RAMBOLL

ENVIRONMENT
& HEALTH

Via Electronic Mail

Ms. Jewelle Kennedy
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RE: REVIEW OF THE COMMENT ON SUBMITTED BY LOZEAU DRURY LLP FOR THE W 3RD AND PACIFIC AVENUE PROJECT LONG BEACH, CALIFORNIA

Dear Ms. Kennedy:

November 12, 2019

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Per your request, we have reviewed the comment submitted by Lozeau Drury LLP in a letter dated November 12, 2019 (Lozeau Letter). The focus of our review was on air quality, health risk assessment, and greenhouse gas issues, and notably the reference to Exhibit A of the Lozeau Letter ("the SWAPE analysis"). Due to the limited time available, our findings are based on the review completed at this time.

1. REGARDING THE INDOOR AIR ISSUES.

The letter from Indoor Environmental Engineering (IEE) is based on a series of inaccurate assumptions, including that (1) the Project's construction materials would not be compliant with the applicable regulations to reduce formaldehyde exposure, including Title 24, Cal Green, and CARB ATCM (Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Product ; (2) the formaldehyde daily emissions from construction materials would be constant for over 70 years for residents and 45 years for workers; (3) residents would live in their units for 70 years; and (4) the employees would work at the Project Site for 8 hours/day, 5 days/week, 50 weeks/year for 45 years. In fact, (1) the construction materials would comply with all such applicable regulations, (2) the amount of formaldehyde off-gassing from construction materials decreases over time, (3) per the U.S. Environmental Protection Agency's *Exposure Factors Handbook* lifetime risk values for residents should be based on an exposure duration of 350 days per year for 30 years; and (4) based on the U.S. Bureau of Labor Statistics, the median number of years workers remain in a job is 4.2 years. In fact, as to point 4, Appellant cites to no evidence that the predominately residential Project will employ the same workers consistently for 45 years. As a result of the inaccurate assumptions, the IEE letter substantially overstates formaldehyde impacts on future workers and residents and is not credible.

2. REGARDING AIR QUALITY

SAFER makes several claims with respect to the air quality modeling used in the Addendum. First, SAFER asserts that the modeling failed to take into account 11,688 square feet of common indoor amenity space. In fact, this space is included in the 95,130 square feet of residential amenities and services shown in Table 2 of the Addendum. Thus,

separately including this space in the modeling would represent a double counting that would overstate emissions.

SAFER states that the modeling understates the parking garage by approximately 1,934 square feet, the retail by 44 square feet, and daily vehicle trips by 7 trips. As set forth in Tables 3 and 4 of the Addendum, the Project's construction and operational emissions would be well below the SCAQMD significance threshold for all criteria pollutants and less than the significant and unavoidable construction and operation impacts identified in the Program EIR. The minor discrepancies cited by SAFER regarding land use square footages would not affect this conclusion, even if correct.

SAFER argues that the trip numbers are incorrect. The differences identified by SAFER are due to rounding based on the significant figures in CalEEMod. The analysis is consistent with its use of data from the traffic analysis. The difference in trips is only approximately 0.27% and would not change the conclusions of the analysis. Furthermore, the issues on weekend trips is a standard approach with CalEEMod for various landuses. This is not an error and is a correct reflection of potential trips for the Project per CalEEMod.

Finally, SAFER argues that the air quality modeling should have included a concrete/industrial saw instead of a grader during the grading phase. In fact, a concrete/industrial saw is used to cut concrete, not grade soil. A saw would be used in the demolition phase; thus it was included in the modeling for that phase and not the grading phase. Specifically, a concrete/industrial saw is not needed during earthwork (grading) phase, but a grader would be. Page 34 of Appendix B (Table 4) to the Addendum is incorrect; however, the actual air quality modeling properly included a grader instead of a saw during the grading phase. Therefore, the construction emission qualities in the Addendum are correct.

