

Notwithstanding the applicability of these water quality standards to Ballona Creek -- and the DEIR's conclusion that to exceed such standards would be an indication of significant impact -- no formal analysis of the water quality standards impact has been provided in the DEIR. Indeed, there is no analysis as to whether the perceived levels of discharge exceed federal or state water quality standards. Instead, only conclusory statements are made to the effect that there is less than significant impact to violations of water quality standards. This violates CEQA.<sup>37</sup>

Without such an analysis in the DEIR, it is impossible for the public to know what water quality standards, if any, are being applied to reach the conclusions drawn. It is also impossible for the public to ascertain to which beneficial uses of Ballona Creek, Ballona Wetlands, and the Ballona Creek estuary, water quality standards have been applied, if any. It is also impossible to ascertain whether any toxicity analysis of the most sensitive species been conducted. Because the DEIR is silent as to what analysis was performed to reach its conclusions that no violations of water quality standards will occur, the DEIR is insufficient. Moreover, and as discussed below, existing information indicates that water quality standards will be violated.

**3. Available Information Indicates Water Quality Standards Could Be Violated.**

Based on information available, it seems clear that the Project could exceed water quality standards set forth in the Clean Water Act; the Ocean Plan; the Basin Plan, the National Toxics Rule, the California Toxics Rule, and federal and state Antidegradation Provisions for the Ballona Creek Watershed.<sup>38</sup> This is because the types and levels of pollutants that are likely to discharge from the Project will likely be above the numeric levels set forth in the Ocean Plan, the Basin Plan, the NTR, and the CTR, as well as above the narrative standards set forth in the Basin Plan. Moreover, as set forth more fully in the next section, the Project would likely violate federal and state Anti-degradation provisions.

The Los Angeles County 1998-99 Stormwater Monitoring Report, sets forth the types and levels of priority pollutants that are typically discharged from a multi-residential use site such as the Project.<sup>39</sup> The County Stormwater Report makes it clear that the levels of priority pollutants that would likely be discharged from the type of land use envisioned by the Project would exceed the

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<sup>37</sup> See *Topanga Assn. For a Scenic Community, supra*, 11 Cal.3d at 515 (applied to the CEQA context in *Laurel Heights I*, 47 Cal.3d at 404) (there must be a disclosure of "the analytic route the ... agency traveled from evidence to action").

<sup>38</sup> 40 C.F.R. 131.12; State Board Order 68-16.

<sup>39</sup> See Los Angeles County 1998-1999 Stormwater Monitoring Report ("County Stormwater Report"), July 14, 1999, prepared by the Los Angeles County of Public Works, URS Greiner Woodward Clyde, and Southern California Coastal Research Project.

numeric water quality standards set forth above. For example, the NTR sets forth a chronic toxicity limit of 2.5 ug/l for lead, while the county data indicates the commercial land use exceeds these standards with levels at 12 ug/l. Similarly, the NTR sets forth a limit of 11 ug/l for copper chronic toxicity (and 17 ug/l for acute toxicity), while the county data reveals levels of 26 ug/l for commercial use.<sup>40</sup>

Meanwhile the DEIR makes reference to the fact that compliance with the LARWQCB's new Standard Urban Stormwater Mitigation Plan (SUSMP) will serve as mitigation for any impacts. However, as the applicant undoubtedly is aware, the SUSMP itself was not design to guarantee compliance with water quality standards. It was merely designed to further the goals of reducing polluted runoff from new and re-development.

The applicant also states that in order to mitigate surface water quality impacts it will "construct catch basins, roof drains, surface parking drains connecting directly to the existing storm drain system ...." Without further explanation it is impossible to ascertain how the mere connection of drains will mitigate water quality impacts (*e.g.*, is there treatment in these drains?).

**4. The DEIR Fails To Analyze The Project's Potential Violation of 40 CFR 122.4(i).**

Regulatory section 40 C.F.R. section 122.4(i) prohibits discharges from new sources to waters listed as impaired under section 303(d) of the Clean Water Act ("CWA").<sup>41</sup> Ballona Creek and Ballona Estuary are listed as impaired for arsenic, cadmium, copper, DDT, lead, PCBs, Chema, chlordane, dieldrin, silver, tributyltin, zinc, enteric viruses, and trash.<sup>42</sup>

Meanwhile, the DEIR recognized that "[i]n urban areas, toxins such as zinc, copper and lead, which can cause toxic effects in high concentrations, are most commonly associated with surface runoff."<sup>43</sup> However, runoff from the Project is deemed acceptable in the DEIR because of broad conclusory statements about compliance with various permits and legal requirements. This, however, does not satisfy the legal requirements of § 122.4(i).

In particular, § 122.4(i) imposes a new source prohibition unless certain specific conditions are met. First, all necessary pollutant load allocations must be performed, i.e., Total Maximum

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<sup>40</sup> If the applicant believes that the proposed treatment options will reduce this level to significantly below these criteria, the applicant must explain the basis for its conclusion as to all different water quality criteria.

<sup>41</sup> 33 U.S.C. §1313.

<sup>42</sup> See 303(d) List of Impaired Waterways.

<sup>43</sup> DEIR, p. 200.

