



March 3, 2015

Matthew C. Bassi  
Planning Director  
City of Wildomar  
23873 Clinton Keith Road, Suite 201  
Wildomar CA 92595

**Re:** Briggs Law Corporation Comment Letter on the Wildomar Walmart Project,  
dated February 10, 2015

Dear Mr. Bassi,

The following discussion responds to comments submitted by Briggs Law Corporation. Since the comments were submitted after the stipulated public review period, the City may, but is not obligated to respond to late comments (Public Resources Code § 21091 (d)(2)(4)). No further responses are legally required to be prepared or provided, however, Staff requested that responses be prepared to assist the decision-makers in understanding the issues raised in the letter.

Comment BLC-1

On behalf of my client, CREED-21, I am writing in opposition to the above-identified Project. The Project should be denied because its approval would violate the California Environmental Quality Act ("CEQA"), the Planning and Zoning Law, the Wildomar Municipal Code, and other laws. These comments supplement any other objections that may be, or have been, offered in opposition to this Project. The specific reasons for denying the Project are set forth in Attachment 1 to this letter and are supported by evidence in the administrative record for the Project and the index and evidence submitted concurrently with this letter on DVD. My client is also relying on any other

comments made on the Project that are not inconsistent with my client's specific reasons for denying the Project.

Response BLC-1

The commentor's position as a "CREED-21" representative and opposition to the Project are noted.

Comment BLC-2

If you do not make a decision on the Project tonight, please provide me with written notice of the next public hearing or other meeting at which you will consider this Project. Additionally, please provide me with written notice of whatever action you do take tonight.

Response BLC-2

On February 12, 2015, Planning Director Matt Bassi telephoned and emailed Anthony Kim regarding the outcome of the public hearing and the date of the continued hearing (March 11, 2015).

Comment BLC-3

The finding that traffic impacts will be significant triggered the obligation to consider all feasible mitigation measures. The only mitigation measures considered involve the payment of development fees towards infrastructure improvements. No mitigation measures aimed at reducing traffic were considered. There are feasible mitigation measures available that reduce traffic levels. For example, the CAPCOA report ("Quantifying Greenhouse Gas Mitigation Measures") has an entire chapter dedicated to reducing traffic levels that, although aimed at mitigating greenhouse gas emissions, are equally applicable here. Such measures include increasing access to transit, developing the site in a way that promotes the use of alternative transportation, limiting parking supply, encouraging car-pooling, and taking measures that make alternative transportation more convenient (e.g., providing bike parking and on-site showers). Ex. Tl.

Response BLC-3

The commentor suggests additional measures as a means to reduce traffic levels. However, no indication as to the efficacy of the suggested measures in reducing Project impacts is provided, nor is nexus provided between the proposed measures and their implied environmental benefit vis-à-vis Project impacts.

Certain suggested measures proposed by the commentor replicate Project components, as noted within Draft EIR Section 3.0, "Project Description." It is noted that the Project includes pedestrian walkways and crosswalks, allowing for patrons to walk (rather than drive) between commercial uses within the Project site, as well as between the Project site and adjacent areas. Riverside Transit Authority (RTA) is a public transit agency serves the unincorporated Riverside County region near the City of Wildomar. As stated within Draft EIR Section 4.2, Traffic and Circulation," RTA does not currently provide service within one-quarter mile of the Project site. Notwithstanding, transit service is reviewed and updated by RTA periodically to address ridership, budget and community demand needs. Changes in land use and new development (such as the Project) can affect these periodic adjustments which may lead to either enhanced or reduced service where appropriate. In anticipation of future RTA service, the Applicant has added an on-site bus transit stop. RTA service, complemented by the on-site transit stop, along with Project walkways and crosswalks, would facilitate multi-modal access to the Project site.

Further, the Project includes bicycle racks and lockers, thereby facilitating and encouraging use of bicycles. Bicycle racks provided for both employees and patrons by the Project would implement securable locations for bikes; lockers provided for employees would allow for additional secured storage of helmets and biking gear. The analysis and conclusions of the Draft EIR are not affected; no revisions are necessary.

Comment BLC-4

The mitigation measures identified are uncertain. For example, for improvements funded by fee assessments and constructed pursuant to capital improvement programs, the EIR states that improvements under each of the analysis scenarios--i.e., existing, opening year, general plan buildout, etc.--will tier off the preceding scenario. Then the

EIR goes on to state that "implementation of improvements identified herein is, however, subject to prerogatives and priorities of the City and other affected jurisdictions." In other words, the mitigation measures may or may not be implemented at all. In this respect, mitigation in the form of payment of fees is useless if it does not result in actual mitigation, and such mitigation does not constitute the type of certain, enforceable mitigation that CEQA requires.

#### Response BLC-4

As noted within Draft EIR Section 4.2, "Traffic and Circulation," fee assessment mechanisms and fee programs applicable to the Project would include: "Fair Share" Fees, Riverside County Transportation Uniform Mitigation Fee (TUMF) Program, Riverside County Road and Bridge Benefit District (RBBB), and City of Wildomar Development Impact Fee (DIF) Program.

Draft EIR Mitigation Measures require the Project to pay requisite fees in support of off-site improvements necessary to mitigate traffic impacts. In total, the Project Applicant would pay an estimated \$4.15 million dollars in support of circulation system improvements within the Study Area.

This process adequately fulfills the Project's responsibility to fund its fair share of specific improvements. Notwithstanding the Project's full compliance with fee assessments and fee programs noted above, Project payment of fees would not ensure timely completion of required improvements. Therefore, the Draft EIR concludes that potentially significant impacts that are addressed through Project fee payments are considered significant and unavoidable, pending completion of the required improvements.

#### Comment BLC-5

While the EIR states that the project applicant will have to pay fees toward certain infrastructure improvements, it does not identify which program it will pay fees into for a specific improvement and it does not even identify the specific improvement that will achieve the promised mitigation. The City's Capital Improvement Program and Development Impact Fee report fail to identify the specific improvements. See, e.g., Exs.

T2 & T3. Consequently, there is no way to determine that the required mitigation measures will achieve their goal or that the measures will be satisfied by the proponent.

Response BLC-5

Contrary to the commentor's assertion, Table 1-5 of the Traffic Impact Analysis (provided as Appendix C to the Draft EIR) provides a comprehensive summary of intersection improvements, at what point the impact would occur, and whether the improvement is covered under a TUMF, RBBB, or DIF program. For improvements not covered by one of the afore-mentioned programs, the Project's fair share percentage of the required improvement is identified.

Comment BLC-6

The EIR states that certain infrastructure improvements may or may not coincide with construction and opening of the Project. Since the existing Lake Elsinore store may be operational at the same time as construction of the Project, there is the potential for traffic impacts resulting from the operation of both stores. However, there is no analysis in the EIR of this issue.

Response BLC-6

Without a specific quotation or citation, it is difficult to determine what specific improvements the commentor is referencing. It is noted that the **existing** Lake Elsinore store is already operational and, therefore, has been accounted for within the counts and projections of the Traffic Impact Analysis (TIA). Additionally, a cumulative project list was developed for the purposes of the TIA. The list consists of cumulative projects that are anticipated to contribute traffic to any study area facility. The commentor is directed to Table 4-3, "List of Cumulative Developments," of the TIA, provided as Draft EIR Appendix C. Project number 45 is identified as the **future** Lake Elsinore Walmart. The analysis and conclusions of the Draft EIR are not affected; no revisions are necessary.

Comment BLC-7

Insofar as the EIR states that certain infrastructure improvements outside of the City cannot be implemented or assured, such mitigation measures are impermissibly

uncertain and thus not in compliance with the requirements of CEQA. All mitigation measures must be certain and enforceable.

Response BLC-7

The commentor inaccurately paraphrases CEQA regarding mitigation measures outside of the City's jurisdiction. Public Resources Code § 21081 (a)(2) specifically provides for Findings that can be legally made if the identified improvement required by the mitigation measure is outside of the lead agencies jurisdiction. Furthermore, the Draft EIR specifically acknowledges that timely implementation of certain improvements cannot be assured, and accordingly in these instances recognizes impacts as significant pending completion of required improvements, for example:

"Although requisite fees will be assessed of the Project, payment of fees does not ensure timely completion of the required improvements; and pending completion of the required improvements, impacts at the affected locations are considered significant. Additionally, the Project's contributions to impacts at the intersections outside the City or under shared jurisdictional control are recognized as significant" (Draft EIR page 1-33).

The Project's mitigation requirements (payment of fees) is however assured, e.g., "Prior to the issuance of building permits, the Project Applicant *shall pay requisite fees* toward the construction of the following improvement at the intersection of . . . [emphasis added]" (Draft EIR page 1-33 et al.).

Results and conclusions of the Draft EIR are not affected.

Comment BLC-8

The EIR states that the project applicant shall prepare a construction area traffic management plan to be reviewed by the City Public Works Department. Such a measure is uncertain and an improper deferral of mitigation. When mitigation is deferred, the EIR and final approval must specify the standards that will be met and/or the criteria that will be applied in evaluating the future specific mitigation measures so that, at the time of approval, the lead agency and public are satisfied that no significant

impacts will occur in the future. The EIR and final approval do not accomplish this for the Project. This very issue was decided against the lead agency and the proponent of a Walmart Supercenter like the one contemplated by the Project. See Ex. T4, p. 5.

Response BLC-8

The commentor incorrectly states that mitigation would be deferred. The mitigation measure in question (MM 4.2.39) specifically states:

*“The Project Applicant shall prepare a Construction Area Traffic Management Plan (Plan) to be reviewed and approved by the City Public Works Department. The Plan shall identify traffic controls, any street closures and/or detours, or other disruption to traffic circulation, as well as construction vehicle access routes, hours of construction traffic, and any pavement repairs or enhancements along proposed construction traffic routes. The Plan and its requirements shall be provided to all contractors as one component of building plan/contract document packages.”*

The mitigation measure is not uncertain (preparation of a Construction Area Traffic Management Plan, Plan), provisions of which are described (“[t]he Plan shall identify traffic controls, any street closures and/or detours, or other disruption to traffic circulation, as well as construction vehicle access routes, hours of construction traffic, and any pavement repairs or enhancements along proposed construction traffic routes”). Typical elements and information incorporated in the Project construction traffic management plan would include but would not be limited to:

- **Name of on-site construction superintendent and contact phone number.**
- **Identification of Construction Contract Responsibilities** - For example for excavation and grading activities, describe the approximate depth of excavation, and quantity of soli import/export (if any).
- **Identification and Description of Truck Routes** - to include the number of trucks and their staging location(s) (if any).

- **Identification and Description Material Storage Locations (if any).**
- **Location and Description of Construction Trailer (if any).**
- **Identification and Description Traffic Controls** - Traffic controls shall be provide per the Manual of Uniform Traffic Control Devices (MUTCD) if the occupation or closure of any traffic lanes, parking lanes, parkways or any other public right-of way is required. If the right-of-way occupation requires configurations or controls not identified in the MUTCD, a separate traffic control plan must be submitted to the City for review and approval. All right-of-way encroachments would require permitting through the City.
- **Identification and Description of Parking** - Estimate the number of workers and identify parking areas for their vehicles.
- **Identification and Description of Maintenance Measures** - Identify and describe measures taken to ensure that the work site and public right-of-way will be maintained (including dust control).

Nor is the measure of its adequacy, timing, or compliance uncertain. Pursuant to the Project Mitigation Monitoring Plan (Final EIR Section 4.0) the Plan's adequacy would be determined by the City prior to the issuance of development permits. The Plan and its requirements would also be required to be provided to all contractors as one component of building plan/contract document packages. Results and conclusions of the Draft EIR are not affected.

Comment BLC-9

According to the draft EIR (p. 4.2-59, "[i]f an impacted facility requires improvements other than, or in addition to, those already identified within a regional or local fee program, the Project would contribute a 'fair-share' percentage toward the costs of the recommended improvements. Fair share fees assessed of the Project in this manner would be collected by the City and deposited to a dedicated Capital Improvement Project account, created for the express purpose of constructing the required

improvements." Elsewhere the draft EIR indicates (e.g., p. 5-7) that fair-share fees will be used to mitigate cumulative traffic impacts. The draft EIR indicates (see, e.g., (p. 4.2-44, -59 & -75) that fair-share fees will be deposited to a dedicated Capital Improvement Project account (or accounts), created for the express purpose of constructing the required improvements. However, the City does not have a Capital Improvement Project account set up for each of the fair-share-funded mitigation measures identified in the EIR. See generally Ex. T2 (approved CIP including no such account(s)). Consequently, the Project violates CEQA because there are no certain, enforceable fair-share-based mitigation measures that have been adopted by the City.

Response BLC-9

As stated within *CEQA Guidelines*, Section 15130: "A projects contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure designed to alleviate the cumulative impact." As such, the payment of fees is an appropriate form of mitigation for cumulative impacts.

Development projects are only required to mitigate their proportional share of the identified impact. To this end, the City of Wildomar currently has a number of programs, including the Riverside County Transportation Uniform Mitigation Fee (TUMF), Riverside County Road and Bridge Benefit District (RBBBD), and the City of Wildomar Development Impact Fee (DIF). The Project would be further required to pay fair share fees to identified intersections that are not included within these programs.

As explained on Draft EIR page 4.2-43, the Project would contribute a fair share percentage towards the costs of recommended improvements. Fair share fees assessed of the Project in this manner would be collected by the City and deposited to a dedicated Capital Improvement Project account created for the express purpose of constructing the improvements. Finally, and most importantly, the Draft EIR determined that cumulative impacts in this regard (where fair share fees would be required) would be significant and unavoidable. This is due to the fact that construction of the improvements could not be guaranteed to be completed concurrent with the timing of the impact.

All cities have this type of Capital Improvement Project account which allows them to prioritize the funding and construction of improvements based on need. This process fulfills the Project's responsibility to fund its fair share of specific improvements. The commentor correctly states that "the City does not have a Capital Improvement Project account set up for each of the fair-share-funded mitigation measures identified in the EIR." This is because the Project has not yet been approved. Should the Project be approved, the proper accounts would be created and Project fees deposited prior to the issuance of building permits.

Comment BLC-10

According to the draft EIR (p. 4.2-59), all but one of the mitigation measures require the payment of fees that will be deposited to a dedicated Capital Improvement Project account (or accounts), created for the express purpose of constructing the required improvements. Other than TUMF fees (themselves limited to regional mitigation measures), however, there are no Capital Improvement Accounts that have been created for the promised mitigation measures and nothing in the EIR or the approval documents to ensure that such accounts will be created. See generally Ex. T2 (approved CIP including no such account(s)). Consequently, the certain, enforceable mitigation measures required by CEQA are missing.

Response BLC-10

The commentor is referred to Response BLC-9, above.

Comment BLC-11

The first full paragraph on page 5-7 of the draft EIR indicates that the City and other agencies with jurisdiction over the improvements necessary to mitigate the Project's cumulative traffic impacts will be deciding mitigation measures in the future, "consistent with demonstrated demands and pursuant to priorities established through the jurisdictional capital improvements programs." The City is then recognized as "authoritative in determining when and how City improvements should be programmed and implemented to ensure near-term and long-term adequacy of the City roadway system." However, nothing in the EIR or approval documents enables the City to compel the proponent to take fund [sic] whatever improvements and other

mitigation measures are determined to be necessary later on, and there is nothing that even hints at what such improvements and other mitigation measures might be. Likewise, there is no certainty that the cumulative-impact fees needed in the future will be collected or whether the improvements will be made or even what improvements will be necessary. Consequently, these mitigation measures fail to satisfy CEQA's requirements for certain, enforceable mitigation measures.

Response BLC-11

The commentor appears to misunderstand the discussion of cumulative traffic impacts. The first full paragraph of Draft EIR page 5-7, as referenced by the commentor, is excerpted below.

“As means of mitigating or avoiding these cumulative deficiencies, the Project Applicant would pay requisite fees (DIF, TUMF, RBBB, and fair-share) fees to be employed by for the construction of area traffic improvements. Improvements required to mitigate potentially significant cumulative impacts would be implemented consistent with demonstrated demands and pursuant to priorities established through the jurisdictional capital improvements programs. In these regards, the City as the Lead Agency is considered authoritative in determining when and how City improvements should be programmed and implemented to ensure near-term and long-term adequacy of the City roadway system. Similarly, other jurisdictional authorities, e.g., Caltrans, would determine appropriate programming and implementation of required improvements.”

Contrary to the commentor's statements, there will be no future mitigation or future fees collected. The improvements that the above excerpt refers to are those towards which the Project will pay fees, as required by the Mitigation Measures set forth within the Draft EIR.

