III. COMMENTS AND RESPONSES

Written responses to each comment letter received on the Draft EIR are provided in this chapter. Letters received during and after the public review period on the Draft EIR are provided in their entirety. Each letter is immediately followed by responses keyed to the specific comments. The letters are grouped by the affiliation of the commenter as follows: State, local and regional agencies (A); organizations (B); individuals (C); and public hearing comments (D).

Please note that text within individual letters that has not been numbered does not raise environmental issues or relate to the adequacy of the information or analysis within the Draft EIR, and therefore no response is required, per *CEQA Guidelines* Section 15132.

A. STATE, LOCAL AND REGIONAL AGENCIES

Letter
A1

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit

Arnold Schwarzenegger
Governor

Cynthia Bryant
Director

February 28, 2007

Cindy Gnos
City of Benicia
1401 Halyard Drive, Suite 120
West Sacramento, CA 95691

Subject: Benicia Business Park
SCH#: 2001022079

Dear Cindy Gnos:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on February 26, 2007, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

1

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Letter
A1
cont.

Document Details Report
State Clearinghouse Data Base

SCH# 2001022079
Project Title Benicia Business Park
Lead Agency Benicia, City of

Type EIR Draft EIR

Description The proposed project would located commercial development at the eastern end of the project site and industrial development in the central and western portions of the project site. An open space buffer area consisting of primarily undeveloped land is proposed along the south side of Lake Herman Road. In addition, an approximately 54-acre open space "reach" would extend from Lake Herman Road to the southern boundary of the project site.

Lead Agency Contact

Name Cindy Gnos
Agency City of Benicia
Phone (916) 372-6100 **Fax**
email
Address 1401 Halyard Drive, Suite 120
City West Sacramento **State** CA **Zip** 95691

Project Location

County Solano
City Benicia
Region
Cross Streets Lake Herman Road / East 2nd Street
Parcel No. 80-010-030, 110, 120; 80-030-060, 070, 100, 140, 160; 181-260-060, 070
Township **Range** **Section** **Base**

Proximity to:

Highways
Airports
Railways SPRR
Waterways Carquinez Strait/Suisun Bay, Sulfur Springs Creek, numerous unnamed creeks
Schools Matthew Turner ES, Robert Semple ES, Tender Hearts Preschool, No
Land Use Open space/grazing
GP: Limited Industrial, General Commercial
Z: Limited Industrial (IL), General Commercial (CG)

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Cumulative Effects; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Landuse; Noise; Other Issues; Public Services; Sewer Capacity; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian

Reviewing Agencies Resources Agency; Regional Water Quality Control Board, Region 2; Department of Parks and Recreation; Native American Heritage Commission; Public Utilities Commission; Office of Historic Preservation; Department of Forestry and Fire Protection; Department of Fish and Game, Region 3; Department of Water Resources; Department of Conservation; California Highway Patrol; Caltrans, District 4; San Francisco Bay Conservation and Development Commission; Department of Toxic Substances Control

Date Received 01/11/2007 **Start of Review** 01/11/2007 **End of Review** 02/26/2007

Note: Blanks in data fields result from insufficient information provided by lead agency.

COMMENTOR A1
Governor's Office of Planning and Research
Terry Roberts, Director, State Clearinghouse
February 28, 2007

A1-1: This cover letter was mailed by the California State Clearinghouse with several letters submitted by State agencies on the Draft EIR. These letters are responded to individually below. The letter notes that the City of Benicia (City) has complied with the State Clearinghouse review requirements for environmental documents. No further response is required.

Letter
A2

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit

Arnold Schwarzenegger
Governor

Cynthia Bryant
Director

March 1, 2007

Cindy Gnos
City of Benicia
1401 Halyard Drive, Suite 120
West Sacramento, CA 95691

Subject: Benicia Business Park
SCH#: 2001022079

Dear Cindy Gnos:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on February 26, 2007. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project. 1

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2001022079) when contacting this office.

Sincerely,

Terry Roberts

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

COMMENTOR A2
Governor's Office of Planning and Research
Terry Roberts, Director, State Clearinghouse
March 1, 2007

A2-1: This comment indicates that the State Clearinghouse received comment letters on the Draft EIR after the official close of the comment period. This Response to Comments Document includes responses to all letters submitted on the Draft EIR, including two received after the official close of the review period.

Letter
A3

California Regional Water Quality Control Board
San Francisco Bay Region

Linda S. Adams
Secretary for Environmental Protection

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
http://www.waterboards.ca.gov/sanfranciscobay

Arnold Schwarzenegger
Governor

February 5, 2007
File No. 2128.04 (JGU/BAB)

Ms. Cindy Gnos
Contract Planner
Raney Planning and Management
City of Benicia
1401 Halyard Drive, Suite 120
West Sacramento, CA 95691

SUBJECT: Comments on the Draft Environmental Impact Report for the Benicia Business Park Development Project, Benicia, Solano County; SCH # 2001022079

Dear Ms. Gnos:

We have reviewed the Draft Environmental Impact Report (DEIR) for the Benicia Business Park development project dated January 10, 2007. The DEIR evaluates the potential environmental impacts from the construction of the proposed Benicia Business Park project on a 527.8 acre site located at Lake Herman Road and East 2nd Street in the City of Benicia. The project site would be subdivided into 80 lots with 280 acres of industrial development and 35 acres of commercial uses, approximately 180 acres would be allocated as open space. We appreciate the opportunity to provide our comments and convey how our Board's policies may relate to the Project. We offer the following comments:

1) The DEIR states that 7.1 acres of jurisdictional wetlands and 0.18 acres of other waters of the State are located on the project site. A jurisdictional determination was verified on March 5, 2003 by the U.S. Army Corps of Engineers. The project proposes to fill of 5.26 acres of jurisdictional freshwater marsh and 1,201 linear feet of intermittent stream channels. The project, as proposed, would result in approximately 9,000,000 cubic yards of grading on the site and filling in three out of four existing intermittent creeks. **1**

2) Board and State policy require avoidance of wetlands habitat to the maximum extent feasible. Projects which do not adequately demonstrate avoidance and minimization of impacts to wetlands and other waters of the State may result in our inability to issue required water quality certification and/or waste discharge requirements for the project as proposed. It appears that the preferred alternative as identified in the draft EIR is out of compliance with State and Water **2**

Letter
A3
cont.

Board policies and regulations, and therefore, as proposed, would not likely qualify for water quality certification or a waste discharge requirements Order from our Board. **2 cont.**

3) The State Water Resources Control Board has adopted a policy directing Regional Water Quality Control Board staff to promote a Low Impact Development (LID) approach to land development per our policies and site specific regulatory actions. The LID approach:

- Maintains natural waters, drainage paths, landscape features and other water-holding areas to promote stormwater retention and groundwater recharge;
- Preserves the amenity and other values of natural waters;
- Minimizes generation of urban pollutants;
- Designs communities and landscaping to minimize stormwater generation, runoff, and concentration, and
- Promotes water conservation.

3

Four alternatives to the proposed project have been presented in the DEIR. The Hillside/Upland Preservation (Preservation) alternative has been selected as the secondary environmentally superior alternative after the No Project alternative. The Preservation alternative would reduce grading by up to 70%, preserve creeks and wetlands within 100-foot buffers, and leave steep slopes undeveloped. The proposed development would occur on 167 acres of industrial uses, 33 acres of commercial uses, and 10 acres of public facilities with 317 acres of open space/landscaped area. This alternative appears to be more in line with our board's policy.

4) A stormwater management plan(s) will be required for project development. Post-construction best management practices (BMPs) and treatment controls must be designed to achieve water quality treatment of 85% or more of the total runoff. Stormwater management design elements should focus on source control treatment to control both stormwater quality and runoff discharge rates. The source control measures should be designed to mimic the predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to the source of runoff.

5) Projects disturbing one acre or more of land are required to obtain coverage under and comply with the State NPDES General Permit for Stormwater Discharges Associated with Construction Activities. **4**

6) Certain classifications of commercial and industrial facilities are required to obtain coverage under and comply with the State NPDES General Permit for Stormwater Discharges Associated with Industrial Activities.

Letter
A3
cont.

The Construction and Industrial General Permits and corresponding Fact Sheets, application forms, etc. can be accessed at the State Water Resources Control Board's web site www.waterboards.ca.gov/ .

If you have any questions please contact Jolanta Uchman at (510) 622-2432, or via email at JUchman@waterboards.ca.gov.

Sincerely,

Jolanta Uchman
Engineering Geologist
North Bay Watershed Section

cc: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044

City of Benicia
Community Development Department
250 East "L" Street
Benicia, CA 94510

LSA Associates
2215 Fifth Street
Berkeley, CA 94710

COMMENTOR A3
California Regional Water Quality Control Board
Jolanta Uchman, Engineering Geologist
February 5, 2007

A3-1: This comment summarizes the anticipated impacts of the project on wetlands and creek channels, as presented in the Draft EIR. No further response is needed.

A3-2: This comment indicates that the project would not comply with State and Regional Water Quality Control Board (RWQCB) wetland protection regulations (which require that impacts to wetlands be avoided to the maximum extent feasible) and may not be granted water quality certification or a waste discharge permit. This comment pertains to the merits of the project and not to the adequacy of the Draft EIR; however, the impacts to wetlands referenced by the commenter are discussed in detail in Section IV.D, Hydrology and Water Quality and Section IV.F, Biological Resources, of the Draft EIR. As noted on pages 194 to 195 of the Draft EIR: "Development of the site would result in the fill of 5.26 acres of freshwater marsh habitat subject to jurisdiction as waters of the United States under Section 404 of the Clean Water Act and 1,201 linear feet of non-wetland waters that are waters of the State subject to jurisdiction under the Porter Cologne Act. In addition, 0.5 acre of freshwater marsh would be temporarily affected by the implementation of the proposed wetland mitigation plan." The three development alternatives outlined in Chapter V of the Draft EIR (including the environmentally superior alternative) would avoid wetlands to the maximum feasible extent, in accordance with California RWQCB wetland protection policies.

A3-3: In this comment, the Regional Water Quality Control Board expresses a preference for the environmentally superior development alternative identified in the Draft EIR: the Hillside/Upland Preservation alternative. This comment is noted.

A3-4: These paragraphs list water quality-related permits that would be required prior to project development. These requirements are also discussed in Section IV.D, Hydrology (pages 133 to 135) of the Draft EIR.

Letter
A4

STATE OF CALIFORNIA -- BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-6505
FAX (510) 286-5559
TTY (800) 735-2929

Flex your power!
Be energy efficient!

February 23, 2007

SOL-680-R1.46
SOL680036
SCH2001022079

Ms. Cindy Gnos
Raney Planning and Management/City of Benicia
1401 Halyard Drive, Suite 120
West Sacramento, CA 95691

Dear Ms. Gnos:

Benicia Business Park – Draft Environmental Impact Report

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the proposed project. We have reviewed the Draft Environmental Impact Report provided for the Benicia Business Park Project and we have the following comments to offer:

Hydraulics

On page 13, Item (4) indicates establishing "a self-perpetuating drainage system maintenance program." Does this statement imply there would be drainage basin(s) for this proposed project? If so, please provide the location(s) and analysis of the basin(s) for our review. **1**

On page 70, the first sentence of the first paragraph under the title "c. Infrastructure" indicates installing 12 to 48-inch drainage pipes to connect to the existing drainage systems. The submitted Figure III-7 is hard to read. We assume that these existing drainage systems are the State's facilities. Please clarify. **2**

On page 80, the "Grading" section indicates that the estimated soil excavated would be 9 million cubic yards (9,000,000 CY), and the "cuts would be up to 100 feet deep where hills are removed." This amount of soil is significant. Please provide copies of proposed grading plans for the Department to determine if erosion control has been addressed. We encourage the use of on-site catch basins for flood control and sediment retention. The Department's conveyance pipes that cross Interstate 680 (I-680) are not sized to pass unmitigated flows from this development. Also, we are requesting a copy of the final Geotechnical report and approved permits from USACE, USFWS, RWQCB and CDFG for our records. **3**

Letter
A4
cont.

On page 15, title "HYDRO-3" states that the proposed grading at the site would substantially alter surface water drainage patterns, potentially resulting in flooding and/or erosion. Please provide the Department with a copy of the Master Drainage Plan and the "Technical Memorandum" as described on page 138, second paragraph, first sentence under the title "Impact HYDRO-1", for our review and comment. 4

Also on page 138, under "Impact HYDRO-1", first paragraph, second sentence states: "Any increase in peak runoff volumes to these conveyances associated with new development would be considered a significant impact." It further states "Existing storm water conveyance system downstream of the project site is already at capacity." What are the additional flow rate and volume quantities resulting from the proposed project? 5

On page 142, "Mitigation Measure HYDRO-3" first paragraph states: "Extensive grading proposed for the project site would alter the condition of existing unnamed creeks crossing the site, in many cases eliminating the creeks, and placing them in buried storm drain culverts." Necessary mitigation for these impacts is not included. Please include and provide this information for our review and comment. 6

Forecasting

On page 226, Table IV.G-10, the Institute of Transportation Engineers' (ITE) Trip Generation Manual (7th edition) land-use code #492, the daily trip generation rate should be 32.93 and not 26.30, which is low. Please revise both Table IV.G-10 and Table IV.G-11, accordingly. 7

On page 226, Table IV.G-10 indicates a daily trip generation rate of 870.25. This is incorrect based on the ITE's 7th edition, Trip Generation Manual land-use code #945. Please correct. 8

Highway Operations

It appears that the proposed project will add substantial traffic and cause adverse impacts to I-680 and I-780. These impacts should be addressed in the document and necessary mitigation measures identified to reduce these impacts to less than significant pre-project levels. 9

The Department recommends a traffic impact analysis for the existing interchanges at Lake Herman Road/I-680 and East 2nd Street/I-780, and on and off ramps at Bayshore Road/I-680 and Industrial Way/I-680 to determine if any improvements are needed for the cumulative plus project conditions traffic volumes. Any improvements identified for these locations should be funded by the project sponsor with concurrence by the Department. 10

Queuing at the study intersections to the ramp approaches should be addressed in the document. Ramps do not have sufficient storage to accommodate the expected queues (e.g. 179 vehicle queue at WB I-680 on-ramp and East 2nd Street) from this development, which adversely impacts mainline operations. Additional mitigation should be included for ramp queues and mainline operation impacts. Are there any locations where there is not enough distance between adjacent intersections to accommodate expected queues? If so, where are these located? What is the scenario? What mitigation would be required? 11

The adequacy of existing and proposed left-turn pockets should be included in the document. Additional mitigation should be included for inadequate left turns where the development is generating additional traffic. The Department's requirement for left-turn storage is that the lane 12

Letter
A4
cont.

should be long enough that there is a 95% probability that it can accommodate randomly distributed traffic arrivals. The left-turn lanes should be designed to meet this requirement. 12 cont.

Please provide double turning lanes to accommodate turning demand traffic volume which are 300 vehicles per hour or more. 13

All of the proposed traffic signals at intersections within State Right of Way (ROW) must satisfy the Traffic Signal Warrant requirements as shown on the latest edition (September 26, 2006) of the "Manual on Uniform Traffic Control Devices " (MUTCD). Please refer to the following link: http://www.dot.ca.gov/hq/traffops/signtech/mutcdsupp/ca_mutcd.htm
Calculations supporting the Warrants with appropriate Warrant numbers must be submitted to the Department for review and approval. 14

Permits
Please be advised that any work or traffic control within the State ROW will require an encroachment permit from the Department. To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans which clearly indicate State ROW to the following address: 15

Michael Condie
Office of Permits
California Department of Transportation, District 04
P. O. Box 23660
Oakland, Ca 94623-0660

We will have additional comments forthcoming for this proposed project. Please call Christian Bushong of my staff at (510) 286-5606 if you have any questions.

Sincerely,

Lisa Carboni

for TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

c: State Clearinghouse

COMMENTOR A4
State of California, Department of Transportation
Timothy Sable, District Branch Chief
February 23, 2007

A4-1: The commenter requests information regarding the location of the proposed stormwater drainage basins (also referred to as "detention" basins). The locations of these basins are shown on Figures III-7 and III-8 of Chapter III, Project Description, of the Draft EIR. Additional drainage information is provided in the following document: Stetson Engineers, 2004. *Technical Memorandum re: Summary of HEC-HMS (HEC-1)*, which is available for public review at the City Planning Department.

A4-2: Existing drainage systems noted on page 70 of the Draft EIR are owned and operated by the City of Benicia.

A4-3: Figure III-2 of the Draft EIR shows the grading proposed as part of the project. No additional grading diagrams or cross sections were provided by the project sponsor. The Draft EIR identifies several impacts associated with 9,000,000 cubic yards of grading as significant: see Impact LU-1; Impact GEO-3; Impact GEO-4; Impact HYDRO-2; Impact HYDRO-3; Impact AIR-1; and Impact VIS-2. Mitigation Measure HYDRO-1 would require the project sponsor to implement various flood control measures, including measures to ensure that post-project peak runoff rates do not exceed pre-project rates. Mitigation Measure HYDRO-2 would require the project sponsor to prepare a Storm Water Pollution Prevention Plan (SWPPP) that would include various features – such as on-site catch basins – to retain sediment. Therefore, runoff from the project site is expected to be adequately accommodated by existing downstream facilities

A4-4: The proposed drainage plan is included in the Draft EIR as Figure III-7. A more detailed drainage plan, including a design-level hydraulic analysis, would be required as part of Mitigation Measure HYDRO-1 in the Draft EIR. The Technical Memorandum prepared by Stetson Engineers is available for public review at the City Planning Department.

A4-5: An increase in post-project storm flows would result in a downstream flooding impact. However, the drainage plan for the proposed project includes on-site flow routing and detention so that post-project flows would not exceed those that occur in the existing condition. Within each sub-watershed area, operation-phase storm water discharge rates would actually be reduced relative to the existing condition. However, the potential for a downstream flooding impact was identified in the Draft EIR and a mitigation measure included that would <u>ensure</u> implementation of the drainage design, as proposed. Additional information regarding anticipated flow rates and runoff volumes is provided in the Stetson

Engineers Technical Memorandum of 2004, which is available for public review at the City Planning Department.

The "three strategies" proposed in the drainage plan to mitigate downstream flooding impacts would be incorporated into the project as a condition of approval and would require the implementation of the measures included in the drainage plan. These three measures are: 1) an upstream detention basin; 2) downstream detention basins; and 3) a storm water drainage network design. No additional environmental impacts (beyond those associated with site-wide grading) would result from construction of the detention basins.

Prior to final approval of the refined, site-specific grading and drainage plan, the City of Benicia Planning Department and/or Public Works Department would review and, if necessary, require modifications to the plan to ensure that it complies with City drainage requirements and specifications; the review would include an evaluation of whether detention basins and conveyances are adequately-sized.

A4-6: Burying a creek in a storm drain culvert would not result in a significant hydrology impact in and of itself. As noted on page 142 of the Draft EIR, "from a hydraulic efficiency perspective, as long as the drainage system is adequately sized and constructed, there would be no significant hydrology impact related to the creation of flooding or erosion." Adequately sized and constructed storm drain infrastructure would be required by Mitigation Measure HYDRO-1. However, as indicated on 141, the removal of creeks on the site would contribute to two significant unavoidable impacts: Impact LU-1 (conflicts with policies in the Benicia General Plan adopted for the purposes of environmental protection) and Impact VIS-2 (degradation of the visual character of the site). These impacts are not avoidable through mitigation measures, but could be avoided through implementation of one of the alternatives outlined in Chapter V, Alternatives, of the Draft EIR.

A4-7: Tables IV.G-10 and IV.G-11 on pages 226 and 227 of the Draft EIR are revised as follows:

Table IV.G-10: Trip Generation Rates and Equations

ITE Land Use Code	Daily	AM Peak Hour	PM Peak Hour
Warehousing (150)	3.68*X+350.27	Ln(T)=0.71*Ln(X)+1.15	Ln(T)=0.79*Ln(X)+0.54
Hotel (310)	14.34*X	0.69*X	0.80*X
Movie Theatre with Matinee (444)	38.00*X	0.00*X	3.80*X
Health/Fitness Club (492)	32.93~~26.30~~*X	1.21*X	4.05*X
General Office Building (710)	11.01*X	1.55*X	1.49*X
Research and Development Center (760)	8.11*X	1.24*X	1.08*X
Business Park (770)	12.76*X	1.43*X	1.29*X
Specialty Retail (814)[a]	44.32*X	0.00*X	2.71*X
Drive-in Bank (912)	246.49*X	12.34*X	45.74*X
High-Turnover (Sit-Down) Restaurant (932)	127.15*X	11.52*X	10.92*X

ITE Land Use Code	Daily	AM Peak Hour	PM Peak Hour
Fast-Food Restaurant with Drive-Through Window (934)	496.12*X	53.11*X	34.64*X
Gasoline/Service Station with Convenience Market (945)	1,208.70~~870.25~~*X	77.68*X	96.37*X

X = Units of land use, as defined in Table IV.G-9.

[a] Specialty retail centers are generally small strip shopping centers that contain a variety of retail shops and specialize in quality apparel; hard goods; and services, such as real estate offices, dance studios, florists, and small restaurants. Source: ITE, *Trip Generation Manual, 7th Edition*

Table IV.G-11: Project Trip Generation

Land Use	ITE Land Use Code	Size	Unit	ADT	AM Peak Hour			PM Peak Hour		
					In	Out	Total	In	Out	Total
Hotel/ Conference Center	Hotel (310)	105	Employees	1,506	43	29	72	45	39	84
Hotel (3 Stories)	Hotel (310)	87	Employees	1,248	36	24	60	38	32	70
Fitness Club	Health/Fitness Club (492)	60	KSF	1,976 ~~1,578~~	31	42	73	124	119	243
Office (4 Stories)	General Office Building (710)	200	KSF	2,202	273	37	310	51	247	298
Movie	Movie Theatre with Matinee (444)	60	KSF	2,280	-	-	-	91	137	228
Office (2 Stories)	General Office Building (710)	100	KSF	1,101	136	19	155	25	124	149
Retail	Specialty Retail (814)	100	KSF	4,432	-	-	-	119	152	271
Restaurant	High-Turnover (Sit-Down) Restaurant (932)	20	KSF	2,543	120	110	230	133	85	218
Fast Food	Fast-Food Restaurant with Drive-Through Window (934)	8	KSF	3,969	217	208	425	144	133	277
Gas Station	Gasoline/Service Station with Convenience Market (945)	7	KSF	8,461 ~~6,092~~	277	267	544	338	338	675
Bank	Drive-in Bank (912)	12	KSF	2,958	83	65	148	275	275	549
R&D	Research and Development Center (760)	50	KSF	406	51	11	62	8	46	54
Industrial/ Warehouse	Warehousing (150)	2,021	KSF	7,788	414	288	702	56	645	701
Flex Use	Business Park (770)	2,423	KSF	30,916	2,911	554	3,465	719	2,406	3,125
Total				**71,786** ~~**69,017**~~	**4,592**	**1,654**	**6,246**	**2,165**	**4,777**	**6,942**

KSF = 1,000 square feet.
Source: Korve Engineering, 2006

However, it should be noted that daily trip generation totals are provided for informational purposes only, and are not included as part of the project impact

analysis. Therefore, the correction of these daily trip generation rates does not change the conclusions of the Draft EIR in regard to significant traffic impacts and does not require the identification of new mitigation measures. All of the peak hour trip generation rates are reported correctly, and it is these rates that form the basis of the impact analysis.

A4-8: Trip generation for the "Gasoline/Service Station with Convenience Market" land use (#945) was calculated using the "Average Vehicle Trips Versus 1,000 Square Feet Gross Floor Area" data. A daily trip generation rate is not provided for gas/service stations in the Institute of Transportation Engineers' *Trip Generation* Manual (7th edition). So, to provide a daily trip estimate for this land use (as a point of information), a commonly used assumption – that the peak hour trip generation represents approximately 10 percent of the daily trip generation – was applied.

A daily trip generation rate is provided under "Average Vehicle Trips Versus Vehicle Fueling Stations" criterion for this land use,. Using this data, the daily trip generation rate is approximately 13.9 times larger than the average of the AM and PM peak hour rates. If this relationship is applied to the rates used to determine the project's anticipated trip generation, the daily trip generation rate would be 1,208.7 trips per 1,000 square feet gross floor area. Tables IV.G-10 and IV.G-11 are revised in Response to Comment A4-8, above.

A4-9: Project impacts to the I-680 and I-780 freeway segments were analyzed on pages 242 and 249 of the Draft EIR. The analysis concludes that the proposed project would result in an impact along westbound I-780, west of East 2nd Street during the PM peak hour. Mitigation Measure TRANS-27 was identified to reduce this impact to a less-than-significant level. Implementation of the identified improvement would result in this freeway segment operating at an acceptable level of service (LOS) B, with a volume-to-capacity ratio of 0.656 in the PM peak hour.

Project impacts at I-680 and I-780 interchange intersections were evaluated as part of the intersection analysis. The project would create significant impacts at the Lake Herman Road / I-680 Southbound Ramps, Lake Herman Road / I-680 Northbound Ramps, East 2nd Street / I-780 Westbound Ramps, and East 2nd Street / I-780 Eastbound Ramps intersections. Mitigation measures for each of these intersections were identified in Table IV.G-16 of the Draft EIR. Each mitigation measure would reduce the project's impact on its applicable interchange intersection to a less-than-significant level.

A4-10: Project impacts at the Lake Herman Road / I-680 Southbound Ramps, Lake Herman Road / I-680 Northbound Ramps, East 2nd Street / I-780 Westbound Ramps, East 2nd Street / I-780 Eastbound Ramps, Bayshore Road / I-680 Southbound Ramps, Bayshore Road / I-680 Northbound Ramps, Industrial Way / I-680 Southbound Ramps, and Industrial Way / I-680 Northbound Ramps intersections were evaluated as part of the intersection analysis in the Draft EIR.

As shown in pages 239 to 241 of the Draft EIR, the project would result in significant impacts at the Lake Herman Road / I-680 Southbound Ramps, Lake Herman Road / I-680 Northbound Ramps, East 2nd Street / I-780 Westbound Ramps, and East 2nd Street / I-780 Eastbound Ramps intersections. Mitigation measures for each of these intersections are identified in Table IV.G-16 of the Draft EIR. The recommended mitigation measures would reduce the project's impact to these intersections to a less-than-significant level.

A4-11: The City of Benicia does not require that queue lengths for individual turning movements be calculated or reported as part of traffic impact studies. However, it should be noted that under the Cumulative Plus Project condition with mitigations, all ramp intersections would function at LOS D or better. Level of service D is indicative of moderate traffic levels wherein substantial queuing would not be anticipated. Therefore, queues from ramp terminal intersections are not anticipated to extend into main-line freeway lanes of traffic, after implementation of the identified mitigation measures.

A4-12: Refer to Response to Comment A4-11.

A4-13: Providing double turning lanes to accommodate turning volumes of 300 vehicles or more is a general "rule of thumb," but does not correspond to any engineering standard. Specific operational improvements to turning movements are provided in the Draft EIR to reduce project impacts.

A4-14: This comment is noted.

A4-15: This comment is noted.

Letter
A5

State of California – The Resources Agency
ARNOLD SCHWARZENEGGER, Governor
DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
(707) 944-5500

February 23, 2007

RECEIVED
FEB 28 2007
STATE CLEARING HOUSE

Clear 2-26-07 Late

Ms. Cindy Gnos
City of Benicia
250 East "L" Street
Benicia, CA 94510

Dear Ms. Gnos:

Subject: Benicia Business Park Draft Environmental Impact Report, SCH 2001022079, Benicia, Solano County

Department of Fish and Game (DFG) personnel have reviewed the above Benicia Business Park Draft Environmental Impact Report (DEIR). The proposed Benicia Business Park is located in the northeast portion of the City of Benicia in Solano County. The project site consists of 527.8 acres of undeveloped land bounded on the south and east by East 2nd Street. The western boundary is an irregular property line that generally parallels the alignments of West Channel Road and Industrial Way. The northern property line is also irregular and is bounded in part by the City of Benicia Water Treatment Plant and Lake Herman Road.

The Project Sponsor, Discovery Builders, Inc., proposes to subdivide the 527.8 acres into 80 lots. Approximately 280 acres would be developed for limited industrial uses and 35 acres for commercial uses. The proposed project has the potential to induce growth by extending infrastructure into currently undeveloped areas, resulting in the direct creation of approximately 7,680 jobs, attracting new residents to the area and increasing demand for more housing. DFG is identified as a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386 and is responsible for the conservation, protection, and management of the State's biological resources. DFG considers the DEIR as a means to understand and appreciate this growth while also developing adequate conservation and protection measures to conserve some of the County's biological natural resources. **1**

Section F. BIOLOGICAL RESOURCES, Impacts and Mitigation Measures

Less-than-Significant Biological Resources Impacts

The grasslands on-site provide habitat for many special status species. Several raptor species use the grasslands as foraging habitat including golden eagle, white-tailed kite, Cooper's hawk, loggerhead shrike, and barn owl. The grasslands also provide suitable burrowing, nesting, and foraging habitat for western burrowing owls and denning and foraging habitat for American badger. Loss of this habitat would be considered significant without mitigation measures. DFG suggests preserving open grassland habitat in perpetuity in an area adjacent to the project site. Selecting the Hillside/Upland or Waterway **2**

Preservation alternative, and protecting the grassland habitat in perpetuity through a conservation easement, would provide for appropriate mitigation. **2 cont.**

Impact BIO-1: Mature trees that are protected under the City's Tree Ordinance would be removed as part of the proposed project.

The non-native blue gum eucalyptus trees on the project site provide suitable nesting habitat for special status raptor species including golden eagle. DFG suggests preserving as many mature blue gum eucalyptus trees on site as is feasible. **3**

Replacement ratios for trees that are removed shall be a minimum of 3:1. The mitigation, as well as the success criteria and a detailed planting plan, should be disclosed in the environmental document.

Impact BIO-2c:

The contractor education program should include an orientation to the biology of the special status species that may occur on-site, their habitat needs, and avoidance measures during project construction. **4**

The project restoration specialist shall be a qualified biologist approved by DFG. If nesting raptors occur on-site, the restoration specialist shall conduct monitoring of active nests to ensure normal nesting behavior is occurring. If adults are disturbed by project activities, DFG shall be notified and a course of action to avoid nest abandonment shall be determined.

Impact BIO-2e:

DFG suggests also establishing a conservation easement over preserved grassland habitat, either on-site, or at an off-site location to be approved by DFG. **5**

Mitigation Measure BIO-5a:

DFG suggests conducting pre-construction surveys for nesting raptors 14 days prior to tree pruning, tree removal, staging, ground disturbing or construction activities. Surveys should be conducted a minimum of 3 separate days during the 14 days prior to disturbance. DFG suggests a 500-foot buffer around active raptor nests for all project activities. **6**

Section V. Alternatives

The proposed project would require approximately 9,000,000 cubic yards of soil movement resulting in the leveling or substantially flattening many of the hillsides. The soil from hillsides would be used to fill in on-site drainages, resulting in significant changes to the **7**

Letter
A5
cont.

local hydrology. The project proposes to develop 280 acres for limited industrial uses and 35 acres for commercial use leaving approximately 180 acres left as open space. The open space includes a buffer strip to preserve the rural character of Lake Herman Road and a "reach" extending from Lake Herman Road to East 2nd Street to preserve a major drainage.

The Hillside/Upland Preservation Alternative would preserve most of the larger hills and reduce grading by approximately 70 percent. This alternative would also protect the existing drainages on-site by providing 100-foot buffers along each drainage. The open space lands would include the abandoned farm buildings on-site, allowing them to be retained, thus avoiding impacts to barn owl and bat roosting habitat. The Hillside/Upland Preservation Alternative allows for 33 acres of commercial uses, 167 acres of limited industrial uses, 10 acres of public facilities, and 317 acres of open space/landscaped area. **7 cont.**

DFG prefers the Hillside/Upland Preservation Alternative to the proposed project because it avoids impacts to existing drainages and provides for protection of open grassland foraging, nesting, and denning habitat, and preservation of the existing farm building which provides roosting habitat for barn owls and bats. DFG encourages the Project Sponsor to pursue this alternative as it moves forward with certifying the Final EIR.

DFG appreciates the opportunity to comment on the Benicia Business Park DEIR. If you have any comments or questions regarding this letter, please contact Anna Holmes, Environmental Scientist, at (209) 948-7163; or Greg Martinelli, Water Conservation Supervisor, at (707) 944-5570.

Sincerely,

RA Wigeda
for

Charles Armor
Acting Regional Manager
Bay Delta Region

COMMENTOR A5
State of California, Department of Fish and Game
Charles Armor, Acting Regional Manager
February 23, 2007

A5-1: This introductory comment is noted.

A5-2: This comment, which expresses support for the Hillside/Upland Preservation alternative (identified as the environmentally superior development alternative in the Draft EIR), is noted.

A5-3: As specified in Mitigation Measures BIO-1 and BIO-5a of the Draft EIR, where possible, mature trees are required to be preserved and measures would be implemented to protect trees during construction activities. A tree replacement program would be adopted in accordance with the City's tree ordinance (as may be amended). Active nests, including nests of golden eagles, would be adequately protected by these mitigation measures.

Trees would be replaced according to the City's tree ordinance (as may be amended). The use of tree replacement ratios is often a permit condition and not required by CEQA for mitigation of significant environmental impacts.

A detailed planting plan is not required for project approval. The planting plan would be reviewed by the City prior to issuance of a building permit; at that time, the adequacy of the plan will be verified.

A5-4: The biology and life history of special-status species is typically included in employee education training. It may also be required as a permit condition outside of the CEQA process.

Mitigation Measure BIO-2c in the Draft EIR is revised as follows (these revisions also incorporate changes made in Response to Comment B3-19). This revision is a minor change to the existing mitigation measure and would not require recirculation of the Draft EIR.

> Mitigation Measure BIO-2c: A contractor education program shall be created and initiated by the project restoration specialist prior to the initiation of ground disturbing activities. The purpose of this program shall be to inform the contractors about the mitigation measures being implemented onsite, the biology and life history of special-status species that may be present, ~~and~~ the areas to be preserved and avoided during construction, and the measures being implemented to avoid the impacts to these species during construction. During construction, wetlands to be preserved shall be clearly marked with flagging and or construction fencing. During construction in the vicinity of

jurisdictional wetlands and non-wetland waters of the United States, ~~T~~he project restoration specialist shall conduct periodic site visits (once every week or once every two weeks, depending on the level of activity) ~~during the construction period~~ to provide direction and ensure protection of sensitive resources and permit compliance.

As indicated in Mitigation Measure BIO-5a, an approved biologist would conduct nest surveys prior to disturbance of trees. If active nests are observed, habitat buffers would be established in order to protect the nesting birds from disturbance. As lead agency, the City would establish the qualifications for surveyors, although they may consult with the California Department of Fish and Game (CDFG). Monitoring conducted under a CDFG permit may require approval by CDFG but is not required to reduce the significant impacts of the project.

A5-5: Mitigation Measure BIO-2e requires all preserved mitigation habitat to be placed within a conservation easement or other similar mechanism to preserve habitat for plants and animals in perpetuity.

A5-6: Mitigation Measure BIO-5a in the Draft EIR is revised as follows. This revision is a minor change to the existing mitigation measure and would not require recirculation of the Draft EIR.

Mitigation Measure BIO-5a: A qualified biologist shall conduct raptor and passerine nest surveys prior to tree pruning, tree removal, ground disturbing activities, or construction activities on the site to locate any active nests on or immediately adjacent to the site. Preconstruction surveys shall be conducted no more than 14 days prior to the start of pruning, construction, or ground disturbing activities if the activities occur during the nesting season (February 1 and August 31). Preconstruction surveys for nesting raptors shall be conducted on a minimum of 3 separate days during the 14 days prior to disturbance. Preconstruction surveys shall be repeated at 30-day intervals until construction has been initiated in the area. Locations of active nests shall be described and protective measures implemented. Protective measures shall include establishment of clearly delineated (i.e., orange construction fencing) avoidance areas around each nest site that are a minimum of ~~300~~ 500 feet from the dripline of the nest tree or nest for raptors and 50 feet for passerines. The active nest sites within an exclusion zone shall be monitored on a weekly basis throughout the nesting season to identify any signs of disturbance. These protection measures shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active. A report shall be submitted to the City at the end of the construction season documenting the observations made during monitoring.

A5-7: This comment, which expresses CDFG's preference for the Hillside/Upland Preservation alternative (which is identified as the environmentally superior development alternative in the Draft EIR) is noted.

Letter
A6

Benicia High School • Liberty High School • Benicia Middle School • Mary Farmar Elementary
UNIFIED SCHOOL DISTRICT
BENICIA
Joe Henderson Elementary • Robert Semple Elementary • Matthew Turner Elementary

March 1, 2007

RECEIVED
MAR 12 2007
CITY OF BENICIA
COMMUNITY DEVELOPMENT

Charlie Knox
Community Development Director
250 East L Street
Benicia, California

Dear Mr. Knox,

On behalf of the district I would like to express my concerns regarding the proposed Benicia Business Park. I question the adequacy of the Draft Environmental Impact Report and have concerns that the report has not thoroughly studied the impact of increased traffic on East Second Street on our students. I am particularly concerned about the potential safety of pedestrian and bicycle traffic on East 2nd and Hillcrest and East Second and S Street, both of which are currently dangerous intersections for students. An increase in traffic will only make a difficult situation worse. It is essential that a thorough study regarding student safety be conducted before any decision is made. 1

The health and safety of Benicia's children is paramount to the district and I hope the city will take into consideration student's safety when studying the feasibility of this proposed Business Park. I appreciate your cooperation and look forward to hearing from you.

Sincerely,

Janice Adams

Janice Adams
Interim Superintendent

350 East K Street • Benicia, California 94510 • Telephone: 707.747.8300 • Facsimile: 707.746.6152 • Website: www.benicia.k12.ca.us

COMMENTOR A6
Benicia Unified School District
Janice Adams, Interim Superintendent
March 1, 2007

A6-1: Although the project would add trips to East 2nd Street, the two intersections bordering Robert Semple Elementary School (East 2nd Street / Rankin Way, and East 2nd Street / East S Street) are signalized with crosswalks. The signals at these intersections have been built to modern engineering standards, and allow pedestrians sufficient time to cross the street. Sidewalks are provided along East 2nd Street throughout the residential area, and Class II bike lanes are provided north of Hillcrest Avenue. The Draft EIR assumes that all project trips would obey the law and travel at the posted speed limit of 25 miles per hour through the school zone. Therefore, no safety impacts are anticipated along East 2nd Street.

Letter
A7

LAW OFFICES
DIRK A. FULTON
A PROFESSIONAL CORPORATION

555 FIRST STREET #303
BENICIA, CA 94510

TELEPHONE
(707) 747-9003

FACSIMILE
(707) 747-0604

March 9, 2007

Mr. Charles Knox
Planning Director
City of Benicia
250 East L Street
Benicia, CA 94510

Re: Comments on Draft EIR for Seeno Project @ E. 2nd Street and Lake Herman Road (the "Project") –

Dear Mr. Knox,

I write as President of the Board of Trustees for the Benicia Unified School District ("BUSD") in connection with the Project as referenced above.

This letter addresses several student and community health safety issues raised by the draft Environmental Impact Report ("EIR") for the Project. These health and safety concerns are as follows:

Traffic-Generated Air Pollution. The EIR shows that 35% of the traffic generated by the Project will use E. 2nd Street, which abuts the Robert Semple Elementary School Health effects of traffic-generated air pollution are not thoroughly reviewed in the EIR (pages 265-268). This is so despite the fact that traffic flows on East 2nd Street greatly increase from 11,100 existing ADT to 37,900 ADT at build-out (See EIR Appendix D). The attached health study ("Traffic-Related Air Pollution Near Busy Roads" – see Attachment) shows that children attending schools that are located within 500 feet of a road carrying more than 25,000 cars will suffer a 7% increase in respiratory problems associated to asthma and asthma precursor type symptoms. Lung development in children who show no acute symptoms or respiratory distress can also be affected, with chronic daily exposure to such high levels of air pollutants: PM 2.5 and PM 10, e.g., tiny particle material tailpipe emissions, especially diesel, that can penetrate lung tissue. 1

Such impacts will directly and immediately affect our young elementary students playing on fields and working in classrooms. These impacts are material and possibly unmitigatable. Extensive long term health assessments are needed to assure student safety.

Traffic Control Issues. During the peak commute hours for the Project, BUSD parents will be dropping-off and delivering their children to and from Robert Semple. The Project, by itself, will generate 2,300 new trips during the morning school "drop-off" 2

Letter
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cont.

hour. (See EIR Figure IV 6-7). Yet, no changes are proposed for the intersections at East Second Street and merging arterials of Hillcrest, Seaview, East Tennys and Rankin Way. This adverse and potentially dangerous situation also occurs during the afternoon "pick-up" hour. Accordingly, further traffic studies are needed to guarantee that our safe routes to school are maintained. 2 cont.

Noise Impacts. Robert Semple is already impacted from noise by the 55,000 cars per day on I-780 and the existing 11,000 on East 2nd Street. No mitigations are proposed to protect the children from additional noise generated by this Project (EIR pages 279-282.). Noise studies and mitigations are required to protect the Robert Semple School site as a safe learning community. 3

Cumulative Impacts. The Project presents significant and material cumulative environmental impacts as to Robert Semple and the health and safety of its students. The school is fronted by I-780 (55,000 ADT) and is within ¼ mile of the Benicia Valero Refinery. Neither the air quality impacts of the adjacent freeway or of the refinery have ever been adequately studied by any government entity, including the City of Benicia. In combination with the impacts of the Project, these cumulative air, noise, and general safety impacts are weighty. Such impacts must be closely studied over extensive time periods to determine whether or not said impacts may be mitigated. Only then can the community be assured that the health of our children will remain protected. 4

Thank you for the opportunity to provide these comments. I look forward to your detailed response.

Very truly yours,

Dirk A. Fulton, President
Benicia Unified School District

DAF:bt

Letter
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cont.

ATTACHMENT

Traffic-related Air Pollution near Busy Roads

The East Bay Children's Respiratory Health Study

Janice J. Kim, Svetlana Smorodinsky, Michael Lipsett, Brett C. Singer, Alfred T. Hodgson, and Bart Ostro

Office of Environmental Health Hazard Assessment, California Environmental Protection Agency, Oakland; and Atmospheric Sciences Department and Indoor Environment Department, Environmental Energy Technologies Division, Lawrence Berkeley National Laboratory, Berkeley, California

Recent studies, primarily in Europe, have reported associations between respiratory symptoms and residential proximity to traffic; however, few have measured traffic pollutants or provided information about local air quality. We conducted a school-based, cross-sectional study in the San Francisco Bay Area in 2001. Information on current bronchitis symptoms and asthma, home environment, and demographics was obtained by parental questionnaire (n = 1,109). Concentrations of traffic pollutants (particulate matter, black carbon, total nitrogen oxides [NO_X], and nitrogen dioxide [NO_2]) were measured at 10 school sites during several seasons. Although pollutant concentrations were relatively low, we observed differences in concentrations between schools nearby versus those more distant (or upwind) from major roads. Using a two-stage multiple-logistic regression model, we found associations between respiratory symptoms and traffic-related pollutants. Among those living at their current residence for at least 1 year, the adjusted odds ratio for asthma in relationship to an interquartile difference in NO_X was 1.07 (95% confidence interval, 1.00–1.14). Thus, we found spatial variability in traffic pollutants and associated differences in respiratory symptoms in a region with good air quality. Our findings support the hypothesis that traffic-related pollution is associated with respiratory symptoms in children.

Keywords: air pollution; asthma; bronchitis; epidemiology; vehicle emissions

Numerous epidemiologic studies have documented adverse effects of air pollution on health (1). The majority of these population-based studies have used pollutant concentrations measured at central monitoring sites to estimate exposures and have not, in general, considered local spatial variability in pollutant levels. However, motor vehicle emissions, the principal source of ambient air pollution in most urban areas, are likely to vary substantially within a given community, and researchers have begun to document differences in traffic-related pollutants on a neighborhood scale (2, 3).

Recently, a number of epidemiologic studies have reported associations between residential proximity to busy roads and a variety of adverse respiratory health outcomes in children, including respiratory symptoms, asthma exacerbations, and decrements in lung function (4–12). In some reports, truck traffic has been more strongly associated with these adverse outcomes than total vehicular traffic (6, 7, 10, 11).

Most studies have used metrics of proximity to traffic as surrogates of exposure to traffic pollution (e.g., residential proximity to major roads, traffic volume at the nearest road, or modeled levels of traffic pollution). Few have measured pollutant concentrations as part of the exposure assessment or provided information on local air quality (7, 10–12). The majority of studies have been conducted in Europe and Japan, where fleet composition (diesel versus gasoline), emissions factors, fuel specifications, land use, and population distributions near busy roads differ from those in the United States. Regional and microenvironmental concentrations of particulate matter (PM) may be higher in European cities compared with many parts of the United States (13). Therefore, it is important to evaluate the extent to which proximity to traffic may be associated with health impacts in the United States. Previous studies in the United States were conducted in areas of Southern California and the Northeast with significant local air-quality problems; both used metrics of proximity to traffic, not measured pollutant concentrations (8, 14).

The objective of this study was to explore associations between respiratory symptoms and exposures to traffic-related air pollutants among children living and attending schools near busy roads in an urban area with high traffic density but good regional air quality. Some of the results of this study have been previously reported in the form of abstracts (15).

METHODS

Study Design and Health Assessment

We conducted a school-based, cross-sectional study in the San Francisco metropolitan area (Alameda County, CA) in 2001. The study area was comprised of 10 neighborhoods that span a busy traffic corridor. School sites were selected to represent a range of locations upwind and downwind of major roads (Figure 1).

In spring 2001, we enrolled children (grades 3–5) in participating classes (n = 64) using methods similar to those used in other school-based studies (16–18). We obtained information on health outcomes (bronchitis symptoms in the past 12 months and physician-confirmed asthma in the past 12 months), demographics, home environmental factors, and activity factors using parental questionnaires (English and Spanish) (for additional information on the study design and health assessment, *see* the online supplement). The study protocol was approved by the Committee for the Protection of Human Subjects, California Health and Human Services Agency.

Air Pollution from Traffic

We measured concentrations of traffic pollutants (particulate matter [PM_{10}, $PM_{2.5}$], black carbon [BC], total nitrogen oxides [NO_X], and nitrogen dioxide [NO_2]) at the school sites. PM_{10} and $PM_{2.5}$ mass concentrations were measured using filter-based samples, whereas BC concentrations were determined on the PM_{10} filter samples using an established light attenuation method that we validated for fiberfilm filters (19, 20). NO_X and NO_2 concentrations were determined with passive diffusion samplers (Ogawa, Inc., Pompano Beach, FL). Nitric oxide (NO) concentrations were calculated as the difference between NO_X and NO_2.

Pollutant monitoring was conducted simultaneously at all school sites for 11 1-week intervals in the spring (March–June) and for 8 weeks

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Correspondence and requests for reprints should be addressed to Bart Ostro, Ph.D., Office of Environmental Health Hazard Assessment, 1515 Clay Street, 16th Floor, Oakland, CA 94612. E-mail: bostro@oehha.ca.gov

This article has an online supplement, which is accessible from this issue's table of contents online at www.atsjournals.org

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Internet address: www.atsjournals.org

Letter
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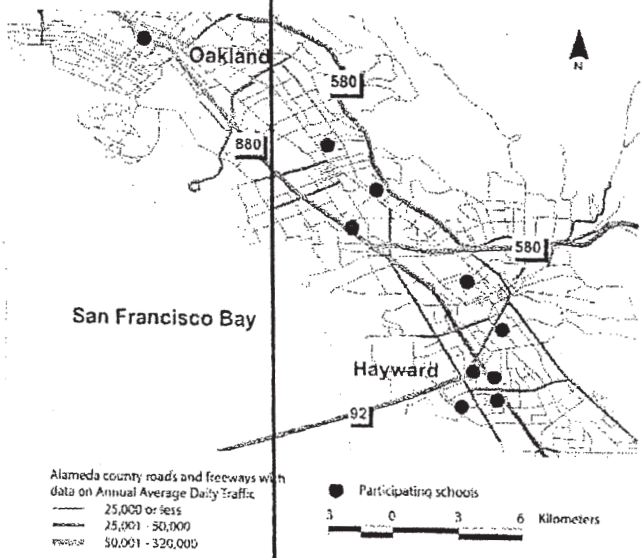

Figure 1. East Bay Children's Respiratory Health Study area. The study region is to the east and across the bay from the city of San Francisco.

in the fall (September–November) of 2001. NO_X and NO_2 were sampled during all weeks at each school. PM_{10} and $PM_{2.5}$ and the BC concentrations were not measured every week. Study-averaged air pollution concentrations were calculated at each school by first normalizing the data to account for occasional missing values. Additional details are described in the online supplement and elsewhere (21). In preliminary analyses, we also used school location in relationship to prevailing winds and proximity to busy roads as an additional traffic metric.

Data Analysis

We examined associations between pollutants and health outcomes using a two-stage hierarchical modeling strategy. This method has been used in other epidemiologic studies of air pollution when pollutants were measured at the group level (18, 22). In our study, the exposure groups were represented by the neighborhood schools. In the first stage, we initially identified potential confounders (demographic, host, or home environmental variables) associated with health outcomes in this dataset. We then performed exploratory stepwise logistic regressions to develop a model in which individual-level characteristics best predicted the odds of each health outcome. Explanatory variables that remained significant at $p < 0.15$ were retained in the model. We then fit a logistic regression model that included an indicator variable for each school in addition to the individual-level covariates.

In the second stage, the adjusted school-level logits or prevalence rates determined in the first stage were regressed on the school-specific ambient pollutant concentrations. In this manner, we obtained the log odds ratios (ORs) relating asthma or bronchitis symptoms to air pollution, after adjusting for individual-level risk factors.

We calculated adjusted ORs for a change in measured pollutant concentration equal to the interquartile ranges of the pollutant distributions. Analyses were conducted using SAS version 8.2 for Windows (Cary, NC) and STATA, version 8 (College Park, TX).

RESULTS

We distributed 1,574 questionnaires in 64 participating classrooms in the 10 schools. Three children were excluded because their parents spoke neither English nor Spanish. Among the remaining students, there was a response rate of 70.7% (1,111/1,571). Participation rates across schools ranged from 61–83%. Approximately 30% completed the questionnaire in Spanish. Two children with reported cystic fibrosis were excluded from the analysis. The final analysis sample consisted of 1,109 questionnaires.

Table 1 summarizes the participants' demographic characteristics, prevalence of selected personal and home environmental characteristics, and respiratory health outcomes. Our study population was racially diverse. Approximately 30% of households had incomes below the federal poverty line. Fourteen percent of the parental respondents reported having been told by a doctor that their child had asthma in the preceding 12 months. This represents a measure of period prevalence of asthma and would include some incident cases. Twelve percent of children had bronchitis symptoms in the past year. Of those reporting bronchitis symptoms in the past 12 months, 43% also reported having asthma. Using a slightly different definition of asthma (physician-diagnosed ever, and asthma symptoms, including wheezing, in the past 12 months), 11% of our study population had current asthma.

The estimated pollutant concentrations at the schools are summarized in Table 2. Concentrations of several pollutants (i.e., BC, NO_X, NO, and, to a lesser extent, NO_2) were higher at schools located within 300 m downwind of a freeway compared with those at schools upwind or further from major traffic sources. There was less variation in $PM_{2.5}$ and PM_{10}. Concentrations of BC, NO_X, and NO were highly correlated (r^2 = approximately 0.9 for each interpollutant correlation). The study average $PM_{2.5}$ (12 $\mu g/m^3$) was similar to the annual average concentration of $PM_{2.5}$ at the central monitoring station, located approximately 15 km south of the study area. NO_X and NO_2 measurements at the school sites away from traffic were similar to levels measured at the regional site (21).

Table 3 summarizes the results of the two-stage hierarchical logistic regression models of the odds of asthma and bronchitis symptoms in the previous year in relationship to six different pollutants, each examined in separate regressions. Results are shown for all subjects, for long-term residents only (1 year or longer at the current address), and for the latter group stratified by sex. In addition to the traffic metric, explanatory variables

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cont.

TABLE 1. DEMOGRAPHIC, FAMILY, AND HOME CHARACTERISTICS OF THE EAST BAY CHILDREN'S RESPIRATORY HEALTH STUDY RESPONDENTS

Characteristics	All Subjects (*n* = 1,109) (%)	Subjects Attending Schools: Near and Downwind of Major Roads (*Four Schools, n = 402*) (%)	Subjects Attending Schools: Far or Upwind of Major Roads (*Six Schools, n = 707*) (%)
Sex			
Female	52.6	51.8	53.1
Race/ethnicity			
White	12.6	11.0	13.5
Black, African American	11.1	7.0	13.4
Hispanic	43.5	47.6	41.2
Asian	14.0	15.5	13.1
Other/multiracial	18.9	18.8	18.9
SES indicators			
Household at/below federal poverty level	31.3	31.8	31.0
Parent's education: high school or less*	48.7	51.4	47.1
Family history			
Biological mother with asthma	12.2	9.5	13.7
Maternal smoking during pregnancy	10.3	7.8	11.7
Home indoor environment			
Smoker in the household, since child's birth	17.9	13.1	20.6
Smoker in the household, current	7.2	3.2	9.5
Furry pet	37.3	36.0	38.1
Pests, past 12 mo	63.1	65.4	61.8
Gas stove	63.1	63.6	62.9
Indicator of mold/mildew presence, past 12 mo	44.6	43.5	45.3
Health outcomes			
Chest illness before age 2	23.3	18.8	25.9
Asthma, past 12 mo	14.0	13.9	14.1
Bronchitis, past 12 mo	12.1	13.2	11.5

* Parent responding to the questionnaire.

retained in all of the final models for asthma and bronchitis included chest illness before age 2 years, household mold/moisture, and pests observed in the home in the preceding 12 months. The final models for asthma also included maternal history of asthma. The addition of other potential confounders such as race/ethnicity, socioeconomic variables, maternal smoking during pregnancy, current smoker in the home, air conditioning, and gas stove use yielded similar pollutant effect estimates.

For the full sample, associations were observed between both asthma in the past 12 months and bronchitis symptoms in the past 12 months and the pollutants, especially NO_X, NO, and BC. The effect estimates for $PM_{2.5}$ and PM_{10} were smaller, which may have been due in part to the smaller concentration ranges among the 10 sites for these pollutants. No multipollutant models were evaluated because of the high interpollutant correlations. Restricting the analysis based on duration of residence (i.e., at

TABLE 2. NEARBY TRAFFIC SOURCES AND AVERAGE POLLUTANT CONCENTRATIONS AT TEN SCHOOLS

School	Major Traffic Source†	AADT (#/d)	Distance‡ (m)	< 300 m Downwind	PM_{10} ($\mu g/m^3$)	$PM_{2.5}$ ($\mu g/m$)	BC ($\mu g/m^3$)	NO_x (*pbb*)	NO_2 (*pbb*)	NO§ (*pbb*)
1	No				30	12	0.7	42	22	19
2	Yes	90,000	230	Yes	29	13	0.9	55	24	31
3	Yes	210,000	360	No	32	12	0.8	49	21	29
4	No				30	12	0.8	41	19	22
5	Yes	210,000	130	Yes	30	12	0.9	62	26	36
6	No				30	12	0.7	39	21	17
7	No				29	11	0.7	33	20	11
8	Yes	130,000	350	No	29	12	0.7	45	23	21
9	Yes	210,000	200	Yes	30	12	0.9	57	26	31
10*	Yes	190,000	60	Yes	32	15	1.1	69	31	38
Study average					30	12	0.8	49	23	25

Definition of abbreviations: AADT = annual average daily traffic; BC = black carbon; NO = nitric oxide; NO_X = total nitrogen oxides; NO_2 = nitrogen dioxide; $PM_{2.5}$ = particulate matter of aerodynamic diameter 2.5 μm or less; PM_{10} = particulate matter of aerodynamic diameter 10 μm or less.

Estimated average pollutant concentration at each school based on normalized concentrations (*see text*). Monitoring was conducted for 11 weeks in the spring (March–June) and 8 weeks in the fall (September–November of 2001). The number of weeks underlying our estimates of chronic exposure varied for each measured pollutant: NO_X (18), NO_2 (19), BC (11), $PM_{2.5}$ (10), and PM_{10} (9).

* There is also a shopping center and a parking lot abutting the school grounds to the south and a freeway off ramp less than 50 m to the northwest.

† Includes roads with AADT above 50,000 vehicles per day located within 1,000 m of school. AADT estimate provided by the California Department of Transportation (Cal Trans).

‡ Distances were estimated using a geographic information system. Latitude and longitude of the monitors were determined using a global-positioning system device (Garmin GPS II). In some cases, distances were estimated using aerial photographs or measured using a distance wheel.

§ $NO = NO_X - NO_2$

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TABLE 3. ODDS RATIOS (95% CONFIDENCE INTERVAL) OF RESPIRATORY ILLNESS BY SCHOOL-BASED AMBIENT AIR POLLUTANT CONCENTRATIONS USING TWO-STAGE MODEL

		All Subjects		LTR Subjects		LTR Females		LTR Males	
		(*n* = 1,109)		(*n* = 871)		(*n* = 462)		(*n* = 403)	
	Exposure	OR	CI	OR	CI	OR	CI	OR	CI
Bronchitis*		n = 93/797		n = 79/635		n = 38/341		n = 41/291	
	NO_x	1.05	(1.01, 1.08)	1.06	(1.03, 1.09)	1.07	(1.03, 1.11)	1.03	(0.98, 1.09)
	NO_2	1.02	(0.99, 1.06)	1.03	(1.00, 1.06)	1.04	(1.01, 1.08)	1.02	(0.98, 1.06)
	NO	1.05	(1.02, 1.09)	1.06	(1.03, 1.09)	1.07	(1.03, 1.11)	1.04	(0.98, 1.10)
	PM_{10}	1.03	(0.99, 1.07)	1.02	(0.98, 1.07)	1.04	(1.01, 1.09)	1.01	(0.95, 1.06)
	$PM_{2.5}$	1.02	(1.00, 1.05)	1.03	(1.01, 1.05)	1.04	(1.02, 1.05)	1.02	(0.99, 1.05)
	BC	1.04	(1.00, 1.08)	1.05	(1.01, 1.08)	1.06	(1.02, 1.10)	1.03	(0.98, 1.08)
Asthma†		n = 101/705		n = 78/562		n = 42/297		n = 36/263	
	NO_x	1.04	(0.97, 1.11)	1.07	(1.00, 1.14)	1.17	(1.06, 1.29)	1.02	(0.93, 1.11)
	NO_2	1.02	(0.97, 1.07)	1.04	(0.98, 1.10)	1.09	(1.03, 1.15)	1.00	(0.94, 1.07)
	NO	1.05	(0.98, 1.12)	1.08	(1.00, 1.15)	1.19	(1.03, 1.36)	1.02	(0.94, 1.12)
	PM_{10}	1.02	(0.96, 1.09)	1.04	(0.97, 1.12)	1.09	(0.92, 1.29)	1.02	(0.94, 1.10)
	$PM_{2.5}$	1.00	(0.97, 1.04)	1.01	(0.97, 1.06)	1.06	(0.99, 1.15)	0.99	(0.95, 1.04)
	BC	1.02	(0.96, 1.09)	1.05	(0.99, 1.13)	1.12	(0.95, 1.33)	1.00	(0.93, 1.09)
Asthma (no outlier, school 5)†		n = 96/641		n = 73/507		n = 38/271		n = 35/233	
	NO_x	1.08	(1.00, 1.17)	1.10	(1.00, 1.20)	1.14	(1.02, 1.28)	1.07	(0.96, 1.19)
	NO_2	1.06	(0.99, 1.13)	1.07	(0.98, 1.17)	1.09	(0.97, 1.22)	1.05	(0.96, 1.16)
	NO	1.08	(1.00, 1.17)	1.09	(1.00, 1.19)	1.14	(1.03, 1.26)	1.07	(0.96, 1.18)
	PM_{10}	1.06	(0.97, 1.16)	1.08	(0.98, 1.19)	1.09	(0.96, 1.24)	1.08	(0.97, 1.19)
	$PM_{2.5}$	1.04	(0.96, 1.12)	1.03	(0.94, 1.13)	1.03	(0.91, 1.17)	1.03	(0.94, 1.14)
	BC	1.07	(0.98, 1.17)	1.09	(0.99, 1.19)	1.14	(1.02, 1.27)	1.06	(0.95, 1.18)

Definition of abbreviations: BC = black carbon; CI = confidence interval; LTR = long-term resident; OR = odds ratio; NO = nitric oxide; NO_x = total nitrogen oxides; NO_2 = nitrogen dioxide; $PM_{2.5}$ = particulate matter of aerodynamic diameter 2.5 μm or less; PM_{10} = particulate matter of aerodynamic diameter 10 μm or less.

Odds ratios are calculated per IQR of average pollutant concentrations as follows: NO_x = 14.9 ppb; NO_2 = 3.6 ppb; NO = 11.6 ppb; PM_{10} = 1.4 μg/m³; $PM_{2.5}$ = 0.7 μg/m³; BC = 0.15 μg/m³.

For hierarchical analyses of asthma in long-term residents (current address for 1 year or more), only 9 schools were included in the analysis; one school had no cases (due to low numbers and missing values).

* First stage model adjusted for: child's respiratory illness before age 2; pests, indicator of mold presence.

† First stage model adjusted for: child's respiratory illness before age 2; pests, indicator of mold presence; maternal history of asthma.

least 1 year at current residence) tended to increase the effect estimates slightly in relationship to asthma, especially when the sample was restricted to girls. Stratification by duration of residence or sex did not change the results for bronchitis. Results were similar when nonnormalized pollution values were used (data not shown).

We conducted additional sensitivity analyses, including (*1*) dropping the one school that was an outlier with respect to the proportion of Hispanic students (89% vs. 21–53% at other schools), (*2*) using a different definition for current asthma, and (*3*) stratifying bronchitis by a reported history of asthma. When the "outlier" school was dropped, the magnitude of the ORs for bronchitis did not change much, but the confidence intervals were wider. In the asthma analyses, dropping the outlier school resulted in similar or slightly greater effect estimates. Applying different questionnaire-based asthma definitions showed little change but slightly larger confidence intervals. After stratifying students by whether they also "ever" had asthma, the results suggested that those with a history of asthma were driving the results for bronchitis, but the sample size became too small to make clear inferences. Figures 2 and 3 depict the associations between BC and bronchitis and asthma.

DISCUSSION

To our knowledge, this is the first epidemiologic study in the United States to evaluate relationships between measured traffic-related pollutants and respiratory symptoms. For children residing at their current address for at least 1 year, we found modest but significant increases in the odds of bronchitis symptoms and physician-diagnosed asthma in neighborhoods with higher concentrations of traffic pollutants. These results are consistent with previous reports of positive associations between proximity to traffic and various respiratory outcomes (4–12). Furthermore, our findings were observed in a region with relatively clean air (low concentrations of ozone and PM) (*see* the online supplement for details). Although previous epidemiologic studies in the United States exploring chronic respiratory effects of air pollution in children have shown inconsistent results, this might be due in part to exposure misclassification, as these studies used air quality measurements conducted at single fixed-site monitors in each city (17, 18, 22, 23).

Our findings were robust to multiple sensitivity analyses using different questionnaire-based definitions of current asthma and wheezing in the past 12 months. The slight increase in effect estimates for associations between asthma after restricting the analysis to those with longer duration at current residence may be due to a reduction in exposure measurement error. Our study population was very mobile (23% had moved in the preceding 12 months, and only 32% had lived at the same address since before the age of 2 years).

We considered whether there might be bias due to nonresponse or self-reporting. We saw no significant difference in proportions of questionnaires returned in Spanish versus English by school, but there was a modest inverse correlation between pollution concentrations measured at each school and response rate. However, the response rate for individual classrooms within each school varied as well and appeared to depend on the willingness of teachers to encourage participation. Dropping the school closest to a freeway (which also had the highest measured pollutant concentrations, a high percentage of Hispanic students, and the lowest response rate) did not change the effect estimates for

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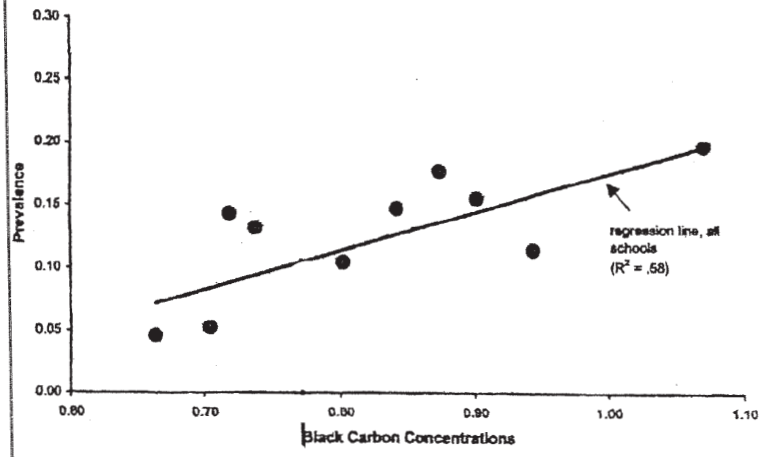

Figure 2. Adjusted school-specific bronchitis prevalence rates versus black carbon, long-term residents.

bronchitis and increased the estimates for asthma. This would suggest that knowledge of potential high traffic exposure probably did not affect parental reporting of the children's respiratory histories. This study was not undertaken in response to public concerns about traffic nor, at the time the study was conducted, was there much local interest in potential health hazards of proximity to traffic. Therefore, reporting and nonresponse biases were unlikely to have unduly influenced our results.

We found increased association with asthma (but not bronchitis) with exposure to traffic air pollutants for girls who had lived at their current addresses at least 1 year compared with boys (Table 3). Several investigators have also reported greater traffic-associated effect estimates for girls versus boys (7, 8, 10, 24, 25). Previous air pollution studies examining the sex-specific effects of air pollution on lung function and lung function growth have been mixed (26, 27). The reasons for the observations in our study are unclear and deserve attention in future studies.

Exposures

We found spatial variability in exposure due specifically to roads with heavy traffic within a relatively small geographic area for BC, NO_X, NO, and to a lesser extent NO_2. There was less variation in $PM_{2.5}$ across schools; this is consistent with previous observations that $PM_{2.5}$ is more likely to reflect regional air quality (2). The higher effect estimates with BC, NO_X, and NO compared with NO_2 and $PM_{2.5}$ suggest that primary or fresh traffic emissions may play an etiologic role in these relationships. Although NO_X, NO, and BC may serve as indicators of exposure to traffic-related pollutant mixtures, they may also act as etiologic agents themselves (28).

We found that downwind direction was an important determinant of increased exposure to traffic pollutants and that a simple traffic indicator (school location downwind and < 300 m from a major road) gave estimates of ORs similar to or greater than pollutant measurements in preliminary analyses using a one-stage model (data not shown). Within a geographic area with flat terrain and low-rise buildings, the direction of wind in relationship to the traffic source is the most important weather parameter. Other parameters important in air dispersion of traffic pollutants (e.g., atmospheric stability, wind speed, and surface topography) would be relatively similar at the different school sites.

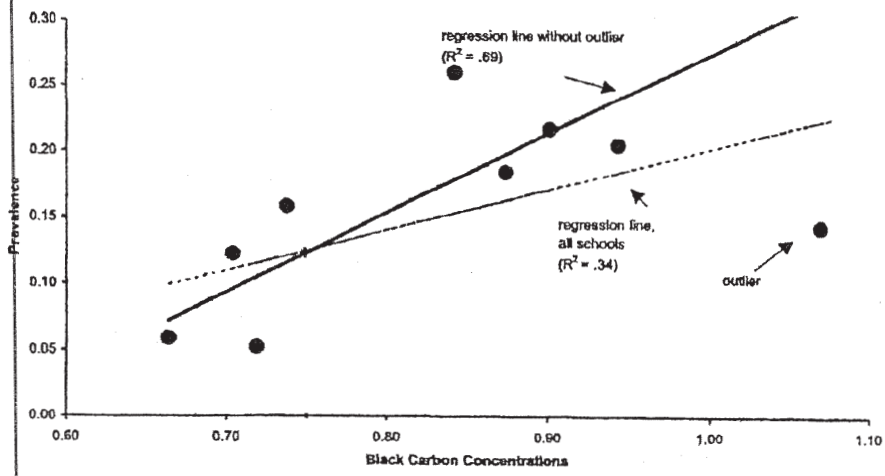

Figure 3. Adjusted school-specific asthma prevalence rates versus black carbon, long-term residents.

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A simple single-stage logistic model using pollutant measurements also yielded positive associations between pollutants and symptoms with a much larger effect estimate and smaller confidence intervals.

We assumed that traffic-related pollutants measured at the neighborhood schools would be a good proxy for the children's overall exposure to such pollutants. Children attending the schools in this study generally lived within walking distance and did not use school buses. Therefore, pollutant concentrations in the children's neighborhoods probably tracked those at their schools. The most plausible exposure error in an urban setting would be that subjects who attend schools with very high traffic exposures from a nearby freeway would tend to have similar or lower home exposures, whereas children with low school exposures would tend to live in homes with similar or only slightly higher traffic exposures. This pattern of measurement error would tend to underestimate the association between exposure and outcome (29).

Alternatively, repeated daily exposures for 6–8 hours during the school year may themselves represent biologically important influences on some children's respiratory health, analogous to occupational exposures for susceptible adults. In a recent study of proximity to traffic and respiratory health, Janssen and colleagues found that effect estimates based on the school-to-highway distance were comparable or greater than those based on residence-to-highway distance (11).

The average measurements at each school were used to estimate long-term average traffic air pollutant concentrations. We measured pollutants at each of the 10 sites concurrently (to avoid concerns of week-to-week variability) in two different periods that reflect the major seasonal wind patterns for the area. We found that the rank order (relative values) of the schools did not vary from week to week or season to season, supporting the validity of this approach. Additionally, the NO_x and NO_2 concentrations at schools upwind or further from high traffic roads were similar to NO_X and NO_2 concentrations measured at the closest fixed-site monitor (21). Although there may have been some changes in the absolute traffic volume on major roads in recent years, the principal traffic patterns in the area have not changed. Thus, the relative values (rank order) of the site-specific pollutant concentrations measured in our study are likely to be representative of those in recent years.

The cross-sectional nature of our study design is a further limitation on causal inference, but we observed the same or modest increase in effect estimates for current asthma and bronchitis when we restricted our analysis to those who had lived at their present address for at least a year. Most studies on proximity to traffic and respiratory symptoms have been cross-sectional, and further longitudinal studies are needed to elucidate the role of traffic-related air pollution in the development and exacerbation of asthma and other respiratory symptoms.

Another limitation was that the exposures were assigned at the group level (n = 10); however, the multilevel analysis allows adjustment for individual confounders in the first stage of analysis. Moreover, in this respect, this study is comparable with other epidemiologic investigations (e.g., the Harvard Six Cities Study and the Children's Health Study in Southern California) (n = 12 communities). Another recent cross-sectional study of traffic-related air pollution and respiratory symptoms included 13 schools (18, 22, 23).

We also lacked information on indoor measurements of traffic-related pollutants. However, recent studies have found high correlations between personal exposures to NO_2 and traffic parameters (30). Others have found that indoor concentrations and exposure to soot (PM from diesel exhaust) is highly correlated with outdoor levels (2).

Other Covariates

Maternal asthma, household mold/moisture, pests, and chest illness before the age of 2 years were important explanatory variables in the final model for current asthma, consistent with previous studies (31–33). We explored whether current levels of traffic pollution could modify the risk of current asthma symptoms depending on past history of chest illness; however, there was not sufficient power to explore interactions based on early medical history. Race/ethnicity and indicators of socioeconomic status were not important predictors of health outcomes in our study. This may be due, in part, to our study design (i.e., the schools were selected to have relatively similar measures of socioeconomic status).

We did not find associations between exposure to environmental tobacco smoke and current asthma; the results of previous cross-sectional studies in school-aged children have been mixed (34). The prevalence of current household smokers in our study was small, however, limiting study power. It is possible that there is some underreporting of household smoking (7% in our study vs. 19% statewide). (35) Alternatively, a substantial portion of our study population was less acculturated Hispanics (30% of parents responded in Spanish), and only 3.6% of Hispanic households reported a history of maternal smoking. Other investigators have also observed very low smoking rates (less than 5%) among less acculturated Hispanics (B. Eskenazi, personal communication) (36). If underreporting does exist, it is possible that residual confounding might have affected our estimates of pollutant/respiratory health outcome relationships. However, the addition to the regression model of variables correlated with exposure to environmental tobacco smoke (e.g., socioeconomic status and race–ethnicity) did not change the pollutant effect estimates, suggesting that significant confounding by environmental tobacco smoke was not likely.