For the foregoing reasons, SAFER fails to provide credible evidence that the Project would result in new or substantial increased air quality impacts beyond those disclosed in the Program EIR.

3. REGARDING THE HRA

SAFER asserts that the City should prepare a health risk assessment (HRA) to determine the health risk posed to existing nearby sensitive receptors as a result of Project construction and operation. The SCAQMD has published and adopted the *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*, which provides recommendations regarding the siting of new sensitive land uses near potential sources of air toxic emissions (e.g., freeways, distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners, and gasoline dispensing facilities).[1] The SCAQMD recommends that HRAs be conducted for substantial sources of DPM (e.g., truck stops and warehouse distribution facilities that generate more than 100 trucks per day or more than 40 trucks with operating transport refrigeration units). Based on this guidance, there was no quantitative analysis required for future cancer risk from Project construction or operation as the residential and retail Project does not include substantial amounts of DPM.

The SCAQMD as a Responsible Commenting Agency, provided the following comment on January 4, 2017, regarding the proposed Green Line Mixed Use Specific Plan (www.aqmd.gov/docs/default-source/ceqa/comment-letters/2017/deirgreenline010417.pdf?sfvrsn=5), which further supports that only substantial operational diesel truck activity warrants further evaluation in an HRA:

> If the proposed project will expose future sensitive receptors to potential adverse health impacts from carcinogenic emissions generated by the SCAQMD permitted stationary sources and from the nearby rail and truck operations, SCAQMD staff recommends that a

[1] *SCAQMD, Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning,* May 6, 2005.

health risk assessment (HRA) be conducted. The HRA should include the SCAQMD permitted sources (i.e., the gasoline storage and dispensing equipment, the auto-body shop spray booths) emitting toxic air contaminants (TACs) within one quarter mile of the project site. The HRA should also include all warehouse sites within 1,000 feet that include truck activity that exceeds 100 trucks per day, or where more than 40 trucks with operating transport refrigeration units (TRUs) per day, or where TRU units exceed 300 hours per week. No additional analysis of operational health risk impacts is warranted based on this comment.

SAFER maintains that the Project will include a substantial number of diesel truck trips during operation. However, given that nature of the Project land uses (i.e., residential and limited retail), the Project would generate fewer than 100 trips per day by diesel powered vehicles.

The Project proposes to construct a total of 345 residential dwelling units, approximately 14,480 square feet of retail space, and 563 parking spaces. Based on our experience with similar projects and input from the Project applicant, a conservative estimate of the number of daily/annual truck trips is provided below.

- It is conservatively assumed that each residential unit would require one move in/move out per year and would require a heavy-duty diesel truck (690 trucks per year). (It is anticipated that actual number of move in/move outs would be less per year and many would not require heavy-duty diesel trucks.) In addition, it is conservatively assumed that each residential unit would receive on average two packages per week from a heavy-duty diesel truck (most deliveries would be from non-diesel vehicles). This would be equivalent to approximately five deliveries (e.g., UPS or FedEx) per day since a single truck would delivery multiple packages at the Project site during each visit (1825 trucks per year). Approximately two trash trucks would be required per week (104 trucks per year). Using these conservative assumptions, the total trucks related to the proposed residential uses would equal 2,619 per year, or an average of about seven per day, excluding holiday. Please note that this conservatively assumes that all trucks would be diesel.
- It is conservatively estimated that the 14,480 square feet of retail space would generate a maximum of five deliveries per day and require two trash trucks per week. This is equivalent to 1,929 trucks per year or just over five trucks per day. Once again, this conservatively assumes that all trucks would be diesel.