Comment BLC-12

Approval of the Project would not be consistent with General Plan Policies C 2.1, C 2.2, C 2.4, and C 2.5. The required Levels of Service will not be maintained as a result of the

Project. The Traffic Impact Analysis and the Supplemental Traffic Analysis (and thus the EIR because it relies on both of them) does not apply Level of Service standards via a program establishing traffic study guidelines to identify traffic impacts and appropriate mitigation measures; there is no such program that has been approved by the City and used by the traffic engineers. The conditions of approval do not require the construction of any and all improvements identified as necessary to meet Level of Service standards due to the Project's direct traffic impacts; to the contrary, the EIR repeatedly indicates that all but one mitigation measure involves the payment of fees toward improvements that may never be implemented. The payment of fees to mitigate the Project's cumulative and indirect traffic impacts is not permitted because there is no substantial evidence that there are programs that will implement the improvements necessary to mitigate these impacts and no substantial evidence that there is funding sufficient to pay for such improvements (even if they otherwise would be implemented) in time to mitigate these impacts. Accordingly, the Project's approval would be inconsistent with the General Plan and therefore illegal.

Response BLC-12

The City, through the EIR process requires evaluation of potential traffic impacts within a City-approved TIA and has thereby implemented Policy C 2.2, "Apply level of service standards to new development via a program establishing traffic study guidelines to evaluate traffic impacts and identify appropriate mitigation measures for new development." Project consistency with General Plan Policies C 2.1, C 2.4, and C 2.5 is established at Draft EIR Table 4.2-21, *General Plan Circulation Goals and Policies Consistency*. Commentor remarks regarding application of LOS standards are unclear. In this regard, the Draft EIR and supporting Traffic Impact Analysis (TIA) and the Supplemental Traffic Analysis evaluate the Project's potential traffic impacts in the context of defined applicable Level of Service standards (Draft EIR page 4.2-5: "Discussions with the City defined the level-of-service (LOS) analysis methodology, and the determination of traffic impact significance."; Draft EIR page 4.2-13: Draft EIR Section 4.2.2.10 *Jurisdictional Definitions for System Capacity*; TIA Section 2.7, *Minimum LOS*; Supplemental Traffic Analysis, Table 3, *Intersection Analysis Operations Summary*- "Acceptable LOS" column.

Physical improvements that would achieve acceptable LOS standards are identified, and the Project would pay requisite fees toward completion of required improvements (Draft EIR Mitigation Measures 4.2.1 through 4.2.38).

The Draft EIR specifically acknowledges that timely implementation of certain improvements cannot be assured, and accordingly in these instances recognizes impacts as significant pending completion of required improvements, for example:

“Although requisite fees will be assessed of the Project, payment of fees does not ensure timely completion of the required improvements; and pending completion of the required improvements, impacts at the affected locations are considered significant. Additionally, the Project’s contributions to impacts at the intersections outside the City or under shared jurisdictional control are recognized as significant” (Draft EIR page 1-33).

The Project’s mitigation requirements (payment of fees) is assured, e.g., “Prior to the issuance of building permits, the Project Applicant *shall pay requisite fees* toward the construction of the following improvement at the intersection of . . . [emphasis added] ” (Draft EIR page 1-33 et al.).

Please refer also to Responses at BLC-4,-5,-7,-9,-10,-11, et al. Results and conclusions of the Draft EIR are not affected.

#### Comment BLC-13

The finding that the Project will not result in significant urban decay is not supported by substantial evidence. For one, the EIR admits the Project will facilitate the closing of a Walmart store just a few miles away in Lake Elsinore. In an attempt to downplay the urban-decay impact on the closing store, the EIR states that the soon-to-be vacant building may possibly be re-tenanted in the future. Not only is the assertion speculative and not supported by substantial evidence, but Walmart's own record on re-tenanting old buildings is highly suspect. Exs. UD I -UD6. Furthermore, the EIR's conclusion that "the shopping center would still function as a well-tenanted neighborhood-scale shopping center anchored by the existing Vons store" is baseless because the closing of

an anchor store like Walmart negatively affects immediately surrounding businesses--hence the term "anchor" store, and there is no substantial evidence that Vons can assume the role of anchor tenant. Ex. UD 6.

Response BLC-13

The Urban Decay Study ("Study") indicates that the existing Walmart store located at 31700 Grape Street in the City of Lake Elsinore would potentially close given that Walmart is proposing to develop two new Supercenters that are both approximately three miles from the existing store (the proposed Project, along with a Walmart proposed for development at the intersection of Central and Cambern Avenues in the City of Lake Elsinore). As indicated in the Study, given that the existing Walmart store is at the midpoint between the two proposed Supercenters, it is reasonable to assume that a potential closure would be equally attributable to the two new proposed Supercenters.

The finding that the existing Walmart could possibly be re-tenanted with a retail or non-retail reuse is not "speculative." First, as indicated in the Study, the retail demand analysis indicates there would be sufficient demand, under Project-specific conditions, to support some type of retail reuse of the existing Walmart store. Second, the store is in a favorable location, with good freeway access and visibility (two key site criteria for many retailers), along with being next to a strong concentration of retail development on the west side of Interstate-15. In addition, the Study provides several examples of various adaptive reuse (non-retail) candidates for vacant "big box" stores. Finally, the study clearly states "reusing closed Walmart stores for other retail uses represents a 'mixed bag' of sorts, with some successfully reconfigured for other retail stores while others have remained vacant now for several years." Several examples of reuses of vacant Walmart stores are provided on pages 19 to 20 of the Study.

The claim that the existing Lake Elsinore City Center without the existing Walmart store would still function as well-tenanted neighborhood-scale shopping center is not "baseless." Without the Walmart store, the existing Vons store would account for approximately 44% of the remaining building space in the center. According to the International Council of Shopping Centers (ICSC), neighborhood centers are typically

anchored by supermarkets, and these supermarket anchor tenants typically account for 30% to 50% of total space in neighborhood markets. Thus, without the existing Walmart store, the Lake Elsinore City Center would fit the classic definition of a neighborhood center anchored by the existing Vons store, as indicated by the ICSC.

#### Comment BLC-14

The urban-decay analysis is defective as to grocery sales impacts because it does not consider the strong possibility that at least one of the eight supermarkets in the surrounding area will close. For example, the analysis states that currently the eight grocery stores are making \$509 per square foot, which is more than the median rate nationally (\$473) and in the western United States (\$418). It then concludes that the addition of a Walmart store would not cause the closure of any of the existing grocery supermarkets as it would only decrease revenue for all grocery stores to \$431 per square foot. The problem with the analysis is that it simply calculates the amount of revenue as being proportionate to the square footage of Walmart's grocery component. The truth is that the new Walmart store will decrease revenue much more drastically for other grocery stores because it sells a wide range of goods and consumers who otherwise wouldn't buy their groceries at Walmart if it were a standalone grocery store will now do so.

#### Response BLC-14

Under Project-specific conditions, the Study showed that the potential sales impacts would not likely be significant enough to cause the closure of any of the trade area's existing supermarkets. The evidence for this finding is clearly summarized in Section II-D (pages 10-12) of the Study. Although the comment indicates there would be a "strong possibility that at least one of the eight supermarkets in the surrounding area will close", there is no evidence provided for this assertion. In addition, the statement that "[t]he problem with the analysis is that it simply calculates the amount of revenue as being proportionate to the square footage of Walmart's grocery component" is an inaccurate interpretation of the demand analysis evaluated in the study. See page 10 of the Study for a detailed description of the estimate of the proposed Walmart's grocery sales, which is based on grocery sales data specific to Walmart Supercenters (based on research from Progressive Grocer's Super 50 Publication).

Comment BLC-15

There are no mitigation measures aimed at the architectural coatings phase of the project. However, mitigation is available. The use of no-VOC paint (or at least lowVOC paint) could be required. See Exs. AQ I -AQ5 (regarding rules for using lowVOC paint in other air quality districts and availability of low- and no-VOC architectural coatings). Any finding that there are no additional feasible mitigation measures for air-quality impacts is unfounded.

Response BLC-15

The commentor suggests the Project be required (via mitigation) to use no/low-VOC paint during the architectural coatings phase of Project construction. However, the use of low-VOC architectural coatings is a commitment of the Project as included within the Section 3.0, "Project Description," of the Draft EIR. Specifically, Section 3.4.11, "Energy Efficiency/Sustainability" states:

"For the store's exterior and interior field paint coatings, Walmart would use low volatile organic compound (VOC) paint. Paint products required for the Project would be primarily purchased in 55 gallon drums and 275 gallon totes, reducing the number of one gallon and five gallon buckets needed. These plastic buckets are filled from the drums and totes and then returned to the paint supplier for cleaning and reuse."

This commitment, as well of the litany of other measures contained within the Project Description, will be memorialized in the Conditions of Approval. The findings and conclusions of the Draft EIR are not affected; no revisions are necessary.

Comment BLC-16

There is no evidence that mere adherence to existing SCAQMD regulations, such as wetting demolition and/or construction areas, will mitigate air-quality impacts. Relying on compliance with regulatory requirements to satisfy mitigation requirements or to avoid having to disclose and analyze potentially significant impacts in an environmental impact report is not allowed under CEQA.

Response BLC-16

The commentor's statement that "relying on compliance with regulatory requirements to satisfy mitigation requirements or to avoid having to disclose and analyze potentially significant impacts in an environmental impact report is not allowed under CEQA" is incorrect. Numerous court cases have held "a condition requiring compliance with environmental regulations is a common and reasonable mitigation measure." (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 308).

As referenced by the commentor, the Draft EIR acknowledges that the Project must comply with SCAQMD Rule 403 and includes the following measure (Draft EIR page 4.3-51):

4.3.1 *The following requirements shall be incorporated into Project plans and specifications in order to ensure implementation of SCAQMD Rule 403, which limits fugitive dust emissions:*

- *All clearing, grading, earth-moving, or excavation activities shall cease when winds exceed 25 miles per hour;*
- *The contractor shall ensure that all disturbed unpaved roads and disturbed areas within the Project site are watered at least three (3) times daily during dry weather. Watering, with complete coverage of disturbed areas, shall occur at least three times a day, preferably in the mid-morning, afternoon, and after work is done for the day; and*
- *The contractor shall ensure that traffic speeds on unpaved roads and Project site areas are reduced to 15 miles per hour or less.*

The inclusion of Rule 403 as a mitigation measure was done for administrative tracking purposes. Inclusion of the measure allows these requirements to be included within the Final Mitigation Monitoring Plan, as a means for City staff to easily monitor compliance throughout the construction process. As shown within Draft EIR Table 4.3-6, excerpted below, all construction-source impacts are mitigated below SCAQMD thresholds.

**Table 4.3-6  
Maximum Daily Construction-Source Emissions (lbs/day)–With Mitigation**

Year	VOC	NO <sub>x</sub>	CO	SO <sub>x</sub>	PM <sub>10</sub>	PM <sub>2.5</sub>
2015	8.72	92.60	81.58	0.20	12.10	6.39
2016	62.34	62.60	56.71	0.10	6.84	4.19
<b>Maximum Daily Emissions</b>	<b>62.34</b>	<b>92.60</b>	<b>81.58</b>	<b>0.20</b>	<b>12.10</b>	<b>6.39</b>
SCAQMD Regional Threshold	75	100	550	150	150	55
<b>Threshold Exceeded?</b>	No	No	No	No	No	No

Source: Wildomar Walmart Air Quality Impact Analysis, City of Wildomar (Urban Crossroads, Inc.) April 3, 2014.

The commentor fails to explain how using a regulatory rule as a mitigation measure “avoids having to disclose and analyze potentially significant impacts.” It is noted that the Project would be subject to these same requirements even without the inclusion of this mitigation measure within the Draft EIR. Therefore, any reduction in Project impacts would be realized whether the measure was included within the Mitigation Monitoring Plan or not. The measure simply allows the City to more easily assure that monitoring and reporting can be undertaken on an ongoing basis during the development process. The findings and conclusions of the Draft EIR are not affected; no revisions are necessary.

Comment BLC-17

Insofar as the EIR states, under Mitigation Measure No. 4.3.4, that certain measures will be taken to reduce energy consumption, such measures are uncertain and are not made enforceable, in violation of CEQA. For example, the EIR states "that the items listed below are not all required and merely present examples." The measures must be identifiable and enforceable.

Response BLC-17

Draft EIR Mitigation Measure 4.3.4, as referenced by the commentor, is excerpted below.

*4.3.4 Prior to the issuance of building permits, the Project Applicant shall submit energy usage calculations showing that the Project is designed to achieve a minimum 5% efficiency beyond then incumbent California Building Code Title 24*

*requirements. The Project energy usage calculations shall be subject to review and approval by the City.*

*Examples of measures that reduce energy consumption include, but are not limited to, the following (it being understood that the items listed below are not all required and merely present examples; the list is not all-inclusive and other features that reduce energy consumption also are acceptable):*

- Increase in insulation such that heat transfer and thermal bridging is minimized;*
- Limit air leakage through the structure and/or within the heating and cooling distribution system;*
- Use of energy-efficient space heating and cooling equipment;*
- Installation of electrical hook-ups at loading dock areas;*
- Installation of dual-paned or other energy efficient windows;*
- Use of interior and exterior energy efficient lighting that exceeds then incumbent California Title 24 Energy Efficiency performance standards;*
- Installation of automatic devices to turn off lights where they are not needed;*
- Application of a paint and surface color palette that emphasizes light and off-white colors that reflect heat away from buildings;*
- Design of buildings with “cool roofs” using products certified by the Cool Roof Rating Council, and/or exposed roof surfaces using light and off-white colors;*
- Installation of ENERGY STAR-qualified energy-efficient appliances, heating and cooling systems, office equipment, and/or lighting products.*

It appears the commentor is misinterpreting the purpose of the Measure. The pertinent portion of the above Measure is that the Project is required to achieve a minimum 5 percent efficiency beyond then incumbent California Building Code Title 24 requirements. The purpose was not to impose specific measures to accomplish this requirement. The measure tasks the Project design team to incorporate practical measures to achieve this required reduction. The examples were included to merely answer the hypothetical question of how this can be accomplished. The list provides a cross-section of examples but was not intended to be specific requirements nor was intended to be an exhaustive listing.

Contrary to the commentor's assertion, Mitigation Measures 4.3.4 is both identifiable and enforceable. Analysis and conclusions of the Draft EIR are not affected; no revisions are necessary.

Comment BLC-18

The EIR wrongfully relies on the South Coast Air Quality Management District's Localized Significance Threshold Methodology ("LST") because the LST only applies "to projects that are less than or equal to five acres." Ex. AQ6. This Project exceeds five acres. The LST mass rate look-up table on which the City relies also only applies to projects less than five acres in size. *Id.* In fact, SCAQMD states that it "is recommended that lead agencies perform project-specific air quality modeling for larger projects." *Id.* Furthermore, the EIR fails to state the source receptor area and distance using the LST methodology, which is crucial in determining sensitive receptors. The EIR's disclosure, analysis, and mitigation measures for this impact are therefore insufficient under CEQA.

Response BLC-18

The commentor incorrectly argues that the use of the SQAQMD "Mass Rate LST LookUp Tables" is inappropriate since they are intended for use on sites of 5 acres or less. As explained within the Construction-Source Emissions LST Analysis, presented on page 4.3-61 of the Draft EIR:

"The Project LST analysis of construction-source emissions employs the SCAQMD LST "mass rate lookup tables." In summary, the "lookup tables" establish allowable emissions (lbs/day) as a function of receptor distance (meters) from a construction site boundary. Related, the SCAQMD has issued guidance on applying CalEEMod to LST analyses employing the lookup tables. In this regard, CalEEMod calculates construction emissions (off-road exhaust and fugitive dust) based on the number of equipment hours and the maximum daily soil disturbance activity possible for each piece of equipment. In order to compare CalEEMod reported emissions against the LST lookup tables, LST analyses should contain the following descriptors/parameters:

- The off-road equipment list (including type of equipment, horsepower, and hours of operation) assumed for the day of construction activity with maximum emissions;
- The maximum number of acres disturbed on the peak day using the equipment list from above and reflecting CalEEMod equipment use/acreage disturbance rates;
- Any emission control devices added onto off-road equipment;
- Any specific dust suppression techniques used on the day of construction activity with maximum emissions.

Since CalEEMod calculates construction emissions based on the number of equipment hours and the maximum daily soil disturbance activity possible for each piece of equipment, the information at Table 4.3-9 is used to determine the maximum daily disturbed-acreage for comparison to LSTs. To ensure consistency with LST modeling of construction-source emissions provided herein, maximum use of Project construction equipment types and their hours of operation (during grading activity) would be limited through Mitigation Measure 4.3.3, and as indicated at Table 4.3-9.”

**Table 4.3-9  
Construction-Source Emissions  
LST Analysis - Site Disturbance**

Equipment Type	Quantity	Operating Hours per Day	Acres Disturbed per 8 Hour Period	Total Acres Disturbed per Day
Tractors	2	8	0.5	1
Graders	2	8	0.5	1
Rubber Tired Dozers	2	8	0.5	1
Scrapers	2	8	1.0	2
Total Acres Disturbed per Day (all equipment)				5
Applicable LST Mass Rate Look-up Table				5 Acres

Source: Wildomar Walmart Air Quality Impact Analysis, City of Wildomar (Urban Crossroads, Inc.) April 3, 2014.