In summary, we found associations between traffic-related pollutants and asthma and bronchitis symptoms in the past 12 months in a highly urbanized region of the United States with good regional air quality, where local air pollution is dominated by vehicular sources. Although the cross-sectional study design, exposure assignment at the group level, small geographic area, and possible unmeasured covariates may limit the generalizability of the study, our findings are consistent with previous investigations in Europe and the United States (11, 14, 37). In addition, our results underscore the limitations of using central air monitoring stations for assigning population exposures. Concentrations of air toxics such as diesel exhaust particles or surrogates such as BC or soot should be more widely monitored. Measurement of personal exposures to traffic pollutants is not feasible in large population-based studies; the use of geographic modeling approaches to estimate exposures for individuals may be a good alternative (38). Future studies that can better characterize exposures to traffic pollutants, and their sources (i.e., diesel versus gasoline engines) will be important to understand better the public health impacts of motor vehicle emissions.

Conflict of Interest Statement: J.J.K. does not have a financial relationship with a commercial entity that has an interest in the subject of this manuscript; S.S. does not have a financial relationship with a commercial entity that has an interest in the subject of this manuscript; M.L. does not have a financial relationship with a commercial entity that has an interest in the subject of this manuscript; B.C.S. does not have a financial relationship with a commercial entity that has an interest in the subject of this manuscript; A.T.H. does not have a financial relationship with a commercial entity that has an interest in the subject of this manuscript; B.O. does not have a financial relationship with a commercial entity that has an interest in the subject of this manuscript.

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COMMENTOR A7
Benicia Unified School District Board of Trustees
Dirk A. Fulton, President
March 9, 2007

A7-1: The Draft EIR addresses traffic emissions impacts in Section IV.H.2.b. (4) Operational Emissions – CO Analysis, and lists the 1-hour and 8-hour CO concentrations for Existing, Existing Plus Project, and Future (2025) Plus Project Conditions for 11 intersections in the project area in Tables IV.H-6, IV.H-7, and IV.H-8 (pages 261 to 264 of the Draft EIR).

The Future (2025) Plus Project peak hour CO concentrations shown in Table IV.H-8, show that the 1-hour CO concentrations at all analyzed intersections (i.e., the intersections that have the potential for the most severe project impacts) are well below State and federal standards. The Future Plus Project 1-hour CO concentrations at the East 2nd Street and Rose Drive and East 2nd Street and Military Street intersections would range from 4.2 parts per million (ppm) to 4.4 ppm, much lower than the State standard of 20 ppm. The 8-hour CO concentrations for these intersections on East 2nd Street would range from 4.3 ppm to 4.7 ppm for future plus project conditions. This too is well below the State standard of 9 ppm. Intersections in the vicinity of Robert Semple Elementary School would be expected to be exposed to similar or lower CO concentrations. The State standards used to evaluate impacts in the Draft EIR take into consideration all types of sensitive receptors, including schools and residences.

The *Air Quality and Land Use Handbook: A Community Health Perspective,* April 2005, by the California EPA and ARB, establishes guidelines for siting sensitive land uses near air pollutant sources. This handbook references the study *Traffic-Related Air Pollution and Respiratory Health: East Bay Children's Respiratory Health Study* by Kim, J., et al, 2004, for establishing these guidelines. State law restricts the siting of new schools within 500 feet of a freeway, urban roadways with 100,000 vehicles/day, or rural roadways with 50,000 vehicles/day, with some exceptions. The handbook recommends that new sensitive land uses not be sited within these boundaries. The modeled future plus project Average Daily Trips (ADT) would be 37,900 along East 2nd Street and 55,000 ADT on I-780. These traffic volumes are below the threshold set by the California EPA and ARB for locating schools near busy roadways. Therefore, the project would not be expected to expose sensitive receptors – including elementary school children at Robert Semple School – to hazardous levels of vehicle emissions, including emissions of CO and particulate matter.

A7-2: See Response to Comment A6-1.

A7-3: The Draft EIR addresses off-site traffic noise impacts on pages 279 to 283. As shown in Impact NOI-2 and in Tables IV.I-8 and IV.I-10, a significant traffic noise impact is identified for sensitive receptors along East 2nd Street under Existing Plus Project and Cumulative Plus Project conditions. The analysis shows that traffic noise levels 50 feet from the centerline of the outermost travel lane would increase by 3.5 dBA and 4.0 dBA respectively.

During review of the Draft EIR, minor typographical errors were identified in the traffic noise modeling values used in the analysis. However, after correction of these minor topographical errors, the noise modeling outputs, as well as the identified significant impacts, remain the same.

To further address the concerns for identified impacts for sensitive receptors located along the segment of East 2nd Street from I-780 to Rose Drive, the following changes will be made to pages 282 to 283 of the Draft EIR. The following revisions do not identify a new environmental impact of the project or introduce a new mitigation measure that would not be adopted by the project sponsor. Therefore, recirculation of the Draft EIR would not be required.

~~In summary, because there are no noise sensitive receptors within the noise contour areas for these roadway segments, the increased traffic noise levels would result in a less than significant impact for off-site receptors.~~

The segment of East 2nd Street from I-780 to Rose Drive could also experience a significant increase in traffic noise levels. The cumulative noise model for the project shows that traffic noise levels along East 2nd Street could increase to 71.6 dBA CNEL at 50 feet from the centerline of the outermost travel lane, a 4.0 dBA increase over the Cumulative Without Project scenario. Construction of a sound barrier at least 8 feet high along the property/right-of-way line would reduce the traffic noise impacts to sensitive receptors along this roadway segment to a less-than-significant level. The use of rubberized asphalt along the roadway segment, as an alternate mitigation measure, would also be effective in reducing traffic noise levels to a less-than-significant level. Rubberized asphalt reduces traffic noise through its porous and ductile qualities (refer to the following study for more information: Bollard and Brennan, Inc., 1999. *Report on the Status of Rubberized Asphalt., Traffic Noise Reduction in Sacramento County*. Prepared for Sacramento County Public Works Department.).

Mitigation Measure NOI-2c: For existing unprotected residential and school land uses along East 2nd Street from I-780 to Rose Drive, **one** (or more) of the following measures shall be implemented:

- A sound barrier at least 8 feet high shall be constructed along the property/right-of-way line of sensitive receptors along this roadway segment; or

- Rubberized asphalt shall be used to resurface the entire identified roadway segment. (LTS)

Tables IV.I-8, IV.I-9, and IV.I-10 are revised as follows:

Table IV.I-8: Existing Plus Project Traffic Noise Levels

Roadway Segment	ADT	Center line to 70 CNEL (feet)	Center line to 65 CNEL (feet)	Center line to 60 CNEL (feet)	CNEL (dBA) 50 feet from Centerline of Outermost Lane	Increase from Baseline Conditions
East 2nd St. - Lake Herman Rd. to Park Rd.	19,300	~~54~~ 56	116	248	~~69.4~~ 68.7	~~5.5~~ 4.8
East 2nd St. - Park Rd. to Industrial Way	11,700	< 50[a]	~~83~~ 84	178	~~67.3~~ 66.5	~~2.9~~ 2.1
East 2nd St. - Industrial Way to Rose Dr.	31,700	77	161	345	70.8	6.3
East 2nd St. - Rose Dr. to I-780 WB On Ramp	25,000	66	138	295	69.8	3.5
East 2nd St. - I-780 EB On Ramp to Military St.	13,300	< 50	~~60~~ 62	~~128~~ 129	~~65.1~~ 64.4	~~0.0~~ -0.7
Lake Herman Rd. - East 2nd St. to Reservoir Rd.	13,800	< 50	~~93~~ 94	199	~~68.0~~ 67.2	~~10.3~~ 9.5
Lake Herman Rd. - Reservoir Rd. to Sky Valley Rd.	15,900	< 50	102	218	68.6	7.2
Lake Herman Rd. - Sky Valley Rd. to Columbus Pkwy	16,000	< 50	102	219	68.6	7.0
Reservoir Rd. - Lake Herman Rd. & East 2nd St.	11,200	< 50	81	173	67.1	7.7
Industrial Way - East 2nd St. to Park Rd.	7,400	< 50	< 50	~~87~~ 88	~~62.6~~ 61.8	~~3.7~~ 2.9
Park Rd. – East 2nd St. to Industrial Way	2,400	< 50	< 50	< 50	57.7	5.4
Park Rd. - Industrial Way to Bayshore Rd.	13,300	< 50	60	128	65.1	2.5

[a] Traffic noise within 50 feet of the roadway centerline requires site-specific analysis.
Source: LSA Associates Inc., September 2006

Table IV.I-9: Cumulative Without Project Traffic Noise Levels

Roadway Segment	ADT	Center line to 70 CNEL (feet)	Center line to 65 CNEL (feet)	Center line to 60 CNEL (feet)	CNEL (dBA) 50 feet from Centerline of Outermost Lane
East 2nd St. - Lake Herman Rd. to Park Rd.	7,800	< 50[a]	64	136	~~67.7~~ 65.5
East 2nd St. - Park Rd. to Industrial Way	8,300	< 50	66	142	~~67.7~~ 65.8
East 2nd St. - Industrial Way to Rose Dr.	10,100	< 50	77	162	~~67.8~~ 65.9
East 2nd St. - Rose Dr. to I-780 WB On Ramp	15,000	~~-~~< 50	99	210	~~69.5~~ 67.6
East 2nd St. - I-780 EB On Ramp to Military St.	18,000	< 50	73	157	~~68.4~~ 66.4
Lake Herman Rd. - East 2nd St. to Reservoir Rd.	1,800	< 50	< 50	52	~~61.4~~ 59.1
Lake Herman Rd. - Reservoir Rd. to Sky Valley Rd.	4,300	< 50	< 50	92	~~65.2~~ 62.9
Lake Herman Rd. - Sky Valley Rd. to Columbus Pkwy	4,500	< 50	< 50	94	~~65.3~~ 63.1
Reservoir Rd. - Lake Herman Rd. & East 2nd St.	2,700	< 50	< 50	67	~~63.0~~ 60.9
Industrial Way - East 2nd St. to Park Rd.	4,500	< 50	< 50	63	~~62.4~~ 60.4
Park Rd. – East 2nd St. to Industrial Way	900	< 50	< 50	<50	~~55.4~~ 53.4
Park Rd. - Industrial Way to Bayshore Rd.	10,500	< 50	52	~~11~~ 110	~~66.1~~ 64.1

[a] Traffic noise within 50 feet of the roadway centerline requires site-specific analysis.
Source: LSA Associates Inc., September 2006

Table IV.I-10: Cumulative Plus Project Traffic Noise Levels

Roadway Segment	ADT	Center line to 70 CNEL (feet)	Center line to 65 CNEL (feet)	Center line to 60 CNEL (feet)	CNEL (dBA) 50 feet from Centerline of Outermost Lane	Increase from Cumulative Conditions
East 2nd St. - Lake Herman Rd. to Park Rd.	~~26,800~~ 21,000	~~57~~ 59	~~122~~ 123	263	~~69.8~~ 69.0	~~4.5~~ 3.5
East 2nd St. - Park Rd. to Industrial Way	~~18,500~~ 16,500	< 50[a]	~~104~~ 105	224	~~68.8~~ 68.0	~~3.0~~ 2.2
East 2nd St. - Industrial Way to Rose Dr.	~~40,200~~ 36,100	83	176	377	71.4	5.5
East 2nd St. - Rose Dr. to I-780 WB On Ramp	~~37,300~~ 37, 900	86	181	389	71.6	4.0
East 2nd St. - I-780 EB On Ramp to Military St.	~~28,100~~ 18,000	< 50	~~73~~ 75	~~157~~ 158	~~66.4~~ 65.7	~~0.0~~ -0.7
Lake Herman Rd. - East 2nd St. to Reservoir Rd.	~~15,500~~ 13,800	< 50	~~93~~ 94	199	~~68.0~~ 67.2	~~8.9~~ 8.1
Lake Herman Rd. - Reservoir Rd. to Sky Valley Rd.	~~20,000~~ 17,100	< 50	107	229	68.9	6.0
Lake Herman Rd. - Sky Valley Rd. to Columbus Pkwy	~~20,300~~ 15,000	< 50	98	210	68.3	5.2
Reservoir Rd. - Lake Herman Rd. & East 2nd St.	~~2,700~~ 12,000	< 50	84	181	67.4	6.5
Industrial Way - East 2nd St. to Park Rd.	~~11,300~~ 8,700	< 50	-< 50	~~97~~ 98	~~63.3~~ 62.5	~~2.9~~ 2.1
Park Rd. – East 2nd St. to Industrial Way	~~3,100~~ 2,100	< 50	< 50	< 50	57.1	3.7
Park Rd. - Industrial Way to Bayshore Rd.	~~22,700~~ 13,800	< 50	62	132	65.3	1.2

[a] Traffic noise within 50 feet of the roadway centerline requires site-specific analysis.
Source: LSA Associates Inc., September 2006

A7-4: See Responses to Comments A7-1 and A7-3. The project would not result in significant cumulative traffic, noise, and air quality-related impacts beyond those identified in the Draft EIR.

Letter
A8

Public Works Department
MEMORANDUM

Date: March 7, 2007

To: Charlie Knox, Community Development Director

From: Dan Schiada, Director of Public Works

SUBJECT: **BENICIA BUSINESS PARK – COMMENTS ON DRAFT EIR**

Listed below are the Public Works Department's comments on the Benicia Business Park Draft Environmental Impact Report (EIR) document that was circulated for public review and comments on January 9, 2007. Our overall comments to the EIR document are listed first followed by detailed comments to specific sections as noted.

1. The project applicant still has not responded to the City's request for a copy of the Stetson Engineers 2004 Technical Memo Re: Summary of HEC Analysis for Peak Runoff, Hydrology of Existing Conditions and the Proposed Business Park. This report is critical so that my staff can verify that the technical information and/or recommendations in this report are consistent with the Mitigation Measure HYDRO-1 which stipulates that the project shall result in no net increase in peak runoff rates and flows are not in excess of current flows. This criteria is mandated by the City's General Plan and Stormwater Management Ordinance. **1**

2. The Benicia Business Park Sewer Collection System Analysis prepared by Brown and Caldwell (B&C) and dated October 16, 2006 is referenced in the EIR and in Mitigation Measure UTIL-4. This department strongly supports this mitigation measure which requires the project applicant to install all the required onsite and offsite wastewater collection system improvements to serve this project and that these improvements shall consist of one of the stand-alone alternatives listed in the B&C Study. These offsite improvements would therefore be the sole responsibility of the project applicant to fund, design and install. Also, please note that the conceptual offsite pipeline alignment alternatives suggested by the project applicant's engineer Stetson Engineers in their report dated September 27, 2006 have not been fully analyzed. Only the route along Bayshore Road was evaluated in the B&C Sewer Analysis and in this EIR. If the project applicant wishes to pursue the alternate route, then the feasibility and impacts along this route would need to be further evaluated. **2**

3. The project applicant still has not provided the following maps in the project description section of the EIR that the City has previously requested. These maps need to be provided so that a clear understanding of the project's impacts can be evaluated as part of the EIR public review process.
    a. Grading Plan – While a grading plan is submitted, it does not clearly show the proposed grading contours layered over existing contours to reveal the extent of cut/fill impacts throughout the project site. Nor does this map list the total volumes of cut and fill on the site. The map does not provide the basic information required by the city code to properly evaluate the impacts of grading from this project. The map should also highlight those sections that will require more than 20', 40', 60', 80' and 100' of cut or fill so that the most severely impacted areas of the site are identified. We also need to verify that the proposed grading will not impact the City's existing raw and treated water lines.
    b. Circulation System Map – There needs to be a map provided that will clearly show the proposed new street improvements (including typical street sections), sidewalk, bikeway and transit improvements for this project. The master plan shows the layout of the future streets, but there are no cross sections and no provisions for bicycles, pedestrians or transit shown on this map. This information is necessary to review the proposed project and to ensure that the project conforms to the City's General Plan and that the mitigation measures will address the circulation system impacts and needs. **3**
    c. Drainage Plan – While a drainage plan is provided in the EIR, it does not provide sufficient information to properly evaluate the impacts from this project. It needs to clearly show the proposed drainage system improvements including but not limited to detention basins, swales, pipeline systems, and their relationship to existing upstream and downstream systems and the flow rates and capacities given for pre and post project conditions. It also needs to show how drainage from the City's Water Treatment Plant site and proposed Tanks 1 and 2 sites are addressed in the event of an overflow or catastrophic event.

4. Listed below are items that need to be addressed on the stated figures within the EIR:
    a. Figure III-6 – The two proposed water storage tanks are shown at different elevations which would require two separate pressure zones. Mitigation measure UTIL-1 stipulates only one pressure zone for this project area, so this will need to be addressed.
    b. Figure III-7 – The drainage plan needs to address the comments listed above.
    c. Figure III-9 – The grading plan needs to address the comments listed above.
    d. Figure III-10 – The phasing plan needs to show the installation of the water tanks and other critical infrastructure as Phase 0 work to indicate that these improvements (water service, fire protection, sewer service, access improvements, construction mitigation measures, etc.) would need to be in place before Phase 1 work begins. Also, need to show that Industrial Way (between E 2nd St. and A St.) would need to be part of the Phase 1 work. **4**
    e. Figures G-4, G-5, G-7, G-9 and G-10 appear to show the orientation of intersection #19 incorrectly. The existing heavy right turn movement at this intersection is from eastbound Columbus Parkway onto southbound Rose Dr.

(State Park Road) and the heavy PM peak hour through movement is from westbound Columbus Parkway. Changing the labeling of the streets would address this issue.

f. Figures IV.J-4 thru J-7 (the visual simulations) need to show the proposed water tanks on this project in all the affected views. **4 cont.**

5. On page 42, need to revise TRANS-24 to include additional improvements required by the City's General Plan and should be included in the project circulation plans (which we still are asking for) as listed below:
   a. New Class I bike path through the project site connecting E 2nd and Lake Herman Road in accordance with the City's General Plan. This is described on page 70 as a 10-foot wide off-street Class I bike path adjacent to the new Industrial Way extension & page 221 under planned bicycle & pedestrian facility improvements.
   b. New Class II/III bike path along Lake Herman Road in accordance with the City's General Plan and the Solano County Bicycle Plan as noted on page 221.
   c. New Class I bike path connection between Channel Road and East 2nd St. in accordance with the City's General Plan and as noted on page 221. **5**

6. On page 117, section (2) Site-Specific Seismicity, it mentions that the project site has not been mapped as part of the Seismic Hazards Mapping Act. In light of the discussions in the other sections of this report and the close proximity to the Green Valley-Concord Fault, it would seem to indicate a need to have a mitigation measure for this project that would require that mapping be done or special analysis conducted beyond a standard geotechnical report. **6**

7. On page 220, under the Planned Roadway Improvements section, the list of roadway improvements to be developed by the sponsor need to include an additional item:
   - (3) Lake Herman Road widening between Roadway A and the I-680 on/off ramps. **7**

8. On page 237 and page 244, mitigation measures TRANS-5 and TRANS-15 call for three right turn lanes on the westbound approach to the E 2nd / 780 East Ramp intersection. This would not be practical given the right-of-way and other physical constraints. **8**

9. On page 250, for TRANS-24, need to revise as indicated in my comment #4 above. **9**

10. On page 332, the last sentence in the paragraph before Table IV.M-2 needs to be revised to read "The City of Benicia Public Works Department does not fully agree with the figures below and the conclusions made in the Sewer Study by Brown & Caldwell with regard to existing system capacities and operational limits. Our maintenance and operations records indicate that our existing pump station and force main systems function adequately and are serviceable." **10**

cc: Chris Tomasik, Assistant Director of Public Works/Utilities Manager
Michael Throne, City Engineer

COMMENTOR A8
City of Benicia Public Works Department
Dan Schiada, Director of Public Works
March 7, 2007

A8-1: The technical report referenced in this comment was provided to the Public Works Department and is available for public review (along with other background documents used in preparation of the Draft EIR) in the City Planning Department.

A8-2: This comment expresses support for Mitigation Measure UTIL-1 in the Draft EIR, which requires the project sponsor to fund and install one of the stand-alone wastewater collection alternatives identified by Brown and Caldwell in a 2006 report. This mitigation measure, in combination with Mitigation Measure UTIL-3 and UTIL-4, would reduce the impacts of the project on wastewater collection capacity to a less-than-significant level.

A separate analysis was prepared by Stetson Engineers dated September 27, 2006 which identified two alternative pipeline alignments (Alternatives A and B) for the off-site sewer system to serve this project. The City has reviewed these alignments and determined that Alternative B would be acceptable. Alternative A was rejected by the City as being unsuitable, and was not included as mitigation for impacts to the wastewater collection system that would result from implementation of the proposed project. Problems identified with the alternative include: topographical variations at East 7th Street; land use compatibility issues associated with construction of an additional pump station in a residential neighborhood; the need for acquisition of additional right-of-way; and the need to cross an existing drainage channel.

A8-3: The project as currently proposed is a conceptual development plan that does not contain many of the site-specific development plans and diagrams that would typically accompany a development project. The environmental analysis in the Draft EIR, including the identification of impacts and mitigation measures, was undertaken based on the level of detail on the proposed project that was provided by the project sponsor.

Although the EIR preparers did not have access to certain information about the project (including detailed diagrams of cut and fill, site cross sections, architectural design for individual buildings, or a circulation plan with street sections), the project information that was available was adequate to identify the project's anticipated environmental impacts. Some mitigation measures in the Draft EIR require the preparation of additional technical reports (e.g., geotechnical report, hydraulic analysis, and focused biological studies) at the time that sufficient project details are specified and reviewed by the City to ensure that they are

adequate. In all cases, the mitigation measures set forth in the Draft EIR specify criteria that the City reviewers can use to determine if the subsequent analyses are adequate and fulfill the intent of the mitigation measure. Therefore, these mitigations are not deferred in an inappropriate way.

The proposed project includes two 1,000,000-gallon water tanks (equal to approximately 3 acre-feet each) to provide independent storage and pressure for potable water supply within the project. The *Preliminary Sewer and Water Plan for Benicia Business Park* by Morton and Pitalo, Inc., April 2005, includes a note indicating that, "Water system improvements are based upon recommendations from the 1996 City of Benicia Water System Master Plan."

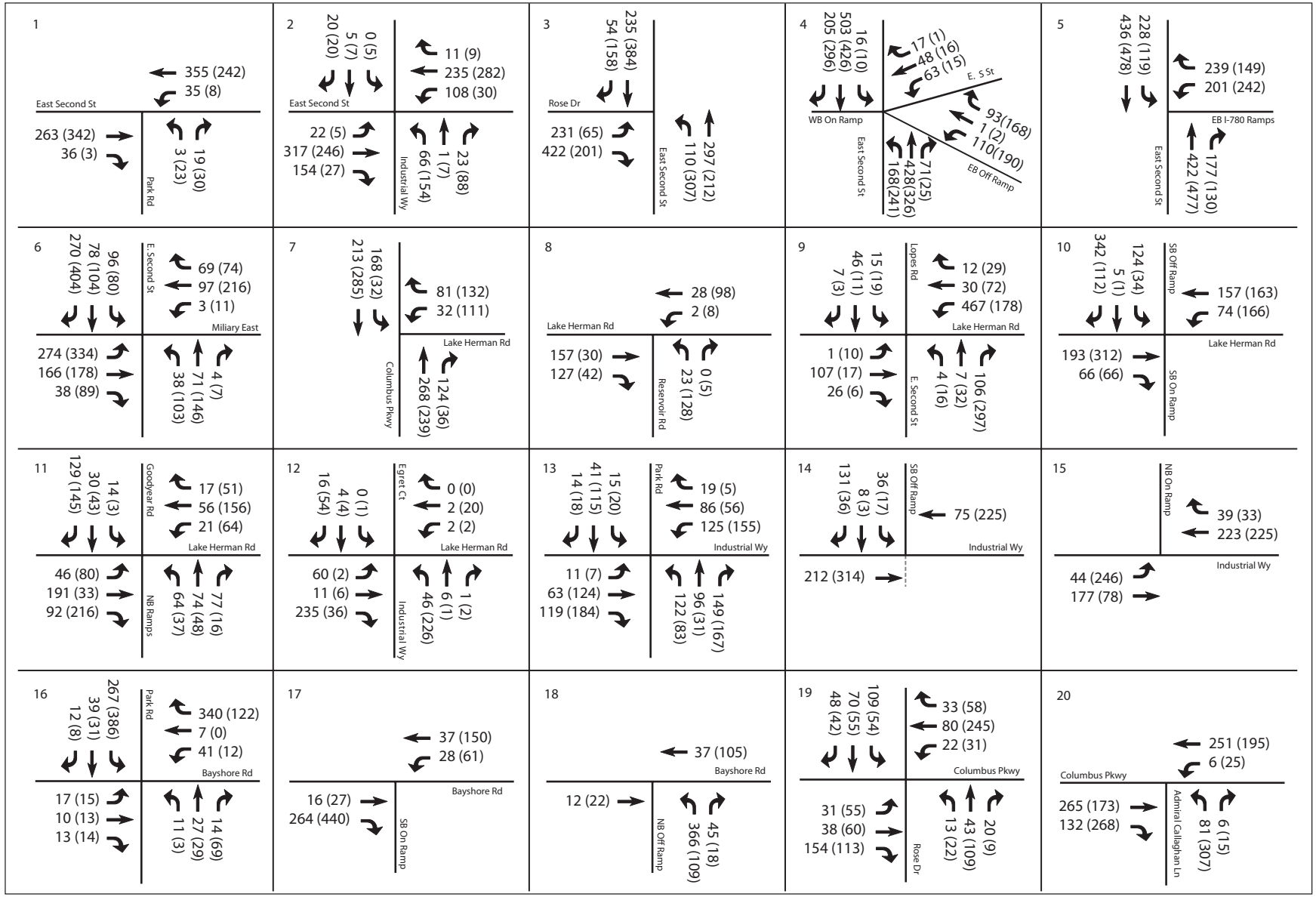
The two water tanks would be required to comply with the California Building Code (CBC) requirements as they pertain to "Nonbuilding Structures, Tanks with Supported Bottoms" located in Seismic Zone 4 and as adjusted for fault proximity. "Nonbuilding structures" include all self-supporting structures other than buildings that carry gravity loads and resist the effects of earthquakes. The CBC states: "Nonbuilding structures shall be designed to provide the strength required to resist the displacements induced by the minimum lateral forces as specified by the CBC." Because the proposed tanks would be built in compliance with the CBC, they would be able to withstand, without catastrophic failure, the stresses resulting from an earthquake. Therefore, the risk that the proposed water tanks would fail during an earthquake is less than significant. Implementation of the project would result in the removal of a drainage swale that could accommodate overflow from the Water Treatment Plant. However, Mitigation Measure GEO-5 in the Draft EIR would require a hydrologist to review final project grading and drainage plans to ensure that *potential* rupture of the Water Treatment Plant (or water tanks) would not cause flooding that would endanger public safety.

A8-4: See Response to Comment A8-3; refinement of storage tank pressure zones, and preparation of detailed grading, drainage, and construction phasing plans would be undertaken as part of the mitigation measures recommended in the Draft EIR. The visual simulations prepared for the project (specifically Figures IV.J-6 and IV.J-7) show the proposed water tanks. Figures IV. G-4, IV.G-5, IV.G-7, IV.G-9, and IV.G-10 are revised to show the correct orientation of intersection 19.

A8-5: Mitigation Measure TRANS-24 is supplemented with three bullet points as follows. The revisions below constitute a minor change to the mitigation measure in the Draft EIR and would not require recirculation of the Draft EIR.

> <u>Mitigation Measure TRANS-24</u>: The project sponsor shall incorporate the following design elements and services into the proposed development plans to minimize potential pedestrian and bicycle facility impacts. Bicycle facilities would be developed along East 2nd Street and Industrial Way as part of the project.
>
> - Pedestrian sidewalks connecting all major buildings and parking areas within the project site;

- Crosswalks at all areas were there may be potential pedestrian/vehicular conflicts;
- Bicycle racks at all building entrances; and
- Incentives for individual buildings to contain showers and lockers, and secure indoor bicycle lockers;
- Sidewalks along East 2nd Street, A Street, and Industrial Way;
- Sidewalks along Lake Herman Road (between A Street and East 2nd Street); ~~and~~
- Class I/II Bikeway along Lake Herman Road (between A Street and I-680);
- Class II/III Bikeway along Lake Herman Road (between Industrial Way and A Street);
- Class I Bikeway between East 2nd Street and Lake Herman Road in the project site;
- Class I Bikeway between Channel Road and East 2nd Street; and
- Parking and building leases at the Business Park shall be "unbundled" (i.e., rents for building space and parking lots shall be separate). Businesses at the Business Park that have 50 or more employees and provide employee parking on a free or subsidized basis shall provide financial compensation to those employees who commute by means other than private automobile, in accordance with CA Health and Safety Code §43845.



LSA

FIGURE IV.G-4

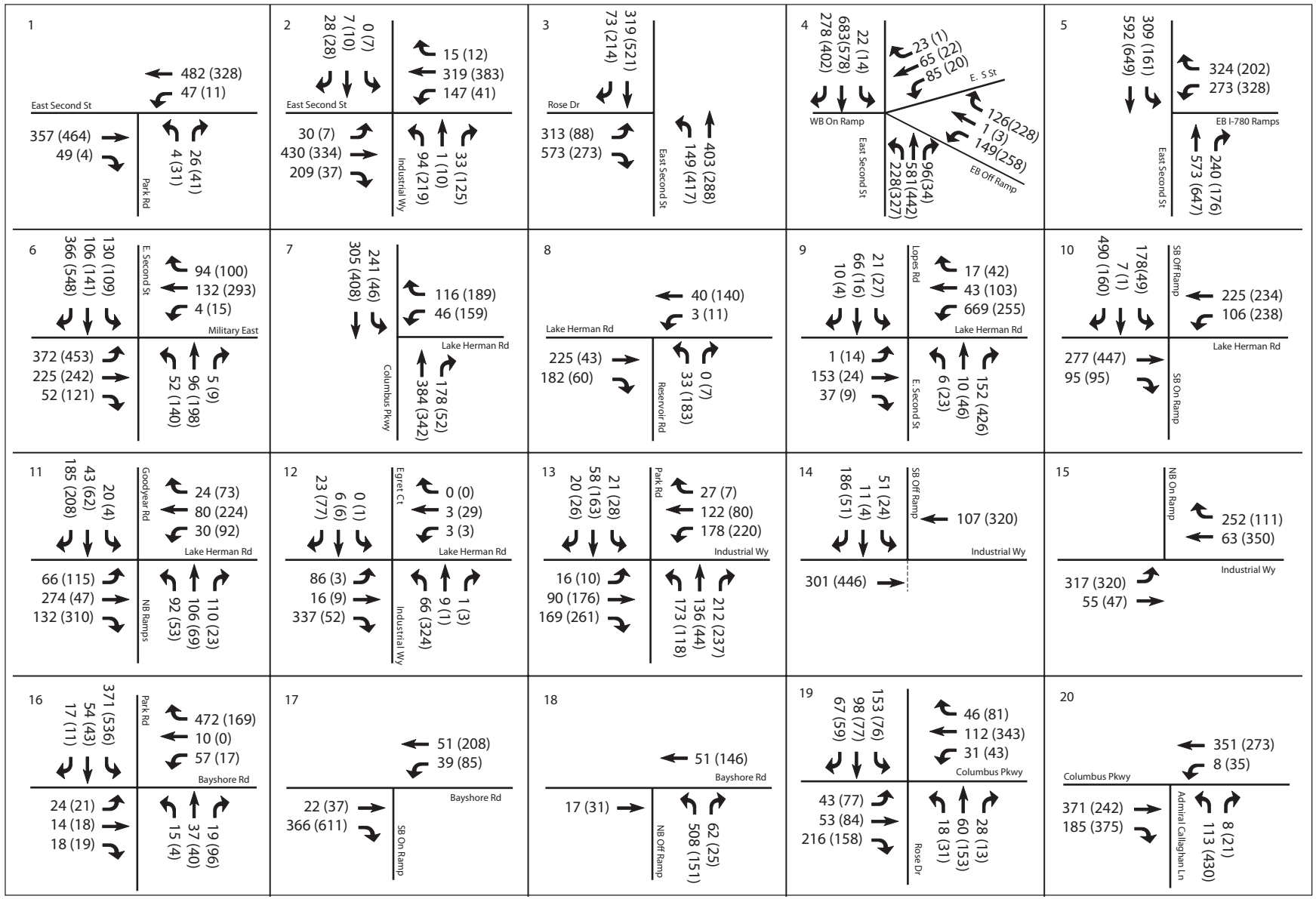
AM (PM) Peak Hour

Benicia Business Park EIR

Existing Intersection Traffic Volumes

SOURCE: KORVE ENGINEERING, 2006.

I:\CIB530 Benicia Bus Park\figures\Fig_IVG4.ai (6/22/07)



LSA

FIGURE IV.G-5

AM (PM) Peak Hour

Benicia Business Park EIR

Cumulative Intersection Traffic Volumes

SOURCE: KORVE ENGINEERING, 2006.

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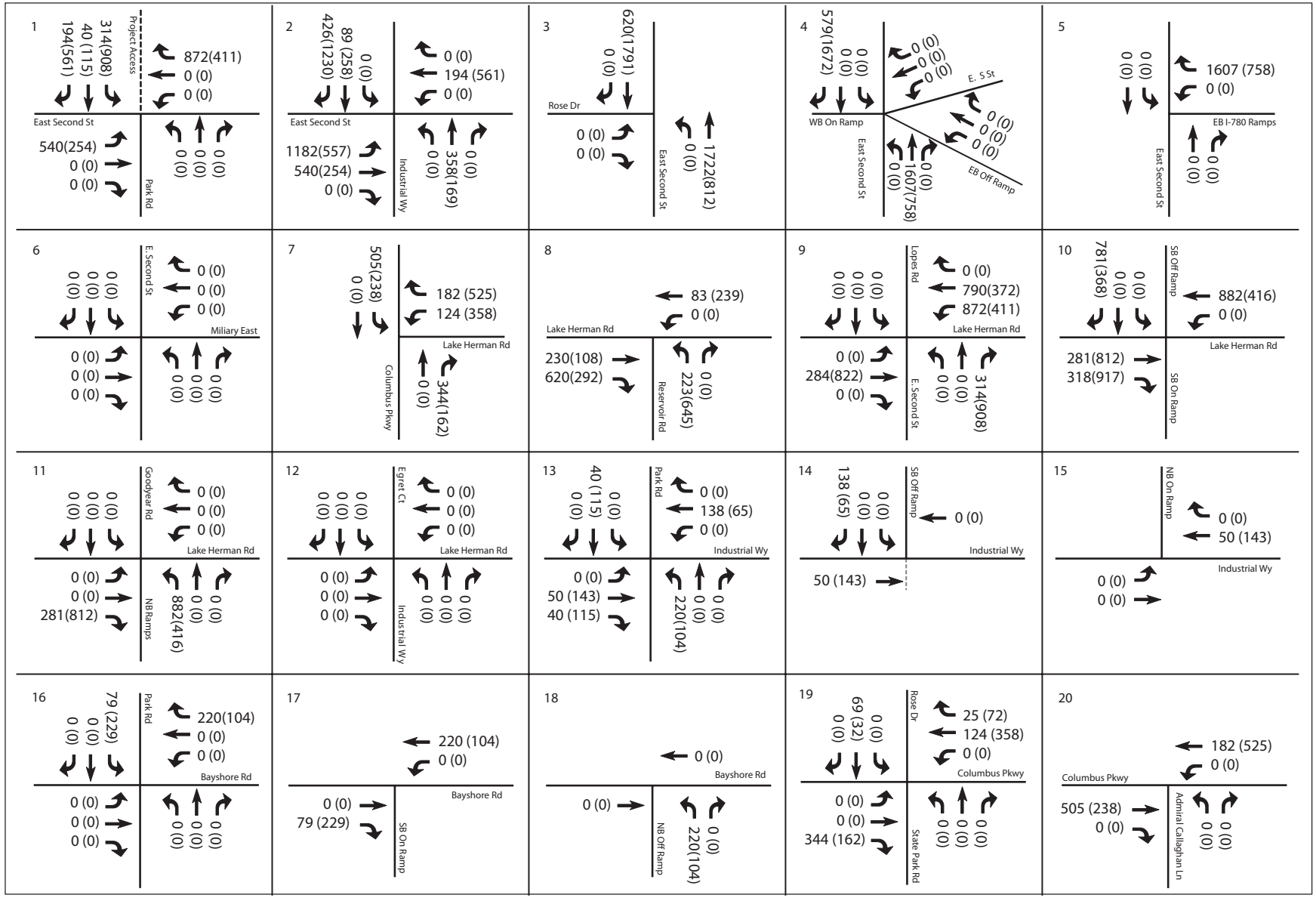

LSA

FIGURE IV.G-7

AM (PM) Peak Hour

Benicia Business Park EIR

Project Intersection Traffic Volumes

SOURCE: KORVE ENGINEERING, 2006.

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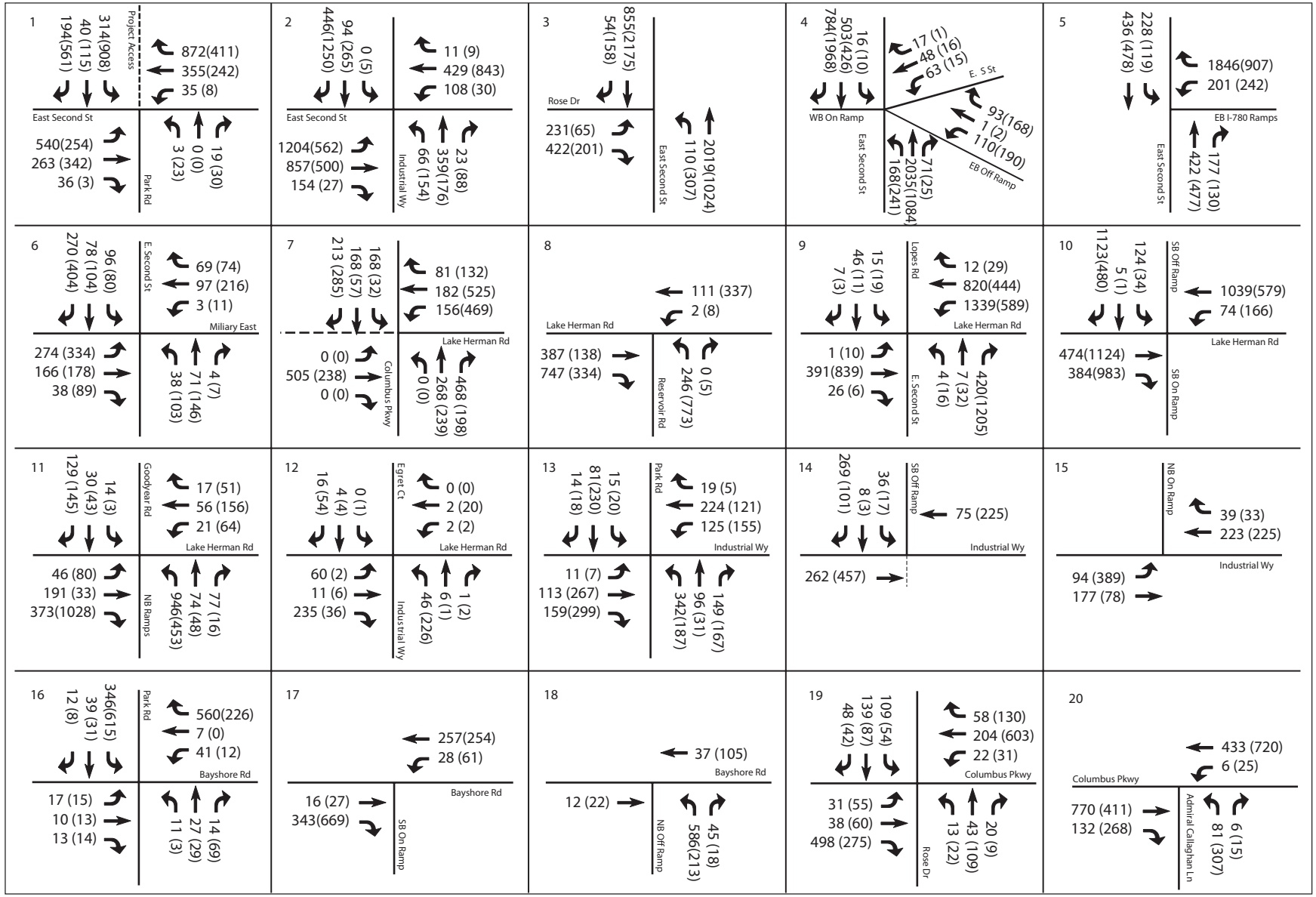

LSA

FIGURE IV.G-9

N

AM (PM) Peak Hour

Benicia Business Park EIR

Existing Plus Project Intersection Traffic Volumes

SOURCE: KORVE ENGINEERING, 2006.

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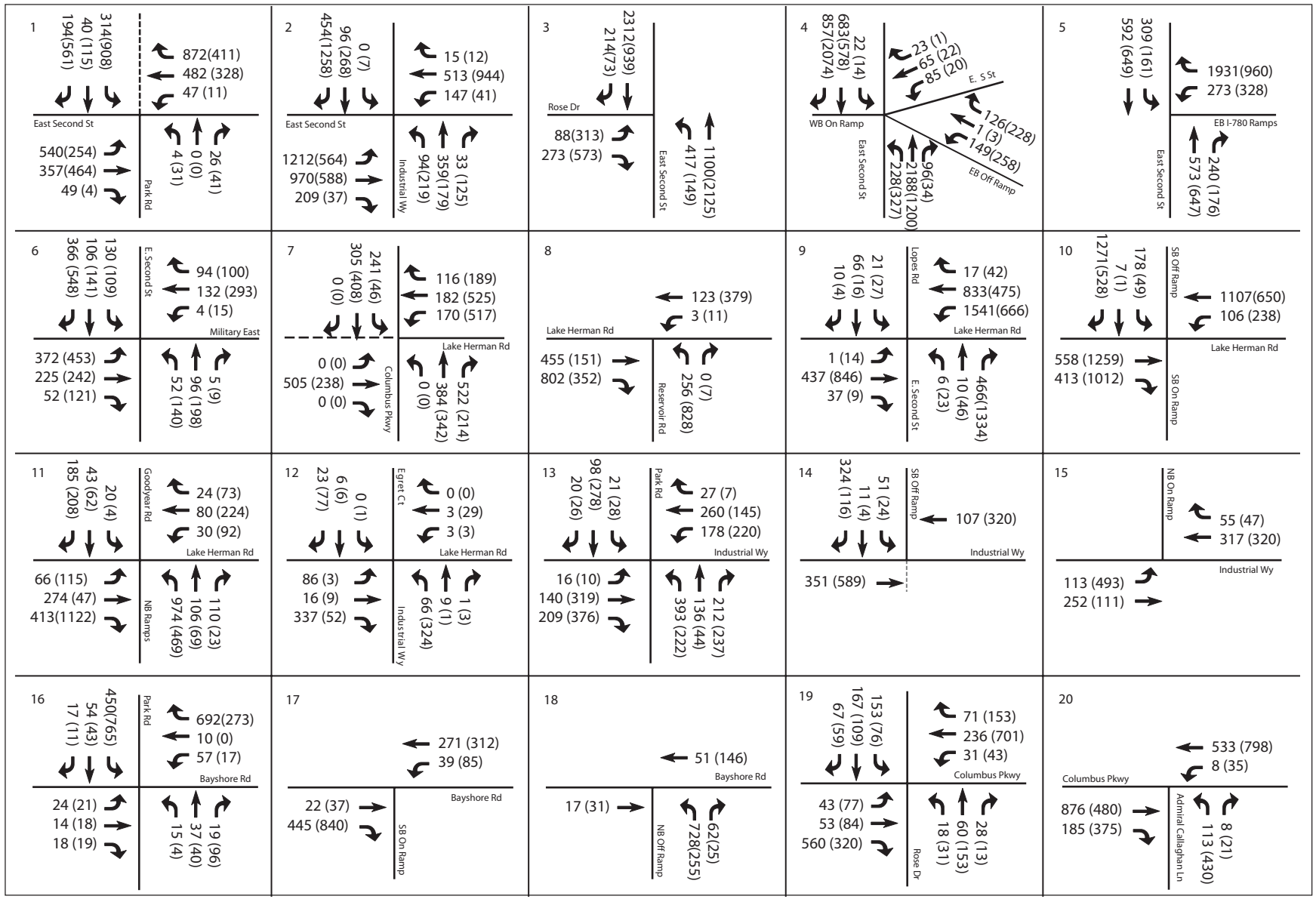

LSA

FIGURE IV.G-10

AM (PM) Peak Hour

Benicia Business Park EIR

Cumulative Plus Project Intersection Traffic Volumes

SOURCE: KORVE ENGINEERING, 2006.

I:\CIB530 Benicia Bus Park\figures\Fig_IVG10.ai (6/22/07)

A8-6: The project site, like most of the northern part of the San Francisco Bay region, has not been mapped as part of the Seismic Hazards Mapping Act. Mapping conducted under the Seismic Hazards Mapping Act is on a regional scale and is not useful for ascertaining site-specific seismic conditions. The site-specific design-level geotechnical investigation required as part of Mitigation Measure GEO-1 would identify and reduce the impact of seismic hazards not already identified through review of seismic hazards maps (e.g., maps prepared by the Association of Bay Area Governments). Therefore, no additional mitigation (including conducting additional seismic mapping of the site) is appropriate.

A8-7: The proposed widening of Lake Herman Road between A Street and I-680 was identified as mitigation for project impacts. Since the Benicia General Plan does not specifically identify the widening of Lake Herman Road as a planned roadway improvement, it is not included in the "Planned Roadway Improvements" section.

A8-8: The proposed improvement to the East 2nd Street / I-780 Eastbound Off-Ramp intersection outlined in Mitigation Measures TRANS-5 and TRANS-15 is revised as follows. As required by the revised mitigation measure, the westbound approach would be reconfigured to provide one left-turn lane, and one free right-turn lane. This improvement would be feasible because there is enough space for constructing two receiving lanes north of the intersection (between the offramp and the bridge abutment), and only one lane of East 2nd Street northbound through traffic is entering this intersection (making the free westbound right-turn movement possible).

This improvement would not conflict with applicable General Plan policies since it would not infringe on the bicycle/pedestrian facilities already in place. Implementation of this improvement would result in the intersection operating at an acceptable LOS C and LOS B in the AM and PM peak hours, respectively. The revisions to these mitigation measures are minor and would not require recirculation of the Draft EIR.

> Mitigation Measure TRANS-5: The project sponsor shall install and pay for the following improvement.
> Reconfigure WB approach to provide one ~~shared~~ left-turn-~~right~~ lane, and one free~~two exclusive~~ right-turn lane~~s~~.
> Implementation of the identified improvement would result in this intersection operating at an acceptable LOS C~~D~~ and LOS B~~C~~ ~~with a delay of 37.8 and 21.8~~ for the AM and PM peak hours, respectively.
>
> Mitigation Measure TRANS-15: The project sponsor shall install and pay for the following improvement without Transportation Impact Fee credits:
> Reconfigure WB approach to provide one ~~shared~~ left-turn-~~right~~ lane, and one free~~two exclusive~~ right-turn lane~~s~~.

Implementation of the identified improvements would result in this intersection operating at an acceptable LOS C~~D~~ and LOS B~~C~~ ~~with delays of 52.9 and 29.6 seconds for~~ the AM and PM peak hours, respectively.

A8-9: See Response to Comment A8-5.

A8-10: Page 332 of the Draft EIR is revised as follows:

Gravity sewer lines in the vicinity of the project site are located parallel to Industrial Way and Park Road. These pipes range from 8- to 15-inches in size. These two lines connect to the Park/Industrial Lift Station (referred to as the PILS). This pump station has a designed operating point of 1,200 gallons per minute (gpm) and a total dynamic head (TDH) of 62 feet. The actual operating range of each pump is estimated to be approximately 550 gpm. The PILS is designed to accommodate the phasing in of additional capacity. In addition to the PILS, there are five other pump stations that contribute flow to the force main: Industrial lift station, Tireshop lift station, Bayshore lift station, Wharf lift station, and Benicia Industries lift station. These pump stations, with the exception of the Tireshop lift station, contribute negligible flows to the force main system. The force main system includes parallel force mains, one 8 inches in diameter and the other 12- to 14-inches in diameter. The force main system runs from the PILS to within 1,400 feet of the WWTP. The force main empties into a 24-inch gravity sewer line, which transports wastewater to the WWTP. The existing Peak Wet Weather Flows (PWWF) and system capacity for these systems, based on the Sewer Study prepared by Brown and Caldwell in 2006, are shown in Table IV.M-2. The Benicia Public Works Department does not fully agree with the data presented in Table IV.M-2 and the conclusions of Brown and Caldwell in regard to existing system capacities and operational limits. Based on Public Works Department maintenance and operations records, ~~T~~the existing sewer collection system (including the existing pump station and force main systems) functions adequately and is serviceable ~~according to Public Works Department maintenance and operations records~~.

B. ORGANIZATIONS

Letter
B1

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CITY OF BENICIA
COMMUNITY DEVELOPMENT

SIERRA CLUB
Solano Group

The City of Benicia, California
250 East L Street
Benicia, CA 94510

March 12, 2007

VIA FACSIMILE 707-747-8121

Comments on the Environmental Impact Report for the Benicia Business Park

Dear Sir or Madam,

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the Benicia Business Park proposal. We believe that we found several omissions tht we believe must be addressed in the Final Environmental Impact Report in order for it to be complete and to fulfill the requirements of the California Environmental Quality Act. Our group would like to focus on the Biological Resources element of this Draft EIR, since this is an area of special concern to us, and to leave the analysis of other elements to groups with expertise in those areas. We would like to have the Final EIR address what we believe to be deficiencies. 1

BIOLOGICAL RESOURCES

We commend the preparer to conducting some field surveys to assess biological resources, but we are concerned that these field studies were conducted at a single time of year and there were no studies during the wet season of January and February. We believe that the document concedes that these studies were superficial, and concedes that additional studies will be required later. We contend that this violates the spirit and case law relating to the California Environmental Quality Act that demands that analysis be conducted upfront and that environmental analysis not be deferred. Virtually every section relating to special status species concedes that an adequate analysis has not been done and that further analysis is required. 2

Letter
B1
cont.

For example, these mitigation measures state:

BIO – 3 "Prior to construction, a survey shall be conducted for papoose tarplant, to locate and map any individuals of this species on this site and to estimate the population size."
BIO – 4a "Surveys to assess the presence of Pacific Pond turtles shall be conducted…"
BIO – 4b "Protocol level surveys for California Red Legged frogs shall be conducted…"
BIO – 5a "A qualified biologist shall conduct raptor and passerine surveys prior to…"
BIO - 6a "Preconstruction surveys shall be conducted for burrowing owls…"
BIO – 7 "A qualified biologist shall conduct surveys of the grassland habitat onsite to identify any badger burrows."
BIO – 8a "Preconstruction surveys for bat roosts shall be conducted

2 cont.

And this continues in the document. Virtually all of the analysis of species of special concern point to a decision that will be made in the future based on future studies; that is, analysis beyond a superficial discussion is deferred. We view this as important since it seems as if every mitigation measure decision then is deferred. And again, we believe that deferred analysis is explicitly prohibited by CEQA. Will onsite habitat be provided, and how much? We are always uncomfortable with references to an unnamed mitigation bank, and again, to deferred mitigation plans. Where are the areas to be set aside as mitigation located?

In addition, the report seems to have minimized the affect on other species of special concern. We did not see a detailed reference to Swainson's Hawk, a common raptor in our County. **3**

Also, the document concedes that this is an important region for Golden Eagles. Many members of the Napa-Solano Audubon have always considered the Cordelia Hills to be one of the most important habitats for Golden Eagles in the State of California. This concern came to light in several Draft EIRs submitted to the City of Benicia including the EIRs for the General Plan and for a proposed development in Sky Valley, where there was a vigorous discussion. Is there any provision for mitigating the loss of foraging habitat of this raptor and other raptors other than the reference to a deferred study? **4**

We are a bit skeptical that there are no Calippe Silverspot Butterflies on the project site since one of their main areas lies very near this site. With the extensive prevailing winds, certainly they logically would occur here, at least transiently. Perhaps the limited field surveys simply missed them or their habitat. What is the mitigation for loss of their habitat if it is found in these later assessments suggested by the document. **5**

Letter
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The wetlands delineation (after the previous delineation had expired) surveyed only a single season. Isn't it still true, as it was in the past, that the protocol requires a survey during two seasons? This is important since:

"The project proposes to fill 5.26 acres of freshwater marsh and 1,201 linear feet of non-wetland waters."

We commend the proponent to commit to a 2:1 mitigation ratio, but we could not figure out the details of the plan. There is also the statement: 6

"and implement the recommendations and revisions to the original mitigation report in the subsequent mitigation feasibility report prepared by WRA."

How much of this report could have been prepared and submitted here?

Again, we thank the proponents and the Lead Agency for the ability to comment on these issues. We hope that the Final EIR contains additional field surveys conducted in several seasons that would lead to detailed mitigation plans. We hope that these deferred analyses will be instead included in the Final EIR.

Sincerely,

James D. DeKloe
Chairman of the Executive Committee
Solano Group of the Sierra Club
PO Box 7313
Vallejo, CA 94590

COMMENTOR B1
Sierra Club, Solano Group
James D. DeKloe, Chairman of the Executive Committee
March 12, 2007

B1-1: This introductory comment is expanded upon the specific comments that follow. No response is necessary.

B1-2: Surveys conducted as part of the biological resources analysis in the Draft EIR were of varying intensity depending on the target species. All surveys were adequate to assess the likelihood of occurrence of special-status species and this likelihood was disclosed in the Draft EIR. Additional surveys are recommended in order to ensure that no unmitigated impacts to special-status species would occur due to the time delay between initial surveys and actual project construction. This is particularly important for species such as burrowing owls or badgers that could nest or den on the site in the future, but were not present at the time of the surveys. For each survey that is recommended, measures have been identified to mitigate the impact should the species be found. The Draft EIR also recognizes that the status of some species may change during the planning process. This potential change in status would require additional surveys for species, such as pappose tarplant, that may have been overlooked at the time of the surveys (in the case of pappose traplant, due to its California Native Plan Society (CNPS) status). Overall, however, conditions have not changed on the site since the original surveys were conducted. CEQA does not require exhaustive surveys of special status species; instead, a reasonable level of analysis is required to determine the potential for certain protected species to occur on a development site. The surveys conducted as part of the environmental review in the Draft EIR fulfill this mandate. Where even the potential for special-status species exists, mitigation measures have been identified to reduce potential impacts to these species to a less-than-significant level. These mitigation measures are feasible, and would not be considered deferred mitigation. Therefore, even species not identified during on-site surveys would be protected by the recommended mitigation measures in the Draft EIR.

B1-3: Swainson's hawks are not likely to occur on the project site due to the lack of suitable habitat. Swainson's hawks are common in the County but occur primarily in the more northern regions. Mitigation Measure BIO-5 addresses impacts to nesting birds, which would include Swainson's hawk nests.

B1-4: Golden eagles and other raptors have been observed on the project site site. However, after project implementation, large amounts of grassland habitat would remain undeveloped in areas adjacent to the project site. Loss of habitat adjacent to urban, commercial, and industrial land uses, although a loss to golden eagles, would not represent a significant environmental impact.

B1-5: Although the Callippe silverspot butterfly occurs in the region, Johnny jump-up (*Viola pedunculata*), the host plant for Callippe silverspot butterflies, has not been observed on the site. The closest known population is more than 4 miles north of the site. Because no host plants have been observed on the site, these butterflies are not expected to occur and therefore no mitigation measures are required.

B1-6: Pages 176 to 177 and 194 to 197 of the Draft EIR, including Impact BIO-2, Mitigation Measure BIO-2b, and Figure III-8 (Wetland Mitigation and Riparian Restoration Areas in the Project Description), provide information on the existing wetlands and unvegetated waters on the site, potential impacts to those features, and proposed wetland mitigation, preservation, and enhancement activities for the site. The following discussion is provided to summarize and clarify certain points about the project's impacts to wetlands, as discussed in the Draft EIR.

The wetland impact analysis for the proposed project is based on the formal wetland delineation that characterized the extent of wetlands and non-wetland waters on the site that are regulated by the U.S. Army Corps of Engineers (Corps). A delineation conducted under the Corps Wetlands Delineations Manual (1987) can be and typically is conducted in a single site visit or series of visits. The delineation for this project met all the requirements of the Corps and was verified in 1997 (the delineation was re-verified in 2003 after the original delineation had expired). The methodology outlined in the Corps Wetlands Delineation Manual is professionally-accepted protocol for identifying wetland and non-wetland waters regulated by the Corps. Based on the delineation, the proposed project would result in the fill of 5.26 acres of jurisdictional freshwater marsh habitat and 1,201 linear feet of jurisdictional non-wetland waters. In addition, 0.5 acre of freshwater marsh would be temporarily affected by the implementation of the proposed wetland mitigation plan.

A Wetland Mitigation and Monitoring Plan for the proposed project was prepared by Sycamore Associates and Kamman Hydrology and Engineering in 2000 to detail the proposed compensatory mitigation measures for impacts to jurisdictional wetlands and other waters that would result from implementation of the proposed project. A copy of this report is available for review at the City of Benicia Planning Department. The plan outlines the construction of mitigation wetlands, hydrology design considerations, wetland seeding, annual maintenance and monitoring, and success criteria. In 2004 Wetland Research Associates (now known as WRA) prepared a report to determine the feasibility of the initial Wetland Mitigation and Monitoring Plan. A copy of this report is also available for review at the City Planning Department. This feasibility report specifically addressed concerns by CDFG about the adequacy of the watershed to establish the necessary wetland hydrology for supporting the proposed created wetlands and the suitability of the existing blue gum eucalyptus area at the northern boundary of the site at Reach C to support mitigation wetlands. The feasibility report estimated water budgets in the mitigation areas and demonstrated that there is an adequate watershed for the created wetlands. It also recommended

removing the eucalyptus stand at Reach C but not creating mitigation wetlands at this area.

The mitigation and monitoring measures proposed in this Draft EIR are based on Sycamore Associate's Wetland Mitigation and Monitoring Plan and WRA's subsequent revisions and recommendations proposed in the feasibility report (see Impact BIO-2, Mitigation Measure BIO-2b, and Figure III-8 in the Draft EIR). The locations of proposed wetlands and riparian enhancement areas shown in Figure III-8 are taken directly from WRA's feasibility report. The compensatory mitigation measures in this Draft EIR propose to create a total of 12.69 acres of in-kind jurisdictional wetland and riparian habitat onsite, consisting of approximately 5.41 acres of willow scrub habitat and 7.28 acres of freshwater marsh/seasonal wetlands (see Figure III-8 in the Draft EIR). This mitigation represents a mitigation ratio greater than 2:1. Other proposed compensatory mitigation measures include the construction of 47 linear feet of a new channel, removing the large blue gum eucalyptus stand, and repairing three head cuts.

The final Mitigation and Monitoring plan would be reviewed and considered for approval with the permit for fill of wetlands; however, it is anticipated that the essential elements of the plan (i.e., mitigation ratios, onsite preservation) would not change substantially from the plan proposed in this Draft EIR (although details of the plan, such as the shape of mitigation wetlands, could be modified). The existing conditions at the project site have not significantly changed since the initial mitigation plans and feasibility report were prepared in 2000 and 2004; therefore, changes in the proposed mitigation plan are not expected. Mitigation measures proposed as part of this Draft EIR meet the requirements established by the agencies that have permitting responsibility for these resources and were therefore determined to be adequate for purposes of environmental review pursuant to CEQA.

Letter
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CITY OF BENICIA
COMMUNITY DEVELOPMENT

League of Women Voters Benicia

presents a study of

EAST SECOND STREET CORRIDOR

2006

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Letter
B2
cont.

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Letter
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cont.

INTRODUCTION

In May 2005, at the annual meeting of the League of Women Voters Benicia (LWVB), the membership voted unanimously to initiate a one-year study evaluating the future of the East Second St. corridor, the main north-south thoroughfare through the city.

The study was prompted by a plan by Discovery Builders, also known as the Seeno group, to develop a business park on 521 acres on the west side of East Second St. In addition to the Discovery project, the Valero Refinery intends to build new facilities on the east side of the thoroughfare and other lesser developments may be in the works along the corridor.

The LWVB members approved a study to "develop and analyze criteria for acceptable and unacceptable uses of land and determine the effect of various forms of development." The committee conducting the study was instructed to include these factors: variety of uses of property, aesthetic appearance of the area, wildlife habitat, topography, transportation, cost and benefit to local government and property owners in the general area, and the track record of developers.

The city conducted two public meetings shortly after the study was approved, and these meetings provided a rough outline of the plans for the business park as well as the concerns of citizens who attended these meetings. The planning commission also conducted "scoping sessions" which provided further information about the plans of the developer. These meetings greatly aided the study committee in assembling information upon which to base its analysis.

WHAT IS THE EAST SECOND STREET CORRIDOR

1

For purposes of this study, the corridor is defined as the roadway running from Lake Herman Road in the north to L St. (the police station) in the south and the region on both sides of the thoroughfare that would be affected by any major developments in the corridor.

Specifically excluded is the portion of East Second Street that runs from K St. in the north to B St. in the south because this part of East Second is totally different in character from the area above K St. Lower East Second is mainly residential and has a much lighter traffic pattern—unless there is a major tourist-drawing activity on First (Main) St.

Upper East Second can be divided into several sections, each with somewhat different characteristics although the roadway can be traversed without noticing a drastic change of environment with the exception of the last of these three sectors:

Section 1 – Lake Herman Road to the Channel-Industrial-Reservoir Road area. This section now serves primarily the industrial park and those who use the corridor as access from Lake Herman Road to homes and businesses closer to the city center.

Section 2 – Channel-Industrial-Reservoir Road to the City Corporation yard. This section serves residents in the east slope of the Southampton development, including the new Water's End project, as well as the Valero Refinery and the city's Corporation yard.

Section 3 – The corporation yard to the police station. This is a residential and

commercial area with some of the city's heaviest traffic. It includes ramps on both sides of the street for the 780 freeway, a small shopping area, homes and the intersection with Military, Benicia's main east-west thoroughfare. It also carries traffic to the Post Office, City Hall, the Public Library and the Police Station, all situated on L St.

The corridor includes all the area within two blocks on each side of the street in addition to residential, commercial and industrial buildings that are farther away but use East Second as the main access road from downtown, the freeways and the Lake Herman corridor. This would include Water's End and much of the Southampton region as well as vehicles using Reservoir Road as a connector between East Second and Lake Herman Road.

1 cont.

STUDY METHODOLOGY

A committee was formed in May 2005 to collect information, conduct interviews and eventually prepare a document for League members to study. The committee would also prepare a series of questions that would help the members focus on the key issues. Only League members are allowed to participate in this process.

At a general membership meeting, League consensus would be reached. Based on this consensus, the committee would then prepare a League position on issues that had arisen and present it to the LWV Board of Directors for final approval. This position would be presented to the city and the public. In addition to the basic study document, appendix materials could be added for public-record purposes, such as the copy that would be deposited in the city library.

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cont.

Chapter 1
Development Chronology

East Second Street is now the only major north-south thoroughfare in the city, but it wasn't always that way. At one time the city street ended at the city cemetery and continued as a county rural road.

Over the years, major developments have resulted in annexation of the northerly end of the corridor by the city and the construction of major developments, predominantly on the eastern side of the roadway. Major developments have made East Second Street one of the two most important thoroughfares in the city, other than freeways. The Robert Semple School was built about 50 years ago, the industrial park was established in 1963 and the Valero (then Exxon) refinery was completed in 1969. Commercial centers were developed at both ends of the street, with a small shopping center at Military and a gas station-fast food complex at the Lake Herman Road end.

The construction of the Southampton area resulted in East Second Street being widened to four lanes as far as Industrial Way. The thoroughfare was widened in part because there was a proposal for 5,000 homes in Sky Valley and for an amphitheater operated by show-business impresario Bill Graham. The current Water's End development has produced hundreds of homes to the west side of the street north of Rose Drive.

In the late 1980s, development was concentrated in the area close to the freeway interchange. Large vacant parcels existed on the west side of the street and on both sides of the freeway. The site on the south side was home to grazing horses. The northerly parcel now contains a hotel and 100-plus apartments. The hotel parcel includes a restaurant site which is still undeveloped. The apartment complex was designed to be larger, but citizen protests reduced the size of the project.

In the 1990s, commercial parcels on the south side of the freeway were rebuilt for McDonald's and Pappas' restaurant. More recently, there have been housing developments on the south side of the freeway, and just last year the city approved the rezoning of two parcels for a two-story commercial building. **1 cont.**

The current Water's End development has produced 420 $800,000-$900,000 homes on the ~~west side of the street north of Rose Drive and has added to the traffic all along the corridor.~~

Chapter 2
Possible Projects

The Seeno project is not the only significant change that could take place along East Second Street in the foreseeable future.

The Valero Refinery has agreed, as part of its purchase of other refineries, to add facilities to the Benicia operation. The Robert Semple School came within one vote of being closed and thus subject to new usage. The city corporation yard has been considered as a potential site for police and fire facilities, and at some time the city council may decide to use the property for a different purpose.

Valero owns the so-called "buffer zone" along the west side of the roadway, and although there is no immediate plan to use the property, the area is zoned light industrial, leaving it open

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cont.

to development. (A small buffer area would be retained along the roadway.)

But these possible projects are dwarfed by the Seeno proposal, which could be started in a relatively short time after many years of discussion about use of the hilly land. A little background: According to city records, the site is owned by Albert D. Seeno Construction Company. At the time of purchase, the land was zoned agricultural and was not within the city limits. In 1981, Seeno sought to have the property annexed to the city, and a mixed-use project was proposed. In 1983, the City Council approved a land-use amendment and annexation of the site. The Local Agency Formation Commission approved the annexation two years later.

In 1988, a plan was forwarded for a "business park" (limited industrial zoning) with 115 lots on 319 acres. The plan eventually was withdrawn. In 2001, another plan was proposed and withdrawn.

Last year, Seeno—now called Discovery Builders— submitted a plan for a limited industrial/commercial project. An environmental impact report (EIR) is being prepared and city planning officials expect it to be available for public review in July 2006.

Chapter 3
Benicia Business Park — The Seeno Project

The project site lies approximately three miles northwest of downtown Benicia and consists of 527.5 acres of undeveloped land bounded on the south and east by East Second Street. The western boundary is an irregular line that generally parallels the alignments of West Channel Road and Industrial Way. The northern border is also irregular and is bounded in part by the City of Benicia Water Treatment Plant and Lake Herman Road. (See map in appendix.) Although described by the developer as the Benicia Business Park, the area is zoned for limited industrial and commercial uses. *(Source: Notice of Preparation of Draft EIR, July 2005)* **1 cont.**

As presented to the city, the project consists of Limited Industrial and General Commercial Project uses and is subject to a Master Plan Zoning Overlay District. The land use will be divided as follows:

— 35 acres of general commercial (retail)
—285.9 acres of limited industrial
—178 acres of open space, including a *buffer* along Lake Herman Road and a *reach* extending from Lake Herman Road to East Second Street
In all, 80 lots ranging in size from 2.5 to 9 acres.

Seeno has submitted applications for Rezoning to add a Master Plan and Tentative Map. A step-by-step development prepared by Morton & Pitalo, dated Nov 9, 2004, was also submitted to the City. *(Source: Letter from City Manager Jim Erickson to Albert Seeno III dated April 27, 2005)*

A written specific site plan indicating the proposed uses, gross floor area, lot coverage, height, parking and density was not submitted to the City. Seeno submitted written confirmation that the project will adhere to the Limited Industrial Zoning requirements. The City accepted this written confirmation as satisfying the requirements for application completion. *(Source: Attachment #1, Summary of Completeness Items, February 24, 2005)*

The following is a list of uses that come under Limited Industrial Zoning—in addition to "manufacturing; assembly and packaging of goods from previously prepared materials; whole-

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Utilities (U), Minor Utilities, Ambulance Services, Animal Boarding (U).
(U) indicates use permit required.

The following are permitted uses under general commercial zoning in addition to "shopping and services for local community and visitors:" Group Residential (U) Live/Work Quarters, Clubs and Lodges, Cultural Institutions, Government Offices, Hospitals (U), Public Safety Facilities (U), Religious Assembly (U), Public or Private Schools, Utilities, Major (U), Utilities, Minor, Adult Businesses, Ambulance, Animal Boarding (U), Animal Grooming, Animal Hospitals (U), Animals: Retail (pet stores), Artist's Studios, Banks, Banks w/Drive Up (U), Building Materials and Services, Catering Services, Commercial Filming (U), Commercial Recreation and Entertainment (U), Communication Facilities, Conference and Meeting Facilities (U for outdoor events), Eating and Drinking Establishments (some U), Food and Beverage Sales – (some U), Mortuaries, Laboratories, Maintenance and Repair Services, Nurseries, Offices, Pawn Shops, Personal Improvement Services , Personal Services, Research and Development, Retail Sales, Secondhand Appliance/Clothing, Sway Meets, Recurring (U), Auto Rentals (some U), Auto Washing (U), Service Station (U), Vehicle/Equipment Repair (U), Vehicle/Equipment Sales & Rentals, Bed and Breakfast, Hotels and Motels.

The following describes in detail the rules under which a developer should operate in Benicia. These design review guidelines were adopted by the city in 1998.

Overall Design Goals:

Projects should be designed to minimize the disruption of existing natural site features. Major landforms and drainage ways should be incorporated into development proposals. (It is expected that grading will take place before the project goes before the Design Review Commission.)

Site plans should be coordinated with adjoining projects to take advantage of similar perimeter landscape themes, common access, or similar features.

Building setbacks and coverage shall comply with the limitations specified in Benicia Zoning. **1 cont.**

Buildings should provide strong visual and functional relationships with their sites, adjacent sites, and nearby thoroughfares.

Where feasible, accessory facilities, such as mechanical equipment, trash collections, storage areas, and vehicle service areas should not be highly visible from public roadways or private properties with dissimilar improvements.

Underground utilities shall be installed.

Circulation, Parking and Loading:

Pedestrian access to primary building entrances shall be separated from automobile access as much as possible. Visitor parking should be located near the entrances to buildings and should be removed from loading areas and truck parking areas to the extent feasible. Driveway access along streets shall be kept to the minimum.

Where possible, driveways should be located to avoid arterial streets, close proximity to street corners or adjacent driveways, and in areas with restricted visibility.

In order to minimize interference with street circulation, a minimum driveway length of 20 feet may be required between the property line and the first parking stall.

Parking lots or stalls that require backing directly into public streets are prohibited.

All new parking areas shall facilitate forward movement into public streets unless a variance is granted.

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Parking and loading facilities on each site shall be sufficient to serve businesses without the need to park on adjacent streets.

Parking lot designs shall include landscape planters, sidewalks, or other separators at the end of parking bays. All parking, loading and driveway areas shall be separated from landscaped areas by concrete curbs.

Parking and loading areas should be designed so that they do not interfere with each other or with other site activities.

Loading facilities should not face major roadways. When this is not possible, loading docks and doors should be screened with landscaping and shall be offset from driveway openings.

Access to loading facilities shall eliminate the need for trucks to back into or out of street rights-of-way. Provision shall be made for adequate access and circulation of emergency vehicles.

Landscape Design:

Use trees, shrubs and groundcover to provide variety and to reduce the apparent mass of large, blank facades. Earth berming is often useful in reducing the apparent mass and height of a building.

Landscaping and berming should reinforce circulation patterns and screen large visible paved surfaces such as loading areas.

The visual impact of parking lots shall be minimized. However, view through the site shall be maintained for security.

Landscape design, materials and treatment shall comply with zoning specifications.

Typically, trees shall be provided along all public and private streets with a minimum of one tree installed for each 30 feet of frontage.

Plant species should be appropriate to Benicia's climate and should require minimal water and care. Existing trees should be retained and integrated into the landscape plan whenever possible. New trees shall be wind tolerant.

Disturbed slopes shall be hydroseeded and mulched, where feasible, with a perennial ground cover for erosion control.

Live plant material should be used for all ground cover areas. Woodchip mulch should be used for weed retardation.

~~An automatic irrigation system shall be provided.~~

Landscaping should be provided around the perimeter of a building to minimize the hard edge that is created where the building meets the pavement.

Highly visible perimeters of a project site should be landscaped, excluding the approved driveways and walkways.

1 cont.

Chapter 4
The Issues

The following are many of the issues concerning the proposed Seeno project that have been raised by the citizenry, mostly in public meetings.

Nature of the Business Park:

Councilwoman Elizabeth Patterson stated at public meetings that Benicia cannot compete for regional businesses and must develop "distinct attractions." Others have suggested that the

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park be limited to clean, high-tech campus-style operations. Still others have suggested that a hotel-conference center might be a good use of much of the land. There has been little vocal support for, in effect, the expansion of the current industrial park.

