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parking spaces (at least 40), and ancillary facilities that would be constructed on the Maintenance Facility site (a transformer generator and traction power station, a sheriff/security trailer, and buildings/shops to perform maintenance facility functions). (See SDEIS/RDEIR, p. 1-8.) However, there is no description of the size of any of these project components, including square footages and structure heights, the number of total structures proposed, or critical elements such as setbacks to adjacent properties.

There is a similar lack of detail about the demolition of existing structures on Site 14, including the amount of equipment and duration of activities that would be needed to demolish all of the existing industrial buildings on Site 14. (SDEIS/RDEIR, p. 2-9.) Demolition of existing structures on Site 14 is an integral part of developing the Maintenance Facility on that property, and therefore the SDEIS/RDEIR’s project description should describe the project’s demolition activities with sufficient detail to enable the public and the Metro Board to understand the full scope of those activities and their potentially significant effects on the environment.

The actual characteristics of physical development on the Maintenance Facility site and the project’s demolition activities could greatly alter the impact analysis. In particular, the characteristics of structures on the site and building setbacks could impact whether the Maintenance Facility is consistent with applicable zoning and General Plan requirements, as well as whether the Facility would have impacts to aesthetics and visual resources. Page 2-10 of the SDEIS/RDEIR provides a proposed Site Plan for development of the Maintenance Facility on Site 14, demonstrating that more detailed information about the size and scope of the Maintenance Facility was available at the time the SDEIS/RDEIR was prepared. To the extent that Metro has specific plans for Site 14 (or any of the alternatives considered), the SDEIS/RDEIR’s project description must describe those plans and discuss the distribution of specialized uses on the site. (See *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1213.)

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A CEQA document’s project description is meant to provide the level of detail needed for evaluation and review of a project’s environmental impacts. (CEQA Guidelines, § 15124.) By omitting discussions of both the Maintenance Facility’s demolition activities as well as the size and scope of its proposed uses from the project description, the SDEIS/RDEIR excludes critical aspects of the Maintenance Facility project from the environmental analyses. Thus, the SDEIS/RDEIR lacks the information necessary for reasoned and informed consideration of the Maintenance Facility’s environmental impacts, which is one of the primary purposes of CEQA. (See CEQA Guidelines, § 15121(a); *San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 712-22.)

II. THE SDEIS/RDEIR IMPROPERLY PIECEMEALS THE PROJECT

In addition to failing to describe the scope of the Maintenance Facility project in any meaningful detail, the SDEIS/RDEIR’s project description also improperly “piecemeals” the project by failing to describe the impacts of relocating the Dollar Rent-A-Car facility from Site 14 as well as the other businesses that exist on the property. As discussed above, the SDEIS/RDEIR also fails to describe the scope of the demolition activities required to implement

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the project on Site 14, and thus does not appear to fully analyze the project's demolition impacts. Under CEQA, a public agency "may not divide a single project into smaller individual projects to avoid its responsibility to consider the environmental impacts of the project as a whole." (*Sierra Club v. West Side Irrigation Dist.* (2005) 128 Cal.App.4th 690, 698.) As the California Supreme Court has recognized, an accurate EIR must ensure that "environmental considerations do not become submerged by chopping a large project into many little ones – each with a minimal potential impact on the environment – which cumulatively may have disastrous consequences." (*Bozung v. Local Agency Formation Comm'n of Ventura County* (1975) 13 Cal.3d 263, 283-84.) By failing to analyze the impacts of developing new facilities for the existing businesses on Site 14 that will be displaced by the Maintenance Facility, the SDEIS/RDEIR improperly splits the Maintenance Facility project into smaller individual projects and therefore dramatically understates the Maintenance Facility's actual impacts.

Here, the Maintenance Facility project necessarily includes the relocation of existing businesses from Site 14 (or from any of the other alternative sites) to some new location. It is reasonably foreseeable that the Dollar Rent-A-Car facility in particular would need to be relocated from Site 14 to some other site near LAX and that a suitable space for Dollar's rental business would need to be constructed. Moreover, it would be unreasonable to assume that Dollar would halt its rental car business at LAX – the sixth busiest airport in the world – until LAX develops the consolidated rental car facility proposed in its LAX Facilities Master Plan, which may never happen. Because relocation and construction of the Dollar facility is a reasonably foreseeable consequence of developing the Maintenance Facility on Site 14, the SDEIS/RDEIR was required to analyze it as part of the project. (See *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 396 ("an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects."))

The SDEIS/RDEIR's failure to include the relocation and construction of new facilities for the existing businesses on Site 14 in the project description permeates the SDEIS/RDEIR's impact analyses and renders them legally deficient. For example, the SDEIS/RDEIR's construction air quality analysis does not take into account the construction emissions that would be associated with constructing new buildings for the displaced businesses, including the Dollar rental facility. (See SDEIS/RDEIR, pp. 3-111 to 3-117.) In addition, the SDEIS/RDEIR's construction traffic analysis does not consider the potential impacts to traffic and circulation that would be associated with developing those new buildings. (SDEIS/RDEIR, p. 3-103.) Therefore, the Metro Board should not allow the SDEIS/RDEIR to move forward until it is amended to analyze the *whole* of the Maintenance Facility project, including the relocation of the existing businesses on Site 14, to ensure that the SDEIS/RDEIR fully discloses the full scope of the project's significant impacts.

Analysis of the impacts of demolishing existing structures on Site 14 is also required in the SDEIS/RDEIR. Although the construction of the Maintenance Facility at any of the proposed alternative sites will necessarily involve the demolition of existing structures on the selected site, the SDEIS/RDEIR fails to describe those structures in any detail and thus deprives

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the public and decisionmakers from understanding the full scope of environmental impacts that could be implicated by the demolition activities. Details that would be relevant to understanding the full scope of demolition activities on Site 14 in particular would include building square footages, current and historic industrial uses on the properties (which could involve the use of hazardous materials that may not be disclosed in a Phase I Environmental Site Assessment), and whether the existing buildings contain substances like asbestos that could be exposed to the public during demolition. Instead of describing the existing structures on Site 14 in any meaningful detail, the SDEIS/RDEIR provides only the barest of details and states that the “site contains industrial uses, Dollar Car Rental, Avis Car Rental administrative offices, Barthco International, and Gourmet Trading Company.” (SDEIS/RDEIR, p. 2-9.) Demolition activities may not be “piecemealed” into a separate, ministerial project, where as here, those activities are an integral part of the larger Maintenance Facility project. (See *Bozung*, 13 Cal.3d at 283-84.) Therefore, the SDEIS/RDEIR should be revised to properly describe the *whole* of the Maintenance Facility project so that all of its impacts may be analyzed.