As shown above, the Project is conservatively estimated to generate on average approximately 12 diesel trucks per day. Given the purpose of the trips (e.g., package delivery or move in/move out), it is unlikely that any of these trucks would include operating transport refrigeration units. Based on the SCAQMD guidance, the Addendum did not include a no quantitative analysis required for future cancer risk within the Project Area as the Project is consistent with the recommendations regarding the siting of new sensitive land uses near potential sources of TAC emissions provided in the SCAQMD *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*. Specifically, the Project is not considered to be a substantial source of diesel particulate matter warranting a refined HRA since daily truck trips to the Project Site would not exceed 100 trucks per day or more than 40 trucks with operating transport refrigeration units.

The SCAQMD Handbook also does not recommend analysis of TACs from short-term construction activities. The rationale for not requiring a health risk assessment for construction activities is the limited duration of exposure. According to SCAQMD methodology, health effects from carcinogenic air toxics are usually described in terms of individual cancer risk. Specifically, "Individual Cancer Risk" is the likelihood that a person continuously exposed to concentrations of TACs over a 70-year lifetime will contract cancer based on the use of standard risk assessment methodology. Given the short-term

construction schedule of approximately 20 months, the Project would not result in a long-term (i.e., 70-year) source of TAC emissions. No residual emissions and corresponding individual cancer risk are anticipated after construction. Because there is such a short-term exposure period (20 out of 840 months of a 70-year lifetime), further evaluation of construction TAC emissions within the Draft EIR was not warranted.

The comment correctly identifies that the Office of Environmental Health Hazard Assessment (OEHHA) adopted a new version of the Air Toxics Hot Spots Program Guidance Manual for the Preparation of Risk Assessments (Guidance Manual) in March of 2015.7. The Guidance Manual was developed by OEHHA, in conjunction with CARB, for use in implementing the Air Toxics "Hot Spots" Program (Health and Safety Code Section 44360 et. seq.). The Air Toxics "Hot Spots" Program requires stationary sources to report the types and quantities of certain substances routinely released into the air. The goals of the Air Toxics "Hot Spots" Act are to collect emission data, to identify facilities having localized impacts, to ascertain health risks, to notify nearby residents of significant risks, and to reduce those significant risks to acceptable levels.

The new Guidance Manual provides recommendations related to cancer risk evaluation of certain short-term projects. As discussed in Section 8.2.10 of the Guidance Manual, "The local air pollution control districts sometimes use the risk assessment guidelines for the Hot Spots program in permitting decisions for short-term projects such as construction or waste site remediation." Short-term projects that would require a permitting decision by South Coast Air Quality Management District (SCAQMD) typically would be limited to site remediation (e.g., stationary soil vapor extractors) and would not be applicable to the proposed Project. The new Guidance Manual does not provide specific recommendations for evaluation of short-term use of mobile sources (e.g., heavy-duty diesel construction equipment).

Additionally, in comments presented to the SCAQMD Governing Board (Meeting Date: June 5, 2015, Agenda No. 28) relating to toxic air contaminant exposures under Rules 1401, 1401.1,1402 and 212 revisions, use of the OEHHA guidelines specifically related to the applicability and use of early-life exposure adjustments for projects subject to CEQA, it was reported that:

> The Proposed Amended Rules are separate from the CEQA significance thresholds. The Response to Comments Staff Report PAR 1401, 1401.1, 1402, and 212 A - 8 June 2015SCAQMD staff is currently evaluating how to implement the Revised OEHHA Guidelines under CEQA. The SCAQMD staff will evaluate a variety of options on how to evaluate health risks under the Revised OEHHA Guidelines under CEQA. The SCAQMD staff will conduct public workshops to gather input before bringing recommendations to the Governing Board. In the interim, staff will continue to use the previous guidelines for CEQA determinations.

To date, the SCAQMD, as a commenting agency, has not conducted public workshops nor developed policy relating to the application of early-life exposure adjustments utilizing OEHHA guidance for projects prepared by other public/lead agencies subject to CEQA.