Seeno representatives have indicated at public meetings that they do not wish to compete with downtown boutique-type retailers, so the focus may be retail with a more regional draw. Seeno has not provided the city with a marketing plan— at this point any development that meets zoning requirements is allowable. An Economic Development Board member stated at a March 2006 meeting that he was interested in seeing the Board set some standards for businesses on the Seeno property. Seeno has not specified what type of retailers it is seeking but has indicted that the door is basically open to all.

Strong opposition has been voiced to the entry of so-called big box retailers to the community, the erection of a string of auto dealerships or the inclusion of any stores that might harm the economy of the downtown business district. Under the present zoning ordinance, these kinds of retailers are permitted. *(Community Conversation – 6/8/06)*

The city could require a development agreement with Seeno that specifies what can and cannot be placed on the site. The agreement could detail where commercial buildings could be located and what type of stores they could contain. The city also could encourage the developer to seek certain types of merchants, such as high-end restaurants, as has been suggested at public meetings. Extensive design-review criteria could also be included in such an agreement. **1 cont.**

Revenue for the City:

According to the Seeno Industrial Property Master Plan, the following are revenue-producing industrial users:

1. Suppliers and manufacturers of construction materials including ready-mix concrete plants, roofing shingles, lumber, pipe, windows and doors, acoustical material, etc.
2. High tech electronic equipment including computers, components, optical recording media, communications equipment, industrial robots, etc.
3. Medical equipment and supplies sold to hospitals and doctors.
4. ~~Equipment and supplies used or consumed by restaurants and retailers.~~
5. Office equipment, supplies and printing services.
6. Petroleum and chemical suppliers consumed in manufacture of another product.
8. Companies that use a lot of power thus producing municipal utility user taxes.
9. Industrial and transportation equipment and suppliers.
10. Suppliers of industrial goods and business supplies.

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The preliminary policy analysis for the project says: "At this time the specific industrial uses are uncertain. The market will dictate uses and owner or tenant types. The developer will provide the infrastructure and design guidelines. The proposed project will provide a variety of lot configurations that will allow existing or small businesses to expand within the City."

The city manager sees the project, especially the acreage used for retail stores, as a major source of property and sales tax revenues for Benicia. He conceded at one of the public meetings that "we have a pretty healthy tax base right now." He says it is difficult for the city to balance its budget and high-volume retailers would go a long way toward helping the city sustain itself. **1 cont.**

The public has also been informed that city costs might rise significantly from the project if additional police and fire facilities and personnel are needed. Former Councilman Dan Smith suggested that a public safety assessment district be formed to absorb these costs, which he estimated could run from $3-to-$6 million a year.

A basic issue that will face the community is how to balance tax revenues with environmental/aesthetic considerations, especially since the project has the potential for changing the general atmosphere of a major portion of the city.

Topography/Grading

Grading of the Seeno project will involve moving five million cubic feet of soil. The grading plan calls for the Lake Herman Road side to remain "natural" while leveling the side facing East Second Street for approximately 80 lots. The plan calls for the erection of a berm along East Second Street to shield the project from the view of motorists and others moving along the corridor. The grading work will be done in phases. *(Source: Community Conversation, June 8, 2005)*

Under the proposal, Lake Herman Road is given a higher environmental-protection priority than East 2nd Street, and the feel of East 2nd would depend greatly on how the berm were constructed and landscaped. In any event, the leveling of the hills and the construction of a berm would change the entire face of the eastern entrance to the city.

At a public meeting, it was proposed that the developer not be allowed to level land until contracts have been obtained for construction on the property.

Local activist and planner Marilyn Bardet pointed out at a community meeting that it is entirely possible that the developers could level the area and then encounter difficulty marketing the park sites, thus leaving the city with an ugly mess on its hands along its primary north-south corridor.

Project Design

Projects will be built and reviewed on an individual basis. The Design Review Commission will review designs based on the guidelines adopted by the City on November 3, 1998. *(See appendix.)* Many design ideas promulgated by the public at the Community Conversations are not covered in these guidelines and would require revision by the City Council. For example, there are no legal requirements that building design make the development distinct and enhance the area's image or that proposed uses and architecture maximize views.

It has been suggested that strong design-review language be written into any development agreement between the city and Seeno and that strong oversight provisions be included to make sure that the developer meets any commitments made to the community,

Transportation

Other than the freeways, the lower end of East Second Street between the corporation yard and the police station is already the city's most intensely traveled area. Depending on how it is used, the Seeno project could place a significantly heavy burden on that area.

Until specific occupancy of the land is established, it is impossible to predict how much traffic the project would produce and whether it would have a major impact on the lower end of the corridor, which already experiences heavy traffic. Regional shopping facilities would attract out-of-town clientele that might exacerbate any traffic problem.

Jobs and Housing

The developer was unable to estimate how many jobs the business park would produce or where these workers would find housing. The jobs-housing question was supposed to be part of the economic study being prepared for the city.

The developer has also indicated an interest in building some housing units within the park, presumably for occupancy by those who work in the immediate area. Because Seeno's experience is primarily in housing, the firm probably would look favorably upon any willingness on the part of the city to include a major housing element within the overall project. **1 cont.**

Project History of Developers

The Seeno organization has a long track record in construction of housing developments and the operation of Nevada casinos. It has a history of getting involved in local politics and is on record as having spent $15,000 in the recent Benicia City Council election.

Seeno has no experience developing industrial parks. Seeno originally wanted to build homes on the site and still has such an interest. The appendix contains a detailed list of recent newspapers articles describing Seeno's record in other communities, including nearby Pittsburg.

Effect on Water's End

A large subdivision of homes in the $900,000 range is continuing construction immediately south of the Seeno property. Concerns have been expressed that the Seeno project could damage Water's End in several ways, such as:

Residents could be looking down on an unattractive industrial area.

Waters End homeowners might suffer from dust and noise during the long development process.

The industrial park could have a major effect on traffic patterns in the area, especially if Reservoir Road is eliminated as proposed.

Other Issues: Other issues that have been raised include landscaping requirements, use of solar and wind energy, an open-space element and storm-water runoff infrastructure.

Letter
B2
cont.

Consensus Questions:

1. How can the city maintain control over the Business Park development?

2. How important is the rolling-hills topography, and what can be done to make the area as attractive as possible?

3. What restrictions, if any, should be placed on commercial development? Should retail stores be clustered at Lake Herman Road as a regional shopping center, or should the development be limited to stores designed to serve the immediate area? What types of commercial establishments should be discouraged?

4. Should the Lake Herman Road corridor be given aesthetic priority over East Second Street, as proposed by the developer?

5. Should the current zoning be reconsidered to allow housing and other uses?

6. How important is revenue to the city, and what role should environmental considerations be to maximize tax collections?

7. Are there any other major projects within the corridor that pose significant potential problems?

8. What, if any, improvements to East Second Street should Seeno be held responsible?

1 cont.

COMMENTOR B2
League of Women Voters, Benicia
February 2, 2006

B2-1: This study of the East Second Street Corridor is a one-year evaluation of potential development along East 2nd Street, from Lake Herman Road to L Street. The study, which was prompted by the application for the proposed project, discusses planning considerations associated with the proposed business park. These considerations were taken into account during preparation of the Draft EIR, including the development of alternatives to the proposed project. This study was prepared prior to the release of the Public Review Draft EIR and does not address issues of EIR adequacy. Therefore, no further response is required.

Letter
B3

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MAR 12 2007
CITY OF BENICIA
COMMUNITY DEVELOPMENT

March 12, 2007

Cindy Gnos
Contract Planner
City of Benicia
250 East "L" Street
Benicia, CA 94510

Re: Benicia Business Park Draft Environmental Impact Report

Dear Ms. Gnos:

This firm represents West Coast Home Builders, Inc., the owner of the Benicia Business Park property. We have received and reviewed the January 2007 Benicia Business Park Environmental Impact Report Public Review Draft prepared by LSA Associates, Inc. (the "DEIR"). The DEIR contains a comprehensive, detailed, and adequate analysis of the potentially significant environmental impacts that may result from the proposed Benicia Business Park. Unfortunately, the DEIR goes above-and-beyond what is required and allowed by the California Environmental Quality Act ("CEQA"; Pub. Resources Code, §§ 21000 et seq.), and, among other things, attempts to impose mitigation that is not reasonably related to the identified impacts. On behalf of our client, we appreciate the opportunity to provide the following comments on the DEIR.[1] 1

GENERAL COMMENTS

1. The DEIR Improperly Proposes Specific Mitigation Measures In Areas Subject To Regulation By State And Federal Permitting Agencies.

As a first matter, there are numerous mitigation measures proposed in the DEIR that purport to unlawfully extend the jurisdiction of the City into areas subject to the responsibility and jurisdiction of other public agencies, including, but not limited to, the United States Army Corps of Engineers ("Corps"), United States Fish and Wildlife Service ("USFWS"), California Department of Fish and Game ("CDFG"), and San Francisco Bay Regional Water Quality Control Board ("RWQCB"). The DEIR 2

[1] By separate letter of the same date (which we incorporate herein by this reference), we have also provided comments on the Transportation and Circulation section of the DEIR.

proposes to unlawfully extend the City's jurisdiction in various ways, including by granting the City the right to reject provisions in federally-mandated plans.

Public Resources Code section 21004 provides that: "In mitigating or avoiding a significant effect of a project on the environment, a public agency may exercise only those express or implied powers provided by law other than this division…" CEQA does not permit the City to require mitigation measures that go beyond the powers conferred by law on the City. **CEQA does not expand the jurisdiction of the City.** (Pub. Resources Code, § 21004; 1 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 1st ed, 2005) § 14.17, p. 714.) **2**

In imposing mitigation requirements, the City must defer to the appropriate state and federal permitting agencies. While it is proper for the DEIR to include a summary description of the types of requirements likely to be imposed by the state and federal permitting agencies, it is improper for the DEIR to impose specific and detailed requirements in areas outside of the City's jurisdiction.

2. <u>The DEIR Improperly Proposes Mitigation Measures Where No Reasonable Relationship or Nexus Exists Between the Project's Impacts And The Mitigation Proposed</u>

Mitigation measures may not violate state or federal constitutional standards. This requirement is expressly set forth in section 15041 of the CEQA Guidelines, which allows a City to impose only those mitigation measures "…**consistent with applicable constitutional requirements such as the 'nexus' and 'rough proportionality' standards established by case law."** (14 Cal. Code Regs., § 15041, emph. added; see also 14 Cal. Code Regs., § 15126.4(4) ["Mitigation measures must be consistent with all applicable constitutional requirements, including the following: (A) There must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); and (B) The mitigation measure must be 'roughly proportional' to the impacts of the project. *Dolan v. City of Tigard* 512 U.S. 374 (1994). Where the mitigation measure is an *ad hoc* exaction, it must be 'roughly proportional' to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854."].) The fact that a mitigation measure is proposed by an EIR does not serve to validate an otherwise unlawful exaction. (*See e.g., Pinewood Investors v. City of Oxnard* (1982) 133 Cal.App.3d 1030, 1040.) The City cannot use CEQA to take property without the payment of just compensation. **3**

Various mitigation measures set forth in the DEIR, and specifically identified below, violate state and federal constitutional standards by proposing conditions above and beyond that required to mitigate the particular impact at issue. Such measures violate the applicable constitutional standards and must be revised or deleted from the DEIR.

SPECIFIC COMMENTS

Chapter III. Project Description.

1. DEIR, p. 69. Table III-1 on page 69 of the DEIR sets forth proposed phases of development. While this phasing was proposed by the sponsor, we respectfully request that footnote a on Table III-1 be revised to indicate that the phasing is conceptual only. Specifically, the following revisions to the DEIR are necessary:

- Table III-1, footnote a: "Conceptual p~~P~~hasing as proposed by the sponsor."
- Figure III-10, Title: "Conceptual Phasing"
- Page 80, sixth paragraph, first sentence: "Site preparation and development ~~would occur in~~ is conceptually proposed to occur five phases, beginning in the southeastern portion of the site (Figure III-10)." **4**
- Page 87, first paragraph: "Conceptual project phasing has been provided by the project sponsor. The first phase of the project would consist of development of the proposed commercial area. The next four phases would involve the construction of industrial areas. Main streets would not be connected as through streets until the final phase of development adjacent to the road. Periodic traffic surveys would need to be conducted (minimum every two years) to verify the need for and recommend necessary street improvements ahead of the proposed phasing plan."

2. DEIR, p. 70. In the second paragraph on page 70 (lines 10-11), the DEIR states that "East 2nd Street would be reconstructed from Industrial Way to Lake Herman Road…" As accurately set forth on page 220 of the DEIR, the project sponsor has proposed to *widen* East 2nd Street. We respectfully request that on page 70 the word "reconstructed" be replaced with "widened." **5**

3. DEIR, p. 80. As set forth above, the proposed phasing of the project is conceptual only. Accordingly, we respectfully request that the first line of the last paragraph on page 80 be revised to reflect that, "Site preparation and development would occur in five conceptual phases…" **6**

Additionally, for the reasons set forth below in our comments regarding Chapter IV.M. (Utilities and Infrastructure), we respectfully request that the Development Phasing and Infrastructure Improvements discussion be revised to reflect that water and wastewater improvements will be installed *as directed by the City Engineer.* Prior to the initial development of the site, it may not be appropriate or feasible to **7**

fully install the infrastructure improvements necessary for complete build-out of the project. (Please also see General Comment 2 above.) 7 cont.

4. DEIR, p. 87. As set forth above, the proposed phasing of the project is conceptual only. Accordingly, we respectfully request that the first sentence of the first paragraph on page 87 be revised as follows: "As conceptually proposed, the first phase of the project would consist of development of the proposed commercial area." 8

Additionally, we respectfully request that the second paragraph on page 87 of the DEIR be revised to reflect that water and wastewater improvements will be installed *as directed by the City Engineer*. Prior to the initial development of the site, it may not be appropriate or feasible to fully install the infrastructure improvements necessary for complete build-out of the project. (Please also see General Comment 2 above.) 9

Chapter IV.A. Land Use and Planning Policy.

5. DEIR, p. 9, 104-105 (Impact LU-1). By reading numerous provisions of the City of Benicia's General Plan out of context, the DEIR mischaracterizes Impact LU-1 ("The proposed project would substantially conflict with policies in the General Plan adopted for the purposes of environmental protection") as a potentially significant and unavoidable environmental impact. For the reasons set forth in detail below, it is clear that Impact LU-1 should not be classified as potentially significant, and should instead be classified as less-than-significant, with no mitigation required.

a. The Project Is Consistent With The Property's General Plan Designations. The proposed project is consistent with the provisions of the City's adopted 1999 General Plan, and does not "[c]onflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project…adopted for the purpose of avoiding or mitigating and environmental effect." (DEIR, p. 103.) First, **the proposed commercial and industrial development is fully consistent with the two adopted general plan land use designations for the property – General Commercial[2] and Limited Industrial.[3]** (See also, General Plan, Figure 2- 10

[2] The General Commercial "category is intended to provide shopping and services for the community as a whole and for visitors coming from the freeways…General Commercial is intended to allow a wide range of commercial development, with the intensity of development limited by a maximum FAR of 1.2." (City of Benicia General Plan (hereinafter "General Plan") p. 27.)

[3] The Limited Industrial "category includes manufacturing, assembly, and packaging of goods primarily from previously prepared (not raw) materials; wholesale, distribution, and storage facilities (including auto import, export, and storage); research and development facilities; and related industrial and commercial services. As it pertains to refining-related activities, this category also includes such uses as: fabrication areas, packaging facilities (dry and liquid), quality control laboratories, and refining accessory uses such as

2, p. 36 [identifying project site as "industrial land"].) Second, the project has complied with the General Plan's master plan requirement for new industrial and business park developments on properties under common or single ownership which aggregate to more than 40 acres. (See General Plan, Policy 2.3.1, p. 34.)

b. The General Plan Encourages Development Of The Property. Interestingly, the DEIR fails to even mention General Plan Goal 2.6 or any of its underlying programs and policies, which directly relate to and encourage the development of industrial lands in the City, such as the Benicia Business Park property. **As set forth in the General Plan, it is the express goal of the City of Benicia to "attract and retain a balance of different kinds of industrial uses to Benicia," (General Plan, Goal 2.6, p. 43) by "preserv[ing] industrial land for industrial purposes..." (General Plan, Policy 2.6.1, p. 43), and "for lands designated limited industrial" (such as the project site), by reducing the "length of time and number of steps required for development proposals to proceed, consistent with CEQA, community development policies and ordinances, and the design review process for general industrial lands."** (General Plan, Program 2.6.C, p. 44.) There is no doubt that the City, through its General Plan, planned for and envisioned the development of the property in the manner proposed.

10 cont.

c. The Project Is In Agreement With The Provisions Of The General Plan. Furthermore, the proposed project is not inconsistent with the policies identified in the text following Impact LU-1. A finding of consistency requires that a project be "'in agreement or harmony with' the terms of the applicable plan, not in rigid conformity with every detail thereof." (*San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 678, quoting *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 718 and *Greenbaum v. City of Los Angeles* (1984) 153 Cal.App.3d 391, 406.) The General Plan itself defines consistency as the following:

> **Consistency, Consistent With**
>
> Free from significant variation or contradiction. The various diagrams, text, goals, policies, and programs in the general plan must be consistent with each other, not contradictory or preferential. The term 'consistent with' is used interchangeably with 'conformity with.' The courts have held that the phrase 'consistent with' means 'agreement with; harmonious with.' Webster defines 'conformity with' as meaning harmony, agreement when used with 'with.' The term 'conformity' means in harmony therewith or agreeable

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maintenance shops, storage areas, shipping/distribution facilities and offices..." (General Plan, pp. 28-29.)

> to (§ 58 Ops.Cal.Atty Gen. 21, 25 [1975].) California State law also requires that a general plan be internally consistent and also requires consistency between a general plan and implementation measures such as the zoning ordinance.

Accordingly, perfect conformity with each and every General Plan policy is not required – particularly in circumstances such as this, where the project site is very clearly designated for the uses that are proposed.

10 cont.

The DEIR purports to identify "key policy conflicts of note." (DEIR, p. 104-105.) However, upon review of the General Plan, it is clear that the proposed project does not conflict with the noted policies. The DEIR identifies a purported conflict between the project and Policy 2.2.1. However, Policy 2.2.1 is not applicable to the project – its purpose is to implement Goal 2.2 to "maintain lands near Lake Herman and north of Lake Herman Road in permanent agriculture/open space use."[4] (General Plan, Goal 2.2, p. 34.) While the project is technically near Lake Herman, it is certainly not north of Lake Herman Road. Moreover, a review of the General Plan land use designations for the property near Lake Herman and north of Lake Herman Road clearly evidences that Goal 2.2, and all of its underlying policies, were intended to preserve the lands that are already designated General Open Space in the General Plan. (See DEIR, Figure IV.A-2; see also City of Benicia Land Use Diagram.) The purpose of this Goal is not to redesignate the project site – which is clearly designated General Commercial and Limited Industrial in the General Plan – as agricultural land or open space.

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[4] The General Plan explains that "'Goals' are 'end-state'; they are the long-range answers to what the City wants to accomplish to resolve a particular issue. Policies are medium- or short-range statements that guide day-to-day decision-making so there is continuing progress toward the attainment of goals. Programs are the actions taken to implement a specific policy or group of policies.." (General Plan, p. 6.) Further, the General Plan identifies the hierarchy of goal, policy, and program as follows:

Goal:	A general, overall, and ultimate purpose, aim, or end toward which the City will direct effort.
Policy:	A specific statement of principle which implies clear commitment but is not mandatory. A general direction that the City elects to follow, in order to meet its goals.
Program:	An action, activity, or strategy carried out in response to adopted policy or group of policies.

(General Plan, p. 6, internal formatting omitted.)

The next alleged conflict is with Policy 2.21.1, which is a Circulation Policy of the General Plan. Policy 2.21.1 is included in the General Plan to implement the Goal 2.21 to "encourage Benicia residents and employees to use alternatives to the single-occupant automobile." The proposed development of a long-planned for commercial and industrial project does not in any way conflict with this goal. To the extent it does conflict with the goal, the impact can be easily and feasibly mitigated through measures encouraging employees of the Benicia Business Park to use alternatives to the single-occupant automobile.

The DEIR also erroneously identifies a third conflict between the project and Policy 3.21.E of the General Plan. Again, reference to the relevant General Plan Goal is necessary to determine whether or not a conflict between the policy and the project exists – the General Plan policies cannot be read out of context. Specifically, a General Plan Policy must be considered in the context of the corresponding General Plan Goal. (See General Plan, p. 6.) General Plan Goal 3.21 provides that it is the goal of the City to "permanently protect and enhance wetlands so that there is no net loss of wetlands within the Benicia Planning Area." (General Plan, p. 134.) Policy 3.21.1 ("Encourage avoidance and enhancement of sensitive wetlands as part of future development") implements Goal 3.21.

The overview of the project set forth on page 65 of the DEIR makes clear that the project, as proposed, is clearly consistent with both Goal 3.21 and Policy 3.21.1. The DEIR explains that the project sponsor has proposed "an approximately 54-acre open space 'reach" for the purpose of "preserv[ing] a key drainage and associated wetlands at the project site." (DEIR, p. 65.) Additionally, "180 acres of open space proposed in the site would also be used to enhance existing wetlands and riparian zones, and build new wetlands to mitigate adverse effects to and removal of existing wetlands." (DEIR, p. 79.) The project <u>does not</u> propose a net loss of wetlands within the Benicia Planning Area, and therefore cannot be inconsistent with General Plan Goal 3.21. (See also DEIR, p. 80.) **10 cont.**

The fourth alleged conflict between the project and Policy 3.22.1 is also nonexistent. General Plan Goal 3.22 is to "preserve water bodies." (General Plan, p. 136.) Policy 3.22.1 proposes to implement this goal through avoidance of "development that will degrade existing lakes and streams." (General Plan, p. 136.) While there are no lakes present on the property, the project does propose to fill and/or underground portions of three existing intermittent streams. As explained on page 80 of the DEIR, the project sponsor will be required to fully mitigate for these effects. Accordingly, insofar as a conflict exists (which we do not believe to be the case), the impact is reduced to a less-than-significant impact through appropriate mitigation.

Lastly, without explanation the DEIR also purports to conclude that the project conflicts with "the majority of applicable policies in the Open Space and Conservation of Resources section…namely Policies 3.15.2, 3.15.D, 3.15.3, 3.15.4, 3.15.5, 3.15.6, 3.17.1, 3.19.1, 3.20.1, 3.21.1, and 3.22.1." (DEIR, p. 105.)

General Plan Goal 3.15 is to "provide buffers throughout the community." (General Plan, p. 126.) The purpose of this Goal is not to preclude development of lands clearly planned for industrial and commercial development, but is to ensure that buffers between urban communities and the proposed industrial and commercial uses are provided. (See General Plan, p. 125.) As indicated in Figure IV.A-2 of the DEIR, the City has already provided these buffers through the designation of land between the existing industrial park and the residential development as General Open Space. It is a clear misstatement that the project conflicts with the policies underlying Goal 3.15.

The project also does not conflict with policy 3.17.1 which implements the City's goal of "link[ing] regional and local open spaces." (General Plan, p. 127.) Reference to Figure IV.A-2 makes clear that the project site is not located between regional and/or local open spaces, and that the project site could not be used to link regional and/or local open spaces. North of Lake Herman Road, the project is bordered by open space. The project's southern, eastern, and western borders are surrounded by General and Limited Industrial lands. By its own terms, Goal 3.17 (including its underlying policies) does not apply to the project.

10 cont.

The project is also fully consistent with the General Plan's goal of "preserv[ing] and enhanc[ing] habitat for special-status plants and animals." (General Plan, Goal 3.19, p. 133.) The project includes approximately 180 acres of open space, including a 54-acre 'reach' that was recommended to be preserved by State of California natural resource agencies. (DEIR, p. 70.) Even if the project conflicts, in part, with Goal 3.19 and its underlying policies (which is not the case), the conflict is not properly characterized as a significant impact, particularly in light of the project's proposed 180 acres of open space. This comment is equally applicable to the purported conflict between the project and policy 3.20.1.

d. The DEIR's Land Use Impact Determination Must Be Revised. Based on the analysis set forth in sections 4a, 4b, and 4c above, it is clear that the DEIR's conclusion that purported policy inconsistencies represent a significant and unavoidable environmental impact is not supported by substantial evidence. To the contrary, substantial evidence (identified above) exists that the project is fully consistent with all applicable provisions of the General Plan. Impact LU-1 should not be classified as potentially significant, and should instead be classified as less-than-significant, with no mitigation required. We therefore respectfully request that the DEIR be modified accordingly.

Chapter IV.C. Geology, Soils and Seismicity.

6. DEIR, pp. 10, 124-125 (Mitigation Measure GEO-2b). The DEIR identifies potential damage to structures or property related to the shrink-swell potential of project soils as a potentially significant impact (Impact GEO-2). As set forth on page 124 of the DEIR, the preliminary geotechnical report included several **11**

recommendations for mitigating the potential problems associated with expansive soils. These recommended mitigation measures are included in Mitigation Measure GEO-2a, and will fully mitigate the identified impact.

For unknown reasons, the DEIR proposes review and approval for designs of all common landscaped areas prior to issuance of site-specific grading or building permits as further mitigation for Impact GEO-2. Not only would it be premature to prepare such a plan prior to issuance of a grading permit for the site, but Mitigation Measure GEO-2b, even if required to be implemented (which it is not), is not related to the identified impact. Accordingly, we respectfully request that Mitigation Measure GEO-2b be deleted from the DEIR. (See also General Comment 2 above.) **11 cont.**

7. DEIR, pp. 11, 126 (Mitigation Measure GEO-3b). Mitigation Measure GEO-3b should be revised to clarify that it applies only to disturbed portions of the site. Further, the reference to "cut slopes along the northern portion of the project site" should be deleted. The project does not propose "cut slopes along the northern portion of the project site."

Additionally, we respectfully request that the requirement that a "slope maintenance program" be established be deleted from the DEIR. Such a program does not serve to mitigate the identified impact – *potential long-term deformation related to construction of deep fills and cut slopes* – and is therefore superfluous. In any event, the owner of the Benicia Business Park will be required to repair any slope failures that do occur, and creation of a separate entity for the same purposes is unnecessary. **12**

Lastly, we respectfully request that requirement that the annual report be "approved" by the City of Benicia be deleted. The report is not one for which approval should be required. Further, the DEIR sets forth no standards for such approval, and does not address what might happen (including any potentially significant impacts associated therewith) if the City does not approve the report.

8. DEIR, pp. 12, 127-128 (Impact GEO-5, Mitigation Measure GEO-5). Impact GEO-5 and Mitigation Measure GEO-5 are not properly included in the DEIR because the identified impact is not within the scope of analysis required by CEQA. The identified impact ("accidental or earthquake induced overflows from the Water Treatment Plant and proposed water tank reservoirs could result in flooding hazards on the project site") is not an impact that the project will have on the environment, but is an impact that the pre-existing physical environment, which includes the City's Water Treatment Plant, may potentially have on the project. "The purpose of CEQA is to protect the environment from proposed projects, not to protect proposed projects from the existing environment." (*Baird v. County of Contra Costa* (1995) 31 Cal.App.4th 1265.) To require mitigation of a pre-existing condition by this project "would impose a requirement beyond those stated in CEQA or its guidelines, and is **13**

thus prohibited." (*Id.*) We therefore respectfully request that both Impact GEO-5 and Mitigation Measure GEO-5 be deleted from the DEIR. **13 cont.**

Chapter IV.D. Hydrology and Water Quality.

9. DEIR, pp. 13, 139 (Mitigation Measure HYDRO-1). With respect to Mitigation Measure HYDRO-1, please be advised that the Final Report Economic Impact Analysis of the Proposed Benicia Business Park prepared by Applied Development Economics in connection with the project assumed the City would continue to maintain its own drainage systems, and concluded that after all City services are fully funded, the project would produce a positive net surplus revenue gain for City government that would reach $1 million per year by 2017, and $6.3 million per year at full buildout. As also set forth above in General Comment 2, there must be an essential nexus between the impact identified, and the mitigation proposed to avoid or reduce that impact. We believe Mitigation Measure HYDRO-1's requirement to establish a self-perpetuating drainage system maintenance program goes beyond that which is legally permissible. Accordingly, we request that subsection (4) of Mitigation Measure HYDRO-1 be deleted. **14**

10. DEIR, pp. 15, 140-141 (Mitigation Measure HYDRO-2). Subsection (2) of Mitigation Measure HYDRO-2 requires that "funding for long-term maintenance needs" be provided by the project sponsor. Notwithstanding that the Final Report Economic Impact Analysis of the Proposed Benicia Business Park prepared by Applied Development Economics in connection with the project concluded that after all City services are fully funded, the project would produce a positive net surplus revenue gain for City government that would reach $1 million per year by 2017, and $6.3 million per year at full buildout, this mitigation measure expressly states that "the City will not assume maintenance responsibility" for BMPs required to be implemented to control the quality of storm water runoff. Ongoing maintenance of these improvements should be the responsibility of the City; the funding requirement may not lawfully be shifted to the project sponsor. (See also General Comment 2 above.) We therefore request that the long-term funding requirement be deleted from the DEIR. **15**

11. DEIR, pp. 15, 142 (Mitigation Measure HYDRO-3). As Mitigation Measure HYDRO-3 simply requires implementation of Mitigation Measures HYDRO-1 and HYDRO-2, please see our comments and requested revisions regarding Mitigation Measures HYDRO-1 and HYDRO-2 above. **16**

Chapter IV.F. Biological Resources.

12. DEIR, pp. 21, 195-196 (Mitigation Measure BIO-2b). As currently drafted, Mitigation Measure BIO-2b requires the project sponsor to implement a mitigation and monitoring plan developed by Sycamore Associates in 2000 as mitigation for potential impacts to wetlands and waters of the United States. As Sycamore **17**

Associates' report was prepared almost seven years ago, and was never approved by the U.S. Army Corps of Engineers, the Department of Fish and Game, or San Francisco Bay Regional Water Quality Control Board, it is inappropriate for the DEIR to require implementation of the plan proposed therein. A new report will be prepared in connection with the project sponsor's request for necessary state and federal permits, and it is appropriate that the plan developed in the more recent report be the plan that is actually implemented. **17 cont.**

As set forth in more detail in General Comment 1, in imposing mitigation requirements, the City must defer to the appropriate state and federal permitting agencies. While it is proper for the DEIR to include a summary description of the types of requirements likely to be imposed by the state and federal permitting agencies, it is improper for the DEIR to impose specific and detailed requirements in areas outside of the City's jurisdiction.

Accordingly, we respectfully request Mitigation Measure BIO-2b to be revised as follows:

> The project sponsor shall implement ~~the~~ a wetland mitigation and monitoring plan prepared by ~~Sycamore Associates as mitigation for impacts to jurisdictional wetlands and waters of the United States, and implement the recommendations and revisions to the original mitigation plan in the subsequent mitigation feasibility report prepared by WRA.~~ a qualified wetlands consultant. ~~The mitigation plan and recommendations of the feasibility report are incorporated into this mitigation measure by reference and together are referred to as the mitigation plans.~~ The plan shall detail~~s~~ the mitigation design, wetland planting design, maintenance and monitoring requirements, reporting requirements and success criteria. Th~~is~~e plan shall be approved by the Corps ~~and City~~ prior to implementation. **18**
>
> ~~As detailed in the mitigation plans,~~ The plan shall include provisions requiring that created wetlands shall be monitored for a minimum of 5 years. Subject to the approval of state and federal regulatory agencies with jurisdiction over wetlands on the project site, ~~A~~annual monitoring of each site shall include: 1) observation of existing and developing problems and recommendations for remedial actions; 2) an assessment of creation of wetland habitats; 3) a formal wetland delineation in year 5; 4) notation of

invasive exotic species; 5) measurement of willow survival; and 6) photo-documentation. Monitoring visits shall be required to be made in the winter and spring of each year and quantitative data shall be collected in the spring. Annual reports shall be submitted to the Corps ~~and the City~~ for review, with a copy to the City. At the end of the 5-year monitoring period, the Corps ~~and City~~ shall review the reports and determine if the success criteria have been met. If the success criteria have not been achieved at the end of the 5-year monitoring period, remedial measures shall be identified in consultation with the ~~City and~~ USACE. Remedial measures could include grading, planting, seeding, exotic/invasive vegetation control, and/or an extension of the maintenance or monitoring period. Remedial measures shall be implemented by the project sponsor. **18 cont.**

13. DEIR, pp. 23, 196 (Mitigation Measure BIO-2c). As the project site is a large site totaling approximately 530 total acres, and each individual construction phase may not impact wetlands, we respectfully request the last sentence of Mitigation Measure BIO-2c be revised as follows: "During construction in the vicinity of or near wetlands, t~~T~~he project restoration specialist shall conduct periodic site visits (once every week or once every two weeks, depending on the level of activity) ~~during the construction period~~ to provide direction and ensure protection of sensitive resources and permit compliance." **19**

14. DEIR, pp. 23, 197 (Mitigation Measure BIO-2e). As establishment of a conservation easement may not be the only mechanism for preserving created wetlands in perpetuity, we respectfully request that Mitigation Measure BIO-2e be revised as follows: "As required by applicable state or federal permits, a~~A~~ conservation easement (or similar restriction) may ~~shall~~ be established over the preserved and created wetlands to preserve these wetlands in perpetuity. ~~The City of Benicia or other public resource agency~~ A designated agency or group shall hold ~~the~~ any easement to ensure retention of ~~this land~~ the wetlands in perpetuity." **20**

As set forth in more detail in General Comment 1 above, in imposing mitigation requirements, the City must defer to the appropriate state and federal permitting agencies. While it is proper for the DEIR to include a requirement that wetlands be preserved in perpetuity, it is improper for the DEIR to impose specific and detailed requirements in areas outside of the City's jurisdiction.

15. DEIR, pp. 24, 197 (Mitigation Measure BIO-2f). Mitigation Measure BIO-2f should be revised as follows: "If required by the Corps, t~~T~~he project sponsor shall provide financial assurances of a type (i.e., bond, letter of credit) and amount to be **21**

determined by the Corps ~~and the City~~ to ensure successful implementation of the mitigation and monitoring plan. As required by applicable state or federal permits, ~~T~~the project sponsor ~~shall also~~ will provide a long term funding mechanism for the maintenance of the created wetlands in ~~the conservation easements in~~ perpetuity." Again, as set forth in detail in General Comment 1 above, in imposing mitigation requirements, the City must defer to the appropriate state and federal permitting agencies. While it is proper for the DEIR to include a summary description of the types of requirements likely to be imposed by the state and federal permitting agencies, it is improper for the DEIR to impose specific and detailed requirements in areas outside of the City's jurisdiction. **21 cont.**

16. DEIR, pp. 24-25, 197-198 (Mitigation Measure BIO-3). Mitigation Measure BIO-3 should be revised to reflect that it is only required to be implemented if the pre-construction survey identifies pappose tarplant on the project site.

Moreover, as matters related to the pappose tarplant are within the subject matter expertise of a qualified botanist, we respectfully request that line 6 of Mitigation Measure BIO-3 be revised as set forth below to require that the project sponsor consult directly with the qualified botanist to determine the appropriate avoidance measures for the pappose tarplant: "…project. The project sponsor ~~and City~~, in consultation with a…" Additionally, the requirement in bullet point 6 of Mitigation Measure BIO-3 that the City approve the project sponsor's potential purchase of off-site mitigation land for the pappose tarplant is not appropriate. Bullet point 6 should therefore be revised to indicate that the appropriate state or federal agency, with jurisdiction over the pappose tarplant, will review the terms of the purchase for compliance with any applicable permits. As explained in General Comment 1 above, while it is proper for the DEIR to include a summary description of the types of requirements likely to be imposed by the state and federal permitting agencies, it is improper for the DEIR to impose specific and detailed requirements in areas outside of the City's jurisdiction. Lastly, bullet point 6 should be revised to make clear what standards apply to a determination of whether further monitoring is "warranted." **22**

17. DEIR, pp. 26, 198-199 (Mitigation Measure BIO-4a). The second paragraph of Mitigation Measure BIO-4a proposes very specific mitigation requirements for potential impacts to the California red-legged frog, which measures are properly within the jurisdiction of the California Department of Fish and Game and U.S. Fish and Wildlife service.[5] The specific measures, such as the proposed mitigation ratio and financing requirements, should not be fixed in the DEIR, but should be left up to the appropriate permitting agencies to impose in their discretion. Accordingly, we **23**

[5] We believe that the reference to the California red-legged frog in Mitigation Measure BIO-4a on page 26 is a typographical error, and that, if the language is a part of the mitigation measure, the appropriate reference is to the Pacific pond turtle. The second paragraph of Mitigation Measure BIO-4a does not appear on page 199. Please be advised that our comment is a general comment, and is not specific to the frog.

respectfully request that the second paragraph of Mitigation Measure BIO-4 be revised to indicate that mitigation will be required at a ratio "to be determined by the appropriate permitting agencies." The same comment applies with respect to the other specific mitigations proposed. As set forth in more detail in General Comment 1 above, in imposing mitigation requirements, the City must defer to the appropriate state and federal permitting agencies. While it is proper for the DEIR to include a summary description of the types of requirements likely to be imposed by the state and federal permitting agencies, it is improper for the DEIR to impose specific and detailed requirements in areas outside of the City's jurisdiction.

Additionally, to allow for sufficient flexibility to comply with the terms of state and federal permits, we respectfully request that the last seven lines of Mitigation Measure BIO-4 be revised as follows: **23 cont.**

> ...All mitigation sites shall be placed in a conservation easement (or shall be subject to a similar restriction) to preserve the sites as wildlife and plant habitat in perpetuity. ~~The~~ Any easements shall be held by ~~CDFG or the City of Benicia~~ an appropriate agency or group, as identified in applicable permits. The sponsor shall provide evidence of compliance with the mitigation requirements of the USACE, USFWS, and CDFG prior to issuance of a grading permit.

18. DEIR, pp. 27, 199 (Mitigation Measure BIO-4b). The second paragraph of Mitigation Measure BIO-4b proposes very specific mitigation requirements for potential impacts to the California red-legged frog, which measures are properly within the jurisdiction of the California Department of Fish and Game and U.S. Fish and Wildlife service. The specific measures, such as the proposed mitigation ratio and financing requirements, should not be fixed in the DEIR, but should be left up to the appropriate permitting agencies to impose in their discretion. As set forth in more detail in General Comment 1 above, in imposing mitigation requirements, the City must defer to the appropriate state and federal permitting agencies. While it is proper for the DEIR to include a summary description of the types of requirements likely to be imposed by the state and federal permitting agencies, it is improper for the DEIR to impose specific and detailed requirements (such as mitigation ratios) in areas clearly outside of the City's jurisdiction. Accordingly, we respectfully request that the second paragraph of Mitigation Measure BIO-4b be revised to indicate that mitigation will be required at a ratio "to be determined by the appropriate permitting agencies." The same comment applies with respect to the other specific mitigations proposed. **24**

Additionally, to allow for sufficient flexibility to comply with the terms of state and federal permits, we respectfully request that the last seven lines of Mitigation Measure BIO-4b be revised as follows:

> ...All mitigation sites shall be placed in a conservation easement (or shall be subject to a similar restriction) to preserve the sites as wildlife and plant habitat in perpetuity. ~~The~~ Any easements shall be held by ~~CDFG or the City of Benicia~~ an appropriate agency or group, as identified in applicable permits. The sponsor shall provide evidence of compliance with the mitigation requirements of the USACE, USFWS, and CDFG prior to issuance of a grading permit.

24 cont.

19. DEIR, pp. 28, 199 (Mitigation Measure BIO-4c). The third bullet point of Mitigation Measure BIO-4c requires that certain reports be submitted to the City by November 30 of each year. Read in context and consistent with the usual practice of the state and federal agencies, it appears that this reporting requirement is only applicable if a California red-legged frog is found within the work area. Further, we understand that this reporting requirement is only applicable to the initial grading of the site, and that once the initial grading is complete no further reporting is required. We respectfully request that Mitigation Measure BIO-4c be revised to make clear that a report need only be prepared if a frog is found within the work area during the initial grading of the site.

25

20. DEIR, pp. 28-29, 200 (Mitigation Measure BIO-5a). This mitigation measure must be revised to reflect that the report required to be submitted to the City is a copy of the report required to be prepared under the provisions of applicable state and federal permits.

26

21. DEIR, pp. 30-31, 201 (Mitigation Measure BIO-6a). Subsection (a) of Mitigation Measure BIO-6a must be revised to reflect that the California Department of Fish and Game (CDFG) is the appropriate agency to determine the appropriate measures for avoidance of burrowing owls. CDFG should be tasked with making determinations on this issue, not the City. As set forth in more detail in General Comment 1 above, in imposing mitigation requirements, the City must defer to the appropriate state and federal permitting agencies. While it is proper for the DEIR to include a summary description of the types of requirements likely to be imposed by the state and federal permitting agencies, it is improper for the DEIR to impose specific and detailed requirements in areas outside of the City's jurisdiction.

27

22. DEIR, pp. 32, 203 (Mitigation Measure BIO-8b). Mitigation Measure BIO-8b must be revised to reflect that the California Department of Fish and Game (CDFG) is the appropriate agency to determine whether a mitigation plan for the various bat species is adequate. Accordingly, the requirement that the City review and approve the plan should be deleted. While it is proper for the DEIR to include a summary description of the types of requirements likely to be imposed by the state and federal permitting agencies, it is improper for the DEIR to impose specific and detailed requirements in areas outside of the City's jurisdiction.

28

23. DEIR, pp. 32, 203 (Mitigation Measure BIO-8d). Mitigation Measure BIO-8d must be revised to reflect that CDFG is the appropriate agency to approve any required plan. Accordingly, the requirement that the City prepare and approve the plan should be deleted.

Additionally, it is inappropriate for the DEIR to fix a requirement that a secure source of funding be provided for the mitigation plan before CDFG has developed that plan. Any funding requirement must, at a minimum, be contingent upon (1) a survey that determines bats are present on site, and (2) a requirement by CDFG that a mitigation plan be prepared and implemented. For example, it is possible that no bats will be located on site, in which case, funding for a bat mitigation plan would be unnecessary. **29**

Chapter IV.H. Air Quality.

24. DEIR, pp. 45, 265-266 (Mitigation Measure AIR-1). We respectfully request that Mitigation Measure AIR-1 be revised to be consistent with the Bay Area Air Quality Management District's (BAAQMD) CEQA Guidelines. (See BAAQMD CEQA Guidelines, December 1999, p. 15, Table 2.) As the site is greater than four acres in size, the appropriate control measures are the Basic and Enhanced Control Measures set forth in Table 2 of the BAAQMD's CEQA Guidelines. The Optional Measures are not necessary because the site is not located near sensitive receptors and does not warrant additional controls. Specifically, we request that the list of controls required to be implemented at all construction sites be revised as follows:

- Water all active construction sites at least twice daily ~~and more often during windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers to control dust~~; **30**

- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;

- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;

- Sweep daily (with water sweepers) all paved access roads, parking areas, and staging

areas at construction sites; ~~water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality;~~

- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;

- Hydroseed or aApply non-toxic soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more);

- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);

- Limit traffic speeds on unpaved roads to 15 mph;

- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;

- Replant vegetation in disturbed areas as quickly as possible;

- Install baserock at entryways for all exiting trucks and wash off the tires or tracks of all trucks and equipment in designated areas before leaving the site; and

- ~~Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.~~

30 cont.

Chapter IV.I. Noise.

25. DEIR, pp. 48, 283 (Mitigation Measure NOI-2b). Depending upon the option selected in Mitigation Measure NOI-2a, the mitigation set forth in Mitigation Measure NOI-2b may not be necessary. The requirement to install sound-attenuated ventilation systems should be mandatory only upon confirmation by a sound study that the interior noise level, without sound-attenuated ventilation systems, would exceed the City standard (45 dBA CNEL). We therefore respectfully request that Mitigation Measure NOI-2b revised as follows:

31

> If a sound study confirms that the interior noise level, without sound-attenuated ventilation systems, would exceed the City standard, s~~S~~ound-attenuated ventilation systems, such as air conditioning, shall be installed in all buildings that require good speech intelligibility (as outlined in sub-note 5 of Table IV.I-4) for buildings located as follows:
>
> - Within 199 feet from the centerline of the outermost travel lane of Lake Herman Road;
> - Within 263 feet from the centerline of the outermost travel land or East 2nd Street.

31 cont.

Chapter IV.J. Visual Resources.

26. DEIR, pp. 49, 300 (Mitigation Measure VIS-3c). Upon completion, the parcel on which the water storage tanks will be located will be dedicated to the City. Accordingly, the project sponsor (and/or the project sponsor's successor-in-interest) will have no right to access the tanks or the trees planted to screen the tanks. We therefore respectfully request that Mitigation Measure VIS-3c be revised as follows:

> The water storage tanks shall be screened by vegetation. Trees shall be planted to obscure at least 50 percent of the water tanks within 10 years of final project build out. A 20-foot buffer between the vegetation and the tanks would be required to maintain access to the tanks. The trees shall be properly planted by the project sponsor or its successor-in-interest. ~~and maintained by the project sponsor.~~

32

Chapter IV.K. Cultural and Paleontological Resources.

27. DEIR, pp. 50-51, 319-319 (Mitigation Measures CULT-1a and CULT-1b). The description of Mitigation Measures CULT-1a and CULT-1b in the summary does not clearly indicate (as the DEIR text does) that ***either*** Mitigation Measure CULT-1a ***or*** Mitigation Measure CULT-1b shall be required. We respectfully request that the summary be revised accordingly.

33

Chapter IV.L. Public Services.

28. DEIR, p. 326 (Impact PUB-1). We believe that Impact PUB-1 contains a typographical error in that it concludes the project will result in a potentially significant impact on the parks department. On the previous page of the DEIR

34

(DEIR, p. 325), impacts on the parks department are identified as less-than-significant. We therefore request Impact PUB-1 be revised accordingly. **34 cont.**

29. DEIR, pp. 53, 327-328 (Mitigation Measure PUB-1a). As explained above in General Comment 2, a City is authorized to impose only those mitigation measures "…**consistent with applicable constitutional requirements such as the 'nexus' and 'rough proportionality' standards established by case law."** (14 Cal. Code Regs., § 15041, emph. added; see also 14 Cal. Code Regs., § 15126.4(4) ["Mitigation measures must be consistent with all applicable constitutional requirements, including the following: (A) There must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. Nollan v. California Coastal Commission, 483 U.S. 825 (1987); and (B) The mitigation measure must be 'roughly proportional' to the impacts of the project. *Dolan v. City of Tigard* 512 U.S. 374 (1994). Where the mitigation measure is an *ad hoc* exaction, it must be 'roughly proportional' to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854."].) While the project would increase the demand for fire protection services, police services, and public works maintenance and operation services, it is not the project's responsibility to fully fund capital improvements or operational costs for these services. Through Mitigation Measure PUB-1a, the Benicia Business Park is unlawfully being asked to pay for things that should be – or perhaps should have been – paid for by the municipality. The project may only be required to pay its fair share, and Mitigation Measure PUB-1a must be revised accordingly.

35

One of the most egregious examples of an overreaching mitigation measure for which there is no essential nexus or rough proportionality is the requirement in Mitigation Measure PUB-1a that the project shall set aside 7 to 15 acres of land for development of an auxiliary corporation yard. As indicated on the attached Exhibit A, the City's existing corporation yard, located at 2400 East 2nd Street is 7.26 acres. Without any individualized evaluation or quantification of the relationship between the project and the impact (see *Dolan v. City of Tigard, supra,* 512 U.S. at 395-396), Mitigation Measure PUB-1a requests the project dedicate a facility between one to two times the size of the City's existing facility to mitigate the project's minimal demand for additional maintenance and operations services. (See *Ehrlich v. Culver City, supra*, 12 Cal.4th at 884 [exaction must be tied to the actual impact of the land use change].) As set forth on page 327 of the DEIR, "if infrastructure on the project site is not maintained by a private maintenance district or similar entity, the City would need to hire approximately five to eight employees, and associated equipment, to meet this increased demand. Space in the City's existing corporation yard would not be adequate to accommodate new employees and equipment required by the project." Pursuant to the DEIR, it is possible that the project will have no impacts on maintenance and operations services. Accordingly, Mitigation Measure PUB-1a cannot, by definition, be roughly proportional to the impacts of the project. Mitigation Measure PUB-1a must be deleted or the City must be prepared to compensate our client for the value of the property in excess of that required to

mitigate the impact. "If the applicant must donate property for a public use that bears no relationship to the benefit conferred on the applicant or the burden imposed on the public, there is a taking of property." (*Rohn v. City of Visalia* (1989) 214 Cal.App.3d 1463, 1470.)

With respect to the "fees imposed on the proposed project" that will provide funding for fire department and other facilities, any such fees must be adopted in accordance with the procedures set forth in the Mitigation Fee Act (Gov. Code, §§ 66000 et seq.) or other applicable law. The DEIR does not provide separate authority for establishment of such fees. (*See, e.g., Pinewood Investors, Inc. v. City of Oxnard* (1982) 133 Cal.App.3d 1030, 1040.) **35 cont.**

Additionally, please be advised that the phasing set forth in the Project Description is conceptual only. Accordingly, we respectfully request that no arbitrary phasing requirement be imposed by this mitigation measure, and that any required facilities be built at the time the need for those facilities exists (i.e., at the time the first hotel is under construction).

Chapter IV.M. Utilities and Infrastructure.

30. DEIR, p. 331. In the last paragraph of page 331 of the DEIR, the current peak hourly wet weather flow (PHWWF) is omitted. We respectfully request the DEIR be revised to include this figure, which we understand is approximately 30.8 mgd. **36**

31. DEIR, p. 332. The last sentence of the first paragraph on page 332 of the DEIR should be revised to reflect that the Conceptual Pipeline Alignments and Cost Study for Conveyance of Wastewater From Benicia Business Park to City of Benicia's Wastewater Treatment Plan, dated September 27, 2006, and prepared by Stetson Engineers, Inc., was utilized in the DEIR's analysis. This study is Appendix O to the Benicia Business Park Sewer Collection System Analysis, dated October 16, 2006, by Brown and Caldwell, which is referenced on page 332 of the DEIR. For ease of reference, the report is also attached hereto as Exhibit B.

With respect to line 9 of the second paragraph on page 332, we are unclear as to the basis for the DEIR's statement that the pump stations contribute only negligible flows to the force main system. Accordingly, we respectfully request the FEIR to include relevant data (for both present and future conditions) substantiating the statement. **37**

Lastly, we respectfully request the last line of paragraph 2 on page 332 be revised to accurately indicate that the existing sewer system functions adequately and is serviceable "only under normal dry weather conditions." As indicated elsewhere in the DEIR, the existing sewer system only functions adequately in dry weather conditions, and is not adequate at other times.

32. DEIR, p. 336. We respectfully request that the last line of the third paragraph on page 336 be revised to indicate that the demand would not result in "dry or peak hour wet weather wastewater flows that exceed existing or planned capacity of the WWTP."

Additionally, we respectfully request that the last sentence on page 336 of the DEIR be revised to indicate that there should be "limited" inflow/infiltration due to wet weather rather than "no" inflow/infiltration. Accordingly, the last sentence on page 336 should be modified to read as follows: "There should be limited ~~no~~ inflow/infiltration due to wet weather. ~~and wet weather flows should not increase beyond what the development would contribute in dry weather.~~" **38**

33. DEIR, p. 337. The first paragraph on page 337 of the DEIR appears to suggest that a precise pipeline alignment for the future infrastructure improvements has been selected. As set forth in the Benicia Business Park Sewer Collection Analysis prepared by Brown and Caldwell and dated October 2006 (including all appendicies), several alternative sewer alignments have been proposed and no specific alignment has yet been selected. These alternative alignments are more fully set forth in the Benicia Business Park Sewer Collection System Analysis, dated October 16, 2006, and prepared by Brown and Caldwell, including Appendix N (Stetson Engineers Infrastructure Conveyance Evaluation, June 26, 2006) and Appendix O (Conceptual Pipeline Alignments and Cost Study for Conveyance of Wastewater from Benicia Business Park to City of Benicia's Wastewater Treatment Plant, Stetson Engineers, Inc., September 27, 2006) thereto. (The September 27, 2006 Report is attached hereto as Exhibit B.) As the DEIR evaluates these several alternatives, and no precise alignment has been selected, we respectfully request that the first paragraph be revised accordingly. Specifically, a sentence should be added to the end of the first paragraph on page 337 that indicates that an alignment has not yet been selected, and that an alignment will be selected by the project sponsor, in consultation with the City, and subject to all applicable constitutional standards as more fully detailed in General Comment 2 above. **39**

34. DEIR, pp. 55, 337 (Mitigation Measure UTIL-1). We respectfully request that the first sentence of the first bullet point of Mitigation Measure UTIL-1 be revised to read: "All water storage and pumping facilities required to serve the proposed project shall be constructed and operational as directed by the City Engineer." As currently drafted the mitigation measure is not practical; it is possible that the initial development of the site will not require the water storage and pumping facilities to be fully constructed and/or operational. Accordingly, while our client intends to fully fund and install its fair share of the infrastructure improvements for which the required nexus exists (please also see General Comment 2 above), it is appropriate that the City Engineer direct when the improvements are installed, not the DEIR. **40**

With respect to the third bullet point, we respectfully request that the requirement to have each phase of development "approved" by the City be deleted. As the Benicia

Business Park will be developed utilizing the highest standards for commercial and industrial development, and requires a substantial investment in infrastructure, the appropriate time for evaluation and determination of an adequate and dependable water supply is in connection with approval of the final map.

With respect to the fourth bullet point of Mitigation Measure UTIL-1, please be advised that due to physical constraints and City siting requirements, the mitigation measure proposed is infeasible. Due to visual and topographical constraints, neither tank can be sited lower on the site, and City requirements prevent the storage tanks from being located at higher elevations. Accordingly, we respectfully request this mitigation measure be deleted. **40 cont.**

35. DEIR, pp. 56, 339 (Impact UTIL-3). As explained on pages 56 and 339 of the DEIR, implementation of the project would require extension of wastewater collection lines to serve the project. At the present time, the precise pipeline alignments for the future infrastructure improvements have not been determined, and several alternative alignments have been evaluated and analyzed within the DEIR. These alternative alignments are more fully set forth in the Benicia Business Park Sewer Collection System Analysis, dated October 16, 2006, and prepared by Brown and Caldwell, including Appendices N (Stetson Engineers Infrastructure Conveyance Evaluation, June 26, 2006) and O (Conceptual Pipeline Alignments and Cost Study for Conveyance of Wastewater from Benicia Business Park to City of Benicia's Wastewater Treatment Plant, Stetson Engineers, Inc., September 27, 2006) thereto. (The September 27, 2006 Report is attached hereto as Exhibit B.) We respectfully request that pages 56 and 339 be revised to indicate that an alignment has not yet been selected, and that an alignment will be selected by the project sponsor, in consultation with the City, and subject to all applicable constitutional standards as more fully detailed in General Comment 2 above. **41**

36. DEIR, pp. 56, 339 (Mitigation Measure UTIL-3). Mitigation Measure UTIL-3 provides that "…the City shall review each building permit application for information regarding flows and loads to ensure that wastewater flows do not exceed capacity…" As the Benicia Business Park will be developed utilizing the highest standards for commercial and industrial development, and requires a substantial investment in infrastructure, the appropriate time for evaluation and determination of wastewater capacity is in connection with approval of the final map. Accordingly, we respectfully request that the second bullet point of Mitigation Measure UTIL-3 be deleted. The immediately preceding requirement (first bullet point, Mitigation Measure UTIL-3) fully mitigates the identified potentially significant impact. **42**

37. DEIR, pp. 57, 340 (Mitigation Measure UTIL-4). We respectfully request that the first sentence of Mitigation Measure UTIL-4 be revised to read: "When directed by the City Engineer, the project sponsor shall fully fund and install all the required on-site and off-site wastewater collection improvements to serve the project." As currently drafted the mitigation measure is impracticable; it is possible that only a **43**

small wastewater user (such as a gas station) will pull the first building permit for the project. Not only would this type of user not warrant the development of a complete system, but it is unlikely that a fully developed system would be able to handle the minimal flows and loads generated by such a user. Accordingly, while our client intends to fully fund and install all required infrastructure improvements for which the appropriate nexus has been established (see General Comment 2 above), it is appropriate that the City Engineer direct when the improvements are installed.

Additionally, because the precise pipeline alignments for the future infrastructure improvements have not been determined, and several alternative alignments have been evaluated and analyzed within the DEIR, it is not proper for the DEIR to direct which improvements will be required. The alternative alignments are more fully set forth in the Benicia Business Park Sewer Collection System Analysis, dated October 16, 2006, and prepared by Brown and Caldwell, including Appendices N (Stetson Engineers Infrastructure Conveyance Evaluation, June 26, 2006) and O (Conceptual Pipeline Alignments and Cost Study for Conveyance of Wastewater from Benicia Business Park to City of Benicia's Wastewater Treatment Plant, Stetson Engineers, Inc., September 27, 2006) thereto. (The September 27, 2006 Report is attached hereto as Exhibit B.)

43 cont.

The DEIR should be revised to indicate that implementation of one of the alternatives set forth in the above-referenced reports will be required (subject to the required constitutional nexus standard more fully discussed in General Comment 2 above). Specifically, we respectfully request Mitigation Measure UTIL-4 to be revised as follows:

> Prior to the issuance of building permits for Phase 1 of the proposed project or at such other time as directed by the City Engineer, the project sponsor shall fully fund and install its fair share of all the required on-site and off-site wastewater collection improvements to serve the project. Required improvements shall consist of one of the stand-alone alternatives listed in the Benicia Business Park Sewer System Collection Analysis (October 16, 2006) prepared by Brown and Caldwell (including all appendices) that solely serves the proposed project. ~~Required improvements include the following:~~
>
> - ~~Replace the existing 8-inch west fork of the Industrial Park gravity sewer system with a new 18-inch sewer line.~~

- ~~Replace the existing 8-inch force main with a new 16-inch force main that is cross-connected to the existing force main.~~

- ~~Replace the existing PILS to operate at a new higher pressure to maximize capacity in both pipelines. Upgrade the PILS to meet the design criteria of the two pipelines.~~

- ~~Increase maintenance of eastern fork of gravity sewer to reduce root intrusion and the long-term settlement of debris.~~

- ~~A force main surge analysis shall be performed prior to approval of final project design. Proposed improvements to the force main shall be reviewed and approved by the City prior to installation.~~

43 cont.

Chapter VI.N. Urban Decay.

38. DEIR, pp. 58, 349 (Mitigation Measure DECAY-1). Mitigation Measure DECAY-1 states that EIR analyzed the proposed "tenant mix" of the project. The DEIR does not analyze the tenant mix of the project; rather, the DEIR analyzes a proposed combination of anticipated uses for the Benicia Business Park. No specific tenants were identified. We respectfully request that Mitigation Measure DECAY-1 be revised accordingly.

Additionally, Mitigation Measure DECAY-1 requires that the City review the tenant mix at the time of issuance of an occupancy permit to determine whether the tenant mix has substantially changed from the tenant mix analyzed in the EIR. At the time an occupancy permit is issued, buildings may have been built for specific tenants, and those tenants may not be able to move into already constructed buildings if the City determines that further environmental review is required. Accordingly, we respectfully request that the tenant mix review take place at a prior stage in the planning process, such as at the time of issuance of a use permit.

44

Chapter V. Alternatives.

39. DEIR, p. 354. In paragraph "m" on page 354 of the DEIR, it is incorrectly implied that existing water and sewer infrastructure in the vicinity of the site would not need to be upgraded in the absence of the project. In fact, there is already some over-burdening in the system, and the existing water and wastewater infrastructure may be required to be upgraded regardless of whether the project is

45

developed. We therefore respectfully request that this paragraph be revised accordingly. **45 cont.**

Chapter VI.C. Cumulative Impacts.

40. DEIR, p. 374. The last paragraph on page 374 (lines 7-8) of the DEIR incorrectly states that "the proposed project would result in a substantial conflict with numerous General Plan policies…" For the reasons set forth above in Comment 5, substantial evidence (identified above) exists that the project is fully consistent with all applicable provisions of the General Plan. We therefore respectfully request that page 374 of the DEIR be modified accordingly. **46**

* * *

We very much appreciate the opportunity to comment on the DEIR, and look forward to reviewing the Final Environmental Impact Report and Response to Comments in the near future. If you have any questions regarding these comments, or if we can be of any assistance, please do not hesitate to contact me directly at (925) 941-3283.

Very truly yours,

Kristina D. Lawson

KDL:kdl

Attachments

cc: Charlie Knox, Community Development Director
Jeanne Pavao, Esq.
Wilson F. Wendt

Letter
B3
Attach.

EXHIBIT "A"

POR. SEC. 30&31, T.3N., R.2W., M.D.B.&M.
POR. SEC. 25&36, T.3N., R.3W., M.D.B.&M.

Tax Area Code
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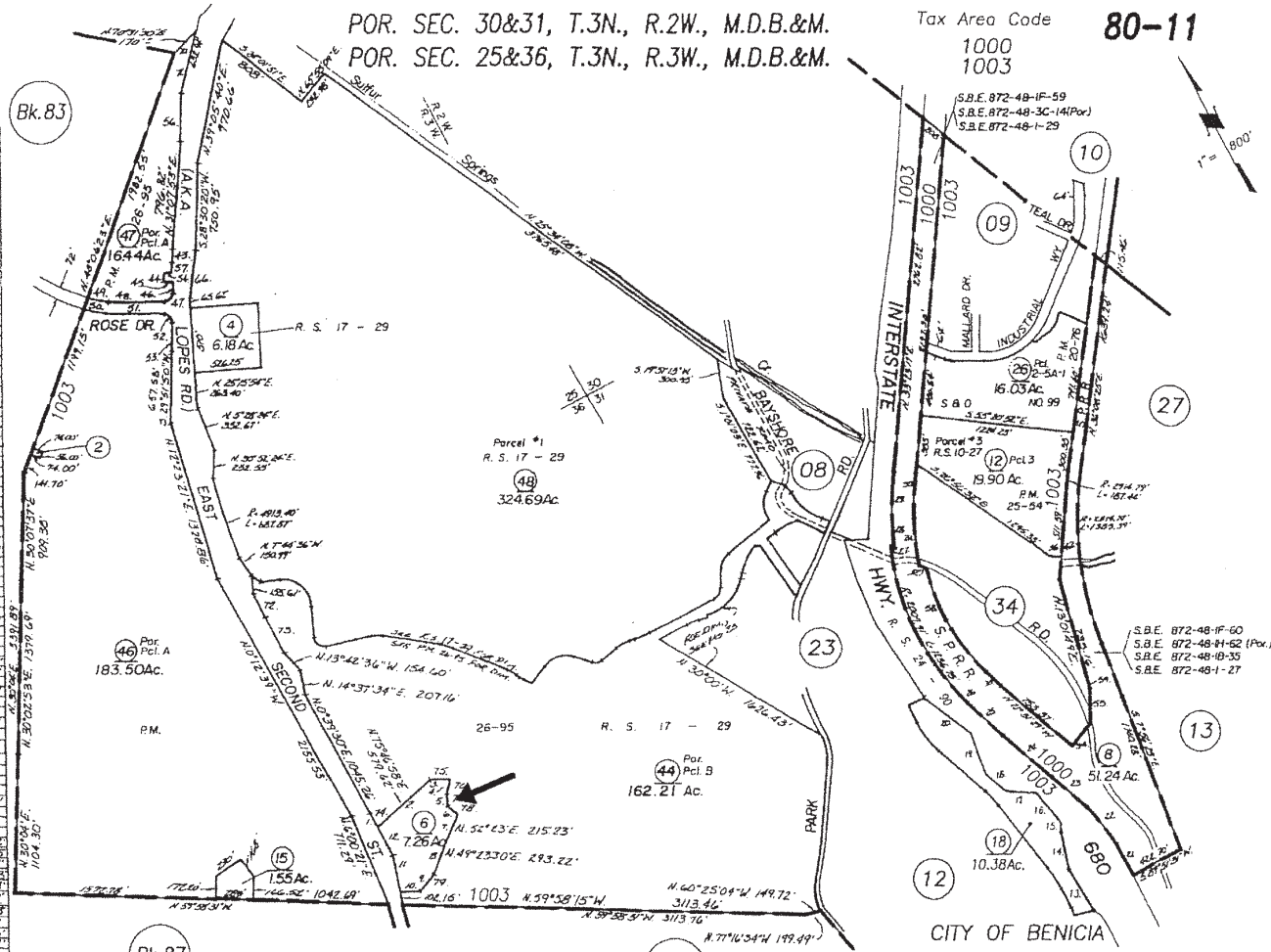

1	N.7°13'24"W	194.74'
2	N.35°41'40"E	579.12'
3	S.74°41'01"E	136.97'
4	S.40°05'14"W	154.31'
5	S.80°18'55"W	90.91'
6	S.20°05.38"E	97.46'
7	S.50°31'01"W	215.23'
8	S.87°10'51"W	293.27'
9	S.66°45'30"W	175.49'
10	N.88°38'30"W	168.13'
11	N.82°01'41"E	512.02'
12	N.60°03'37"W	225.02'
13	S.7°33'11"E	161.24'
14	S.17°01'13"W	287.15'
15	S.28°59'25"W	69.24'
16	N.10°11'15"W	199.21'
17	N.37°25'05"W	250.01'
18	N.20°30'51"W	200.00'
19	N.6°10'04"E	455.56'
20	N.50°00'04"W	479.21'
21	N.0°23'30"E	365.09'
22	R=1804.91'	512.70'
23	N.17°46'30"W	325.03'
24	N.10°33'40"W	528.70'
25	N.19°41'30"W	364.63'
26	N.13°36'35"W	78.52'
27	S.8°01'30"W	63.28'
28	R=1908.91'	285.72'
29	R=3016.73'	352.37'
30	R=2779.52'	362.23'
31	R=1889.00'	379.40'
32	N.16°26'37"W	34.75'
33	S.18°41'13"E	181.07'
34	S.43°41'15"E	238.54'
35	N.27°53'16"E	247.21'
36	N.30°06'33"W	90.00'
37	N.44°30'24"W	125.57'
38	R=180.15	87.73'
39	N.60°13'23"W	132.70'
40	N.37°34'38"E	50.00'
41	N.60°37'52"W	7.50'
42	N.32°37'21"E	791.04'
43	N.32°18'24"E	77.03'
44	S.31°10'35"W	70.90'
45	S.54°43'03"E	45.50'
46	S.37°10'55"W	114.39'
47	R=40	63.03'
48	N.58°30'W	454.73'
49	R=72.44'	137.78'
50	R=1310'	178.73'
51	S.58°30'E	456.41'
52	R=80'	21.88'
53	R=1045'	217.07'
54	N.38°49'05"W	45.50'
55	N.25°53'15"E	207.80'
56	N.29°03'55"W	269.63'
57	S.31°10'55"E	80.00'
58	R=1739.71'	945.81'
59	N.80°16'43"W	3.29'
60		
61		
62		
63		
64		
65		
66	S.37°43'55"W	302.21'
67		
68		
69		
70	N.79°08'13"E	221.92'
71	N.41°33'51"E	524.75'
72	R=1930'	208.71'
73	N.0°12'16"E	338.23'
74	N.2°11'31"W	139.94'
75	N.59°47'19"W	136.97'
76	N.40°08'02"E	134.38'
77	N.24°17'33"E	90.01'
78	N.22°05'50"W	99.26'
79	N.66°48'19"E	175.49'
80		
81		
82		
83		
84		
85		
86		

NOTE: This map is for assessment purposes only and is not for the intent of interpreting legal boundary rights, zoning regulations and/or legality of land division laws.

R.S.24-90	11-26-01	JS
110-18Chg Dd	3-2-01	FG
110-47&48		
R/W Ease	3-18-94	SS
REVISION	DATE	BY

NOTE: Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

Assessor's Map Bk. 80 Pg. 11
County of Solano, Calif.

02/03

MAY 06 2002

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NOTICE: This is neither a plat nor a survey. It is furnished merely as a convenience to aid you in locating the land indicated hereon with reference to streets and other land. No liability is assumed by reason of any reliance hereon.

Letter
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Attach.

EXHIBIT "B"

APPENDIX O

CONCEPTUAL PIPELINE ALIGNMENTS AND COST STUDY FOR CONVEYANCE OF WASTEWATER FROM BENICIA BUSINESS PARK TO CITY OF BENICIA'S WASTEWATER TREATMENT PLANT

Letter
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Attach.

CONCEPTUAL PIPELINE ALIGNMENTS AND COST STUDY FOR CONVEYANCE OF WASTEWATER FROM BENICIA BUSINESS PARK TO CITY OF BENICIA'S WASTEWATER TREATMENT PLANT

SEPTEMBER 27, 2006

STETSON ENGINEERS INC.

STETSON ENGINEERS INC.
San Rafael and West Covina, California
Mesa, Arizona

WATER RESOURCE ENGINEERS

INTRODUCTION

The purpose of this conceptual report is to document pipeline alignments and costs for the conveyance of wastewater exclusively from the Benicia Business Park (BBP) to the City of Benicia (City) Wastewater Treatment Plant. Brown and Caldwell has prepared the BBP Sewer Collection System Analysis (October 2006) that characterizes the total existing and future capacity requirement from the City's sewer Sub-basin #1 (B&C Report). The BBP will contribute approximately 22% to the total flow from Sub-basin #1 when all deficiencies from existing development are corrected and flows from vacant lands are realized. Planning estimates used to determine peak wet weather flow from existing development are greater than the capacity of the existing sewer conveyance system, resulting in "deficiencies" in system capacity. This report does not consider a remedy for existing system deficiencies or future flows from vacant lands. Because the B&C Report describes the facilities required to convey 100% of the wastewater from Sub-basin #1, Discovery Builders Inc. requested that Stetson Engineers review conceptual alignments and costs for conveyance of wastewater flows from BBP only.

This report relies on land use and flow calculations that are currently being presented in the B&C Report. Additionally, Stetson Engineers has relied on the numerical and analytical models developed by B&C to describe the physical parameters that control wastewater flow through pipelines and pumping facilities. A summary of the models and assumptions adopted for designing the facilities presented in this report may be found in the B&C Report. Actual hydraulic model results describing the gravity and force main pipeline requirements for this study are included as attachments.

Two pipeline alignments and associated costs are addressed in this report. The two alignments presented below are referred to as the Park Road (Alternative A) and Bayshore Road (Alternative B) alignments (Attached Map). While the latter alignment has already been studied for total flows from Sub-basin #1, the Park Road alignment represents a new alignment not previously considered. The Park Road alignment is a shorter pipeline alignment through a relatively unpopulated and undeveloped area.

This report presents a conceptual-level design of two alternatives for conveying sewer flows from BBP to the City's wastewater treatment plant. Mr. Stephen Reich and Ms. Molly Palmer visually inspected the alignments during a field trip. Costs associated with land acquisition, geotechnical hazards, rights-of-way, and other physical constraints have been roughly estimated for each of the two alignments. For example, conflicts with underground

pipelines owned and operated by Valero could present unforeseen additional costs not accounted for in this conceptual design study.

PARK ROAD ALIGNMENT (ALTERNATIVE A)

The Park Road alignment consists of a new 14-inch gravity main along Industrial Way, a 12-inch force main over Park Road, and a new 14-inch gravity main through the western portion of the Armory. The last gravity section connects to the 24-inch gravity main which currently conveys the existing wastewater flows from Sub-basin #1. The total dynamic head (TDH) required to lift the wastewater from an area near the Park Industrial Lift Station (PILS) to the top of Park Road is 195 feet. The total new pipeline requirement is approximately 19,400 feet. The pipeline sizes and costs are presented in the following table.

PARK ROAD ALIGNMENT CAPACITY AND COSTS

Item	Unit	Quantity	Unit Cost	Cost
14" HDPE Gravity (Industrial Way)	LF	5,900	$156	$920,000
12" PVC Force (Park Road)	LF	6,450	$140	$903,000
14" HDPE Gravity (Park Road)	LF	7,060	$195	$1,376,000
New Pump Station (TDH = 194 feet)	Each	1	$154,000	$154,000
Back-up Generator	Each	1	$50,000	$50,000
Pump House Enclosure	Each	1	$50,000	$50,000
Sub-Total				$3,453,000
Contingencies, Engineering, ROW				$1,899,000
Total				$5,352,000

Note: Unit costs for the 14" HDPE Gravity main along Park Road are greater due to increased excavation and easement costs.

The Park Road alignment provides for a project that avoids the congestion of utilities found along the Bayshore Road. The unit costs for the force and gravity pipeline segments along Park Road have been reduced 20%, as compared to the cost for installation in the Bayshore Road alternative, to account for the relatively undeveloped nature of Park Road. Final design of pumping facilities may reduce the operating TDH based on the location of the pump station and the terminus of the gravity main along Industrial Way. The alignment through the Armory was planned based on avoiding known utilities.

BAYSHORE ROAD ALIGNMENT (ALTERNATIVE B)

The Bayshore Road alignment consists of a new 14-inch gravity main along Industrial Way and a 10-inch force main along Bayshore Road that connects to the 24-inch gravity main which currently conveys the existing wastewater flows from Sub-basin #1. The total dynamic head (TDH) required to lift the wastewater from an area near PILS to the 24-inch gravity main is 105 feet. The total new pipeline requirement is approximately 20,000 feet. The pipeline sizes and costs are presented in the following table.