Table 4.3-10 summarizes maximum daily localized construction-source emissions impacts at the nearest sensitive receptor. As indicated, maximum daily construction-source emissions would exceed applicable LSTs for PM10 and PM2.5. This is a potentially significant impact.

**Table 4.3-10**

**Maximum Localized Construction-Source Emissions Impacts (pounds per day)**

	Pollutants			
	NO <sub>x</sub>	CO	PM <sub>10</sub>	PM <sub>2.5</sub>
Maximum Construction-Source Emissions	104.30	66.80	20.48	11.67
SCAQMD Localized Threshold	371	1,965	13	8
<b>Threshold Exceeded?</b>	NO	NO	<b>YES</b>	<b>YES</b>

Source: Wildomar Walmart Air Quality Impact Analysis, City of Wildomar (Urban Crossroads, Inc.) April 3, 2014.

**Level of Significance:** Potentially Significant.

**Mitigation Measures:** Please refer to previous Mitigation Measures 4.3.1 through 4.3.3.

**Table 4.3-11**

**Localized Construction-Source Emissions Summary–With Mitigation  
Maximum Daily (lbs/day)**

	Pollutants			
	NO <sub>x</sub>	CO	PM <sub>10</sub>	PM <sub>2.5</sub>
Maximum Construction-Source Emissions	40.27	47.44	7.92	4.60
SCAQMD Localized Threshold	371	1,965	13	21
<b>Threshold Exceeded?</b>	No	No	No	No

Source: Wildomar Walmart Air Quality Impact Analysis, City of Wildomar (Urban Crossroads, Inc.) April 3, 2014.

**Level of Significance After Mitigation:** Less-Than-Significant. With the implementation of Mitigation Measures 4.3.1 through 4.3.3, maximum-daily construction-source emissions would not exceed applicable SCAQMD LSTs. Table 4.3-11 identifies the maximum daily localized

construction-source emissions impacts at the nearest receptor, as mitigated.

Pursuant to Draft EIR Mitigation Measure 4.3.3, daily grading disturbance shall not exceed 5 acres, and the use of the SCAQMD “Mass Rate LST LookUp Tables” for disturbance of 5 acres the conservative and appropriate LST methodology for the Project. In this regard, the commentor is incorrect regarding the use of construction localized significance thresholds (LSTs) lookup table values for the proposed Project. Although SCAQMD recommends that air dispersion modeling be used to determine the significance of localized impacts from large projects, the use of construction Mass Rate LST LookUp Tables for projects larger than 5 acres actually overstates potential localized emissions impacts. This is because the SCAQMD Mass Rate LST LookUp Tables are based on construction-source air pollution emissions data from small construction sites. The resulting emissions data reflected in the Lookup Tables, therefore, reflect pollution concentrations generated from a constrained construction site, with the resulting emissions concentrations at adjacent off-site locations being much higher than would occur for a large area being graded. This is because pollutant emissions generated within a large construction site would occur over the expanse of the site, and would tend to disperse and have a lower pollution concentration once it reaches the construction site boundary, provided the construction site is not unusually narrow or otherwise irregularly shaped such that the pollution source would be closer to the project boundary than was modeled by SCAQMD when they established the Lookup Tables. Results and conclusions of the Draft EIR are not affected.

Comment BLC-19

The EIR's conclusion that construction-emission impacts will be less than significant is not supported by substantial evidence. The LST methodology only assumes construction emissions occurring between 8 a.m. and 4 p.m. *Id.* Meanwhile, the EIR suggests that Project construction will occur between 6 a.m. to 6 p.m., which is an additional four hours or a 50% increase in emission hours.

Response BLC-19

The commentor speculates that grading activities would occur during all allowable hours of construction. In reality, and as a reasonable assumption, typical construction work (including construction activities and equipment maintenance activities) occurs during an 8-hour work day. Additionally, Draft EIR Mitigation Measure 4.3.3 restricts the amount of active grading and maximum horsepower that can be expended on a daily basis. For these reasons, the assumptions used in the analysis are accurate and appropriate. Results and conclusions of the Draft EIR are not affected.

Comment BLC-20

The finding that all feasible mitigation measures for NO<sub>x</sub> emissions have been implemented is not supported by substantial evidence. Other feasible measures exist. Ex. AQ7.

Response BLC-20

As summarized in the Draft EIR, Project operational-source NO<sub>x</sub> emissions would exceed applicable SCAQMD regional thresholds (Draft EIR page 1-55, et al.). Per SCAQMD significance guidance, these impacts at the Project level are also considered cumulatively significant and would persist over the life of the Project. NO<sub>x</sub> emissions are ozone precursors. As disclosed in the Draft EIR, Project operational-source NO<sub>x</sub> emissions have the potential to contribute considerably to existing ozone non-attainment conditions within the Basin. This is a cumulatively significant impact persisting over the life of the Project.

Project impacts and proposed mitigation are discussed in the detail throughout the Draft EIR. A summary of impacts and mitigation is provided at Draft EIR Table 1.10-1, page 1-33 through 1-78. Mitigation measures, together with mitigation timing and monitoring/reporting responsibilities are comprehensively presented at Final EIR Section 4.0, Mitigation Monitoring Plan.

The commentor alludes to additional measures (Ex. AQ7) as means to reduce the Project's operational-source NO<sub>x</sub> emissions threshold exceedances identified within the Draft EIR.

Measures referenced by the commentor at Ex. AQ7 reflect compliance with City of Ontario Ordinances and City of Ontario Conditions of Approval (the Project lies within the City of Wildomar); compliance with SCAQMD rules (which the commentor previously erroneously alleged is not mitigation); and/or address construction-source, rather than operational-source emissions. Mitigated construction-source emissions would not exceed applicable SCAQMD regional thresholds and would be less-than-significant (Draft EIR page 4.3-52 et al.). Project operational-source NO<sub>x</sub> emissions are predominantly (greater than 99 percent) generated by Project vehicular traffic.

Further, the suggested measures' feasibility<sup>1</sup> and applicability to the Project are not meaningfully considered or established by the commentor. Certain of the suggested measures reflect compliance with the City of Ontario Trip Reduction Ordinance, with implied reduction of vehicle miles traveled and associated reduction of vehicular source NO<sub>x</sub> emissions. It is again noted that the Project is located within the City of Wildomar, and is not subject to City of Ontario Ordinance requirements. It is further noted that the Project in its current location and configuration acts to reduce VMT and associated vehicular-source emissions (including NO<sub>x</sub>) within the region (Draft EIR page 4.3-48, 5-115, 5-116, 5-130 et. al).

Continuing, in *Santa Clarita Organization for Planning the Environment v. City of Santa Clarita* ("SCOPE") (2011) 197 Cal.App.4th 1042, opponents challenged an EIR, which concluded that the increased GHG emissions associated with Project vehicles and transportation sources would be significant, and that there were no feasible mitigation measures to reduce the impact to a less-than-significant level. The opponents challenged this latter claim, citing a comprehensive list of suggested mitigation measures for GHG emissions prepared by the California Attorney General's office.

---

<sup>1</sup> The term feasible is not to be construed as "within the realm of possibilities." The State Resources Agency, the State Agency charged with implementing CEQA's regulatory scheme, has defined feasible, "for purposes of CEQA review, as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." In formulating mitigation measures, the Lead Agency is subject to the "rule of reason." CEQA does not require analysis of every *imaginable* alternative or mitigation measure; its concern is with *feasible* means of reducing environmental effects.

In response, the court ruled that the city was not required to address the feasibility of each of the numerous measures recommended by the Attorney General, distinguishing cases where courts faulted an agency for not considering specific, potentially feasible measures (see, e.g., 197 Cal.App.4th at 1055 (“Considering the large number of possible mitigation measures . . . as well as the [opponent’s admission] that not all measures would be appropriate for every project, it is unreasonable to impose on the city an obligation to explore each and every one.”)).

The Court’s holding in SCOPE is analogous to the Project at issue, where the new Walmart Store would be constructed to maximize building efficiency, in accordance with Walmart’s building practices as well as California Code of Regulations Title 24 (in fact the Project is required to surpass Title 24 performance standards by a minimum of 5 percent, Draft EIR Section 3.4.11, *Energy Efficiency/Sustainability*; Mitigation Measure 4.3.4; et al.), acting to reduce the Project’s potential stationary/area-source emissions. However, as noted previously, the preponderance of Project operational-source NOx emissions would be generated by motor vehicles (greater than 99 percent of NOx emissions would be generated by mobile sources). As a commercial project, only about two percent of the vehicle trips are generated by employees. The remaining trips would be generated by customers. There are no feasible measures to reduce or restrict the number of customer vehicles traveling to and from the site to a level where the net increase in operational emissions would be substantively reduced; or that would reduce NOx emissions below the regional threshold of significance recommended by the SCAQMD for NOx.

The Court noted further that emissions from vehicle exhaust are controlled by the state and federal government, and were therefore outside the control of the Lead Agency or the Project Applicant. This is consistent with the Draft EIR presentation and analysis of the Project’s potential operational-source NOx emissions impacts.

Lastly, it should be recognized that the Project air quality analyses, consistent with SCAQMD guidance and CalEEMod protocols, necessarily assume that all vehicle trips generated by the Project are “new” trips within the region. In practice, new land use projects (such as the proposed Wildomar Walmart Project) tend to redistribute existing

trips and emissions sources within the region, rather than generate entirely new trips and emissions. The net effect being an overestimation of vehicle trips and vehicular-source emissions air quality impacts as presented in the Draft EIR and Project air quality analyses.

In sum, this and other remarks offered by the commentor do not appear to identify any substantive inadequacy within the Draft EIR, and merely suggests that “something could be done” to reduce emissions. Particularly in light of the court’s ruling in SCOPE, these potential other mitigation measures are not required to be discussed in the Draft EIR.

All feasible mitigation measures to reduce operational-source NO<sub>x</sub> emissions have been adequately and appropriately addressed within the Draft EIR, and no further response is necessary. Results and conclusions of the Draft EIR are not affected.

#### Comment BLC-21

The cumulative air-quality analysis is too cursory. Simply saying that VOC and NO<sub>x</sub> emissions are significant on a project level and thus the cumulative impacts are also significant does not provide the public or decision-makers with the information necessary to make an informed decision or to participate meaningfully in the process. The EIR must disclose all that it reasonably can. Further study is required.

#### Response BLC-21

The commentor opines about the cursory nature of the cumulative air quality discussion presented within the Draft EIR. However, no detail is provided regarding what should be added to the discussion.

The constituents and potential health effects of both NO<sub>x</sub> and VOC are presented in detail under the heading of “Criteria Air Pollutants” within Section 4.3.2.1 of the Draft EIR (page 4.3-3).

The Draft EIR (page 4.3-79) goes on to state that even after application of all feasible mitigation, Project operational-source NO<sub>x</sub> and VOC emissions would exceed

applicable SCAQMD regional thresholds. The fact that the Project generates long-term emissions of the ozone precursors NO<sub>x</sub> and VOC in excess of applicable SCAQMD thresholds indicates that the Project impact is significant on an individual basis and would therefore contribute to cumulatively significant air quality impacts within the encompassing ozone non-attainment area. On this basis, operational-source emissions of NO<sub>x</sub> and VOC in exceedance of SCAQMD regional thresholds would result in a cumulatively considerable net increase of in criteria pollutants within a non-attainment area. This is a potentially significant air quality impact. Cumulative impacts are further discussed within Section 5.1.1 (page 5-18) of the Draft EIR. Additionally, to provide the decision-makers with a full understanding of breadth of the NO<sub>x</sub> and VOC exceedances, a specific alternative (The Reduced Intensity Alternative) was devised. As stated on page 5-63 of the Draft EIR:

“...a reduced intensity alternative that would avoid the Project’s significant NO<sub>x</sub> operational-source air quality impacts is not considered feasible. However, a feasible incremental reduction of the Project’s scope (specifically, reduced scope of the Project’s proposed fast-food use) could likely achieve applicable SCAQMD VOC operational emissions thresholds; and would thereby avoid significant operational-source VOC emissions exceedances otherwise occurring under the Project.

On this basis, and for the purposes of this Alternatives Analysis, a Reduced Intensity Alternative has been specifically developed to avoid the significant operational-source VOC emissions impacts that would otherwise occur under the Project. The Reduced Intensity Alternative evaluated here reflects an approximate 50 to 60 percent reduction in the scope of the Project’s proposed fast-food with drive-through restaurant. It is also noted that configurations other than the described Reduced Intensity Alternative could likely achieve ADT reductions and associated VOC emissions reductions sufficient to achieve applicable SCAQMD VOC thresholds.”

Incorporating SCAQMD guidance and criteria, impacts determined to be significant at the Project level are cumulatively considerable. (See also: SCAQMD Cumulative Impacts White Paper Appendix A: “Projects that exceed the project-specific significance thresholds are considered by the SCAQMD to be cumulatively considerable. This is the reason Project-specific and cumulative significance thresholds are the same. Conversely, projects that do not exceed the project-specific thresholds are generally not considered to be cumulatively significant”). Using this guidance, the Draft EIR identified a significant NO<sub>x</sub> and VOC Project level impact, and therefore the Project also creates a cumulatively considerable NO<sub>x</sub> and VOC impacts. If the Project is approved by the Wildomar City Council, the Council will need to acknowledge these significant impacts via the adoption of Facts, Findings and a Statement of Overriding Findings.

Finally the commentor suggests that “Further study is required.” It is noted that CEQA Guidelines Section 15204(a) states:

“In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. *CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters.* [Emphasis added.] When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.”

The analysis is adequate pursuant to CEQA, the findings and conclusions within the Draft EIR are unaffected.

Comment BLC-22

There is no clear baseline or significance standard used for analyzing the proposed project's greenhouse gas emission ("GHG") impact. The EIR's conclusions about significance are therefore not supported by any evidence.

Response BLC-22

Project GHG emissions impacts are accurately and appropriately evaluated against a Business as Usual (BAU) Scenario. Based on the California Air Resource Board's (CARB's) definition, the forecast of 2020 GHG emissions in a BAU scenario as presented in the Draft EIR is an estimate of the emissions expected to occur in the year 2020 if none of the foreseeable measures included in the *First Update to the Climate Change Scoping Plan* (CARB) May 2014 (Scoping Plan) were implemented (see Page 92, 6th paragraph of *First Update to the Climate Change Scoping Plan – May 2014*). CARB also defines BAU to mean "the normal course of business or activities for an entity or a project before the imposition of greenhouse gas emissions reduction requirements or incentives." <sup>2</sup>

The California Air Pollution Control Officers Association's (CAPCOA's) acknowledges that the BAU scenario is the estimate of emissions that would occur in the absence of measures to reduce emissions. CAPCOA goes on to further state that BAU is the projection of GHG emissions at a future date based on current technologies and regulatory requirements in absence of other reductions.<sup>3</sup> In this case, the base BAU scenario would reflect emissions that would be generated by the Project absent implementation of AB 32 which is effectively a 2005 year emissions profile since AB 32 was adopted in 2006. Additionally, CARB's emissions baseline period in its scoping plan reflects the average emissions from 2002 to 2004.<sup>4</sup> Use of 2005 year emission factors

---

<sup>2</sup> ARB: "Preliminary Draft Regulation for a California Cap-and-Trade Program," Section 95802 (a)(18), Dec., 2009; page 7.

<sup>3</sup> CAPCOA: "Model Policies for Greenhouse Gases in General Plans," Jun., 2009, page 15.

<sup>4</sup> ARB: "Climate Change Scoping Plan: a framework for change," Dec., 2008; page 11.

from a greenhouse gas standpoint is appropriate since the emission factors in 2005 would reflect what would happen in 2020 if the Scoping Plan measures were not implemented.

The Draft EIR substantiates that the Project GHG emissions would be reduced consistent with AB 32 emissions reductions targets when compared with the BAU scenario as defined by CARB, and Project GHG emissions impacts would therefore be less-than-significant.

When compared to a vacant site “baseline” condition, incremental Project GHG emissions would also be considered less-than-significant. As disclosed in the Draft EIR, the Project would generate an estimated 8,625.51 metric tons CO<sub>2</sub>e emissions (Draft EIR Table 4.3-17).

An individual development proposal, such as the proposed Wildomar Walmart Project cannot generate enough GHG emissions to influence global climate change. The Project would however participate in potential cumulative GHG emissions impacts by its incremental contribution combined with the cumulative increase of all other sources of GHGs, which when taken together may have a potentially significant impact on global climate change.