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III. THE SDEIS/RDEIR FAILS TO PROPERLY ANALYZE THE PROJECT’S TRAFFIC IMPACTS

The flaws in the SDEIS/RDEIR’s traffic analysis preclude the public from understanding the true scope of the Maintenance Facility’s potential impacts on existing traffic conditions. Under CEQA, “[a]n EIR must focus on impacts to the existing environment, not hypothetical situations.” (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 955.) CEQA further provides that it is only against the baseline of existing conditions that a project’s significant environmental effects can be determined. (See CEQA Guidelines, §§ 15125, 15126.6(a).) As the Supreme Court has explained “[a]n approach using hypothetical allowable conditions as the baseline results in ‘illusory’ comparisons that ‘can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts,’ a result at direct odds with CEQA’s intent.” (*Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 322 (citation omitted).) Here, the SDEIS/RDEIR neither accurately describes the existing traffic conditions around Site 14, nor compares the Maintenance Facility’s traffic generation to those conditions, and thus violates CEQA’s requirements.

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First, the SDEIS/RDEIR’s traffic analysis does not accurately present the existing traffic conditions surrounding Site 14 or any of the alternative sites considered. Although the SDEIS/RDEIR purports to present the existing traffic conditions in 2010 when the analysis was prepared, the SDEIS/RDEIR’s presentation of these facts is entirely misleading. (See SDEIS/RDEIR, pp. 3-2 to 3-5.) A closer examination of the Maintenance Facility’s Traffic Impact Assessment, which is attached as Appendix C to the SDEIS/RDEIR and upon which the traffic analysis is based, reveals that the Traffic Impact Assessment relied on traffic studies prepared for *other projects* in the vicinity of the proposed Maintenance Facility sites in 2007 and 2008. (See SDEIS/RDEIR Appendix C, p. 2.) Moreover, the Traffic Impact Assessment discloses that “no growth adjustment was applied to traffic counts from Year 2007/2008 to estimate Year 2010 traffic volumes.” (*Id.*) While the Traffic Impact Assessment claims that no growth adjustment was necessary due to a “comparative analysis of historic traffic count data” in the area, there is no evidence to support this conclusion.

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Although it is disturbing that the SDEIS/RDEIR has buried in a technical appendix the fact that its traffic counts were taken in 2007/2008 from analyses for unrelated projects, the fact that the traffic counts were not updated to reflect existing conditions in 2010 renders the analysis defective under CEQA and inconsistent with other assumptions in the Traffic Impact Assessment. As the Traffic Impact Assessment admits in its projections of future conditions, “[b]ased on historic trends and projected growth in the region over the next years, it was established that an ambient growth rate factor of 1% per year should be applied to adjust the existing base year traffic volumes to reflect the effects of regional growth and development by the Year 2018.” (See SDEIS/RDEIR Appendix C, p. 3.) Given that the Traffic Impact Assessment found that “historic trends and projected growth in the region” made it necessary to apply a 1% per year growth factor to establish future traffic conditions around the potential sites, it is nonsensical and wholly inconsistent that it did not apply a similar growth factor to account for traffic growth between 2007/2008 and 2010. Since the SDEIS/RDEIR’s traffic counts were not properly updated to reflect existing conditions in 2010, the SDEIS/RDEIR violates CEQA by presenting hypothetical conditions that do not give the public an accurate assessment of how the Maintenance Facility would impact the *existing* environment. (See *Communities for a Better Environment*, 48 Cal.4th at 322.)

On top of the SDEIS/RDEIR’s failure to describe existing physical traffic conditions, the SDEIS/RDEIR also fails to assess the Maintenance Facility’s potential traffic impacts against the hypothetical existing conditions it did describe. Instead, the SDEIS/RDEIR only evaluates potential impacts against forecasted future traffic conditions in 2018. (See SDEIS/RDEIR, p. 3-2 to 3-7.) The Court of Appeal in *Sunnyvale West Neighborhood Ass’n v. City of Sunnyvale City Council* (2010) 190 Cal.App.4th 1351, recently rejected an EIR’s use of this methodology. In that case, the EIR used hypothetical future traffic volumes as its “baseline” to evaluate the project’s traffic and related impacts under CEQA. (*Id.*) The Court found this approach violated CEQA, observing that “a straightforward assessment of the impacts produced by the project alone on the existing environment is the foundational information of an EIR.” (*Id.* at p. 1383.) This failure amounted to a prejudicial abuse of discretion, since “[e]valuation of the [] project under those projected worse traffic conditions of the future obscures the existence and severity of adverse impacts that would be attributable solely to the project under the existing conditions....” (*Id.* at p.1387.) Just as in *Sunnyvale*, the SDEIS/RDEIR’s failure to evaluate the Maintenance Facility’s impacts against the existing environment obscures the project’s actual impacts on existing conditions and violates CEQA.

In addition to the SDEIS/RDEIR’s flaws concerning its evaluation of existing traffic conditions, the SDEIS/RDEIR omits a critical intersection from its evaluation of the Maintenance Facility’s potential traffic impacts for Site 14. In identifying the relevant intersections to analyze in connection with Site 14, the SDEIS/RDEIR includes the Manchester Ave./Aviation Blvd. intersection. (See SDEIS/RDEIR, Table 3-1.) However, in its analysis of the Maintenance Facility’s impacts under future traffic conditions, the SDEIS/RDEIR inexplicably eliminates this intersection from Site 14’s analysis. (See SDEIS/RDEIR, Table 3-2.) This omission is particularly troubling given that the SDEIS/RDEIR’s analysis of Site 15

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shows the Manchester Ave./Aviation Blvd. intersection will operate at an unacceptable level of service (LOS F) under future conditions. (See *id.*)

In order to correct each of the deficiencies identified in the SDEIS/RDEIR’s traffic analysis and to promote informed decisionmaking, the traffic analysis should be revised so that the Maintenance Facility’s actual traffic impacts can be evaluated.