BAYSHORE ROAD ALIGNMENT CAPACITY AND COSTS

Item	Unit	Quantity	Unit Cost	Cost
14" HDPE Gravity (Industrial Way)	LF	5,900	$156	$920,000
10" PVC Force (Bayshore Road)	LF	14,100	$165	$2,325,000
New Pump Station (TDH = 104 feet)	Each	1	$83,000	$83,000
Back-up Generator	Each	1	$50,000	$50,000
Pump House Enclosure	Each	1	$50,000	$50,000
Sub-Total				$3,428,000
Contingencies, Engineering, ROW				$1,886,000
Total				$5,314,000

The cost of the Bayshore Road alignment is approximately the same as the Park Road alignment. Although longer in reach, the parity in cost is the result of constructing a smaller diameter force main with a higher TDH at the pump station. If the pipeline was sized to meet the TDH of the existing pump station and pipelines along Bayshore Road, costs for the required new pipeline would increase due to a larger diameter pipeline designed for a smaller TDH.

SUMMARY

The two alignments presented in this conceptual report provide alternatives that would allow the BBP to design, construct, and use facilities to exclusively convey wastewater flows from their project site to the City wastewater treatment plant. The alignment and footprint of each alternative were based on information received from the City regarding existing facilities. All pipeline design and capacity estimates presented in this memorandum are based on the B&C Report that developed hydraulic model criteria for sizing appropriate facilities. Land ownership, rights-of-way, and geotechnical information should be gathered to further refine the costs of each alignment.

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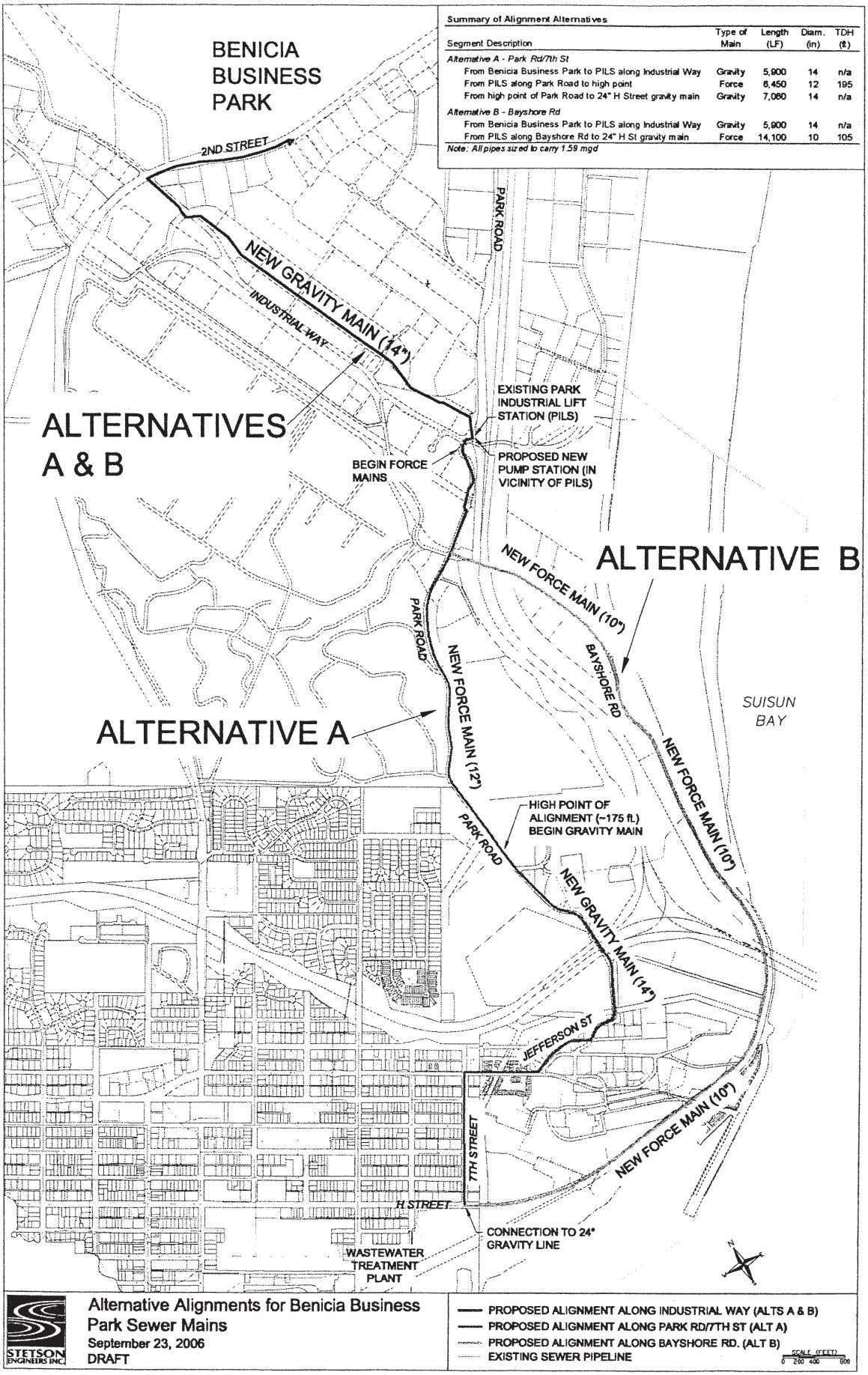
Attach.



Summary of Alignment Alternatives

Segment Description	Type of Main	Length (LF)	Diam. (in)	TDH (ft)
Alternative A - Park Rd/7th St				
From Benicia Business Park to PILS along Industrial Way	Gravity	5,900	14	n/a
From PILS along Park Road to high point	Force	6,450	12	195
From high point of Park Road to 24" H Street gravity main	Gravity	7,060	14	n/a
Alternative B - Bayshore Rd				
From Benicia Business Park to PILS along Industrial Way	Gravity	5,900	14	n/a
From PILS along Bayshore Rd to 24" H St gravity main	Force	14,100	10	105

Note: All pipes sized to carry 1.59 mgd

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ATTACHMENTS

Gravity and Force Main Model Results

Contents

Gravity Main Results: Industrial Way (Alternatives A&B) and Park Road (Alternative A)

Force Main Results: Park Road (Alternative A)

Force Main Results: Bayshore Road (Alternative B)

Gravity Main Results: Industrial Way (Alternatives A & B)
Park Rd (Alternative A)

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*****************************************************
*     Computer Modeling for Design and Planning     *
*              of Sanitary Sewer Systems            *
*              H2OMAP Sewer, Version 5.5            *
*                    MWH Soft, Inc.                 *
*****************************************************
```

[Title]

[Summary]

Number of loading manholes	:	48
Number of outlets	:	2
Number of junction chambers	:	0
Number of wet wells	:	0
Number of pipes	:	48
Number of force-mains	:	0
Number of pumps	:	0

[Loading Manholes]

Manhole ID	Base Flow	Storm Load	Total Flow
10	0.0000	0.0000	0.0000
42	0.0000	0.0000	0.0000
48	0.0000	0.0000	0.0000
50	0.0000	0.0000	0.0000
501	0.0000	0.0000	0.0000
502	0.0000	0.0000	0.0000
503	0.0000	0.0000	0.0000
504	0.0000	0.0000	0.0000
505	0.0000	0.0000	0.0000
506	0.0000	0.0000	0.0000
507	0.0000	0.0000	0.0000
508	0.0000	0.0000	0.0000
509	0.0000	0.0000	0.0000
510	0.0000	0.0000	0.0000
511	0.0000	0.0000	0.0000
512	0.0000	0.0000	0.0000
52	0.0000	0.0000	0.0000
54	0.0000	0.0000	0.0000
56	0.0000	0.0000	0.0000
58	0.0000	0.0000	0.0000
604	0.0000	0.0000	0.0000
731	0.0000	0.0000	0.0000
732	0.0000	0.0000	0.0000
733	0.0000	0.0000	0.0000
734	0.0000	0.0000	0.0000
735	1.5900	0.0000	1.5900
739	0.0000	0.0000	0.0000
740	0.0000	0.0000	0.0000
747	1.5900	0.0000	1.5900

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749	0.0000	0.0000	0.0000
751	0.0000	0.0000	0.0000
753	0.0000	0.0000	0.0000
755	0.0000	0.0000	0.0000
757	0.0000	0.0000	0.0000
759	0.0000	0.0000	0.0000
761	0.0000	0.0000	0.0000
763	0.0000	0.0000	0.0000
765	0.0000	0.0000	0.0000
767	0.0000	0.0000	0.0000
769	0.0000	0.0000	0.0000
771	0.0000	0.0000	0.0000
773	0.0000	0.0000	0.0000
775	0.0000	0.0000	0.0000
777	0.0000	0.0000	0.0000
779	0.0000	0.0000	0.0000
781	0.0000	0.0000	0.0000
783	0.0000	0.0000	0.0000
785	0.0000	0.0000	0.0000

Gravity Main Results: Industrial Way (Alternatives A & B)
Park Rd (Alternative A)

[Pipes]

Pipe ID	From ID	To ID	Pipe Count	Pipe slope	Pipe Diam	Total Flow	Storm Load	UnPeak Flow	Peak Flow	Cover Flow	I/I Flow	Flow Veloc	Actual d/D	Flow Depth	Froude Number	Crit Depth	Full Flow	Cover Count
100	512	511	1	0.001	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.30	1.00	1.17	0.38	0.555	1.21	0.00
102	505	604	1	0.002	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.75	0.78	0.91	0.50	0.641	1.67	0.00
104	604	504	1	0.002	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.76	0.78	0.91	0.51	0.641	1.67	0.00
106	504	503	1	0.002	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.77	0.77	0.90	0.51	0.641	1.68	0.00
108	503	502	1	0.002	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.86	0.75	0.88	0.54	0.641	1.74	0.00
114	501	743	1	0.016	14.00	1.59	0.00	1.59	0.00	0.00	0.00	5.88	0.41	0.48	1.72	0.641	4.43	0.00
118	735	734	1	0.011	14.00	1.59	0.00	1.59	0.00	0.00	0.00	5.15	0.46	0.53	1.42	0.641	3.70	0.00
130	747	749	1	0.023	14.00	1.59	0.00	1.59	0.00	0.00	0.00	6.67	0.38	0.44	2.06	0.641	5.26	0.00
132	749	751	1	0.031	14.00	1.59	0.00	1.59	0.00	0.00	0.00	7.47	0.35	0.40	2.42	0.641	6.15	0.00
134	751	753	1	0.016	14.00	1.59	0.00	1.59	0.00	0.00	0.00	5.89	0.41	0.48	1.72	0.641	4.44	0.00
138	755	757	1	0.031	14.00	1.59	0.00	1.59	0.00	0.00	0.00	7.42	0.35	0.41	2.39	0.641	6.10	0.00
140	757	759	1	0.056	14.00	1.59	0.00	1.59	0.00	0.00	0.00	9.19	0.30	0.35	3.23	0.641	8.21	0.00
142	759	761	1	0.055	14.00	1.59	0.00	1.59	0.00	0.00	0.00	9.16	0.30	0.35	3.22	0.641	8.17	0.00
144	761	763	1	0.057	14.00	1.59	0.00	1.59	0.00	0.00	0.00	9.25	0.30	0.35	3.27	0.641	8.29	0.00
146	763	765	1	0.048	14.00	1.59	0.00	1.59	0.00	0.00	0.00	8.73	0.31	0.36	3.01	0.641	7.64	0.00
148	765	767	1	-0.013	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.30	1.00	1.17	0.38	0.641	1.59	0.00
150	767	769	1	-0.014	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.30	1.00	1.17	0.38	0.641	1.59	0.00
152	769	771	1	0.000	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.30	1.00	1.17	0.38	0.641	1.59	0.00
154	771	773	1	0.029	14.00	1.59	0.00	1.59	0.00	0.00	0.00	7.29	0.35	0.41	2.34	0.641	5.95	0.00
156	773	775	1	0.030	14.00	1.59	0.00	1.59	0.00	0.00	0.00	7.39	0.35	0.41	2.38	0.641	6.06	0.00
158	775	777	1	0.029	14.00	1.59	0.00	1.59	0.00	0.00	0.00	7.28	0.35	0.41	2.33	0.641	5.93	0.00
160	777	779	1	-0.089	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.30	1.00	1.17	0.38	0.641	1.59	0.00
162	753	781	1	0.068	14.00	1.59	0.00	1.59	0.00	0.00	0.00	9.88	0.28	0.33	3.58	0.641	9.08	0.00
166	781	783	1	-0.059	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.30	1.00	1.17	0.38	0.641	1.59	0.00
168	783	755	1	0.078	14.00	1.59	0.00	1.59	0.00	0.00	0.00	10.39	0.27	0.32	3.84	0.641	9.74	0.00
170	779	785	1	0.075	14.00	1.59	0.00	1.59	0.00	0.00	0.00	10.22	0.28	0.32	3.75	0.641	9.53	0.00
172	785	52	1	0.091	14.00	1.59	0.00	1.59	0.00	0.00	0.00	10.96	0.26	0.31	4.13	0.641	10.50	0.00
20	10	48	1	0.002	24.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.000	5.68	0.00
22	48	50	1	0.002	24.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.000	5.75	0.00
24	50	52	1	0.001	24.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.000	5.63	0.00
26	52	54	1	0.001	24.00	1.59	0.00	1.59	0.00	0.00	0.00	2.38	0.36	0.73	0.57	0.545	5.61	0.00
28	54	56	1	0.002	24.00	1.59	0.00	1.59	0.00	0.00	0.00	2.46	0.36	0.71	0.60	0.545	5.86	0.00
30	56	58	1	0.002	24.00	1.59	0.00	1.59	0.00	0.00	0.00	2.42	0.36	0.72	0.59	0.545	5.74	0.00
32	58	OUTLET	1	0.011	24.00	1.59	0.00	1.59	0.00	0.00	0.00	4.91	0.22	0.43	1.57	0.545	15.45	0.00
74	734	733	1	0.083	14.00	1.59	0.00	1.59	0.00	0.00	0.00	10.60	0.27	0.31	3.95	0.641	10.03	0.00
76	733	732	1	0.031	14.00	1.59	0.00	1.59	0.00	0.00	0.00	7.45	0.35	0.41	2.41	0.641	6.12	0.00
78	732	731	1	0.031	14.00	1.59	0.00	1.59	0.00	0.00	0.00	7.42	0.35	0.41	2.39	0.641	6.10	0.00
80	731	740	1	-0.001	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.30	1.00	1.17	0.38	0.641	1.59	0.00
82	740	739	1	0.001	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.30	1.00	1.17	0.38	0.555	1.21	0.00
84	511	510	1	0.004	14.00	1.59	0.00	1.59	0.00	0.00	0.00	3.42	0.64	0.74	0.75	0.641	2.16	0.00
86	510	509	1	0.004	14.00	1.59	0.00	1.59	0.00	0.00	0.00	3.39	0.64	0.75	0.74	0.641	2.14	0.00
88	509	508	1	0.003	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.90	0.74	0.86	0.56	0.641	1.77	0.00
9	42	10	1	0.002	24.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.000	5.69	0.00
90	508	507	1	0.002	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.30	1.00	1.17	0.38	0.628	1.53	0.00
92	507	506	1	0.005	14.00	1.59	0.00	1.59	0.00	0.00	0.00	3.70	0.60	0.70	0.85	0.641	2.39	0.00
94	506	505	1	0.000	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.30	1.00	1.17	0.38	0.372	0.56	0.00
96	502	501	1	0.006	14.00	1.59	0.00	1.59	0.00	0.00	0.00	3.93	0.57	0.66	0.94	0.641	2.59	0.00
98	739	512	1	0.001	14.00	1.59	0.00	1.59	0.00	0.00	0.00	2.30	1.00	1.17	0.38	0.560	1.23	0.00

Letter
B3
Attach.

Letter
B3
Attach.

Force Main Results: Park Rd (Alternative A)

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Page 1                                    Mon Apr 03 16:46:19 2006

**********************************************************************
***                      H2OMAP Water GIS                          ***
***                  Comprehensive Analysis of                     ***
***               Water Distribution Piping Network                ***
**********************************************************************


     Input Data File ................... C:\2134\Stetson Runs\Stetson 1\Stetson
1.OUT\SCENARIO\STETSON1_12IN\~INP
     Number of Junctions................ 12
     Number of Reservoirs............... 1
     Number of Tanks ................... 0
     Number of Pipes ................... 12
     Number of Pumps ................... 0
     Number of Valves .................. 0
     Headloss Formula .................. Hazen-Williams
     Hydraulic Timestep ................ 1.00 hrs
     Hydraulic Accuracy ................ 0.001000
     Maximum Trials .................... 40
     Quality Analysis .................. None
     Specific Gravity .................. 1.00
     Relative Kinematic Viscosity ...... 1.00
     Relative Chemical Diffusivity ..... 1.00
     Demand Multiplier ................. 1.00
     Total Duration .................... 0.00 hrs
     Reporting Criteria:
        All Nodes
        All Links

  Analysis began Mon Apr 03 16:46:19 2006


  Hydraulic Status:
  -----------------------------------------------------------------------
     0:00:00: Balanced after 2 trials
           Total Supplied:  1.59 mgd
           Total Demanded:  0.00 mgd
           Total Stored:    1.59 mgd
     0:00:00: Reservoir 7008 is filling
```

Force Main Results: Park Rd (Alternative A)

Page 2

Node Results:

Node	Demand mgd	Head ft	Pressure psi	
28	-1.59	194.64	80.00	
47	0.00	192.94	74.94	
49	0.00	191.45	65.62	
51	0.00	190.13	78.05	
53	0.00	187.73	72.68	
55	0.00	185.46	54.36	
57	0.00	184.79	45.41	
59	0.00	183.97	36.38	
61	0.00	182.37	27.02	
63	0.00	180.57	15.41	
65	0.00	178.36	3.62	
67	0.00	175.80	0.35	
7008	1.59	175.00	0.00	Reservoir

Link Results:

Link	Flow mgd	Velocity fps	Headloss ft
67	1.59	3.13	1.70
69	1.59	3.13	1.49
71	1.59	3.13	1.32
73	1.59	3.13	2.41
75	1.59	3.13	2.27
77	1.59	3.13	0.67
79	1.59	3.13	0.82
81	1.59	3.13	1.60
83	1.59	3.13	1.79
85	1.59	3.13	2.21
87	1.59	3.13	2.56
89	1.59	3.13	0.80

Analysis ended Mon Apr 03 16:46:19 2006

Force Main Results: Bayshore Rd (Alternative B)

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Page 1                                    Tue Apr 04 19:18:21 2006

*****************************************************************
***                      H2OMAP Water GIS                     ***
***                  Comprehensive Analysis of                ***
***               Water Distribution Piping Network           ***
*****************************************************************

     Input Data File ................... C:\2134\Stetson Runs\Stetson 2\Stetson
2.OUT\SCENARIO\STETSON2_10IN\~INP
     Number of Junctions................ 14
     Number of Reservoirs............... 1
     Number of Tanks ................... 0
     Number of Pipes ................... 14
     Number of Pumps ................... 0
     Number of Valves .................. 0
     Headloss Formula .................. Hazen-Williams
     Hydraulic Timestep ................ 1.00 hrs
     Hydraulic Accuracy ................ 0.001000
     Maximum Trials .................... 40
     Quality Analysis .................. None
     Specific Gravity .................. 1.00
     Relative Kinematic Viscosity ...... 1.00
     Relative Chemical Diffusivity ..... 1.00
     Demand Multiplier ................. 1.00
     Total Duration .................... 0.00 hrs
     Reporting Criteria:
        All Nodes
        All Links