Wildomar is a member agency of WRCOG, which is coordinating a subregional CAP process on behalf of its member agencies. The WRCOG Subregional CAP (2014) establishes a communitywide emissions reduction target of 15 percent below 2010, following guidance from CARB and the Governor’s Office of Planning and Research. CARB and the California Attorney General have determined this approach to be consistent with the statewide AB 32 goal of reducing emissions to 1990 levels by the year 2020 (Wildomar General Plan Update Draft EIR, page 3.4-21). As substantiated in the Draft EIR, the proposed Wildomar Walmart Project would be in concert with and would support AB 32 and international efforts to address global climate change that would substantially lessen cumulative GHG emissions impacts. The proposed Wildomar Walmart Project would therefore fulfill its mitigation requirements as

---

defined at *CEQA Guidelines* Sections 15130(a)(3) and 15183.5, and the Project's incremental contribution to GHG emissions impacts would therefore not be cumulatively considerable.

Comment BLC-23

The EIR's conclusion that State measures, Project design, and Air Quality Mitigation Measures will reduce GHGs in accordance with AB 32 is not supported by substantial evidence. Instead, the EIR provides two conclusory tables (Tables 4.3-17 & 4.3-18) with no supporting data or analysis demonstrating the measures will actually reduce GHGs. Furthermore, the conclusion is premised on, among other things, Mitigation Measure 4.3.4, which itself is uncertain; it states "that the items listed below are not all required and merely present examples." Altogether, the EIR's conclusions as to GHGs are not supported by any, let alone substantial, evidence.

Response BLC-23

Annual GHG emissions that would be generated under the Project BAU Scenario and that would result pursuant to GHG emissions reductions achieved through the Project design and operational programs in combination with state policies and requirements (Project Scenario) are summarized at Draft EIR Table 4.3-17. GHG emissions reductions by source and GHG reduction measures are presented at Draft EIR Table 4.3-18. Clarification of emissions reductions calculations is presented below;

- The calculation to obtain GHG emissions reductions resulting from State Measures is: Project BAU CalEEMod emissions (unmitigated) – Project 2020 CalEEMod emissions (unmitigated). For example, Project BAU Mobile Source GHG emissions are estimated at 11,527.67 MTCO<sub>2</sub>e (Project GHG Analysis, Appendix 3.1: CalEEMod Emissions Model Outputs, *Wildomar WM [BAU Operations Only]*, page 4 of 19). Project 2020 unmitigated Mobile Source GHG emissions are estimated at 8,234.4074 MTCO<sub>2</sub>e (Project GHG Analysis, Appendix 3.1: CalEEMod Emissions Model Outputs, *Wildomar WM [2020 Operations Only]*, page 5 of 20). The substantive measures accounting for this reduction (3293.26 MTCO<sub>2</sub>e) are full implementation of the *Pavley Fuel Efficiency Standards (AB 1493)*, and *Title 17 California Code of Regulations (Low Carbon Fuel Standard)*.

- The calculation to obtain GHG emissions reductions from Project Design Features and Draft EIR AQ Mitigation Measures is: Project BAU CalEEMod emissions (unmitigated) – GHG emissions reductions from State Measures – Project 2020 CalEEMod emissions (mitigated). Continuing from the example above, Project BAU Mobile Source GHG emissions are estimated at 11,527.67 MTCO<sub>2e</sub> – 3,293.26 MTCO<sub>2e</sub> (GHG Emissions reduction from State Measures) – 7,381.25 (Project 2020 CalEEMod emissions-mitigated; Project GHG Analysis, Appendix 3.1: CalEEMod Emissions Model Outputs, *Wildomar WM [2020 Operations Only]*, page 6 of 20) = 853.16 MTCO<sub>2e</sub>. The substantive measures accounting for this reduction (853.16 MTCO<sub>2e</sub>) are reflected in the CalEEMod mitigation screen inputs “Increase Diversity” and “Implement a Pedestrian Network.”

Mitigation Measure 4.4.3 identifies and is predicated on a performance standard . . . “a minimum 5% efficiency beyond then incumbent California Building Code Title 24 requirements” to which the Project must comply (CEQA Guidelines 15126.4, subd. (a) (1) (B) “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”). Mitigation Measure 4.3.4 provides a menu of potential means to achieve this performance standard. The specific array and combination of energy efficiency/energy conserving features and programs ultimately implemented by the Project may vary depending on the final design and configuration of the Project, and current best available technologies. Irrespective, the performance standard identified at Mitigation Measure 4.3.4 “a minimum 5% efficiency beyond then incumbent California Building Code Title 24 requirements” would be required to be achieved. Results and conclusions of the Draft EIR are not affected.

#### Comment BLC-24

The EIR's reliance on the business-as-usual approach to GHG analysis is inadequate because that approach only looks at GHG reductions through 2020 (see draft EIR, p. 4.3-45). The EIR itself assumes that the Project will have a 30-year project life (see draft EIR, p. 4.3-81), but then the EIR fails to look at GHG-emission significance thresholds or targets beyond 2020. Meanwhile, the California Air Resources Board has determined

that a 13% reduction in the jurisdiction of the Southern California Association of Governments (where the City is located) compared to 2005 GHG emission levels is necessary in order to achieve the goals of Assembly Bill 32. Unfortunately, the EIR fails to look at the Project's effect on achievement of that reduction or with SCAG's or any other agency's policies/recommendations for achieving that reduction. Likewise, even though the Project is likely to be in operation in 2050 (since the 30-year-life assumption is entirely arbitrary but gets close to 2050), and AB 32 requires an 80% reduction over 1990 GHG-emission levels by 2050, there is no analysis of the Project's contribution to achieving, or impairing, that statutory reduction target. The GHG analysis in the EIR is therefore inadequate. See Ex. GHG I; *Cleveland Nat 'l Forest Found. v. San Diego Ass 'n of Gov'ts*, 231 Cal. App. 4th 1056 (2014).

#### Response BLC-24

Project GHG emissions impacts are accurately and appropriately evaluated against a BAU Scenario, and are determined to be less-than-significant. Based on the California Air Resource Board's (CARB's) definition, the forecast of 2020 GHG emissions in a BAU scenario as presented in the Draft EIR is an estimate of the emissions expected to occur in the year 2020 if none of the foreseeable measures included in the *First Update to the Climate Change Scoping Plan* (CARB) May 2014 (Scoping Plan) were implemented (see Page 92, 6th paragraph of *First Update to the Climate Change Scoping Plan – May 2014*). CARB also defines BAU to mean "the normal course of business or activities for an entity or a project before the imposition of greenhouse gas emissions reduction requirements or incentives."<sup>5</sup>

CARB's Climate Change Scoping Plan ("Scoping Plan"), originally prepared in 2008 and reapproved and updated in August 2011 as part of CARB's mandate to implement AB 32, is one such plan. Consistent with AB 32, the Scoping Plan mandates a reduction in California's GHG emissions to 1990 levels by 2020 and sets forth strategies for GHG reductions to reach this target through a combination of regulations, market mechanisms and other actions. To achieve the reduction goal established in AB 32, the Scoping Plan projected the reasonable expected GHG emissions growth by 2020 absent such reduction

---

<sup>5</sup> ARB: "Preliminary Draft Regulation for a California Cap-and-Trade Program," Section 95802 (a)(18), Dec., 2009; page 7.

strategies (i.e., BAU) and then calculated the GHG emission reductions that are anticipated to occur as a result of the Scoping Plan's strategies. The 2008 Scoping Plan indicates that statewide AB 32 compliance would be achieved provided that there was a minimum 28.5 percent reduction in BAU GHG emissions for the time frame of 1990 to 2020.

As noted at Response BLC-22, the City of Wildomar is a member agency of WRCOG, which is coordinating a subregional CAP process on behalf of its member agencies. The WRCOG Subregional CAP (2014) establishes a communitywide emissions reduction target of 15 percent below 2010, following guidance from CARB and the Governor's Office of Planning and Research. CARB and the California Attorney General have determined this approach to be consistent with the statewide AB 32 goal of reducing emissions to 1990 levels by the year 2020 (Wildomar General Plan Update Draft EIR, page 3.4-21). As substantiated in the Draft EIR, the Project would achieve an estimated 35.13% reduction in GHG emissions when compared to a BAU Scenario (Draft EIR Table 4.3-17), and would therefore comport with applicable AB32 and City of Wildomar GHG emissions reductions targets, and emissions reductions strategies.

The BAU threshold as applied in the Wildomar Walmart Project Draft EIR has been upheld in two recent court cases. See *Citizens for Responsible Equitable Environmental Development v. City of Chula Vista* (2011) 197 Cal.App.4th 327 and *Friends of Oroville v. City of Oroville* (2013) 219 Cal.App.4th 832, 841 ("City properly adopted Assembly Bill 32's reduction targets for GHG emissions as the threshold-of-significance standard in determining whether the Project's GHG emissions constituted a significant environmental impact").

As substantiated in the Draft EIR and reinforced here, the analysis of the Project's GHG emissions impacts is consistent with CEQA intent, guidance, and requirements. The Draft EIR accurately and appropriately concludes that the Project's GHG emissions impacts are less-than-significant. Please refer also to Response BLC-22. Results and conclusions of the Draft EIR are not affected. Note also that as stated at CEQA Guidelines Section 15204(a) (excerpted below) the commentor's request for additional study/analysis does not necessitate such analysis.

CEQA Guidelines Section 15204(a):

*In reviewing draft EIRs, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. **CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters.** [emphasis added] When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.*

The Lead Agency has made an accurate and good faith effort at full disclosure of the Project's potential GHG emissions impacts. The analysis provided comports with all applicable statutory and *CEQA Guidelines* provisions and requirements. No additional analysis is required.

"Ex. GHG I; Cleveland Nat'l Forest Found. v. San Diego Ass'n of Gov'ts, 231 Cal. App. 4th 1056 (2014)" cited by the commentator is not identified in the myriad attachments accompanying the commentator's February 10, 2015 letter.

#### Comment BLC-25

There is no analysis of the Project's cumulative GHG impacts. The decision to forego such an analysis appears to be premised on the proposition that the Project's individual GHG impacts are less than significant. Because that premise is false, the EIR must analyze the Project's cumulative GHG impacts. Even if the premise were not false, the EIR must still conduct a cumulative-impact analysis with regard to GHGs because there

are statewide and regional plans for reducing GHGs, and the Project will contribute to the very emissions that those plans seek to reduce. See CEQA § 15130(b)(1)(B) & (d).

Response BLC-25

An individual development proposal, such as the proposed Wildomar Walmart Project cannot generate enough GHG emissions to influence global climate change. The Project would however participate in potential cumulative GHG emissions impacts by its incremental contribution combined with the cumulative increase of all other sources of GHGs, which when taken together may have a potentially significant impact on global climate change. CEQA guidance in addressing GHG analysis methodologies and direction for Lead Agency determination of GHG impact significance is reflected in the Draft EIR and supporting GHG Impact Analysis technical study (included at Draft EIR Appendix D). Relevant *CEQA Guidelines* provisions are summarized below.

CEQA Guidelines § 15064.4(a) states “A lead agency shall have discretion to determine, in the context of a particular project, whether to: (1) Use a model or methodology to quantify greenhouse gas emissions resulting from a project, and which model or methodology to use . . .; or (2) Rely on a qualitative analysis or performance based standards.”

CEQA emphasizes that the effects of greenhouse gas emissions are cumulative, and should be analyzed in the context of CEQA’s requirements for cumulative impacts analysis. (See: *CEQA Guidelines* Section 15130(f)).

Section 15064.4(b) of the *CEQA Guidelines* provides direction for lead agencies for assessing the significance of impacts of greenhouse gas emissions:

1. The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting;
2. Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project; or

3. The 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. Such regulations or requirements must be adopted by the relevant public agency through a public review process and must include specific requirements that reduce or mitigate the project's incremental contribution of greenhouse gas emissions.

If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding compliance with the adopted regulations or requirements, an EIR must be prepared for the project.

Notwithstanding the commentor's statements otherwise, cumulative GHG Emissions impacts discussed in the Draft EIR, (page 5-24), and are excerpted in pertinent part below:

**[Cumulative] GHG Emissions/Global Climate Change Impacts**

As demonstrated in the Project GHG Analysis (EIR Appendix D) and the information presented in EIR Section 4.3, the Project would not cause or result in a substantial increase in GHG emissions when compared to the Business As Usual (BAU) scenario, and Project GHG emissions would not exceed a threshold of significance that the lead agency determines applies to the Project. Further, the Project GHG analysis demonstrates that 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. In this latter regard, the GHG Analysis demonstrates that Project-source GHG emissions represent an approximate ~~31.78%~~ [35.13] (*author's correction*) reduction in GHG emissions when compared to a BAU scenario. This is consistent with and supports California AB 32 Scoping Plan directives calling for an approximate 28.5% reduction in GHG emissions when compared to the BAU scenario. The Project's potential to contribute considerably (either individually or cumulatively) to a global climate change impact through GHG emissions is therefore considered less-than-significant.

Please refer also to Responses BLC-22 through BLC-24. Results and conclusions of the Draft EIR are not affected.

Comment BLC-26

Insofar as the EIR states that construction noise will be mitigated by requiring properly operating and maintained mufflers, consistent with *manufacturers' standards*, the measure is non-specific and uncertain since the manufacturer of such vehicles is not identified in the EIR. Furthermore, the actual standard is not specified, meaning that the mitigation measures are not certain and enforceable.

Response BLC-26

The mitigation measure merely formalizes a normally implemented best management practice that must be observed (properly operating and maintained mufflers, consistent with manufacturers' standards) irrespective of the equipment type. There is no specific quantified noise reductions assigned to this measure, and the analysis makes no such assumptions. The Draft EIR conservatively identifies construction-source noise as significant:

“Even after the implementation of mitigation, noise levels are still expected to reach high levels when construction equipment operates near the perimeter of the Project site. This is considered a significant and unavoidable impact of the Project. It is noted that construction noise is temporary, intermittent and of short duration, and will not present any long-term impacts” (Draft EIR page 1-56).

Results and conclusions of the Draft EIR are not affected.

Comment BLC-27

The analysis of cumulative traffic-noise impacts is fatally flawed. The issue is whether a project contributes to a significant environmental impact, not whether the project causes a significant environmental impact. The EIR fails to adequately examine whether the Project will contribute noise impacts.

Response BLC-27

The commentor errs in stating that the Draft EIR does not appropriately evaluate cumulative traffic impact noise. As substantiated at Draft EIR Section 5.1.1.4, *Cumulative Impacts Related to Noise, Vehicular-Source Noise* (excerpted in pertinent part below), the Project's vehicular-source noise impacts are not cumulatively considerable.

*Vehicular-Source Noise*

Cumulative effects of vehicular-source noise are demonstrated by comparing noise levels under Existing (2013) conditions, to noise levels with the Project under Long-Range (2035) conditions. Cumulative vehicular-source noise impacts within the Project Noise Impact Analysis Study Area were estimated employing a computer program that replicates the Federal Highway Administration (FHWA) Traffic Noise Prediction Model- FHWA-RD-77-108.<sup>6</sup> Cumulative vehicular-source noise impacts within the Project Noise Impact Analysis Study Area are summarized in Table 5.1-4.

As indicated in Table 5.1-4, the total cumulative noise increase along roadways within the Study Area over the considered 22+ year cumulative time frame would range from 1.0 dBA CNEL to 6.8 dBA CNEL. Within the Study Area, a total of 19 roadway segments (indicated by ***bold italicized text***) are projected to experience cumulatively significant vehicular-source noise impacts. Along these roadway segments, one or more of the following cumulatively significant noise impact scenarios would occur:

- Cumulative noise increases would be 3.0 dBA CNEL or greater; and/or
- Noise levels would transition from below the threshold condition (65 dBA CNEL) to above the threshold condition ( $\geq 65.0$  dBA CNEL).

Along these 19 roadway segments, vehicular-source noise increases from Existing (2013) conditions to Long Range (2035) conditions would be

---

<sup>6</sup> Wildomar Walmart Noise Impact Analysis, City of Wildomar (Urban Crossroads, Inc.) March 4, 2014, page19.

potentially cumulatively significant. In all instances, these potentially significant cumulative vehicular-source noise impacts would occur irrespective of the Project, and the Project's incremental contributions would be less than 1.0 dBA, and would therefore be inaudible. On this basis, the Project's vehicular-source noise impacts are not cumulatively considerable.