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IV. THE SDEIS/RDEIR’S LAND USE ANALYSIS FAILS TO DISCLOSE POTENTIAL IMPACTS WITH APPLICABLE PLANNING DOCUMENTS

The SDEIS/RDEIR’s analysis of the Maintenance Facility’s potential land use impacts is cursory at best and fails to engage in a meaningful evaluation of the project’s potential inconsistencies with applicable land use planning documents. As discussed above, because the SDEIS/RDEIR’s project description does not disclose the actual size of the project, including number of structures, building square footages, building heights and setbacks, it is impossible to determine whether the project would be consistent with applicable zoning regulations. The absence of this information is particularly egregious because the SDEIS/RDEIR also fails to disclose the limitations of the relevant zoning regulations – so no comparisons can be made whatsoever (even if such comparisons were possible). (See SDEIS/RDEIR, pp. 3-8 to 3-15.) For example, the only mention of zoning for Site 14 is that it is “M2-1; Light Industrial,” but the SDEIS/RDEIR provides no additional information about the uses allowed in this zone or whether the proposed Maintenance Facility would be compatible. (See SDEIS/RDEIR, p. 3-8.) By failing to present any of this relevant information, the SDEIS/RDEIR provides insufficient information to the public and decisionmakers about the project’s potentially significant effects. (See CEQA Guidelines § 15121(a).) Where an EIR fails to include such relevant information and thereby precludes informed public participation, it fails as an informational document. (*San Joaquin Raptor II*, 149 Cal.App.4th at 653.)

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The SDEIS/RDEIR also fails to discuss any of the Maintenance Facility’s potential inconsistencies with the land use planning documents it chooses to discuss in some detail. CEQA Guidelines Section 15125(d) requires that an EIR “discuss any inconsistencies between the proposed project and applicable general plans and regional plans.” This analysis is important in a CEQA document for several reasons. First, “[a]n inconsistency might indicate a likelihood of environmental harm and thus trigger a careful review of any potential impacts.” (1 Kostka & Zischke, *Practice Under the Cal. Environmental Quality Act* (Cont.Ed.Bar 2010) § 12.34.) In addition, “[a]n inconsistency may also support the conclusion that the underlying physical impact is significant.” (*Id.*) When an EIR fails to address inconsistencies between a proposed project and applicable plans, the decisionmakers are deprived of information necessary to make a meaningful assessment of a project’s environmental impacts and certification of the EIR is an abuse of discretion. (*Napa Citizens for Honest Gov’t v. Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 361 (“The failure to provide enough information to permit informed decision-making is fatal.”))

In the case of Site 14, the SDEIS/RDEIR focuses only on the Maintenance Facility’s inconsistencies with applicable planning documents, but it fails to disclose any potential inconsistencies. Courts have held that an EIR is not required to analyze consistency with an

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applicable plan, only *inconsistency*. (*City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 918-19.) Here, for example, while the Maintenance Facility may have some consistencies with the Westchester-Playa Del Rey Community Plan, it also has several potential inconsistencies with the Plan that the SDEIS/RDEIR was required to discuss. The SDEIS/RDEIR also does not discuss inconsistencies with the City of Los Angeles General Plan or the LAX Facilities Master Plan. (SDEIS/RDEIR, p. 3-13 to 3-14.)

One example of the Maintenance Facility's potential inconsistency with land use plans for Site 14 is with Community Plan Policy 3-3.1, which requires new industrial projects to use "urban design techniques, such as appropriate building orientation and scale, landscaping, buffering and increased setbacks in the development of new industrial properties to improve land use compatibility with adjacent land use." The SDEIS/RDEIR provides none of these critical details about the project's design, landscaping or setbacks, so it is reasonable to assume that the project may be inconsistent with some or all of this policy. In addition, Community Plan Industrial Urban Design Policies 4 and 10 require the screening of mechanical and electrical equipment from public view, as well as the screening of loading and delivery facilities. While the SDEIS/RDEIR discloses that the Maintenance Facility will include a transformer generator, traction power substation and a storeroom to facilitate the shipping and receiving of parts, each of which could implicate these policies, it fails to discuss whether some or all of this development would be inconsistent with the Community Plan.

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To cure these deficiencies, the SDEIS/RDEIR's land use consistency analysis must properly identify inconsistencies, classify these inconsistencies as significant impacts where required, and mitigate for the significant impacts identified. The Maintenance Facility cannot be approved unless it is consistent with the General Plan and the Community Plan. (Gov't Code § 65680(d).)

V. THE SDEIS/RDEIR FAILS TO DISCLOSE AN ENVIRONMENTALLY SUPERIOR ALTERNATIVE

Although the SDEIS/RDEIR analyzes four alternative locations for the proposed Maintenance Facility, the alternatives analysis does not satisfy CEQA's basic requirements. CEQA requires an EIR to identify and discuss feasible alternatives to a proposed project. (Pub. Res. Code, §§ 21002, 21002.1(a), 21061, 21100(b)(4).) Of the alternatives considered, the CEQA Guidelines require that an EIR identify the "environmentally superior alternative," which assists decisionmakers in considering a project approval. (See CEQA Guidelines, §§ 15126.6(a), (e)(2).) Here, the SDEIS/RDEIR only describes the alternatives considered, but it does not identify an environmentally superior alternative that would minimize the Maintenance Facility's significant environmental effects. (See SDEIS/RDEIR, pp. 2-1 to 2-17.)

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A closer examination of the SDEIS/RDEIR's impact summary reveals that Site 14 – the alternative that Metro staff is recommending – cannot be the environmentally superior alternative. (See SDEIS/RDEIR, pp. S-5 to S-10.) According to the SDEIS/RDEIR, Development of the Maintenance Facility on Site 14 would result in a total of three significant and unavoidable impacts, which is a greater number of significant impacts than would result from development of the project at any of the other alternative sites. Disclosure of this

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information is critical to the Metro Board’s evaluation of the alternatives, since CEQA prohibits agencies from approving projects as proposed if there are feasible alternatives that would substantially lessen the significant environmental effects of such projects. (Pub. Res. Code § 21002.)