Analysis began Tue Apr 04 19:18:21 2006


Hydraulic Status:
-----------------------------------------------------------------------
   0:00:00: Balanced after 2 trials
         Total Supplied:  1.59 mgd
         Total Demanded:  0.00 mgd
         Total Stored:    1.59 mgd
   0:00:00: Reservoir 7002 is filling
```

Force Main Results: Bayshore Rd (Alternative B)

Node Results:

Node	Demand mgd	Head ft	Pressure psi	
16	0.00	45.43	11.02	
20	0.00	86.76	28.93	
22	0.00	91.10	30.81	
23	0.00	31.59	5.02	
24	0.00	100.49	34.87	
28	0.00	113.29	40.42	
29	0.00	58.89	16.85	
33	0.00	69.83	21.59	
34	0.00	64.77	19.40	
35	-1.59	113.30	44.76	
38	0.00	37.84	7.73	
40	0.00	18.39	-0.70	
42	0.00	9.00	-0.30	
46	0.00	37.36	7.52	
7002	1.59	9.00	0.00	Reservoir

Link Results:

Link	Flow mgd	Velocity fps	Headloss ft
1	1.59	4.51	12.80
18	1.59	4.51	5.77
2	1.59	4.51	9.38
23	1.59	4.51	13.19
3	1.59	4.51	4.34
31	1.59	4.51	13.47
37	1.59	4.51	5.06
4	1.59	4.51	16.93
41	1.59	4.51	0.01
45	1.59	0.78	0.00
5	1.59	4.51	5.88
6	1.59	4.51	7.59
7	1.59	4.51	0.48
8	1.59	4.51	9.39

Analysis ended Tue Apr 04 19:18:21 2006

COMMENTOR B3
Miller Starr Regalia
Kristina D. Lawson
March 12, 2007

B3-1: This introductory comment suggests that the Draft EIR goes "above-and-beyond" what is required under CEQA in its identification of significant project impacts, and mitigation measures to reduce these impacts to a less-than-significant level. Detailed responses to these points are provided below.

B3-2: This comment refers to mitigation measures in the Draft EIR that involve the permitting authority of State and federal agencies, and the use of this permitting authority to reduce environmental impacts to a less-than-significant level. For instance, Mitigation Measure BIO-2a requires the project sponsor to obtain the appropriate federal and State permits authorizing fill of wetlands from Responsible Agencies (e.g., the Regional Water Quality Control Board (RWQCB), California Department of Fish and Game (CDFG), and the U.S. Army Corps of Engineers (Corps).

CEQA does not prohibit a lead agency from identifying mitigation measures that involve permitting authority by responsible agencies (i.e., public agencies, other than the lead agency, which have responsibility for carrying out or approving a project). Rather, *CEQA Guidelines* Section 15126.4 requires the lead agency to distinguish between measures proposed by the project sponsor and "other measures proposed by the lead, *responsible or trustee agency* or other persons which are not included but the Lead Agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project" (emphasis added). The mitigation measures in the Draft EIR rightfully distinguish between measures proposed as part of the project and measures proposed by other agencies, including responsible agencies.

The commenter's claim that the City's jurisdiction does not extend into wetlands and sensitive habitat within Benicia City limits is also incorrect. In fact, the City has the power to regulate land use (including the use of wetlands and creeks) if this regulation is reasonably related to public health and welfare. Because the protection of wetlands and creeks is directly related to public welfare, these resources are rightly under the jurisdiction of the City. This jurisdiction is shared with the City by other State and federal agencies, including the RWQCB, CDFG, and Corps. Therefore, mitigation measures identified in the Draft EIR that require City approval and monitoring and that relate to resources under the jurisdiction of other agencies besides the City do not "unlawfully extend the jurisdiction of the City."

B3-3: These comments claim that the mitigation measures that are recommended in the Draft EIR violate the current two-pronged test of appropriateness established by two seminal United States Supreme Court cases: *Nollan v. California Coastal Commission* (1987) and *Dolan v. City of Tigard* (1994). The two-pronged standard requires that: 1) a nexus exist between a project's impact and a condition imposed on a discretionary permit (e.g., mitigation measure/condition of approval) and 2) there be a reasonable relationship (or rough proportionality) between the project's impact and the condition imposed on the discretionary permit.

In determining whether the Nollan/Dolan standards have been met by cities that impose conditions on development projects, courts typically use an ad hoc analysis that examines "the size of the development, the demand for services, the burden that will be created by the development, and the development's overall effect on the city and the surrounding community" (Curtin's California Land Use and Planning Law, 2003). As the Court in *Dolan* stated in determining what constitutes the required nexus, "no precise mathematical calculation is required, but the City must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development."

The proposed project would be one of the largest development projects in the history of Benicia. Substantial evidence is provided in the almost 400 pages of the Draft EIR (not including technical appendices) that the project would result in significant impacts to environmental resources and public services in the City of Benicia. Significant impacts would result from 9,000,000 cubic yards of grading, the removal of intermittent drainages and wetlands on the site, and the generation of over 69,000 daily vehicle trips on an average day. The mitigation measures identified in the Draft EIR are consistent with the size of the project in the context of Benicia's existing population and employment base, the significant increase in demand for services and utilities that would result from the project, and the project's anticipated environmental effects on Benicia and surrounding areas, which include: significant levels of traffic, noise, and air pollution, the degradation of scenic landscapes, and the removal of wetlands, creeks, and other sensitive biological resources.

Therefore, the City of Benicia believes that the mitigation measures recommended in the Draft EIR meet the U.S. Supreme Court's nexus standard (i.e., the project would result in significant impacts in all of the environmental topical areas for which mitigation measures are identified) as well as the reasonable relationship or rough proportionality standard (i.e., the requirements of identified mitigation measures are consistent with the scale of the identified impacts).

Specific ways that the mitigation measures identified in the Draft EIR meet the two-pronged test of appropriateness established by Nollan/Dolan are provided in Response to Comment B3-35 and other comments in letter B3.

B3-4: The impact analysis in the Draft EIR was based on the phasing plan provided by the project sponsor as part of the project application, and has been used by the City to determine overall infrastructure needs for the project site and the timing of required infrastructure development (to mitigate the impacts of the project on utility infrastructure). Assurance that the phasing plan would not change as part of the project is necessary to identify the impacts of the project on water storage and distribution (including fire protection), wastewater collection (particularly off-site wastewater infrastructure), and the circulation system (particularly roadways, bike/pedestrian facilities, and transit). Therefore, the commenter's suggested changes have not been incorporated into the Draft EIR.

B3-5: Page 70 of the Draft EIR is revised as follows to substitute the word widened for the word reconstruction:

The proposed Master Plan includes the extension of Industrial Way, in the western portion of the project site, from East 2nd Street north to Lake Herman Road. This new roadway would replace existing Reservoir Road. Access to the project site would also be provided from Lake Herman Road along a new street labeled "A Boulevard" in the Master Plan, which would traverse the project site in an east/west direction and would connect with Industrial Way (Figure III-2). A connector street, Park Road, would connect East 2nd Street with the proposed A Boulevard in the southeastern portion of the site. Internal roads and cul-de-sacs would serve individual lots (Figure III-2). Access to the project site from the east would be from I-680 via Lake Herman Road and the proposed A Boulevard. Access from the west would be provided via East 2nd Street and Industrial Way. Access from the north would be from I-680 via Lake Herman Road and the proposed A Boulevard. East 2nd Street would be widened and/or reconstructed (as required by the City Engineer) from Industrial Way to Lake Herman Road and would be 70 feet wide (four lanes with a median) with 5-foot wide Class II bike lanes on each side of the road. Industrial Way would be 48 feet wide and would include a 10-foot wide off-street Class I bike path adjacent to the roadway. The graded embankment along East 2nd Street would have a slope of approximately 30 percent and would range from 16 to 40 feet in height.

B3-6: See Response to Comment B3-4.

B3-7: See Response to Comment B3-4.

B3-8: See Response to Comment B3-4.

B3-9: See Response to Comment B3-4.

B3-10: The comment claims that the proposed project is consistent with the Benicia General Plan. This claim is contrary to the conclusion of the Draft EIR, which identifies the project's inconsistencies with numerous General Plan policies adopted for the purpose of environmental protection as a significant and unavoidable impact. The comment claims that the project is consistent with the General

Plan because: 1) it is consistent with the General Commercial and Limited Industrial designations of the project site; 2) the General Plan encourages the development of industrial property; and 3) a finding of General Plan consistency requires only that the project be "in agreement or harmony with the terms of the applicable plan, not in rigid conformity with every detail thereof."

Regarding the first two items, the authors of the Draft EIR agree that the project is generally consistent with the General Plan designations for the site, and that the General Plan promotes the development of industrial space in the City. Indeed, these points are explicitly noted at the bottom of page 104 of the Draft EIR and in Table IV.A-1 (see Economic Development Policy 2.6.3). However, the project's consistency with these two General Plan components does not outweigh significant inconsistencies with over 60 General Plan goals, programs, and policies adopted for environmental protection, as detailed in Table IV.A-1 of the Draft EIR.

Regarding the third item, the project clearly fails even the standard put forth in the comment: that a consistency finding be made as long as the project is "in agreement or harmony" with the applicable provisions of the General Plan. The General Plan goals, programs, and policies listed in Table IV.A-1 are clear and unambiguous policy directives that were adopted for the purpose of environmental protection; the inconsistency findings are similarly unambiguous.

As one example out of numerous policies that are inconsistent with the project, Program 3.22.B of the General Plan directs: "Require a minimum setback of 25 feet from the top of bank of streams and ravines. Do not allow development within that setback." Even with an extremely narrow reading of Program 3.22.B, one would be hard-pressed to make a determination that the project – which would remove several on-site drainages and develop buildings and parking areas in the locations of these drainages – is "in agreement or harmony" with this program. Similarly, it would be challenging to substantiate that the project, which would result in 9,000,000 cubic yards of grading and massive changes to the hillsides of the project site, would be "in agreement and harmony" with Goal 3.16: "Preserve key land forms which separate Benicia physically and visually from adjacent communities." Table IV.A-1 provides other examples, many of which are contested by Comment Letter B-3. A few key policies that the comment claims are consistent with or do not apply to the project are addressed below:

- <u>Goal 2.2</u> (Maintain lands near Lake Herman and north of Lake Herman Road in permanent agriculture/open space use). The comment claims that the project site is "technically near" Lake Herman, but that Goal 2.2 does not apply to the project because certain lands around Lake Herman are already designated for open space uses. The project site is located approximately 0.38 mile east of Lake Herman, as shown in Figure IV.A-1. The site is highly visible from Lake Herman and the access road leading to the lake; the project would likewise affect the character of the open space around Lake Herman. Therefore, Goal 2.2 is applicable to the proposed project.

- Policy 2.21.1 (Provide and promote a range of travel alternatives to the use of the private automobile). The project includes minimal provisions for alternative transportation. The proposed internal circulation system features cul-de-sacs and other features that would be expected to discourage biking and walking. Therefore, the project would be inconsistent with Policy 2.21.1.
- Policies 3.21.1 and 3.22.1 (Encourage avoidance and enhancement of wetlands; avoid development that would degrade lakes and streams). The commenter claims that the project's inconsistencies with these policies are "nonexistent" because the project would preserve one drainage and adjacent open space, and that mitigation wetlands would be constructed to replace wetlands that are removed. Although the project would avoid impacts to one drainage, it would remove approximately 5.26 acres of existing wetlands and several existing drainages. Removed wetlands would be replaced with 7.28 acres of created wetlands; however, this mitigation may not be considered "enhancement" of wetlands. The relative value of an existing wetland versus a constructed wetland is one that will be considered by the City as it debates the merits of the project. Nevertheless, the project is clearly inconsistent with Policies 3.21.1 and 3.22.1: it would remove most of the wetlands and drainages on the site, and by doing so it would degrade streams.

The mitigation measures identified in the Draft EIR would not fully reduce the physical environmental effects of these policy inconsistencies to a less-than-significant level. As indicated on page 105 of the Draft EIR, the range and extent of the project's conflicts with General Plan policies adopted for environmental protection are so substantial that mitigation would not be feasible. Reducing these policy inconsistencies to a less-than-significant level would require a substantial reconfiguration of land uses on the project site. In the context of the currently-proposed project, this reconfiguration of land uses would be infeasible. However, feasible alternatives to the proposed project are provided in Chapter V. These alternatives would be consistent with General Plan policies adopted for environmental protection.

B3-11: See Comment B3-3.

The City of Benicia Municipal Code (BMC), Chapter 17.112 *Development Plan Review*, section 17.112.050, *Required Plans and Materials*, provides that prior to the issuance of a building permit, among the required submittals for review by the community development director shall be "a fully dimensioned landscape plan if required by BMC 17.70.190." BMC 17.70.190 requires compliance with this section by those sites requiring a zoning permit (the proposed project would require Master Plan overlay zoning), and specifies that, "landscape plans shall be prepared by a landscape designer, a licensed landscape architect or other qualified person, and no significant or substantive changes to approved landscaping or irrigation plans shall be made without prior written approval by the community development director and the landscape designer."

The nexus between Mitigation Measure GEO-2b and Impact GEO-2 is the potential for expansive (shrink-swell) soils at the site to be a source of property damage following construction of project improvements. Irrigation of landscaped areas could exacerbate the shrink-swell effects of soil underlying the project site. By requiring a low-water use landscape design during project planning, the adverse effects of expansive soils impacts would be minimized.

Mitigation Measure GEO-2b has been revised to reflect City requirements that that the landscape plans be prepared and approved prior to the issuance of site-specific building permits for the project, rather than "grading or building permits." This revision is minor and does not require recirculation of the Draft EIR.

> Mitigation Measure GEO-2b: Prior to the issuance of any site-specific ~~grading or~~ building permit, designs of all common landscaped areas shall be reviewed and approved by the City of Benicia Community Development ~~Planning and Building~~ Department. The designs of all common landscaped areas shall incorporate low water-need plantings to minimize the potential for damage associated to pavements, utilities, and structures from expansive soils. The use of similar landscaping shall be encouraged at individual parcels by providing information to new tenants regarding the relationship between irrigation and subsequent property damage. A document which describes the potential for damage from expansive soils from over-irrigation and includes solutions such as drought-tolerant plant material and drip irrigation systems shall be prepared by the applicant and provided to all occupants of the proposed commercial and industrial facilities. (LTS)

B3-12: Limiting responsibility for slope maintenance to only the disturbed portions of the site may leave heretofore undeveloped portions of the site without adequate and regular evaluation of potentially dangerous conditions. In addition, geotechnical concerns at the project site are not limited to those areas that would be disturbed, as the mechanisms by which slope instability, erosion and potential ground failure occur are not limited to the portions of the site that would be disturbed during the development process. In addition, failures in undeveloped areas may expand to include developed areas; therefore, it is prudent to include the entire site within the slope maintenance program.

Based on the proposed Vesting Tentative Map for the Benicia Business Park, dated February 2004, by Morton and Pitalo, Inc., the project has numerous areas where cut slopes would occur. The more northerly cuts would leave substantial slopes above and behind the proposed building pads. These are the "cut slopes along the northern portion of the project site" that are referred to in the Draft EIR. Mitigation Measure GEO-3b is revised to delete the location-specific reference to cut slopes and generalize the repair requirement to all cut slopes on the project site.

The identified impact – potential long-term deformation related to construction of

deep fills and cut slopes – would be mitigated by two separate measures. The first (GEO-3a) requires that construction be conducted according to best engineering practices. The second (GEO-3b) requires that a responsible entity maintain the site slopes and drainage features in perpetuity. To that end, it is necessary that an active self-perpetuating slope maintenance program be established. The program would continue to function under changes in ownership or usage of the project site. Such a program would serve to mitigate the potential long-term impacts associated with slope instability. The slope maintenance program would be sponsored and implemented by the property owners. If the entire completed project is owned by one individual or entity, then that individual or entity would be responsible for the implementation of the program.

Under Mitigation Measure GEO-3b, it is required that the annual report documenting inspections and any remedial activities be reviewed and approved by the City of Benicia Public Works department. The commenter indicates that the City's approval of the report should not be required. However, without review and proactive oversight, the annual report alone would not provide complete mitigation. In order to clarify the requirement, the text of the mitigation measure shall be amended to include the following supplemental language: "Approval shall consist of the report being reviewed and approved by a City of Benicia City Engineer in a manner similar to that required by the Grading and Erosion control requirements of the City of Benicia Municipal Code Section 15.28.040 - Hazards" (or its successor). Section 15.28.040 states: "Whenever the city engineer determines that any existing excavation, embankment or fill on private property has become a hazard to life or limb, endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the city engineer shall within the period specified therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this chapter. (Ord. 96-1)."

Mitigation Measure GEO-3b is revised as follows. This minor modification would not require recirculation of the Draft EIR.

> Mitigation Measure GEO-3b: Prior to the issuance of any site-specific grading or building permit, the applicant shall establish a self-perpetuating slope maintenance program (to be managed by a project site business owners association or similar entity), to be reviewed and approved by the City of Benicia ~~Planning and Building~~ Public Works Department. The self-perpetuating slope maintenance program shall include annual inspections of slopes, debris benches, and v-ditches. Any accumulation of slope detritus on the benches or in the v-ditches shall be promptly removed. The association would also be responsible for repair of any slope failures that may occur on the cut slopes ~~along the northern portion~~ of the project site. An annual report documenting the inspection and any remedial action conducted shall be submitted to the Planning and Building Divisions of the Community

Development Department and the Engineering Division of the Public Works Department for review and approval. Approval by the City of Benicia City Engineer is required with respect to the Grading and Erosion control requirements of the City of Benicia Municipal Code Section 15.28.040 – Hazards (or its successor). (LTS)

B3-13: *CEQA Guidelines* Section 15382 notes that a substantial effect on the environment means "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the proposed project, including land, air, water, minerals, flora, ambient noise, and objects of historic or aesthetic significance." The Draft EIR identifies several environmental impacts of the project that would result from pre-existing conditions (among them, Impact GEO-5: exposure of persons on the project site to accidental overflows from the Water Treatment Plant).

Identification of impacts resulting from pre-existing conditions is wholly within the realm of environmental review required by CEQA, and is consistent with *CEQA Guidelines* Section 15382. In the case of Impact GEO-5, the "adverse change" in the environment is not potential flooding created by the Water Treatment Plant – the pre-existing condition – but the development of business park uses in a potential flood zone and lack of a design strategy to address these hazards. Other topical areas in which impacts from existing conditions could be properly said to result include hazards and hazardous materials (in which existing site contamination could increase the health risks to a proposed project's employees or residents) or noise (in which adjacent or nearby noise conditions make a given site too loud for sensitive land use like a school or hospital).

B3-14: See Response to Comment B3-3. The *environmental* impacts of the project and the *fiscal and economic* effects of the project are distinct and unrelated issues (with the exception of the complex interplay of the two on the subject of urban decay). The fact that the project may result in net revenue for the City would not reduce or alleviate the significant environmental effects of the project.

Requiring a mitigation measure to be self-perpetuating is a standard and defensible approach to mitigating impacts that continue during the operational period of a project (i.e., impacts that are not only associated with project construction, such as an impact to wetlands). In the case of Impact HYDRO-1, which is discussed on pages 138 and 139 of the Draft EIR, the project would permanently increase impervious surface coverage and modify drainage patterns through the life of the project, resulting in the potential for long-term flooding and erosion. A drainage system maintenance program would be necessary to ensure, in the long-term, that the features built to reduce flooding and erosion on the site are well-maintained and would reduce flooding and erosion impacts to a less-than-significant level. This mitigation measure meets the two-pronged test put forth in Nollan/Dolan: 1) the project's impact (potential for increased flooding and erosion) is related to Mitigation Measure HYDRO-1 (requiring the evaluation of potential flooding and implementation of measures that would

reduce flooding) and 2) the long-term flooding and erosion impacts are roughly proportional to the mitigation measure, which requires the establishment of a long-term drainage maintenance program.

B3-15: See Response to Comment B3-14. The potential generation of municipal revenue by the project would not reduce the project's significant environmental impacts or substitute for adequate mitigation measures.

B3-16: See Response to Comment B3-14.

B3-17: See Response to Comment B3-2 regarding incorporating the requirements of responsible agencies in mitigation measures, and the jurisdiction of the City over wetlands. Mitigation Measure BIO-2b rightfully distinguishes between measures proposed as part of the project and measures proposed by other agencies, including responsible agencies. Implementation of the Sycamore Associates wetland mitigation and monitoring report (as modified by the WRA feasibility analysis) would be required as part of Mitigation Measure BIO-2b in the Draft EIR. Prior to implementation, the mitigation plans would be approved by the Corps and City of Benicia. Minor changes and updates to the Sycamore Associates/WRA plan would be made at that time, if necessary. The existing Sycamore Associates/WRA Plan, along with Mitigation Measures BIO-2a, 2b, 2c, and 2d in the Draft EIR, would reduce impacts to wetlands on the site to a less-than-significant level. It is possible that an alternate wetland mitigation plan would not adequately reduce impacts to wetlands resulting from implementation of the proposed project. Therefore, substitution of a generic wetland mitigation plan prepared by "a qualified wetlands consultant" for the Sycamore Associates/WRA plan may not comprise adequate mitigation.

B3-18: See Response to Comment B3-17.

B3-19: See Response to Comment A5-4.

B3-20: Refer to Response to Comment B3-2 regarding incorporating permitting requirements of responsible agencies into mitigation measures. Mitigation Measure BIO-2e is revised as follows:

Mitigation Measure BIO-2e: A conservation easement (or similar restriction) shall be established over the preserved and created wetlands to preserve these wetlands in perpetuity. A designated public ~~The City of Benicia or other public resource~~ agency, conservation group, or open space organization shall hold the easement to ensure retention of the wetland mitigation site (including the mitigation wetlands and the associated uplands) ~~is land~~ in perpetuity as wetland habitat.

B3-21: See Response to Comment B3-17.

B3-22: It is appropriate that the City of Benicia, as the lead agency, consult with the lead project botanist to develop avoidance measures. Mitigation Measure BIO-3 is revised as follows. This revision is a minor change to the wording of the mitigation measure. Recirculation of the Draft EIR would not be required.

Mitigation Measure BIO-3: Prior to construction of the project, a survey shall be conducted for pappose tarplant, to locate and map any individuals of this species on the site and to estimate the population size. If papoose tarplant is found on the site, then the following standards and procedures shall be implemented.

- If feasible, impacts to these plants shall be avoided completely. If complete avoidance is not possible, the extent of impact will be ~~r~~ minimized to the extent possible by the proposed development project. The project sponsor and City, in consultation with a qualified botanist, shall determine the feasibility of implementing avoidance measures and shall develop and implement those measures based on the botanist's recommendations and field assistance. Avoidance measures include redesigning the project footprint, avoiding changes in the hydrology of the plants' habitat, fencing the existing plants with ESA fencing prior to construction and establishing a buffer zone, and training construction personnel to identify this species. Long-term avoidance measures shall also be developed to ensure the long-term stability of the population.
- If impacts to pappose tarplant are unavoidable, the project sponsor shall develop and implement a salvage and recovery plan for individuals prior to initiation of construction activities on the site. The mitigation plan, which shall be prepared by a qualified botanist experienced in the development and implementation of native plant restoration, mitigation, and management plans, shall include the following:
- Salvage and/or recovery requirements, including clearly defined goals focusing on plant establishment (stability, succession, reproduction) and non-native species control measures.
- Locations and procedures for restoration/replanting of salvaged plant material including seeds. Onsite relocation in the undeveloped areas of the site shall be considered if suitable habitat for this species is present.
- Specification of a 5-year post-construction maintenance and monitoring program by a qualified restoration team to ensure that the project goals and performance standards are being met. The monitoring program shall include provision for remedial actions to correct deficiencies, as needed. After 5 years, the species relocation shall be considered successful if the number of plants that were removed on the site is successfully established at the mitigation site at a minimum of a 1:1 ratio. Annual reports and a final report prepared by the project sponsor and subject to

approval by CDFG shall document the progress/success of the revegetation effort. If the revegetation is not successful, an additional period of correction and monitoring shall be specified.

- The project sponsor shall provide and secure a source of funding for this salvage and monitoring operation.

- The mitigation shall be considered a success if for the last 3 years of the 5-year monitoring program, the numbers of pappose tarplants has remained above the number of individuals that were adversely affected by the project (1:1 mitigation). The populations should show no sign of decline during this period. In addition, for at least the last 4 of 5 monitoring years, the growth of grass, presence of thatch, and growth of weeds should not hinder tarplant plants. Grazing is a potential management tool to reduce competition from non-native grasses and weeds. If the mitigation is unsuccessful after 5 years because the number of tarplants is less than a 1:1 ratio during the last 3 monitoring years (Years 3, 4 and 5), then monitoring could ~~shall~~ be continued for a 6th year if it is feasible that a 1:1 ratio could be achieved for Years 4, 5, and 6 ~~it is warranted~~. If the lack of success after 5 years suggests that a 6th year of monitoring is not warranted, off-site mitigation land that supports this species shall be purchased. The purchase of these lands shall be approved by the City or CDFG. (LTS)

B3-23: See Response to Comment B3-2.

B3-24: See Response to Comment B3-2.

B3-25: Mitigation Measure BIO-4c is revised as follows to clarify that mitigation would only be required if California red-legged frogs are affected by the project.

Mitigation Measure BIO-4c: If no California red-legged frogs are observed during the surveys, and the USFWS and CDFG concur with the findings of the surveys, then the sponsor shall comply with protection measures required by the USACE, USFWS or CDFG. At a minimum, the following protection measures shall be implemented.

- A qualified biologist shall monitor all construction or ground disturbing activities within 300 feet of suitable red-legged frog aquatic habitat.
- Immediately prior to ground disturbance or construction activities in areas with aquatic habitats or within 300 feet of aquatic habitats, a qualified biologist shall survey the work area for California red-legged frogs.
- If red-legged frogs are found within the work area, all work shall cease and the occurrence shall be reported immediately to the City, USFWS and CDFG. Work onsite shall resume only when authorized by the USFWS. If red-legged frogs are found, a~~A~~ report shall be prepared at the

end of each construction season detailing the results of the monitoring effort. The report shall be submitted to the City by November 30 of each year. (LTS)

B3-26: The passerine nest and raptor report would be prepared for the City of Benicia. Copies of the report would be provided to the appropriate natural resources agencies.

B3-27: See Response to Comment B3-2.

B3-28: See Response to Comment B3-2.

B3-29: Per Mitigation Measure BIO-8d, funding would only be required if and when special status bats are identified on the site; however, the applicant must identify the funding source to ensure that the mitigation would be accomplished (i.e., to ensure that mitigation measures in the Draft EIR would adequately reduce impacts). Refer to Response to Comment B3-2 regarding the appropriate role of responsible agencies.

B3-30: According to Table 2 of the BAAQMD *CEQA Guidelines*, December 1999, p. 15, the optional control measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason may warrant additional emissions reductions. Since the project site is much larger than 4 acres, and is located near residential uses, the optional control measures are warranted.

B3-31: Depending on site design, it is possible that not *all* buildings within 199 feet from the centerline of the outermost travel lane of Lake Herman Road and within 263 feet from the centerline of the outermost travel land of East 2nd Street would be exposed to unacceptable levels of interior noise.

Mitigation Measure NOI-2b is revised as follows. This revision is a minor change of an existing mitigation measure and would not require recirculation of the Draft EIR.

> Mitigation Measure NOI-2b: If a sound study confirms that the interior noise level without sound-attenuated ventilation systems would exceed the City's standards, s~~S~~ound-attenuated ventilation systems, such as air conditioning, shall be installed in all buildings that require good speech intelligibility (as outlined in sub-note 5 of Table IV.I-4) for buildings located as follows:
>
> - Within 199 feet from the centerline of the outermost travel lane of Lake Herman Road;
> - Within 263 feet from the centerline of the outermost travel lane of East 2nd Street.

B3-32: Mitigation Measure VIS-3c is revised as follows. This revision which also accounts for changes made in Response to Comment C2-37, is a minor change to the wording of the mitigation measure. Recirculation of the Draft EIR would not be required.

> Mitigation Measure VIS-3c: The water storage tanks shall be screened by native vegetation. Trees shall be planted to obscure at least 50 percent of the water tanks within 10 years of final project build out. A 20-foot buffer between the vegetation and tanks would be required to maintain access to the tanks. The trees shall be properly planted and maintained by the project sponsor or its successor-in-interest.

B3-33: Pages 50 and 51 of the Draft EIR are modified as follows:

K. CULTURAL AND PALEONTOLOGICAL RESOURCES			
CULT-1: Ground-disturbing project construction could result in adverse impacts to cultural resource BBP-2 in the project area.	S	CULT-1a*: Lot plans for the project site shall be designed to avoid impacts to BBP-2. The design shall employ impact avoidance strategies as described in 14 CCR §15126.4(b)(3)(B)(2-3) by either: (1) incorporating BBP-2 and a 25-foot buffer around its known boundary in project area open space, thus providing for its protection from future ground disturbance; or (2) capping BBP-2 and a 25-foot buffer around its known boundary with at least two feet of chemically neutral fill devoid of cultural debris and a layer of geofabric between the fill and the surface of the site and buffer zone area. Prior to placing BBP-2 in open space or capping the deposit, archaeological boundary definition excavation shall be conducted to identify the limits of subsurface deposits and features and assist in establishing protective measures. If option #2 (capping) is selected, the location of BBP-2 and the 25-foot buffer shall be recorded on the tentative map prior to final permit approval, and no ground-disturbing construction shall occur below the depth at which the fill meets the original ground surface.	LTS
		CULT-1b*: In accordance with the recommendations presented the *Benicia Business Park Cultural Resources Assessment* (prepared by Ric Windmiller in November 2006), the following actions shall be taken prior to project construction if avoidance or capping as described in Mitigation Measure CULT-1a is not feasible. The applicant shall undertake archaeological excavation to document and analyze BBP-2.	

*Either Mitigation Measure CULT-1b or Mitigation Measure CULT-1b shall be implemented.

B3-34: The following minor revision is made to the wording of Impact PUB-1:

Impact PUB-1: The project would increase demand for fire protection and emergency medical services, police services, and Public Works maintenance and operation services~~, and Parks Department services~~. (S)

B3-35: See Response to Comment B3-3 for a general discussion of the consistency of proposed mitigation measures in the Draft EIR with the nexus and reasonable relationship tests set forth by the U.S. Supreme Court. The proposed project is one of the largest development projects in the history of Benicia, and would

result in the development of 4,443,000 square feet of industrial uses, 857,000 square feet of commercial uses, 180 acres of open space, two 1,000,000-gallon water tanks, and a new roadway network on the project site. As described on pages 326 and 327 of the Draft EIR, the proposed project would substantially increase demand for fire protection and emergency medical services, law enforcement services, and maintenance and operation services (due to increased maintenance of roads and other infrastructure). This conclusion was reached after an analysis of the net change in demand for services resulting from the proposed project. This analysis was conducted by the City of Benicia Public Works Department and Community Development Department, the City of Benicia Fire Department, and the City of Benicia Police Department, in collaboration with LSA Associates. Therefore, there is a nexus between the impact of the project on public services (a substantially increased demand) and Mitigation Measure PUB-1a, which requires the project sponsor to set aside a parcel that would accommodate the construction of a new Fire Department sub-station facility, 200 to 400 square feet of Police Department office space, and development of an auxiliary corporation yard. This set-aside would accommodate buildings required to provide the *net increase* in demand for public services that would result from implementation of the proposed project. Therefore, Mitigation Measure PUB-1a would meet the "rough proportionality" standard imposed by *Dolan v. City of Tigard*.

B3-36: Page 331 of the Draft EIR is revised as follows:

(1) Wastewater Treatment Facilities. The City of Benicia Wastewater Treatment Plant (WWTP) is located at the intersection of East 5th Street and East G Street. The WWTP has a design capacity of 4.5 mgd. Current average dry weather flow is approximately 3 mgd. <u>The maximum short-term hydraulic capacity to handle peak wet weather flows at the WWTP is approximately 30 mgd.</u> The WWTP provides secondary level treatment for domestic, commercial, and industrial wastewater. Untreated wastewater enters the WWTP from two main gravity sewer pipelines and a third wet weather gravity interceptor pipeline. Wastewater entering the WWTP is screened to remove larger objects and is then subject to primary sedimentation, solids treatment, and secondary sedimentation to remove small particles and contaminants. The effluent is then disinfected prior to discharge to the Carquinez Strait.

B3-37: The 2006 Stetson Engineers report is included in the Brown and Caldwell report as Appendix N. The Brown and Caldwell report served as the basis for Mitigation Measure UTIL-4. The information referenced in the second paragraph of comment B3-37 was provided by the City of Benicia Public Works Department. As indicated on page 332 of the Draft EIR, "the existing sewer collection system (including the existing pump station and force main systems) functions adequately and is serviceable according to Public Works Department maintenance and operations records."

B3-38: The requested text revision regarding peak hour wet weather wastewater flows is not substantiated in the sewer studies and is not incorporated into the text of the Draft EIR. Page 336 of the Draft EIR is revised as follows:

(1) Wastewater. Although implementation of the proposed project would result in an increase in the demand for wastewater treatment, storage, and disposal, this demand would not result in dry weather wastewater flows that exceed existing or planned capacity of the WWTP.

Calculated PWWF for the proposed project would be 1.59 mgd.[1] PWWF for the proposed project could adversely affect the capacity of the existing collection system. Under peak conditions, the 24-inch gravity sewer line would be slightly overloaded, but this would not warrant a pipeline replacement or relief sewer. The 24-inch gravity sewer line would have sufficient capacity through General Plan and project buildout. In addition, the east fork of the Industrial Park gravity sewer is in good condition and would have sufficient capacity through General Plan buildout with the proposed project. The proposed project would require new infrastructure. There should be limited to no inflow/infiltration into the infrastructure constructed as part of the project due to wet weather flows ~~and wet weather flows should not increase beyond what the development would contribute in dry weather~~.

B3-39: See Response to Comment A8-2.

B3-40: All water storage and pumping facilities would need to be installed prior to the first phase of development to allow for adequate fire protection and water use during the construction period. Therefore, the commenter's suggested revision to the first bullet point of Mitigation Measure UTIL-1 is rejected.

Mitigation Measure UTIL-1 is revised as follows. These revisions do not substantially change Mitigation Measure UTIL-1. They would continue to reduce Impact UTIL-1 to a less-than-significant level and would not require recirculation of the Draft EIR. The third bullet point of the mitigation measure remains unchanged because approval of each phase of development by the City would be necessary to ensure that proposed water supply infrastructure is adequate to serve proposed development.

Mitigation Measure UTIL-1: Construction of water supply infrastructure shall be subject to the following measures:

- All water storage and pumping facilities required to serve the proposed project shall be constructed and operational before the first phase of development begins. The main connections shall be sized to serve the whole development and not upsized with each phase.

[1] Brown and Caldwell, 2006. *Benicia Business Park Sewer Collection System Analysis*. October 16.

- All on-site water infrastructure improvements required to serve each phase of development shall be constructed in the initial year of development of that phase.
- The sponsor shall obtain City approval for each phase of development, including development of individual projects. Development plans for individual projects shall only be approved when a dependable and adequate water supply is available to serve new development.
- The two new tanks shown on the project plans are located at different elevations, which would require two separate pressure zones. ~~The City shall require the plans to be modified so that only one new pressure zone is required for the project site.~~ Pressure-reducing valve stations and zone valves shall be required to allow ~~this~~ the new zones to connect to the City's existing Zone 1 system in an emergency. (LTS)

B3-41: See Response to Comment A8-2.

B3-42: The provision in the second bullet point of Mitigation Measure UTIL-3 would not preclude sewer improvements from being constructed after approval of the final map. Instead, the second bullet point requires the City to review specific building permit applications to verify that sewer infrastructure would be adequate.

B3-43: Refer to Response to Comment A8-2 regarding sewer infrastructure alternatives. The installation of off-site wastewater collection improvements prior to the issuance of building permits for the first phase of the project would be necessary because the existing off-site sewer system does not have available capacity to accommodate new development on the site. Therefore, the commenter's recommended changes to the text of Mitigation Measure UTIL-4 are rejected. Mitigation Measure UTIL-4 is revised as follows, to clarify that only off-site wastewater improvements would be required prior to construction of Phase 1 of the project. This revision would not substantially change the intent of the mitigation measure and would not require recirculation of the Draft EIR.

Mitigation Measure UTIL-4: Prior to the issuance of building permits for Phase 1 of the proposed project, the project sponsor shall fully fund and install all the required ~~on-site and~~ off-site wastewater collection improvements to serve the project. Required improvements shall consist of one of the stand-alone alternatives listed in the Benicia Business Park Sewer System Collection Analysis (October 16, 2006) prepared by Brown and Caldwell that solely serves the proposed project. Required improvements include the following:

- Replace the existing 8-inch west fork of the Industrial Park gravity sewer system with a new 18-inch sewer line.
- Replace the existing 8-inch force main with a new 16-inch force main that is cross-connected to the existing force main.

- Replace the existing PILS to operate at a new higher pressure to maximize capacity in both pipelines. Upgrade the PILS to meet the design criteria of the two pipelines.
- Increase maintenance of eastern fork of gravity sewer to reduce root intrusion and the long-term settlement of debris.
- A force main surge analysis shall be performed prior to approval of final project design. Proposed improvements to the force main shall be reviewed and approved by the City prior to installation.

Implementation of the above mitigation measure would reduce impacts to the capacity of wastewater collection facilities to a less-than-significant level. (LTS)

B3-44: The project's "tenant mix," as indicated in Mitigation Measure DECAY-1 in the Draft EIR, is the "anticipated retail mix at the project site" referenced on page 345 of the Draft EIR. The anticipated retail mix was identified by Applied Development Economics (ADE) in the fiscal analysis prepared for the project and includes two hotels, a fitness club, movie theater, bank, gas station, and restaurants (as listed in Table IV.G-9 on page 226 of the Draft EIR). Mitigation Measure DECAY-1 is revised as follows. These revisions would not substantially change the mitigation measure and would not require recirculation of the Draft EIR.

> Mitigation Measure DECAY-1: Prior to issuance of a~~n~~ use ~~occupancy~~ permit for the proposed project, the City shall review the anticipated tenant mix of the Business Park and determine whether the mix has substantially changed from the anticipated ~~tenant~~ retail mix analyzed in this EIR. A substantial change in the anticipated retail ~~tenant~~ mix would be a change that increases the *potential* for urban decay in Downtown Benicia or other local commercial centers, and could include (but would not be limited to) the addition of a big box retail tenant. If the City determines that the new tenant mix has substantially changed, the project sponsor shall update the economic analysis prepared for the project, or provide a letter prepared by an economic analyst that discusses changes to the previous analysis. If the economic analysis shows that the new tenant mix could contribute to urban decay, the City and project sponsor shall develop a mitigation measure to reduce this impact to a less-than-significant level. Following implementation of this mitigation measure, a~~n~~ use ~~occupancy~~ permit could be issued. If the economic analysis shows that the new tenant mix would not result in significant urban decay impacts, the use ~~occupancy~~ permit could be issued without further analysis or mitigation.
>
> A revised economic analysis shall be similarly completed in conjunction with subsequent CEQA review of any changes to the project, if deemed necessary by the City. (LTS)

B3-45: The referenced line on page 354 of the Draft EIR indicates that the No Project alternative would not require infrastructure to be upgraded around the project site. This statement is correct: although infrastructure around the project site may be upgraded in the absence of the project, the No Project alternative would not *require* infrastructure changes around the project site. In other words, the No Project alternative would not be the cause of infrastructure upgrades.

B3-46: See Response to Comment B3-10.

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CITY OF BENICIA
COMMUNITY DEVELOPMENT

March 12, 2007

Cindy Gnos
Contract Planner
City of Benicia
250 East "L" Street
Benicia, CA 94510

Re: Benicia Business Park Draft Environmental Impact Report - Comments on Traffic Analysis

Dear Ms. Gnos:

This firm represents West Coast Home Builders, Inc., the owner of the Benicia Business Park property. By separate letter (which we incorporate by reference herein), we provided comments on the January 2007 Benicia Business Park Environmental Impact Report Public Review Draft prepared by LSA Associates, Inc. (the "DEIR"). We believe that the DEIR provides a detailed, comprehensive, and adequate analysis of the potentially significant impacts that may result from the proposed Benicia Business Park. However, with respect to transportation and circulation, the DEIR has greatly overestimated the potential impacts of the project. The purpose of this letter is to provide the City with our additional comments regarding the analysis contained in the Transportation and Circulation chapter of the DEIR. (See DEIR, Chapter IV.G.)

At our request, Abrams Associates Traffic Engineering, Inc. ("Abrams") reviewed the Transportation and Circulation section of the DEIR. As set forth in detail in the attached correspondence from Abrams (which we incorporate by reference herein), the DEIR greatly overestimated the number of trips that will be generated by the proposed project. Accordingly, to ensure the accuracy of the conclusions in the Final EIR, we respectfully request that the potentially significant impacts and proposed mitigation measures contained in the Transportation and Circulation chapter of the DEIR be reevaluated in light of the attached correspondence. When analyzed with the correct underlying assumptions, the actual transportation and circulation impacts of the Benicia Business Park project will be less than previously identified and analyzed, and the extent of mitigation required will necessarily be reduced. **1**

As a result of the overestimation of project trip generation, various conclusions in the Air Quality and Noise chapters of the DEIR (DEIR, Chapters IV.H, IV.I) must

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also be reevaluated and revised in the Final EIR. Specifically, Impact AIR-2 (related to project emissions, including mobile source emissions), Impact NOI-2 (regarding traffic-related noise), and all associated analysis and mitigation, must be updated.

1 cont.

On behalf of our client, we appreciate the opportunity to comment on the DEIR, and look forward to receiving and reviewing a Final EIR incorporating the above comments in the near future. If you have any questions regarding these comments, or if we can be of any assistance, please do not hesitate to contact me directly at (925) 941-3283.

Very truly yours,

Kristina D. Lawson

KDL:kdl

Attachment

cc: Charlie Knox, Community Development Director
Jeanne Pavao, Esq.
Wilson F. Wendt

Letter
B4
cont.

Abrams Associates
TRAFFIC ENGINEERING, INC.

March 12, 2007

Kristina Lawson
Miller Starr Regalia
1331 N. California Blvd, Fifth Floor
Walnut Creek, CA 94596

Re: Review of the Benicia Business Park DEIR and Analysis of Project Trip Generation

Dear Ms. Lawson:

The purpose of this letter is to provide a review of the transportation and circulation section of the Benicia Business Park Environmental Impact Report Public Review Draft (DEIR), dated January 2007, and to provide information on the potential trip generation of the project. Our analysis indicates that the DEIR has greatly overestimated the trip generation from the proposed project. Based on commonly accepted Institute of Transportation Engineers (ITE) procedures the project should generate more than 40 percent less (2,900 trips per hour) PM peak hour trips than what has been assumed in the DEIR. With a discrepancy of this magnitude it is clear that the Final EIR must include revisions to all roadway and intersection level-of-service (LOS) figures, and to the mitigation measures proposed. 2

In addition to our concerns about trip generation we find no justification based on the DEIR traffic data for some of the transit, pedestrian, and bicycle mitigations that have been proposed. We have also included some comments on this issue.

Project Trip Generation

We have conducted an in-depth analysis of the project trip generation and our conclusion is that the traffic from the proposed project would be about 40 percent less (2,900 trips) than what has been concluded in the EIR for the PM peak hour (the critical time period) and about 45 percent less (2,800 trips) for the AM peak hour. This conclusion is based on a number of problems with the trip generation methodology used in the DEIR that are discussed below: 3

1. The most significant problem with the trip generation is that no consideration was given for internal project trips. By calculating the trips for each individual use separately the overall external trips generated on the surrounding roadway system were overestimated by over 30%. Chapter 7 of the ITE Trip Generation Handbook[1] clearly lays out the procedures that need to be used when estimating trip generation for a large Multi-Use Sites such as this. In addition, the information provided in Appendix C of the Handbook clearly indicates that the 4

[1] ITE Trip Generation Handbook, Institute of Transportation Engineers, Washington D.C., June, 2004.

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use of the unadjusted ITE rates will generally overestimate the external traffic generated at multi-use sites by over 30 percent. This is based on extensive field studies of the actual trips counted at multi-use sites that found that the average daily internal capture rate at the sites surveyed was over 35 percent. **4 cont.**

2. The second most significant problem with the trip generation methodology used in the DEIR is the fact that no consideration was given for pass-by trips from the freeway. The ITE Trip Generation Handbook clearly indicates that over 50% of the traffic from uses such as the Gas Station and the Fast Food Restaurants could come from pass-by traffic diverted off of the freeway. The pass-by trips would all be new trips to the intersections on Lake Herman Road (between the project and the freeway) but on all other roadways in the study area the trips have been overestimated. **5**

   The problem is that the ITE procedures for accounting for pass-by and diverted linked trips need to be used to adjust the trips before they are distributed onto roadways like East Second Street, for example. The overestimated trip generation results in errors such as the estimate that the Benicia Business Park project will cause East Second Street to carry more than four and a half times more traffic than what is currently generated on that roadway.

3. Based on the above-mentioned factors we have prepared new trip generation estimates for the project. These are attached to this letter as Tables A-1, A-2, and A-3. We recommend that these estimates be incorporated into the traffic analysis through the Final EIR.

   If the proper ITE methodology is applied then the total project-generated trips should be roughly 4,000 trips during the PM peak hour. This is about 40 percent (almost 3,000 trips per hour) less than what the DEIR has used to determine the mitigations. The following is a description of each of the trip generation factors that were adjusted in our calculations:

   A) The 100,000 square feet (sq. ft.) of retail space has been combined with the 60,000 sq. ft. health club, the 28,000 sq. ft. of restaurants, and the 12,000 sq. ft. bank. These are all uses specified by ITE to be included in the "shopping center" trip generation category since they will be grouped together. Theoretically the movie theater could also be included since it is also one of the uses listed under the ITE description of a "shopping center". However, for the purposes of this analysis we have kept it separate. **6**

   B) The traffic from the "Flex Use" portion of the project was incorrectly estimated in the DEIR by using the ITE trip generation category of "Business Park". There may have been some confusion due to the fact the project has been named "Business Park" and that the ITE description for this use mentions "flex-type" buildings. However, based on the project description and the likely uses it is clear that the use of the "Business Park" trip generation category is not appropriate. This category is meant to include smaller tenants and include a focus on "offices, retail, wholesale stores, restaurants, and recreational areas". Based

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on the list of related uses for a "Business Park" this ITE category is clearly intended to be more like an office park. In addition, if this rate were to be used then components such as the retail space, the restaurants, the health club, and the bank would also need be included under this trip generation category, as per the "Business Park" description. Our recommendation is to calculate this portion of the project using the ITE trip generation category of "General Light Industrial".

C) Based on the methodology in Chapter 7 and the information in Appendix C of the ITE Trip Generation Handbook we conservatively estimate that 30% of the trips from the commercial uses and 10% of the trips from the office and industrial uses would be internal to the project site. For the movie theater a combination internal trip/pass-by trip reduction of 23 percent was applied, based on ITE data. **6 cont.**

D) Based on the methodology contained in Chapter 5 of the ITE Trip Generation Handbook the majority of the commercial uses (calculated as a "shopping center") would have a pass-by rate of about 34% with a freeway near by. The only other use that would draw pass-by trips from the freeway would be the gas station/convenience market. For this use a 56 percent reduction was applied to account for pass-by trips from the freeway. Again, please note that these pass-by reductions would not apply to the Lake Herman Road intersections.

Transit, Pedestrian, and Bicycle Impacts

We have also reviewed the mitigations presented for transit, pedestrian, and bicycle impacts. We are including these comments at this stage since it is unlikely the analysis of these issues will change as a result of revisions to the trip generation. Our comments on the potential impacts in these areas are discussed below:

1. The DEIR concludes that the project would be "inadequately served by existing transit facilities." While this may be true it is our understanding that this could only be considered a "significant impact" in one of two ways. The first is the project would have to have a significant impact on existing transit facilities. This is clearly not the case because there none exist that would serve the project. The only other way would be for the project to conflict with adopted City policies on the use alternative transportation, which similarly do not exist. We therefore recommend that mitigation TRANS-23 be deleted. **7**

2. The DEIR concludes that the project would "not include bicycle and pedestrian facilities" and provided mitigations to address "pedestrian and bicycle facility impacts". These impacts do not appear to be supported by evidence of existing or future bicycle/pedestrian volumes. If the project would generate enough pedestrian and bicycle trips (as well as transit trips) to create significant impacts, then there should also be some reduction made to the vehicle trip generation to account for the modal split since this would assume that less project trips would be made by car. **8**

   This comment is also quite unusual in that the project would be required by City

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codes to provide many of the items listed and this would normally be something the City would comment on when the construction plans are presented. To assume that the project will not provide these items would require one to assume that the City does not have adequate policies or plan review procedures in place to ensure that the requirements for pedestrian and bicycle safety are met. The Final EIR should provide the rationale for assuming the project is going to somehow be relieved of City and State requirements for pedestrian and bicycle facilities. It is recommended that this mitigation measure be deleted and that the items listed as mitigations be dealt with as part of the City's plan review of the project.

8 cont.

Based on the fact that the DEIR greatly overstates the project's trip generation, the Final EIR must include revised figures, analysis, and mitigation. Please don't hesitate to call if there are any questions.

Sincerely yours,

Stephen Abrams

Stephen C. Abrams
Vice President
T.E. License No. 1852

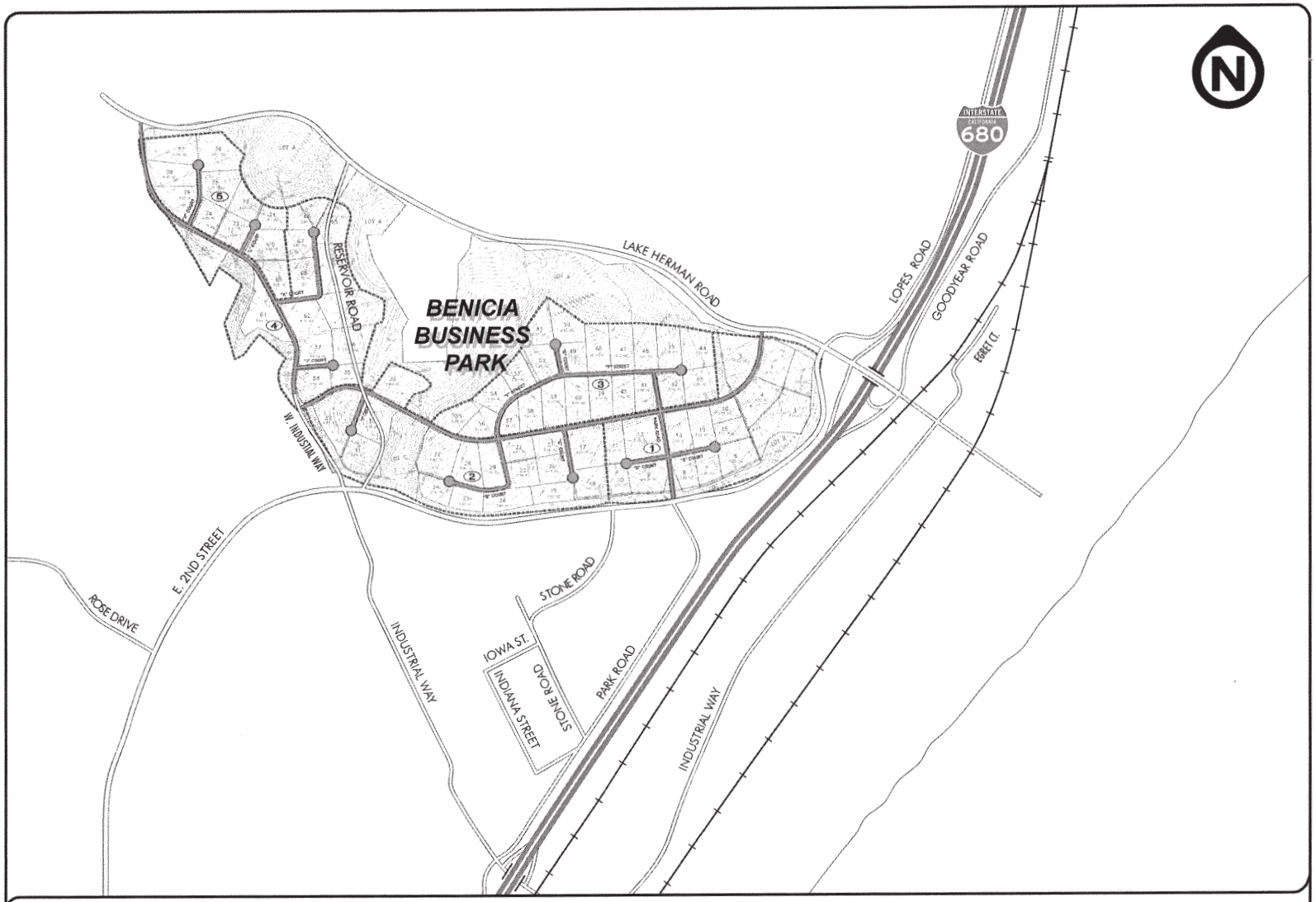

FIGURE 1 | PROJECT LOCATION

Benicia Business Park

City of Benicia

Abrams Associates
TRAFFIC ENGINEERING, INC.

Letter **B4** *Attach.*

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Abrams Associates
TRAFFIC ENGINEERING, INC.

Table A-1
Benicia Business Park - Abrams Associates Forecasts
COMMERCIAL TRIP GENERATION

Land Use	ITE Code	Size	ADT	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
Hotel/Conference Center	310	105 employees	1,506	43	29	72	45	39	84
Pass-By/Linked Trips - 30%			452	13	9	22	14	12	25
Net New Trips			1,054	30	20	51	32	27	59
Hotel (3 Stories)	310	87 employees	1,248	36	24	60	38	32	70
Pass-By/Linked Trips - 30%			374	11	7	18	11	10	21
Net New Trips			873	25	17	42	26	22	49
Office (4 Story)	710	200,000 sq. ft.	2,202	273	37	310	51	247	298
Internal Project Trips - 10%			220	27	4	31	5	25	30
Net New Trips			1,982	246	33	279	46	223	268
Movie Theater w/ Matinee	444	60,000 sq. ft.	2,280	0	0	0	107	121	228
Pass-By/Linked Trips - 23%			524	0	0	0	25	28	52
Net New Trips			1,756	0	0	0	83	93	176
Office (2 Story)	710	100,000 sq. ft.	1,101	136	19	155	25	124	149
Internal Project Trips - 10%			110	14	2	16	3	12	15
Net New Trips			991	123	17	140	23	111	134
Shopping Center	820	200,000 sq. ft.	8,588	126	80	206	360	390	750
Internal Project Trips - 30%			2,576	38	24	62	108	117	225
Net New Trips			6,012	88	56	144	252	273	525
Pass-By/Linked Trips - 34%			2,044	30	19	49	86	93	179
Net New Trips			3,968	58	37	95	166	180	347
Gas Station w/ Market	945	7,000 sq. ft.	6,092	277	266	544	337	337	675
Internal Project Trips - 30%			1,828	83	80	163	101	101	202
Net New Trips			4,264	194	187	381	236	236	472
Pass-By/Linked Trips - 56%			2,388	109	104	213	132	132	264
Net New Trips			1,876	85	82	167	104	104	208
Reseach and Development Center	760	50,000 sq. ft.	406	51	11	62	8	46	54
Internal Project Trips - 10%			41	5	1	6	1	5	5
Net New Trips			365	46	9	56	7	41	49
Total Commercial Trips		**857,000 sq. ft.**	**12,864**	**614**	**216**	**830**	**486**	**802**	**1,288**

Note: The 200 ksf shopping center includes 100 ksf of retail, the 60 ksf health club, 28 ksf of restaurants, and the 12 ksf bank with a drive thru.
Source: ITE Trip Generation, 7th Edition, 2003 and the ITE Trip Generation Handbook, 2nd Edition, 2004

Letter
B4
Attach.

Abrams Associates
TRAFFIC ENGINEERING, INC.

Table A-2
Benicia Business Park - Abrams Associates Forecasts
INDUSTRIAL TRIP GENERATION

Land Use	ITE Code	Size	ADT	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
Warehousing (Tilt Up)	150	2,021,000 sq. ft.	7,788	414	288	702	56	645	701
Internal Project Trips - 10%			779	41	29	70	6	65	70
Net New Trips			7,009	373	259	632	50	581	631
General Light Industrial (Flex)	110	2,423,000 sq. ft.	16,888	1,962	267	2,229	285	2,090	2,375
Internal Project Trips - 10%			1,689	196	27	223	28	209	237
Net New Trips			15,199	1,765	241	2,006	256	1,881	2,137
Total Industrial Trips		**4,444,000 sq. ft.**	**22,209**	**2,138**	**500**	**2,638**	**307**	**2,461**	**2,768**

Source: ITE Trip Generation, 7th Edition, 2003 and the ITE Trip Generation Handbook, 2nd Edition, 2004

Table A-3
Benicia Business Park - Abrams Associates Forecasts
TOTAL PROJECT TRAFFIC

Land Use	Size	ADT	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
Commercial Trips	857,000 sq. ft.	12,864	614	216	830	486	802	1,288
Industrial Trips	4,444,000 sq. ft.	22,209	2,138	500	2,638	307	2,461	2,768
Total Project Trips	**5,301,000 sq. ft.**	**35,073**	**2,752**	**716**	**3,468**	**793**	**3,263**	**4,056**

Note: This indicates the project's PM peak hour trip generation would be more than 40% (2,900 trips) below what was used in the DEIR and the AM peak hour would be about 45% less (2,800 trips).

COMMENTOR B4
Miller Starr Regalia
Kristina D. Lawson
March 12, 2007

Abrams Associates
Stephen C. Abrams
March 12, 2007

B4-1: This introductory comment, which suggests that the Draft EIR overestimates vehicle trips that would result from the project, is addressed in Responses to Comments B4-2 through B4-8, below.

B4-2: This comment introduces the conclusions made in the Abrams Associates letter, which are detailed in comments B4-4 through B4-8.

B4-3: See Responses to Comments B4-4 through B4-6.

B4-4: Reductions for internal trip capture were not taken because a specific list of tenants was not provided by the project sponsor. Therefore, any characterization of potential on-site trip interactions would be speculative. Due to the lack of any detail regarding land use locations on the project site, a conservative approach (one that does not assume that visitors to the business park would park once and walk to different destinations) to project trip generation was required.

B4-5: Only the extreme eastern edge of the project site is visible from northbound I-680. From southbound I-680, the project site is not visible until one has passed the Lake Herman Road interchange (which would require an awkward turning of the driver's head and viewing angle). Coupled with the fact that the location of each land use within the project site is unknown, any assumptions regarding pass-by trip reductions in the Draft EIR would be speculative. It is also unlikely that local traffic would divert to project commercial uses due to the low traffic volumes on the existing roadways in the vicinity of the project site. Given the location of the project site and the information available, it would not have been prudent to take pass-by trip reductions.

B4-6: The following discussion addresses the comment's claim that inappropriate land uses were assumed for the project, and that these assumptions resulted in an over-estimated projection of project-related trips.

Commercial Land Uses. Comment B4-6 suggests that several of the commercial land uses that would be constructed as part of the project should be viewed as one large shopping center land use. The Institute of Transportation Engineers (ITE) describes a shopping center as "an integrated group of commercial

establishments that is planned, developed, owned, and managed as a unit." Without a more detailed site plan, it would be speculative to assume that all of the commercial land uses would be designed or would operatate as one shopping center. Currently-available project information does not indicate that these commercial establishments would be located adjacent to each other, or that they would be planned, developed, owned, and managed as a unit.

It is worth noting the data in Table C.5 of the ITE Trip Generation Handbook that compares calculated trip generation and actual tip generation for shopping centers (aggregated into one land use, and disaggregated into its smaller components). For the disaggregated uses, the actual daily trip generation was found to be lower than the calculated trip generation. For the aggregated use, the actual daily trip generation was found to be slightly higher than the calculated trip generation. These findings are counterintuitive considering the fact that shopping centers have a lower peak hour trip generation than the sum of their parts. Thus, the findings in the ITE Trip Generation Handbook regarding shopping centers are inconclusive.

Characterization of Flex Use: The proposed industrial uses would include light manufacturing, transportation, and distribution firms, and some back office uses, like government facilities and labs. This description closely matches the description for the Business Park land use in the ITE Trip Generation Handbook (which, on average, includes 70 percent to 80 percent industrial/warehousing uses).

B4-7: Based on thresholds of significance used by the City of Benicia and listed on pages 228 and 234 of the Draft EIR, the proposed project would result in a significant impact on alternative transport modes if it would:

- Create direct transportation or circulation impacts associated with inconsistencies with General Plan policies, such as General Plan Circulation Policies 2.14.1 and 2.15.2, which give priority to pedestrian safety, access, and transit over automobile speed and volume, and encourage the development of pedestrian paths.
- Result in potential conflicts for pedestrians or bicyclists, or fail to provide adequate bicycle and pedestrian access.
- Increase transit demand above the levels provided by local transit operators or agencies.

Since the project would add several thousand vehicles to the local and regional roads during either peak hour, the potential for conflicts with pedestrians and bicycles would substantially increase. In addition, the project as currently proposed provides only minimal bike and pedestrian facilities, and no pedestrian paths. The proposed roadway network which features cul-de-sacs, would not encourage the use of alternative transportation modes and would be inconsistent with the General Plan (see Table IV.A-1 of the Draft EIR). Therefore, the project would create a significant impact to pedestrians and bicyclists. As a result, the

project would be required to provide adequate sidewalks, crosswalks, and bicycle facilities as mitigation measures.

Since the project would increase transit demand, and no transit service is presently available in the project area, the project would create a significant impact to transit (new demand for transit would not be adequately served by the existing transit system). The identification of these impacts to alternative transport modes is consistent with the City's criteria of significance.

B4-8: See Response to Comment B4-7. The conclusion that the project would not provide adequate bike and pedestrian access does not assume that a substantial proportion of the trips generated by the project would be bike/pedestrian trips. In fact, the lack of bike and pedestrian amenities provided as part of the currently-proposed project would suggest that a relatively low proportion of project trips would utilize alternative transportation. This is itself a significant environmental impact based on the criteria of significance used by the City.

Letter
B5

March 12, 2007

Cindy Gnos
Planner, City of Benica
250 East "L" Street, Benicia, CA 94510

Dear Cindy Gnos,

These comments are in regard to the Benicia Business Park Draft EIR. We are primarily concerned about two issues. First, the growth inducing impacts have not been fully analyzed or mitigated. And second, the impact that the project does not include transit facilities has not been analyzed or mitigated. I am incorporating by reference all of the comments that have been submitted for this Draft EIR. **1**

The City of Benicia has Sustainability as the Overarching Goal for the Benicia General Plan. The 2003 State General Plan Guidelines for Sustainable Development provide criteria for all elements to be considered for sustainable development. One focus of sustainable development is the jobs/housing balance. The projected jobs will not be filled by Benicians because the jobs don't match the demographics of the City residents. This will result in growth pressures.

The Draft EIR fails to fully analyze the growth inducing aspects. On page 112, the EIR states: "The County's existing housing supply, combined with a limited supply of land zoned for residential uses, would ensure that the project would not induce substantial population growth due to job creation." However, zoning can be changed. And because this project built out is around 20 years, this means that zoning could be drastically changed by built out. Also on pg 112 the Draft EIR states "Any development proposal(s) on rural lands to the north and west of the project site would be required to undergo planning review, and to secure various planning entitlements, including General Plan/Zoning Ordinance amendments, and, for lands outside City boundaries, annexations. Therefore, the project would not be expected to substantially induce growth on currently undeveloped land." Projects go through planning review processes and cities make annexations all of the time. Additionally, Solano County is currently going through a General Plan Update process which could result in substantially different land use maps. What is the impact of this project if an annexation occurs? What is the impact if zoning changes are approved? How will these changes to the Solano County General Plan effect the project? These questions have not been answered. The growth inducing aspect of this impact has not been adequately analyzed. Growth inducing aspects are in fact a significant impact and must be mitigated. **2**

The Draft EIR also mentions the voter approved Urban Growth Boundary (pg 371). But this sunsets in the year 2023 which is sooner than anticipated build out of the project. This means that at project build out there will be no urban growth boundary to mitigate for growth inducing aspects. What is the impact of his project after the sunset of the UGB? This has not been analyzed.

Letter
B5
cont.

Rather than ignore the impacts of growth inducement, the EIR should identify mitigation measures. To mitigate for growth inducement impacts of the project the developer must acquire key parcels that would prevent the conversion of open space area to development through conservation easements or fee titles for land along Lake Herman Road and Sky Valley. This would also provide unfragmented land to help mitigate for biological impacts. **2 cont.**

Traffic is mentioned numerous times as the impact of this project. The fact that the project doesn't include bicycle and pedestrian facilities is listed as an impact of the project. However it is not mentioned that there is no transit facilities at the site. This site would be a perfect location for an intermodal transit station which would help mitigate for the traffic effects and mitigate for the fact that there is no transit facilities on the site. An intermodal tranisit station would also provide a connection between the bicycle and walking modes of transportation. **3**

The only acceptable mitigation measure for both of these impacts should be a detailed and comprehensive master plan that is built on the 2003 State General Plan Guidelines for Sustainable Development. The street patterns need to be correlated with ease of use for pedestrians and biker and need to be considered in the layout of the project. The acquisition of key parcels along Lake Herman Road and Sky Valley could also be a piece of this comprehensive plan. **4**

Sincerely,

Nicole Byrd

Nicole Byrd
Solano Napa Field Representative
Greenbelt Alliance

COMMENTOR B5
Greenbelt Alliance
Nicole Byrd, Solano Napa Field Representative
March 12, 2007

B5-1: This comment introduces comments B5-2 through B5-4.

B5-2: The project's anticipated growth-inducing effects are discussed in detail on pages 371 to 372 of the Draft EIR (Section VI.A, Growth Inducement). This analysis indicates that the project would cause significant growth in Benicia through the generation of new business park jobs, but the project would not be considered substantially growth-*inducing* for three key reasons: 1) infrastructure to serve the project site would be built to satisfy anticipated project demand, and would not be "up-sized" to serve future development on the outskirts of Benicia; 2) the existence of policy and political constraints, including the City's existing Urban Growth Boundary, and zoning for open space uses; and 3) lack of housing in Benicia and surrounding areas (and the limited amount of land zoned for residential uses).

In California, cities are required to plan for orderly growth through the development of a General Plan. The City of Benicia General Plan, which was the outcome of extensive public involvement, was adopted in 1999. The General Plan designates the project site for General Commercial and Limited Industrial uses. Although the proposed project would be substantially inconsistent with numerous General Plan policies adopted for the purpose of environmental protection, <u>it is not inconsistent with the development intensities allowed in the General Plan</u> (the project would be inconsistent with the General Plan largely because of the spatial organization of development, not development intensity). Therefore, the growth that is proposed for the project site as part of the project is explicitly anticipated in the General Plan, which represents the City's blueprint for orderly growth in the City. Likewise, future growth in areas designated for open space in the General Plan that are adjacent to the project site would be permitted only after amendment of the General Plan and expansion (or removal) of the City's Urban Growth Boundary (or provision of services to unincorporated areas by the County).

These actions, which would require substantial public and regulatory agency input and review, are certainly possible, but are not reasonably foreseeable. The trend in Benicia, as in other municipalities in the Bay Area, is toward a greater degree of growth management. A more detailed analysis of project-related growth, including identification of salaries associated with Business Park jobs, the numbers and type of existing houses for sale in Solano County, and regional patterns of growth, is not necessary to substantiate the conclusion in the Draft EIR that the project would result in growth, but would not be substantially

growth-*inducing*. Growth on the project site, in and of itself, would not result in significant impacts beyond those identified in the Draft EIR. Therefore, the growth that would result from the proposed project is not a significant environmental impact.

B5-3: Page 218 of the Draft EIR includes a list and short description of public transit routes in Benicia. As indicated in the last sentence of the first paragraph on page 218, "none of these routes currently serve the immediate project site vicinity." Currently, the Solano Transportation Authority (STA) is exploring the possibility of developing an Intermodal Transit Facility east of I-680 at Lake Herman Road. A connection between the project site and the Intermodal Transit Facility would likely be impractical due to physical constraints. Although requiring the Intermodal Transit Facility to be located on the project site would further reduce the project's adverse effects on transit service, this action would not be necessary to reduce the project's effects to a less-than-significant level.

B5-4: As noted in Response to Comment B5-2, the proposed project would not be substantially growth-inducing. Therefore, not mitigation is appropriate. The project's significant impacts on transit would be reduced to a less-than-significant level with implementation of Mitigation Measure TRANS-23 in the Draft EIR.

C. INDIVIDUALS

Letter
C1

MEMORANDUM

DATE: February 23, 2007

TO: Cindy Gnos, Contract Planner
City of Benicia
250 East L Street
Benicia, CA, 94510

REGARDING: Comments regarding *Benicia Business Park Draft EIR*, January 2007

FROM: Bob Berman
250 West K Street
Benicia, CA 94510
707-745-5845

MESSAGE:

Below are my comments regarding the *Benicia Business Park Draft EIR*, January 2007.

Page	Comment	
69	The proposed project includes 35 acres with a General Commercial (CG) zoning designation. The DEIR states that uses in the commercial area may include all CG permitted uses. On page 345 in the discussion of the anticipated retail mix it states that "no big box retail establishments are anticipated". These statements contradict each other. Assuming that the statement on page 345 is correct please revise the project description to clearly state that no big box retail establishments are proposed or included in the proposed project.	1
111	It is concluded that the proposed project would not induce substantial population growth (identified as a less-than-significant impact). The DEIR apparently comes to this conclusion because "the County's existing housing supply, combined with a limited supply of land zoned for residential uses, would ensure that the project would not induce substantial population growth due to job creation." There is, however, no evidence provided in the DEIR to come to this conclusion. What is the existing and future housing supply in Benicia? What is the existing and future housing supply in the rest of Solano County? What would typical wages be for the 7,680 new jobs? What would be the created demand for new housing as a result of the project? Based on the typical wages what housing prices would be required to meet the new demand? How many existing houses in the identified price ranges are currently for sale in Benicia and Solano County? Where will new housing in this price range be built to meet this demand?	2
138	Impact HYDRO-1 is confusing. The impact states that the project could cause downstream flooding and therefore it is a significant impact. Although there is reference to a Technical Memorandum prepared by the project sponsor the impact does not provide any detailed information regarding the downstream flooding impact. Where will the downstream flooding occur? What creeks (Paddy Creek? Sulphur Springs Creek?) would be affected? The impact discusses "three strategies" that would be used to provide mitigation. Are these strategies a part of the proposed project? Where would the upstream detention basins be constructed? Where would the downstream detention basins	3

Letter
C1
cont.

Page	Comment	
	be constructed? What are the environmental impacts of the construction of the upstream and downstream detention basins? Please provide the analysis that documents that the proposed Mitigation Measure HYDRO-1 would reduce downstream flooding to a less-than-significant level.	**3 cont.**
194	Impacts BIO-2 says the project would adversely affect wetlands, creek channels, and associated habitat. The impact discussion discusses compensatory mitigation plans prepared for the project and mitigation measure BIO-2b states that the project sponsor shall implement the wetland mitigation monitoring plan prepared by Sycamore Associates. In the project description Figure III-8 is titled "Wetland Mitigation and Riparian Restoration Areas". Does Figure III-8 represent the wetland mitigation plans and the Sycamore Associates wetland mitigation and monitoring plan? Please clarify what the applicant proposes in terms of wetland mitigation and please analyze what is proposed in terms of impacts to wetlands, creek channels, and associated habitat.	**4**
220	There is a discussion here of planned roadway improvements. Are all of these planned roadway improvements included in the analysis of Existing Plus Project Conditions and Cumulative Plus Project Conditions? Only roadway improvements that are approved, fully funded, and assured of full implementation should be included in the analysis of traffic impacts. Please describe the specific improvements number 2 through 5 listed as included in the Benicia General Plan and their funding. Also, in regard to the 2005 CMP Capital Improvement Program please describe the specific improvements in items 1, 2, and 3 and the funding to implement the improvements. Please analyze Existing Plus Project Conditions and Cumulative Plus Project Conditions only with future funded roadway improvements.	**5**
236	Table IV.G-13 provides a long list of required mitigation measures. Please describe the timing for each mitigation measure. Will each mitigation measure be required to be completed prior to the occupancy of the first building at the Benicia Business park? Please provide the similar timing for the other traffic mitigation measures (i.e. Tables IV.G-16, IV.G-19, IV.G-20, IV.G-21).	**6**
249	The mitigation measure for Impact TRANS-22 is to widen I-780, west of East 2nd Street to three lanes or provide an auxiliary lane for all or portions of I-780 between East 2nd Street and Columbus Parkway. Please describe the feasibility of this mitigation measure. Please describe the expected environmental impacts of this mitigation measure. Is adequate right-of-way available for this mitigation measure? What would the grading impacts be? Air quality and noise impacts? What is the timing of this mitigation measure?	**7**
290	The discussion of visual resource impacts inadequately discusses and illustrates the impacts of the proposed grading. According to the project description an estimated nine million cubic yards of soil would be excavated. Cuts would be up to 100 feet deep and fills would be 30 to 50 feet deep. Please provide additional descriptions of where the grading would occur. Provide graphic examples of the proposed grading so we can better understand what is being proposed. For example provide 1) topographic maps at a scale that can easily be read, 2) sections of the site that show "before" and "after" conditions and 3) visual simulations that show the proposed grading (i.e. without buildings) and at a scale that the viewer can easily understand and see the proposed grading. The photographs used for the visual simulations in the DEIR were taken at such a far distance	**8**

Letter
C1
cont.

Page	Comment	
	from the project site that it is difficult to visualize the impact of a 100 foot cut.	8 cont.
	The proposed mitigation for the immense amount of grading is to develop a landscaping plan that among other things protects views from public roadways. This is inadequate. Planting of trees may help to screen individual buildings but it will not mitigate nine million cubic yards of grading! What type and amount of landscaping will be required to mitigate the proposed fill resulting in embankments 16 to 40 feet high along East 2nd Street? Please describe additional mitigation measures that would mitigate the impact of the proposed grading. As a part of this please describe alternative grading concepts that could be used to reduce the amount of grading and the visual impacts.	9
294	Each of the visual simulations shows the proposed project with mature landscaping. Does "mature" mean one year, five years, 20 years after planting of the landscape material? It is unclear what the mature landscaping shown in the simulations is based on. The project description includes a brief discussion of open space and landscaping (page 70) and a mention of a landscape plan on page 79 but there appears to be no landscaping plan in the project description. Is there a landscaping plan? Was the landscaping plan relied on to prepare the simulations? Also, the simulations do not appear to include any signs (either attached to buildings or freestanding). Observations along East 2nd Street or Interstate 680 clearly show a significant number of highly visible signs. What is the proposed sign program for the Benicia Business Park and what will be the visual impacts of the signs?	10
345	In preparing the economic analysis assumptions were made regarding the retail mix at the project site. It appears that a retail mix that would be favorable to the project applicant and produce results favorable to the project was assumed. It states that "no big box retail establishments are anticipated". What is this assumption based on? What guarantees do we have that there will be no big box retail? The 35 acres of commercial land is zoned General Commercial (CG) and allows for a wide range of permitted uses. What would be the urban decay impact if the commercial area included major retail facilities that would draw both local and regional shoppers such as a Home Depot (with a garden center) and a Kohl's Department store?	11
347	The discussion of "local impacts" focuses on Downtown Benicia plus some discussion of other commercial areas. The argument, in part, seems to be that the type of commercial center for the Benicia Business Park would be substantially different than any existing retail centers. While I do not agree with this assumption I request that the analysis be expanded to include an analysis of the Benicia Arsenal Area. The City of Benicia is proceeding ahead with a Lower Arsenal Specific Plan. This specific plan is geared to attracting more of the same type of uses that are assumed for the Benicia Business Park commercial area. It appears that the Benicia Business Park could result in adverse economic effects in the arsenal leading directly to further urban decay and deterioration. Please include the Lower Arsenal area in the urban decay analysis.	12
348	There is a conclusion that the proposed project would not compromise the vitality of bed and breakfasts or similar hotels in Downtown Benicia. This appears to be based on the notion that the proposed hotel would capture the regional market for business-oriented lodging. For the existing bed and breakfasts plus hotels in Benicia (not just in Downtown) how much of their customer base is business-oriented? Why would not this customer base be diverted to the proposed hotel?	13
349	After giving assurances that there will be no urban decay impacts the DEIR provides a one sentence impact description (DECAY-1) that if the tenant mix of the project changes, the project could result in urban decay. Please provide additional discussion of this impact. If a Starbucks was included in the tenant mix would this result in an urban decay	14

Letter
C1
cont.

Page	Comment	
	impact? If a 100,000 square foot Home Depot was included in the tenant mix would this result in an urban decay impact? The mitigation measure states in part that "prior to issuance of an occupancy permit for the proposed project, the City shall review the anticipated tenant mix of the Business Park and determine whether the mix has substantially changed from the tenant mix analyzed in this EIR." Please explain how this mitigation measure would be implemented. What authority does the City of Benicia have to withhold issuance of an occupancy permit? Based on the City's recent experience with the location of several Starbucks in town it appears that the City does not have the authority to withhold the issuance of permits such as would be necessary to implement this mitigation measure.	**14 cont.**
351	Alternatives are required to be designed to avoid or substantially lessen any of the significant environmental impacts of the proposed project. In the description of the three build alternatives (Waterway Preservation, Hillside/Upland Preservation and Mixed-use Alternative) it is difficult to determine which specific project impacts are being addressed and what aspects of each alternative would avoid or substantially lessen the identified impacts. Please describe the specific aspects of each of the build alternatives that have been designed to reduce identified impacts. For example, the DEIR identifies several significant transportation impacts. Please describe an alternative that would avoid or substantially lessen the identified transportation impacts of the proposed project.	**15**
	The analysis of the alternatives relies too much on generalized qualitative factors. In order to have a meaningful evaluation of the alternatives there must be a quantified comparison of impacts. For example, there are several tables (see tables IV.G-12 and IV-G-13) that quantify transportation impacts for the proposed project. Similar tables need to be prepared for each alternative. Please quantify the impacts of each of the alternatives.	**16**
371	In the discussion of growth inducing impacts the DEIR credits several factors that would ensure that the project would not have growth inducing impacts. Among these are a regulatory process that discourages development on open lands, an Urban Growth Boundary, and the City's propensity for moderate to slow long-term growth. Please explain the city's regulatory process and propensity for moderate to slow long-term growth and how these can be guaranteed to ensure that there are no growth inducing impacts. Also, the City's Urban Growth Boundary expires in 2023. According to the project description the proposed project will be built out within 20 years. So, assuming a start up date of 2008 the Benicia Business Park would be built out around 2028 - or five years after the expiration of the Urban Growth Boundary. Please explain potential growth inducing impacts associated with the expiration of the Urban Growth Boundary in 2023.	**17**
	In 2007 no comment letter regarding the adequacy of a DEIR is complete without a comment regarding global warming. In light of the passage of AB 32 by the California legislature please discuss impacts of the proposed project relative to global warming. Assuming full build out of the proposed project what would be the estimated greenhouse gas emissions associated with the project? Please describe feasible and cost-effective greenhouse gas emission reduction measures that could be implemented as a part of the proposed project.	**18**

COMMENTOR C1
Bob Berman
February 23, 2007

C1-1: Page 69 of the Draft EIR is revised as follows:

> Uses in the commercial area may include all CG permitted uses, and are likely to include uses that serve the industrial park, such as: business and professional offices, public safety facilities (fire station), restaurant/food services, conference and meeting facilities, banks/savings and loans, maintenance and repair services, research and development services, and service station. <u>No big box retail establishments would be constructed as part of the project.</u>

See also Response to Comment C1-11.

C1-2: See Response to Comment B5-2.

C1-3: Refer to Response to Comment A4-5 for a discussion of potential downstream flooding impacts associated with the project. The "three strategies" proposed in the drainage plan to mitigate downstream flooding impacts are part of the project because Mitigation Measure HYD-1 requires the implementation of the measures included in the drainage plan. These three measures are: 1) upstream detention basins; 2) downstream detention basins; and 3) storm water drainage network design. There would be no additional environmental impacts (beyond those associated with site-wide grading) associated with construction of the detention basins. The comment requests that the analysis demonstrating that downstream impacts to flooding would be less than significant be provided. The drainage plan, a February 18, 2004 Technical Memorandum prepared by Stetson Engineers, Inc., provides this analysis and is on file with the City and available for public review.

C1-4: Figure III-8 represents the portion of the wetland mitigation plan prepared by Sycamore Associates that details the amount and type of required constructed wetland and riparian habitat. The discussion on pages 194 to 197 of the Draft EIR details the impacts to wetlands that would result from the project (including specific impacts to freshwater marsh and stream channels) and mitigation measures to reduce the significance of these impacts.

C1-5: The Planned Roadway Improvements section on page 220 of the Draft EIR lists all approved projects in the vicinity of the project site from the Benicia General Plan and the Solano Congestion Management Plan (CMP). Only a reasonable set of projects likely to be implemented by 2030 are included in the Solano/Napa County travel demand model, which is used for the analysis of Cumulative Plus

Project Conditions. These projects listed in the planned improvements section include:

- The second Benicia-Martinez span;
- A public road connecting through the Lower Arsenal and port areas to include Bayshore Road, Adams Street and Oak Street; and
- I-80/I-680/SR 12 improvements.

The Solano Transportation Authority (STA), which functions as the Congestion Management Agency (CMA) for Solano County maintains the travel demand model for Solano County and has determined that these are a reasonable set of projects for the cumulative horizon. Refer to the 2005 CMP Capital Improvement Program for more information about planned projects and funding strategies.

C1-6: Mitigation measures identified for Existing Plus Project Conditions would be implemented prior to completion of the proposed project in order to maintain acceptable operating conditions at all study intersections. The exact timing of implementation will be determined by the City.

To maintain acceptable operating conditions under Cumulative Plus Project Conditions, all identified mitigation measures would be implemented by the year 2025. Similar to measures that would reduce impacts under Existing Plus Project Conditions, the timing of mitigation measures for impacts during the Cumulative Plus Project Condition would be determined by the City.

C1-7: The *I-80/I-680/I-780 Major Investment & Corridor Study* (Korve Engineering, 2004) details the feasibility of installing auxiliary lanes on I-780 in both directions between Military West Street and Columbus Parkway. The addition of auxiliary lanes in both directions of I-780 would be accomplished within the existing freeway right-of-way. The Benicia General Plan indicates that sensitive biological resources are present around the Military West interchange, identified as a riparian area requiring evaluation and appropriate mitigation to offset potential construction impacts. As with most of the area on the perimeter of the Carquinez Straight and Suisun Bay, the area traversed by the freeway is subject to potential liquefaction, lateral spreading and settlement hazards that should be addressed in the engineering design. The development of auxiliary lanes on I-780, like similar transportation projects, would be required to undergo independent environmental and engineering review. However, it is expected that the environmental impacts of this project could be reduced to a less-than-significant level. The cost associated with installing auxiliary lanes was estimated to be approximately $4,300,000. At this time, no precise timetable has been set for the implementation of these auxiliary lanes.

C1-8: A comprehensive analysis of the project's visual effects was undertaken as part of the environmental review process. This analysis included numerous site visits, photography of project site topography and features, review of project plans and

documents (including the grading plan), policy review, and the preparation of visual simulations for eight key viewpoints in and around the project site. The visual simulations provide an adequate representation of the project (and show site grading, building massing, anticipated landscaping, and water tanks).

The level of detail provided in the visual simulations and in the narrative of Section IV.J., Visual Resources, is consistent with the level of project detail provided by the project sponsor and is adequate to identify the project's impacts on visual resources and appropriate mitigation measures. This level of detail is consistent with *CEQA Guidelines* Section 15146: "The degree of specificity in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR."

The analysis is not intended to provide an exhaustive description of the project's visual characteristics, but to provide adequate information to determine whether the project would exceed any of the criteria of significance used by the City for visual resources, including: 1) substantially adversely affect a scenic vista; 2) substantially degrade the visual quality of the site and its surroundings; and 3) create substantial light and glare.

A 3-D model of the project's grading plans, additional visual simulations, or a detailed analysis of potential signs that could be built on the site would expand the public's understanding of the project's impacts on visual resources, but such expanded analyses and presentations are not necessary to identify project impacts (in relation to the City's three visual resources criteria) and appropriate mitigation measures to reduce the significance of these impacts.

The information provided by the project sponsor and included in the Draft EIR is adequate to determine that the project would result in a significant adverse effect related to all three of these criteria. The impacts for two of these criteria (scenic vistas and light/glare) would be mitigated to a less-than-significant level with implementation of Mitigation Measures VIS-1, VIS-3a to 3c, and VIS-4a to 4c. The impact associated with one of these criteria (visual character of the site) would be significant and unavoidable even with implementation of recommended mitigation measures. The rearrangement of land uses and substantial reduction in grading activity necessary to reduce this impact to a less-than-significant level is not a feasible mitigation measure in the context of the currently-proposed project (but is a feasible project alternative, as discussed in Chapter V, Alternatives, of the Draft EIR).

The mitigation measures listed above require the project sponsor to submit detailed landscape, architectural, and lighting plans to the City prior to site development. The City would ensure that these plans would adequately reduce the project's impacts on scenic vistas and light/glare to a less-than-significant level; review of these plans would consider native vegetation, screening, and building design. These mitigation measures are feasible and are fully enforceable through permit conditions.

C1-9: See Response to Comment C1-8.

C1-10: The visual simulations showing "mature landscaping" show expected vegetation growth approximately 20 years after landscaping is installed. A detailed landscaping plan was not provided as part of the project application; however, conceptual landscape plans (which show expected street tree placement) are incorporated into Figure III-4, Possible Industrial Lot Development, and Figure III-5, Possible Commercial Lot Development. Therefore, the visual simulations that show landscaping are based on reasonable assumptions about the spatial distribution of landscape plants on the site. The species of plants assumed in the visual simulations include those listed in Table III-4, Plant Materials List, in the Draft EIR. Refer to Response to Comment C1-8 regarding the visual impact of signs that would be installed in the project site.

C1-11: This Draft EIR analyzes the business park proposed by Discovery Builders for the project site. For the purposes of defining the project, Applied Development Economics (ADE) prepared a fiscal analysis of the project that identified specific land uses that would be constructed as part of the business park. These land uses include a hotel/conference center, health club, movie theater, sit-down restaurant, bank, and tilt-up and flex-use industrial buildings. These specific land uses were incorporated into the project description. No big-box retail uses are proposed as part of the project. The purpose of the Draft EIR is to identify the impacts of the project proposed by the project sponsor, not to engage in a detailed evaluation of the economic and other assumptions that went into the project description.

If the project is approved by the City, development on the project site that would be allowed would be confined to the land uses that are analyzed in the Draft EIR. If any of the proposed land uses change (i.e., if a big box retailer is proposed, or the square footage, generated jobs, or other characteristics of proposed land uses change), these changes would be subject to additional environmental review, including the preparation of an Addendum, Supplemental/Subsequent EIR, or independent EIR. City staff, based on their knowledge of changes to the project and environmental conditions in the City, would make a determination as to the level of additional required environmental review. This determination would likely be made after completion of an Environmental Checklist which would clearly describe the proposed changes and then evaluate the expected environmental effects of the proposed changes.

Mitigation Measure DECAY-1, which would mandate City review of changes to the anticipated tenant mix of the project, would ensure that adequate environmental review of project changes takes place to identify whether the project would result in new urban decay impacts. This mitigation measure is feasible, and could be adequately monitored by the City.

C1-12: *CEQA Guidelines* Section 15126.2 states: "In assessing the impact of a proposed project on the environment, the Lead Agency should normally limit its examination to changes in the existing physical conditions in the affected area as they

exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced."

The Notice of Preparation (NOP) for the Draft EIR was published on July 5, 2005. At that time, a Specific Plan for the Lower Arsenal was contemplated, but formal preparation of the Specific Plan had not yet been initiated. The fiscal analysis conducted by Applied Development Economics (ADE) for the proposed project considered the possibility of urban decay throughout Benicia, under conditions that existed as of July 2005. The fiscal analysis concluded that the project would not result in urban decay in the Lower Arsenal or other neighborhoods and commercial centers in Benicia and the region.

No analysis of whether urban decay would occur in the Lower Arsenal area after buildout of the Specific Plan (which was approved for environmental review in February 2006) is required in the Draft EIR, because development of the Specific Plan was not reasonably foreseeable in July 2005. In addition, it should be noted that even today – at the time of this Responses to Comments Document on the Benicia Business Park – the Specific Plan has not yet been adopted.

C1-13: A detailed survey of bed and breakfast customers in Benicia was not undertaken as part of the fiscal analysis of the proposed project to determine the relative proportion of customers that stay at local bed and breakfasts for business reasons. However, such a survey was not necessary to determine whether the project has the potential to create urban decay in Downtown Benicia. The assumption that local bed and breakfast establishments do not serve a large number of business-oriented clients was based on several factors, including: the relatively small size of local establishments; location of bed and breakfast near Downtown (which is popular with visitors); and location in Benicia (which does not experience high visitation rates by business travelers); and the fact that bed and breakfast websites that clearly market to tourists, not business travelers. Therefore, the business park hotels, which would be oriented to the freeway and not Downtown Benicia, would not be expected to compete with the relatively small number of bed and breakfast establishments in Benicia.

C1-14: See Response to Comment C1-11.

C1-15: *CEQA Guidelines* Section 15126.6 states that "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. . . An EIR need not consider every conceivable alternative to a project. Rather it must consider a *reasonable range* of potentially feasible alternatives that will foster informed decisionmaking and public participation (emphasis added)."

The alternatives analysis included in the Draft EIR as Chapter V includes the CEQA-mandated No Project alternative, plus three development alternatives that substantially meet the objectives of the project sponsor. These alternatives seek

to reduce the significant impacts of the project – primarily those related to creek/ wetland removal, grading, degradation of visual character, traffic, and air pollution – through the reconfiguration of land uses proposed as part of the project (and in the case of the Mixed Use alternative, through the introduction of new land uses in addition to those proposed by the project sponsor). These alternatives would achieve environmental protection through a variety of means, including creek buffers of various sizes, preservation of slopes, and the provision of mixed uses, and represent a reasonable range of alternatives, as required by CEQA. Other alternatives (including a low-density alternative) were considered, but were rejected because they would: 1) fail to meet most of the project objectives; 2) be infeasible; and/or 3) would not reduce significant environmental effects, or would reduce local environmental effects while increasing regional impacts (*CEQA Guidelines* Section 15126.6).