**Table 5.1-4  
Cumulative Vehicular-Source Noise**

Roadway	Segment <sup>1</sup>	CNEL at 100 feet (dBA)					Cumulative Increase in CNEL (dBA) Existing to 2035	
		Existing (2013)	2016		2035		Total Increase	Project Increment
			Without Project	With Project	Without Project	With Project		
Grand Av.	n/o Corydon St.	62.9	63.4	63.5	64.9	64.9	2.0	---
Grand Av.	s/o Corydon St.	59.9	60.6	60.7	61.1	61.2	1.3	0.1
<i>Mission Tr.</i>	<i>n/o Corydon St.</i>	<b>64.1</b>	<b>65.6</b>	<b>65.7</b>	<b>67.5</b>	<b>67.6</b>	<b>3.5</b>	<b>0.1</b>
<i>Mission Tr.</i>	<i>n/o Bundy Cyn. Rd.</i>	<b>63.1</b>	<b>65.0</b>	<b>65.3</b>	<b>66.3</b>	<b>66.6</b>	<b>3.5</b>	<b>0.3</b>
<i>Mission Tr.</i>	<i>s/o Bundy Cyn. Rd.</i>	<b>60.9</b>	<b>63.3</b>	<b>63.4</b>	<b>65.5</b>	<b>65.6</b>	<b>4.7</b>	<b>0.1</b>
<i>Palomar St.</i>	<i>n/o Central St.</i>	<b>62.2</b>	<b>64.0</b>	<b>64.0</b>	<b>67.4</b>	<b>67.5</b>	<b>5.3</b>	<b>0.1</b>
<i>Palomar St.</i>	<i>s/o Central St.</i>	<b>60.9</b>	<b>63.1</b>	<b>63.2</b>	<b>67.0</b>	<b>67.1</b>	<b>6.2</b>	<b>0.1</b>
<i>Monte Vista Dr.</i>	<i>s/o Bundy Cyn. Rd.</i>	<b>52.2</b>	<b>56.7</b>	<b>58.6</b>	<b>62.2</b>	<b>62.8</b>	<b>10.6</b>	<b>0.6</b>
<i>Murrieta Rd.</i>	<i>n/o Bundy Cyn. Rd.</i>	<b>60.6</b>	<b>64.3</b>	<b>64.4</b>	<b>64.6</b>	<b>64.7</b>	<b>4.1</b>	<b>0.1</b>
Corydon St.	e/o Grand Av.	62.0	62.4	62.6	64.3	64.4	2.4	0.1
Corydon St.	w/o Mission Tr.	64.0	64.4	64.7	65.1	65.3	1.3	0.2
<i>Bundy Cyn. Rd.</i>	<i>e/o Mission Tr.</i>	<b>63.2</b>	<b>64.0</b>	<b>64.7</b>	<b>69.6</b>	<b>69.8</b>	<b>6.6</b>	<b>0.2</b>
<i>Bundy Cyn. Rd.</i>	<i>e/o Orchard St.</i>	<b>63.5</b>	<b>66.3</b>	<b>66.8</b>	<b>68.6</b>	<b>68.9</b>	<b>5.4</b>	<b>0.3</b>
<i>Bundy Cyn. Rd.</i>	<i>e/o Almond St.</i>	<b>63.7</b>	<b>66.7</b>	<b>67.2</b>	<b>69.1</b>	<b>69.4</b>	<b>5.7</b>	<b>0.3</b>
<i>Bundy Cyn. Rd.</i>	<i>w/o I-15 Fwy.</i>	<b>66.4</b>	<b>68.4</b>	<b>68.9</b>	<b>70.3</b>	<b>70.6</b>	<b>4.2</b>	<b>0.3</b>
<i>Bundy Cyn. Rd.</i>	<i>e/o I-15 Fwy.</i>	<b>66.7</b>	<b>68.7</b>	<b>69.2</b>	<b>69.3</b>	<b>69.8</b>	<b>3.1</b>	<b>0.5</b>
<i>Bundy Cyn. Rd.</i>	<i>e/o Monte Vista Dr.</i>	<b>66.1</b>	<b>68.0</b>	<b>68.3</b>	<b>68.9</b>	<b>69.1</b>	<b>3.0</b>	<b>0.2</b>
<i>Bundy Cyn. Rd.</i>	<i>w/o The Farm Rd.</i>	<b>65.4</b>	<b>68.5</b>	<b>68.7</b>	<b>68.5</b>	<b>68.7</b>	<b>3.3</b>	<b>0.2</b>
<i>Bundy Cyn. Rd.</i>	<i>e/o The Farm Rd.</i>	<b>65.1</b>	<b>68.3</b>	<b>68.5</b>	<b>68.3</b>	<b>68.5</b>	<b>3.4</b>	<b>0.2</b>
<i>Bundy Cyn. Rd.</i>	<i>w/o Murrieta Rd.</i>	<b>64.5</b>	<b>67.9</b>	<b>68.0</b>	<b>68.3</b>	<b>68.4</b>	<b>3.9</b>	<b>0.3</b>
<i>Bundy Cyn. Rd.</i>	<i>e/o Murrieta Rd.</i>	<b>64.0</b>	<b>67.9</b>	<b>68.0</b>	<b>69.1</b>	<b>69.2</b>	<b>5.2</b>	<b>0.1</b>
Central St.	w/o Palomar St.	59.8	60.4	60.6	60.6	60.8	1.0	0.2
Central St.	e/o Palomar St.	62.6	63.2	63.5	64.2	64.4	1.8	0.2
<i>Baxter Rd.</i>	<i>w/o I-15 Fwy.</i>	<b>63.2</b>	<b>65.0</b>	<b>65.2</b>	<b>67.0</b>	<b>67.2</b>	<b>4.0</b>	<b>0.2</b>
<i>Baxter Rd.</i>	<i>e/o I-15 Fwy.</i>	<b>57.4</b>	<b>60.8</b>	<b>61.6</b>	<b>63.8</b>	<b>64.2</b>	<b>6.8</b>	<b>0.4</b>

Source: Wildomar Walmart Noise Impact Analysis (Urban Crossroads, Inc.) March 4, 2014.

Notes: <sup>1</sup> e/o = east of; w/o = west of; n/o = north of; s/o = south of.

Totals may not agree due to rounding.

Please refer to Draft EIR page 5-26–5-28. Results and conclusions of the Draft EIR are not affected.

Comment BLC-28

There is no substantial evidence supporting the EIR's conclusion that an 8-foot high screened wall will reduce noise levels below City standards.

Response BLC-28

The commentor misrepresents or does not understand the Draft EIR discussions and conclusions regarding operational-source noise levels received at off-site receptors. The Project incorporates an 8-foot high wall that would act to screen intrusive views and attenuate noise. A relevant example of Draft EIR discussions of this 8-foot wall feature incorporated in the Project is excerpted below

**3.4.6 Walls/Screening**

An eight-foot screening wall would be constructed around the bale and pallet storage and truck turn-around area in the southerly portion of the Project site. This screening wall would block potentially intrusive views of outdoor storage areas and trash receptacles. This wall would also act to attenuate noise generated by delivery trucks accessing the Walmart loading docks and noise generated by loading dock activities; and noise generated by other general back-of-store maintenance activities (e.g., trash compacting) (Draft EIR Section 3.0, "Project Description," page 3-23).

Noise modeling conducted for the Project (which includes construction of the 8-foot wall noted above) substantiates that Project operational-source noise received at off-site locations would not exceed applicable City standards. Please refer to Draft EIR page 4.4-39–4.4-41, excerpted in pertinent part below:

**Project-Only Stationary Source Noise Levels**

. . . Table 4.4-8 presents the unmitigated exterior noise levels associated with the Wildomar Walmart at the receiver locations.

**Table 4.4-8**  
**Operational Noise Level Projections at Receiver Locations<sup>1</sup>**

Noise Source	R1	R2	R3	R4	R5	R6	R7
Loading Dock Activities	38.7	- <sup>2</sup>	44.0	45.6	39.9	40.4	36.3
Air Condenser	33.9	41.0	44.5	43.5	35.8	35.1	33.8
Shopping Cart Corral	23.8	25.4	27.5	- <sup>2</sup>	25.3	23.1	23.1
Parking Lot Activity	16.2	19.8	25.1	21.5	17.7	15.8	15.0
Trash Compactor	24.4	- <sup>2</sup>	28.8	31.6	24.5	25.4	22.5
Drive-Thru Speakerphone	14.3	22.9	15.4	- <sup>2</sup>	- <sup>2</sup>	- <sup>2</sup>	16.0
<i>Combined Noise Levels</i>	40.2	41.2	47.4	47.8	41.5	41.7	38.5

**Source:** Wildomar Walmart Noise Impact Analysis, City of Wildomar (Urban Crossroads, Inc.) March 4, 2014.

<sup>1</sup> Noise projections include the noise attenuation provided by the proposed eight foot high screen wall.

<sup>2</sup> Receiver locations are not exposed to the noise source.

Table 4.4-8 indicates that the hourly noise levels are associated with the Wildomar Walmart operations are expected to range from 38.5 dBA Leq at receiver location R7 to 47.8 dBA Leq at receiver location R4.

To describe the cumulative Project operational noise level impacts, the Project only operational noise levels were combined with the existing ambient noise levels measurements. The difference between the combined Project only and ambient noise levels describe the Project noise level contributions. To assess the cumulative Project operational noise level impacts, the Project contributions and combined Project only and ambient noise levels are compared with the cumulative significance criteria for the daytime and nighttime periods. Table 4.4-9 presents daytime off-site operational noise level impact analysis.

**Table 4.4-9**  
**Daytime (7 a.m. to 10 p.m.) Operational Noise Impacts<sup>1</sup>**

Receiver Location	Total Project Operational Noise Level	Measurement Location	Reference Ambient Noise Levels	Combined Project and Ambient	Project Contribution	Cumulative Significant Impact
R1	40.2	L1	53.3	53.5	0.2	No
R2	41.2	L2	72.0	72.0	0.0	No
R3	47.4	L3	66.0	66.1	0.1	No
R4	47.8	L4	60.8	61.0	0.2	No

**Table 4.4-9  
Daytime (7 a.m. to 10 p.m.) Operational Noise Impacts<sup>1</sup>**

Receiver Location	Total Project Operational Noise Level	Measurement Location	Reference Ambient Noise Levels	Combined Project and Ambient	Project Contribution	Cumulative Significant Impact
R5	41.5	L4	60.8	60.9	0.1	No
R6	41.7	L4	60.8	60.9	0.1	No
R7	38.5	L1	53.3	53.4	0.1	No

Source: Wildomar Walmart Noise Impact Analysis, City of Wildomar (Urban Crossroads, Inc.) March 4, 2014.

<sup>1</sup> Noise projections include the noise attenuation provided by the proposed eight foot high screen wall[emphasis added].

As shown above, the unmitigated Project only daytime operational noise levels will range from 38.5 to 47.8 dBA Leq, which will not exceed the City of Wildomar 55 dBA Leq noise criteria within the nearby residential land uses during the daytime hours (7 a.m. to 10 p.m.). As such, the Project will create a less-than-significant direct operational noise level impact.

The cumulative noise analysis shows that the Project will contribute a daytime operational noise level impact of up to 0.2 dBA Leq at the nearby receiver locations. The Project contribution at the individual receiver locations will vary depending on the background noise conditions at each location. The significance criteria presented in Section 4.4.4 recognizes that the significance of cumulative noise impacts varies depending on the condition of the environment and the project related noise level increases. As shown on Table 4.4-9, all receiver locations will experience a less-than-significant cumulative Project noise impact during the daytime hours (7 a.m. to 10 p.m.).

Table 4.4-10 presents nighttime off-site operational noise level impact analysis.

**Table 4.4-10**  
**Nighttime (10 p.m. to 7 a.m.) Operational Noise Impacts<sup>1</sup>**

Receiver Location	Total Project Operational Noise Level	Measurement Location	Reference Ambient Noise Levels	Combined Project and Ambient	Project Contribution	Cumulative Significant Impact
R1	40.2	L1	55.5	55.6	0.1	No
R2	41.2	L2	69.6	69.6	0.0	No
R3	47.4	L3	64.0	64.1	0.1	No
R4	47.8	L4	63.7	63.8	0.1	No
R5	41.5	L4	63.7	63.7	0.0	No
R6	41.7	L4	63.7	63.7	0.0	No
R7	38.5	L1	55.5	55.6	0.1	No

Source: Wildomar Walmart Noise Impact Analysis, City of Wildomar (Urban Crossroads, Inc.) March 4, 2014.

<sup>1</sup> Noise projections include the noise attenuation provided by the proposed eight foot high screen wall [emphasis added].

As shown above, when all activities occur at the same time during the peak hour conditions, the Project operational noise levels will range from 38.5 to 47.8 dBA Leq. The unmitigated exterior operational noise impact analysis indicates that receiver locations R3 and R4 may exceed the City of Wildomar 45 dBA Leq residential criteria during the noise sensitive nighttime hours (10 p.m. to 7 a.m.).

However, it important to consider that the ambient noise levels already exceeds the 45 dBA Leq nighttime standard. With the planned eight-foot high screen wall, the noise levels at the closest receiving residential land uses (R3 and R4) will range from 63.7 to 64.0 dBA Leq, resulting in a less than audible Project noise level contribution of 0.1 dBA Leq. Based on the significance criteria presented in Section 4.4.4, all receiver locations will experience a less-than-significant cumulative Project noise impact during the nighttime hours.

As one of several factors affecting noise levels received at off-site locations, noise modeling conducted for the Project accurately and appropriately reflects attenuation achieved by the 8-foot screenwall that would be constructed as part of the Project. As substantiated within the Draft EIR, and restated above, Project operational-source noise received at off-site locations would not exceed applicable City standards, and would be less-than-significant. Results and conclusions of the Draft EIR are not affected.

Comment BLC-29

There is no substantial evidence supporting the EIR's conclusion that the Project incorporates adequate drainage and storm water management systems. For example, the conclusion is premised on a Project storm water management system that is yet-to-be developed and a "proposed drainage system" that will be approved somewhere down the line. As stated in the EIR, "if determined necessary by the City, the Project would also construct those storm water management system improvements necessary to collect and convey off-site discharges currently entering the Project site from the east." This determination should have already been made and disclosed to the public.

Response BLC-29

As noted within Draft EIR Section 4.6, "Hydrology and Water Quality," storm water runoff from the majority of the Project site currently sheet flows across the site generally southwesterly, and then enters the existing 24-inch and 30-inch storm drains located beneath Interstate 15.

Under post-development conditions, the Project storm water management system would convey and discharge storm water runoff in a manner comparable to pre-development discharge patterns. In summary, the Project has been designed to continue the drainage improvements that would be constructed as part of the easterly adjacent tract maps (TTMs 31409 and 32024). The Project storm water management system will ensure that post-development storm water discharge rates do not exceed pre-development conditions.

Contrary to the commentor's assertion that "there is no substantial evidence supporting the EIR's conclusion that the Project incorporates adequate drainage and storm water management systems," the Draft EIR also provides for an interim solution to handle flows in the event the Wildomar Walmart Project precedes the construction of the TTM 31409 and 32024 drainage improvements. Draft EIR page 4.6-20 notes, "...redirection of stormwater discharges pursuant to Conditions of Approval for TTMs 31409 and 32024 would preclude westerly-directed stormwater discharges from these properties entering the Project site, as is currently the case. Should the drainage improvements required pursuant to the Conditions of Approval for TTMs 31409 and 32024 not be

timely completed, an Interim Off-site Drainage Concept ... would be implemented by the Project. The proposed Interim Off-site Drainage Concept would be designed to accept, redirect, and convey off-site stormwater discharges currently entering the Project site from the east.”

Further, the interim plan is required by Draft EIR Mitigation Measure 4.6.3, as follows:

*4.6.3 If determined necessary by the City, the Interim Off-site Drainage Concept described at Section 4.6.4.3, and discussed in detail within Limited Off-Site Storm Drain Analysis for #3882-02 Wildomar, CA Walmart Planning Application No. 13-0086 I-15 & Bundy Canyon Road Wildomar, CA (Nasland Engineering) July 8, 2014 (Off-Site Storm Drain Analysis, included at Draft EIR Appendix F), shall be implemented by the Project Applicant. Final design of the Interim Off-site Drainage Concept is subject to review and approval by the City Engineer.*

Based on the detailed, site-specific hydrologic modeling presented in Draft EIR Appendix F, the Project’s proposed drainage facilities entail those improvements necessary to adequately collect and convey on- and off-site storm waters, even if the Project is developed prior to the properties located to the east. Findings and conclusions of the Draft EIR are not affected; no revisions are necessary.

Comment BLC-30

Even if future water supplies are available for the project, the EIR fails to provide enough information about the environmental consequences of supplying that water. The informational purposes of an EIR are not satisfied unless decision-makers are provided with enough information to evaluate the pros and cons of supplying the amount of water that the project will need. The critical issue to be considered is not simply whether an adequate supply is available, but whether there is an adequate discussion of the foreseeable impacts of the project. While the EIR includes a discussion about water supply, it does not provide information about the impacts of supplying water such as the effect that the project's water use will have on water infrastructure or the availability of water for other purposes.