The SDEIS/RDEIR’s failure to disclose an environmentally superior alternative is necessarily prejudicial, where as here, agency staff is recommending an alternative that is clearly not environmentally superior. Under CEQA, a proper analysis of alternatives is essential to comply with CEQA’s mandate that significant environmental damage be avoided or substantially lessened where feasible. (Pub. Res. Code, § 21002; CEQA Guidelines, §§ 15002(a)(3), 15021(a)(2).) Accordingly, the SDEIS/RDEIR should be revised so that it accurately presents which of the feasible alternatives analyzed is environmentally superior to Site 14.

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VI. THE SDEIS/RDEIR DOES NOT ADEQUATELY ANALYZE THE PROJECT’S AIR QUALITY, CONSTRUCTION NOISE AND GEOTECHNICAL IMPACTS

A. Air Quality

The SDEIS/RDEIR appears to omit significant aspects of the Maintenance Facility’s construction from its emissions modeling, and thus appears to base the modeling on inappropriate assumptions. Due to the significant health impacts associated with construction emissions in the South Coast, proper calculation and disclosure of these construction emissions is particularly important. Specifically, in the SDEIS/RDEIR’s construction noise and vibration analysis, eight different pieces of construction equipment are identified (i.e., excavator, loader, backhoe, crane, compactor, paver, grader, and pneumatic tool.) (SDEIS/RDEIR, p. 3-105.) However, in the “Regional Construction Emissions (Sites 14, 15 and 17) – Mitigated” modeling worksheet provided in SDEIS/RDEIR Appendix C, only three pieces of construction equipment are modeled for purposes of determining the project’s construction emissions (i.e., excavator, grader and loader). Omission of the emissions that would be generated by the other equipment the SDEIS/RDEIR explicitly identifies as being used during project construction is significant, and indicates that the SDEIS/RDEIR severely underestimated the Maintenance Facility’s construction emissions.

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In addition, the SDEIS/RDEIR fails to include a site-specific analysis of construction emissions in its construction air quality analysis. (See SDEIS/RDEIR, p. 3-104 to 3-105.) Instead, the SDEIS/RDEIR assumes that construction will occur over a 24-month period at all of the alternative sites evaluated, regardless of the existing conditions on those sites. (See SDEIS/RDEIR, p. 3-102.) The failure to conduct a site specific analysis for Site 14 is particularly egregious because Site 14 contains multiple, large industrial buildings that will require substantial demolition activities. Due to the lack of information provided in the SDEIS/RDEIR’s construction air quality analysis, it is impossible to know if these added demolition activities were fully taken into account in the project’s air quality modeling. Moreover, it is clear that demolition of the existing structures was not taken into account in the content of toxic air contaminants, because the potential release of asbestos from demolition of the existing structures is not disclosed or mentioned. (See SDEIS/RDEIR, p. 3-105.)

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It is well understood that “[a]n EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.” (*Laurel Heights Improvement Assn.*, 47 Cal.3d at 405.) As discussed above, the SDEIS/RDEIR’s construction air quality analysis contains significant gaps in information that most likely indicate substantial flaws that preclude the public from meaningfully considering the project’s impacts. Where, as here, an EIR fails to include relevant information and thereby precludes informed public participation, it fails an informational document. (See *San Joaquin Raptor II*, 149 Cal.App.4th at 653.)

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B. Construction Noise and Vibration

Although the SDEIS/RDEIR does not identify any noise sensitive uses adjacent to Site 14, it fails to specifically consider the adjacent Neutrogena facility to the west, which contains research laboratories that could be particularly susceptible to noise and vibration impacts. (See SDEIS/RDEIR, p. 3-105 to 3-106.) Noise and vibration impacts are highly localized, and thus the SDEIS/RDEIR should have engaged in a more detailed evaluation of the potential noise and vibration impacts associated with developing the Maintenance Facility on Site 14. The SDEIS/RDEIR evaluates potential impacts associated with noise and vibration using thresholds used by the Federal Transit Authority. (See Federal Transit Authority, *Transit Noise and Vibration Impact Assessment*, May 2006 (“FTA Guidelines”).) Under the FTA Guidelines, the Neutrogena facility’s laboratory are likely “noise sensitive” uses.

The FTA Guidelines address noise impacts based on three categories of “noise sensitive” land uses that, “apply to business uses which depend on quiet as an important part of operations, such as sound and motion picture recording studios.” (See FTA Guidelines Sec. 3.2.1 and Table 3-2.) The FTA Guidelines also address vibration impacts and identify television and recording studios as uses that are very sensitive to vibration. The buildings that house such uses are characterized as “Special Buildings” and are subject to stringent analysis. (See FTA Guidelines, Table 8-2.) The FTA Guidelines recognize that each Special Building may have a unique specification for acceptable vibration levels and thresholds should be determined on a case-by-case basis. (See FTA Guidelines Sec. 8.2.2.)

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The laboratory operations in the Neutrogena facility may depend on quiet as an important part of their operations. Thus, the SDEIS/RDEIR’s failure to evaluate whether the construction of the Maintenance Facility could have an adverse noise and vibration impacts on operations at the Neutrogena facility is inconsistent with the FTA Guidelines, which may require that Neutrogena’s operations be given special consideration and be subject to a more stringent analysis. The SDEIS/RDEIR contains no evaluation of the impact of noise or vibration on the Neutrogena facility’s laboratories, and thus it is impossible to know whether construction of the Maintenance Facility could have an adverse impact on any sensitive laboratory uses. Accordingly, the SDEIS/RDEIR should be revised to include a more detailed evaluation of the Neutrogena facility’s laboratory uses and whether they require more stringent analysis under the FTA Guidelines.