CEQA Guidelines Section 15126.6 requires that an EIR "include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. . . [and that] the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed." The level of detail provided for each of these alternatives is consistent with the level of detail provided by the project sponsor of the proposed project. Therefore, the alternatives provide acreage numbers for various land uses, but not detailed building designs or plans illustrating site layout. Because site design could play a substantial role in reducing the impacts of each of these alternatives, the impact analysis of each alternative is purposely qualitative in nature – and focuses on the relative level of impacts that would result from each alternative compared to the proposed project. No quantitative air quality, traffic, or noise modeling was conducted for the alternatives because a qualitative analysis (indicating the comparative level of impacts compared to the proposed project) is adequate to allow decision makers and the public to engage in meaningful consideration of the various alternatives.

If an alternative is approved by the City instead of the proposed project, this alternative would undergo detailed CEQA review (likely in the form of an Addendum to the Draft EIR or a Supplemental/Subsequent EIR). This CEQA review would include a detailed description and analysis of the alternative (including detailed modeling of anticipated air quality, traffic, and noise effects).

C1-16: See Response to Comment C1-15.

C1-17: See Response to Comment B5-2.

C1-18: The suggestion that global warming should be analyzed as part of the environmental review process mandated by CEQA is a relatively recent phenomenon. It is related at least in part to the signing of Assembly Bill 32, which requires the California Air Resources Board to develop regulations on how the State would address global climate change.

Because individual projects do not generate enough greenhouse gas emissions to measurably affect climate change, this phenomenon is best analyzed as a cumulative effect (i.e., one caused by greenhouse gases emitted by projects on a world-wide scale). Although climate change is an identifiable environmental phenomenon that is supported by scientific evidence, it is difficult to analyze further in the context of CEQA for three key reasons: 1) there are no published thresholds for measuring the significance of a project's contribution to climate change; 2) the geographic scale of CEQA review has historically been limited to the region, or at most, to California, and the time scale of impacts is substantially shorter than that typically analyzed for global climate change; and 3) because an understanding of global climate change is evolving, its effects – in terms of changes in precipitation levels, plant communities, and storm severity – are uncertain.

In California, the major source of greenhouse gases is transportation (comprising 41 percent of the State's total greenhouse gas emissions), followed by electricity generation (which accounts for 22 percent of the State's total greenhouse gas emissions). The Draft EIR addresses global climate change indirectly in Section IV.A, Land Use and Planning Policy (in a discussion of the project's consistency with General Plan policies that promote alternative transportation and walkable communities); Section IV.G, Transportation and Circulation (in the analysis of the project's trip generation, and effects on transit and other alternative forms of transportation); Section IV.H, Air Quality (which identifies the project's anticipated generation of criteria air pollutants regulated by the Clean Air Act); and Chapter VI, CEQA-Required Assessment Conclusions (in its analysis of energy consumption on pages 373 to 374 of the Draft EIR). In addition, the three development alternatives outlined in Chapter V, which would increase bike and pedestrian access on the project site, would reduce the project's effects on global warming.

The project, which would increase emissions of greenhouse gases, would have an effect on global warming. However, this impact would not be considered a "significant effect on the environment" as defined by *CEQA Guidelines* section 15382: "'Significant effect on the environment' means a substantial, or potentially adverse change in any of the physical conditions within the area affected by the proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance." The project's effect on global warming would not be measurable, given the current models and other analytical methods, even in the context of cumulative regional development.

Nevertheless, the Draft EIR has been revised to include a discussion of the project's effects on global warming. A global warming discussion has been added to the Draft EIR, starting on page 264:

(5) Global Warming. Neither CEQA nor the *CEQA Guidelines* provide any methodology for analysis of "greenhouse gases," including CO_2, nor do they provide any significance thresholds. In the absence of standardized criteria for

determining the significance of a project's contributions to global climate change, the analysis in this section determines the consistency of the proposed project with greenhouse gas emission reduction strategies identified by the California Environmental Protection Agency Climate Action Team. These strategies were identified pursuant to State Executive Order S-3-05 (announced on June 1, 2005), which sets greenhouse gas emission targets in California through 2050.

On June 1, 2005, Governor Arnold Schwarzenegger signed Executive Order S-3-05, acknowledging the environmental impacts of greenhouse gas emissions on climate change. The Executive Order established the following climate change emission reduction targets for California:

- By 2010, reduce greenhouse gas emissions to 2000 levels
- By 2020, reduce greenhouse gas emissions to 1990 levels
- By 2050, reduce greenhouse gas emission to 80 percent below 1990 levels

It also directed the California Environmental Protection Agency (Cal/EPA) to coordinate efforts among State agencies to meet these targets. As part of this directive, in 2006 the California State Legislature adopted AB 32, the California Global Warming Solutions Act of 2006. AB 32 requires Cal/EPA to lead the evaluation of California's impacts on climate change and identify mitigation strategies to reduce emissions and adaptive measures to minimize adverse effects of climate change.

In response to the Executive Order, Cal/EPA established the Climate Action Team to develop strategies for reducing climate change emissions in the State. In March 2006, Cal/EPA released a document called the *Climate Action Team Report to Governor Schwarzenegger and Legislature*.[2] The Report provides suggested strategies for reducing climate change emissions that would be implemented by State agencies over the next 2 years. It is a guidance document to be used by the identified State agencies in developing Statewide programs for reducing climate change emissions. The strategies in the report are used in this air quality analysis to determine if the proposed project would result in a significant impact on global warming.

The consistency of the proposed business park with these reduction strategies is summarized in Table IV.H-9. As shown in the table, the project would be inconsistent with most of the various measures identified by Cal/EPA to reduce greenhouse gas emissions in residential and commercial/industrial development. However, in the absence of significance criteria established by either the City of Benicia or State of California, this inconsistency would not result in a significant environmental impact. The following recommended measure would bring the project closer to compliance with the Climate Action Team's greenhouse gas

[2] California Environmental Protection Agency, 2006. Op. Cit.

emission reduction strategies. However, full compliance would require a reconfiguration of land uses on the site to support the use of alternative transportation. The following recommended measure is not a mitigation measure and is not required to reduce the significant impacts of the project to a less-than-significant level. However, it could be incorporated into the project's conditions of approval.

Recommended Measure GREEN-1: The project should incorporate the following greenhouse gas emission reduction strategies:

- Develop a tree replacement program that exceeds the requirements of the City's tree ordinance (see Mitigation Measure BIO-1);
- Reconfigure land uses on the site so that open space is connected and encompasses existing drainages and wetlands (see three development alternatives in Chapter V, Alternatives);
- Prepare and implement a landscape plan that includes only native and/or drought-resistant plants; and
- Ensure that 20 percent of the energy needs of the business park are met with renewable sources, preferably on-site sources (e.g., photovoltaic cells).

Table IV.H-9: Consistency of the Proposed Project with State Greenhouse Gas Emission Reduction Strategies

State Strategy to Reduce Greenhouse Gas Emissions	Would Project Substantially Include Strategy?
Meet vehicle climate change standards (including standards for heavy-duty vehicles).	Yes. Vehicle climate change standards are enforced by the California Air Resources Board. All vehicles that enter the project site would be required to meet these standards.
Reduce use of hydrofluorocarbons.	Yes. When the California Air Resources Board adopts standards for hydrofluorocarbons, these standards will be applied to all consumer goods.
Achieve 50 percent State-wide recycling goal; recycle as much as possible.	No. The conceptual site plans submitted by the project sponsor make no provision for materials recycling. However, the project would be expected to comply with local and State recycling requirements.
Protect and plant trees in urban settings (urban forestry).	Partially. Implementation of the proposed project would result in the planting of street trees along roads within and around the project site. However, the project would also result in the removal of 3.2 acres of blue-gum eucalyptus and removal of a large stand of trees adjacent to Reach C.
Protect open space and forested areas.	Partially. The project would include 180 acres of open space, including a major drainage; however, this open space would exclude several on-site drainages and wetlands.
Increase water use efficiency as much as practicable.	No. No features of the project site would promote water conservation. The landscaped areas around the periphery of the site would be expected to require large amounts of irrigation.
Increase energy efficiency by 20 percent beyond Title 24 requirements.	No. The project would include little provision for alternative transportation and therefore would not be considered energy-efficient.
Use energy-efficient appliances.	Yes. Energy-efficient appliances would be required, per State regulations.
Encourage high-density mixed use projects.	No. The proposed project is nominally mixed-use, and would be built at a relatively low density (the proposed floor-area-ratio is lower than permitted in the General Plan for limited industrial and commercial areas).
Encourage green construction.	No. The project does not include provisions to encourage green construction.

Encourage the use of solar energy.	No. The project would not include photovoltaic cells or other features that would generate solar energy.
Impose anti-idling requirements on diesel vehicles.	Yes. Bay Area Air Quality Management District (BAAQMD) guidelines would prohibit unnecessary idling.
Implement measures to reduce emissions from Transportation Refrigerator Units (TRUs)	No. The project does not include provisions to reduce TRUs (although it is unclear, at the current conceptual level of development, whether the project would include TRUs).

Source: State of California Environmental Protection Agency, 2006. Climate Action Team Report to Governor Schwarzenegger and the California Legislature. March.

Letter
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MAR 12 2007
CITY OF BENICIA
COMMUNITY DEVELOPMENT

347 Goldenslopes Court
Benicia, CA 94510

Ms. Cindy Gnos, Contract Planner
Community Development Department
City of Benicia
250 East L Street
Benicia, CA 94510

March 10, 2007

Dear Ms. Gnos:

This letter provides comments on the Draft Environmental Impact Report (EIR) for the Benicia Business Park project. After reading the document it is apparent to me that this project not only has the potential to significantly alter Benicia's small town character, but it also has the potential to adversely affect residents who live near East 2nd Street. I live one block from East 2nd Street. Even though my neighborhood is three miles from this project, it will be directly impacted if it is approved as proposed. These comments are provided to ensure the significant effects of the project are fully disclosed and ways of avoiding or mitigating these impacts are understood. The comments are generally organized as the issues appear in the EIR. 1

LAND USE AND PLANNING POLICY

The EIR fails to evaluate the project's consistency with the zoning ordinance. The EIR describes the main guiding documents for the proposed project, which include the zoning ordinance. Page 95 provides a general description of the zoning ordinance. This description should be expanded to include the specific purposes of the Master Plan Overlay Zoning District. This zoning district completely encompasses the project, regulates the project and is therefore applicable to this analysis. The following purposes of the Master Plan Overlay Zoning District go beyond mere land use classifications and serve as a means to implement other general plan policies to avoid physical impacts on the environment.

Benicia Municipal Code (BMC) Chapter 17.68.010 Specific purposes.

In addition to the general purposes listed in Chapter 17.04 BMC, the specific purposes of the MP master plan overlay district are to: 2

A. Ensure orderly planning for the development of large, unsubdivided areas of the city consistent with the general plan;

B. Maintain an environmental equilibrium consistent with existing vegetation, soils, geology, topography, and drainage patterns;

C. Avoid premature or inappropriate development that would result in incompatible uses or create public service demands exceeding the capacity of existing or planned facilities;

D. Encourage sensitive site planning and design. (Ord. 87-4 N.S., 1987).

Purposes A and B are to ensure large parcels are developed consistent with the general plan and maintain an environmental equilibrium. Yet, environmental impact LU-1 of the EIR finds that

the project would substantially conflict with policies in the general plan adopted specifically for the purposes of environmental protection. The information in the EIR used to find the project in substantial conflict with the general plan can also be used to find the project in substantial conflict with the zoning ordinance.

Purpose C is to ensure that development of large parcels does not result in incompatible uses or overload the capacity of existing and planned facilities. Yet, environmental impact TRANS-1 through TRANS-10 and TRANS-22 of the EIR finds that the project would create demands exceeding the capacity of existing or planned transportation facilities. The proposed mitigation measures that are needed to mitigate these transportation impacts to a less than significant level are inconsistent with the policies of the general plan, particularly policies 2.14.1, 2.20.2, 2.26.2, and 4.10.2 which all address environmental issues. The EIR's evaluation of transportation impacts shows this project fails to comply with purpose C of the Master Plan Overlay District, providing further evidence that the project is in substantial conflict with the zoning ordinance. **2 cont.**

Purpose D promotes sensitive site planning and design with the intent to avoid environmental impacts. Yet, Environmental impact HYDRO-3 finds that the proposed grading at the site would substantially alter surface water drainage patterns, potentially resulting in flooding and/or erosion. Environmental impact BIO-2 finds that the project would adversely affect wetlands, creek channels and associated habitat due to extensive grading, culverting or filling-in of existing waterways on the site. Environmental Impact BIO-5 and BIO-8 finds that the project removes potential nesting, roosting and foraging habitat for special status species by cutting-down the site's mature eucalyptus trees. The impacts identified in the EIR provide substantial evidence that the project's site plan and design is not sensitive, which causes further conflicts with the zoning ordinance.

The project is incompatible with the project sponsor's objectives. The project description on page 59 lists the project sponsor's objectives for the Benicia Business Park. A stated project objective is to develop the site in a manner consistent with the general plan and zoning ordinance. The EIR provides substantial evidence that the proposed project is inconsistent with the general plan. The previous comments in this letter also show the project's inconsistency with the City's Master Plan Overlay Zoning District. The project's inconsistency with both the general plan and the zoning ordinance should be acknowledged in the EIR. The purpose of the analysis of land use and planning policy is for the lead agency to address these inconsistencies, including modifying the project to avoid these inconsistencies. The EIR should consider the Environmental Superior alternative as a means of modifying the project to avoid these inconsistencies and better achieve the project's objectives. **3**

The EIR is inadequate because it does not evaluate the relationship of the project to all relevant general plan policies. Table IV.A-1 describes the relationship of the project to relevant general plan goals, policies and programs. The project is the biggest development proposal in Benicia since the Sky Valley project and can have a similar effect on the character of **4**

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cont.

this community. The project is located in a Master Plan Overlay Zoning District which emphasizes the need for: 1) orderly planning; 2) environmental protection; 3) compatibility with existing and planned public facilities; and 4) sensitive site planning and design. The following general plan goals, policies and programs are relevant to the project and they address environmental protection issues. Why weren't these addressed in the analysis of land use and planning policy? Table IV.A.-1 should include an evaluation of the project's relationship to these goals, policies and programs.

Goal 2.3: Ensure orderly and sensitive site planning and design for large undeveloped areas of the city, consistent with land use designations and other policies of the general plan.

Goal 2.5: Facilitate and encourage new uses and development that will provide substantial and sustainable fiscal and economic benefits to the city and the community while maintaining health, safety and quality of life.

Goal 2.17: Provide an efficient, reliable and convenient transit system.

Goal 2.20: Provide a balanced street system to serve automobiles, pedestrians, bicycles and transit, balancing vehicle flow improvements with multi-modal considerations.

4

Policy 2.20.2: Seek alternatives to road widenings.

Program 2.22.D: Continue to identify and implement acceptable alternatives to in-town roadway widening, extension and large intersections.

Program 2.36.A: Pursue the use of reclaimed wastewater, especially for major industrial users – where feasible.

Goal 2.38: Protect water quality.

Policy 2.40.2: Promote the use of reclaimed wastewater where feasible.

Goal 4.1: Make community health and safety a high priority for Benicia.

Policy 4.1.1: Strive to protect and enhance the safety and health of Benicians when making planning and policy decisions.

Policy 4.8.1: Evaluate potential hazards and environmental risks to sensitive receptors before approving development.

Program 4.10.B: Require that projects identified with significant air quality impacts include all feasible mitigation measures needed to reduce impacts to a less than significant level.

Program 4.13.A: Require all potential developers in the Sulphur Springs Creek flood plan to provide flood hazard mitigation measures that ensure that subject properties are not at risk of flooding during the FEMA-designated 100-year base flood. 4

Policy 4.13.2: Promote non-structural solutions to flood problems where feasible.

HYDROLOGY AND WATER QUALITY

Clarify whether the project is required to comply with the stormwater management and discharge control ordinance. Page 135 states that the City adopted this chapter to the municipal code in November 2006. The development application for the Benicia Business Park was submitted before the ordinance became effective. If the ordinance does not apply to this project, do the project's impacts warrant compliance with the ordinance as a mitigation measure? 5

The evaluation of the proposed grading resulting in potential erosion is incomplete. Page 141 provides an evaluation of the potential for flooding and erosion resulting from grading at the site (HYDRO-3). This evaluation does not cover the new slopes that will be created by the project. The EIR states that the slope created along East 2nd Street will have a maximum grade of 30 percent and a maximum height of 40 feet. This compares with the existing grades of 25 percent on the steeper hillsides of the site. What other locations on the grading plan propose slopes with grades exceeding 25 percent and heights exceeding 20 feet? Generally, slope steepness and length are two of the most important factors affecting the erodability of a slope. How are these graded slopes to be protected? If graded slopes are to be landscaped, what plant materials will be used? Which graded slopes will be capable to support the planting of trees? What types of plants will tolerate on-site graded slopes that exceed 25 percent? Even if certain plantings may tolerate gradients exceeding 25 percent, soil conditions may cause water to run off more quickly, and as a result the water may not be absorbed in sufficient quantities to support these plant types. How feasible and cost-effective will it be to maintain landscaping on slopes with grades exceeding 25 percent and heights above 20 feet? Unless graded slopes are adequately protected, erosion and siltation can occur. 6

BIOLOGICAL RESOURCES

The mitigation measure for the project's impacts on nesting habitat for special status birds is inadequate. Mitigation Measure BIO-5a only addresses direct take of special status birds through injury or mortality. This mitigation measure does nothing to avoid or replace lost habitat for these special status birds. Page 200 of the EIR states that the mature trees on the project site 7

provide nesting habitat for these special status birds. The EIR further states that the general plan policy is to protect essential habitat for special-status plants and animals (3.19.1) and to require retention of essential habitat for special-status species if feasible (3.19.B). A mitigation measure should be explored that retains these trees and the essential habitat they provide for these special status birds. The EIR's Hillside/Upland Preservation alternative has a more sensitive site plan and design that appears to retain this habitat. The EIR should consider a mitigation measure that incorporates the site plan and design of this alternative into the project. Such a mitigation measure would preserve the habitat impacted by the project and reduce this impact on special status birds to a less than significant level. 7

The mitigation measure for the project's impacts on roosting habitat for special status mammals is inadequate. The EIR indicates that the bats impacted by the project are special status mammals (BIO-8). The mitigation measure for this impact requires the relocation of these special status mammals to artificial habitat. The EIR fails to provide evidence that artificial habitats are likely to be successful to mitigate the loss of roosting habitat to a less than significant level. Furthermore, this mitigation measure is not consistent with general plan policy which is to protect essential habitat for special status species and to require retention of essential habitat for special status species if feasible. A mitigation measure should be explored that retains the trees and milking shed and the essential habitat they provide for these special status mammals. The EIR's Hillside/Upland Preservation alternative has a more sensitive site plan and design that appears to retain this habitat. The EIR should consider a mitigation measure that incorporates the site plan and design of this alternative into the project. Such a mitigation measure would preserve the habitat impacted by the project and reduce this impact on special status mammals to a less than significant level. 8

TRAFFIC/CIRCULATION

The EIR has an incomplete list of study intersections that are likely to be impacted by the project. The list of intersections on page 209 does not include intersections on East 2nd Street that are likely to be impacted by this project. These intersections include Rankin Way, Hillcrest Avenue, Seaview/Old Suisun Road, and East Tennys Drive. Children going to and from Semple Elementary School use some of these intersections. Some of these intersections have no signals to protect pedestrians or sidestreet traffic turning onto East 2nd Street. Appendix D of this EIR indicates that existing daily traffic volumes of 11,100 vehicles on East 2nd Street will increase to 25,000 vehicles with the project and will increase to 37,900 vehicles under Cumulative with Project Conditions. These are massive traffic increases yet their impacts on the safety of pedestrians and motorists that use these intersections are not evaluated in the EIR. 9

The EIR needs to acknowledge the general plan policy to not widen I-780. On page 218, the list of applicable general plan policies fails to include 2.26.2, which is to encourage the preservation of I-780 as a 4-lane freeway. Why wasn't this policy included? The EIR should include this policy and should evaluate the project's consistency with this policy. 10

Does the EIR underestimate traffic impacts by assuming future road improvements that are unlikely to occur? On page 220, the EIR states that completion of the second Benicia Bridge and widening Park Road to four lanes were part of the 2030 travel forecasts assumed in the EIR. Page 220 and 221 also list many other transportation projects. Are these other projects included in the analysis of Cumulative (No Project) Conditions? If so, the EIR should explain the reasonableness of these forecasts by describing the revenue or actions that make construction of these projects likely to occur by 2030. This is particularly important for those road improvements that expand capacity on commute routes for this project or that will divert traffic away from commute routes for this project.

For instance, the EIR references the I-80/I-680/I-780 Corridor mid and long-term improvements in Solano County. These improvements are undefined. The EIR indicates these improvements appear in the Capital Improvement Program of the *Solano County Congestion Management Program.* That document does not have to demonstrate any financial viability or comply with the California Environmental Quality Act (CEQA). However, it does indicate that the total cost of the I-80/I-680/I-780 Corridor mid and long-term improvements for Solano County is $1.06 billion and that only $102 million is "committed" to these improvements. The Metropolitan Transportation Commission is the transportation planning and financing agency for the Bay Area and has prepared the *Transportation 2030 Plan* that contains estimates of the local, regional, state and federal funds that are likely to be available by 2030 (i.e. financially-constrained revenue estimate). *Transportation 2030 Plan* lists the total cost of the I-80/I-680/I-780 Corridor mid and long-term improvements in Solano County at $1.06 billion ($2004) and estimates that only $94 million is likely to be available for these improvements by 2030. The description of these improvements in the EIR should be sufficiently detailed to indicate if they are multiple freeway projects along three separate freeway corridors in Solano County. The EIR should define the assumed projects on the I-780 and I-680 freeways that are included in the Cumulative (No Project) Conditions. The EIR should explain how these assumed projects near Benicia will be a priority to receive the relatively small amount of revenue that is likely to be available by 2030 over freeway projects in Vallejo or Fairfield. **11**

Examples of other relevant road improvements that require an analysis of their financial feasibility by 2030 include:

- *public road* connecting through the Lower Arsenal and port areas;
- Bayshore Road connection between Park Road and Industrial Way;
- East-west connector roadway between East 2nd Street and Park Road; and
- *local interchange and arterial improvements* (completely undefined).

The EIR should clarify how its traffic analysis evaluates the roads to be built by the project sponsor. The bottom of page 220 states that the project sponsor will widen East 2nd Street to four lanes. But the evaluation of project conditions does not show this widening in Figure IV.G-8. The EIR instead proposes this widening as a mitigation measure. This internal inconsistency in the EIR should be corrected. **12**

Traffic impacts are underestimated because the trip generation assumptions for the project are not worse-case. On page 226, Table IV.G-9 describes the project land use details assumed for the traffic forecasts. The land use details are not described as being part of the proposed Master Plan. In Section III, Project Description, the proposed uses are described more generally. For instance, page 69 indicates that adoption of the Master Plan will result in 4,443,440 square feet of buildings with uses consistent with Limited Industrial zoning. The Master Plan contains no limits on the amount of building area to be devoted to warehousing or to be devoted to "Flex Use". When the City receives a development plan for a Light Industrial parcel, the City will not be able to determine if the development plan is inconsistent with the assumptions of the traffic analysis since these assumptions are not tied to specific parcels in the Master Plan.

The EIR's evaluation of traffic impacts should be based on the maximum amount of developmen that can be constructed once the project is approved. The traffic study for this EIR assumes that the applicant will build approximately 2 million square feet of warehouse and 2.4 million square feet of flex use, which are roughly equivalent amounts. But the trip generation potential among these two uses during peak hours is nowhere near equivalent as shown in Table IV.G-11. The table indicates that flex uses generate 3 to 4 times the number of trips generated by warehouses. Adoption of the Master Plan pursuant to the Project Description allows flex use projects on each LI parcel, which can ultimately generate far more trips that what is assumed in the EIR and will result in greater traffic impacts if constructed. **13**

The EIR is inadequate because it fails to evaluate the potential for additional vehicle collisions on Lake Herman Road. On page 228, a Threshold of Significance is not listed for hazardous conditions that result from increased commuting on rural roads not designed for commuter traffic. Lake Herman Road is a rural road designed in the Model-T era with narrow shoulders and sharp curves. Currently, Lake Herman Road isn't used heavily by commuters so safety hasn't become a significant issue yet. The EIR identifies this road as a commute route for the project. Figure IV.G-7 shows that this project will add about 1,200 more cars in the AM peak hour and 1,200 more cars in the PM peak hour. This concentrated addition of commute traffic on an old rural road could lead to a greater frequency of tailgating and unsafe maneuvers by impatient drivers. Similar conditions have developed on other rural roads in the Bay Area that have become commute routes (e.g. Highway 12). This project will generate a commute load on Lake Herman Road that is incompatible with its current design. There will be a far greater possibility for driver error and horrific consequences on this road with this project. This is an effect of the project that the EIR does not evaluate. **14**

The EIR is inadequate because it fails to evaluate potentially hazardous conditions on East 2nd Street. On page 228, a Threshold of Significance is not listed for hazardous conditions that result from a design feature of the project. The EIR states that the project will construct a 30 percent maximum sloped embankment along East 2nds Street. Guidance from Caltrans *Highway Design Manual* follows: **15**

Slopes adjacent to roadways should be designed as flat as is reasonable. For new construction, widening, or where slopes are otherwise being modified, embankment (fill) slopes should be 4:1 (i.e. 25% slope) or flatter. Flatter slopes provide better recovery for errant vehicles that may run off the road. A cross slope of 6:1 (i.e.17%) or flatter is suggested for high speed roadways whenever it is achievable. Cross slopes of 10:1 are desirable. Recoverable slopes are embankment slopes 4:1 or flatter. Motorists who encroach on recoverable slopes can generally stop their vehicles or slow them enough to return to the traveled way safely. A slope which is between 3:1 (i.e. 33%) and 4:1 is considered traversable, but not recoverable. Since a high percentage of vehicles will reach the toe of these slopes, the recovery area should be extended beyond the toe of slope. The AASHTO Roadside Design Guide should be consulted for methods of determining the preferred extent of the runout area. **15**

The EIR should evaluate the consistency of the project's design with this Caltrans guidance. Mitigation measures such as redesign of the project's sloped embankment along East 2nd Street should be considered if appropriate. Failure to do so may result in the potential for increased collisions on this road and increased liability for the City.

The EIR underestimates traffic impacts because vehicle storage capacity at intersections is ignored. The Thresholds of Significance on page 228 include conditions where the project causes vehicle queuing that exceeds lane capacity at intersections. However, the EIR does not provide any information on vehicle queues at intersections or the available capacity to accommodate these vehicle queues. The projected heavy traffic volumes on East 2nd Street suggest that vehicle storage may be particularly significant near the freeway and near the elementary school where intersections are close together. The EIR shows that these intersections will work in isolation with the project, but it doesn't evaluate whether an intersection will be blocked with cars waiting to get through the next intersection. This type of gridlock has a real impact on motorists and it should be evaluated in the EIR. **16**

The EIR underestimates the project's responsibility for mitigating impacts on roadways and freeways. The project's transportation impacts on roadways and freeways are evaluated only in relation to cumulative traffic increases. Why doesn't the EIR's threshold of significance also identify a transportation impact if the project alone causes a roadway or freeway segment to exceed capacity? For example, Table IV.G-13 describes impacts and mitigation measures for unacceptable traffic conditions at intersections under Existing plus Project conditions. The responsibility for the cost of the mitigation measures at these intersections is assigned solely to the project sponsor. The EIR should also describe impacts and mitigation measures on roadways and freeways under Existing plus Project conditions. If traffic from the project is sufficient to cause roadways and freeways to exceed their capacity, then the responsibility for the cost of any mitigation on these roadways and freeways relies solely on the project sponsor. **17**

Impacts of mitigation measures on East 2nd Street should be disclosed. Mitigation Measure TRANS-5 requires the project sponsor to construct and pay for the widening of the I-780 Eastbound offramp at East 2nd Street to have a triple right-turn lane. At the westbound ramps, **18**

for local and regional bus service and for carpooling near the Lake Herman Road/I-680 interchange. The EIR states that the 7,680 jobs will be located on the project site and that most workers will come from outside Benicia. Would the effectiveness of Mitigation Measure TRANS-23 be improved if the proposed Intermodal Transit Facility were located on the project site and incorporated into the project's design? **24 cont.**

Impacts of mitigation measures on pedestrians and bicyclists should be disclosed. Page 247 of the EIR indicates that the project's lack of bicycle and pedestrian facilities conflicts with City policies promoting alternative transportation. The EIR should also disclose that certain mitigation measures to accommodate the automobile traffic created by the project also will conflict with City policies promoting alternative transportation. Such mitigation measures include road widenings to provide dual right turn lanes at five local intersections. Dual right turn lanes adversely affect the ability of bicycle traffic proceeding through an intersection to avoid right-turning vehicles. The lane widenings proposed through the East 2nd Street interchange area at I-780 may adversely affect the ability to maintain the existing width of the sidewalks for pedestrians or provide a bike route for bicyclists. Would these mitigation measures to improve traffic flow reduce the effectiveness of other mitigation measures that encourage commuters to walk or bicycle rather than drive (i.e. TRANS-24 and AIR-2)? Would these mitigation measures for wider roads and intersections make it more difficult for pedestrians and bicyclists to get around town if they need to use these roads and intersections? The EIR's Hillside/Upland Preservation alternative devotes 167 acres to industrial uses instead of the 280 acres for industrial uses proposed by the project. The EIR should evaluate the effectiveness of reducing the project's industrial acreage to the level proposed for the Hillside/Upland Preservation alternative as a means of avoiding the need for the proposed road widenings that conflict the City's policies promoting alternative transportation. **25**

Mitigation for the project's impacts on bicyclists and pedestrians should be expanded. On page 250 Mitigation Measure TRANS-24 addresses the significant bicycle and pedestrian impacts created by the project. This mitigation measure does not examine the potential for connecting the project to the City's system of separated bicycle/pedestrians paths or providing on-site separated paths for pedestrians and bicycles that provide more direct connections to on-site destinations.

Figure 2-4 of the general plan shows a diagram of existing and planned bicycle and multi-use trails. A path is shown connecting the Southampton area with the industrial area via Channel Road-to-East 2nd Street. Can the effectiveness of Mitigation Measure TRANS-24 be improved by connecting this trail with the project's proposed trail on Industrial Way via a connecting path on East 2nd Street? **26**

The project's site plan shows access to buildings provided by courts. Access among Courts J through M and Courts B through D requires indirect travel for bicycles and pedestrians out to the

main road and back to the desired court. Access between Court E and the adjacent commercial development requires indirect travel from the court to the main road. Shortcuts for pedestrians and bicyclists should be provided between these courts and to adjacent parcels to avoid indirect travel to the main roads. There is an excellent example in the City of Davis of how these shortcuts have been woven into the fabric of the city, with cul-de-sacs abutting the greenways in places, allowing pedestrian and bike connections across the greenways from one cul-de-sac to another. The Lower Arsenal also has examples of paths and stairs between adjacent parcels that provide shortcuts for pedestrians. This strategy will make pedestrian and bicycle circulation more efficient and should be included in Mitigation Measure TRANS-24 to improve its effectiveness. 26

AIR QUALITY

Mitigation Measure AIR-1 is inadequate because it does not address emissions from construction equipment. Page 265 describes project impact AIR-1. It indicates construction activities would generate exhaust emissions from vehicles/equipment and fugitive particulate matter emissions that would affect local air quality. Table IV.H-9 further indicates that emission concentrations from heavy and light duty construction equipment used during construction of this project would reach 120.21 pounds/day for nitrogen dioxide (NOx), which is regionally significant. However, Mitigation Measure AIR-1 does nothing to address these significant exhaust emissions. In fact, the additional heavy and light duty construction equipment needed to implement many of the actions in this mitigation measure may actually further increase these harmful emissions. While limiting vehicle speeds on unpaved roads to 15 mph may reduce NOx emissions from construction equipment, no information is provided to demonstrate this effect. The EIR's Hillside/Upland Preservation alternative would reduce grading by 70 percent when compared with the project. The EIR should evaluate whether reducing the project's grading by this amount could effectively reduce harmful emissions from construction equipment to less than significant levels. 27

The EIR fails to adequately evaluate harmful carbon monoxide (CO) concentrations resulting from traffic generated by the project. The EIR attempts to determine if implementation of the project will expose sensitive receptors to substantial pollutant concentrations through its CO analysis. The intersections that are most heavily traveled and adjacent to sensitive receptors such as homes and schools should be part of the CO analysis. However, the intersections in the vicinity of the I-780 freeway interchange or adjacent to Semple Elementary School were not included in the CO analysis on Tables IV.H-6 and 7. The EIR needs to include these intersections in the CO analysis to determine if residents of adjacent homes or children at the elementary school will be exposed to harmful CO levels as a result of implementing the project. 28

The EIR fails to evaluate exposure of sensitive receptors to substantial pollutant concentrations from vehicle traffic generated by the project on East 2nd Street. On page 29

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267, the EIR claims that *"because of the conservative nature of the thresholds and the basin-wide context of individual project emissions, there is no direct correlation of a single project to localized health effects. One individual project having emissions exceeding a threshold does not necessarily result in adverse health effects for residents in the project vicinity."* The EIR provides no evidence to substantiate this claim. This claim ignores the fact that recent air pollution studies have shown an association between respiratory and other non-cancer health effects and proximity to high traffic roadways.[1 2 3 4 5] Other studies have shown that diesel exhaust and other cancer causing chemicals emitted from cars and trucks are responsible for much of the overall cancer rise from airborne toxins in California.[6 7 8 9] Sensitive land uses such as residences, schools and playgrounds deserve special attention because children, pregnant women, the elderly, and those with existing health problems are especially vulnerable to the non-cancer effects of air pollution (e.g. asthma). There is also substantial evidence that children are more sensitive to cancer-causing chemicals.

29

The EIR needs to further expand its evaluation of the exposure of sensitive receptors to other emissions generated on roads that are heavily traveled. Implementation of this project will result in traffic volumes on East 2nd Street north of I-780 that are unprecedented in Benicia. Appendix D of this EIR shows existing daily traffic volumes of 11,100 vehicles on East 2nd Street north of I-780 increasing to 25,000 vehicles with the project and increasing to 37,900 vehicles under Cumulative with Project conditions. These are massive traffic increases yet the health risks of air contaminants to those living and going to school adjacent to this traffic stream are not evaluated in this EIR.

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[1] Brunekreef, B. et al. *"Air pollution from truck traffic and lung function in* children living near motorways." Epidemiology. 1997; 8:298-303.

[2] Lin, S. et al. "Childhood asthma hospitalization and residential exposure to state route traffic." Environ Res. 2002;88:73-81.

[3] Venn. et al. *"Living near a main road and the risk of wheezing illness in children."* American Journal of Respiratory and Critical Care Medicine. 2001; Vol.164, pp. 2177-2180.

[4] Kim, J. et al. *"Traffic-related air pollution and respiratory health: East Bay Children's Respiratory Health Study."* American Journal of Respiratory and Critical Care Medicine 2004; Vol. 170. pp. 520-526.

[5] English P., Neutra R., Scalf R. Sullivan M. Waller L. Zhu L. *"Examining Associations Between Childhood Asthma and Traffic Flow Using a Geographic Information System."* (1999) Environmental Health Perspectives 107(9): 761-767.

[6] Zhu, Y et al. "Study of Ultra-Fine Particles Near A Major Highway With Heavy-Duty Diesel Traffic." Atmospheric Environment. 2002 ; 36:4323-4335.

[7] Knape, M. *"Traffic related air pollution in city districts near motorways."* The Science of the Total Environment. 1999; 235:339-341.

[8] Roseville Rail Yard Study. ARB (October 2004)

[9] Delfino RJ *"Epidemiologic Evidence for Asthma and Exposure to Air Toxics: Linkages Between occupational, Indoor, and Community Air Pollution Research."* Environmental Health Perspectives. (2002) 110 (supplement 4): 573-589.

- **Transportation and noise impacts.** On page 363, the EIR finds this alternative's operational period vehicle trips to be substantial, similar to or slightly less than the project, and would be expected to result in similar transportation impacts. This similarity is surprising given the significantly greater amount of open space provided by the alternative. The EIR should provide an estimate of the total daily trips generated by the alternative to better understand the EIR's conclusion that its transportation impacts are similar to the project. The estimate of total daily trips generated by the alternative would also help understand the EIR's conclusion that its noise impacts are similar to the project.

- **Air quality impacts.** On page 363, the EIR finds this alternative's air quality impacts to be similar to or slightly less than the project. This similarity is surprising given the significantly greater amount of open space provided by the alternative and the reduced amount of grading needed to implement the alternative's site plan. The EIR finds significant unavoidable air quality impacts if the project is implemented as described in the EIR. This significant unavoidable impact increases the importance of the evaluation of alternatives in the EIR. The EIR should provide an estimate of the total daily trips generated by the alternative and the amount of grading needed to implement the alternative to better understand the EIR's conclusion that its air quality impacts are similar to the project. **42 cont.**

- **Visual impacts.** Page 363 of the EIR finds this alternative would retain the key aesthetic components of the project site. The alternative analysis should make it clear that this alternative avoids what would otherwise be a significant unavoidable impact of the project.

The EIR has an inadequate discussion of the Environmentally Superior alternative. Page 369 of the EIR finds the Hillside/Upland Preservation alternative as the environmentally superior alternative after the No Project alternative. However, the EIR incorrectly states that this alternative would result in significant unavoidable traffic impacts. No evidence is provided that the project's mitigation measures that are effective at reducing transportation impacts to less than significant levels would not also be feasible and effective in reducing any transportation impacts from the Hillside/Upland Preservation alternative to less than significant levels. The EIR should indicate that this alternative has the ability to develop the site consistent with the general plan and zoning ordinance (a stated objective of the project sponsor), which the project as described in the EIR cannot achieve. The alternative analysis should also make it clear that this alternative avoids the project's significant unavoidable land use impacts and visual impacts. Furthermore, the significant unavoidable air quality impacts of the project justify a more thorough comparison of this alternative to the project. The EIR should provide an estimate of the regional emissions of the Environmentally Superior alternative to compare against the project to help decision makers and the public determine whether this difference is significant. **43**

The EIR should disclose that feasible alternatives are available to substantially lessen the significant environmental effects of the project. California law establishes the policy that public agencies should not approve projects as proposed if there are feasible alternatives or feasible **44**

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mitigation measures available that would substantially lessen significant environmental effects of projects. The EIR demonstrates that the project has significant unavoidable impacts to land use, air quality and visual resources if implemented as described in the EIR. No feasible mitigation measures are identified to mitigate these impacts to a less than significant level. The Final EIR may also find that the project has other significant unavoidable impacts that were not disclosed in the Draft EIR. There is substantial evidence that the project is also unable to achieve a stated objective of the project sponsor, which is to develop the site in a manner consistent with the general plan and zoning ordinance. **44**

In contrast, the EIR finds that the Hillside/Upland Preservation alternative avoids significant impacts that are unavoidable with implementation of the project. The EIR further finds that this alternative substantially lessens other significant impacts of the project. There is substantial evidence that this alternative is more desirable and practical from the standpoint of the City's general plan policies. No evidence is provided in the EIR to find the Hillside/Upland Preservation alternative to be infeasible. No evidence is provided that there are legal barriers to implementing this alternative. No evidence is provided that this alternative cannot be accomplished in a successful manner. The EIR does not show the costs and profits of the project and its alternatives on a comparative basis to show economic infeasibility of this alternative. The EIR supports an action by the City to approve a project that implements the Hillside/Upland Preservation alternative or to adopt significant features of this alternative as mitigation measures for the project. **45**

Please consider these comments in your effort to prepare a complete and adequate EIR for the Benicia Business Park project.

Sincerely yours,

Steven L. Goetz, AICP

COMMENTOR C2
Steven L. Goetz, AICP
March 10, 2007

C2-1: This is an introductory comment.

C2-2: The project would not be fully consistent with policies 2.14.1, 2.20.2, 2.26.2, and 4.10.2 (which support alternative transportation). However, the mitigation measures cited by the commenter would not be inconsistent with these polices once Mitigation Measures TRANS-23 and TRANS-24 are taken into account (which would require the extension of transit service to the site and the construction of a variety of bike and pedestrian improvements).

Page 95 of the Draft EIR is revised as follows:

(3) City of Benicia Zoning Ordinance. The broad purposes of the Benicia Zoning Ordinance are to protect and promote the public health, safety, and general welfare of the citizens of Benicia, and to implement the policies of the City's General Plan. The Zoning Ordinance is composed of: 1) a set of regulations establishing various classes of zoning districts and governing land use and the placement of buildings and improvements within districts; and 2) a set of maps showing the boundaries of zoning districts within the City.

A Master Plan is required by the City of Benicia General Plan and implemented by the Master Plan Overlay Zoning District for properties under common ownership which comprise more than 40 acres. The goals of the master plan process are to encourage the best and most effective use of properties and to allow the City to project the need for and plan future public services and facilities.

<u>Chapter 17.68.010 of the Benicia Municipal Code lists the following purposes of the Master Plan Overlay District:</u>

<u>A. Ensure orderly planning for the development of large, unsubdivided areas of the city consistent with the General Plan;</u>

<u>B. Maintain an environmental equilibrium consistent with existing vegetation, soils, geology, topography, and drainage patterns;</u>

<u>C. Avoid premature or inappropriate development that would result in incompatible uses or create public service demands exceeding the capacity of existing or planned facilities; and</u>

<u>D. Encourage sensitive site planning and design. (Ord. 87-4 N.S., 1987).</u>

Approximately 40 acres of land in the eastern portion of the project site are designated General Commercial (CG), with the remainder of the site designated Limited Industrial (IL) in the City's Zoning Ordinance.

Page 104 of the Draft EIR is revised as follows:

Although the project is generally consistent with the General Plan designations for the project site (General Commercial and Limited Industrial), it would be inconsistent with numerous General Plan policies, programs, and goals (see Table IV.A-1). (The project also appears inconsistent with purposes "B" ("maintain an environmental equilibrium consistent with existing vegetation, soils, geology, topography, and drainage patterns") and "D" ("encourage sensitive site planning and design") of Benicia Municipal Code Chapter 17.68.010.)

C2-3: The comment noting that the EIR provides substantial evidence that the project is inconsistent with the General Plan, and the comment expressing support for the Hillside/Upland Preservation alternative are noted. The comment regarding the project's inconsistency with the Zoning Ordinance is addressed in Response to Comment C2-2.

C2-4: Table IV.A-1 on pages 96 to 102 of the Draft EIR includes a list of identified policies in the General Plan that pertain to environmental protection and are directly applicable to the proposed project. The table includes a discussion of whether each identified policy is consistent with the project as currently proposed. This policy analysis was undertaken for the purposes of CEQA review: specifically, to identify whether the project would conflict with policies adopted for environmental protection such that the project would result in significant physical environmental impacts. Therefore, not all policies that could potentially relate to the project were included in Table IV.A-1, but only policies that relate to the project and environmental protection.

The policy analysis in the Draft EIR, of which Table IV.A-1 is a part, concludes that the project would result in significant unavoidable conflicts with many General Plan policies adopted for the purposes of environmental protection, including policies adopted for the protection of rural areas, wetlands, water bodies, and riparian areas, and the promotion of transportation alternatives. This policy impact would be significant and unavoidable because the project would have to be substantially redesigned to avoid these impacts. This redesign would be infeasible in the context of the currently-proposed project.

Some of the General Plan policies identified by commenter as ones that are relevant to the project and that are not included in Table IV.A-1 directly relate to environmental protection or the impacts of the project (e.g., Goal 2.38: Protect Water Quality) while others only obliquely relate to environmental protection or the impacts of the project (e.g., Goal 4.1: Make community health and safety a high priority for Benicia). The policies that are directly applicable to the

environment and the project are added to Table IV.A-1 of the Draft EIR as follows (note: these policies are consolidated below for the purposes of this Response to Comments Document):

Table IV.A-1 *Continued*

Element and Goal, Program or Policy Number	**Goal, Policy or Program Language**	**Relationship with Project**
Goal 2.3	Ensure orderly and sensitive site planning and design for large undeveloped areas of the city, consistent with land use designation and other policies of the General Plan.	The project would be consistent with the land use designations for the project site (Limited Industrial and General Commercial) but would be inconsistent with numerous General Plan policies adopted for the purpose of environ-mental protection.
Goal 2.20	Provide a balanced street system to serve automobiles, pedestrians, bicycles and transit, balancing vehicle flow improvements with multi-modal considerations.	See Policy 2.14.1.
Goal 2.38	Protect water quality	The project as currently proposed would remove 5.26 acres of wetlands and drainage channels on the site and would expose watersheds in the area to risk of degradation.
Policy 4.13.2	Promote non-structural solutions to flood problems where feasible.	The project would replace the natural drainage system with an engineered one.

The addition of these new General Plan policies and provisions of the Zoning Ordinance to the Draft EIR will not change the conclusions of the Draft EIR in regard to environmental impacts and will not require the identification of new mitigation measures. Therefore, the policy analysis in the Draft EIR is adequate for the purposes of CEQA.

C2-5: The implementation of Mitigation Measures HYDRO-1 and HYDRO-2 would effectively require the project to comply with storm water management and discharge control ordinance chapter.

C2-6: For preliminary materials, refer to the Vesting Tentative Map for the Benicia Business Park, dated February 2004, by Morton and Pitalo, Inc. This map shows the areas of proposed cut and fills and can be used to calculate the new slopes resulting from the proposed project. The final drainage and grading plans to be submitted for City approval prior to project approval would contain additional detail and would need to fully comply with both City Community Development Department requirements and Mitigation Measure HYDRO-3 as detailed in the Draft EIR. Lastly, in compliance with the City of Benicia Municipal Code, a landscape plan, prepared by a professional, would be required to be submitted prior to the issuance of building permits, and would detail ground cover and trees on the site (including on steep slopes).

C2-7: The comment is correct that Mitigation Measure BIO-5a only addresses direct take of special-status birds through injury or mortality and does not avoid or

replace habitat for these special-status birds. Guidance from regulatory agencies does not normally require mitigation for loss of habitat for special-status birds (except for burrowing owls which are discussed in Mitigation Measures BIO-6a and BIO-6b). For special-status birds with wide-ranging habitat requirements, open space areas adjacent to the project site or the trees that would be retained within the project site would provide habitat for nesting birds. A tree replacement program would be adopted in accordance with the City's tree ordinance (per Mitigation Measure BIO-1). The comment expressing support of the Hillside/ Upland Preservation alternative is noted. Incorporating this alternative as a mitigation measure would not be feasible because it would require a substantial reconfiguration of land uses on the project site. However, the City could approve this environmentally superior alternative instead of the proposed project.

C2-8: Mitigation Measures BIO-8a through BIO-8e detail appropriate measures to protect bats if they are found during the required preconstruction surveys. If bats are present, a mitigation plan would be developed. This mitigation plan, which is feasible in the context of the currently-proposed project, would provide details pertaining to the success of artificial habitats. The Draft EIR does not include mitigation plan details since the presence of bats and specific information on the bats, such as species and size of roost are not known at this time. The City has the option of adopting the Hillside/Upland Preservation alternative, which would preserve potential bat habitat in the site.

C2-9: See Response to Comment A6-1.

C2-10: Circulation Policy 2.26.2 of the Benicia General Plan encourages the preservation of I-780 as four lanes, but supports spot widening at select locations to address future capacity problems, while still maintaining a four-lane mainline freeway. Mitigation Measure TRANS-22 is consistent with Circulation Policy 2.26.2 since the proposed spot widening would address the future capacity problems expected for this freeway segment.

C2-11: See Response to Comment C1-5.

C2-12: Identifying the widening of East 2nd Street as part of the "Planned Roadway Improvements" would be inappropriate as this widening is proposed to mitigate traffic impacts created by the proposed project (and may not be executed if the project is not approved). Therefore, the associated geometric changes are not reflected in Figure IV.G-8 (Existing plus Project Lane Geometry and Traffic Control).

C2-13: As indicated in Table IV.G-9 of the Draft EIR, the proposed project would include approximately 2.4 million square feet of flex use and 2 million square feet of warehouse uses. If the project description were to change to include more flex use and less warehousing, supplemental environmental review would be required.

C2-14: All roadway improvements that would be constructed as part of the project (including changes to Lake Herman Road) would be built to modern engineering and traffic safety standards. Based on current project plans, the project would not create design features dangerous to pedestrians, bicyclists, or motorists. The Draft EIR assumes that project drivers would obey the posted speed limits.

C2-15: See Response to Comment C2-14.

C2-16: The City of Benicia does not require that queue lengths for individual turning movements be calculated or reported as part of traffic impact analyses. However, it is reasonable to conclude that pedestrians – particularly Robert Semple Elementary School students – would be able to safely cross East 2nd Street despite the project's addition to queuing in the area. The two intersections bordering Robert Semple Elementary School (East 2nd Street / Rankin Way, and East 2nd Street / East S Street) are signalized with crosswalks. The signals at these intersections have been built to modern engineering standards, and allow pedestrians sufficient time to cross the street. Sidewalks are provided along East 2nd Street throughout the adjacent residential area, and Class II bike lanes are provided north of Hillcrest Avenue. The Draft EIR assumes that all project trips would obey the law and travel at the posted speed limit of 25 miles per hour through the school zone.

C2-17: Because freeways are regional facilities serving numerous local and regional through-traffic users, the Draft EIR focuses its freeway analysis on the cumulative conditions and the cumulative effects of all anticipated land use and transportation changes in the Bay Area.

However, as a point of information, Existing Plus Project conditions on the westbound segment of I-780 west of East 2nd Street during the PM peak hour (the only segment expected to operate unacceptably under cumulative conditions) are excerpted and presented below.

Existing & Existing Plus Project Freeway Level of Service by Segment, PM Peak Hour – Westbound I-780, West of East 2nd Street

Analysis Scenario	Planned Lanes	Future Volume With Project	Volume to Capacity Ratio	LOS
Existing Conditions	2	2,559	0.582	A
Existing Plus Project Conditions	2	3,514	0.799	C

Note: Based on information taken from the *2000 Highway Capacity Manual* (Chapter 21 – Multilane Highways), the analysis assumes freeway capacity of 2,200 vehicles/lane/hour for 2-lane segments (lanes per direction), 2,300 vehicles/lane/hour for 3-lane segments and above.
Source: 2000 Highway Capacity Manual; Korve Engineering, 2007.

As shown, the segment in question would operate at LOS C with the addition of project generated traffic. Also, it should be noted that both existing volumes and project-related traffic volumes along this segment are lower during the AM peak hour than the PM peak hour. Therefore, the project would not create a significant impact to freeway segments under Existing Plus Project Conditions.

C2-18: See Response to Comment A8-8.

C2-19: See Response to Comment A8-8.

C2-20: The evaluation of traffic impacts includes the East 2nd Street / Military East Street intersection. As stated in the Draft EIR, the distribution of project traffic was determined based on a select link analysis using the latest available Solano/ Napa County Travel Demand Model. According to the results of the select link analysis, project trips are not projected to occur along East 2nd Street south to Military East Street.

C2-21: The mitigation measures identified at I-680 interchanges between Industrial Way and East 2nd Street would mitigate the project's impact on these intersections. However, the City is exploring alternative options to generally improve the operation of I-680 and its interchanges between Industrial Way and East 2nd Street.

C2-22: The widening of I-680 to three lanes in each direction was included in the Solano/Napa County travel demand model, meaning that this improvement is assumed to be implemented by 2030. The STA, which functions as the Congestion Management Agency for Solano County, maintains the travel demand model for Solano County and has determined that this is a reasonable project for the cumulative horizon.

C2-23: See Response to Comment C2-17.

C2-24: As currently proposed, a rail connection between the project site and the Intermodal Transit Facility (to be located east of I-680) would not be possible due to physical constraints. Location of the proposed Intermodal Transit Facility on the project site would further reduce the impacts of the project on transit. However, this measure is not necessary to reduce the impacts of the project on transit to a less-than-significant level.

The Draft EIR assumes that the operating costs for extending Benicia Transit to the project site will be included as part of Benicia Transit's budget. Benicia Transit's budget is paid for by tax dollars, to which the project would contribute.

C2-25: In order to remain consistent with General Plan policies, bicycle and pedestrian facilities would be required to be maintained at locations where widening is proposed. These facilities would be required to be incorporated in project infrastructure plans.

All improvements implemented by the project would be built to modern engineering and ADA standards. Based on project plans, the project would not create design features dangerous to pedestrians, bicyclists, or motorists; and the Draft EIR assumes that all project drivers would obey the posted speed limits.

Therefore, proposed mitigation measures would not result in significant impacts to bicyclists and pedestrians.

C2-26: The improvements discussed in Response to Comment C2-26 would certainly enhance Mitigation Measure TRANS-24. However, they are not required to reduce Impact TRAF-24 to a less-than-significant level. Nevertheless, they could be considered by the City as conditions of approval.

C2-27: Construction emissions are considered short-term impacts to air quality; they do not fall under the Bay Area Air Quality Management District's (BAAQMD's) significance criteria for long-term operational emissions, and are not considered significant impacts if construction period emission reduction measures recommended by BAAQMD are implemented. The BAAQMD has not established a significance criterion for construction emissions. Implementation of Mitigation Measure AIR-1 would reduce construction impacts to a less-than-significant level. Requiring grading to be reduced on the project site by approximately 70 percent would not be a feasible mitigation measure in the context of the currently-proposed project. However, as the comment notes, significant grading reduction is a key characteristic of the environmentally superior alternative identified in the Draft EIR (the Hillside/Upland preservation alternative).

C2-28: See Response to Comment A7-1.

C2-29: See Response to Comment A7-1.

C2-30: See Response to Comment A7-3.

C2-31: Mitigation Measure TRANS-22 in the Draft EIR requires the project sponsor to contribute a pro-rata share to improvement of the segment of I-780 from East 2nd Street to Columbus Parkway. This roadway improvement project was identified in the Solano County Congestion Management Plan (CMP) 2005 Capital Improvement Program and would be subject to its own environmental review assessment (including an environmental justice analysis, along with a requirement that noise impacts be reduced, if feasible). For issues specifically related to traffic noise on East 2nd Street from I-780 to Rose Drive, refer to Response to Comment A7-3.

C2-32: See Response to Comment C1-8. In the Draft EIR, the visual impact associated with grading is characterized as an impact to the visual character of the site (see pages 291 to 299 of the Draft EIR). This impact would be significant and unavoidable because substantial grading on the project site could not be reduced without a substantial reconfiguration of land uses on the site (as shown in the three development alternatives to the proposed project outlined in Chapter V of the Draft EIR).

C2-33: See Response to Comment C1-8.

C2-34: As indicated in the Draft EIR Mitigation Measures VIS-2a and VIS-2b would not be effective in reducing Impact VIS-2 to a less-than-significant level. This impact would remain significant and unavoidable even after implementation of the recommended mitigation measures.

C2-35: Reducing the significant impact of the project on visual character would require a substantial reconfiguration of land uses on the project site. A mitigation measure that would accomplish this reconfiguration of land uses would involve the services of a multi-disciplinary design and engineering team, as well as substantial collaboration with the City. Such a mitigation measure would not meet the feasibility and monitoring requirements outlined by CEQA and therefore would be infeasible. However, implementation of one of the three development alternatives outlined in Chapter V. Alternatives, of the Draft EIR would reduce the project's impact on the visual character of the site to a less-than-significant level.

C2-36: The four project alternatives would reduce certain impacts of the proposed project, including effects associated with grading, filling-in or culverting of creeks and wetlands, and changes to scenic landscapes. The alternatives would achieve impact reduction through either maintenance of the project site as open space or substantial reconfiguration of the land uses proposed as part of the project. This reconfiguration of land uses would consolidate development on lands that are less environmentally-sensitive (e.g., relatively flat areas without wetlands) and would preserve areas with important environmental resources or significant development constraints (e.g., creeks, steep slopes, and habitat for sensitive species).

The City, as lead agency, may adopt one of these alternatives as a way of avoiding the adverse environmental effects of the proposed project. However, the reconfiguration of land uses required as part of these alternatives is not a feasible "mitigation measure," as required by CEQA. The alternatives described in the Draft EIR are feasible, but would involve a significant multi-disciplinary project re-design effort that would not be "fully enforceable through permit conditions, agreements, or other legally-binding instruments," as required by *CEQA Guidelines* 15126.4. Instead, implementation of one of the alternatives would require an iterative, multi-step planning process involving City decision-makers, City staff, and the applicant. Such a process could not be adequately enforced via a Mitigation Monitoring and Reporting Program (MMRP), which is the vehicle to ensure the satisfactory implementation of mitigation measures in the Draft EIR.

C2-37: Modifying the siting of the proposed water tanks would not substantially reduce the visual impact of the proposed water tanks. However, using native vegetation to screen the water tanks would enhance the effectiveness of Mitigation Measure VIS-3c.

Mitigation Measure VIS-3c is revised as follows. This revision constitutes a minor change to the mitigation measure; recirculation of the Draft EIR would not be required.

> Mitigation Measure VIS-3c: The water storage tanks shall be screened by native vegetation. Trees shall be planted to obscure at least 50 percent of the water tanks within 10 years of final project build out. A 20-foot buffer between the vegetation and tanks would be required to maintain access to the tanks. The trees shall be properly planted and maintained by the project sponsor. (LTS)

C2-38: Impact VIS-4 is not limited to lighting for road safety and building security, but extends to all lighting proposed in the project site (see Mitigation Measure VIS-4a in the Draft EIR). Refer to Response to Comment C1-8 regarding visual impacts associated with proposed signage.

C2-39: Although the proposed project would substantially increase traffic on certain roadways in Benicia, including roadways adjacent to residential areas, the EIR finds no evidence that such congestion would lead to extended vacancies and abandonment of residential neighborhoods in Benicia. No clear cause and effect relationship between congestion and urban decay has been identified.

As discussed on pages 343 and 344 of the Draft EIR, urban decay is a specific phenomenon associated with the cumulative effects of extended vacancies, deferred maintenance, and abandonment of buildings in commercial areas. Urban decay, as defined by CEQA case law, is associated with the development of new commercial centers that redirect business from older commercial areas.

C2-40: The alternatives outlined in Section V of the Draft EIR were evaluated qualitatively, making it difficult to summarize the relative effects of the alternatives in table format. We believe that the written discussion of the alternatives in Chapter V of the Draft EIR is more effective than a matrix in helping decision makers understand the relative impacts of the various alternatives to the proposed project.

C2-41: The alternatives analysis in the Draft EIR is consistent with *CEQA Guidelines* Section 15126.6, which requires that an EIR "include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. . . [and that] the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed." The alternatives outlined in the Draft EIR do not dictate building intensity, but assume that the level of development (i.e., building square footage) desired by the project sponsor could be constructed on reduced acreage by building more vertically instead of horizontally. Therefore, the traffic, air quality, and noise impacts of the three development alternatives to the project may not be substantially reduced compared to the proposed project. See also Response to Comment C1-15.

C2-42: See Response to Comment C1-41.

C2-43: See Response to Comment C1-41.

C2-44: This comment regarding approval of projects for which there are feasible alternatives that would reduce significant environmental impacts is noted.

C2-45: This comment expressing support of the environmentally superior alternative is noted.

Letter
C3

Cindy Gnos

From: Charlie Knox [Charlie.Knox@ci.benicia.ca.us]
Sent: Monday, February 26, 2007 9:28 AM
To: Steven Goetz
Cc: bob@nicholsberman.com
Subject: Re: Benicia Business Park

One approach could be a comment that Table IV.G-9 should be confirmed as defining allowed uses.

>>> Steven Goetz <sgoet@sbcglobal.net> 2/22/2007 11:54 PM >>>
Charile,
At the 02/08/07 public hearing, I saw on my TV the tail-end of some Q/A between the PC and you on what I think was my concern about the lack of a worse-case traffic analysis. I think you responded that further traffic analysis would be required if the subsequent development applications were not consistent with this EIR. **1**

If this recollection is correct, where in the proposed Master Plan are parcels limited to the specific assumptions in Table IV.G-9? The Project Description establishes a specific FAR, but does not establish any specific quotas for floor area among the allowed uses in each zoning category. How would the City determine whether a subsequent development application for a specific parcel varied from the assumptions used in the EIRs traffic analysis?

Your answer will help determine whether I bother to include this issue in my comment letter.

COMMENTOR C3
Steven L. Goetz, AICP
February 26, 2007

C3-1: Table IV.G-9 from Section IV.G, Transportation and Circulation, of the Draft EIR lists the various project uses that were assumed in the environmental analysis of the project. This table is incorporated into Chapter III, Project Description, as follows. If the project is revised so that the land uses are different from those listed in this table, the project would be evaluated to determine of supplemental environmental review is required.

Pages 66 and 67 of the Draft EIR are revised as follows:

2. Plan Features

The proposed land uses would be predominantly industrial with some commercial and open space. Proposed future land use locations are shown in Figure III-3. Proposed development intensities by phase and lot, for those areas of the site proposed for industrial and commercial use, are listed in Table III-1. Table III-3 shows land uses assumed as part of the project. If the project land uses change from the assumptions listed in this table, supplemental environmental review may be required. Features of the Master Plan are described below.

Table III-3: Project Land Use Details

Land Use	Size
Hotel/Conference Center	105 employees
Hotel (3 stories)	87 employees
Fitness Club	60,000 s.f.
Movie	60,000 s.f.
Office (4 stories)	200,000 s.f.
Office (2 stories)	100,000 s.f.
Retail	100,000 s.f.
Restaurant	20,000 s.f.
Fast Food	8,000 s.f.
Gas Station	7,000 s.f.
Bank	12,000 s.f.
Research and Development	50,000 s.f.
Industrial/Warehouse	2,021,000 s.f.
Flex Use	2,423,000 s.f.

Source: Korve Engineering, 2006

Letter
C4

Cindy Gnos, Contract Planner
City of Benicia, Planning Department
250 East "L" St.
Benicia, CA 94510

Dear Ms. Gnos,

Please include this letter as part of the public comment on the Draft Environmental Impact Report for the Seeno Industrial Project (Benicia Business Park).

I request a thorough response to my comments and reserve the right to continue to comment on the project until the final consideration of approval. **1**

GENERAL COMMENTS:

Overall, the DEIR mitigation measures are extremely vague and do not demonstrate that they will be effective in rendering impacts less than significant. Many mitigation measures rely on "plans" and "analysis" to be submitted at a later date. These yet-undisclosed plans may or may not meet the requirements to lessen the significant impacts. There is no way for the public or the City to make this determination. How can the EIR be deemed "adequate" with so many looming unknown mitigation outcomes? **2**

Please comment as to whether this project will have a Master Plan. **3**

Please show an analysis of the CUMULATIVE effects of the impacts on this project. **4**

Please make a comprehensive list of all the future mitigation "plans" and "analysis" outlined in the DEIR and thoroughly explain the process by which each of these plans will be reviewed and approved. Explain the public process by which these plans will be subjected, and what measures the City has to monitor and ensure the public that these will be effective. How much time/energy/resources can the City afford to follow up and ensure that these mitigation measures are fully enforced and are effective. **5**

Why are certain aspects of the sponsor's project being considered if they are admittedly not in compliance with the Benicia General Plan? **6**

Most Benicians are unaware of details and magnitude of this project. Please explain the required CEQA outreach and public participation process used to inform citizens of this project. Please comment on the efforts and measures taken to follow up to ensure that the public participation program was successful. **7**

Where are the 9 million cubic yards of soil from the grading of the project going? Will the soil be recycled back on-site? Will some of be transported off-site and used as fill by the sponsor on another one of their projects, such as the Concord Naval Weapons Station housing project? Is the proposed grading actually for the benefit of another project and not necessary for the one described in this DEIR? **8**

Letter
C4
cont.

What overriding considerations are cited for the impacts that cannot be reduced to insignificant? **9**

SPECIFIC COMMENTS
The specific comments will cover the Hydrologic and Hazard sections of the DEIR.

Hydro 1 – pg. 138
This mitigation measure calls for a hydraulic analysis to be submitted at a later date. It assumes the project shall result in no increase peak in run off rates. Please explain how the sponsor came to this conclusion prior to a proper hydraulic analysis.

Please explain how this conclusion can be reached without a definite grading and drainage plan.

What will the City of Benicia do when/if the applicant cannot meet the standard?

How is this mitigation measure going to be monitored and enforced? **10**

Please give a more detailed description of the self-perpetuating drainage system.

Who pays for the City's costs of annual monitoring and inspections of the self-perpetuating drainage system?

What recourse do the citizens have if this mitigation measure fails?

What are the penalties for failure?

Hydro 2 – pg. 139
This mitigation measure assumes project sponsor's Storm Water Pollution Prevention Plan will provide the needed protection – but it is not yet written or available for public or expert review. How can this mitigation be considered adequate?

The DEIR states that the sponsor has not specified "any particular measures" for the SWPPP to be included in the project. In order to be deemed adequate under CEQA, the applicant must be more forthcoming in describing this important mitigation. **11**

Please provide a complete and thorough description of the Storm Water Pollution Prevention mitigation.

Explain why the sponsor was not required to outline specific measures considered adequate disclosure for an EIR? **12**

Letter
C4
cont.

Describe what types of injuries, health hazards could result in the event of an accident, spill or release from the refinery?

Describe a REALISTIC plan to evacuate people in the project area in the event of a major release from the refinery. **13**

How would an earthquake or fire affect the storage and handling of hazardous waste on the project site?

Pg. 157
Describe how the sponsor will actively recruit industries and businesses that sustain environmental quality and have sound, responsible environmental practices as called for in Benicia's General Plan. How will this policy be enforced? **14**

How will the project sponsor adhere to the "community right to know" policy for disclosing hazards on site as called for in Benicia's General Plan?

HAZ 4a – pg. 164
Please explain how the sponsor shall ensure that the entire project site has been fully characterized for the presence of OE and hazardous material prior to the start of earthwork activities and site development activities in accordance with the General Plan. Will this investigation conform to DTSC guidelines? What is the timeframe? What is the public process? Who will conduct the site characterization? Who will make the final determination prior to grading permits are issued? Who hires the "qualified environmentalist" to oversee this investigation? Has DTSC been notified about this project and this DEIR? **15**

HAZ 4b- pg. 165
Please correct: the proper procedure when finding OE on site is to also contact DTSC as well as the Benicia PD/Fire Department and Army Corps of Engineers. DTSC was the lead agency on the adjacent Tourtelot site. Once OE is discovered on a site, a thorough, legal investigation must be conducted. OE cannot be treated simply as an emergency removal. **16**

Jan Cox Golovich
179 Harbor Vista Ct.
Benicia, CA 94510

COMMENTOR C4
Jan Cox Golovich
No Date

C4-1: This is an introductory comment.

C4-2: The environmental analysis in the Draft EIR, including the identification of mitigation measures, has been conducted in accordance with the level of detail available on the proposed project. As is typical for environmental review of a Master Plan (where many of the development details may be specified in later stages of the planning process), certain mitigation measures require the preparation of additional technical reports (e.g., geotechnical report, hydraulic analysis, focused biological studies) and review by the City of these reports to ensure that they are adequate. The mitigation measures set specific criteria that City reviewers can use to determine if the subsequent analyses are adequate and fulfill the intent of each mitigation measure.

CEQA Guidelines section 15126.5 specifically forbids the deferral of mitigation measures to a later date, but states that "mitigation measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way." Certain mitigation measures in the Draft EIR require the project sponsor to undertake additional analysis at a later date, and to incorporate the results of this analysis into the project plans. However, such mitigation measures do not "defer" mitigation to a later date because: 1) the mitigation measures in the Draft EIR specify certain performance standards that must be met by the both the project sponsor and the required analysis, and 2) even if the project undergoes change within the maximum envelope of development permitted by the Draft EIR, the recommended mitigation measures would still reduce environmental impacts to a less-than-significant level.

As an example, Mitigation Measure GEO-3b requires that the project sponsor establish a self-perpetuating slope maintenance program prior to the issuance of a site-specific grading or building permit, and that this program be reviewed and approved by the Benicia Community Development Department. In this case, inappropriate mitigation measure deferral does not take place for two key reasons. First, performance standards for the slope maintenance program are specified, including: annual inspections of slopes, debris ditches, and v-ditches; the removal of slope detritus on the benches or in the v-ditches; requirement that the association would be responsible for the repair of slope failures in the northern portion of the site; and a requirement that an annual report documenting the inspection and any remedial action be submitted to the Community Development Department and the Engineering Division of the Public Works Department for review. These performance standards would allow the

Community Development Department to undertake a review of the materials submitted by the project applicant, and ensure that these materials comply with Mitigation Measure GEO-3b. Second, based on engineering standards, this mitigation measure (along with Mitigation Measure GEO-2a) would reduce effects associated with long-term deformation of deep fills and cut slopes to a less-than-significant level. This mitigation measure would be effective even if the project changes within the development envelope set forth in the Project Description in the Draft EIR.

Therefore, the mitigation measures in the Draft EIR are adequate; they do not inappropriately defer mitigation to a later date.

C4-3: As described on page 61 of the Draft EIR, the proposed project includes a request for a Master Plan overlay zoning designation. Section 17.68.020 of the Municipal Code requires a Master Plan for industrial or business park development on properties under common ownership that comprise more than 40 acres. Therefore, the Draft EIR analyzes the effects of the proposed Master Plan, which is one of the entitlements requested by the project sponsor, along with vesting tentative and final subdivision map approvals. The Master Plan has not yet been approved by the City; approval of the Master Plan will be considered by the City along with other entitlements requested by the project sponsor.

This consideration of approval will take into account the environmental impacts of the Master Plan. As described in the Draft EIR, the Master Plan (and other components of the project) would be substantially inconsistent with applicable provisions of the General Plan, and would result in several significant environmental effects. The City will take these issues, and the consistency of the Master Plan with Benicia Municipal Code Section 17.68.060 (see below), into account when it considers project approval. The purpose of the Draft EIR is to disclose the environmental impacts of the Master Plan, not to determine the adequacy of the currently-proposed Master Plan (which is the City's responsibility).

Benicia Municipal Code section 17.68.060 sets forth the following requirements for a Master Plan:

Each master plan shall set forth for a specific area of land a land use and circulation system concept that is consistent with the goals and policies of the general plan, compatible with the environment, and capable of being served by existing and planned public facilities and utilities.

A. The following plans and materials shall be submitted; provided, that the community development director may waive submission of items deemed unnecessary:
   1. A map showing proposed master plan boundaries and the relationship of the area to uses and structures within a 300-foot radius of the plan area boundaries;

2. A map of the master plan area showing sufficient topographical data to indicate clearly the character of the terrain and the type, location, and condition of mature trees and other natural vegetation;
3. A site plan indicating the existing and proposed uses, gross floor area, lot coverage, height, parking and density, and a circulation plan; and
4. A preliminary development schedule indicating sequence and timing of development.

B. Guidelines for the physical development of the property, including illustrations of proposed architectural, urban design, and landscape concepts shall be submitted.

C. On slopes over 10 percent, single line sections showing the relationship of the building to the topography.

C4-4: The cumulative effects of the project are discussed in Section VI, CEQA-Required Assessment Conclusions, on pages 374 to 377 of the Drat EIR.

C4-5: The Mitigation Monitoring and Reporting Program (MMRP) for the mitigation measures included in the Final EIR would be prepared if the project is advanced forward toward approval. This MMRP would provide a comprehensive list of all the mitigation measures in the Final EIR and describe the implementation procedure, monitoring responsibility, monitoring and reporting actions, monitoring schedule, possible non-compliance sanctions, and mitigation completion and monitoring verifications for all of the measures.

C4-6: This comment does not pertain to adequacy of the Draft EIR. No additional response is required.

C4-7: To date, public hearings on the EIR have been held to receive comments on the scope of the EIR, receive comments on the Draft EIR, and receive comments on the adequacy of the Draft EIR. Additional hearing(s) will be held when the Final EIR is considered for certification. *CEQA Guidelines* Section 15087 states: "Public hearings are encouraged, but not required as an element of the CEQA process." Therefore, hearings held on the EIR have exceeded CEQA requirements for public hearings. In addition, public meetings have been held by the project sponsor on the project.

C4-8: Cut and fill would be balanced on-site, as indicated on page 80 of the Draft EIR. No soil would be transported off-site.

C4-9: If the City approves the proposed project, it would be required to prepare a Statement of Overriding Considerations, consistent with *CEQA Guidelines* Section 15093, that details "specific economic, legal, social, technological, or other benefits of a proposed project" that outweigh the project's significant environmental effects. A Statement of Overriding Considerations would be prepared at the time of project approval (if the project is approved), and would be required to be supported by substantial evidence.

C4-10: The Mitigation Monitoring and Reporting Program (MMRP) for the project, which would detail the ways in which mitigation measures recommended in the Final EIR would be monitored and enforced, would be prepared if the project is advanced forward toward approval. The comment about the hydraulic analysis is discussed in Response to Comment A4-5. The comment about the final grading and drainage plan is addressed in Response to Comment A8-3. All other comments do not pertain to the adequacy of the Draft EIR; therefore, no additional responses are required.

C4-11: Refer to Response to Comment C4-2 regarding deferred mitigation.

C4-12: Refer to Response to Comment C4-2.

C4-13: The threat to human health from accidental releases by the Valero Refinery is not considered significant, as described on pages 153 to 154 of the Draft EIR. The Valero facility has prepared a Risk Management Plan (RMP) which has been submitted to Solano County Division of Environmental Health. RMPs are required to include offsite consequence analyses for worst-case release scenarios, and would reduce associated hazards to the project site to a less-than-significant level. The protocol for emergency evacuations around the Valero Refinery is also described on pages 153 to 154 of the Draft EIR. The Valero refinery has 24-hour communication ability with the Solano County Local Emergency Planning Committee and emergency response organizations (e.g., City of Benicia Fire Department). This provides a means of notifying the public of a release and would ensure a quick emergency response.

As discussed on page 156 of the Draft EIR, the Benicia Fire Department is responsible for maintaining the City's Emergency Operations Plan, which is multi-hazard plan that identifies procedures for various emergencies. Evacuation arterials identified in the General Plan are close to the project site and could be used in the event an emergency. The City has also implemented a Community Alert and Notification System (CANS), a network of sirens and media links to warn and inform the community of potential hazards to public health and safety. The project site is within the area covered by the sirens, and businesses are notified of the CANS system when they obtain a business license. These measures provide a realistic framework for evacuating people from the project area in the event of a major release from the refinery. A specific plan for evacuation would be developed at the time of emergency in accordance with this framework.

The identity of specific tenants who could be storing on-site hazardous waste has not yet been determined. However, should hazardous wastes be stored on-site, the handlers of such wastes would be required to comply with the requirements outlined on pages 143 and 144 of the Draft EIR, which include preparation of a hazardous materials business plan and contingency plan. The hazardous materials business plan and contingency plan must incorporate procedures for reporting and identifying responses in the event of a spill, fire/explosion, or earthquake.

C4-14: All businesses that meet the minimum requirements for hazardous materials business plans (Federal Emergency Planning and Community Right-to-Know, Health and Safety Code Chapter 6.95, Section 25500 et. seq., as described in pages 143 to 145 of the Draft EIR) must comply with these regulations. This requirement is overseen by Solano County Environmental Health Services through regular facility inspections.

C4-15: Mitigation Measure HAZ-4a requires that the site be fully characterized for ordnance and explosives (OE) and hazardous materials prior to earthwork and site development activities. The mitigation measure further requires that the characterization shall occur under appropriate regulatory oversight and the site shall be demonstrated not to pose an unacceptable human health or safety risk to construction workers or future site users based on future land use and that the criteria shall be approved by the regulatory agency. As such, any investigations would be required to conform to the requirements of the regulatory oversight agency guidelines (likely the guidelines of the Department of Toxic Substances Control (DTSC)) regarding timeframe, public process, and environmental professional qualifications of the regulatory oversight agency. The qualified environmental professional performing the site characterization may either be hired by the project sponsor or be contracted by the regulatory agency to perform the work.

The City of Benicia Public Works Department would issue the project grading permits. DTSC was sent the Notice of Preparation (NOP) for the Draft EIR and a copy of the Draft EIR itself.

C4-16: Mitigation Measure HAZ-4b assumes that characterization of the site has been completed and the site has been demonstrated not to pose an unacceptable human health or safety risk to construction workers or future site occupants based on regulatory agency criteria (see Mitigation Measure HAZ-4a), but known or suspected OE is encountered during earthworking activities nevertheless. Mitigation Measure HAZ-4b requires that the regulatory agencies "be contacted to assist in removal of identified OE and to determine if further action is needed prior to the time that site development work resumes in the area. Work shall not resume in the affected area until the area is deemed safe by the local responding agency or regulatory agency." This action would ensure that a thorough, legal investigation would be conducted, as required by the regulatory agencies, prior to resuming work in the area, in the event OE is found during earthworking activities.

The second paragraph of Mitigation Measure HAZ-4b is revised as follows:

> The local responding agency (e.g., Benicia Police Department or Fire Department) shall contact the Sacramento District of the Army Corps of Engineers <u>and Department of Toxic Substances Control</u>, ~~as needed,~~ to assist in removal of any identified OE, and to determine if further action is needed prior to the time that site development work resumes in the area. Work shall

not resume in the affected area until the area it is deemed safe to do so by the local responding agency, and/or the Sacramento District of the Army Corps of Engineers and Department of Toxic Substances Control.

Letter
C5

Cindy Gnos
by way of email to Charlie Knox,
Community Development Director

March 11, 2007

Thank you for the opportunity to comment on the Benicia Business Park draft Environmental Impact Report (dEIR). I would like to also incorporate by reference all comments on the dEIR. **1**

I am commenting specifically on five subject areas.

General Plan consistency:

1. The dEIR identifies the proposed project as being largely inconsistent with several General Plan Goals and Policies. The dEIR is fatally flawed by not discussing the 1999 Benicia General Plan overarching goal of sustainability and the proposed project's consistency. **2**

2. Therefore there are no criteria to assess the "sustainability" of the project. The dEIR should refer to the California General Plan Guidelines 2003 for a start. The FEIR should address each of the elements below, establish a performance standard as a mitigation measure with threshold points to check the project for meeting these performance standards.

The following is excerpted from the 2003 Guidelines: *Sustainable development encompasses established principles of good planning and advocates a proactive approach to future development. The basic concept of sustainability is meeting the needs of current generations without compromising the ability of future generations to meet their own needs. Sustainable development can be further defined as promoting the "three E's:" environment, economy, and equity. For example, a decision or action aimed at promoting economic development should not result in decreased environmental quality or social inequity. Ensuring that a given decision or action promotes all three E's is often referred to as the triple bottom line. What does sustainable development took like on the ground? In a community that is developing sustainably, the neighborhood is the basic building block of urban design and is characterized by walkability, mixed-use development, and mixed-income housing. Walkability s a function of compactness and density. Attention to streetscape and public spaces is a key design element promote the three E's of sustainability. The concept and application of sustainable development is evolving through creative interpretation and use.* **3**

Decrease urban sprawl.
- Promote compact, walkable, mixed-use development.
- Promote infill development.
- Restore urban and town centers.
- Limit non-contiguous (leafrog) development.
- Promote transit-oriented development.
- Protect open space and working landscapes.
- Conserve prime agricultural lands.
- Conserve lands of scenic and recreational value.
- Use open space to define urban communities.
- Protect environmentally sensitive lands.
- Conserve natural habitat lands.
- Preserve habitat connectivity.
- Minimize impact to watershed functions, including

water quality and natural floodways.
▫ Avoid natural hazards.
♦ Create strong local and regional economies.
▫ Encourage jobs/housing balance.
▫ Provide adequate housing for all income levels.
▫ Encourage the expansion of telecommunications infrastructure.
▫ Provide a fair and predictable land use planning process.
♦ Promote energy and resource efficiency.
▫ Support energy- and resource-efficient industries.
▫ Promote waste reduction programs, such as recycling.
▫ Promote alternative forms of transportation.
▫ Promote energy- and resource-efficient buildings.
♦ Promote equitable development.
▫ Require fair treatment in the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
▫ Promote mixed-income housing development.
▫ Promote alternative transportation options to increase access.
▫ Promote economic opportunity for all segments of the community.
▫ Protect culturally significant sites.

3 cont.

Master Plan Requirements

The Benicia General Plan requires parcels over 40 acres to have an approved Master Plan. The dEIR fails to establish standards to determining to what extent the proposed project is a Master Plan and what would be required to meet the General Plan requirement. Such a Master Plan could be a mitigation measure establishing elements and components and timing for the implementation of the Master Plan. In general the Master Plan should develop a comprehensive plan for a course of action that incorporates the Benicia General Plan visions, goals, objectives and strategies for implementation of its plan. The comprehensive plan is intended to guide a community toward the realization of its vision and is inclusive of a community's relationship with its surrounding landscape as interactive, interdependent elements.

4

The Master Plan should establish the following, but not limited to this list, the type and kind of businesses, commercial and potentially residential uses (see mixed use alternative), the arrangement, percentage and distribution of these uses; design guidelines; street design incorporating traffic calming elements.

Furthermore, a campus/research use should be identified as a mitigation measure to better match the demographics for jobs/housing impacts, and to reduce the traffic impacts. This use may also mitigate the need for large the proposed project's pads for typical warehouse, garage tilt up-type structures, by utilizing the topography making the Benicia Research Park design and integration into the historic landscape more inviting to researchers. This mitigation use should be considered for the sustainability assessment.

5

Letter
C5
cont.

Visual Impacts

Landscaping plant material, especially the apparent cypress or some kind of pine tree for mitigating visual impacts as shown in the dEIR is not consistent with General Plan policies of using California native plants of the general region. Indeed it is the nature of California plants that may not make them unsuitable for screening. Thus the visual impacts cannot be reduced to a level of insignificance. 6

As the dEIR notes, the Carquinez Strait is visible from the proposed project site and is prominent. The dEIR fails to discuss the regional significance of the Carquinez Strait. The Carquinez Strait Resource Management Plan is a collaborative regional document identifying the regional resources including its scenic values. The dEIR fails to discuss the importance of this regional resource as recognized by federal, state and local entities. The dEIR should assess the visual impact for hikers on the Contra Costa County Coastal Bluffs, as well as views from the water such as sailing, ferry boats, kayaks and fishing and excursion craft. The dEIR should provide a standard of visual impact that demonstrates to what extent the pleasure and aesthetics of a visual experience is directly related to massing and linear disruption of the open landscape. In fact, the Benicia Hills are recognized as an historical element in its landscape and should be evaluated in terms of historical landscapes with reference to methodology and accepted practices. The loss of hills or the obliteration of the sense of the hills should be mitigated. Landscaping cannot achieve a reduction of significant impact to less than significance. Landscaping can change the nature of the view. Change is not a mitigation. 7

Growth Inducing

The Benicia General Plan anticipates continued growth pressures on the protected Sky Valley by identifying programs to support its policy of maintaining Sky Valley as open space. These programs include mitigating growth inducing impacts as the result of development by requiring that development to contribute to the purchase of fee title or conservation easements of significant and key parcels. The dEIR is flawed by not identifying the proposed project as growth inducing supposedly because the existing Urban Growth Boundary prevents such growth. This is a phantom prevention since the UGB expires in 2023 unless renewed by the voters. Therefore, the FEIR should discuss the growth pressures and require the use of the General Plan programs for permanent protection. 8

This growth will also have adverse effects on the rural nature of the Lake Herman Road, the intensity of use of Lake Herman Park and potential impacts on the plant coverage due to the increased introduction of exotic species in Sky Valley. Mitigation measures should be developed to address these issues. 9

Traffic

The dEIR should more clearly describe for the ease of the reader and decision makers the effect of the build out of the project of traffic on Lake Herman, I-680 and 780, and discuss the impacts from the proposed mitigation measures of widening intersections, and widening the freeway and its impacts on housing adjacent the CalTrans easements. Environmental justice issues need discussion since an affordable housing project may be adversely affected by such freeway widening. Associated impacts related to environmental justice are air quality and noise. 10

Furthermore, the FEIR should discuss the mitigation measure for increased traffic by locating an Intermodal Transportation Station (ITS) on the west side of I-680 for regional bus service and connection to existing train and ferry systems. The Benicia ITS presently proposed on the east side 11

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cont.

of I-680 is identified as a train station, however studies show that its impacts to wetlands and its vulnerability to rising sea level may make it infeasible. In addition studies show that the train station will have little to modest ridership whereas a regional bus ITS located in the proposed project area would be a substantial mitigation measure. **11**

Respectfully submitted by
Elizabeth Patterson
1215 West Second Street
Benicia, CA 94510

COMMENTOR C5
Elizabeth Patterson
March 11, 2007

C5-1: This is an introductory comment.