Response BLC-30

Information regarding the Project's potential water supply impacts, including potential impacts to water infrastructure is adequately and appropriately evaluated and disclosed in the Draft EIR; and is determined to be less-than-significant. Project water demands and water supply availability, and serving infrastructure are discussed at Draft EIR page 4.5-13, 4.5-15. The Project's water demands, potential water supply impacts, and water supply infrastructure in the context of existing and anticipated other water users is discussed at Draft EIR Section 5.1.1.5 *Cumulative Impacts Related to Public Services and Utilities*, and is excerpted in pertinent part below:

**Water Service and Supplies**

*Overview*

The cumulative impact area for water supply and water service considerations is the Elsinore Valley Municipal Water District (EVMWD) Service Area (Service Area) and encompassing Metropolitan Water District Water of Southern California (MWD) jurisdiction. Water supply issues germane to the Project, including cumulative water supply impacts are comprehensively addressed within:

- *Elsinore Valley Municipal Water District 2011 Urban Water Management Plan (UWMP)*,  
[http://www.evmwd.com/depts/engineering/reports\\_plans\\_and\\_studies.asp](http://www.evmwd.com/depts/engineering/reports_plans_and_studies.asp); and
- *Metropolitan Water District 2010 Regional Urban Water Management Plan (RUWMP)* –  
[http://www.mwdh2o.com/mwdh2o/pages/yourwater/RUWMP/RUWMP\\_2010.pdf](http://www.mwdh2o.com/mwdh2o/pages/yourwater/RUWMP/RUWMP_2010.pdf)

***Water Service***

The Project would connect to one or more of the water service lines located in road rights-of-ways adjacent to the Project site. Existing water service lines and their locations include:

- Ten-inch PVC water line, located 18 feet north of the Bundy Canyon Road centerline;
- Twelve-inch PVC water line, located seven feet west of the Monte Vista Drive centerline; and
- Six-inch PVC water line, located 15 feet north of the Canyon Drive centerline.

The Project would connect to the above-referenced locally available and proximate service lines, and does not propose or require construction or alteration of water service systems that would cumulatively impact other facilities in the Service Area or delivery of water to the Service Area in total. An internal system of recycled water lines (purple pipe) would be constructed as part of the Project, and the Project would connect to the EVMWD recycled water distribution system when available to the site. Recycled water would be used for non-potable purposes such as landscape irrigation and site maintenance. By avoiding or decreasing use of potable for non-potable purposes, the Project recycled water system would thereby reduce potable water demands.

### ***Water Supply Availability***

#### **Water Supplies**

The Elsinore Valley Municipal Water District (District) is the principal water purveyor to the City and would be the water purveyor for the Project. The District must, by law, coordinate its water supply planning with multiple agencies as it relies on a combination of local and non-local water supply sources.

EVMWD obtains its potable water supplies from imported water from MWD, local surface water from Canyon Lake, and local groundwater resources. In this latter regard, EVMWD has access to groundwater from Elsinore Basin, Coldwater Basin, San Bernardino Bunker Hill Basin, Rialto-Colton and Riverside-North Basin. Almost all of the groundwater

production that is used for potable use occurs in the Elsinore Basin. Imported water supply is purchased from the MWD via Eastern Municipal Water District and Western Municipal Water District (UWMP, page 5).

Since EVMWD's Service Area population is expected to increase in the next 25 years, additional water supply sources are necessary to meet future growth. Availability of future supplies would be enhanced by the construction of a pump station that would increase the Temescal Valley Pipeline (TVP) capacity, as well as implementation of the Back Basin Groundwater Storage Project as part of the Elsinore Basin Groundwater Management Plan (GWMP). EVMWD also plans to complete three near-term groundwater projects: Terra Cotta well; Cereal 1 and Corydon well blending pipeline; and Palomar well replacement. Anticipated additional supplies available from the above-noted planned water projects would range from approximately 12,900 acre-feet per year under normal conditions (assumes groundwater production and recharge are equal); up to 21,500 acre-feet per year under a single-dry-year scenario reflecting maximum groundwater production from the planned projects (UWMP, pages 5-6).

### **Water Demands**

Potable water demands of the Service Area are calculated based on population projections and the EVMWD water use target of 240 gallons per capita per day. EVMWD projects that potable demands within the Service Area will double by 2035. The future average recycled water demand is projected to be approximately 2,430 acre-feet per year in the Wildomar area. The entire recycled water demand would constitute potable to recycled water conversions (UWMP, page 4). The total potable and recycled water demand for the Service Area, inclusive of water demand of the Project, is summarized in Table 5.1-5.

**Table 5.1-5  
EVMWD Service Area Water Demand (acre-feet/year)**

Water Use	2005	2010	2015	2020	2025	2030	2035
Total water deliveries	26,564	25,057	36,791	39,796	43,189	46,363	49,158
Sales to other water agencies	1,020	780	501	542	588	631	669
Additional water uses and losses	0	13,450	14,015	14,906	15,431	15,431	15,431
<b>Total</b>	<b>27,584</b>	<b>39,287</b>	<b>51,306</b>	<b>55,244</b>	<b>59,208</b>	<b>62,426</b>	<b>65,258</b>

Source: *Elsinore Valley Municipal Water District 2011 Urban Water Management Plan*, page 5, Table ES-2.

The calculated likely maximum water demand of the Project (please refer to Table 5.1-6), is estimated at 5,195 gallons per day (gpd), or approximately six acre-feet per year (AFY). The Project water demand estimates are conservative and do not take into account mandated water conservation that would be imposed by California SB7X-7.<sup>7</sup> In this regard, consistent with SB7X-7 mandates, the Project water demands would be reduced by 10 percent in the near term (2015), and by 20 percent by the year 2020.

**Table 5.1-6  
Projected Water Demand**

Rate	Calculation	Average Daily Demand	Average Annual Demand
25 gallons/1,000 sq. ft.	(207,800 sq. ft.) x (0.025 gallons/sq. ft./day)	5,195 gallons	1.9 million gallons (6 acre-feet)

Source: Water demand calculation: Nasland Engineering based on similar commercial projects.

In context, the Project’s water demand (6 AFY) is approximately 0.012 percent (0.00012) of the District’s total 2015 water demands, estimated at 51,306 acre-feet; and approximately 0.0092 percent (0.000092) of the District’s projected year 2035 water demands, estimated to total 65,258 acre feet. Water demands of the Project would be met by available District water supply resources, delivered by the Municipal water system. The Project does not require or propose direct withdrawal of groundwater.

<sup>7</sup> Please refer also to: <http://www.water.ca.gov/wateruseefficiency/sb7/>

**Water Supply/Demand Comparison**

The UWMP provides a comparison of projected water supplies and water demands within the Service Area under varying hydrologic scenarios (normal year, single dry-year, multiple dry-year) as required under the California Urban Water Management Plan Act (Division 6 Part 2.6 of the Water Code §§ 10610 - 10656). In summary, the UWMP concludes that water supplies available to the Service Area would be adequate under all anticipated hydrologic conditions. Supply/demand comparisons under normal year, single dry-year, and multiple dry-year hydrologic conditions for the timeframe 2015–2035 are summarized in Table 5.1-7.

**Table 5.1-7  
EVMWD Service Area Water Supply/Demand Comparison**

<b>Normal Year</b>					
	<b>2015</b>	<b>2020</b>	<b>2025</b>	<b>2030</b>	<b>2035</b>
Supply totals	69,165	70,056	70,581	70,581	70,581
Demand totals	51,306	55,244	59,208	62,426	65,258
Difference	17,858	14,812	11,373	8,155	5,323
Difference as % of Supply	25.8%	21.1%	16.1%	11.6%	7.5%
Difference as % of Demand	34.8%	26.8%	19.2%	13.1%	8.2%
<b>Single Dry-Year</b>					
	<b>2015</b>	<b>2020</b>	<b>2025</b>	<b>2030</b>	<b>2035</b>
Supply totals	77,765	78,656	79,181	79,181	79,181
Demand totals	56,027	60,326	64,655	68,169	71,262
Difference	21,738	18,329	14,526	11,012	7,919
Difference as % of Supply	28.0%	23.3%	18.3%	13.9%	10.0%
Difference as % of Demand	38.8%	30.4%	22.5%	16.2%	11.1%
<b>Multiple Dry-Year</b>					
	<b>2015</b>	<b>2020</b>	<b>2025</b>	<b>2030</b>	<b>2035</b>
Supply totals	76,765	77,656	78,181	78,181	78,181
Demand totals	56,027	60,326	64,655	68,169	71,262
Difference	20,738	17,329	13,526	10,012	6,919
Difference as % of Supply	27.0%	22.3%	17.3%	12.8%	8.9%
Difference as % of Demand	37.0%	28.7%	20.9%	14.7%	9.7%

Source: *Elsinore Valley Municipal Water District 2011 Urban Water Management Plan*, page 10, Tables ES-9, ES-10, ES-11.

As indicated in Table 5.1-7, under all assumed hydrologic conditions, available water supplies would exceed projected water demands during the planning period 2015–2035.

The water supply/demand planning reflected in the UWMP takes into account anticipated development of the City of Wildomar pursuant to the City's General Plan. In this regard, the UWMP reflects and anticipates cumulative water demands within the EVMWD Service Area, including water demands of the commercial/retail uses proposed by the Project. In turn, the Metropolitan Water District incorporates and reflects EVMWD's cumulative water demand planning as expressed in the RUWMP.

### **Groundwater Considerations**

The Project does not propose elements or aspects that would substantially interfere with, or detract from known or anticipated groundwater recharge plans or policies. In this regard, the Project site is not a designated groundwater recharge area, and development of the site with commercial/retail uses is consistent with development anticipated under the General Plan. Moreover, Project site development and proposed stormwater management systems would employ and reflect appropriate structural and operational best management practices (BMPs) providing for treatment of stormwater discharges; and would incorporate permeable materials to the extent feasible. Use of permeable materials acts to reduce total runoff from the site, and facilitates runoff percolation to groundwater. Additionally, as components of the Project stormwater management system, detention/retention areas would be constructed acting to hold stormwater discharges within the Project site providing time for percolation of storm water runoff and related groundwater recharge.

### **Summary**

As supported by the preceding discussion, potential cumulative impacts attributable to Project water demands are adequately planned and provided for under local and regional water management plans. The

Project in combination with current and anticipated future uses can be adequately served by existing and proposed water sources and water delivery services, with neither Project-related, nor cumulatively adverse impacts on the availability or reliability of water supplies or their delivery. The Project's potential contribution to cumulative impacts in regard to water supplies and water delivery are, on this basis, not considerable, and the cumulative effects of the Project are determined to be less-than-significant (Draft EIR page 5-3—5-35).

As presented above, the Draft EIR substantiates that the Project's potential to result to adversely affect water infrastructure or the availability of water for other purposes is less-than-significant. In addition to the above, the Project Applicant is also required to obtain a will-serve letter from the serving water purveyor (EVMWD), indicating purveyor capacity and commitment to provide water to the Project. This documentation will be provided to the City prior to the issuance of building permits. Results and conclusions of the Draft EIR are not affected.

Comment BLC-31

The amount of water used on landscaping is not disclosed in the EIR.

Response BLC-31

Landscaping Estimated Annual Water Use is 9,390 cubic feet/year (*Water Use Calculations*, Wildomar Walmart Landscape Concept Plan, Sheet L-9. The Project would use recycled water (when available) for non-potable purposes, e.g., landscape irrigation. "The Project will install recycled water distribution system for landscaping and connect to the EVMWD recycled water system when available to the Project site, reducing potable water demand with recycled, non-potable water" (Draft EIR Section 3.0, Project Description, page 3-17–3-18). Results and conclusions of the Draft EIR are not affected.

Comment BLC-32

There is no substantial evidence supporting the conclusion that the Project will have less than significant hydrology/water quality impacts. By way of example, the conclusion is premised on mitigation measures in the form of a storm water prevention pollution plan, water quality management plan, and an off-site drainage concept, to be

approved at a later date. The EIR alleges these plans will include certain BMPs but qualifies the statement by stating that the listed BMPs are only examples. In this respect, the mitigation measures are uncertain and improperly deferred.

Response BLC-32

The commentor is referred to Draft EIR Section 4.6, "Hydrology and Water Quality," which provides 31 pages of analysis summarizing a number of Project-specific technical reports that were prepared to address water quality, onsite drainage issues, and stormwater clarification processes to be employed on the Project site.

The technical reports that were relied upon to prepare this Section include: *On-Site Hydrology for Proposed Wal-Mart #3882-02, I-15 and Bundy Canyon Road, Wildomar, CA* (Nasland Engineering) May 9, 2014 (Project Drainage Study); *Limited Off-Site Storm Drain Analysis for #3882-02 Wildomar, CA Walmart Planning Application No. 13-0086 I-15 & Bundy Canyon Road Wildomar, CA* (Nasland Engineering) July 8, 2014 (Off-Site Storm Drain Analysis); and *Project Specific Water Quality Management Plan for Wildomar Gateway* (Nasland Engineering) May 9, 2014 (Project WQMP). These reports are included as Draft EIR Appendix F. Additional source and background information was obtained from the Wildomar Walmart Site Plan Concept, October 2013; the City of Wildomar General Plan; the City's Jurisdictional Runoff Management Program (JRMP); the San Diego Regional Water Quality Control Board (SDRWQCB); and the California State Water Resources Control Board (SWRCB).

The proposed onsite drainage concept is described within subsection 4.6.4.2 "Project Drainage Concept" and describes in detail how onsite drainage will be retained and clarified. In summary, all buildings within the Project site will utilize roof drains (with filter inserts) that will connect to an underground storm drain system. Surface run-off developed within the Project site would be collected within porous landscape detention areas, an infiltration basin, and a sand filter basin. Draft EIR Figure 4.6-3 illustrates the drainage concept.

With respect to commentor's assertion regarding uncertainty and deferral of mitigation, all development projects in Wildomar are required, prior to the issuance of grading, to

apply for and obtain coverage under the SWRCB General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit Order 2009-0009-DWQ). As required by the General Permit, the Project Applicant shall submit a Stormwater Pollution Prevention Plan (SWPPP) to the City of Wildomar, Riverside County Flood Control and Water Conservation District, and San Diego Regional Water Quality Control Board for review and approval. The SWPPP is required to identify pre- and post-construction Best Management Practices (BMPs) intended to prevent the release of sediment and pollutants into downstream waterways and comply with all other requirements of the General Permit.

Similarly, the Project is required to submit a final Water Quality Management Plan (WQMP) to the City of Wildomar, Riverside County Flood Control and Water Conservation District, and San Diego Regional Water Quality Control Board for review and approval, as required by SDRWQCB Order No. 2010-0016. The WQMP shall identify Best Management Practices (BMPs) addressing all post-construction pollutant discharges and comply with all other requirements of Order No. 2010-0016.

Again, the approval of these permits is a statutory requirement. Their inclusion within the Draft EIR as Mitigation Measures 4.6.1 and 4.6.2 was done for administrative tracking purposes. Inclusion of the measure allows these requirements to be included within the Final Mitigation Monitoring Plan, as a means for City staff to easily monitor compliance throughout the construction process. Since the standards and BMP's change frequently, this required process is normally completed just prior to the issuance of the grading permit as a means of assuring that most current practices are implemented. Analysis and conclusions contained in the Draft EIR represent substantial evidence; no revisions are necessary.

#### Comment BLC-33

The determination that the project has less-than-significant biological impacts after mitigation is not supported by substantial evidence. For example, while the EIR recognizes that the Project site lies within the Kangaroo Rat Habitat Conservation Plan, no analysis or mitigation is done with respect to this potential impact. The EIR also recognizes that the Project site has suitable habitat for burrowing owls but relies solely

on compliance with the Multiple Species Conservation Plan to mitigate any potential impact to burrowing owls. Relying on compliance with regulatory requirements to satisfy mitigation requirements or to avoid having to disclose and analyze potentially significant impacts in an environmental impact report is not allowed under CEQA.

Response BLC-33

As determined by the Project-specific Biological Resources Study (provided as Draft EIR Appendix G), and summarized within Draft EIR Section 4.7, "Biological Resources" neither the Stephens Kangaroo Rat nor the Burrowing Owl inhabit the site. While the site was determined to be suitable habitat for the Burrowing Owl, no owls, their sign, or occupied burrows were identified within the Project site. Irrespective of this finding, Draft EIR Mitigation Measure 4.7.3 requires a pre-construction survey to be conducted to ensure that no owls are present within the Project site, and if they are, that the owls be relocated consistent with MSHCP protocol. Additionally, Draft EIR Mitigation Measure 4.7.2 requires a biological monitor to be present during all site clearing activities to ensure no significant impacts to protected species occurs.

Analysis and conclusions contained within the Draft EIR are not affected; no revisions are necessary.

Comment BLC-34

The EIR does not analyze a reasonable range of alternatives. By way of example and without limitation, the EIR does not consider a smaller scale store. However, Walmart has frequently proposed smaller supercenters. See Ex. A11-6 (documents showing Walmart pursuing smaller stores).