The screening level HRA included the comment letter does not accurately represent Project health risks. SWAPE analysis incorrectly suggests that the Project will have health risk impacts. The analysis is based on an overly conservative assessment in terms of both emission estimates and dispersion modelling approach which can lead to substantial overestimation in modeled impacts and estimated health risks. SWAPE's HRA incorrectly assumed that 100 percent of the project operational PM10 exhaust emissions are on-site diesel particulate matter (DPM) emissions. In reality, operational PM10 exhaust emissions consist of a mix of different types of PM10. Notably, PM10 operational emissions include (i) mobile emissions due to all traffic trips (of which only a small fraction are diesel and occur

near the project site); (ii) emissions associated with project energy usage (which is from natural gas combustion); and (iii) emissions landscaping equipment (which is all gasoline).

SWAPE also used a screening air dispersion model AERSCREEN to estimate worst-case DPM concentrations. The model utilizes a screening meteorological data set (which considers dispersion in a single wind direction) to predict the worst-case short-term (1-hour) impacts which are then adjusted using an empirical factor to estimate the worst-case long-term (annual) impact. The AERSCREEN model, which is designed to conservatively predict the worst-case impacts, does not consider: (i) actual location of receptors relative to the source, (ii) the site-specific meteorology and how it relates to the source-receptor configuration; (iii) nor the fact that dispersion during daytime (when majority of the emissions occur) as better than during night time.

4. REGARDING GHG

SAFER argues the Draft EIR fails to demonstrate the "additionality" concept whereby GHG emissions reductions otherwise required by law or regulation are appropriately considered part of the baseline, and pursuant to CEQA Guideline 15064.4(b)(1), a new project's emissions should be compared against the existing baseline and a project should not take credit for emissions reductions that would have occurred regardless of the project.

SAFER mischaracterizes the California Supreme Court's decision in *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204, (also known as the Newhall Ranch case). As a preliminary matter, the Court does not even mention "additionality" in its decision. Rather, the Court reviewed the methodology used to analyze GHG emissions in an EIR prepared for a project that proposed 20,885 dwelling units with 58,000 residents on 12,000 acres of undeveloped land in a rural area of the County of Los Angeles. The EIR used a departure from "business as usual" (BAU) approach to determine whether the project would impede the state's compliance with statutory emissions reduction mandate established by the AB 32 Climate Change Scoping Plan. The Court did not invalidate the BAU approach but did hold that "the Scoping Plan nowhere related that statewide level of reduction effort to the percentage of reduction that would or should be required from individual projects and nothing DFW or Newhall have cited in the administrative record indicates the required percentage reduction from business as usual is the same for an individual project as for the entire state population and economy."[2] The California Supreme Court suggested regulatory consistency as one pathway to compliance, by stating that a lead agency might assess consistency with AB 32's goal in whole or in part by looking to compliance with regulatory programs designed to reduce GHG emissions from particular activities, including statewide programs and local climate action plans or GHG emissions reduction plans. This approach is consistent with CEQA Guidelines Section 15064, which provides that a determination that an impact is not cumulatively considerable may rest on compliance with previously adopted plans or regulations, including plans or regulations for the reduction of GHG emissions.

The commenter suggests that the state is not on track to meet GHG reduction targets. In fact, CARB recently found:

> In 2017, emissions from statewide emitting activities were 424 million metric tons of CO2 equivalent (MMTCO2e), which is 5 MMTCO2e lower than 2016 levels. 2017 emissions have decreased by 14 percent since peak levels in 2004 and are 7 MMTCO2e below the 1990 emissions level and the State's 2020 GHG limit. Per capita GHG emissions in California have dropped from a 2001 peak of 14.1 tonnes per person to 10.7 tonnes per person in 2017, a 24 percent decrease. Overall trends in the inventory also demonstrate that the carbon intensity of California's economy

[2] *Center for Biological Diversity v. California Department of Fish and Wildlife (2015) 62 Cal.4th 204, 230.*