C5-2: Sustainability, the idea that resources should be used in such a way that resource use by future generations is not compromised, is clearly an important environmental and community planning goal. However, sustainability as a way of making development projects environmentally *beneficial* is outside the realm of CEQA, which requires only the analysis of a project's significant *adverse* effects (CEQA Section 21068 and *CEQA Guidelines* Section 15126.2). CEQA is structured to ensure the disclosure of significant environmental impacts of projects and requires discussion of environmental benefits only in that context.

In addition, the City of Benicia has no adopted criteria of significance by which to determine whether a project that does not exceed certain sustainability thresholds would result in a significant environmental impact. Also, "sustainability" as a feasible concept for communities to implement (even as defined by the 2003 California General Plan Guidelines) focuses more on form (e.g., walkable communities, preservation of sensitive habitat, and promotion of mixed income communities) than the reduction of environmental impacts (e.g., traffic, wetland removal, and commute rates) – making it challenging to incorporate into CEQA documents.

Therefore, the Draft EIR does not include a specific topical section on sustainability issues. Nevertheless, the theme of sustainability, in as much as development projects that incorporate sustainable design strategies reduce environmental impacts, is addressed in all of the topical sections of the Draft EIR, most notably in Chapter VI, CEQA-Required Assessment Conclusions, under "3. Consumption of Nonrenewable Resources" (pages 373-374). This section explores various aspects of sustainability, including loss of agricultural land and mineral resources, and use of energy. The analysis in this section indicates that the project, which includes an auto-oriented street system, lacks trails and connectivity to surrounding areas, is oriented to the freeway, would discourage the use of alternate forms of transportation, and would result in substantial (significant) consumption of non-renewable energy resources (page 374 of the Draft EIR).

Other Draft EIR sections where elements of sustainability are explored include: IV.A, Land Use and Planning Policy (consistency with policies that protect environmental resources, pages 104-105); IV.B, Population, Employment and Housing (jobs/housing balance, page 112); IV.D, Hydrology and Water Quality (water quality degradation, pages 139-140); IV.F, Biological Resources

(preservation of sensitive habitats, including wetlands, pages 194-196); IV.G, Transportation and Circulation (provision of bike and transit facilities, pages 247 and 250-251); IV.J, Visual Resources (protection of land of high scenic value, pages 299-300); IV.K, Cultural and Paleontological Resources (protection of historical resources, pages 318-319), and IV.N, Urban Decay (protection of the Downtown commercial district, all pages).

In addition, Chapter V, Alternatives, provides a detailed description of three conceptual land use development alternatives to the proposed project. All of these alternatives would reduce the environmental impacts of the project and would be more consistent with the themes that underlay sustainability.

C5-3: See Response to Comment C5-2.

C5-4: See Response to Comment C4-3.

C5-5: No significant population, employment and housing impacts would result from implementation of the proposed project, as noted on page 112 of the Draft EIR. Therefore, no mitigation measures are required to reduce the project's effects on Benicia's jobs/housing balance. The mitigation measures identified in Section IV.G, Transportation and Circulation, of the Draft EIR would reduce the impacts of the project on traffic congestion to a less-than-significant level. Therefore, the recommended measure (requiring substitution of campus/research uses for industrial uses) is not necessary (to reduce environmental impacts). However, the three development alternatives outlined in Chapter V, alternatives, of the Draft EIR, would require either the reduction of industrial space on the project site, or the accommodation of industrial space within smaller building footprints. These alternatives would achieve many of the development objectives noted in this comment (e.g., reducing the need for grading, and better incorporating buildings in the hilly topography of the site).

C5-6: See Response to Comment C1-8 and B3-32. As indicated on page 300 of the Draft EIR, the proposed project's effect on the visual character of the site would be significant and unavoidable, even after implementation of recommended mitigation measures.

C5-7: See Response to Comment C1-8.

C5-8: See Response to Comment B5-2.

C5-9: Visual changes to Lake Herman Road that would result from implementation of the proposed project are discussed on pages 290 to 300 of the Draft EIR. Changes to the visual character of the site, including the site as seen from Lake Herman Road, are identified as a significant and unavoidable impact in the Draft EIR. Like the project site, much of the open space around the site is covered with non-native grassland. While certain landscape plant species that would be planted in the site as part of the project could colonize surrounding areas, the visual and

ecological changes that would result from this colonization are expected to be less-than-significant. Therefore, no mitigation is required.

C5-10: See Response to Comment C1-7.

C5-11: See Response to Comment C2-24.

Letter
C6

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Original Comments submitted March 12, 2007
with Addendum Comments submitted March 26, 2007

addressing

Public Review Draft

BENICIA BUSINESS PARK ENVIRONMENTAL IMPACT REPORT

PREPARED BY LSA

JANUARY 2007

Letter
C6
cont.

MARILYN BARDET
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March 10, 2007

Charlie Knox, Planning Director
Cindy Gnos, Contract Planner
City of Benicia
250 East L Street
Benicia, CA 94510

Comments Regarding Benicia Business Park
Draft Environmental Impact Report - prepared by LSA Associates, Inc., January 2007

Dear Charlie and Ms. Gnos,

Thank you for the opportunity to comment on the Draft EIR for the "Benicia Business Park" development being sponsored by Discovery Builders, a Seeno company. The first DEIR was submitted for public review and subsequently withdrawn—after serious public rejection of the document's 1

It's taken me the full 45 days, plus two extra weeks of the extended comment period, to understand the reason for the depth of confusion I felt reading the new DEIR in its entirety and formulating comments, page by page, about what it purports to evaluate. I'll try to be very clear about my fundamental concern, which goes to the heart of the DEIR's assertion that the "proposed project" is a "Master Plan". I'll then follow up with specific comments about the "Plan" as described and evaluated for potential significant impacts. I will be submitting comments today, March 12, the deadline, and extend those comments by subsequent submissions, up until the City Council hearing date.

I believe the DEIR is fatally flawed in fundamental ways. The Seeno DEIR, in describing the "proposed project" as a "Master Plan"("Plan"), encourages the reader to assume that the document is both a presentation of a developed master plan —how it was developed is not explained—to puportedly give guidance for a twenty-five year long, vaguely described "phased development" of an "office park" on a 315 acre site located within Benicia city limits—property privately owned by housing developer, Albert Seeno. The DEIR appears to do double duty, serving to present and describe a "plan" as if there'd been a public process to gain consensus and support its development, but also, serving to review the environmental impacts of the Master Plan laid upon us, *presto*, complete! There were two scoping sessions for the DEIR called "workshops". The public understood these to be scoping sessions to aid preparation of the DEIR. These sessions cannot be considered a "planning process" for a "master plan" for a project that will "conclude" in 2031. 2

Other clues to the conundrum this "double duty" DEIR presents: There is no other stand-alone document entitled "Master Plan for the Benicia Business Park" to which the DEIR refers. There is no separate "economic report" prepared by independent consultants, either referred to in the body of the DEIR or in an appendix, to support the assertions about the necessity of the kinds of commercial 3

business ventures suggested to be suitable for serving "the local business community" as the DEIR states. We should have had a bona fide "master plan" planning process over the last two year, since the first DEIR was withdrawn. To fairly understand implications of a twenty-five year "phased development" program for the City of Benicia and the community, considering the strategic location of the "project site" and its substantial size, we should have had a programmatic EIR to investigate the scope of the the project as a whole, what the community would envision as most desirable, necessary and contributive to Benicia's quality of life, the design layout for lots, consideration for topography, lot size, location of streets and buildings and their types, and the potential economic benefits and "downsides" of any particular scheme, with alternatives proposed. [See appended "hard copy" submittal for an example of a "master planned" project under CEQA review of a "program EIR". Submittal contains an executive summary of the Draft EIR on the Sacramento Regional Wastewater Treatment Plant 2020 Master Plan", which defines the uses of a "program EIR" as it relates to a master plan, and the process by which the master plan was created.]

3 cont.

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Most importantly, we should be able to gain clearer understanding of the current meanings of "sustainablitity" through a master planning process. The concept and intent to implement it, is the central, overarching goal of our Benicia General Plan adopted in 1999. A master plan process for the site could develop criteria for judging a proposed project's conformance with basic standards, now being articulated, representing "sustainability"as the concept relates to new development and new practices in "green" engineering, architecture, design, materials and technology. Considering that we are responsible for understanding the environmental implications of a growth-inducing project of the magnitude presented in the DEIR's "Plan", the DEIR fails to give the public either adequate description or analysis of all of the total "costs" of doing "business as usual", which is what the Seeno-inspired project so predictably embodies.

The intent, in 1999, of the General Plan's land use designation for the project area, and for policy guidance with respect to sustainability, was to promote economic development *within* city limits, while protecting environmental resources, our physical topography, historical "small town" character and quality of life. For the sake of these fundamental values, sustainabilty was established as principle goal of the General Plan. The definition of sustainabilty found in the General Plan's introduction, page 22, borrows from the U.N.'s first official declaration of its meaning, established by The World Commission on Environment and Development's Brundtland Report of 1987. The basic definition given then has been reiterated in many ways and with much expanded description and criteria by international, national, regional and local agencies of all kinds, retain the fundamental premise of sustainabiilty as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." [*The Sustainability Revolution: Portrait of a Paradigm Shift*, Andres. R Edwards; New Society Press, 2005] The reasons now grow in number every day for upholding the prime visionary value of "sustainability" as a guiding principle of development planning. Latest scientific research pertinent to global warming phenomena and the effects of greenhouse gas emissions from all sources is demonstrating the cumulative, drastic "costs" to the environment of continuing to do "business as usual". Many companys are inventing new ways to evaluate their processes, considering opportunities for "cradle-to-cradle" production values involving recycling and reuse of materials. As widely reported, CEO's of major US corporations, including US energy companys, agree with environmentalists that

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concern about energy consumption is an issue of "national security" as well as "survival" for global human civilization: US resouce consumption—the US consumes 25% of the world's total resources, but represents only 5% of the world's population—is now being rivalled by China, with India "in line" next to equal or surpass US consumption rates. Exponential "unlimited" growth poses dire global consequences for ecosystems and the biosphere generally: environmental "costs" of global warming and resource depletion are already manifest in changing conditions everywhere on the planet for wildlife, fisheries, oceans, forests, fresh water supply, air quality, coastal living, food production and transportation, to name some of the basics.

We have new information regarding potential effects of greenhouse gas emisisons on climate, as well as uncertainties being described about energy security and the need for conversion to "renewables" in our state and nation-wide. The DEIR presents and reviews an alleged "Plan" meant to serve Benicia over the next twenty-five years and beyond, but it doesn't have a section on on climate change or energy consumption/conservation, despite widely available reports on the "global warming" phenomenon and its potentially far-reaching local and regional consequences for water supply, biological resources, wildlife habitat and food production. For example, along the Suisun Marsh shoreline, Benicia could potentially suffer significant losses of wetlands if there is a sea level rise of between 1 and 3 feet before the end of this century, as reported recently in the Contra Costa Times and San Francisco Chronicle, with both newspapers offering maps showing areas of predicted inundation in the Bay Area, including in Benicia, along our eastern marsh, where Valero Refinery's wastewater ponds are located. Where will we put a public transit hub now? The DEIR does not address the real problem of retooling a city to address the challenges posed by projected sky-rocketing costs of fossil fuels, including natural gas. The need to develop local energy security and conservaton programs is of paramount concern. **5 cont.**

As it stands, the DEIR fails as either a planning tool or an environmental review. It appears that the "proposed project" would be designed like a suburban residential tract development, complete with cul-de-sacs hooked into one main boulevard linking them (Boulevard "A"). To accomplish this, the project proposed would excavate 9 million cubic yards of soil, destroying wildlife habitat and covering over wetlands, creekbeds and natural seeps. The Alternative Projects described are not characterized sufficiently to know how they would appear nor to understand what seem to be arbitrary "areas" marked "industrial" and "commercial". **6**

Obviously, it would be highly desirable to fulfill General Plan goals and policies to protect the environment and natural topography while supporting suitable, economically and socially beneficial development that would actually contribute to local and regional "quality of life", even accounting for the tremendous uncertainties posed by climate change, energy disruption and resource depletion. But should we expect that a car-centered, suburban design layout with cul-de-sacs on flattened mesas answer any immediate call for this kind of "business development" in Benicia? And what about future needs? The DEIR does not and cannot sufficiently address cumulative and significant impacts because it lacks adequate supporting documentation to claim that the suggested economic benefits of the proposed "Plan" would outweigh the sum total of potentially significant environmental cumulative impacts ("Biological Resources", "Hydrology", "Air Quality", "Transportation and Circulation", "Visual **7**

Resources" and "Urban Decay"). **7 cont.**

The DEIR's vague characterization of the Plan itself and its "project alternatives" does not offer a reasonable person the possibility of understanding the Plan as guidance for the WHOLE of the project, neither as a "master plan" or as a description of an aggregate of development projects. There is simply not enough information to fully characterize the proposed "phased development" strategy during the twenty-five year time-frame of its implementation, or the resultant development's sustainability during the development phases and beyond so-called "buildout". **8**

It's impossible from the DEIR's scant visual simulations to know how maximal development of the project site is intended to look after 25 years. There is little or no discussion of the potential cumulative significant impacts of extending the industrial park westward, linking it to Lake Herman Road, with respect to the nearby Water's End and Southampton Hills residential areas. **9**

Indeed, my first obvous clue to deermining"what's wrong" with the "Plan" as presented in the DEIR should have been my wondering at the complete absence in the DEIR of any discussion of Opticos Design, Inc's "Lower Arsenal Mixed Use Specific Plan" ("LAMUSP"), an independent planning document which was legally required to be created (since the Arsenal property encompassed ~50 acres) and ordinances to define and characterize "mixed use" had not been established. In fact, economic analysis such as provided in the LAMUSP by an economist subcontracted by Opticos Designs Inc. is nowhere referenced the Seeno DEIR, with respect to the assumptions about viability of a conference center and other office buildings as part of the Business Park's "tenant mix"; YET, the LAMUSP's economic analysis supports the Specific Plan's conception of creating a "destination campus" for conferences, business meetings and special events on the Jefferson Ridge, with six new 3.5 story buildings proposed. How can both a conference center suggested as viable for the Seeno property and one at the Jefferson Ridge property both be feasibly supported—year in, year out—given the size and location of Benicia and given the competition with other communities' facilities within a 30 mile range? **10**

To further illuminate the confusion about what the DEIR claims constitutes a "master plan" with what the Arsenal Specific Plan represents, by its method of formulation: The LAMUSP is an evolving product of a planning effort officially begun in August, 2006. It represents a consensus-building public participation process that offered extended oppportunities for direct conversation and interaction with Opticos urban planners, designers, architect, economic analyst, and draftsmen. A "form-base code" was adopted for determining the general appearance not only of individual building types but of streetscapes, roadways and landscaping patterns. Public involvement helped give shape to development options and also alternative"options". This arsenal planning process is still on-going: In February 2007, the LAMUSP was available to the public for review and comment; the document was formally presented for public hearings held by commissions and city council. Right now, the public awaits the preparation of an environmental report on the LAMUSP, with distribution of the EIR and public review slated for this summer. **11**

The DEIR does make clear that there is precedent for considering economic impacts of potential **12 cont.**

"urban decay" to occur as a result of a project's implementation. However, if the "proposed project" is actually a "master plan", then economic analysis done for the prominent area in the lower Arsenal where mixed use incorporates light industrial as well as commercial enterprises, should be fully considered in the DEIR. For example, the DEIR should explain the potential for a glut of office space vacancies, should both the Seeno site and the lower Arsenal become developed according to their respective "plans". **12 cont.**

What speculative economics is presented in Chapter IV., Urban Decay does not constitute sufficient analysis: What would be the potentially significant cumulative impacts to the City of Benicia and the community of a foreseeable, chronic economic down-turn affecting commerce at the Business Park itself over the course of the development "phases", and beyond buildout, including impacts to residential property values in the vicinity of the project site itself? What about potential for growth in crime? The costs of crime to the City and community? The separate economic report, submitted to the City in 2006, entitled "Economic Impact Analysis of the Proposed Benicia Business Park" should be included in the DEIR in a separate appendix, for ease of reference. The data described in Table IV. N-1 "Existing Retail Sales and Leakage- (2005)"and N-2 "Supportable Square Feet of Retail Development" are used to demonstrate support for the premise that *maximum* development of the project site can be expected, and that maximum development of the site is both optimal and sustainable despite claims made elsewhere in the DEIR that the Benicia Business Park is primarily intended to serve "the local business community". This is of enormous concern, considering that the proposed project, said to be a "master plan", is meant to account for the life of the project as a WHOLE, during the 25 year phased development, and the future beyond buildout, e.g., beyond 2031. There is no discussion that the lease governing use by Amports PLC of the City of Benicia's wharf wil be expiring in 2032, thus opening the possibilty of the City deriving revenues at last from its port property. **13**

If it is to be as accurate as possible as a forecasting tool in a fast-changing world, with new uncertainties added to public concern everyday about developing energy crisis and climate change, a more thorough and honest economic analysis would require support for statements and speculations suggesting the economic need for the proposed Office Park's light industrial and commercial businesses suggested as suitable and viable. Such analysis would have to account for the foreseeable possibility of economic down-turn, which the DEIR doesn't bother to entertain except in briefest summary: the possibility of urban decay occuring at the Office Park itself. What would be the effect on Benicia as a whole and to surrounding neighborhoods of chronic or cyclic vacancies at the "business park", wherein undesirable tenants (such as the Auto Auction located off Park Road below our historic district) may be "invited in"to fill up empty warehouse buildings or office buildings? What about the suggestion for "truck servicing center" at I-680 and This possibility calls up potential cumulative impacts unaddressed by the DEIR, perhaps because under CEQA only "significant environmental impacts" are considered, not "economic impacts". However, the DEIR claims to be reviewing a "Master Plan" which should be supported by an independent economic report. What could happen, with this "Plan", ten years out from first grading activities or ten years past build-out, if the economy changes, as we might foresee, for instance, given fluctuating and rising energy costs? What if there is disruption to the energy grid? Or supplies of fossil fuels? Costs to the City could be astronomical of such decay, including depressed housing prices in the vicinity of Waters' End and Southampton Hills neighborhoods which are nearest **14**

the project site. **14 cont.**

At one time utilized as grazing land and pasture from the 1870's onward, the hilly northern property, with its remains of a dairy farm, borders Lake Herman Road—our General Plan-designated two-lane scenic rural route, along most of which our Urban Growth Boundary was established by citizen initiative to protect rural open space north of it. That initiative expires in 2023, within the 25 year time-frame of the proposed Plan's "development buildout". However vaguely the DEIR outlines the Plan, as described, its full implementation would certainly have cumulative and far-reaching negative environmental impacts, as the LSA preparers point out. Not the least, the widening of Lake Herman Rd. and the creation of an extension of Industrial Way to Lake Herman Road would bring more people, including "Business Park" employees, into the rural area on a daily basis, thus, for example, increasing needs for services and more park amenities at Lake Herman recreation area. According to estimates in the DEIR, there would be roughly ten to twelve thousand more daily vehicle trips per day expected along our "scenic route" just from the traffic to and from the office park development alone. It's not hard to imagine the growth-inducing pressures exerted by such cumulative impacts as the "Plan" would represent if fully built out, employing ~7,600 people: housing builders would eagerly, and perhaps more easily, pursue residential "sprawl" development of Sky Valley. As another example of the DEIR's failure to fully characterize the extent of growth-inducing factors: there's no mention of Solano Transportation Authority's characterization of Lake Herman Road as a connector or "feeder" to I-680 from Vallejo. According to STA projections stated at a public meeting I attended in Vallejo, (I can't recall the date, whether in 2005 or early '06)?, Lake Herman Road is expected to eventually be widened to four lanes. STA officials professed not to know that the Road was protected in our General Plan. Were STA officials ever consulted, at the time of the preparation of the first or second DEIR, about Seeno's plan to build an office park bordering Lake Herman Road? Also, the DEIR does not account for the fact that, last year, 400 new homes were permitted for the former Bordoni Ranch property now annexed to the City of Vallejo, just outside Benicia's western city limits. This development will increase pressures on Benicia's services, on parking at Southampton shopping center and add to traffic in and out of town, directed to commercial areas and parks. **15**

The General Plan's land use designations for the Business Park project site, are "light industrial" and "commercial". The DEIR states that Discovery Builders' development application includes a Vesting Tentative Subdivision Map and a request for a *"Master plan overlay zoning district, including adjusting the commercial and industrial zoning designation to be consistent with the Master Plan."* [DEIR p. 61 Project Background]. According to the City of Benicia, a Master Plan is required for developing sites of 40 acres or more.

The DEIR treats the "proposed project" as a "master plan" in a highly confusing manner, as I've tried to describe. For instance, it doesn't tell how the layout and configuration of lots was decided upon, nor the reasons for the particular numerical order of the parcels. Does the numbering have anything to do with when parcels are expected or desired to be sold or developed around certain cul-de-sacs? What does "phased development" mean with regard the distribution of lots, their sizes, and the division between "light industrial" areas and the "commercial" area? If lots are intended to be sold off and independently developed, is it expected that there would be ONE developer who would sweep in and buy **16**

all the lots, then present a cohesive development application? How will the integrity of the WHOLE of the project as a "development project", to be called "Benicia Business Park", be ensured, if there is not more specific planning policy guidance that regards the particulars of the WHOLE project site? Are General Plan policies and planning staff, Planning Commission and Historic Preservation Review Commission evaluations of individual project applications to suffice to create a "whole, integrated project" encompassing 315 acres? I think not.

16 cont.

I will be submitting further comments by pdf file, to extend these general observations and with "specifics", as I continue to type them out, from written comments I've logged filling two legal pads.

Sincerely,

Marilyn Bardet

MARILYN BARDET
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Letter
C6
cont.

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March 13, 2007

Charlie Knox, Planning Director
Cindy Gnos, Contract Planner
City of Benicia
250 East L Street
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Comments Regarding Benicia Business Park
Draft Environmental Impact Report - prepared by LSA Associates, Inc., January 20

Letter regarding ADDENDUM TO ORIGINAL SUBMISSION

March 13, 2007

Dear Ms. Gnos,

Because of time constraints typing out hand-written specific comments taken down on a page-by-page reading of the DEIR, I intend to submit several batches of comments as ADDENDUM to my comments submitted March 12th.

Because getting the best Master Plan possible for the future of the 527.8 acre Seeno property is so hugely important to the future of Benicia; and because the"Plan" presented in the DEIR is so woefully lacking in respect to the goals and policies of the Benicia General Plan; and because there was no community participation in any "master planning process" that contributed to the formulation of the proposed "Plan"; and because new information has not been incorporated in this second DEIR that the community would expect that this second iteration would address: for all these reasons it is imperative that LSA give opportunity for citizens to add to existing submissions that met the deadline of March 12th.

I would very much appreciate knowing that additional comments, submitted in the form of addendums to already submitted comments, will be respected and evaluated by LSA.

Thank you very much for your consideration,

Marilyn Bardet

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Letter
C6
cont.

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ADDENDUM — # 1

Comments Regarding Benicia Business Park
Draft Environmental Impact Report - prepared by LSA Associates, Inc., January 20

Under CEQA, an EIR should give sufficient information to make clear to a reasonable person the WHOLE of a "proposed project"; to fully expose and discuss its potentially significant environmental impacts, discuss cumulative and/or irreversible impacts, and produce plans to reduce them via mitigation or provide compensatory plan(s) in the case of irreversible or irreducible impacts. The EIR must fully discuss likely alternatives to the project, including the "no development" alternative, to explore and determine an "environmentally superior alternative" that would better address concerns and impacts of the "proposed project" as it is discussed in the EIR.

PROJECT DESCRIPTIONS: defining the term "Proposed Project".

There are confusing shifts in meaning contained by descriptions of the "proposed project" as pertaining to the purposes of the DEIR and public understanding of the "whole" of the project.

Please note discrepancies in the following texts that confuse the definition of the "proposed project":

Page 1, I. INTRODUCTION — A. PURPOSE OF THE EIR: . . . *"this report describes the environmental consequences of the Benicia Business Park proposed for the development of approximately 527.8 acres..."* 17

Page 1, I. INTRODUCTION — B. PROPOSED PROJECT:
"The project consider in this EIR is a proposed Master Plan for a 527.8 acre site northeast of downtown Benicia. . . The proposed Master Plan development would locate commercial development at the eastern end of the project site and industrial development in the central and western portions of the project site. . . . Under the proposed Master Plan, a total of 280 acres would be developed for limited industrial. . ."

Page 5, **II. SUMMARY - PROJECT UNDER REVIEW**:
"This EIR has been prepared to evaluate the environmental impacts of the proposed Benicia Business Park (project). The project would result in the development of a business park on approximately 527.8 acres in the City of Benicia. A detailed description of the proposed project is provided in Chapter III. Project Description. The key elements are summarized in Table II-I.
The project site would be divided into 80 lots to allow for the development of approximately 280 acres of limited industrial uses and development of 35 acres of commercial uses. No specific site plans have been created in association with the proposed project, and no tenants have yet been identified for the proposed commercial

and industrial space. However, for the purposes of this environmental analysis, reasonable assumptions have been made about the maximum development on the site that could occur as part of the project. These assumptions are based on anticipated lot layout, proposed land uses, development intensities permitted in the Benicia General Plan and Zoning Ordinance and market research. [my emphasis in bold.] *Based on these assumptions, the project would result in the construction of 857,000 square feet of commercial building space and 4,443,440 square feet of industrail building space (for a total of 5,3000,440 square feet of building space). It is also expected that the project would result in the direct creation of approximately 7,680 jobs.*
The project would result in approximately 9,000,000 cubic yards of grading at the site. Cut and fill would be balanced on the site by placing fill portions of the site that are currently low-lying, such as the locations of intermittent streams and swales. The project also includes approximately 180 acres of open space, concentrated mostly in the northern and central portions of the site. A 54-acre reach surrounding a major drainage on the site would be included as part of the proposed open space. Approximately 7.28 acres of mitigation wetlands are proposed as part of the project."

Page 59, III. PROJECT DESCRIPTION:
"This chapter describes the Benicia Business Park Project (project) that is evaluated in this Environmental Impact Report (EIR). A description of the project's objectives, location, background, and site characteristics is followed by details of the project itself and a summary of required approvals and entitlements."

Page 61, III. - C. PROJECT BACKGROUND:
"The proposed project has been in existence in various forms since the early 1980's. In 1981, an Environmental Impact Report (EIR) was prepared for a mixed-use development proposal that included the project site." . . . "An EIR was prepared for a subsequent business park proposal in 2001. However, after the Draft EIR was circulated for public review, the project sponsor at that time (Albert D. Seeno Construction Company) paused to make changes to the project, and the environmental review process was put on hold." ... "The current application has been developed to resond to various environmental concerns raised from earlier applications. . ." "The current application includes a Vesting Tentative Subdivision Map and a request for a Master Plan overlay zoning designation, including adjusting the commercial and industrial zoning designation to be consistent with the Master Plan. A Master Plan is required by the City of Benicia General Plan for properties under common ownership which comprise more than 40 acres. The goals of the master plan process are to encourage the best and most effective use of properties and to allow the city to anticipate and plan future public services and facilities."

Page 65, III-E. PROPOSED PROJECT:
"The following sections provide an overview of the project and a description of plan features including proposed uses, densities, projected employment and construction phasing."

17 cont.

Page 65, III. E. 1. Project Overview:
"The proposed Master Plan locates commercial development at the eastern end of the project site and industrial development in the central and western portions of the project site.". . . .

Page 66, III. E. 1. Project Overview:
"A Master Plan showing the proposed subdivision is shown in Figure III-2. . . . "Development of the Master Plan would require extensive grading to provide level building pads and to construct the proposed roadway system. The major portion of grading would occur on the western, southern, and eastern portions of the site.

• Apparently, the project proponents and DEIR preparers view the term "proposed project" as correlative or equivalent with the following: "Benicia Business Park","the development", as well "the plan" and "Master Plan". Are these terms meant to be formally and officially, or casually, interchangeable in the DEIR? Are they understood by the DEIR preparers to be synonymous with regard the content of analyses? If they are neither interchangeable or synonymous, please explain in what way they are differentially employed and why, using the referenced descriptions quoted above and other examples.

• Neither the brief text in Chapter I.'s INTRODUCTION, PROPOSED PROJECT nor the slightly longer text of Chapter II's SUMMARY, PROJECT UNDER REVIEW cite or reference a "master plan" or "master planning process". However, a switch occurs in the project descriptions in Chapter III, PROJECT DESCRIPTION, where references are made in the chapter's sub-sections to a "master planning process" and "Master Plan" [PROJECT BACKGROUND, PROPOSED PROJECT, Project Overview, and Plan Features]. Please explain the reasons for this discrepancy between descriptions given in Chapters I and II, as compared to the description in Chapter III. **17 cont.**

• Please verify whether or not the "Proposed Project" under CEQA review *is indeed* the "Master Plan". If so, why isn't the DEIR titled **"Public Review Draft - Benicia Business Park Master Plan - Environmental Impact Report"**?

• It appears that statements regarding "development of the project" and "development of the Master Plan" are confused. **Page 66, "III. E. 1. Project Overview":** *"A Master Plan showing the proposed subdivision is shown in Figure III-2. . . . "Development of the Master Plan would require extensive grading to provide level building pads and to construct the proposed roadway system. . . ."* Shouldn't the sentence be instead: "Development of the *project* would require extensive grading..." Similarly, if the proposed project being reviewed is the required Master Plan, then the sentence would not be describing "extensive grading to provide level building pads, but something like: "Development of the Master Plan involved [what?]. . . and was guided by [what?]".

• Please explain why a separate, independent "stand alone" Master Plan document was not produced, with supporting materials: economic report(s); traffic studies; comparative analysis of features and elements of the first "proposed project" with current one; reports on public process since 2001; actual reported findings that account for changes made in the proposed project since 2001; findings in analyses

of potential cumulative environmental impacts relevant to reconsideration of the original 2001 project layout, which led to changes in design, if any, of the project site's lot distribution and layout, open space allocation, circulation and access as described in **FIGURE III-2 "Benicia Business Park EIR Master Plan".**

• Please explain what constituted the "master planning process" that produced the current Proposed Project, in light of the statement, **[page 61, C. PROJECT BACKGROUND]:** ***"A Master Plan is required by the City of Benicia General Plan. . . The goals of the master plan process are to encourage the best and most effective use of properties and to allow the City to anticipate and plan future public services and facilities."*** [bold for emphasis]. **17 cont.**

• Since 2001 when the first project was withdrawn after public review, what actions were taken in order to "develop"(e.g., produce) the current and new "Master Plan" as it is presented in **Figure III- 2 Master Plan**?

• In the years since 2001, (when the first project application was withdrawn), what process determined changes to the "proposed project" as then described?

• The introductory summary **[Page 1., PROPOSED PROJECT]** should clarify the DIFFERENCES and SIMILARITIES between the current "proposed project"and the first one proposed which the public reviewed in 2001. **18**

• In the 5 -1/2 years since the public reviewed the 2001 EIR, the only public opportunities the community has had to voice concerns about the "proposed project" were during two scoping sessions assumed to have been held in preparation for the new anticipated 2007 DEIR. In what way have project proponents sought to ensure that a proposed development plan would *best reflect the goals of the Benicia General Plan?*

• New information has come to light since 2001 with respect to the challenges presented by the need to reduce energy consumption and fossil fuel emissions. Neither the subject of energy conservation nor climate change is addressed in the DEIR, yet these issues are of statewide and national and international public concern, and Benicians are no exception. Please explain reasons for the obvious missing information and discussion in the current DEIR, and the implications for the DEIR's evaluation of cumulative and irreversible impacts of the Project as currently described. **19**

• Please explain how the proposed "Master Plan" "[encourages] *best and most effective use of properties"* with respect to compliance with the Benicia General Plan goals and policies. Thus, explain why the 2007 "Master Plan" was designed such that it lacks fundamental compliance with Benicia's General Plan of 1999, and lacks any reference to "new information" that has come to light since the first 2001 DEIR was reviewed for a very similar project. **20**

• "*The goals of the master plan process are to encourage* <u>*the best*</u> *and* <u>*most effective use*</u> [underline my emphasis] *of properties. . ."* What does "best" and "most effective use"mean to the project

proponents (as opposed to the residents of Benicia), for example, in relation to the kind and amount of grading proposed and the lot distribution around cul-de-sacs? Explain the advantage to the project proponents of the proposed grading plan and lot divisions and distribution. **20 cont.**

- **Figure III-9, "Grading Plan"** is not an sufficient representation of the grading plan and its visual results and impacts to natural topography. In fact, for this "reasonable person", the grading plan is not comprehensible. The planview map needs to be supported by a three-dimensional physical model and 3-d computer simulations of various "phases" of grading, seen from different angles and view points . **21**

- How much grading will be done (in what areas, cubic yards, etc.) for construction of infrastructure at the outset of project construction in "Phase I"? What amounts of grading will occur at each of the 5 phases of the whole site's development? What are the differences in heights of the land, if any, between proposed cul-de-sacs in the limited industrial areas?

- **Page 80. PROPOSED PROJECT - 3. Development Phasing and Infrastructure Improvement:** *"The project site is expected to be built out within 20 years of the beginning of construction... The development of roadways in the site would proceed in phases."* In the economic analysis associated to potential for urban decay **[Page 343, URBAN DECAY - C. Retail Demand]**, the DEIR cites a different date for build-out: *"The project sponsor anticipates that the commercial and lodging portion of the project could be developed within 8 year time span, while industrial uses would require at least 25 years to fully develop."* **22**

  Please clarify what the correct time-frame is for maximum build-out of the industrial portion of the development.

- The proposed 2007 "Master Plan" as briefly accounted for in the DEIR **[Pages 66-67, E. PROPOSED PROJECT, 1. Project Overview and 2. Plan Features]** appears to promote and embody 20th century assumptions that underlie current "market research". But the current market research cited for the region seems wholly lacking in any consideration LONG-RANGE for potentially extreme variables in costs and disruptions associated to access to energy and resources or the cost of transportation, distribution of goods, etc. There is no assessment of conditions that could produce a "worst case scenario" for prolonged economic downturn. Such a downturn would challenge "reasonable assumptions" for "maximal development" over twenty-five years. The rosy market research cited in the DEIR supporting the proposed "Master Plan"seems cherry-picked to fit what can be assumed might be the project proponent's hope of selling off parcels in consecutive "phases", with land prices rising. This raises the question: how can the current Master Plan represent an integrated plan for a whole project as it evolves over 25 years, when the Plan does not address any external contingencies that could potentially affect the viability of the project as a whole or in part? As implied by the DEIR's statements, why are "assumptions [supporting maximal development] ONLY based on CURRENTLY *"anticipated lot layout, proposed land uses, development intensities permitted in the Benicia General Plan and Zoning Ordinance and market research"?* **23**

- The Master Plan suggests no innovation in conception or layout for a 21st century "business park".

For instance, it does not suggest flexibility in layout for synergistic cooperation among businesses that locate together to recycle and share materials in order to more efficiently make use of materials, reduce waste and limit costs associated to accessing supplies. Please explain how the five phases of development proposed can accommodate significantly distinct or different approaches to strategic planning for businesses that could be recruited to locate here for the above reasons.

23 cont.

- The proposed pattern of development shown in **Figure III-2** appears to replicate Benicia's existing Industrial Park development along the upper part of East Second Street on the south side. Please describe how the project will be innovative in any sense, as a 21st century development project.

- Considering that the DEIR states that the business park development is *"expected to be built out within 20 years of the beginning of construction"* [**Page 80, III. PROJECT DESCRIPTION - E. PROPOSED PROJECT - 3. Development Phasing and Infrastructure Improvement"]** and that there would be "5 construction phases"—with each phase involving a number of separate development projects requiring applications and formal review—please explain why the referenced "Master Plan" is in any way sufficient to explain the project as a WHOLE across 20 - 25 years of separate construction projects, e.g., multiple numbers of separate project applications, reviews and approvals and all that this implies with regard "consistency", "standards", changes in economic conditions, costs, etc.

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- Please enumerate conditions related to "phases of development" and explain how the project site will look BEFORE maximum buildout or in the case that there is no "maximum" buildout. How much grading will occur upfront? Will cul-de-sacs be built along with development of underground utilities, etc.? What will the Project look like at every phase of development in the limited industrial zone, in the case of maximal development during each "phase"? And in the case of less intense development of an area? In other words, do project proponents intend to pave cul-de-sacs throughout the project site when underground utilities are put in? Could we be "stuck" with half-pepared sites that remain unleased or unsold for longer than two years or 5 years or 10?

Please explain how "phasing" as a development strategy would work to maintain maximum benefit to the community and City of Benicia. Please explain how "phasing" would address the following scenario: Police, fire and emergency service "sub station" has been constructed, the infrastructure for utilities, cul-de-sacs, sewer, drainage, etc., are constructed, a fast food restaurant and gas station and truck service center are operating in the eastern commercial zone, and within 10 years, less than 1/3 of the 80 parcels shown on the "master plan for Benicia Business Park" have been purchased or leased, with less than 2/3 of those lots completed. What are the potential impacts of "phasing" development, with regard to economic factors and potential cumulative impacts of Urban Decay?

- **[Page 5, II. SUMMARY. PROJECT UNDER REVIEW]** ". . .*No specific site plans have been created in association with the proposed project, and no tenants have yet been identified for the proposed commercial and industrial space. However, for the purposes of this environmental analysis, reasonable assumptions have been made about the maximum development on the site that could occur as part of the project. These assumptions are based on anticipated lot layout, proposed land uses, development intensities permitted in the Benicia General Plan and Zoning Ordinance and market*

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research." [underlining my emphasis]. How can "reasonable assumptions" about the entire direction of the project's evolution toward "maximum development" be based primarily on lot sizes and their distribution and current "market research"? Please explain THE ABSENCE OF ANY DISCUSSION of potential changes to the project driven by changes in the market: e.g., in regard to PREDICTED ENERGY COST INCREASES WITHIN THE TIME-FRAME OF ESTIMATED PROJECT BUILDOUT AND OVER THE LIFE OF THE PROPOSED PROJECT, and presuming that significant increased costs for energy and transport would reverberate through entire sectors of the economy, including construction. Please discuss with regard the assumption that maximum development would occur within 25 years. **25 cont.**

- **Pages 66 - 80, III. E. 2. Plan Features:**

"The proposed land uses wold be predominantly industrial with some commercial and open space. Proposed future land use locations are shown in Figure III-3. Proposed development intensities by phase and lot, for those areas of the site proposed for industiral and commerical use are listed in Table III-1. Features of the Master Plan are described below." . . . "Plan Features" are briefly and vaguely described under categories, and in Figures III-3, III-4, III-5, III- 6, III-7 : "Limited Industrial Development"; "Commercial Development"; "Infrastructure"; "Open Space and Landscaping"; "Grading"; "Projected Employment". Do these features as outlined on pages 66 - 80 represent the whole "Master Plan"?

- The DEIR's summary of the "proposed project" lists the Project's key elements. Table II-1 lists these elements according to categories: "Project Land Use", "Size/Number of Units" and "Description". The text then cites the number and layout of 80 lots, their size and distribution between "limited industrial" and "commercial" areas, as well as the amount of square footage suggested for maximal development of each area. Total acreage allowed to remain open space is cited, as are "circulation and access" via new roads. The DEIR alludes to "reasonable assumptions" for projected maximum development of certain types of businesses, based on "market research"cited but also, based on the configuration of "key elements". It appears that "lot size and distribution" were determined to attract certain kinds of businesses, based on the cited market research for Solano County and the region. How are the assumptions about what types of businesses will be part of the "business park" different in 2007 compared to assumptions made in 2001? Is the current lot distribution and number proposed by the Master Plan, **Figure III-2** adjusted MAINLY in relation to the currently cited "market research"? **26**

- What chance is there that lot sizes and lot distribution as currently shown on **Figure III-2** will be significantly altered if there are changing economic conditions that would arguably favor one sort of business over another? What would be the effect, overall, of adjustments in lot distribution or size on the visual appearance of the project through five phases and at buildout?

- **Page 69, 2. Plan Features, a. Limited Industrial:** The range of types of "limited industrial" uses permitted by the Benicia General Plan does not mean that any and all prospective business types would be equally welcome by the community or necessarily beneficial to Benicia, yet the DEIR seems to assume that a unified, integrated "business park" would be achievable simply by opening up leases (or sales of individual lots) to any or all businesses that fall into the acceptable categories. This approach is **27**

not a "plan" for an intergrated business park, nor does it respect that the project site is highly visible and marks a "gateway"to Benicia via a rural route. For instance, it would not be desirable to have auto dealerships and service centers and mini storage in a highly visible location, where instead might be envisioned, tucked between the hills, a "high quality" research facility and campus that could have less impact on the environment overall, be built to be more visually accommodated to the natural topography, and help diversify our industrial base while being more compatible aesthetically with residential neighborhoods that overlook the project site.

- **Figure III-2 Master Plan** seems to suggest that anything and everything permitted under "limited industrial", without preference, is suggested by the layout. Please explain if this is not the case.

- **Figure III-4 Possible Industrial Lot Development** gives no idea of how development sites might accommodate a "auto sales and services" or "wholesale distribution and storage" or "mini-storage". None of these types of lot configurations [building + parking lots] would be suitable at our rural gateway or along along the proposed extension of Industrial Way, since that new extension, even if turned into a 4-lane boulevard, would still intersect with Lake Herman Road, designated as our "rural scenic road". Maintaining the rural character of our northern city limit as a "gateway" that suggests Benicia's historic "small town character" can be accomplished through better design standards for the layout of the entire project and by careful design of buildings and parking adjusted to the EXISTING topography. Parking lots should NOT face roadways. Benicia suffers from having too much asphalt already: we have 42,000 parking spaces total serving the Port of Benicia's car import operations, according to recent findings presented in the Lower Arsenal Mixed Use Specific Plan. The example given of a "manufacturing site" fronting on Industrial Way is not acceptable, from standpoint of ugly "gateway" appearance and cumulative negative visual impacts of more asphalt visible in Benicia from main roads. **27 cont.**

- **Page 69 2. Plan Features, b. Commercial Development:**

- The proposed Master Plan is not only fundamentally out of compliance with the General Plan, it is also already out-of-date. Please explain how the "proposed project" or "Master Plan", revised since 2001 for review in DEIR of January 2007, helps the City *"anticipate and plan for future public services and facilities"*, when there is <u>no discussion or section devoted to analysis of the proposed project's estimated energy consumption at buildout with relation to recent state mandates for conservation and reduction, no overall plan or conception proposed for "green energy" sourcing for the entire project, (for example, solar arrays aggregately serving the entire site; wind turbines and/or purchasing of "green alternative" energy), and no acknowledgement of the climate crisis and new state requirements for reductions in greenhouse gas emissions within the time-frame of the proposed project's buildout</u>. **28**

- The Master Plan in 2007 should not only discuss strategies to conserve energy overall and reduce greenhouse gas emissions, but <u>develop performance standards and benchmarks for measuring and accounting for the effectiveness of an energy reduction/conservation program</u>. It should encourage and promote green engineering for buildings, with L.E.D. certification incentivized.

• The proposed "Master Plan" fails to be innovative or pro-active with respect to the Benicia General Plan's over-arching goal of sustainability. Building without regard for local and regional sustainability and without acknowledgment of the real potential catastrophes in the next 25 years and beyond of dwindling energy supplies, rising energy costs and effects of global warming is antithetical to the Benicia General Plan. The Master Plan as presented in the DEIR fails to address the most pressing moral imperative humanity must take up right now: to design today with regard for the needs of future generations and all life,.thus without sacrificing chances for survival of ecosystems generally, meaning protection for local wildlife habitat, bio-diversity and watershed. **29**

• The Master Plan should suggest a proactive approach to development of an energy and climate plan in anticipation of local initiatives, such as that of Sonoma County and its cities [All nine mayors in Sonoma County have signed on to reduce greenhouse gas emissions. Citizens are campaigning for a "Sonoma County Climate Action Plan" to reduce greenhouse gas emissions through planning to reduce daily car traffic, re-orient and design new development in cities for pedestrian/bike/public transit, etc., and supporting alternative strategies for providing energy.] It follows that there will be significant public push in Solano County and the Bay Area generally for a similar "climate action plan". achieved by local and regional initiatives.

• The 2007 Master Plan doesn't address the proposed development's projected draw on energy and water in the case of extreme, but plausible regional emergency in which disruption or prolonged curtailment of services could occur. For example, catastrophic collapse of levies in the Delta could potentially affect water availability and distribution in the region, including Vallejo and Benicia. Please discuss how a master plan for new development could address "emergency planning" for energy security and water provisioning within the project site. Why does the 2007 DEIR fail to discuss, considering that the prospect of Delta levy failure has been in the news frequently, the subject has been raised to high level of concern by the Governor since the failure of levies in New Orleans resulting from Katrina? **30**

• Climate change is predicted to involve varied disruptions in what we've come to consider as "normal" seasonal patterns of rainfall and snowfall in California. Scientists predict incremental, varied and cumulative changes to such patterns over this century, with rising sea levels also expected as a result of melting ice caps. Over the next 25 years—said in the DEIR to be the estimated time span for buildout—longer periods of hotter weather generally could mean even greater competition for water among urban, industrial and agricultural users, while adequate protection for health of river habitats for fish and other wildlife dependent on them will be of even greater importance, with respect to sustainability of the region's environment and economy. Please explain why the Master Plan does not discuss potential climate change impacts on water supply and availability. Please discuss projections for annual water consumption and provisions for conservation in the context of scenarios suggested by climate scientists for our state and region, and analyse implications with respect to "growth-inducing" cumulative impacts of the proposed project overall.

• **Page 70, 2. Plan Features, d. Open Space and Landscaping: [Figure III-8]** Little appears to have **31**

changed from the project as presented in 2001. The northwestern hill bordering Lake Herman Rd at the intersection with the extension of Industrial Way [Lot A] is to play "host" to a water tank on its southern exposure, thus disturbing the natural form of the hill most visible from the project and surroundings. This hill is the most visible landform "signature" at our northern gateway. Please explain how the distribution and allowances for Open Space have changed from the 2001 Master Plan Tentative Map, Figure III-2 in the 2001 DEIR. Also, please show visual simulations of "landscape berms" and close ups of the proposed landscaping. How does suburban type landscaping conform or contribute to the rural open character of Benicia's natural landscape? Why are there not plans for oak groves, olive groves, and pepper trees, which would at least be more historically in keeping with earlier Portuguese plantings around Benicia, especially in old town and the Arsenal?

31 cont.

• There is no discussion of the possible future need within Benicia city limits for pasture or grazing land to serve the local population. From the late 19th c thru the 1930's, the project site once served Benicians as a dairy, as the DEIR points out. Lands now considered marginal for agriculture could become more valuable as locally productive land, if the interior of the state suffers hotter climate conditions for greater parts of the year. Benicia enjoys a micro-climate suitable for fruit and olive orchards and dairying. A discussion of this prospect, under the **"no project" alternative**, should be part of any consideration of future land uses for the site..

• There is no guarantee that the entire project site will be built out within 25 years : **[Page 343, URBAN DECAY - C. Retail Demand]**, *"The project sponsor anticipates that the commercial and lodging portion of the project could be developed within 8 year time span, while industrial uses would require at least 25 years to fully develop."* . Considering that the DEIR states that one of the main goals of the master planning process is to aid the City of Benicia's ability to *"anticipate and plan for future public services and facilities"*, please explain why the currently proposed Master Plan does not account for the anticipated <u>increasing levels of uncertainty</u> surrounding future development in the next 25 years and beyond, <u>under the conditions of rising energy costs and rising construction costs</u>. [Construction cost increases were said by contractor, bidding to build a water recycling facility to serve the Valero refinery, were projected to increase by 6% to12%, between October 2006 and May 2009. See PURE Committee Report to City Council, March 21, 2007].

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• The overall scope of the project has not been either fully articulated or supported such that the public can understand the project as a whole. The DEIR's analysis of "maximum development" is based on limited economic and environmental assumptions and inadequate descriptions that are vaguely generalized, such as the description of the phasing of development as related to the grading plan. There are few supporting visual materials, certainly not enough and without sufficient detail to judge the whole of the project, especially regarding traffic circulation changes, types and sizes of buildings representing ALL uses permitted, roadways, paths [bike and pedestrian], landscaping, topographical changes, visual access to open space. The planview "Figures" are a highly limited tool for understanding the project.

• To understand the whole project visually and aesthetically—as it develops spanning two-and-a-half decades—the public needs more details, visual representations, 3-d computer simulations and at least one 3-d model of the entire project site as it is proposed for "maximum development", showing the

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appearance of the project as it will look through sequential "phases", including during First Phase. **33 cont.**

• **Project Alternatives** should also be modeled three-dimensionally so that the public can understand and fairly judge the two most likely alternatives, the **Waterway Preservation Alternative** and the "environmentally superior" **Hillside/Upland Preservation Alternative. Figures V-I and V-2** showing the alternatives in schematic form are too unspecific to help fairly judge the proposed alternatives in comparison to the proposed project layout shown in **Figure III-2 Master Plan.** There are no topographical lines on the maps depicting the project alternatives and no depictions of the lots and their distribution. How would changes suggested by the alternative projects [**Figures V-I and V-2]** affect lot distribution and/or lot size in the 5 areas depicted for "phased development"?.. **34**

• **Page 70 "Extension of Industrial Way":** Proposed extension of Industrial Way is slated to be "48 feet wide" with "ten foot wide bike path". How wide is the roadbed compared to other main arteries in Benicia? Will it look like a secondary road or primary boulevard, compared to East Second Street? How many lanes would it be? Is it to be landscaped with center divider with trees on both sides of the road plus down the length of the center divider? What will the "cut" look like that creates the new roadway?

• How will the removal of existing Reservoir Rd affect the original hill it climbs?

• Widening of East 2nd Street from Industrial Way to Lake Herman Road will cause the road to be 70 feet wide. Please give comparison to other main arteries in Benicia. **35**

• The graded embankment along East 2nd Street would have slope of approx. 30% and would range from 16 to 40 feet in height. Please decribe and show with visual simulation where the maximum height of slope would occur and for what distance.

• There is no description of the slope grade or height of embankments fopr a new extension of Industrial Way beyond Dolan's Lumber. What will the slope look like travelling along the new extension? What will the views be like from the road?

• "Water would be provided by new pumping facilities and two new tank reservoirs..." Please describe the size and proportion of the new storage tanks and describe the pumping facility as they would appear in the landscape. What impact will they have on the contours of hills they are set into, considering they must be "set" on flat pads?

• **PAGE 80 Figure III-8** and **Storm Water Drainage Plan [Figure II-7]** proposes drainage to created wetland and pond areas within the project site. If the ponds and and "new" wetlands are located north of the developed portions of the project site along Lake Herman Rd,. how can they serve as drainage basins if they are uphill of the development that produces the problematic increased run-off and also disturbs or destroys existing natural creekbeds, intermittent streams and underground seeps? **36**

• The DEIR should describe the locations of each natural water resource and why it is an existing asset. How would creation of new wetlands for wildlife habitat be affected if used for storm water run off, if the **37**

run-off was "point source" pollution from roadway surfaces, parking lots, driveways, etc.?

- **Page 80, Grading:** Describe the amount of soil to be graded and excavated for the whole business park, as an equivalent to something comparable: is 9 million cubic yards of soil more or less than the amount graded during the Tourtelot cleanup and residential development of Water's End? **37 cont.**

- The DEIR does not account for the significant and cumulative loss of natural topography, wildlife habitat and biodiversity owing to the Water's End development and the Seeno business park as proposed. Physically located as adjacent developments, the two taken together irreversibly alter roughly 700 acres of what was "rolling hills". **38**

- Proposed slope cuts and slope grades should be visually simulated, and then compared to those already existing in town and along Columbus Parkway. This issue was raised at two scoping sessions. Chronic problem of slope erosion owing to slope gradients and heavy clay soils is not adequately addressed in the mitigation plans which seem to only call for routine annual "slope monitoring" and restoration at presumably City expense. How can the proposed project avoid cutting new extension of Industrial Way? How can steep slopes and cuts be avoided? **39**

- **Page 80, Employment:** What evidence is there for need of 5, 823 idustrial jobs located in our area? Please compare to statistics on available "business park" space in Contra Costa and San Jose area. **40**

CHAPTER IV: SETTINGS, IMPACTS AND MITIGATION MEASURES:

- **Setting, a. Existing conditions and land use**: "Remains of a farm building and water tank remain at the site." "The project site has not been identified as "prime farm land" or "farmland of statewide or local importance". Nevertheless, "grazing" has occured on the site for decades and historically the land was used for dairying and pastureland. Obviously, then, grazing supported local needs in previous eras, and could once again, in some future time, support local needs of the then existing population: There is no analysis of trends toward restoring "local agriculture" even within city limits to help reduce costs of transport of agricultural goods, etc. **41**

- West of the project site, within easy walking distance of the proposed extension of Industrial Way is the Benicia Police Department's practice firing range. The DEIR does not address this problem and the hazard it signifies, if public uses of the northern area are increased and Lake Herman Road becomes much more traveled between Lake Herman recreation area and the new Industrial Way. The DEIR should recommend removal of the firing range. **42**

- The area from Reservoir Rd to West Channel Rd was NOT subject of the Army Corps of Engineer's FUDS cleanup, nor part of the Tourtelot property cleanup under the lead of state EPA's Department of Toxic Substances Control. The DEIR should discuss any archival evidence that guarantees that military activities did not occur at the western end of the project site nearest the Tourtelot property, AND also anywhere else within the project site. **43**

- **Page 95.** *"The goals of the Master Plan process are to encourage best and most effective uses of properties...."* Please describe how the commercial development scheme proposed for the easternmost section of the project site would "best serve" the local population. How would commercial development located farthest from residential development serve Benicia residents and discourage use of cars? **44**

- **TABLE IV A-1 Relationship of Project to Relevant Benicia General Plan Goals:** The Table demonstrates the proposed project plan's near total disregard for the actual intent of 16 goals, 34 policies, and 17 programs of the General Plan, which were written to reflect community values expressed in results of an extensive and highly successful public survey. The General Plan was written by a diverse 17-member City Council-appointed General Plan Oversight Committee, of which I was a member for the final 2-1/2 years of its task. I'm thus highly familiar with the content of the General Plan as an integrated document serving residents of Benicia in their desire to promote SUSTAINABILITY and a high quality of life, thus preserve the environment, as well as preserve and enhance the character and atmosphere of Benicia as an historic small town, and increase economic diversity without sacrificing those values. The DEIR identifies an "environmentally superior" Project Alternative, but unfortunately does not adequately describe its plan in relation to other suggested Project Alternatives, by way of more detailed comparisons and visual simulations. THEREFORE: It's impossible to judge the full scope of the proposed project from the DEIR's descriptions and analyses of impacts, and it's also impossible to fairly judge the merits and potential impacts of the proposed Project Alternatives. **45**

- Please describe overarching goal of sustainability [page 22 of General Plan] as it relates to undesirable growth-inducing aspects of the proposed project, including the prospects of inducing future residential development of Sky Valley, (which would be in conflict with Goal 2.2). The DEIR's analysis fails to account for the fact that the citizen initiative now protecting Sky Valley as open space will expire within the time-frame of the proposed project's development. **46**

- The continuation of more widening of Lake Herman Road would be potentially induced, which would be in accordance with Solano Transportation Authority designation as a "feeder" road from Vallejo to I-680, but which is a designation in conflict with Benicia General Plan goal of maintaining Lake Herman Road as a two-lane scenic rural route. **47**

- **General Plan program 2.5.C** "evaluate future uses on a cost/revenue basis, taking into account economic diversity for the long term and environmental costs and benefits." The DEIR does not evaluate benefits of individual projects considered in the aggregate, since the "tenant mix" is alleged to be unknown at this time. This built-in vagueness of the Master Plan doesn't allow for the kinds of evaluation the General Plan calls for. **48**

- **G.P. Policy 2.6.5**: "Establish and maintain land buffers between commercial and industrial and residential." What constitutes a "buffer" between the commercial area and the limited industrial areas? In what sense will the commercial area or industrial areas be "screened", since the landscaping plan does not seem to account for possible three-story buildings and grading will create highly visible "mesas"? It would seem that the only way to create a true "buffer" is to maintain the natural one of hills running north - south in direction. **49**

- According to project proponents, why is it necessary for the project's success to connect East Second Street to Lake Herman Road via extension of Industrial Way? Why not direct traffic to an improved public transit nodal station that could be part of the project's commercial development, near the intersection of Lake Herman Road and I-680 interchange? Why not direct car and truck traffic associated to the project through the existing Industrial Park, AWAY from Lake Herman Road and East Second Street by eliminating the extension of Industrial Way? **49 cont.**

- **Page 103, Thresholds of significance: (1) regarding dividing an existing community:** Removal of Reservoir Rd constitutes a loss of rural character, a gentle, visually pleasing "transition" with beautiful distant views from Lake Herman Road into Benicia. The extension of Industrial Way would be completely different, since it is proposed to be a wide, steeply cut, heavily trafficked boulevard with existing and new development on both sides. Loss of Reservoir Rd constitutes a loss of physical tie and continuity with Benicia's past, expressed through the remaining natural landscape setting of our town as seen from a "rural road". **50**

- **Page 103, (3) Agricultural Land:** No assessment of possible future need of local grazing land within 20 years or 50 years of the project's development. Since loss of natural hills constitutes an "irreversible loss", it's especially important to identify recent trends toward use of marginal ag land and open space for local food production and grazing. [See ag uses of open space bordering city limits in Sonoma County]. **51**

- **Page 103 (4) Conservation Plan:** If a Conservation Plan is currently being prepared by Solano County and the Seeno business park will be developed over 20 - 25 years, then the Conservation Plan should govern the development: it would be consistent with local goals and policies of our General Plan to honor the HCP/NCCP being drawn up for Solano County's public lands and conservation easements. **52**

- **Pages 104 - 105, C. SIGNIFICANT LAND USE IMPACTS:** ***"This project would substantially conflict with policies in the General Plan adopted for the purposes of environmental protection. . . The project would result in significant and unavoidable impacts".*** The DEIR's conclusive paragraph, page 105, says it all. Even on the basis of the presented (inadequate and incomplete) analysis, <u>The proposed project must be rejected since it is significantly out of compliance with the General Plan, and would create potentially significant unmitigatible, irreversible and cumulative impacts with respect to hydrology, biological resources, air quality, transportation and circulation, aesthetics, utilities and infrastructure and urban decay)</u>. <u>Mitigation plans as outlined do not adequately address or compensate for these impacts [see below]. The DEIR does not adequately describe cumulative impacts relating to human health and "quality of life</u>" **53**

- **Pages 107 - 112 Population, Employment and Housing:** What types of jobs—and what percentage of those jobs—would the proposed business park provide, with expectation that a significant percentage of employees could locate and afford housing in Benicia under current market conditions? **54**

- **Pages 114 and 121, C. Geology and Seismicity and P125 Impact GEO 3, and Page 126:** **55**

"Much of the project site has been identified as being susceptible to landslide and debris flow". Also *"Potential long-term deformation related to construction of deep fills and cut slopes could occur as a result of the proposed project."* Also: *"for slopes greater than 30 vertical feet in height, debris benches not less than 8 feet wide should be constructed, with concrete V ditches to control surface water runoff." Please describe, through visual simulations, the appearance of "deep fills" and "cut slopes". Describe adequacy of 8 ft benches for 30 foot slopes and for comparison, discuss in relation to "slumping problem" conditions along Columbus Parkway as well as along I-80 west.* **55 cont.**

- **Page 126 Mitigation Measure GEO 36:** Please describe slope maintenance plan and its financing. What constitutes a "self perpetuating" plan for maintenance and who pays for this plan to be implemented on a regular basis? **56**

- **Page 127**, *"Cut and fill slopes greater than 15 ft in height should be no steeper than 3:1; slopes up to 15 ft. in height no greater than 2:1."* Please describe with visual simulation, using examples of existing slopes in the area that meet this criteria. Also use cut-away diagrams. **57**

- Page 128, Mititigation Measure GEO-5: Please describe possible scenarios in the case of flooding owing to earthquake induced rupture at water tanks or city water distribution and treatment facility? Please describe how the design of the project protects against such disaster. How would underground city pipes be accessed for repairs if they underlie the development? It's difficult to ascertain location of all the underground utilities including water mains from the Figures in the DEIR, and especially since there are no site specific plans for individual lot developments. **58**

- **Hydrology and Water Quality**: The proposed plan is unacceptable since it would destroy natural streams, seeps, occasional pools and wetlands, including associated vegetation and wildlife habitat. **59**

- **Page 139:** Describe the "Drainage Plan", which should be prepared as a condition of approval of the Master Plan. **60**

- How will the landscape plan mitigate run-off from all paved surfaces within the project site? **61**

- **Page 143, HAZARDS AND HAZARDOUS MATERIALS**: regarding the Tourtelot cleanup and F.U.D.S. [Formerly Used Defense Sites] investigation of the former Arsenal properties: Have "spurs" A, E, and G in Area R (Revetment Area) been investigated and characterized yet for possible contamination? If so, when are results slated to be reported? Please explain the difference between the standard adopted for cleanup on the Tourtelot property for residential, under guidance and lead of EPA's Department of Toxics Substances Control, and the standard applied by the Army Corps of Engineers FUDS investigation, under which investigation would occur at the spur sites cited above and elsewhere in the "no man's land" between Tourtelot's eastern property line and the western boundary of the Seeno property. **62**

- **Page 152. IT Corporation Panoche Facility:** Describe potential impacts, if any, to drainage area, within or adjacent to the proposed business park site, in the event of a catastrophic collapse or significant **63**

rupture of the Toxic Waste Dump's "clay dam" (earthen barrier below ground) which is located at the southeastern foot of the I.T. property near its entrance to Lake Herman Rd. **63 cont.**

- **F. BIOLOGICAL RESOURCES, Pages 168 and 172 (1) Vegetation Communities and Wildlife Habitat:** With regard to field surveys cited throughout this section, it appears that LSA biologists' most recent field "reconnaissance" surveys were taken on two occasions, August 5, 1999 and August 31, 2006. On March 8, 2000, a"bat roost" survey was taken. Please explain how a single survey on August 31, 2006 can account for "changing conditions" at the site for wildlife habitat in the context of climate warming trend that brings spring up to two weeks earlier, extends hotter summer weather farther into fall, and therefore poses new threats to habitat and wildlife food supply. Also, please explain how a one day survey can identify the potential for habitat to be found or actual critters to be located. Doesn't a truly valid survey require close study of an area over time, e.g., thorughout one year cycle of seasons at the very lesat? It seems that project proponents have had since 2001 to do extended, more detailed surveys of biota and species existing on the site or passing through. Why is the biological survey record so limited in scope? **64**

- No documentation has been made of the existence or any siting of a **red-legged frog** within the project area, although seasonal wetlands exist and the region is home to the species. Could this be due to lack of on-site survey data, thus from lack of extended period of observation during our wet seasons? **Page 181:** *"Surveys were conducted during both daylight and night hours in 1999, but no Califronia red-legged frogs were detected during any of the surveys."* Were the surveys referred to conducted on the one day of August 1999 [previously cited]? Please explain the seeming arbitrariness of the time perameters of the surveys cited for August 1999 and August 2006. If the "plunge pools" dry up in August, why not survey the site in February when the natural seeps are in full weepage? (I have hiked the Southhampton hills in February and found huge puddles, streamlets and "oozings, especially in swales of the south and north valleys of the former Tourtelot site, before it was excavated.) **65**

- **Page 178**, The DEIR states that **ornamental trees** on site—**English plain tree, English walnut, California Black Walnut, also, almond and plum**—are located "*near abandoned milking shed and barn"*, and that they represent *"a small ecosystem wrested from times past, supporting numerous wildlife and providing roosting, nesting and foraging habitat."* Also, "*golden eagles have been reported by staff of Water Treatment plant but are not confirmed by project sponsors' biologists or LSA."* Please explain the value of retaining as much existing habitat as possible. Discuss implications of wider habitat and ecosystem losses, considering cumulative impacts of loss, relating the potential losses proposed by the business park project to the losses caused by development of the adjacent rural area to the west of the project site—the Tourtelot property which was drastically altered through massive excavation for cleanup of the land for the development of 400 housing pads comnprising Water's End. **66**

- Please describe intent and extent to survey on site for **Callippe Silverspot butterfly** by project proponents' biologists and LSA. Please explain the lack of actual durveying and dependence on reports of "closest known occurence of Callippe Siverspot approximately 4.3 miles north of project site". Please detail efforts that are being made in the Bay Area to restore habitat and food supply for these endangered butterflys. Does observing one single butterfly qualify as "an occurance", and if so, does **67**

one butterfly's existence in the region signifiy that it would be possible to restore the butterfly's habitat and provide for its possible survival? **67 cont.**

- **Page 182 - 185 Table IV F-1: Special Status Plant Species Potentially Occuring on or in Vicinity of Project Site"**: The Table makes clear that the most reent on site "focused surveys" on which the DEIR analysis appears to depend were conducted in 1997 and 1998. Example: Congdon's turplant *"was observed in 2005" within 5 miles of project site, but was "not observed during 1997 and 1998 focused surveys on site."* Please explain who did the surveys in 1997 and '98, and whether it is common practice to rely on 9 - 10 year old survey data, especially in the case where biota is potentially threatened or considered a "special species of concern" (or other designation suggesting its vulnerability to extinction) and especially considering the added pressure on survival of vulnerable species from global warming effects. **68**

- Example of **"pappose tarplant"**: LSA explains that pappose tarplant was observed during 1997/98 focused surveys, yet it was not observed on the site during the August 31, 2006 reconnaissance sruvey of the site. The DEIR goes on to say *"but this survey was not extensive and so the presence of the plant on the site cannot be excluded."* What is the explanation for the consistently limited surveying for wildlife and plantlife at the project site?

- **Table IV F-2: "Special Status Animal Species Potentially Occuring on or in Vicinity of Project Site".** Example of inadequate evaluation of the **Callippe Silverspot butterfly** on site: *"... is not likely to occur on site. Host species, Johnny Jump Ups, were not observed during plant surveys, but species occurs in the region. Closest known occurance is aproximately 4.3 miles north of the project site."* It seems clear that migrating butterflies must be looked for at a given time of year, especially now with respect to changing start times of seasons, since spring conditions arrive approximately 2 weeks earlier, according to scientists. Would seeding hills with Johnny Jump Ups potentially encourage the survival of the Callippe Spot butterfly in our hills? What mitigation can be proposed that could help survival of the butterfly within the project area? **69**

- Most entries in **Table IV F-2** state *"possibly occurs on site, with a few noted as "not likely to occur on site"*. Please explain the uncertainty factor in these statements with regard the goal of environmental protection for endangered habitat and increasingly rare species of once locally adapted plants and wildlife with respect to additional pressures on their ecosystems exerted by effects of climate change. **70**

- **Page 189:** Please explain the territorial range of the **white-tailed kite**. The DEIR provides inadequate information. Who is responsible for the sighting of the single occurance mentioned in August 1999? **71**

- . **Page 189**, Example of inadequacy of survey data for "species of special concern". *"The **cooper's hawk** is a fairly common winter visitor to urban areas and could nest where large dense stands of trees occur."* Surveys were conducted on single days in August 1999 and August 2006—8 years apart. No winter surveys were conducted. The probability of occurence (sightings) would INCREASE if cooper's hawk habitat was CREATED on site. Mitigation: Plant stands of appropriate trees!! **70**

• **Page 189, northern harrier:** *"... nests from April to September". "One harrier was observed foraging at the project site during the 1999 reconnaisance survey. This species could nest on site...although previous grazing may reduce the suitability of the site for this species". . . "Northern harriers nesting in the general area could include the project site as part of their foraging area."* The DEIR lacks sufficient basic information on the range of the harrier's territory for nesting and foraging patterns. The one day August 1999 reconnaissance survey was done at nearly the end of the nesting season. With seasonal changes due to global warming effects, nesting and breeding time may be affected. What is the latest available research on nesting times and habits and sightings for the northern harrier? There is no indication that the project site's grasses cannot be restored in order to make the area more suitable for this bird species. **73**

• Generally, restoration of habitat is not presented as an option in the proposed project or the Project Alternatives. Please explain reasons for this lack of innovation. Please research and provide information on development projects in the region or elsewhere that attempt to achieve this balance, by implementing restoration of ecosystems as part of enlightened designs for development. One option is to limit the size of the proposed area for development, with environmental restoration taking on greater importance through dedication of more land for open space. The Project Alternatives seem to point in this direction but do not give sufficent detail to evaluate, since the amount of area devoted to "hardscape" hasn't been significantly altered. **74**

* **Page 190, golden eagles**: The DEIR states that *"beeding territories can range 20 to 60 square miles"* and that the species *"feeds on medium size mammals"* and *"golden eagles are known to forage on site and may nest within the project vicinity."* LSA did not observe any eagles in August 2006, but such a survey is obviously inadequate to account for nesting and foraging patterns. Restoration, including planting of grasses and protection of waer sources for mammals, and planting of tall trees for the eagles would potentially RESTORE golden eagles' habitat and chances of locating prey. **75**

• Analysis of cumulative impacts to species and their chances of survival must account for total losses of foraging and nesting habitat, within the various migratory and foraging ranges of each species likely to be found at the project site. Evaluation of the chances for survival should consider the need to maintain adequate "corridors" for migration, foraging for food supply and nesting. **76**

• Similiar survey limitations and inadequacy of data affect analysis of the probability of finding **"special species of concern"** including **western burrowing owls**, **tri-colored blackbirds, loggerhead shrikes, saltmarsh common yellowthroat, California horned lark** and **American badgers** on site. **77**

• **Page 193: IMPACTS AND MITIGATION MEASURES:**
Obviously, loss and removal of grasslands will affect foraging and nesting of wildlife. 435.5 "afffected" acres represents a tremendous cumulative loss of existing wetland and grassland habitat for local wildlife and plant species. **78**

- **Page 193 b. Less-Than-Significant Biological Resources Impacts:**
Based on the inadequacy of the surveys conducted, the following assumption must be challenged: *"Because no special status wildlife species are likely to inhabit the grasslands on the site, impacts to wildlife that inhabit the grassland habitat would be less than significant."* This assumption is speculative, given the limited extent of any kind of surveying whether "focused" or "reconnaissance" type done by project proponent biologists or LSA. Only two reconnaissance surveys, done on August days, 8 years apart, supplied first-hand data for this DEIR's analysis of many of the wildlife species considered to be possibly present at the project site; in the absence of sightings, other data was supplied by other survey records from the region. Further, the statement *"...because the project site's southern boundary is bordered by indusrial development, impacts to wildlife movement corridors are expected to be less than significant"* does not account for the disruption of wildlife corridors from *within* the 517 acres of the proposed project, nor across the hills to the west, toward Lake Herman. For example: what is the impact of creating 2 new boulevards (80 ft and 48 ft wide) bordering and within the project site? Also, what is the impact of substituting asphalt and cut and fill pads for grassland on wild life corridors within the project area, considering that similar drastic escavation was done at the Tourtelot property site for environmental cleanup in preparation for construction of 400 homes? **78 cont.**

- **Page 193 c. Significant Biological Resources Impacts: Impact BIO -1** Regarding removal of mature trees: The new Draft Benicia Tree Ordinance should be review as part of the DEIR. since it has been developed during the time of the preparation of the current DEIR. For the first decade, small trees planted will not serve as habitat for golden eagles or other large birds or raptors. Please explain the impacts to nesting habitats if large stand of trees and "specimen natives" are removed, and replacement with small trees cannot meet nesting needs for at least 5 - 10 years. **79**

- **Page 196 IMPACT BIO -2,** regarding loss of wetlands and creation of "new" ones: Mitigations proposed would relocate welands near Lake Herman Road. The mitigation monitoring over 5 year period should account for the possibility of wetland failure. How and where would a new set of wetlands be located WITHIN the project site, if lot distribution and size are not adjusted to accommodate their relocation? Please describe and account for failure rate of restored "patches" of wetland, such as are proposed. **80**

- Albert Seeno Construction Co. has apparently earned a public reputation for environmental negligence by the company's disregard for such things as vernal pools during grading for a subdivision and other questionable practices during construction. An "education program" for construction workers and once-a-week or every-two-week inspections to ensure adequate protection of existing marshes is insufficient protection, given the publicly known Seeno environmental track record and the company's historic lack of compliance with grading regulations, for instance, as related to protection for the red-legged frog. Daily on-site inspection during construction by an independent, professional observer contracted on behalf of the City of Benicia and paid for by curent project porponents should be mandated. **81**

- **Mitigation Measure BIO 2a, BIO2b:** *"The project sponsor shall obtain. . . "and all work . . . shall be in complaince with all terms and conditions of the permits."* Please explain on what basis faith in the

project sponsor as a "responsible party" can be upheld, in light of the project sponsor's past performance record on environmental regulatory compliance? [See attachment "RECORD"] **81 cont.**

• **Page 197**. Surveys have been less than adequate to characterize the likelihood of finding pappose tarplant on site. **Mitigation Measure BIO-3** recommends that *"prior to construction, a survey shall be conducted for pappose tarplant, to locate and map any individuals of this species"*...It's then advised that *"impacts shall be avoided completely"* and that measures included would be *"redesigning the project footprint"*. . . *"avoiding the hydrology of the plants' habitat."* The DEIR finally promises that *"long-term avoidance measures shall also be developed to ensure the long-term stability of the population."* Such suggested measures, given the imporance of a plant as yet undocumented, arouse concern: (1) a proper study should first have been conducted to be part of the DEIR analysis as a planning tool for design of the currently proposed project footprint; (2) A possible and plausible alternative footprint design of the project should be submitted as part of the DEIR; and (3) Long-term "avoidance measures" must be described as part of the DEIR evaluation of the measure's potential effectiveness. **82**

• **Regarding pappose tarplant**: the DEIR sates that if impacts to pappose tarplant are unavoidable, *"the project sponsor shall develop and implement a salvage and recovery plan for individuals, prior to initiation of construction"*.This plan for "salvage and recovery" should be sumitted as part of the DEIR for evaluation of the recovery plan's effectiveness.

^ ***Page 198, IMPACT BIO-4****: "Project may result in loss of acquatic and terrestrial habitat for the* ***Pacific pond turtle*** *and the* ***California red-legged frog.****"* The DEIR states that neither the **pond turtle** nor **red-legged frog** were observed at the project site. A new extended survey should be conducted and submitted as part of the DEIR in order to judge the project's impacts and the Project Alternatives. It seems highly unlikely that the proposed grading plan and lot distribution would be changed to accommodate a sighting of any endangered species should the DEIR have been approved and construction begun. **83**

• The DEIR is unclear about whether **Mitigation Measure BIO-4b** would have to be accomplished once only at the onset of construction for Phase I or whether repeated surveys would have to be conducted for each phase of development. If the latter is the case, then how could adequate compensaton, at the ratio of 3:1 replacement of frog habitat be accommodated, if much of the site has already been developed through several phases and no land has previously been set aside for red-legged frog habitat replacement? **84**

• **Pages 201-202, IMPACT BIO-5 and BIO-6, and Mitigation Measures BIO 5a and 5b and Mitigation Measure BIO-6a:** Nesting habitat loss for various raptors and burrowing owls owing to removal of mature trees, barn structures and grading: There's no evidence that small landscape trees will compensate for loss of mature trees for raptors; and its clear the loss of grassland and buildings will discourage burrowing owls. The mitigation plans are vague. <u>The DEIR should include actual plans for compensation of losses and devise a habitat restoration plan for raptors and burrowing owls to be implemented within the project site</u>. To provide assurance of environmental protection, will there be daily **85**

oversight and inspection of grading and construction activities by an independent biologist inspector? 85 cont.

• . **Page 202 IMPACT BIO 7**: *"the Project may result in direct take of the American badger through injury or mortality."* **Mitigation Measure BIO-7** *"A qualified biologist shall conduct surveys of the grassland habitat onsite to identify burrows."* The DEIR suggests that badgers are likely to befound on the project site during construction and that they may be injured or killed in their grassland burrows as a result of excavation work. If a biologist finds badgers on site, what precautions will be taken and what way will badgers be protected and spared such a fate? 86

• **IMPACT BIO-8, and Mitigation Measure BIO-8a:** Regarding the potential loss of foraging and roosting habitat for the **pallid bat** and **other bat species**: Since there is no plan for construction schedule that indicates what time of year grading and other construction would take place, phase by phase, will there be adjustments to the grading schedule and timing of construction in accordance with bat roosting season? The limited bat survey conducted did not find evidence of bat roosting in the remnant of the old barn structure. It's not sufficient to propose mitigation for loss of bat roosting habitat ONLY IF the barn is found to have bats at the time of construction. Since it is well known that bats exist in Benicia and that bats love barns for nesting [one winery I know in the Carneros region of the Napa Valley actually built a "bat barn" to provide habitat for these critters, since they keep the insect population down.] The DEIR should give examples of bat habitat restoration programs that could be part of the proposed project site and could co-exist with proposed development. An actual plan for such habitat restoration should be part of the DEIR. Can the old barn be restored, both as an historic visual element in the landscape to suggest Benicia's early history, but also, to provide bat habitat? 87

• **Mitigation Measure BIO-8e**: The DEIR states, *"Removal of maternity roosts for special status bats shall be coordinated with CDF6 prior to removal"*. The DEIR goes on to say that *"roosts will not be demolished until the young are able to fly independently of their mothers."* Please explain whether or not bats customarily return to an original roosting habitat location. Please also explain how bat roost replacement would suffice to attract bats eslewhere if barn structures are removed. Again, I suggest that the barn structure could be simply renovated as a mitigation, to keep a piece of Benicia's agricultural history currently present on the project site, and also to be used to provide bat habitat.

• **Page 205, G. TRANSPORTATION AND CIRCULATION; DESCRIPTION:**
The DEIR cites condition statistics from 2005, for vehicle traffic, within the vicinity of Benicia city limits, for I-680 (62,000 vehicles per day) and for I-780 (58,000 vehicles per day). It cites other major roads—Military East, Rose Drive, Park Rd, Industrial Way, Lake Herman Rd and Reservoir Rd—but DOES NOT give 2005 statistics for daily vehicular traffic on these important, well-traveled roads that are within Benicia city limits. <u>The DEIR should account for daily vehicle trips on these roads WITHIN THE MAIN BODY of the DEIR. Without those figures accurate estimates and evaluation of cumulative traffic and air quality impacts cannot be made with regard the contribution to local air pollution represented by increased traffic trips owing to the development of the proposed business park</u>. The many tables documenting various intersections' activities and LOS include the statistics most necessary—the volume of vehicles passing through intersections at various times of day—but these charts are nearly INSCRUTABLE. The tables are impossible to compare and the type size is so small the reader needs a 88

magnifying glass. Therefore, the Appendix with traffic flow information is rather useless for purposes of understanding impacts of the project-induced increases in traffic. **88 cont.**
Cumulative impacts to human health and the environment of air pollution. must be estimated based on statistics for existing and future estimated vehicular trips on Benicia's main arteries, INCLUDING I-780 and I-680.

- **Figure IV G-2** should locate Semple Elementary School, since children's health and safety is greatly affected by existing traffic and effects of cumulative traffic around the school contribute to increase in health and safety impacts to children attending. **89**

- An error should be corrected: Intersections identified as "West Military and East Second" should be "East Military and East Second". Also, the intersection at First Street involves EAST Military, not West Military. **90**

- Page 215: "As shown on Table IV. G-3 "all of the study intersections operate at Los D or better during the AM and PM peak hours." How does Table IV G-3 indicate LOS D? Appendix B's main volume figures for each intersection should be integrated into the Table for ease of reference throughout the discussion. **91**

- Page 217, *"No pedestrian facilities, such as sidewalks or off-street paths, are currently provided in the project site vicinity"*. Does this statement mean that there are no "pedestrian facilities" within and also in the vicinity of the project site? If so, why does the proposed project, if it is to be consistent with the Benicia General Plan , not call for pedestrian-oriented design and layout of the project site and connections via sidewalks and crosswalks and paths to adjacent areas, including the Water's End residential development? **92**

- **Page 227, Figure IV G-7 Project Intersection Traffic Volume:** These diagrams are not easy to read, without familiarity with the schema. Three dimensional visual representations of key intersections that will be affected by increased traffic volume owing to the proposed project should be included in this section for ease of understanding. For example, shown in boxes #4 and #5: the intersection involving entrance and exit ramps from I-780 to East Second Street—where westbound traffic flows up to a traffic signal at a very busy three-way stop near Semple Elementary School—should be represented with photos and 3-d simulations. ALSO, why does he East Second and Military East intersection (box #6) show no traffic impacts? **93**

- **Page 236 - 237, TABLE IV.G-13, Existing Plus Project Conditions Intersection Impacts and Mitigation Measures:** This table describes but does nothing to help visualize the proposed changes to intersections that are said to accommodate increased traffic and improve traffic flow. This is of great concern near Semple Elementary School. We need much more visual information to understand the impacts of changes proposed for widening I-780 at the East Second on-ramp. **94**

- **Page 244, Impact TRANS-14 and Impact and Mitigation Measure TRANS-15**: **:** Effect of adding turn lanes at I-780 Westbound ramp at East Second should be evaluated taking into account the **95**

added pressure of "getting over" to those lanes, when there is increased traffic coming from the Benicia Bridge via the exit ramp that takes vehicles from the bridge and dumps them into a lane that merges with I-680 traffic coming from the east. These conditions should be simulated in three dimensional images in the DEIR. Impact of this widening would represent a significant health and safety concern for Semple Elementary School children and the surrounding neighborhoods. **95 cont.**

- **Page 244, Impact and Mitigation Measure TRANS-16**: Intersection of Lake Herman Rd and the proposed extension of Industrial Way would make a much more prominent, urbanized, gateway, with signalized traffic light. Although this change would decrease "LOS" at that intersection, other concerns are raised by the widening and extending of Industrial Way that the DEIR does not adequately address. If Industrial Way is to be a 4-lane boulevard, then traffic flow is encouraged toward Lake Herman Road, with many consequences to the Lake Herman Recreation Area. Growth-inducing impacts are even suggested and .symbolized by creation of a signalized traffic light on a rural scenic road; the growth-inducing factor is also made evident in the DEIR's **Mitigation Measure TRANS-17**, which recommends a plan to widen Lake Herman Road *"from the intersecton of A Street/Lake Herman Rd to the intersection of Lake Herman Road/I-680."* The suggested widening of Lake Herman Rd may attempt to mitigate "LOS" problems—the level of service at nearby intersections—but the Mitigation Measure itself creates further growth-inducing impacts as well as aesthetic impacts to the visual character of Lake Herman Rd. The same problem holds true for **Mitigation Measure TRANS-18**: the "cure" for unacceptable "LOS" at one intersection produces negative side effects elsewhere. <u>The DEIR ignores these various impacts from the discussion of proposed improvements for better traffic flow such that the reader cannot reasonably evaluate the "cost/benefit" of mitigation measures proposing signalized lights and road widenings</u>. **96**

- **Transit Facility Impacts:** Without the mitigations suggested the proposed project is totally out of compliance with Benicia's General Plan. **Mitigation Measure TRANS-23** should include plan for transit hub for commuter bus lines that would run in and out of Benicia from the proposed business park site, in addition to providing transit stop for Benicia Breeze bus service. Please explain how the Master Plan could be adapted to include a "public transit hub" in consideration of the fact that the City had explored having a train station and transit hub east of the project site near Suisun Marsh. However, because of climate change, sea level rises are predicted to inundate that portion of the marsh. [SF Chronicle, Sunday, Feb. 18, 2007, story by Jane Kay: "Consequences of a Rising Bay, Global Warming: New set of maps reveals how melting polar ice could change shoreline and carry a high price for entire region" QUOTE: ". . .industrial ponds for the Valero oil refinery in Benicia, and the Chevron refinery in Richmond, would be inundated by the projected rise in the bay." ALSO: Contra Costa Times, Jan 26, 2007, story by Mike Taugher: "Sea level a rising threat". Quote: "At risk are airports, highways, buildings and other key public works projects such as the East Bay Municipal Utility District sewer plant in Oakland and the railroad tracks near Benicia."]. **97**

- **Page 247, n. Pedestrian and Bicycle Facility Impacts:** The proposed project would be out of compliance with General Plan policy if the Mitigation Measures suggested by the DEIR are not implemented. The intent must be to encourage bicycling and walking within and around the project site (to and from), connecting new paths and sidewalks to existing ones outside the project site. **98**

Improvements to Lake Herman Recreation Area should be counted among mitigations, since increased use of the lake area can be predicted, since many employees from the city and industrial park already take lunch time at the lake, according to those who know the area well. Pedestrian paths to Lake Herman should be created from the project area connecting to paths created on the west side of Industrial Way leading through hills to Lake Herman. As said elsewhere, for safety sake, the police department's firing range needs to be relocated away from the entire area, considering the increase projected for vehicle traffic and pedestrians owing to the proposed business park.. **99**