Response BLC-34

Rather than a numerical goal for the presentation of alternatives, CEQA Guidelines Section 15126.6 provides specific guidance related to the selection of alternatives within a Draft EIR. Specifically, an EIR must describe a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly attain the basic Project objectives, but would avoid or substantially lessen any of the significant environmental effects of the proposal. As further presented in the CEQA Guidelines, an EIR need not

consider every conceivable alternative, but rather, the discussion of alternatives and their relative merits and impacts should be provided in a manner that fosters informed decision-making and public participation. To this end, the CEQA Guidelines indicate that the range of alternatives selected for examination in an EIR should be governed by “rule of reason,” and requires the EIR to set forth only those alternatives necessary to permit an informed decision.

In crafting the alternatives to be evaluated for the Project, the following scenarios were considered:

- **Alternative Site Analysis.** As stated in CEQA Guidelines Section 15126.6 (f)(1)(2)(A), the “key question and first step in [the] analysis [of alternative locations] is whether any of the significant effects of the project would be avoided or substantially lessened by putting the Project in another location.” To this end, three possible alternative sites for the Project were preliminarily identified. The locations of these sites are presented in Draft EIR Figure 5.2-1, “Overview of Alternative Sites.”

In summary of Draft EIR Section 5.2.3.1, evaluation of the considered sites indicated that they would be unsuitable or infeasible based on basic screening criteria deficiencies including, but not limited to: a) existing impediments or encumbrances; b) no demonstrable reduction in environmental impacts when compared to the current Project site; or c) potential increased environmental impacts when compared to the current Project site. On this basis, potential alternative locations for the Project were considered, but ultimately rejected.

- **“NO<sub>x</sub> Threshold Exceedance” Alternative for Air Quality.** In order to reduce Project operational-source NO<sub>x</sub> emissions to levels that would avoid the exceedance of applicable SCAQMD thresholds the Project scope and related vehicle trips would need to be reduced by an estimated minimum 44.2 percent.

In summary, the Draft EIR concludes that, at such a reduction in scope, the Project Objectives would be substantively marginalized and/or not realized in

any meaningful sense; and the Project would likely not be further pursued by the Applicant. Neither would the Project, at an approximate 44.2 percent reduction, conform to FAR policies for the subject site established under the City General Plan. As such, potential alternatives with the specific goal of avoiding significant operational-source NO<sub>x</sub> exceedances otherwise resulting from the Project were rejected from consideration and not further evaluated.

- **No Project Alternative.** Related to the commentor's statement, "the no-project alternative is not a no-development/ no-build alternative, but rather assumes the development of the site with high density multi-family residential. Arguably this does not meet the requirements for description and analysis of a "no project" alternative," the Draft EIR (page 5-54) provides the following rationale:

"Given the subject site's "Commercial Retail/Community Center Overlay" designation and underlying "Commercial Retail" General Plan Land Use designation; availability of infrastructure/services, lack of environmental or physical constraints; and proximity of other urban development, it is considered unlikely that the subject site would remain vacant or in a "No Build" condition, and evaluation of a No Build condition would "analyze a set of artificial assumptions that would be required to preserve the existing physical environment." This is inconsistent with direction provided at CEQA Guidelines, Section 15126.6 (e)(3)(B)...

It is also noted that a development similar to the Project was previously proposed for the subject site. In this context, failure to proceed with the Project would likely not result in preservation of existing environmental conditions, and the practical result of the Project's non-approval would be the development of some other variety or configuration of urban uses within the subject site. Accordingly, it is presumed that if the Project were not constructed, the No Project Alternative would comprise another development proposal representing the highest and best use of the subject site.

If however, a No Project/No Build scenario were maintained, its comparative environmental impacts would replicate the existing conditions discussions for each of the environmental topics evaluated in this EIR; and comparative impacts of the Project would be as presented under each of the EIR environmental topics. In all instances, a hypothetical No Build scenario would result in reduced environmental impacts when compared to the Project. A No Build condition would achieve none of the basic Project Objectives.

In light of the preceding discussions, for the purposes of this Alternatives Analysis, and to provide for analysis differentiated from the Project, the No Project Alternative considered herein assumes mixed-use development of the subject site integrating multi-family residences with supporting amenities. This development mix is allowed under the site's General Plan Commercial/Retail-Community Center Overlay land use designation. Location of residential uses and related amenities proximate to a major transportation corridor (Interstate 15) also supports Southern California Association of Governments (SCAG) 2012-2035 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) promoting reduced commute distances and travel times within the region."

As presented in the previous excerpt, instead of merely reiterating existing site conditions (which does not appear to provide decision-makers with any benefit), the No Project Alternative evaluates a scenario in which a different type of project, allowed under the site's current land use designations, was developed instead of the proposed Walmart Project.

- **Reduced Intensity Alternative.** The Reduced Intensity Alternative considered within the Draft EIR focuses on alternatives to the Project which would reduce or avoid certain significant air quality impacts. As discussed within Draft EIR Section 4.3, "Air Quality," operational-source air pollutants generated by the Project (due primarily to Project traffic and related mobile-source emissions)

would exceed SCAQMD regional thresholds for VOC and NO<sub>x</sub>. The Project's threshold exceedances of these pollutants constitute violations of existing SCAQMD air quality standards.

As indicated on Draft EIR page 5-60, to achieve the least restrictive SCAQMD operational threshold (VOC), operational-source VOC emissions under the Reduced Intensity Alternative would need to be approximately 93.3 percent of VOC emissions otherwise generated by the Project (a 6.7 percent net reduction in Project operational-source VOC emissions). Similarly, NO<sub>x</sub> thresholds could be achieved under the Reduced Intensity Alternative provided that operational-source NO<sub>x</sub> emissions did not exceed 55.8 percent of NO<sub>x</sub> emissions otherwise generated by the Project (an approximate 44.2 percent reduction in Project operational-source emissions).

Of the total operational VOC and NO<sub>x</sub> emissions generated by the Project, approximately 91.5 percent (by weight) are due to Project-related traffic. In general terms then, the Project's operational-source VOC emissions could be reduced by 6.7 percent through an approximate correlating reduction in total ADT thereby achieving applicable SCAQMD VOC thresholds. Similarly, the Project's operational-source NO<sub>x</sub> emissions could be reduced by 44.2 percent through an approximate correlating reduction in total ADT, thereby achieving applicable SCAQMD NO<sub>x</sub> thresholds.

As presented in Draft EIR Table 5.2-1, the Project's greatest per square foot trip generator would be the proposed Fast-Food with Drive-Through Restaurant use (3,900 square feet; 496.12 trips per day/TSF; 1,935 total ADT). This single use would generate approximately ten times as many trips per day/TSF than would the other Project uses and would account for approximately 15.8 percent of the Project's total 12,258 ADT. The proposed Walmart (200,000 square feet; 50.75 trips per day/TSF; 10,150 total ADT) would account for approximately 82.8 percent of the Project's total ADT. The proposed Specialty Retail Use (3,900 square feet; 44.42 trips per day/TSF) would generate approximately 173 ADT, or approximately 1.4 percent of the Project total ADT.

Based on the preceding paragraph, the Draft EIR evaluates the Reduced Intensity Alternative based on modifications to the proposed outparcel uses.

As detailed above, the Draft EIR describes a range of reasonable alternatives to the Project, or to the location of the Project, which would feasibly attain the basic Project objectives, but would avoid or substantially lessen any of the significant environmental effects of the proposal. The discussion of alternatives and their relative merits and impacts are provided in a manner that fosters informed decision-making. Findings and conclusions of the Draft EIR are not affected; no revisions are necessary.

Comment BLC-35

The conclusions regarding the alternatives are not supported by substantial evidence.

Response BLC-35

The commentor provides an opinion regarding the conclusions presented within the alternative analysis of the Draft EIR, but fails to provide any specifics. This opinion will be forwarded to the decision-makers for consideration during their deliberations on the Project.

Comment BLC-36

The City did not respond to comments as required by CEQA Guidelines Section 15088(b).

Response BLC-36

CEQA Guidelines Section 15088(b) requires the lead agency to provide a written response to a public agency on comments made by the public agency at least 10 days prior to certifying an EIR. The City of Wildomar provided the written responses to comments to all public agencies via the Final EIR on January 7, 2015, more than 10 days before the January 21, 2015 Planning Commission hearing.

Comment BLC-37

To the extent that you have attempted to make all findings required under Public Resources Code Section 21081 (a) and (b), such findings have not been supported by substantial evidence in the record.

Response BLC-37

Public Resources Code Section 21081 (a) and (b) require the preparation of findings and a statement of overrides when an EIR identifies one or more significant impacts on the environment that would occur if the project is approved. The City of Wildomar has complied with these sections through the preparation of the Facts, Findings and Statement of Overriding Considerations. The comment that these findings are not supported by substantial evidence is a cursory statement that does not fairly present any specific issue and there was no presentation of information in a manner that gives the City an opportunity to meaningfully respond. The commenter has not provided any evidence to support his assertions that the City failed to comply with the law or make required findings supported by substantial evidence; nor does he provide any evidence contradicting the findings. Accordingly, no further response is necessary.

Comment BLC-38

You have not made the findings under CEQA Guidelines Sections 15090 and 15091. To the extent that you have attempted to do so, such findings have not been supported by substantial evidence in the record.

Response BLC-38

See Response to Comment BLC-37.

Comment BLC-39

Mitigation measures identified in the EIR have not been made certain and enforceable.

Response BLC-39

The commenter expresses an opinion regarding the enforceability of the mitigation measures identified in the EIR, but does not provide any evidence to support his assertion.

Section 4.0 of the Final EIR provides for the adoption of a Mitigation Monitoring Plan (MMP), which identifies measures incorporated in the Project which reduce its potential environmental effects; the entities responsible for implementation and monitoring of mitigation measures; and the appropriate timing for implementation of mitigation measures. (FEIR, pg. 4-1) As Lead Agency, the City of Wildomar is responsible for ensuring full compliance with the mitigation measures adopted for the Project and will monitor and report on all mitigation activities. (FEIR, pg. 4-2) Accordingly, the mitigation measures are certain and enforceable and no further response is necessary.

Comment BLC-40

You have not made all of the necessary findings to support the parcel map. To the extent that you have attempted to do so, such findings have not been supported by substantial evidence in the record.

Response BLC-40

A Parcel Map application is not currently pending nor is it required for this project. Accordingly, this comment is moot.

Comment BLC-41

You have not complied with Government Code Section 66473.5. You have not made the requisite findings, and to the extent that you have made any findings under Section 66473.5 they are not supported by substantial evidence.

Response BLC-41

Government Code Section 66473.5 requires that a jurisdiction make the finding that a parcel map is consistent with the applicable General Plan. As stated above, parcel map approval is not required for this Project and this comment is moot.

Comment BLC-42

You have not complied with Government Code Section 66474. You have not made the requisite findings, and to the extent that you have made any findings under Section 66474 they are not supported by substantial evidence.

Response BLC-42

See Responses to Comments BLC-40 and BLC-41. A parcel map approval is not required for this Project and this comment is moot.

Comment BLC-43

You have not made all of the necessary findings to approve the zone change. To the extent that you have attempted to do so, such findings have not been supported by substantial evidence in the record.

Response BLC-43

The City of Wildomar has made all of the necessary findings to approve the zone change in Section 3 of the draft Ordinance. The comment that these findings are not supported by substantial evidence is a cursory statement that does not fairly present any specific issue and there was no presentation of information in a manner that gives the City an opportunity to meaningfully respond. The commenter has not provided any evidence to support his assertions that the City failed to comply with the law or make required findings supported by substantial evidence; nor does he provide any evidence contradicting the findings. Accordingly, no further response is necessary.

Comment BLC-44

You have not made all of the necessary findings to approve the plot plan. To the extent that you have attempted to do so, such findings have not been supported by substantial evidence in the record.

Response BLC-44

The City of Wildomar has made all of the necessary findings to approve the plot plan in Section 4 of the draft Resolution. The comment that these findings are not supported by substantial evidence is a cursory statement that does not fairly present any specific issue and there was no presentation of information in a manner that gives the City an opportunity to meaningfully respond. The commenter has not provided any evidence to support his assertions that the City failed to comply with the law or make required findings supported by substantial evidence; nor does he provide any evidence contradicting the findings. Accordingly, no further response is necessary.

Comment BLC-45

You have not made of the necessary findings to approve the conditional use permit. To the extent that you have attempted to do so, such findings have not been supported by substantial evidence in the record.

Response BLC-45

The City of Wildomar has made all of the necessary findings to approve the conditional use permit in Section 3 of the draft Resolution. The comment that these findings are not supported by substantial evidence is a cursory statement that does not fairly present any specific issue and there was no presentation of information in a manner that gives the City an opportunity to meaningfully respond. The commenter has not provided any evidence to support his assertions that the City failed to comply with the law or make required findings supported by substantial evidence; nor does he provide any evidence contradicting the findings. Accordingly, no further response is necessary.



# BRIGGS LAW CORPORATION

San Diego Office:  
814 Morena Blvd., Suite 107  
San Diego, CA 92110

Telephone: 619-497-0021  
Facsimile: 619-515-6410

Please respond to: Inland Empire Office

Inland Empire Office:  
99 East "C" Street, Suite 111  
Upland, CA 91786

Telephone: 909-949-7115  
Facsimile: 909-949-7121

BLC File(s): 1366.73

February 10, 2015

Mayor and City Council  
City of Wildomar  
23873 Clinton Keith Road  
Wildomar, CA 92595

RECEIVED

FEB 11 2015

WILDOMAR CITY CLERKS OFFICE

Re: Public Hearing Item No. 2.1 on February 11, 2015 City Council Agenda (Wal-Mart Development Project--Planning Application No. 13-0086 and all related entitlements)

Dear Mayor and City Council:

On behalf of my client, CREED-21, I am writing in opposition to the above-identified Project. The Project should be denied because its approval would violate the California Environmental Quality Act ("CEQA"), the Planning and Zoning Law, the Wildomar Municipal Code, and other laws. These comments supplement any other objections that may be, or have been, offered in opposition to this Project. The specific reasons for denying the Project are set forth in Attachment 1 to this letter and are supported by evidence in the administrative record for the Project and the index and evidence submitted concurrently with this letter on DVD. My client is also relying on any other comments made on the Project that are not inconsistent with my client's specific reasons for denying the Project.

BLC-1

If you do not make a decision on the Project tonight, please provide me with written notice of the next public hearing or other meeting at which you will consider this Project. Additionally, please provide me with written notice of whatever action you do take tonight.

BLC-2

Thank you for your attention to this matter.

Sincerely,

BRIGGS LAW CORPORATION

Anthony N. Kim

Enclosures (index and DVD)

## Attachment 1: Reasons for Denying the Project

Page 1 of 8

### I. Traffic and Transportation

- 1.01 The finding that traffic impacts will be significant triggered the obligation to consider all feasible mitigation measures. The only mitigation measures considered involve the payment of development fees towards infrastructure improvements. No mitigation measures aimed at reducing traffic were considered. There are feasible mitigation measures available that reduce traffic levels. For example, the CAPCOA report (“Quantifying Greenhouse Gas Mitigation Measures”) has an entire chapter dedicated to reducing traffic levels that, although aimed at mitigating greenhouse gas emissions, are equally applicable here. Such measures include increasing access to transit, developing the site in a way that promotes the use of alternative transportation, limiting parking supply, encouraging car-pooling, and taking measures that make alternative transportation more convenient (e.g., providing bike parking and on-site showers). Ex. T1. BLC-3
- 1.02 The mitigation measures identified are uncertain. For example, for improvements funded by fee assessments and constructed pursuant to capital improvement programs, the EIR states that improvements under each of the analysis scenarios--i.e., existing, opening year, general plan buildout, etc.--will tier off the preceding scenario. Then the EIR goes on to state that “implementation of improvements identified herein is, however, subject to prerogatives and priorities of the City and other affected jurisdictions.” In other words, the mitigation measures may or may not be implemented at all. In this respect, mitigation in the form of payment of fees is useless if it does not result in actual mitigation, and such mitigation does not constitute the type of certain, enforceable mitigation that CEQA requires. BLC-4
- 1.03 While the EIR states that the project applicant will have to pay fees toward certain infrastructure improvements, it does not identify which program it will pay fees into for a specific improvement and it does not even identify the specific improvement that will achieve the promised mitigation. The City’s Capital Improvement Program and Development Impact Fee report fail to identify the specific improvements. See, e.g., Exs. T2 & T3. Consequently, there is no way to determine that the required mitigation measures will achieve their goal or that the measures will be satisfied by the proponent. BLC-5
- 1.04 The EIR states that certain infrastructure improvements may or may not coincide with construction and opening of the Project. Since the existing Lake Elsinore store may be operational at the same time as construction of the Project, there is the potential for traffic impacts resulting from the operation of both stores. However, there is no analysis in the EIR of this issue. BLC-6
- 1.05 Insofar as the EIR states that certain infrastructure improvements outside of the City cannot be implemented or assured, such mitigation measures are impermissibly uncertain and thus not in compliance with the requirements of CEQA. All mitigation measures must be certain and enforceable. BLC-7

**Attachment 1: Reasons for Denying the Project**

Page 2 of 8

- 1.06 The EIR states that the project applicant shall prepare a construction area traffic management plan to be reviewed by the City Public Works Department. Such a measure is uncertain and an improper deferral of mitigation. When mitigation is deferred, the EIR and final approval must specify the standards that will be met and/or the criteria that will be applied in evaluating the future specific mitigation measures so that, at the time of approval, the lead agency and public are satisfied that no significant impacts will occur in the future. The EIR and final approval do not accomplish this for the Project. This very issue was decided against the lead agency and the proponent of a Walmart Supercenter like the one contemplated by the Project. *See Ex. T4, p. 5.*
- 1.07 According to the draft EIR (p. 4.2-59, “[i]f an impacted facility requires improvements other than, or in addition to, those already identified within a regional or local fee program, the Project would contribute a ‘fair-share’ percentage toward the costs of the recommended improvements. Fair share fees assessed of the Project in this manner would be collected by the City and deposited to a dedicated Capital Improvement Project account, created for the express purpose of constructing the required improvements.” Elsewhere the draft EIR indicates (*e.g.*, p. 5-7) that fair-share fees will be used to mitigate cumulative traffic impacts. The draft EIR indicates (*see, e.g.*, (p. 4.2-44, -59 & -75) that fair-share fees will be deposited to a dedicated Capital Improvement Project account (or accounts), created for the express purpose of constructing the required improvements. However, there City does not have a Capital Improvement Project account set up for each of the fair-share-funded mitigation measures identified in the EIR. *See generally Ex. T2* (approved CIP including no such account(s)). Consequently, the Project violates CEQA because there are no certain, enforceable fair-share-based mitigation measures that have been adopted by the City.
- 1.08 According to the draft EIR (p. 4.2-59), all but one<sup>1</sup> of the mitigation measures require the payment of fees that will be deposited to a dedicated Capital Improvement Project account (or accounts), created for the express purpose of constructing the required improvements. Other than TUMF fees (themselves limited to regional mitigation measures), however, there are no Capital Improvement Accounts that have been created for the promised mitigation measures and nothing in the EIR or the approval documents to ensure that such accounts will be created. *See generally Ex. T2* (approved CIP including no such account(s)). Consequently, the certain, enforceable mitigation measures required by CEQA are missing.