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C. Geotechnical Impacts

Although the SDEIS/RDEIR describes the geologic setting for all of the alternative Maintenance Facility sites using a general description of geology in the Los Angeles Basin, it does not engage in a site specific geologic investigation of any of the sites – including Site 14. (SDEIS/RDEIR, p. 3-62.) Identifying potential geotechnical impacts requires a site-specific analysis that cannot be accomplished through a broad description of geologic conditions in an entire region. Missing from the SDEIS/RDEIR’s discussion of potential geotechnical impacts is a discussion of existing geologic conditions on Site 14, a description of the amount of excavation and fill that will be required to develop the Maintenance Facility on that site, and whether those activities have the potential to result in significant environmental impacts. Additional environmental analysis of the site-specific geotechnical impacts is required before any final action is taken on the Maintenance Facility.

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VII. THE SDEIS/RDEIR’S CUMULATIVE IMPACT ANALYSIS IS INADEQUATE

The SDEIS/RDEIR provides scant analysis of the Maintenance Facility’s cumulative environmental impacts and violates CEQA’s fundamental requirements for a cumulative impacts analysis. An EIR must discuss cumulative impacts. (CEQA Guidelines, § 15130.) That is, an EIR must discuss a project’s impacts over time in conjunction with past, present and reasonably foreseeable future projects. (Pub. Res. Code, § 21083; Guidelines, § 15130; see also *id.*, § 15355(b) (defining cumulative impacts as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts”).) “An EIR which completely ignores cumulative impacts of the project is inadequate.” (*Fairview Neighbors v. County of Ventura* (1999) 70 Cal.App.4th 238, 245.)

The SDEIS/RDEIR devotes a mere three pages to analyzing the project’s potential cumulative impacts at all four alternative locations, despite the fact that two of those locations (Sites 14 and 15) would be heavily impacted by the approved LAX Facilities Master Plan (the “Master Plan”). The Master Plan contemplates significant development at and surrounding LAX, including the development of a new Ground Transportation Center, Intermodal Transportation Center, Consolidated Rent-A-Car facility, an Automated People Mover rail system, the demolition and construction of new terminals, and the development of approximately 4.5 million of airport-related industrial and commercial uses as part of the LAX Northside project, among others. Each of these Master Plan components is therefore “reasonably foreseeable” and deserved substantially more analysis than the cursory discussion provided in the SDEIS/RDEIR.

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Although the SDEIS/RDEIR does mention the Master Plan generally, it does not engage in the level of analysis required, particularly in the area of construction-related impacts. The CEQA Guidelines require that an EIR’s “discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence . . . [t]he discussion should be guided by the standards of practicality and reasonableness . . .” (CEQA Guidelines § 15130(b).) Here the SDEIS/RDEIR notes only that “[i]n the event that all proposed LAX facilities would be constructed in the same time frame as the maintenance facility, there would be cumulative air emissions from construction equipment, as well as traffic disruption from haul trucks, detours

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and lane closures.” (SDEIS/RDEIR, p. 3-120.) Missing from this discussion, however, is the critical analysis of the *severity* of the impacts identified in areas such as traffic, air quality and water quality, as well as a discussion of impacts in a host of other critical areas such as noise and vibration, greenhouse gas emissions, and hazards. Given that the Final EIS/EIR for the Master Plan details all of the Master Plan’s environmental impacts in extensive detail, it was both practical and reasonable for the SDEIS/RDEIR to disclose each of those impacts and to quantify the Maintenance Facility’s contribution to those impacts.

In addition, the SDEIS/RDEIR fails to identify whether the Maintenance Facility’s contribution to the Master Plan’s cumulative impacts would be cumulatively significant. An EIR’s cumulative impact analysis must take a two-step approach: first, the EIR must determine whether combined effects from a project and other projects would be cumulatively significant; and second, based on the answer to the first step, the EIR must determine whether the proposed project’s incremental effects are cumulatively considerable.¹ (See *Communities for a Better Environment v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 120 (“*Communities for a Better Environment*”).) Further, and as explained in *Communities for a Better Environment*, an EIR cannot simply compare a proposed project’s impacts against the collective impacts of other projects to determine the proposed project’s “relative” impact. Instead, the EIR must add the proposed project’s impacts to those of the related projects and determine in that context whether the project’s incremental effects are cumulatively considerable. (*Id.* at pp. 117-21.) Simply comparing the project’s impacts to the cumulative impacts of other projects would result in the *de minimis* approach (aka the “ratio approach”) disapproved in *Kings County Farm Bureau v. City of Hanford*. ((1990) 221 Cal.App.3d 692, 721 (“*Kings County*”)) (noting such an approach would allow “approval of projects which, when taken in isolation, appear insignificant, but when viewed together, appear startling.”))

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Here, the SDEIS/RDEIR’s approach to analyzing cumulative impacts does not even come close to the basic requirements articulated in *Communities for a Better Environment*. The SDEIS/RDEIR does not identify whether any of the potential cumulative impacts from the Master Plan and the Maintenance Facility are significant, and thus it cannot reasonably determine whether the Maintenance Facility’s impacts are cumulatively considerable. (See SDEIS/RDEIR, p. 3-120.) Despite this fact, the SDEIS/RDEIR summarily concludes that the Maintenance Facility’s impacts would not be cumulatively considerable “due to low intensity use, small peak hour trip generation, and the industrial character of the use.” (*Id.* at 3-121.)

This approach is similar to the discredited *de minimis* approach discussed in *Kings County*. (See *Kings County, supra*, 221 Cal.App.3d at p. 721.) Specifically, the *Kings County* court noted that an EIR’s cumulative impact analysis cannot simply identify a potential overall environmental problem and then conclude that a project’s relative effects will not have a significant impact because it “avoids analyzing the severity of the problem and allows approval of projects which, when taken in isolation, appear insignificant, but when viewed together,

¹ A project’s incremental contribution is cumulatively considerable if the incremental effects of the project are significant “when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.” (CEQA Guidelines, § 15065(a)(3).)