- **TABLE IV. G-22, Impact TRANS-26: and Mitigation Measure TRANS-26**: The statement *"upon completion of all or most of project construction activities, the project sponsor will identify any impacts to roadway conditions"* is troublesome. What happens when damage to pavement occurs on major roads listed, at an earlier stage of construction? How would it be guaranteed that the project sponsor would *"install improvements and/or pay an impact fee to mitigate any damage to the existing street pavements on East Second St., Industrial Way and Lake Herman Rd to and from the project site."? Please consider the recently reported [in the Contra Costa Times] legal battle Albert Seeno has sought, to challenge the City of Pittsburg's imposition of increased traffic impact fees associated to the proposed widening of Highway 4. Seeno wants the highway widened, but doesn't believe he should have to pay increased impact fee as a developer.* **100**

- **TABLE IV. G-22, Impact TRANS-22 and Mitigation Measure TRANS-22:** The DEIR suggests that the impact associated to projected decrease in LOS (level of service) at intersection at Westbound I-780, West of East 2nd Street, should be addressed by widening I-780 to 3 lanes for this stretch of the freeway. The problem is that this widening, although accounted for long-range by Solano Transportation Authority plans as well as in Solano County's Capital Improvement Program, the impact on Benicia would be huge and irreversible: the traffic increase would increase noise levels beyond acceptable level in surrounding neighborhoods and the freeway would be an even more formidable divider of old Benicia neighborhoods and the downtown from Southampton residential development. The apparent division would be greatly reinforced, further eroding the sense of Benicia as having "small town character". We do NOT want to live with a major freeway dividing our town and causing increased air pollution and noise. Speed would increase in a three lane situation, creating daily potential for increase in accidents: many young people use the freeway to get to and from downtown Benicia from Southampton's neighborhoods, and there are already many accidents. Widening I-780 is not acceptable and would be out of compliance with basic policies of our General Plan. **101**

- **Page 253, H. AIR QUALITY:** The first paragraph suggests but doesn't describe the limitations of the analysis of air quality impacts set forth in subsequent pages of the section as they relate specifically to local public health. The DEIR should explain what the discussion DOES NOT, because CANNOT, adequately or accurately evaluate pertinent to the health of the local population: :the ambient air quality of Benicia, day to day, season to season. The DEIR relies on Air District statistics taken from regionally located air monitors. As it points out, there is only one Air District monitor in Benicia, and it samples for a single chemical, SO2. Other monitors—one in Crockett, one in Vallejo, and one in Concord—monitor "criteria pollutants" for purposes of measuring whether "attainment" of acceptable standard levels (for each pollutant) established by federal and state laws have been achieved generally in the SF Bay "air **102**

basin". The nearest monitor is said to be Vallejo's, which is upwind of Benicia. Regionally gathered ambient air sampling and air-modeling data cannot tell us about specific LOCAL ambient air quality in Benicia. LOCAL air quality is what residents want to know about. Right now, it's impossible to estimate total cumulative impacts to health related to chronic daily low-level exposure to multiple chemicals in Benicia's air. To evaluate the proposed project from the perspective of the community's desire to know more about LOCAL air quality, the DEIR would not only need to have baseline statistics gathered from routine local ambient air-monitoring, but also accurate estimates of the increased numbers of vehicular traffic expected as a result of the proposed project's maximum develoment, and also, data gathered from monitoring for ALL tailpipe emissions.

- The DEIR announces: *"This section has been prepared using methods and assumptions recommended in the air quality impact assessment guidelines of the Bay Area Air Quality Management District (BAAQMD). In keeping with these guidelines, this chapter describes existing air quality, impact of future traffic on local carbon monoxide levels, and impacts of land use-related vehicular emissions that have regional effects. Mitigation measures to reduce or eliminate potentially significant air quality impacts are identified, where appropriate."* The first section outlines the limited framework the DEIR preparers used for discussion of air quality and air quality impacts that would potentially be owing to maximum development of the project site and *"land-use related vehicular emissions."*.Impacts analysed are explained in relation specifically to "regional attainment" of standards that represent acceptable levels of single "criteria" pollutants found in the air, in parts per million or billion, that are considered by federal and state EPA to be reasonably protective of human health and safety. The DEIR does not and cannot portray "existing air quality" within Benicia, because ambient air quality in Benicia has never been measured and so there's no public data available. However, an air-monitoring "experiment" is being set up this spring 2007, sponsored by the Air District, Valero refinery and the Good Neighbor Steering Committee to test and compare different air monitoring systems, and to evaluate data from the several systems. The experiment sets out to measure and record ambient air constituents in real time from one single location at Tennys Road, just west and south of the refinery..
Currently,, there's still no monitoring being done yet that could help account for cumulative and chronic daily low-level routine exposures to multiple and synergistic chemicals from ALL sources: roadways, freeways, port, refinery, other industries, wood-burning, construction dust, etc.

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- **Page 253, 1. Setting:** The description lays out the fact that between federal and state laws, a certain set of chemicals has been established that are to be monitored by regional Air Districts [under jurisdiction of CAL-EPA's California Air Resources Board], as the DEIR comments, "*to protect the health and welfare of the populace with a reasonable margin of safety."* The federal *"health-based Ambient Air Quality Standards"* consider *"six air pollutants: carbon monoxide, ozone, mitrogen dioxide, sulfer dioxide, lead and suspended pariculate matter (PM)."* The DEIR description continues, *"In addition, the State has set standards for sulfates, hydrogen sulfide, vinyl chloride and visibility reducing particles."* There are also standards for levels a limited number of chemicals identified by the state that trigger regulatory response to protect human health in the case of an acute, accidental "release". As the DEIR describes, these standards, called "episode criteria" involve measuring O3 [Ozone], CO [Carbon Monoxide], NO2 [Nitrogen Oxide], SO2, [Sulfur Dioxide], and PM. It should be stressed that the DEIR evaluates potentially significant and cumulative impacts of specific "criteria" emissions as related to

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standards to be achieved "*based on a determinaton of the consistency of the project with the regional Clean Air Plan"*, e.g., NOT with specific interest or concern for LOCAL ambient air conditions that impact our LOCAL "affected" population, but with concern to measure "attainment" of acceptable levels of criteria pollutants REGIONALLY. The fact that LOCAL ambient air sampling for an array of typically present air-born pollutants has NOT been done as part of the evaluation of air emission impacts in the DEIR should be clearly stated. **103 cont.**

- The DEIR does not make perfectly clear why only the concentration level of carbon monoxide was recorded as a tailpipe emission at various intersections.. **104**

- **Page 261 (3) Toxic Air Contaminants:** The individual constituent chemicals that together make up TAC emission category should be enumerated and described. **105**

- 2005 statistics were NOT given in the MAIN BODY of the DEIR for existing numbers of vehicle trips per day occuring on main arterial roads within Benicia city limits, so that percentage or numerical total INCREASE of vehicle trips per day on these roads CANNOT be readily estimated or understood for purposes of evaluating significant and cumulative emission impacts, and thus, the contribution to total local air pollution by increased traffic trips owing to the development of the proposed business park. The many tables documenting various intersections' activities and LOS include the statistics most necessary—the volume of vehicles passing through intersections at various times of day—but these charts are nearly INSCRUTABLE. The tables are impossible to compare and the type size is so small the reader needs a magnifying glass. Therefore, the Appendix with traffic flow information is rather useless for purposes of understanding impacts of the project-induced increases in traffic. How can cumulative impacts of air pollution on human health and the environment be estimated without comparisons of existing statistics for vehicular traffic trips and future estimated vehicular trips on Benicia's main arteries, INCLUDING I-780 and I-680? **106**

- The same is true about the charts in the Appendix showing levels of carbon monoxide measured at each intersection: the charts are nearly impossible to readily compare.

- Initial description of the obviously significant potential impact of increased air pollution as a result of the development's contribution to daily vehicular traffic trips in and out and around Benicia fails to address the whole scope of the subject. The DEIR fails to identify and address the <u>full array of toxic contaminants involved in tailpipe emissions and refinery emissions</u>, and the risks these airborne chemicals and particulates pose daily, in synergistic ways with other contaminants from other sources, and through chronic daily exposures over years, to human health. The DEIR fails to identify health risks associated to air pollution as a primary concern for residents of Benicia and especially "sensitive receptors"[pregnant women, infants, young children, the elderly, and individuals with compromised immune, neurological and respiratory systems]who are daily exposed to toxic air impacts cumulatively coming from freeways, major roads, an active port, a refinery and other industries. **107**

- The DEIR explains that it was not possible to estimate PM2.5 emissions, because the Air District as yet doesn't have standards set for "attainment". The DEIR should explain the major difference in **108**

potential health impact between PM10 and PM2.5 with regard to lung development and chronic respiratory diseases such as asthma. Please cite and discuss available literature on Sothern California's "Children's Health Study" [see attachment] and also Contra Costa County's children's health study, which showed significant health risks associated to deteriorating lung performance in young students attending school sites that are located within 500 feet of a major roadway or freeway carrying a minimum 25, 000 cars per day. **108 cont.**

- Pollutants are measured statistically by the Air District by averaging samples taken at different times of the day for a certain length of time. Air District sampling data does not and cannot account for "spikes" in pollutant levels. It's important that the DEIR point this out. An example of why this is important: Semple Elementary School is located within 500 feet of a major freeway and also a main boulevard, right near these roads' intersection, and is also 3/8ths of a mile from the Valero refinery. The DEIR says that the proposed project will cause an increase in traffic on I-780 as well as on East Second Street. This means that daily exposure levels to tailpipe emissions at certain times of day (rush hour) for kids playing on the soccer field will be most likely higher than at other times, adn those exposures will have cumulative impact with other emissions coming from nearby heavy industrial polluter [refinery]. Averaging data over a whole day's worth of sampling does not tell the full story of acute impacts that could aggravate and cause asthma symtoms and diminished lung function in young children.

- The DEIR should reference children's health impact studies related to air pollution sources and discuss most recent findings, [including legal ruling by a judge, in favor of three Las Vegas schools in a case challenging the widening of a freeway] in light of the location of Semple Elementary School and the number of children who would be exposed daily to increased vehicular trips associated to the project's proposed maximum development. Also, cumulative impacts must be assessed for the Semple elementary school population, since there is also an on-going expansion program at the refinery to increase throughput capacity, which will ultimately result in more diesel truck traffic on East Second heading north, within less than a 1/2 mile from the school yard. [See Valero VIP EIR on air emissions.]. Since at least 2001, there have been numerous papers, articles, studies and reports, including state legislation, that have addressed effects of air pollution from diesel and auto exhaust on children's health. Some of these sources have been publicly available, including through the American Lung Association website..For example: the "East Bay Children's Respiratory Health Study::Traffic-related Air Pollution near Busy Roads", dated March 4, 2004, is available from Bart Ostro, Phd., Office of Environmental Health Hazard Assessment, 1515 Clay Street, 16th Floor, Oakland CA 94612, and by email <bostro@oehha.ca.gov>] **109**

- I understand from a reliable source, Don Gamiles of Argos Scientific, a company that that produces and sells air monitoring systems, that new information about the synergistic ability of nitrogen oxide and amonia to form tiny, lung-penetrating particulate matter, "PM2.5", is of concern to EPA, since amonia is present in the air of most cities and NO is a constituent of car exhaust. The deadly combination affects lung development in children and can cause chronic, cumulative, severe damage to lung tissue and function. The DEIR needs to present the latest information on the dangers of regular exposure to PM2.5. **110**

- **Page 257, (2) Local climate and Air Quality.** Descption of conditions that affect dispersal of air pollutants should include wind rosette, to show more accurately he prevailing wind directons and **111**

seasonal variability in directions, as affected by ground and air temperature, wind speed, cloud cover, fog, etc. **111 cont.**

- **Tables IV H-4 and Table IV. H-5:** The tables relate performance of the Air District's Tuolumne Street air monitor over the period of one year, with maximum concentrations registered over one hour period for ozone, carbon monoxide and nitrogen dioxide. What hour of the day do the statistics account for, or are they "averages"? PM10 is only registered over a 24 hour period. It is impossible from these statistics to assess daily spikes in emissions, for instance, from local freeways during rush hour. The DEIR cannot account for daily impacts during peak rush hour of pollutant emissons from traffic in the vicinity of East Second Street neighborhoods as well as Semple Elementary. Please explain the relevancy of data for suphur dioxide to community of Benicia and also to the proposed project contribuions to increased air emissions. **112**

- **Page 258 C. Air Quality Issues:** Five key air quality isues are mentioned: "CO hotspots, vehicle emissions, fugitive dust, odors and constructio equipment exhaust." Please explain all components of "vehicle emissions". Please explain why the issue of CO2 emissions are not mentioned as a concern in this DEIR. **113**

- **(1) Local carbon monoxide "hot spots"**: How many neighborhoods are affected by CO2 hotspots? What effort has the project proponent made to REDUCE need for expanding roads, intersectons and separte left turn lanes. **114**

- (3) Fugitive dust: How many years of excess exposure to PM10 and PM2.5 will there be from cumulative impacts, owing to the creation of subdivions of 400 homes, a project yet to be completed, as well as the Valero VIP expansion and now the Seeno business park? Please explain the number of years that Benicians have put up with significant excavation activity. **115**

- **Page 260 2. IMPACTS AND MITIGATION MEASURES**: The DEIR states that evaluation of impacts is based on qualitative not quantitative judgments. *"Measurements for certain criteria pollutants are taken from Vallejo monitor for this DEIR analysis."*
The DEIR further notes that *"emission thresholds were established based on attainment status of the air basin in regard air quality standards for specific criteria pollutants."... "these emission thresholds are considered conservative."* **116**

  The problem is: thresholds can be exceeded. If air monitoring data were being collected on a "real-time" basis [thus acounting for emission"spikes" thorughout the day] in an area directly near the project site and at intersections and along roads and neighborhoods where exhaust emissions would have direct impact, we would be better able to judge air quality impacts contributed by the project-induced traffic.

- **Page 261 (3) Toxic Air Contaminants:** *"The implementation of the proposed project would not resultin any new sources of Toxic Air Contaminants and the project land uses would not be located near any existing major sources of Toxic Air Contaminants. The project would not have the potential to expose sensitive receptors or the general public to substantial levels of TACS... and would be deemed to* **117**

have less than significant impacts." Why can the claim be made that "the project land uses would not be located near any existing major sources of TAC?" What constitutes a "major existing source" of TAC emissions near the project site if not the Valero refinery? Also, the general public and sensitive receptors could be exposed to accute "spikes" of TAC emissions, if visiting a dry cleaner or "auto service center" such as an auto detail shop that could be tenants at the project site. **117 cont.**

- IMPACT AIR-1 "Based on emisson factors provided by BAAQMD, uncontrolled constructon related PM10 emissions from demolition and excavation would average 3.85 lbs. per day." But a footnote says, "Assumes a 20 year construction perod, construction 350 days per year, and 51 lbs per acre per day of PM10. Please explain footnote relative to "3.85 lbs per day". What is the total construction period assumed for the entire project? From the assumptions listed in the footnote, the reader assumes that in the case of "maximum development of the project site there is never a day off for 20 years, except approx 15-day annual"holiday". Please estimate the amount of water required everyday to keep the excavation site dirt from blowing away and creating PM10 fugitive dust. **118**

- **IMPACT AIR-2**: *"Long-term project-relaterd regional emissions would exceed the BAAQMD thresholds of significance for ozone precursors* [Reactive Organic Gases, Nitrogen Oxides, PM10]*."*. . . *"The proposed project would have significant effect on regional air quality"* As the DEIR states, these emissions would be caused by "mobile sources" e.g. traffic trips. The DEIR should identify what contaminants constitute "Reactive Organic Gases" [ROG]. But there's a fundmental inadequacy to the DEIR's discussion of air impacts: the DEIR focuses exclusively on emission impacts on REGIONAL air quality that are produced by ozone precursor chemicals; the discussion does not address LOCAL exceedences of those "criteria pollutants" that might affect LOCAL sensitive receptors, because there is no LOCAL monitoring of all the "criteria pollutants". Local "criteria episodes"at the refinery e.g. accidental releases of BAAQMD- monitored contaminants would be reported by BAAQMD as a REGIONAL impact to air quality, and the data would most likely be derived from mathematical modeling calculated based on knowledge of routine stack emissions. LOCAL impacts of such acute episode "releases" are considered in the category of potential local emergency, but the statistics from such "accidental events" are not "averaged in" with data gathered from other BAAQMD regional monitoring data, and are therefore not used to calculate general regional "attainment" for "criteria pollutants"(whose levels are measured and averaged daily based on BAAQMD's Bay Area-wide monitoring program). **119**

- **AIR IMPACTS-2:** ALSO: there is no evaluation of other airborn chemical contaminants that might be associated to the proprosed project, such as "Volatile Organic Compounds" (VOCs) that would be produced, for example, at an auto detailing shop, auto service center, or other company.using hydrocarbon-based solvents, lacquers and paints. But since VOCs are not monitored by the Air District as "criteria pollutants" related to smog production in the regional air basin—<u>despite the fact that VOCs cling to airborn particulate matter and thereby enter the lungs</u>—the DEIR does not mention the potential impacts and health risks of this class of pollutants that could have LOCAL impacts to sensitive receptors, including people employed at the proposed business park. **120**

- **Page 267, Mitigation Measure AIR-2:** The DEIR states, *"There is no mitigation available with* **121**

currently feasible technology to reduce the project's regional air quality impact to less-than-significant. Therefore, the project's regional air quality impacts would remain significant and unavoidable." The DEIR further states: "*...One individual project having emissions exceeding a threshold does not necessarily result in adverse health effects for residents in the project vicinity. This condition is especially true when the criteria pollutants exceeding thresholds are those with regional effects, such as ozone precursors like NOX adn ROG."* The DEIR concludes discussion by assuring that the potential for an individual project to significantly cause deterioration of REGIONAL air quality relative to BAAQMD "attainment" goals for the air basin is highly unlikely, as well, that the chances are slim to none that the particular project whose emissions exceed threshold levels for "attainment" would contribute to significant public health risk. The DEIR also concludes that since overall air quality in the air basin has historically been improving, even if a particular project exceeds threshold levels for regional "attainment", it is unlikely to be noticed statistically, [since data is gathered and averaged regionally]. Again, the problem with this analysis of impacts is that LOCAL air emission impacts are virtually unaccounted for, except speculatively and in generalities such as, "*One individual project having emissions exceeding a threshold does not necessarily result in adverse health effects for residents in the project vicinity*." The DEIR's focus on carbon monoxide from daily "mobile sources" ONLY addresses the threshold exceedences that would impact REGIONAL air quality in the Bay Area air basin. Again, other classes of chemicals such as VOCS and PAHs (Polycyclic Aromatic Hydrocarbons) are not even mentioned, since they do not fall into the category of ozone precursors of interest to BAAQMD's regional, LIMITED monitoring program used to measure "attainment" of certain standards for a LIMITED number of pollutants associated to smog formation and regional"visibility". These are not easy concepts or distinctions to understand. and they are a source of much local public confusion generally. An example of a confusing pair of sentences: **Page 268:** *"Because of the overall improvement trend on air quality in the air basin, it is unlikely the regional air quality or health risk would worsen from the current condition due to emissions from an individual project. Nevertheless, pollutant emissions from a specific project above a certain level are considered significant."* The logic of the DEIR argument fails to ascribe any effect of local (cumulative) air emissions from increased traffic and other"project sources"to public health in the vicinity of the project or Benicia community, or downwind of the city. **121 cont.**

- Benicia residents breathe multiple chemicals swimming in the general "air basin" and are also exposed to local pollution presumably more concentrated here closer to the source. For example: Robert Semple Elementary School children play on a soccer field which is located adjacent to I-780 freeway carrying in excess of 55,000 cars per day and also borders a heavily trafficked boulevard. The playing field is also 3/8ths of a mile from the Valero refinery and across the street from a Valero gas station and is also very near the City of Benicia Corporation Yard where old paint and solvents are recycled. Robert Semple is also within one mile of the proposed project site, and will be greatly affected by increased traffic induced by the proposed project. Yet, there is no discussion in the DEIR about these multiple air impacts and increased health and safety concerns for children attending Robert Semple. **122**

- The DEIR should identify all constituents of diesel emissions. *"Diesel PM [particulate matter] is a mixture of over 30 different toxic chemicals and only a portion, mainly polycyclic aromatic hydrocarbons (PAHs) may be reflected in the measurements reported in Tables 4.7-1 and 4.7-2. The* **123**

BAAQMD has estimated carcinogenic health risks from exposure to Diesel PM in 2000 in the Bay Area was about 450 in a million (BAAQMD 2001). these region-wide risks were estimated by deriving concentrrations of Diesel PM from ambient measurements of surrogate components". [QUOTE from page 4.7-4 of the Valero Refining Company's Land Use Application for the Valero Improvement Project EIR, October 2002, prepared by ESA]. **123 cont.**

- **The fact that the DEIR doesn't bother to fully explain WHY local air emission impacts have not been evaluated with respect to community concerns regarding LOCAL air impacts associated to health risks and stemming from local and regional sources <u>is a real failing of the draft environmental review</u>.**

- **CUMULATIVE, potentially significant air impacts from multiple numbers of contaminants in our air and effects of daily chronic exposures over a lifetime or childhood that could pose significant human health risks are simply not addressed or evaluated. The DEIR faithfully discusses BAAQMD mandated REGIONAL concerns, but not the specific concerns of the Benicia community for its own health with respect to chronic cumualtive impacts from acute and also chronic daily exposures to LOCAL SOURCES of air emissions in and around the city.**

- The DEIR should enumerate sources of potentially significant cumulative impacts, factoring in additional increases of air impacts owing to refinery expansion (Valero Improvement Project) including daily and weekly increases in truck, train and ship transport trips. PLease identify Valero's VIP contribution to increase in VOCs and other TAC contaminants as well as PM 10 and PM2.5 to evaluate total cumlative potential health impacts to local residents. **124**

- Again, curently, there is no current local monitoring program yet operative within the city to measure ambient air quality for TAC emissions as well as ozone precursors and PM10. Data cited in the DEIR taken from Air District monitors outside Benicia in surrounding towns cannot give us data that would account for LOCAL cumulative air impacts to neighborhoods, etc. Therefore, no assumptions or conclusions can be made regarding the potentially significant cumulative impacts to local community and sensitive receptors within the vicinity of the project or located near major impacted roadways, freeways, etc.

- The DEIR does not adequately consider non-cancer health risks associated to multiple kinds of pollutants that could be present and produced by particular projects at the proposed business park as well as by traffic. There isn't discussion of asthma as a major health concern of Solano County. The Air District has begun monitoring for polychorinated dioxins and furans, as the DEIR states, but there is no discussion of the kinds of health risks these dangerous chemicals pose and what kinds of combustion and other processes produce these deadly toxins.

- Considering the DEIR's failure of analysis of cumulative air impacts, and considering the need for sufficient "real time" data to evaluate local cumulative impacts: **Mitigation for significant air impacts should include financial contribution to a comprehensive air monitoring system that** **125**

the Benicia community has sought through settlement agreement in 2003 with the Valero refinery, since, at this writing, the opportunity arises to support such a system's implementation. A new Mitigaton Measure could require purchase of additional components to complement and extend the capabilities of the recently purchased "community air monitor" now being set up with other Air District monitors for a year-long experiment agreed to by the Good Neighbor Steering Committee, the Valero Benicia Refinery, BAAQMD and the City of Benicia. This experiment, representing the first step in achieving a more comprehensive local air-monitoring system capability to benefit the community, will sample local ambient air in "real time" and compare data derived from several kinds of monitors. It is envisioned that a comprehensive system could become implemented permanently in Benicia, and would measure an array of pollutants, including particulate matter. Since the experiment is being supported by Valero, BAAQMD and the City of Benicia, as well as the company that manufactured the air monitor purchased for community benefit [Argos Scientific], it would be fitting that the project proponents for the proposed Benicia Business Park contribute financially to building such a permanent air-monitoring system, to compensate for significant "unavoidable" air impacts identified in the DEIR. A more extensive system would help meet the need for evaluation of local levels of exposures and cumulative air impacts from multiple numbers of chemicals identified as being present from local sources [refinery, local traffic, freeways, port, other industries]. Such a system would be technically supported, and the data gathered and archived fron extensive sampling would be made public via internet website. as will be the case during the year's monitoring experiment. [Data gathered during the experiment will account for local daily ambient air quality and also "acute spikes of emissions" that can be registered within sampling reach of the air-monitors where they are now to be located at Tennys Rd on city property. This location is within 1/2 mile from Industrial Way and therefore could support research into cumulative impacts of air emissions on our local community, including from traffic associated to the proposed project's development..

125 cont.

- **The DEIR's recommendations for mitigations, suggesting that plans be drawn up for more pedestrian, public transit and bike oriented design features and programs at the project site to help reduce "mobile air pollution sources", are incredibly important. Such mitigation plans and programs need to be part of the final EIR as condition of any project approval, including for one or other of the Alternative Projects. Further, mitigations should address greenhouse gas emissions and programs for reduction, including reducing conventional energy sourcing, since conventional energy production involves release of greenhouse gases.**

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- **Page 285 VISUAL RESOURCES; IMPACT VIS-1: "The proposed project would adversely affect scenic vistas from several public roadways".** The visual identity and character of Benicia's northern area would be irreversibly changed, by grading 9 million cubic yards of soil, effectively destroying hills and replacing them with flat "mesa" pads to be arranged with suburban-style cul-du-sacs surrounded by block-like one-to-three story warehouse type buildings [as shown in visual simulations], with 30 ft high slopes along newly cut roads, man-made "berms", extensive, predictable suburban-style landscaping and with parking lots visible from major roads bordering the development site. There is NOTHING innovative about the design layout or conception of this project that suggests one wit of visual intelligence. Respect for the natural beauty of the hilly topography of the project site is

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NOWHERE evident in the design and layout of the proposed project. Yes, scenic views from major roadways will be irreversibly altered. The existing Industrial Park will appear to have been extended north and west of its present limit at the southside of East Second Street. No amount of suburban landscaping can hide the visual FACT, **There is NO REASON to accept a project whose "scheme" [the Master Plan presented in the DEIR is no plan worth the name] insists that it must be developed by tearing down existing hills for flat pad, uniform-type warehousing-like construction.** This kind of "business as usual" design should have NO PLACE in the 21st century, if we are indeed concerned about the requirements to live "in harmony with nature". There is NO REASON why the project can't be better conceived for all the reasons suggested by the word "harmony". Project proponents have had since 2001 to design a more aesthetic, "green" 21st century project. For example: buildings and roadways and paths could be designed to INCORPORATE and flow with natural topography. Groves of trees located near buildings could actually provide SHADE to reduce requirements for expensive energy-hogging air-conditioning in summer months. Lots could be shaped and oriented to take best advantage of the hills' contours and also the sun, for harnessing solar energy. Flat rooftops could be made into "green" meadows to blend with existing hills; "greening" of rooftops is now being done in Chicago and other cities to cool buildings, reduce visual impact of massive flat roofs, reduce heat radiating from roof surfaces in summer and "naturally" insulate buildings in winter. There is absolutely NO REASON that the proposed "business park" should resemble our existing Industrial Park along East Second Street. **127 cont.**

(1) **Impacts to Lake Herman Road; effects of extending Industrial Way, creating a new intersection at Lake Herman Rd.** The proposed new intersection at Lake Herman Rd where Industrial Way extends to meet the rural road, creates an "urban" juncture that would represent a new "northern gateway" to Benicia at buildout of the project, as proposed. This would change the visual rural community identity still felt to represent Benicia's historical character as an early California town. The DEIR's description suggests that the extension of Industrial Way and the new intersection represent "no substantial change" to the area. This is not accurate, since significant increases in traffic into Benicia from Lake Herman Road are anticipated. The visual character of the land will be "tamed" by a new broad boulevard: this "Industrial Way" would resemble Columbus Parkway, replacing rural two-lane Reservoir Rd. This kind of boulevard, with signal light(s) and divider strip contributes to a sense of community homogenization, thus sharing more and more characteristics of other suburban cities. Benicia can become visually indistinguishable from Vallejo's suburbanized appearance, especially considering that the commercial area proposed and also limited industrial area would permit "auto dealerships" and "auto service center(s)" requiring even more paving and asphalt parking lots. The creation of an extended "Industrial Way" boulevard puts pressure on for widening of Lake Herman Road, which is envisioned by the DEIR and also by Solano Transportation Authority. planners. The foreseeable visual impacts in the aggregate, owing to project design, massive grading for proposed layout— and intentions expressed through such lifeless''design'—represent a tremendous irreversible loss to Benicia's distinct, historical identity as a small town. The loss of a particular visual aesthetic of rolling open hills with small streams and seasonal wetlands speaks to the enormous ENVIRONMENTAL loss of wildlife habitat and biodiversity of local, complex ecosystems. Seeing is a tool of knowing. We know that fast food joints, more gas stations, roadside motels, auto dealerships, mini-storage cubicles and warehousing is not a "tenant mix" suggestive VISUALLY SPEAKING, of **128**

an enlightened view of future requirements for more sustainable living. The project should be REDUCED and designed to MINIMIZE disruption of topography and natural habitat. I envision a campus-like arrangement of buildings clustered and designed to encorporate land contours, with landscaping minimal, but with plantings of groves of specimen and native trees, as stated above, for provisions of shade for cooling buildings and for pedestrian pathways. **128 cont.**

• Of great concern: Slopes created by grading "cut and fill" for flat pads and new roads will require CONSTANT MAINTENANCE and new and CONSTANT RENEWAL OF LANDSCAPING, which is highly expensive. Landscaping on steep slopes inevitably MOSTLY fails in windy, dry, hot conditions, and requires vast drip irrigation and regular water to survive. Also, engineered slopes have very little humus or topsoil left, if any, and what subsoil is exposed is usually hard-pack clay highly subject to erosion and very difficult to cultivate or mulch. The DEIR should reveal statistics about landscape sucesses and failures of similar roadway slopes in our region. [Count the number of times the slopes along Columbus Parkway have had to be replanted in whole sections.] Weed abatement becomes a paramount reason for use of herbicides, which in wind, drift to kill other plants meant to be spared. In the event of economic recession or prolonged drought, these slopes can come to be dried out, impoverished wastelands that would be very hard to resuscitate as "man-made landscape". The goal should be to maintain topography and as much original or existing grassland as possible. Industrial Way, if extended at all, should not be allowed to be created by 100 ft cuts into existing hills. The contour of the road should follow the contour of the hill as much as possible. (Like Reservoir Rd. does for most of its length.) **129**

• Landcaping plan will not significantly camouflage the development's "flat pad" warehousing appearance. Berms will look artificial, as they do elsewhere, south of Lake Herman.
• Graphic simulations do not account for the multiple story buildings that can be anticipated for such specific project types as "motel", "hotel", "conference center", "office building". Also, simulations do not show "auto dealerships" or "auto service center" or "truck service center". or "big box retail".or "formula based fast food". **130**

• **Page 299:** *"The proposed project would reseult in the obstruction of views of Suisun Bay from this vantage point [from Lake Herman Rd looking south and souteast towards project site] due to development of a berm along Lake Herman Road and construction of new buildings." Also "Mount Diablo would still be seen from this vantage point after development of the project."..."However new buildings and graed pads would be visible over 500 ft from the road and would adversely affect the visual character of the site from this vantage point."* Loss of total view of Suisun Bay with Mt Diablo rising above the bay is a GREAT LOSS. Benicia's most spectacular views make whole scenes of sky-land-water with city and bridges in foreground. What guarantee is there that equivalent of a two or three story bulding would not be permitted at this prominent site and intersection with its vast view? What would be the resulting view if "last phased development" does not bring any building to a prepared pad within 5 or 10 years of its excavation? **131**

^• **With regard to mitigations proposed for "irreversible losses" of scenic and aesthetic visual resources, topography of natural hills, etc.**: I' already commented extensively about the crying need **132**

for an alternative "green" design strategy that would preserve hills and natural contours of the land, require a reduced, clustered development, and preserve as much natural grassland, wildlife habitat and water resources on the project site as possible. Landscaping would be "natural" in appearance, with groves of trees giving form, texture and shade, while providing habitat and nesting sites in the vicinity of buildings. [See comments above]. Parking would be located as much as possible where it cannot be seen from roadways. Water tanks would not be cited in such a way as to sacrifice the backside of a hill with a 30 ft. deep cut and "dug in" pad.. Lake Herman Road would not need to be widened and the hills along its southern side would be retained completely. **132 cont.**

- **PAGE 343, URBAN DECAY:** Since the DEIR only describes a rosy economic outlook for the next 20 years, the analysis does not seriously entertain prospects of urban decay in such a way as to fully "depict" consequences. The analysis should describe possibility in 10 or 20 yeasrs for commercial or light industrial spaces to deteriorate for lack of tenancy. **133**

- **C. Retail demand:** *"Commercial uses at the business park are assumed to be primarily local-serving. The project sponsor anticipates that the commercial and lodging portions of the project could be developed within 8 year time span, while industrial uses would require at least 25 years to fully develop"*. What sort of retail would serve LOCAL residents, considering the "mix of tenants" suggested for the site by virtue of local zoning ordinance for "commercial"? From the DEIR's statement above, one can envision a commercial extension of the already developed area at Lake Herman Road and I-680—which mostly serves commuters and people getting off the freeway for pit stops. If industrial development lags behind commercial by at least 10 years, in what sense is the proposed new commercial going to appear to "serve" residents of Benicia in Southampton? **134**

- The DEIR analyses a project that seems to have been 'designed' as if car culture will be maintained as usual 25 years from now. **135**

- **Page 347 "Leakage". and Hotel Demand, etc.:** Please compare market projections in the DEIR with Opticos Design's economic analysis supporting design options presented in the "Lower Arsenal Mixed Use Specific Plan". and the Downtown Corridor Master Plan. How do the projections for need of various types and sizes of buildings and tenants square with each other or not? the DEIR states that the commercial development at the project site would primarily serve "the local business community". Why is this limit suggested? What impacts will the proposed commercial and light industrial developments have in terms of competition with Downtown retail and commercial and also proposed lower Arsenal mixed uses of light industrial, office, and commercial? **136**

- **Page 349, d. Other Fiscal Impacts:** There is no economic evaluation of the prospect of energy (and construction) costs spiralling, affecting development at the site. There is no analysis of long-range scenarios for recession and need to re-tool the project. Is the project design"flexible" in this sense? [In and around the South Bay, high tech "campuses" have already run into "tenancy" problems. A high tcch campus site in Rohnert park, never fully developed, is now being replanned for a "sustainable community" development featuring "smart" green building, etc..] **137**

- **Impact DECAY-1** *"If the tenant mix of the project changes, the project could result in urban decay."* This is a profoundly disturbing admission, since after first tenants , "second" or "third" tier tenants will be invited in, just to maintain revenue stream. The mitigation suggested—that the city would have to design and implement a mitigation to address the "economic calculus of decay" and resolve the "tenant mix" problem. This is highly troubling, since what this means is a 3 person council majority could vote to accept whatever business mix brings in the most revenue, given the economic condition of the moment. This hardly suggests a true "master plan" process that has ventured to address these sorts of contingencies and future scenarios as part of design decision-making. **138**

- **Page 351 V. ALTERNATIVES:** I have said in previous comments that it is absolutely imperative to support preservation of existing habitat, water resources on site and contours and topography of the land as it now exists. The two Project Alternatives suggested for Waterway Preservation and Hillside/Upland Preservation show some intent toward this level of preservation, but neither Alternative, as presented diagrammatically, gives enough information, and there are no visual simulations of just how much open space and riparian corridors etc would be spared, compared to the developed areas. Also, the lot distributions don't appear to be much altered: I do not agree with the suburban "spread" of cul-de-sacs and all that I have said about them holds true in considering "Project Alternatives". It's not proper to "cherry pick" parts of a design—feature here, feature there—if we want integrated planning concept. The designs presented for project layouts still do not reflect "green" values overall, since the developed portions show no respect for designing in harmony with nature. **139**

I do not believe the DEIR succeeds in addressing either the full scope of the proposed project as described, and the devastation to the land that the so-called "Master Plan" previews. Visual simulations are not adequate to grasp the "phased development" through its 25 years to buildout. Project Alternatives point in a better direction but are still lacking in true integrated design innovation to meet challenges of the "doing business" in the 21st century. **140**

Thank you for accepting my comments and for your considerable time in reviewing them.

Sincerely,

Marilyn Bardet

COMMENTOR C6
Marilyn Bardet
March 10 and March 13, 2007

C6-1: This introductory comment is noted.

C6-2: See Responses to Comments C4-2 and C4-3. The City will take into account the environmental effects of the Master Plan, and the consistency of the Master Plan with Benicia Municipal Code Section 17.68.060, when it considers project approval.

C6-3: See Response to Comments C4-2 and C4-3. An analysis of the necessity of commercial uses proposed as part of the project was not necessary for the purposes of environmental review. The Draft EIR is not intended to question the assumptions behind the proposed project, but to evaluate the effects of the project as presented to the EIR team. A fiscal analysis of the project was prepared by Applied Development Economics (ADE) in 2006 and is available for review at the City Planning Department.

C6-4: The considerations listed in the comment – including the location and size of the project, the effects of the project design and lot layout, impacts on topography, the economic effects of the project, and project alternatives – were addressed in the Draft EIR inasmuch as these considerations relate to the physical environmental effects of the proposed project. For instance, the economic effects of the project are addressed in the Draft EIR, but only as they relate to physical environmental impacts, including urban decay (see Section IV.N of the Draft EIR) and the local and regional jobs/housing balance (see Section IV.B, Population and Housing, of the Draft EIR).

C6-5: See Response to Comment C5-2 in regard to the comment about sustainability. See Response to Comment C1-18 for a discussion of the project's effects on global warming.

C6-6: See Response to Comment C1-15. The alternatives discussion is consistent with *CEQA Guidelines* Section 15126.6, which requires that an EIR "include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. . . [and that] the significant effects of the alternative shall be discussed, but in less detail than the significant effects of the project as proposed." The level of detail provided for each of the alternatives discussed in Chapter V of the Draft EIR is consistent with the level of detail provided by the project sponsor of the proposed project.

C6-7: The Draft EIR does not provide "supporting documentation to claim that the suggested economic benefits of the proposed 'Plan' outweigh the sum total of the

potentially significant environmental cumulative impacts" because the purpose of the Draft EIR is only to disclose the environmental impacts of the project. When the City considers approval of the proposed project, it may take into account the economic benefits of the project, compared to the project's anticipated environmental effects.

C6-8: See Response to Comment A8-3.

C6-9: See Response to Comment C1-8.

C6-10: See Response to Comment C1-12.

C6-11: This comment about public review of the Lower Arsenal Mixed Use Specific Plan is noted.

C6-12: See Response to Comment C1-12.

C6-13: CEQA does not require a worst-case assessment of environmental impacts, but requires that "an agency must use its best efforts to find out and disclose all that it reasonably can." A chronic economic downturn of such severity as to cause urban decay in Benicia is a possible but not a reasonably foreseeable event. In addition, if such a downturn were to occur, and this downturn were to result in urban decay, the impact would be the result of regional, State, or national economic conditions, not the proposed project. The fiscal analysis prepared by ADE concludes that there is significant unmet demand for certain kinds of commercial uses in Benicia, and this existing demand would be absorbed by commercial uses in the proposed business park without resulting in significant physical effects to existing businesses in and around Benicia. The ADE fiscal analysis, which is available for public review at the City Planning Department, reaches reasonable conclusions about the potential of the project to result in urban decay. In addition, the researchers of the Draft EIR encountered no evidence that suggests that increases in local crime levels associated with business park uses would result in urban decay.

C6-14: Because environmental conditions change over time, the identification of environmental impacts in an EIR involves a degree of forecasting. As noted in Response to Comment C6-13, CEQA does not require a worst-case assessment of environmental impacts, but requires that "an agency must use its best efforts to find out and disclose all that it reasonably can."

The energy analysis in the Draft EIR concludes that adequate energy supplies would be available to serve the project. This conclusion was based on communication with energy providers and review of the General Plan, which involved energy planning for all anticipated development in the City. Short- or long-term energy shortages in California are certainly possible in the future. However, such shortages would not be considered a significant impact of the project. These shortages would also not significantly affect the project such that

environmental impacts would result. The Draft EIR represents a reasonable analysis of expected future energy conditions.

C6-15: See Response to Comment B5-2.

C6-16: See Response to Comment C4-2 and C4-3. The proposed project is a Master Plan; therefore, many project details are yet to be determined. However, the amount of detail available about the proposed project – and provided in the Draft EIR – is adequate to identify the project's anticipated environmental impacts.

C6-17: Refer to Response to Comment C4-3. The Draft EIR analyzes the effects of the proposed Master Plan, which is one of the entitlements requested by the project sponsor, along with vesting tentative and final subdivision map approvals. In the Draft EIR, "Master Plan" (which would result in the development of a business park), "business park," and "project" are used interchangeably.

C6-18: The key environmental difference between the 2001 business park project and current project is that under the current project, most of the on-site open space is located around a major drainage. The remaining comments do not pertain directly to adequacy of the Draft EIR.

C6-19: Global warming and energy conservation are addressed in Response to Comment C1-18.

C6-20: This comment, which pertains to the merits of the project (and not the adequacy of the Draft EIR) is noted. When the City considers approval of the proposed project, it may take into account whether the proposed project represents the best and most effective use of land.

C6-21: See Response to Comment A8-3.

C6-22: The correct time frame for buildout of the industrial component of the business park is approximately 25 years. Page 80 of the Draft EIR is revised as follows:

3. Development Phasing and Infrastructure Improvement

Table III-1 provides a list of proposed uses and densities that would be developed in each phase of the project.

Site preparation and development would occur in five phases, beginning in the southeastern portion of the site (Figure III-10). The project site is expected to be built out within approximately 25 ~~20~~ years of the beginning of construction. Water infrastructure (reservoirs and distribution system) would be developed prior to the first phase to allow for fire protection and the use of water during the construction period. Other utilities would be installed as part of the first development phase. Prior to occupancy of the first development phase, off-site sewer system improvements and selected main collection lines

would be developed to transport wastewater from the project site. The development of roadways in the site would proceed in phases.

C6-23: See Response to Comment C6-14. The development alternatives outlined in Chapter V of the Draft EIR would allow for development patterns on the site that are more protective of existing environmental resources.

C6-24: As indicated on page 80 of the Draft EIR, water infrastructure would be developed prior to the first phase of development. Off-site sewer infrastructure and certain main collector lines would be developed prior to occupancy of the first development phase. However, the development of roads in the site would proceed in phases. The Draft EIR preparers considered environmental effects associated with an interruption in the phasing of the project. With the exception of utilities (for which mitigation measures are proposed that require development of infrastructure early on in the development process), interruption of development would not result in new environmental impacts beyond those identified in the Draft EIR. The visual effects of the project associated with partial buildout of the site would not exceed those associated with full buildout of the project. Likewise, partial buildout of the project would not result in new urban decay effects on or off-site.

C6-25: If the proposed project is approved, development on the site would be restricted to development assumed for the purposes of the environmental analysis in the Draft EIR. If the project changes in terms of development intensity or use, it would be required to undergo supplementary environmental review. If the City determines that the project changes could result in new or more substantial environmental impacts beyond those identified in the Final EIR, a Supplemental, Subsequent, of independent EIR would be required. The purpose of the Draft EIR is to disclose the environmental impacts of the project proposed by the project sponsor, not to question the economic assumptions underlying the project. Refer to Response to Comment C6-14 regarding analysis of the worst case scenario.

C6-26: Chapter III, Project Description, of the Draft EIR describes the currently-proposed Master Plan. The questions listed by the commenter here pertain to the economic assumptions underlying the project, and do not pertain to the adequacy of the Draft EIR.

C6-27: The Draft EIR does not include an analysis of whether the proposed business park would be “unified” and “integrated.” Consistent with CEQA, the environmental review focuses on whether the project would result in significant physical environmental impacts.

C6-28: Global warming and energy conservation are discussed in Response to Comment C1-18. The use of non-renewable energy sources is also discussed on pages 373 and 374 of the Draft EIR. As noted in this discussion, the proposed project would be expected to result in the substantial consumption of non-renewable resources. Substantially reducing this impact would require a configuration of land uses on

the site to better promote alternative transportation, including walking and biking. Alternative land use configurations on the site that would be more energy-efficient than the proposed project are outlined in Chapter V of the Draft EIR. However, Recommended Measure GREEN-30 in Response to Comment C1-18 would assist the project in reducing its energy consumption and emissions of greenhouse gases.

C6-29: See Response to Comment C5-2.

C6-30: Refer to Response to Comment C1-18 regarding global warming and energy use. For the purposes of the water supply analysis in the Draft EIR, LSA used the Urban Water Management Plan prepared by the City of Benicia in 2005 and a project-specific Water Supply Assessment to identify long-term water supply, and to determine whether this water supply would be adequate to meet the demand generated by the proposed project. The Urban Water Supply Management Plan took into account various existing and possible water sources, including water from the State Water Project, Lake Herman, the Solano Project, Mojave Banking, and potential future recycled water, and future variations in this water supply due to drought conditions. The analysis in the Water Supply Management Plan and Water Supply Assessment represents a reasonable assessment of future water supplies that would be available to serve the project; the conclusion of the Water Supply Assessment was that adequate long-term water supplies would be available to serve the project. Even if recycled water is not available to serve the project, water supplies would be adequate to serve the project.

C6-31: The key difference between the 2001 project and currently proposed project is that under the currently-proposed project, open space in the site would be consolidated around a major drainage. Refer to Response to Comment C1-8 regarding the provision of an exhaustive analysis of the project's effects on visual resources in the Draft EIR. The project site would be available for dairying and/or orchards under the No Project alternative. While the long-term provision of agricultural uses on the site could be beneficial in terms of enhancing Benicia's food-shed, promoting agriculture on the site would not do a better job at reducing the project's environmental impacts than the No Project alternative.

C6-32: See Response to Comment C6-14.

C6-33: See Response to Comment C1-8.

C6-34: See Response to Comment C1-15 regarding the level of detail of the alternatives analysis.

C6-35: The anticipated impacts of roadway design, grading, and new infrastructure on the site (including the water storage tanks) was taken into account in the environmental analysis in the Draft EIR, including the analysis of potential impacts to visual resources.

C6-36: See Response to Comment A4-1. The four wetland mitigation areas near Lake Herman Road (in the upslope portion of the site) would provide limited storm water storage for the upper part of the site and a portion of the off-site flows from the upper part of the watersheds north of Lake Herman Road. The three detention basins at lower elevations of the site would provide storage for on-site storm water flows.

C6-37: As noted on page 195 of the Draft EIR, three of the four proposed freshwater marsh wetlands would also function as storm water retention basins. However, storm water flowing into these created wetlands would be from generally undeveloped areas. Therefore, the water quality of the mitigation wetlands would not be substantially impaired and would be expected to support wetland vegetation.

Figure IV.D-1 on page 131 of the Draft EIR shows the location of each of the creeks in the project site. The ecological value of these creeks is discussed on pages 177 and 178 of the Draft EIR (under "Central Coast Riparian Scrub" and "Non-wetland waters of the United States."

The capacity of an average-size dump truck is approximately 12 to 15 cubic yards. Therefore, 9,000,000 cubic yards of soil would be equivalent to approximately 600,000 truck loads. No data was available on the amount of grading that occurred at the Water's End development.

C6-38: The cumulative effect to biological resources that would result from development of the project site is discussed on pages 375 and 376 of the Draft EIR. Because the project and other projects in the area would result in the removal of existing wetlands and drainages, the project would make a significant and unavoidable cumulative contribution to regional biological resources impacts. The rolling hills on the project site consist mostly of non-native grassland. Reduction in this plant community would not be considered a significant cumulative impact on the regional scale.

C6-39: See Response to Comment C1-8. Impacts associated with soil erosion on the site would be reduced to a less-than-significant level with implementation of Mitigation Measures HYDRO-1 and HYDR-2. Steep slopes and cuts could be avoided through implementation of the environmentally superior alternative identified in the Draft EIR: the Hillside/Upland Preservation alternative.

C6-40: This comment, which relates to the merits of project and not to the adequacy of the analysis in the Draft EIR, is noted.

C6-41: Restoring local agriculture may be a meritorious activity, and could benefit Benicia; however, the restoration of agriculture on the site would not be more environmentally beneficial as a project alternative than the No Project alternative.

C6-42: Because no trails would extend from the project site to the west, minimal or no pedestrian travel is expected to occur from the site to the existing Benicia Police Department firing range. Therefore, hazards associated with this firing range are expected to be less than significant.

C6-43: As stated in the Draft EIR under the discussion of Impact HAZ-4, the central/ western portion of the project site is located within an area that was leased by the former Benicia Arsenal for the former Revetment Area. Investigation into past land uses and sampling has been completed within this portion of the project site for ordnance and explosives (OE), 0.5 caliber rounds that may have burned in a 1946/47 fire, and hazardous materials. These investigations were based on records of past military land use activities and suspected contamination associated with these uses.

Based on the results of these investigations, no actions for OE were recommended by the Department of Defense (DOD) for the central/western portion of the site and no actions for hazardous materials were identified by the Sacramento District of the U.S. Army Corps of Engineers. Additional discussion of these less-than-significant hazards is therefore not presented in the Draft EIR since investigation of past land uses, sampling, and evaluation suggests that no further work is required for this area of the project site. As for military activities "anywhere else in the project site," no environmental investigations are known to have been completed for the eastern portion of the project site (outside the former Army Revetment area), but a review of aerial photos indicates that this area was not developed from 1937 to 1970. Refer to pages 147 and 148 of the Draft EIR for more information.

Mitigation Measure HAZ-4a requires the project sponsor to ensure that the <u>entire</u> project site has been fully characterized and remediated (as needed) for OE and hazardous materials under the direction of a regulatory oversight agency prior to issuance of a grading permit.

Following the site characterization and remediation (as needed), if known or suspected OE (Mitigation Measure HAZ-4b) or potentially hazardous materials (Mitigation Measure HAZ-4c) are encountered, all work is required to be immediately halted, personnel vacated, and responding/regulatory agencies immediately contacted for assistance in determining further actions (if needed) prior to resuming work in the area. These mitigation measures would ensure public health protection, and no changes are needed.

C6-44: This comment pertains to the merits of the project. No additional response is necessary.

C6-45: See Response to Comment C1-15.

C6-46: See Response to Comment B5-2.

C6-47: As indicated on page 219 of the Draft EIR, Benicia General Plan Circulation Policy 2.20.3 states: "Maintain Lake Herman Road as a rural, two lane, curving scenic route." However, this policy is qualified by others in the General Plan, including Circulation Policy 2.20.1, which identifies LOS D as the minimum level of service for Benicia roadways. As shown both in the Draft EIR and the General Plan, without improvements, Lake Herman Road at the intersections with East Second, I-680 southbound on/off ramp, and I-680 northbound on/off ramps would operate at LOS F as a result of the development allowed by the General Plan through the year 2015.

Table 2-12 in the General Plan, Streets That May Exceed Existing (1997) Capacity with Future Growth Under this General Plan, identifies Lake Herman Road, east of the I-680 northbound ramps, as an arterial segment that may exceed capacity with development allowed in the Benicia General Plan (p. 64). The Benicia Urban Limit Line as approved by the public is Lake Herman Road, except in the vicinity of the project site, where a site for a church is located on the north side of the road. The new church is designed to align with the future A Street intersection, which would be the appropriate start of Lake Herman Road's rural character. Additionally, this portion of Lake Herman Road is characterized by relatively intense development in close proximity to the I-680 interchange.

The reconciliation of these various General Plan policies could allow improvements to Lake Herman Road in the vicinity of I-680 to maintain the level of service standard in the General Plan. These improvements may be appropriate at the eastern end of Lake Herman Road but may not be appropriate farther to the west, where rural land uses predominate. It should be noted that the Draft EIR identifies the need for Lake Herman Road to be widened from the future A Street access to the I-680 interchange. Decisionmakers may consider the pros and cons of such improvements in the context of existing General Plan policies during discussions on the merits and environmental impacts of the proposed project.

C6-48: *CEQA Guidelines* Section 15131 states: "Economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes." Therefore, the Draft EIR does not include an analysis of the environmental effects of the project in the context of the project's anticipated revenue. However, this issue may be taken into account by the City when it considers project approval.

C6-49: The commercial and limited industrial land uses proposed as part of the project are not expected to be incompatible. Therefore, no buffer is required. The business park would be separated from residential uses to the west by a buffer of open space and industrial land. This buffer would be adequate to protect residen-

tial uses from noise and exhaust generated by uses within the project site. The comment about the extension of Industrial Way pertains to the merits of the project; no additional response is required.

C6-50: The removal of Reservoir Road in and of itself would not be considered a significant impact; however, other visual changes to the site – including 9,000,000 cubic yards of grading and the removal of wetlands and drainages – would result in a significant and unavoidable impact to the visual character of the site. The extension of Industrial Way would replace the access currently provided by Reservoir Road. Therefore, travel between Lake Herman Road and East 2nd Street would not be diminished (and no community would be divided).

C6-51: See Response to Comment C6-31.

C6-52: The Solano Multi-Species Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP), which is currently being prepared, would not identify private land (with the exception of lands under conservation easements or lands already designated for habitat (e.g., private mitigation banks)) as habitat. Therefore, the project site would not be part of the HCP/NCCP. The mitigation measures identified in Section IV.F, Biological Resources, of the Draft EIR, would reduce the project's direct impacts to biological resources to less-than-significant levels.

C6-53: This comment is noted. Impacts associated with quality of life are addressed in all topical sections of the Draft EIR. Impacts to human health are specifically addressed in Section IV.E, Hazards and Hazardous Materials; Section IV.H, Air Quality; and Section IV.I, Noise.

C6-54: This comment pertains to the merits of the project.

C6-55: See Response to Comment C1-8.

C6-56: Response to Comment B3-12 describes the slope maintenance plan (including its self-perpetuating characteristic) and its financing. The slope maintenance program would be sponsored and implemented by the property owners. If the entire completed project is owned by one individual or entity, then that individual or entity would be responsible for implementation of the program.

C6-57: See Response to Comment C1-8.

C6-58: Specific scenarios regarding leakage or rupture at the water plant due to earthquakes have not been calculated. Mitigation Measure GEO-5 defines and provides the required performance standard to be achieved by the final design of the project: to ensure that human health or property is not threatened with accidental or earthquake-induced rupture at the Water Treatment Plant or water tank reservoirs. This mitigation measure is feasible and would adequately reduce risks associated with leakage or rupture to a less-than-significant level.

Underground utilities and storm water mains that come under the authority of the City generally would be located in the public right-of-way. Provision of access for repairs is a normal design consideration for civil and structural engineering.

C6-59: This comment, about the merits of the project, is noted.

C6-60: The project drainage plan would show the direction of storm water flow on the site, the conveyance of storm water within and out of the site, and on-site storm water treatment features.

C6-61: A "landscape plan" would not mitigate impacts associated with runoff from the project site. As indicated on pages 139 to 141 of the Draft EIR, runoff-related impacts would be reduced to a less-than-significant level through preparation and implementation of a final detailed design-level hydraulic analysis and Storm Water Pollution Prevention Plan (see Mitigation Measures HYDRO-1 and HYDRO-2).

C6-62: Reports regarding the recommended investigation of spurs A, E and G at the former Revetment Area were not identified in the records available for review and it is not known when these studies will be completed; therefore, they were not referenced in the Draft EIR. These areas are located outside the project site.

The standards implemented by DTSC during cleanup of the Tourtelot project (cleanup certified in June 2004) were implemented assuming future residential uses, as described in the Draft EIR, and included: point clearance of all ordnance and explosives (OE) and associated debris; area-wide clearance for areas with potential OE and addition of 14 feet of clean bedrock; and excavation, transport and off-site disposal of soil with hazardous materials exceeding risk-based cleanup goals.

In the Corps Preliminary Assessment (PA), former Arsenal sites were ranked as one of three categories: a) no action needed, b) further investigation recommended, or c) imminent health risk requiring immediate response. The three sites identified in the Revetment Area were identified as recommended for further investigation, as described in the Draft EIR. The purpose of this ranking in the PA was to determine whether past Department of Defense activities require further environmental investigation based on a records review. In the Corps U.S. Engineering Evaluation/Cost Analysis, no Department of Defense action was recommended for the Revetment Areas that had already been investigated. The anticipated future land use on the site was assumed to be "limited industrial." In general, cleanup standards applied by the Corps are risk-based, and consider anticipated future land uses of the property.

C6-63: The IT Panoche Site is undergoing post closure monitoring (overseen by the Department of Toxic Substances Control). If there were any adverse changes in groundwater or surface water quality at the IT Site that could potentially affect downgradient locations (including the business park site), this would trigger a

response from DTSC to enforce a corrective action to protect public health, as described in the Draft EIR.

C6-64: Habitat conditions on the project site have not changed significantly since the last focused field surveys were conducted. In the case of special-status bat species, the only significant changes in potential bat habitat are that the abandoned farmhouse has burned down and the milking shed has partially burned down since the last focused survey; therefore, the amount of potential bat habitat onsite has been reduced. The LSA reconnaissance-level surveys are not focused surveys and should not be treated as such. Mitigation Measure BIO-8a requires focused preconstruction surveys for bats. Focused preconstruction surveys for other special-status species, such as California red-legged frogs and nesting birds, are required as part of other mitigation measures in the Draft EIR. These mitigation measures are adequate to reduce impacts to protected species on the site to a less-than-significant level, regardless of the findings of previously-conducted field surveys.

C6-65: The day and night time focused surveys for California red-legged frogs were not conducted on the same date in August 1999 and no focused red-legged frog surveys were conducted in August 2006. LSA's reconnaissance-level surveys, which were more general habitat assessment surveys and not focused red-legged frog surveys, were conducted in August 1999 and 2006. New protocol-level preconstruction surveys would be conducted as part of Mitigation Measure BIO-4b. By definition, such surveys would be conducted according to the current, agency-issued protocol, and would conform to the timing specified in the protocol.

C6-66: The italicized language is not quoted directly from the Draft EIR. Refer to pages 375 and 376 for a discussion of the project's cumulative effects on biological resources.

C6-67: Botanical surveys did not identify Johnny jump-ups (*Viola pedunculata*), the host plant of the Callippe silverspot butterfly. Since Johnny jump-ups and Callippe silverspot butterflies have not been observed onsite, mitigation, including restoration of habitat for this butterfly, is not required.

C6-68: Prior to preparation of this Draft EIR, adequate focused surveys were conducted as discussed on page 168 of the Draft EIR to determine the potential presence of special-status plants and animals onsite. Focused surveys for special-status plants were conducted by Sycamore Associates on March 10, March 24, and September 23, 1997 for wetland plants and on April 27, May 5, June 7, and June 8, 1999 and August 27 and September 3, 1999 for upland plants. The reconnaissance surveys of the site that were conducted by LSA biologists on August 5, 1999 and August 31, 2006 were conducted for the purpose of becoming familiar with the site to prepare the biological resources section of the Draft EIR and on August 31, 2006 to verify that site conditions in 2006 had not significantly changed since the

earlier focused surveys. The purpose of a reconnaissance survey was not to conduct an extensive, exhaustive survey for special-status plants or wildlife.

During the focused plants surveys in 1997 and 1999, pappose tarplant was not yet listed by the California Native Plant Society (CNPS) as a special-status plant and therefore it was not specifically surveyed for or mapped in 1997 or 1999. Any pappose tarplant that had been observed incidentally during the broader reconnaissance survey of the site in 2006 would have been mapped by LSA biologists; however, no individuals were observed. This reconnaissance survey was not intended to be an exhaustive survey of the site for pappose tarplant. Mitigation Measure BIO-3 requires focused surveys for pappose tarplant prior to construction of the proposed project. Surveys for other special-status plants are not recommended because the 1997 and 1999 surveys are adequate surveys that are still valid. The biological conditions at the site have not changed significantly since 1997 and therefore it is not necessary to resurvey the site for special-status plants. Focused surveys for several special-status wildlife species would be conducted prior to construction of the proposed project, as described in the mitigation measures for Impacts BIO-4 through BIO-8.

C6-69: See Response to Comment C6-67.

C6-70: The Draft EIR lists the potential for species to occur at the project site at the present time based on the geographic range of the individual species, vegetation present on the site, condition of the habitat on the site, and past and current occurrences of the individual species. If these factors are present on the site in a way that could make the site suitable for a species, a probability for that species occurrence is assigned. These occurrence probabilities are not absolute unless the species has been observed using the site currently or in the past. Future changes in on-site habitat, including the uncertainty factor of species occurring on the site in regards to effects of climate change, are speculative and are not required to be addressed in this Draft EIR, pursuant to CEQA.

C6-71: The Draft EIR states that white-tailed kites could nest and/or forage within the project site and therefore the project site could be within the territorial range of one or more pairs of white-tailed kites. The occurrence of white-tailed kite in August 1999 was noted by an LSA biologist during the 1999 reconnaissance-level survey.

C6-72: The August surveys were reconnaissance-level surveys and were not intended to be definitive surveys for the presence of nesting raptors. These surveys, along with the other information about the site, were adequate to determine that the site provided potential habitat for this species and that mitigation should be required prior to development. Where possible, mature trees would be preserved and measures would be implemented to protect trees during construction activities (see Mitigation Measure BIO-1 in the Draft EIR). A tree replacement program would be adopted in accordance with the City's tree ordinance. Active Cooper's hawk nests would also be protected. Preconstruction surveys for active Cooper

hawk nests would be conducted as part of Mitigation Measure BIO-5a. Loss of wintering or foraging habitat on this site is not considered a significant impact and would not require mitigation.

C6-73: The Draft EIR states that northern harriers could nest and/or forage within the project site and therefore the project site could be within the territorial nesting and foraging *range* of northern harriers. Regardless of possible changes to the nesting season of the northern harrier and recent sightings of harriers, active harrier nests would be protected by mitigation measures identified in the Draft EIR. Preconstruction surveys for active harrier nests would be conducted as part of Mitigation Measure BIO-5a. No other mitigation for harriers, such as the restoration of grasslands, is required.

C6-74: The proposed project includes both preservation and restoration elements as described in Impact BIO-2 and as shown in Figure III-8. Lots A and C would remain undeveloped and would support approximately 70.1 acres of existing non-native grassland; approximately 13.4 acres would be preserved for existing wetlands, riparian enhancements, and the construction of mitigation wetlands. The compensatory mitigation plans prepared for the project would create a total of 12.69 acres of in-kind jurisdictional wetland and riparian habitat onsite, consisting of approximately 5.41 acres of willow scrub habitat and 7.28 acres of freshwater marsh/seasonal wetlands. Other proposed compensatory mitigation measures include the construction of 47 linear feet of a new channel, removing a large blue gum eucalyptus stand, and repairing three head cuts. Restoration activities could occur in any of the project alternatives identified in Chapter V, Alternatives, of the Draft EIR – and would result in environmental benefits. However, large-scale wetland, woodland, or grassland restoration would not be required by CEQA with implementation of the alternatives because most impacts to biological resources would be less than significant.

C6-75: Although not observed during any of the surveys, golden eagles likely forage onsite. Preconstruction surveys for active golden eagle nests would be conducted as part of Mitigation Measure BIO-5a. A tree replacement program, which would include the planting of trees that could eventually provide suitable nesting habitat for golden eagles, would be adopted in accordance with the City's tree ordinance as part of Mitigation Measure BIO-1. No other mitigation for golden eagles is required.

C6-76: The cumulative impacts of the project on biological resources are addressed in pages 375 and 376 of the Draft EIR. As discussed in the Draft EIR, the loss of grassland habitat would not be considered cumulatively significant; however, the loss of wetlands and drainages would be considered significant, in combination with other proposed or planned projects in the region. Many wildlife species no doubt use the site; however, the location of the site at the edge of the City's commercial and development area and adjacent to Interstate 680 preclude the site from being used as an important movement corridor that connects natural open spaces.

C6-77: Species specific surveys were not conducted for all special-status species potentially occurring onsite; however, site visits were adequate to assess the habitats present onsite and the suitability of those habitats to support special-status wildlife. Focused surveys for nesting special-status species, such as the tricolored blackbird, loggerhead shrike, saltmarsh common yellowthroat, and California horned lark would be conducted as part of Mitigation Measure BIO-5a. Mitigation for these bird species is not required during the non-breeding season. Focused surveys for breeding and non-breeding burrowing owls would be conducted as part of Mitigation Measure BIO-6a. Focused surveys for the American badger would be conducted as part of Mitigation Measure BIO-7.

C6-78: The comment is correct in stating that the loss of grasslands and wetlands would affect habitat for local wildlife and plants. The reconnaissance-level surveys are not focused surveys for determining the presence of special-status species, but rather results from these surveys provide a general assessment of the habitat on the project site. Regardless of the results of the reconnaissance-level surveys, the grasslands onsite are not likely to support special-status wildlife species and therefore impacts to grasslands would be less than significant. See also Response to Comment C6-76.

C6-79: Until the proposed Draft Benicia Tree Ordinance is adopted, the current tree ordinance as described in the Draft EIR would govern tree removal and replacement on the project site.

The comment is correct in stating that for the first few years after mitigation, small trees planted would not serve as habitat for raptors and large birds. Impacts to nesting habitat within large stands of trees, although likely to occur if raptors or large birds have nested in these stands in the past, would be short-term and not significant. In accordance with Mitigation Measure BIO-1, mature trees would be preserved and measures would be implemented to protect trees during construction activities. Trees with active nests would be protected. A tree replacement program would be adopted in accordance with the City's tree ordinance. The City's tree ordinance does not require the planting of mature trees.

C6-80: The proposed wetland mitigation and monitoring plans for this project are required to be approved by the U.S. Army Corps of Engineers (Corps) and the City prior to implementation. These plans would detail mitigation design, wetland planting design, maintenance and monitoring requirements, reporting requirements, and success criteria. Annual vegetation and hydrological monitoring of the mitigation wetlands would provide data to evaluate the success of the wetlands. If the success criteria have not been achieved at the end of the 5-year monitoring period, remedial measures would be identified in consultation with the City and Corps. Remedial measures could include grading, planting, seeding, exotic/invasive vegetation control, and/or an extension of the maintenance or monitoring period. Remedial measures would be implemented by the project sponsor. See Mitigation Measure BIO-2b for additional details on the mitigation and monitoring plan.

As described in Impact BIO-2 and as shown in Figure III-8 of the Draft EIR, Lots A and C would remain undeveloped and would support approximately 70.1 acres of existing non-native grassland, approximately 1.72 acres of existing freshwater marsh/coastal riparian scrub, and approximately 12.7 acres of created mitigation wetlands (freshwater marsh) and riparian plantings. The 70.1 acres of preserved non-native grassland on the site would provide sufficient space for constructing mitigation wetlands if the proposed locations of the mitigation wetlands proves to be inadequate.

C6-81: Mitigation Measure BIO-4c states that if California red-legged frogs are observed during surveys, a qualified biologist shall monitor all construction or ground disturbing activities within 300 feet of suitable red-legged frog aquatic habitat. The biologist would be present every day in which construction activities occur within 300 feet of suitable habitat, not only once or twice a week.

The Draft EIR provides mitigation measures with which the developer must comply in order for the project to be developed as proposed. If the developer does not comply with the mitigation measures or permit conditions, the City may implement enforcement actions to the full extent of the law. If the conditions of other regulatory agencies are violated, those agencies also have means to enforce the terms of the permits.

C6-82: Adequate focused surveys for special-status plants were conducted on the site in 1997 and 1999. Pappose tarplant (*Centromadia [= Hemizonia] parryi* ssp. *parryi*), a California Native Plant Society List 1B species, was found during the 1997/1999 focused surveys at the site, but this species was not listed by CNPS at the time and therefore was not mapped. The extent of this plant on the site is unknown. Focused surveys would be conducted for pappose tarplant prior to construction of the proposed project. If pappose tarplant is found on the site, the project proponent would be required to avoid potential impacts to this species to the extent that is feasible. Unavoidable impacts to this species would be compensated for as described in Mitigation Measure BIO-3, and would be reduced by implementation of a salvage and recovery plan that would be prepared by a qualified botanist and approved by the City. The mitigation site would be monitored annually and remedial actions would be implemented to ensure the success of the plan. Annual reports would also be submitted to CDFG. A detailed salvage plan is not required by CEQA to be included in this Draft EIR. The proposed pre-construction surveys and Mitigation Measure BIO-3 for pappose tarplant meet the requirements of CEQA.

C6-83: Focused field surveys for western pond turtles and California red-legged frogs would be conducted as part of Mitigation Measures BIO-4a and BIO-4b, respectively. Mitigation Measure BIO-4b requires the development and implementation of a mitigation plan if California red-legged frogs are observed onsite. If feasible, the project design would be changed to avoid impact to red-legged frogs and western pond turtle. If a species listed under the federal or State Endangered Species Acts is found onsite, the applicant would be responsible for

complying with the law regarding the take of such species or their habitat. The regulatory agencies are responsible for enforcing the laws.

C6-84: Protocol-level surveys for California red-legged frogs would be conducted according to the August 2005 protocol discussed in Mitigation Measure BIO-4b, which requires surveys to be conducted prior to construction activities (regardless of which phase of development is being implemented); therefore repeated surveys may have to be conducted depending on the timing of the construction. California red-legged frog surveys are normally only valid within 14 days prior to construction activities; thereafter, additional surveys would be required. If red-legged frogs are present, a mitigation plan would be adopted in accordance with Mitigation Measure BIO-4b. This mitigation plan would include 3:1 replacement ratios for red-legged frog habitat. Mitigation habitat may occur offsite if all on-site habitat has been developed.

C6-85: The commenter is correct in stating that the Draft EIR does not provide evidence that small trees would compensate for loss of mature trees for raptors and that the loss of grasslands and construction of buildings would discourage burrowing owls from inhabiting the project site. Impacts to nesting habitat in the vicinity of mature trees would be short-term and less than significant with the mitigation proposed to reduce impacts to active raptor nests. In accordance with Mitigation Measure BIO-1, mature trees would be preserved and measures would be implemented to protect trees during construction activities. A tree replacement program would be adopted in accordance with the City's tree ordinance. Burrowing owls have not been observed onsite and potential burrows, such as California ground squirrel burrows, have only been observed in a small area of the project site. Preservation of grasslands for burrowing owls is not required if owls are not present onsite or have not been previously documented nesting on the site. The mitigation and monitoring plan, not the Draft EIR, would provide the actual plans for compensation of losses and a restoration plan for raptors and burrowing owls (such a plan would be prepared after focused surveys for these species, if individuals are identified).

An independent biological inspector is not required to provide daily oversight and inspection of grading and construction activities. Independent biologists would conduct preconstruction surveys as part of the recommended mitigation measures. Additionally, as part of Mitigation Measure BIO-4c, if California red-legged frogs are observed onsite, a qualified biologist would monitor all construction or ground disturbing activities within 300 feet of suitable red-legged frog aquatic habitat. This biological monitor would be present every day in which construction activities occur within 300 feet of suitable habitat. Biological monitors may also be present to monitor active nests and burrows on the site should such resources be identified onsite during the preconstruction surveys.

C6-86: Mitigation Measure BIO-7 discusses precautions that would be taken and the ways in which badgers would be protected if individuals are found on the project site. This measure states that a qualified biologist would conduct surveys for

badger burrows. Impacts to active badger dens would be avoided by establishing exclusion zones around all active dens, within which construction-related activities would be prohibited until denning is complete or the den is abandoned.

C6-87: Mitigation Measure BIO-8a requires preconstruction surveys for bats within 30 days prior to construction activities or disturbance. If construction activities occur at a time when bats are not present, but the possibility exists that bats may roost at other times of the year, the habitat in question would be considered a possible temporary roost site. Mitigation is not required for the removal of temporary roost sites. However, if bats are determined to be present, a mitigation plan would be developed to specify the methods used for mitigation and the timing of the construction and grading activities. The mitigation plan for bats would provide details of bat habitat restoration programs that may occur within the project site. Previous mitigation projects for bats have shown that bats will return to an original roosting habitat location and roost in replacement structures. The old barn is exposed to sunlight and other elements and does not provide optimal habitat for bats. The milking shed, where bat signs were observed in March 2000, was damaged during a fire and has become more exposed to elements and therefore no longer provides optimal habitat for bats. Regardless, these structures would be surveyed as part of Mitigation Measure BIO-8a. Mitigation, including the possible restoration of old structures, is required only if bats are present. The project alternatives discussed in Chapter V of the Draft EIR would retain the agricultural buildings on the site, which could serve as bat habitat and as a historical landscape element.

C6-88: Average daily traffic volumes are not presented for arterial roadways in Benicia because daily traffic volumes are typically not used as part of impact analyses per City of Benicia and general CEQA standards. Instead, an analysis of commute peak hour traffic volumes is conducted because the peak hours represent the worst-case scenarios for traffic on any given roadway. Traffic volumes on area roadways peak during the AM and PM peak commute hours. Daily traffic volumes affect conditions during all of the other hours of the day when conditions are better than during the worst case commute hours.

Sections 1.c. and 1.d. of the Transportation and Circulation section of the Draft EIR describe the standard methods used to analyze traffic operations. Tables IV.G-12 and IV.G-15 provide direct, side-by-side comparisons of traffic conditions with and without the addition of the Benicia Business Park project. The LOS Calculation Worksheets provided within the appendix provide all the relevant details which go into the calculation, including traffic volumes, signal timing and phasing, growth rates used to determine traffic levels in future years, project volumes, and vehicle delay.

C6-89: The purpose of Figure IV.G-2 is to graphically identify all intersections to be studied as part of the traffic impact analysis. Project effects on students at Robert Semple Elementary School have been addressed in detail in the Responses to Comments A6-1, C2-9, C2-16, C8-15, and C103-1.

C6-90: The commenter is correct: East Second Street intersects with Military East Street. The various text revisions made in response to this typographical error are included in Chapter 4.

The western leg of the First Street /Military Street intersection is Military West Street, and the eastern leg of the First Street/Military Street intersection is Military East Street.

C6-91: Level of service and average delay for each study intersection are shown in Table IV.G-3. As described in sections 1.c. and 1.d. of the Transportation and Circulation section of the Draft EIR, level of service and average delay are the standard methods used to analyze traffic operations. The traffic volumes corresponding to the study intersections analyzed in Table IV.G-3 are displayed graphically in Figure IV.G-4. Although traffic volumes are a component used to calculate an intersection's level of service and delay, they are not always the governing factor. Increases in traffic to movements with low amounts of delay may not cause an intersection's average delay for all movements to increase. Conversely, small increases in volumes to movements with high levels of delay can create a sizable increase in the intersection's average delay and level of service as a whole. As such, providing traffic volumes in the LOS tables is not appropriate.

LOS Calculation Worksheets provided within the appendix provide all the relevant details that go into the calculation, including traffic volumes, signal timing and phasing, growth rates used to determine traffic levels in future years, project volumes, and vehicle delay.

C6-92: The comment references a sentence in the Draft EIR which notes that no pedestrian facilities are currently included in the immediate vicinity of the project site. This would be expected to be the case as little or no pedestrian intensive land uses currently exist in the project site. The project would be required to provide pedestrian facilities in accordance with ADA and City of Benicia requirements.

Per Mitigation Measure TRANS-24, the following improvements would be included as part of the project:

- Pedestrian sidewalks connecting all major buildings and parking areas within the project site;
- Crosswalks at all areas were there may be potential pedestrian/vehicular conflicts; and
- Sidewalks along East 2nd Street, A Street, Industrial Way, and Lake Herman Road (between A Street and East 2nd Street).

C6-93: Although three-dimensional visual representations, photos, and simulations may aid the reader in visualizing the movement of project-generated traffic, they are not required by the City of Benicia or CEQA, are not normally provided in EIRs,

and are not necessary to understand the impacts of the project on traffic congestion. In Figure IV.G-7 (and in all other traffic volume figures) all streets are labeled, and all intersections are numbered per the intersection list shown in section 1.b. and the intersection listing in all level of service tables.

As discussed in Response to Comment C2-20, the distribution of project traffic was determined based on a select link analysis using the latest available Solano/Napa County Travel Demand Model. According to the results of the select link analysis, project trips are not projected to travel along East 2nd Street south to Military East Street.

C6-94: Improvements proposed at the East 2nd Street/I-780 Westbound Ramps intersection would be built to modern engineering standards. The project would not create design features dangerous to pedestrians, bicyclists, or motorists. The lane configuration at the East 2nd Street/Rankin Way intersection would remain the same.

C6-95: Mitigation Measures TRANS-14 and TRANS-15 would result in the development of improvements to freeway off-ramp intersections within East 2nd Street. Freeway traffic conditions, particularly in merging areas, would not be affected by these improvements.

C6-96: The planned extension and widening of Industrial Way is identified as a necessary improvement in the Benicia General Plan, to serve the land uses identified in the General Plan document. The proposed mitigation measures for Lake Herman Road are designed to alleviate heavy traffic congestion that would occur without improvements, consistent with the General Plan. The great majority of the traffic volume increase along Lake Herman Road between the project site and I-680 would be project-generated traffic.

Refer to Response to Comment B5-2 for a discussion of the project's growth-inducing impacts.

C6-97: The Draft EIR assumes that the operating costs associated with extending Benicia Transit to the project site would be determined by Benicia Transit. Benicia Transit's budget is paid for by tax dollars, to which the project's land uses would contribute.

Currently, the Solano Transportation Authority (STA) is exploring the possibility of developing an Intermodal Transit Facility east of I-680 at Lake Herman Road. If developed, the Intermodal Transit Facility would help to serve the project's transit needs – but this facility is not necessary to reduce the project's impacts on transit to a less-than-significant level.

C6-98: This comment, which expresses support for Mitigation Measure TRANS-24 in the Draft EIR, is noted.

C6-99: The less-than-significant impacts of the project on Lake Herman Recreational Area are discussed on pages 325 and 326 of the Draft EIR. Substantial pedestrian traffic to and from the proposed Benicia Business Park's land uses and Lake Herman is not anticipated. Refer to Response to Comment C6-42 regarding potential land use conflicts with the Benicia Police Department firing range to the west of the project site.

C6-100: Mitigation Measure TRANS-26 in the Draft EIR requires that the project sponsor measure and mitigate all project-related construction impacts to area access roads associated with construction truck traffic. This approach is consistent with the City of Benicia's standard requirements, which dictate that project sponsors perform before-construction and after-construction pavement condition surveys and mitigate relative damage to pavement caused by construction vehicle use. Because project construction traffic would be required to use City designated truck routes, the complete failure of area roadways is not expected. Therefore, intermediate roadway reconstruction was not identified as an appropriate mitigation measure.

C6-101: Mitigation Measure TRANS-22 proposes a spot widening of I-780, which is meant to accommodate the forecast increases in traffic in the area. The projected increase in traffic associated with the proposed project is entirely independent of the spot widening – the improvement would be built to alleviate what would otherwise become a major congestion issue.

C6-102: The air quality analysis in the Draft EIR follows the standards set forth by the U.S. EPA and the BAAQMD for establishing existing air quality conditions; it follows the standards set forth by the U.S. EPA and the California Department of Transportation for establishing background CO concentrations.

The air quality monitoring station locations are chosen by the State to adequately represent regional air quality conditions. Air quality conditions within an air basin are generally similar. The air quality monitoring data are used to establish the general regional air quality conditions. The monitoring station located in Vallejo is the closest air quality monitoring station to the project site with monitored data for the majority of regulated air pollutants, including CO concentrations, and is considered representative of the project site because it is located in the same air basin as Benicia. Small differences in existing air quality between Benicia and the Vallejo monitoring station would not change the findings of the Draft EIR in regard to the project's air quality impacts.

C6-103: See Response to Comment C6-102.

C6-104: The primary source of carbon monoxide from the proposed project would be from vehicle-related idling. Predicted concentrations of carbon monoxide were estimated for various intersections to determine if the project would cause an increase in carbon monoxide emissions that would exceed federal and State standards. As shown in tables IV.H-6, IV.H-7 and IV.H-8, the air quality at all of

the intersections in the project site vicinity would be well below State and federal carbon monoxide standards and therefore, CO hotspots would not occur with implementation of the proposed project.

C6-105: The ARB prepares identification reports on candidate substances under consideration for listing as toxic air contaminants. The current list of identified TAC's by the ARB contains 244 substances. Additional information on toxic substances can be found on the ARB website: http://www.arb.ca.gov/toxics/quickref.htm.

C6-106: Existing traffic conditions and the increase in traffic associated with the proposed project are described in Chapter IV.G, Transportation and Circulation. All appendix material is summarized in the main text of the Draft EIR. Materials included in the appendix are for the purposes of documenting modeling methods.

C6-107: See Response to Comment C2-27.

C6-108: The first row of Table IV.H-2 of the Draft EIR will be revised as follows:

Table IV.H-2: Health Effects of Major Criteria Pollutants

Pollutant	Health Effects	Examples of Sources
Particulate Matter (PM_{10}: less than or equal to 10 microns and $PM_{2.5}$)	• Increased respiratory disease • Lung damage • Premature death • Decreased lung function in children • Increased respiratory and cardiovascular hospitalizations	• Cars and trucks, especially diesels • Fireplaces, wood stoves • Windblown dust from roadways, agriculture, and construction

Source: ARB, 2005.

C6-109: See Response to Comment A7-1.

C6-110: See Response to Comment C6-108.

C6-111: The discussion of existing climate conditions in Benicia provided in the Draft EIR is adequate to understand the air quality impacts of the proposed project.

C6-112: See Response to Comment 6-102.

C6-113: Air quality issues discussed in the Draft EIR are based on the significance criteria used by the City of Benicia and regional significance thresholds established by the BAAQMD. The evaluation of the proposed project was discussed in terms of the criteria pollutants established by the Clean Air Act. Localized carbon dioxide emissions that could be emitted by the proposed project would be evaluated under the permitting process established by the BAAQMD, as required by law.

C6-114: Carbon monoxide hotspots have been greatly reduced in the last 20 years due to improved vehicle emission standards. As shown in tables IV.H-6, IV.H-7 and IV.H-8, all of the intersections in the project site vicinity would be well below

State and federal carbon monoxide standards and therefore, carbon monoxide hotspots would not occur with implementation of the proposed project.

C6-115: This comment pertains to the merits of the project and not to the adequacy of the Draft EIR. Therefore, no additional response is required.

C6-116: See Response to Comment 6-102.

C6-117: The proposed project would not locate new sensitive receptors near a source of toxic air contaminants. The BAAQMD has the authority to regulate new sources of toxic air contaminants though AB 2588. Any new potential sources of toxic air contaminants that would be proposed as part of the project would be regulated by the BAAQMD under a permit.

C6-118: Construction emissions were based on the BAAQMD's emission factor of 51 pounds per acre per day of PM_{10} as indicated on page 257 of the DEIR. A 25-year construction period is expected at this time. It is not possible to estimate the water requirements at this time because the actual water usage would vary depending on localized conditions at the time of construction.

C6-119: See Response to Comment C6-102.

C6-120: Emissions from specific development projects that could be proposed as part of the project would be subject to regulations of the BAAQMD, which regulates VOC emissions.

C6-121: See Response to Comment C6-102.

C6-122: See Response to Comment A7-1.

C6-123: The requested information is available via referenced background sources and is not needed to understand the significant impacts of the proposed project.

C6-124: See Response to Comment C6-102.

C6-125: While the comprehensive air monitoring system recommended by the commenter could be valuable in better understanding local air quality conditions, it would not reduce the significant effects of the project on air quality.

C6-126: See Response to Comment C1-18.

C6-126: This comment, which expresses support for the alternative transportation mitigation measures in the Draft EIR, is noted.

C6-127: This comment, which pertains to the merits of the project, is noted.

C6-128: The Draft EIR identifies changes to the visual character of the site as a significant unavoidable environmental impact. Although not explicitly mentioned in the impact analysis, the extension of Industrial Way would contribute to this impact.

C6-129: The visual effects of 9,000,000 cubic yards of grading on the project site are considered significant and unavoidable. The project alternatives outlined in Chapter V of the Draft EIR would substantially reduce the environmental impacts associated with grading that would result from implementation of the project.

C6-130: See Response to Comment C1-8. The project's impact to the visual character of the site (including impacts associated with grading to create building pads) is significant and unavoidable.

C6-131: If a specific development project is proposed that would result in impacts that exceed those identified in the Final EIR, supplemental environmental review would be required.

C6-132: The values and objectives listed by the commenter have been incorporated into the three development alternatives discussed in Chapter V of the Draft EIR.

C6-133: See Response to Comment C6-13.

C6-134: This comment, which pertains to the merits of the project and not to the adequacy of the analysis in the Draft EIR, is noted.

C6-135: This comment, which pertains to the merits of the project, is noted. The three development alternatives outlined in Chapter V of the Draft EIR would better promote the use of alternative transportation.

C6-136: See Response to Comment C1-12.

C6-137: See Responses to Comment C6-13 and C6-14.

C6-138: As required by CEQA, a project that has the potential to result in physical environmental impacts would be required to undergo environmental review. Therefore, if a "third tier" business park tenant would have the potential to cause urban decay in or around Benicia, environmental review would be required.

C6-139: See Response to Comment C1-15.

C6-140: This comment, which is addressed in various responses above, is noted.