BLC-8

BLC-9

BLC-10

---

<sup>1</sup> The one that does not require the payment of fees deals with construction traffic. That mitigation measure is also deficient, as explained above.

**Attachment 1: Reasons for Denying the Project**

1.09 The first full paragraph on page 5-7 of the draft EIR indicates that the City and other agencies with jurisdiction over the improvements necessary to mitigate the Project's cumulative traffic impacts will be deciding mitigation measures in the future, "consistent with demonstrated demands and pursuant to priorities established through the jurisdictional capital improvements programs." The City is then recognized as "authoritative in determining when and how City improvements should be programmed and implemented to ensure near-term and long-term adequacy of the City roadway system." However, nothing in the EIR or approval documents enables the City to compel the proponent to take fund whatever improvements and other mitigation measures are determined to be necessary later on, and there is nothing that even hints at what such improvements and other mitigation measures might be. Likewise, there is no certainty that the cumulative-impact fees needed in the future will be collected or whether the improvements will be made or even what improvements will be necessary. Consequently, these mitigation measures fail to satisfy CEQA's requirements for certain, enforceable mitigation measures.

BLC-11

1.10 Approval of the Project would not be consistent with General Plan Policies C 2.1, C 2.2, C 2.4, and C 2.5. The required Levels of Service will not be maintained as a result of the Project. The Traffic Impact Analysis and the Supplemental Traffic Analysis (and thus the EIR because it relies on both of them) does not apply Level of Service standards via a program establishing traffic study guidelines to identify traffic impacts and appropriate mitigation measures; there is no such program that has been approved by the City and used by the traffic engineers. The conditions of approval do not require the construction of any and all improvements identified as necessary to meet Level of Service standards due to the Project's direct traffic impacts; to the contrary, the EIR repeatedly indicates that all but one mitigation measure involves the payment of fees toward improvements that may never be implemented.<sup>2</sup> The payment of fees to mitigate the Project's cumulative and indirect traffic impacts is not permitted because there is no substantial evidence that there are programs that will implement the improvements necessary to mitigate these impacts and no substantial evidence that there is funding sufficient to pay for such improvements (even if they otherwise would be implemented) in time to mitigate these impacts. Accordingly, the Project's approval would be inconsistent with the General Plan and therefore illegal.

BLC-12

**II. Urban Decay**

2.01 The finding that the Project will not result in significant urban decay is not supported by substantial evidence. For one, the EIR admits the Project will facilitate the closing of a Walmart store just a few miles away in Lake Elsinore. In an attempt to

BLC-13

---

<sup>2</sup> The one mitigation measure dealing with construction traffic is defective for other reasons, described above.

**Attachment 1: Reasons for Denying the Project**

downplay the urban-decay impact on the closing store, the EIR states that the soon-to-be vacant building may possibly be re-tenanted in the future. Not only is the assertion speculative and not supported by substantial evidence, but Walmart's own record on re-tenanting old buildings is highly suspect. Exs. UD1-UD6. Furthermore, the EIR's conclusion that "the shopping center would still function as a well-tenanted neighborhood-scale shopping center anchored by the existing Vons store" is baseless because the closing of an anchor store like Walmart negatively affects immediately surrounding businesses--hence the term "anchor" store, and there is no substantial evidence that Vons can assume the role of anchor tenant. Ex. UD 6.

BLC-13  
cont'd

- 2.02 The urban-decay analysis is defective as to grocery sales impacts because it does not consider the strong possibility that at least one of the eight supermarkets in the surrounding area will close. For example, the analysis states that currently the eight grocery stores are making \$509 per square foot, which is more than the median rate nationally (\$473) and in the western United States (\$418). It then concludes that the addition of a Walmart store would not cause the closure of any of the existing grocery supermarkets as it would only decrease revenue for all grocery stores to \$431 per square foot. The problem with the analysis is that it simply calculates the amount of revenue as being proportionate to the square footage of Walmart's grocery component. The truth is that the new Walmart store will decrease revenue much more drastically for other grocery stores because it sells a wide range of goods and consumers who otherwise wouldn't buy their groceries at Walmart if it were a stand-alone grocery store will now do so.

BLC-14

**III. Air Quality**

- 3.01 There are no mitigation measures aimed at the architectural coatings phase of the project. However, mitigation is available. The use of no-VOC paint (or at least low-VOC paint) could be required. See Exs. AQ1-AQ5 (regarding rules for using low-VOC paint in other air quality districts and availability of low- and no-VOC architectural coatings). Any finding that there are no additional feasible mitigation measures for air-quality impacts is unfounded.

BLC-15

- 3.02 There is no evidence that mere adherence to existing SCAQMD regulations, such as wetting demolition and/or construction areas, will mitigate air-quality impacts. Relying on compliance with regulatory requirements to satisfy mitigation requirements or to avoid having to disclose and analyze potentially significant impacts in an environmental impact report is not allowed under CEQA.

BLC-16

- 3.03 Insofar as the EIR states, under Mitigation Measure No. 4.3.4, that certain measures will be taken to reduce energy consumption, such measures are uncertain and are not made enforceable, in violation of CEQA. For example, the EIR states "that the items listed below are not all required and merely present examples." The measures must be identifiable and enforceable.

BLC-17

- 3.04 The EIR wrongfully relies on the South Coast Air Quality Management District's Localized Significance Threshold Methodology ("LST") because the LST only

BLC-18

**Attachment 1: Reasons for Denying the Project**

applies “to projects that are less than or equal to five acres.” Ex. AQ6. This Project exceeds five acres. The LST mass rate look-up table on which the City relies also only applies to projects less than five acres in size. *Id.* In fact, SCAQMD states that it “is recommended that lead agencies perform project-specific air quality modeling for larger projects.” *Id.* Furthermore, the EIR fails to state the source receptor area and distance using the LST methodology, which is crucial in determining sensitive receptors. The EIR’s disclosure, analysis, and mitigation measures for this impact are therefore insufficient under CEQA.

BLC-18  
cont'd

3.05 The EIR’s conclusion that construction-emission impacts will be less than significant is not supported by substantial evidence. The LST methodology only assumes construction emissions occurring between 8 a.m. and 4 p.m. *Id.* Meanwhile, the EIR suggests that Project construction will occur between 6 a.m. to 6 p.m., which is an additional four hours or a 50% increase in emission hours.

BLC-19

3.06 The finding that all feasible mitigation measures for NOx emissions have been implemented is not supported by substantial evidence. Other feasible measures exist. Ex. AQ7.

BLC-20

3.07 The cumulative air-quality analysis is too cursory. Simply saying that VOC and NOx emissions are significant on a project level and thus the cumulative impacts are also significant does not provide the public or decision-makers with the information necessary to make an informed decision or to participate meaningfully in the process. The EIR must disclose all that it reasonably can. Further study is required.

BLC-21

**IV. Greenhouse Gas Emissions**

4.01 There is no clear baseline or significance standard used for analyzing the proposed project’s greenhouse gas emission (“GHG”) impact. The EIR’s conclusions about significance are therefore not supported by any evidence.

BLC-22

4.02 The EIR’s conclusion that State measures, Project design, and Air Quality Mitigation Measures will reduce GHGs in accordance with AB 32 is not supported by substantial evidence. Instead, the EIR provides two conclusory tables (Tables 4.3-17 & 4.3-18) with no supporting data or analysis demonstrating the measures will actually reduce GHGs. Furthermore, the conclusion is premised on, among other things, Mitigation Measure 4.3.4, which itself is uncertain; it states “that the items listed below are not all required and merely present examples.” Altogether, the EIR’s conclusions as to GHGs are not supported by any, let alone substantial, evidence.

BLC-23

4.03 The EIR’s reliance on the business-as-usual approach to GHG analysis is inadequate because that approach only looks at GHG reductions through 2020 (*see* draft EIR, p. 4.3-45). The EIR itself assumes that the Project will have a 30-year project life (*see* draft EIR, p. 4.3-81), but then the EIR fails to look at GHG-emission significance thresholds or targets beyond 2020. Meanwhile, the California Air Resources Board has determined that a 13% reduction in the jurisdiction of the Southern California

BLC-24



**Attachment 1: Reasons for Denying the Project**

Association of Governments (where the City is located) compared to 2005 GHG-emission levels is necessary in order to achieve the goals of Assembly Bill 32. Unfortunately, the EIR fails to look at the Project's effect on achievement of that reduction or with SCAG's or any other agency's policies/recommendations for achieving that reduction. Likewise, even though the Project is likely to be in operation in 2050 (since the 30-year-life assumption is entirely arbitrary but gets close to 2050), and AB 32 requires an 80% reduction over 1990 GHG-emission levels by 2050, there is no analysis of the Project's contribution to achieving, or impairing, that statutory reduction target. The GHG analysis in the EIR is therefore inadequate. *See* Ex. GHG1; *Cleveland Nat'l Forest Found. v. San Diego Ass'n of Gov'ts*, 231 Cal. App. 4th 1056 (2014).

BLC-24  
cont'd

- 4.04 There is no analysis of the Project's cumulative GHG impacts. The decision to forego such an analysis appears to be premised on the proposition that the Project's individual GHG impacts are less than significant. Because that premise is false, the EIR must analyze the Project's cumulative GHG impacts. Even if the premise were not false, the EIR must still conduct a cumulative-impact analysis with regard to GHGs because there are statewide and regional plans for reducing GHGs, and the Project will contribute to the very emissions that those plans seek to reduce. *See* CEQA § 15130(b)(1)(B) & (d).

BLC-25

**V. Noise**

- 5.01 Insofar as the EIR states that construction noise will be mitigated by requiring properly operating and maintained mufflers, consistent with *manufacturers' standards*, the measure is non-specific and uncertain since the manufacturer of such vehicles is not identified in the EIR. Furthermore, the actual standard is not specified, meaning that the mitigation measures are not certain and enforceable.
- 5.02 The analysis of cumulative traffic-noise impacts is fatally flawed. The issue is whether a project contributes to a significant environmental impact, not whether the project causes a significant environmental impact. The EIR fails to adequately examine whether the Project will contribute noise impacts.
- 5.03 There is no substantial evidence supporting the EIR's conclusion that an 8-foot high screened wall will reduce noise levels below City standards.

BLC-26

BLC-27

BLC-28

**VI. Public Services/Utilities**

- 6.01 There is no substantial evidence supporting the EIR's conclusion that the Project incorporates adequate drainage and storm water management systems. For example, the conclusion is premised on a Project storm water management system that is yet-to-be developed and a "proposed drainage system" that will be approved somewhere down the line. As stated in the EIR, "if determined necessary by the City, the Project would also construct those stormwater management system improvements necessary to collect and convey off-site discharges currently entering the Project site from the east." This determination should have already been made and disclosed to the public.

BLC-29

## Attachment 1: Reasons for Denying the Project

Page 7 of 8

6.02 Even if future water supplies are available for the project, the EIR fails to provide enough information about the environmental consequences of supplying that water. The informational purposes of an EIR are not satisfied unless decision-makers are provided with enough information to evaluate the pros and cons of supplying the amount of water that the project will need. The critical issue to be considered is not simply whether an adequate supply is available, but whether there is an adequate discussion of the foreseeable impacts of the project. While the EIR includes a discussion about water supply, it does not provide information about the impacts of supplying water such as the effect that the project's water use will have on water infrastructure or the availability of water for other purposes.

BLC-30

6.03 The amount of water used on landscaping is not disclosed in the EIR.

BLC-31

### VII. Hydrology/Water Quality

7.01 There is no substantial evidence supporting the conclusion that the Project will have less than significant hydrology/water quality impacts. By way of example, the conclusion is premised on mitigation measures in the form of a storm water prevention pollution plan, water quality management plan, and an off-site drainage concept, to be approved at a later date. The EIR alleges these plans will include certain BMPs but qualifies the statement by stating that the listed BMPs are only examples. In this respect, the mitigation measures are uncertain and improperly deferred.

BLC-32

### VIII. Biological Resources

8.01 The determination that the project has less-than-significant biological impacts after mitigation is not supported by substantial evidence. For example, while the EIR recognizes that the Project site lies within the Kangaroo Rat Habitat Conservation Plan, no analysis or mitigation is done with respect to this potential impact. The EIR also recognizes that the Project site has suitable habitat for burrowing owls but relies solely on compliance with the Multiple Species Conservation Plan to mitigate any potential impact to burrowing owls. Relying on compliance with regulatory requirements to satisfy mitigation requirements or to avoid having to disclose and analyze potentially significant impacts in an environmental impact report is not allowed under CEQA.

BLC-33

### IX. Alternatives

9.01 The EIR does not analyze a reasonable range of alternatives. By way of example and without limitation, the EIR does not consider a smaller scale store. However, Walmart has frequently proposed smaller supercenters. See Ex. Alt1-6 (documents showing Walmart pursuing smaller stores).

BLC-34

9.02 The conclusions regarding the alternatives are not supported by substantial evidence.

BLC-35

**Attachment 1: Reasons for Denying the Project**

**X. Response to Comments**

10.01 The City did not respond to comments as required by CEQA Guidelines Section 15088(b). BLC-36

**XI. Sufficiency of the Evidence**

11.01 To the extent that you have attempted to make all findings required under Public Resources Code Section 21081(a) and (b), such findings have not been supported by substantial evidence in the record. BLC-37

11.02 You have not made the findings under CEQA Guidelines Sections 15090 and 15091. To the extent that you have attempted to do so, such findings have not been supported by substantial evidence in the record. BLC-38

11.03 Mitigation measures identified in the EIR have not been made certain and enforceable. BLC-39

11.04 You have not made all of the necessary findings to support the parcel map. To the extent that you have attempted to do so, such findings have not been supported by substantial evidence in the record. BLC-40

11.05 You have not complied with Government Code Section 66473.5. You have not made the requisite findings, and to the extent that you have made any findings under Section 66473.5 they are not supported by substantial evidence. BLC-41

11.06. You have not complied with Government Code Section 66474. You have not made the requisite findings, and to the extent that you have made any findings under Section 66474 they are not supported by substantial evidence. BLC-42

11.07 You have not made all of the necessary findings to approve the zone change. To the extent that you have attempted to do so, such findings have not been supported by substantial evidence in the record. BLC-43

11.08 You have not made all of the necessary findings to approve the plot plan. To the extent that you have attempted to do so, such findings have not been supported by substantial evidence in the record. BLC-44

11.09 You have not made of the necessary findings to approve the conditional use permit. To the extent that you have attempted to do so, such findings have not been supported by substantial evidence in the record. BLC-45