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appear startling” (*Id.*) Here the SDEIS/RDEIR identified that there may be cumulative impacts – at least in the areas of construction air quality and traffic – and the EIR’s failure to appropriately quantify and analyze whether the Maintenance Facility’s contribution to those impacts is cumulatively considerable must be addressed. Moreover, the SDEIS/RDEIR’s failure to even mention, let alone quantify and analyze potential cumulative impacts in all of the other environmental impact categories – noise, land use, hazards, and public services, among others – makes the document’s cumulative impacts analysis a pointless exercise that in no way accurately reflects the project’s true cumulative impacts.

As a result of these numerous deficiencies, the SDEIS/RDEIR does not engage in a “reasonable analysis of the cumulative impacts of the relevant projects” as required under CEQA. (CEQA Guidelines, § 15130(b).) Furthermore, the absence of this analysis precludes any ability to identify potential mitigation measures that could reduce any significant cumulative impacts, which also violates CEQA. (See CEQA Guidelines, § 15130(b)(5) (“An EIR shall examine reasonable, feasible options for mitigating or avoiding the project’s contribution to any significant environmental effects.”))

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The SDEIS/RDEIR’s failure to engage in a reasonable cumulative impacts analysis renders the document fatally defective. In sum, the SDEIS/RDEIR did not reflect a “conscientious effort to provide public agencies and the general public with adequate and relevant detailed information” about cumulative impacts. (*San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, 79.) As the *San Franciscans for Reasonable Growth* court held, omitting such information that is reasonable, feasible and practical to include in an EIR is an abuse of discretion that requires an EIR certification to be vacated. (*Id.* at p. 81.)

VIII. METRO’S STAFF REPORT IS MISLEADING

In addition to the deficiencies identified in the SDEIS/RDEIR, the staff report presented to the Metro Board’s Planning & Programming Committee at its April 20, 2011, meeting (the “Staff Report”) is misleading, and underestimates the true environmental impacts of developing the Maintenance Facility on Site 14. In essence, the Staff Report appears more concerned with selecting a recommended site for the Maintenance Facility that will be the least controversial and that will cost the least to acquire, rather than selecting a site that will result in the least impacts to the environment, as CEQA requires. As discussed above, in approving CEQA the Legislature found that “it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which would substantially lessen the significant environmental effects of such projects.” (Pub. Res. Code, § 21002.) Accordingly, Metro’s evaluation of the alternative sites for the Maintenance Facility should be focused on selecting a site that will cause the least environmental harm.

S20-15K

The Staff Report completely ignores the significant and unavoidable impacts that will result from developing the Maintenance Facility on Site 14, and thus fails to adequately represent the actual significant impacts that would result on Site 14. Specifically the Staff Report provides that “Site 14 (Arbor Vitae/Bellanca) is being recommended . . . The potential significant environmental impacts associated can be *entirely mitigated.*” (Staff Report, pp. 2-3 (emphasis

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added.) This statement is inaccurate and is directly contradicted by the SDEIS/RDEIR. As discussed above, and as disclosed in the SDEIS/RDEIR, development of the Maintenance Facility on Site 14 would result in *three significant and unavoidable impacts*, which means that those impacts cannot be mitigated. (See SDEIS/RDEIR, pp. S-5 to S-10.) When the analysis is corrected, as noted above, additional significant and unavoidable impacts may be identified. Those already recognized are in the areas of construction noise, construction air quality and economic and fiscal impacts. (*Id.*) Moreover, as described earlier in this letter, the number of significant and unavoidable impacts associated with Site 14 is greater than the significant and unavoidable impacts associated with *each of the other alternative sites*. (*Id.*) This information is critical to the Metro Board's consideration of alternative sites and its ability to proceed in the manner required by CEQA, and should be disclosed accurately to the Board before it takes any action.

In addition, the Staff Report inexplicably reduced the estimate of the cost to develop Site 14 from the estimate presented to the public in the SDEIS/RDEIR. The Staff Report provides that "[t]he cost of developing this maintenance facility [on Site 14] is estimated to be \$280-290 million, which is cost-effective compared to the other sites studied." (Staff Report, p. 3.) However, the SDEIS/RDEIR estimates the cost of developing Site 14 as \$302.9 million, which is significantly more than the estimates to develop Site D22N (\$116.6 million) and Site 17 (\$221.1 million). (SDEIS/RDEIR, p. 2-17.) Accordingly, the cost to acquire Site 14 appears to be more than two of the three other alternative sites studied, so it is misleading to suggest that the cost of acquiring Site 14 is "cost-effective" when compared to those other sites.

According to Metro staff's PowerPoint presentation provided at the April 20, 2011, Planning & Programming Committee meeting, staff revised its cost estimates for developing the alternative sites on April 6, 2011, but has provided no evidence to support these revised estimates or any explanation as to why the estimates differ from those presented in the SDEIS/RDEIR. Under the revised estimates, the costs to develop the sites are as follows:

- Site D22N: \$110-\$120 million (in the same range as the \$116.6 million estimate in the SDEIS/RDEIR);
- Site 14: \$280-\$290 million (\$23 to \$13 million less than the \$302.9 million estimate in the SDEIS/RDEIR);
- Site 15: \$290-\$300 million (\$36 million to \$26 million less than the \$325.8 million estimate in the SDEIS/RDEIR); and
- Site 17: \$275-\$285 million (\$53 to \$63 million more than the \$222.1 million estimated in the SDEIS/RDEIR).

(See Metro Staff PowerPoint (April 20, 2011), p. 5; SDEIS/RDEIR, p. 2-17.)

This dramatic change in development estimates is disturbing, given that the estimates changed by tens of millions of dollars in the three months since the SDEIS/RDEIR was released to the public in February 2011. Even more concerning is the fact that the estimate for developing the site that Metro staff is recommending – Site 14 – is now within the range of the cost of developing Site 17, despite the fact that the SDEIS/RDEIR estimated it would cost \$80 million

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more to develop Site 14 than Site 17. Without any evidence to support the rationale for the changes in these estimates, it is impossible for the public and the Metro Board to understand why these estimates have changed so dramatically in such a short period of time. This disparity is even more troubling where, as here, the SDEIS/RDEIR does not disclose an environmentally superior alternative that would enable the Metro Board to accurately consider the environmental issues associated with developing Site 14 in comparison to the other alternative sites, in addition to comparing the costs of development.