(the amount of carbon pollution per million dollars of gross domestic product (GDP)) is declining. From 2000 to 2017, the carbon intensity of California's economy has decreased by 41 percent from 2001 peak emissions while simultaneously increasing GDP by 52 percent. In 2017, GDP grew 3.6 percent while the emissions per GDP declined by 4.5 percent compared to 2016.[3]

Moreover, whether or not the state is on track to meet statewide GHG reduction targets is irrelevant as to whether the Project is consistent with the GHG reduction goals imbedded in the various reduction targets. The GHG Technical Report (Addendum Appendix E) provides a thorough consistency analysis which supports the Addendum determination that which the Addendum demonstrates the Project would not result in a new significant substantial increase in the severity of GHG impacts previously identified in the Program EIR.

SAFER maintains that the Addendum improperly relies upon consistency with the City's Sustainable

City Action Plan to determine the significance of the Project's GHG impacts. In the absence of any applicable adopted numeric threshold, the significance of the Project's GHG emissions was evaluated consistent with CEQA Guidelines Section 15064.4(b)(2) and applicable case law by considering whether the Project complies with applicable plans, policies, regulations and requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of GHG emissions. For this Project, as a land use development project, the most directly applicable adopted regulatory plan to reduce GHG emissions is the 2016 RTP/SCS, which is designed to achieve regional GHG reductions from the land use and transportation sectors as required by SB 375 and the State's long-term climate goals. This analysis also considers consistency with regulations or requirements of AB 32 and the Sustainable City Action Plan. This local plan is relevant it that it contains a number of actions and measurable goals to reduce GHGs. As set forth in the Addendum, the Project would be consistent with the applicable goals, policies, and objectives of these plans. Therefore, impacts would be less than significant.

SAFER asserts that the Addendum could not rely on the strategies in AB 32 or the RTP/SCS as they are not Project-specific. This is incorrect. As SAFER acknowledges, CEQA Guidelines § 15064.4(b)(3) allows a lead agency to consider "[t]he extent to which the project complies with regulations or requirements adopted to implement a ***statewide, regional, or local plan*** for the reduction or mitigation of greenhouse gas emissions." (Emphasis added.) Moreover, the 2016 RTP/SCS as a CARB-certified GHG reduction plan.

SAFER argues that the City's Sustainability Action Plan is outdated, and that City should have relied on the SCAQMD's *Interim Threshold* (although not officially adopted) to keep up with the evolving scientific knowledge and State regulatory schemes. This unadopted SCAQMD threshold is now over 10 years old and was based on information even older. Therefore, it does not represent the current standard of evolving scientific data, as SAFER maintains. As noted, the threshold selected by the City as lead agency, which assessed the Project's consistency with applicable GHG reduction plans, is consistent with the CEQA Guidelines and applicable case law, including the Supreme Court's decision in the Newhall Ranch case.

The other air districts cited in the comment have no jurisdiction over the Project or the City.

SAFER claims that the air modeling improperly reduced the carbon intensity factor in the CalEEMod inputs. The CalEEMod program allows users to include project-specific inputs in lieu of general default inputs, which are based on older information from a sites across the state**.** The carbon intensity factor used in the GHG analysis reflects data specific to the Project area, including a higher percentage of

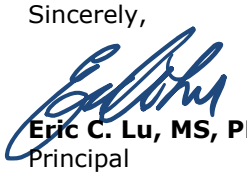
[3] *2019 Edition, California Greenhouse Gas Emission Inventory: 2000 – 2017.*

renewable energy (which results in less GHG emissions) in the electricity supplied to the Project as compared to the default input. The GHG analysis is; therefore, more accurate than if it had used the default factor.

The issues identified by SAFER on AQ are addressed above and therefore the GHG emissions inventory is also adequate as reported.

Based on the foregoing, SAFER does not provide any credible evidence that the Project will result in new or substantially increase significant GHG impacts beyond those set forth in the Program EIR. Therefore, none of SAFER's suggested mitigation measures to reduce GHG emissions are warranted.

Sincerely,



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