373-01, -03, -04, -05, -06.

Dear Mr. Hirsch:

Thank you for allowing the San Bernardino County Department of Public Works the opportunity to comment on the above-referenced project. **We received this request on February 9, 2024,** and pursuant to our review, the following comments are provided:

Permits Division (Johnny Gayman, Engineering Manager, (909) 387-7995):

1. The proposed Project in the Town of Apple Valley is located adjacent to the San Bernardino County Flood Control District (SBCFCD) Road Right-of-Way (R/W) of Central Road. The applicant will need to obtain an encroachment permit from the SBCFCD if they are proposing any work within the SBCFCD R/W. If you have any questions regarding this process, please contact the SBCFCD Permit Section at (909) 387-1863.

We respectfully request to be included on the circulation list for all project notices, public reviews, or public hearings. In closing, I would like to thank you again for allowing the San Bernardino County Department of Public Works the opportunity to comment on the above-referenced project. Should you have any questions or need additional clarification, please contact the individuals who provided the specific comment, as listed above.

Sincerely,

Nancy Sansonetti

Nancy J. Sansonetti, AICP
Supervising Planner
Environmental Management Division

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Brad Poiriez, Executive Director
14306 Park Avenue, Victorville, CA 92392-2310
760.245.1661 • Fax 760.245.2022
www.MDAQMD.ca.gov • @MDAQMD



February 21, 2024

Rick Hirsch, Planning Manager
Town of Apple Valley
14955 Dale Evans Parkway
Apple Valley, CA 92307

Project: Lake Creek Logistics Center

Dear Mr. Hirsch:

The Mojave Desert Air Quality Management District (District) has received a request for comments on the Notice of Preparation of a Draft Environmental Impact Report (DEIR) for the proposed Lake Creek Logistics Center Project in Apple Valley. The Project proposes three (3) industrial warehouse and distribution buildings totaling approximately 3,480,736 square feet (sf) on three parcels. The Project would provide approximately 548 dock doors, 3,032 automobile parking stalls and 1,565 trailer parking stalls. The Project proposes changing the current NAVISP designation of the southeasterly parcel from C-G to I-SP to align this parcel with the rest of the Project site and to best facilitate the intended use mix.

The District has reviewed the project notice and agrees with the findings of the initial study that the project construction and operations would involve activities that would generate both short-term and long-term criteria and air toxic pollutants, and other emissions or odors. Furthermore, to the east across Central road, there are sensitive receptors less than 400 ft of the proposed project location. Therefore, impacts are considered potentially significant and impacts to sensitive receptors should be further analyzed in the EIR.

The District requires that the following dust mitigation measures be required for the construction portion of the development (enforceable by the District AND by the land use agency) should the project be approved:

- Prepare and submit to the MDAQMD, prior to commencing earth-moving activity, a dust control plan that describes all applicable dust control measures that will be implemented at the project;
- Signage compliant with Rule 403 Attachment B shall be erected at each project site entrance not later than the commencement of construction.
- Use a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. For projects with exposed sand or fines deposits (and for projects that expose such soils through

earthmoving), chemical stabilization or covering with a stabilizing layer of gravel will be required to eliminate visible dust/sand from sand/fines deposits.

- All perimeter fencing shall be wind fencing or the equivalent, to a minimum of four feet of height or the top of all perimeter fencing. The owner/operator shall maintain the wind fencing as needed to keep it intact and remove windblown dropout. This wind fencing requirement may be superseded by local ordinance, rule or project-specific biological mitigation prohibiting wind fencing.
- All maintenance and access vehicular roads and parking areas shall be stabilized with chemical, gravel or asphaltic pavement sufficient to eliminate visible fugitive dust from vehicular travel and wind erosion. Take actions to prevent project-related trackout onto paved surfaces, and clean any project-related trackout within 24 hours. All other earthen surfaces within the project area shall be stabilized by natural or irrigated vegetation, compaction, chemical or other means sufficient to prohibit visible fugitive dust from wind erosion.
- Obtain District permits for any miscellaneous process equipment that may not be exempt under District Rule 219 including, but not limited to: Internal Combustion Engines with a manufacture's maximum continuous rating greater than 50 brake horsepower.

Thank you for the opportunity to review this planning document, the District looks forward to reviewing the DEIR. If you have any questions regarding this letter, please contact me at (760) 245-1661, extension 1846, or Bertrand Gaschot at extension 4020.

Sincerely,



Chris Anderson
Planning and Air Monitoring Supervisor



03/11/2024

VIA EMAIL ONLY

Rick Hirsch, Planning Consultant
Town of Apple Valley, Planning Department
14955 Dale Evans Parkway
Apple Valley, CA 92307
Email: rhirsch@interwestgrp.com

RE: NOP Comments for the Lake Creek Logistics Center Project

Dear Mr. Hirsch,

The comments are submitted on behalf of Californians Allied for a Responsible Economy ("CARE CA") regarding the Notice of Preparation ("NOP") of a Draft Environmental Impact Report ("DEIR") for Lake Creek Logistics Center ("the Project"). CARE CA understands that the proposed Project consists of three industrial warehouse and distribution buildings totaling approximately 3,480,736 square feet (sf) on three parcels.

The goal of an EIR is to provide decisionmakers and the public with detailed information about the effects of a proposed project on the environment, how significant impacts will be minimized and alternatives to the project (Pub. Res. Code § 21002.2). Ideally, the discussion should include sufficient detail to allow those who do not participate in DEIR's preparation to understand and meaningfully deliberate the issues raised by the Project. We, therefore, respectfully request a complete analysis of all identified impacts, imposition of all feasible mitigation and study of a reasonable range of alternatives.

Since the informational sufficiency of an EIR should be at the heart of its preparation, we ask the City to consider the following requests:

Since the tenant(s) for the project buildings are not yet identified, the City/ County, as lead agency, must make certain assumptions regarding the type and mix of light industrial uses that would likely occupy the proposed buildings. The DEIR should reflect a good faith effort at full disclosure by including as much information on the nature of operations as can be reasonably obtained. If such information is unavailable, the City/County should study a reasonable worst-case scenario (i.e., most impactful) so that a broad and diverse range of environmental impacts are included in the analysis.

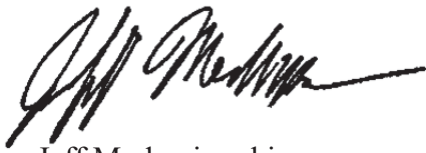
The DEIR should also make all efforts to minimize air quality effects and likely health consequences to the greatest extent possible. In addition, we urge the City to adopt quantitative

thresholds to determine the significance of the Project's GHG emissions. Ideally, the thresholds should embody climate change's existential threat to humankind.

Finally, we encourage the City to incorporate modern technology in the mitigation measures and ensure that the measures are effective and enforceable. A Statement of Overriding Considerations should be considered only after ALL feasible mitigation measures are included in the MMRP.

Thank you for the opportunity to submit NOP comments. Again, CARE CA respectfully requests full analysis of the environmental impacts, feasible mitigation, and reasonable alternatives to the Project.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Modrzejewski", with a long horizontal flourish extending to the right.

Jeff Modrzejewski
Executive Director