S20-15

K

Metro staff should be required to disclose to the public and the Metro Board the reasons for the changes in these cost estimates, including the changes in staff's underlying assumptions, so there can be a full evaluation of the revised estimates to determine if they are accurate. In the absence of such a full disclosure, the Metro Board may end up selecting a site that in fact costs tens of millions of dollars more than most of the other sites evaluated, and thus would not be proceeding in a manner that is either "cost effective" or fiscally responsible.

IX. CONCLUSION

NSHE continues to support the efforts of Metro and the Crenshaw Line project in general. We also understand and appreciate the fact that Metro staff has worked hard to identify potential sites for the location of the Maintenance Facility. However, we ask that Metro address the significant environmental concerns raised in this letter, and direct staff to work with NSHE and resolve these issues before moving forward with a site selection for the Maintenance Facility. NSHE also reserves its rights to make additional comments on the SDEIS/RDEIR, the to-be-prepared FEIR/FEIS and the Maintenance Facility project during Metro's ongoing administrative process.

S20-15L

Very truly yours,

Duncan Joseph Moore
of LATHAM & WATKINS LLP

- cc: Roderick Diaz, Project Manager
- Marc Nathanson
- Chuck Ng
- Alex Horvat
- Lucinda Starrett, Esq.

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Response to comment S.20-15A.

Comment noted. Metro appreciates the ideas of the commenter and public input is an important part of the planning process. Please refer to responses to comments S.20-15B through S.20-15K.

Response to comment S.20-15B.

Comment noted. The comment states that specific physical building details, such as square footage, are necessary to assess impacts. This contention for a maintenance facility is incorrect. Impacts are driven by the number of cars serviced and stored and the overall size of the site. This description allows for informed decision making. Please refer to response to comment S.15-G for a discussion of demolition activity.

Response to comment S.20-15C.

Comment noted. The comment states that the impacts of the relocated tenants/owners from the maintenance facility site need to be addressed. This is incorrect. Metro is providing relocation benefits per the Uniform Act. It is speculative as to where the tenants would or could relocate. Metro is not required to address unknown speculative secondary effects.

Response to comment S.20-15D.

Comment noted. Technical details are raised about the existing conditions. The uses displaced generate substantially more trips than the maintenance facility. Traffic counts were taken during the pm peak hour on May 9, 2011. The existing uses on the Site #14 – Arbor Vitae/Bellanca Alternative generated 147 inbound and 258 outbound trips during the pm peak hour. The maintenance facility is anticipated to generate 23 trips during the pm peak hour. Under no circumstance, could there ever be a traffic impact. Because none of the four sites analyzed would have more traffic than existing conditions, these effects would not be used in determining a staff recommendation.

Response to comment S.20-15E.

Comment noted. Please refer to response to comment S.20-15B. The project analyzed consistency with all applicable plans and policies. Had any inconsistencies been determined, they would have been stated. No inconsistencies with land use policies were found. The comment also states that the project does not respond to urban design requirements of the community plan. The project is however only designed to the level of understanding if the site plan works on the allotted acreage. The plans were developed only to the level to compare alternative sites and analyze impacts.

Response to comment S.20-15F.

Comment noted. The comment asserts that the superior alternative was not disclosed and prejudices the staff recommendation. The staff recommendation is based on variety of cost and feasibility factors to discern between the maintenance facility sites. Environmental evaluation is just one of the considerations. The comparative effects of the alternatives have been presented in the document for consideration by the Board.

**Response to comment S.20-15G.**

Comment noted. The comment states that the air quality analysis is inadequate for not addressing site specific construction emissions, including the demolition of buildings. The analysis provided in the SDEIS/RDEIR addresses, as required by SCQAMD, a worst case day, which is typically site grading and preparation and not the building demolition phase. The construction thresholds established by the SCAQMD are based on pounds per day of emissions. The project analysis was completed assuming that the maximum daily emissions would occur during the site preparation phase of construction activity. Site preparation activity would utilize more equipment than demolition activity and would generate more fugitive dust emissions. As an example, the SCAQMD has provide example emissions in *Sample Construction Scenarios for Projects Less than Five Acres in Size* (February 2005). Although the project site is larger than five acres, the emissions from a five acre site can be used to compare relative demolition and grading emissions. Localized demolition emissions are estimated at 19.7 pounds per day for CO, 43.9 pounds per day for NOx, and 3.5 pounds per day for PM10. Localized site preparation emissions are estimated at 43.6 pounds per day for CO, 101.7 pounds per day for NOx, and 10.4 pounds per day for PM10. This example shows that localized emissions are typically higher for site preparation compared to demolition. The project analysis assumed 75 truck trips per day. It is not anticipated that this quantity of trucks would be exceeded during any construction phase.

Response to comment S.20-15H.

Comment noted. The comment states that the Neutrogena research lab would be adversely affected by the project generated noise and vibration. Neutrogena was noticed about the project and provided no comments or concerns. It should noted that the Neutrogena facility is located directly beneath the LAX flight path and operates today with heavy air traffic passing approximately 200 feet above the facility. The cosmetics manufacturing facility has adapted to these significant existing environmental effects.

Response to comment S.20-15I.

Comment noted. The comment states that there is no site specific geotechnical analysis. This is inaccurate. A Phase I Assessment was prepared for the Site #14 – Arbor Vitae/Bellanca Alternative.

Response to comment S.20-15J.

Comment noted. The comment states that the document does not indicate whether the maintenance facility's impacts are cumulatively considerable. This assertion is not correct. That determination is made on page 3-121 of the SDEIS/RDEIR. The commenter also questions the depth of the analysis. As the Lead Agency, Metro has determined that the analysis presented allows a reasonable comparison of the environmental impacts of the alternative sites.

Response to comment S.20-15K.

Comment noted. The comment references a staff recommendation report and does not address environmental issues/questions regarding the SDEIS/RDEIR.

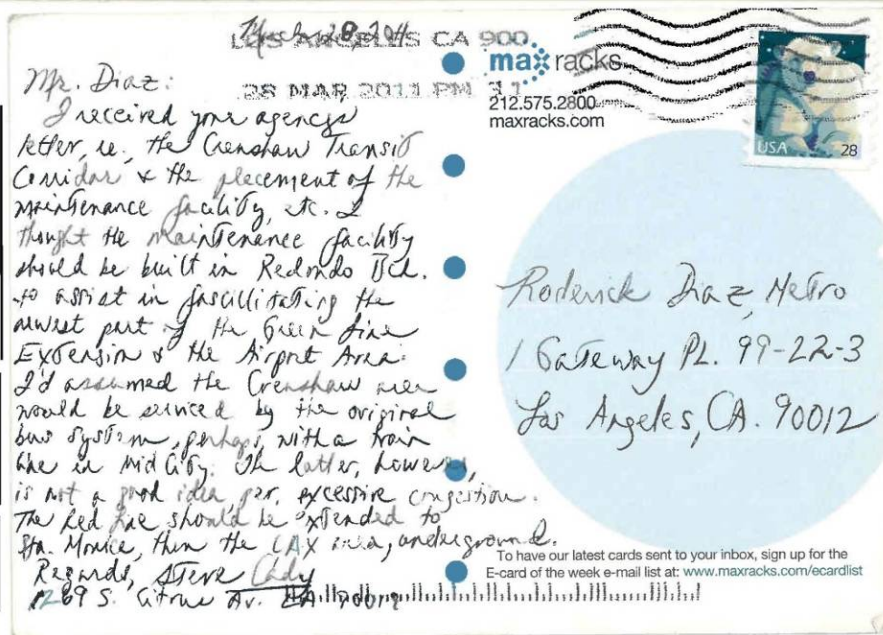


Response to comment S.20-15L.

Comment noted. Metro has addressed the concerns of the commenter.



COMMENT: S.30-01.Steve Cady.



S30 - 1

A
B
C

Response to comment S.30-1A.

Comment noted. Please refer to Supplemental Master Response regarding the selection of Site #14 (Arbor Vitae/Bellanca) as the site for the maintenance facility.

Response to comment S.30-1B.

Comment noted. An Alternatives Analysis was completed during the preparation of the Draft EIS/EIR to identify the transit alternatives to be evaluated in the Draft EIS/EIR. The results of the Alternatives Analysis are presented in Chapter 2, Alternatives Considered, of the Draft EIS/EIR. This analysis used criteria including but not limited to, regional connectivity, ridership, and cost-effectiveness to compare the different modes of transit and alignment options and determine which alternatives would be carried forward for further analysis into the Draft EIS/EIR. Based on the results of this analysis, a light rail transit alternative and a bus rapid transit alternative were determined to be the modes of transit capable of being supported by the Crenshaw Corridor.

Response to comment S.30-1C.

Comment noted. The extension of the Red Line is not part of the proposed project. Information on other Metro projects can be obtained at the Metro website at www.metro.net, under the Projects and Programs tab.



COMMENT: S.30-02.Becky Chan.

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Crenshaw/LAX
Transit Corridor
Project

Supplemental Draft Environmental Impact Statement/
Recirculated Draft Environmental Impact Report

Comment Form

The Crenshaw/LAX Transit Corridor project team welcomes your comments on the evaluation of proposed maintenance facility sites for Metro's light rail system and an update on potential impacts to parklands and historic resources. Please fill out this form and use additional sheets, if necessary. Give this form to project staff or return to Metro (see directions on reverse).

Name (First & Last Name, Organization)

BECKIE CHAN

Address (Street, City, State, Zip)

5408 W. 149TH PL. #1, HAWTHORNE, CA 90250

Email (enter address to receive periodic project updates)

pchan543@gmail.com

Would you like to be added to the project mailing list?

Yes No

THIS COMMENT RELATES TO

Maintenance Facility Sites:

- Site #14 Arbor Vitae/Bellanca
- Site #15 Manchester/Aviation
- Site #17 Marine/Redondo Beach
- Division 22 North Expansion
- General Comments

Parklands and Historic Resources
(Section 4(f) Resources)

Comment (please print):

I would like to express my strong opposition to the Division 22 North Expansion. I live in the Fusion condos which is adjacent to the Division 22 North Expansion. Building a maintenance facility in this area will increase noise pollution and decrease the property value of Fusion. Decreasing the property value of Fusion will result in reduced income to the city of Hawthorne. Please do not build the maintenance facility in the Division 22 North expansion.

A

B



Response to comment S.30-2A.

Comment noted. Please refer to Supplemental Master Response regarding the selection of Site #14 (Arbor Vitae/Bellanca) as the site for the maintenance facility.

Response to comment S.30-2B.

Comment noted. Please refer to Supplemental Master Response regarding the selection of Site #14 (Arbor Vitae/Bellanca) as the site for the maintenance facility.



COMMENT: S.30-03.Silvio Chianese.

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Crenshaw/LAX
 Transit Corridor
 Project

Supplemental Draft Environmental Impact Statement/
 Recirculated Draft Environmental Impact Report

Comment Form

The Crenshaw/LAX Transit Corridor project team welcomes your comments on the evaluation of proposed maintenance facility sites for Metro's light rail system and an update on potential impacts to parklands and historic resources. Please fill out this form and use additional sheets, if necessary. Give this form to project staff or return to Metro (see directions on reverse).

Name (First & Last Name, Organization)

Silvio Chianese, Wiseburn Watch

Address (Street, City, State, Zip)

4900 W. 137th St Hawthorne, CA 90250

Email (enter address to receive periodic project updates)

silvio.chianese@gmail.com

Would you like to be added to the project mailing list?

Yes No

THIS COMMENT RELATES TO:

Maintenance Facility Sites:

- Site #14 Arbor Vitae/Bellanca
- Site #15 Manchester/Aviation
- Site #17 Marine/Redondo Beach
- Division 22 North Expansion
- General Comments

Parklands and Historic Resources
 (Section 4(f) Resources)

Comment (please print):

Site 17 is the most appropriate site for the maintenance facility. It meets the requirements for size and number of cars that can be handled. In addition, this site is much cheaper than the other large options. Finally, there are fewer businesses to relocate at site 17 compared to the other sites.

A

The quantitative selection criteria used to rank and select the maintenance facility should be clearly stated in a document available for review by the public

B