Daily Loads ("TMDLs") must be established. Second, the regulations clearly state that no discharge may commence unless there are "sufficient remaining pollution load allocations to allow for the discharge."<sup>44</sup> There are currently no TMDLs for Ballona Creek to indicate there is an available load allocation which would allow the new source. Based on the fact that most TMDLs for this waterway are years away,<sup>45</sup> it is disingenuous to even suggest that these legal conditions have been met.

Moreover, the DEIR fails to identify any calculations or equation that may have been used, and the documents that were relied upon, to calculate any water quality or pollution contributions from the Project to the Creek. Based on the information provided, it is impossible to tell what loading will occur. This violates CEQA, again because the Supreme Court has required that there must be a disclosure of "the analytic route the ... agency traveled from evidence to action."<sup>46</sup>

Further, the DEIR has failed to analyze the additional gross inputs for all CWA § 303(d) listed pollutants, including arsenic, cadmium, DDT, PCBs, ChemA, chlordane, dieldrin, silver, tributyltin, enteric viruses, and trash. This is a significant oversight. For example, trash is a major problem in Ballona Creek.<sup>47</sup> Clearly, some trash will be generated from this Project and the new foot traffic and business activities located there. This has not been factored into the DEIR's analysis of impacts or even discussed.<sup>48</sup> Without such analysis, the Project cannot go forward. Indeed, such an analysis must be conducted for all CWA § 303(d) listed pollutants and must demonstrate compliance with 40 C.F.R. § 122.4(i) before approval can be granted.

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<sup>44</sup> 40 C.F.R. § 122.4(i)(1), *see also* Clean Water Act § 303(d) (describing requirements for TMDLs).

<sup>45</sup> *See* Consent Decree lodged in *Heal the Bay and Santa Monica BayKeeper v. Browner*, No. C 98-4825 SBA (on file with the LARWQCB and incorporated herein by reference).

<sup>46</sup> *Topanga Assn. For a Scenic Community, supra*, 11 Cal.3d 506, 515.

<sup>47</sup> *See* CWA §303(d) List; Santa Monica Bay Restoration Project, Taking the Pulse of the Bay - State of the Bay 1998 at 6.

<sup>48</sup> As you may be aware, the Los Angeles Regional Water Quality Control Board recently adopted a trash TMDL for the Los Angeles River. Under the terms of this TMDL, discharges of trash must be eliminated over the course of the next ten to fourteen years. A similar TMDL for Ballona Creek trash is expected in the next few months. Yet, the DEIR makes no mention of this fact or of the Project's ability to comply with a long-term ZERO trash discharge requirement.

5. **The DEIR Fails to Analyze the Project's Compliance with Antidegradation Requirements.**

The Clean Water Act's entire purpose is to improve water quality, not simply to allow degradation until a point where beneficial uses are not achieved. For this reason, the CWA specifically states that (1) "Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected," and (2) "Where the quality of the waters exceed levels necessary to support propagation of fish, shellfish and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the state finds that lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located."<sup>49</sup> Based on the information in the DEIR, it seems clear that an analysis of whether the Project will violate these requirements has not been done.

Moreover, it seems clear that this type of an anti-degradation analysis has been entirely ignored for the types of pollutants that are typical for urban runoff, which admittedly include "toxins such as zinc, copper and lead." If these pollutants are increasing due to the proposed activity, the proposed activity is a violation of federal and state anti-degradation laws, without any analysis of whether the Project is "necessary to accommodate important economic or social development in the area."<sup>50</sup>

Moreover, it appears that such an analysis has not been conducted for all pollutants identified on the State's 303(d) List of Impaired Waterways.

According to the DEIR, the Project will drain to current locations. Yet the DEIR contains no analysis of whether the pollution loading in these areas will remain unchanged due to the Project (i.e. as a result of the change in land use). Certainly, increased traffic will bring increased cars and increased pollution from those cars. Pollutants from vehicles include many heavy metals such as lead, copper, etc. Moreover, additional pedestrian traffic will also result in trash and other debris that would not otherwise be present. Yet the DEIR contains no analysis on the water quality impacts associated with additional vehicle and pedestrian traffic in the Project area. Nor does the DEIR contain any analysis of whether there will be any increase mass loading for any pollutants.

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<sup>49</sup> 40 CFR 131.12.

<sup>50</sup> See 40 CFR 131.12.

Finally, if the Project does not include mass limits for pollutants based on the current "mean loading" -- from the Project area itself -- the permit will be in violation of the anti-degradation policy.<sup>51</sup>

**6. The DEIR Fails to Analyze Impacts to the Ballona Creek Significant Ecological Area.**

Ballona Creek is recognized as a Significant Ecological Area ("SEA") by the LARWQCB.<sup>52</sup> The SEAs designated by LARWQCB are analogous to "environmentally sensitive areas" under the California Coastal Act which are "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments."<sup>53</sup> Despite the importance of the SEAs to the City and the state of California, the DEIR fails to present a clear picture of impacts to the significant ecological areas that could occur as a result of the Project. "[W]hen a project is approved that will significantly affect the environment, CEQA places the burden on the approving agency to affirmatively show that it has considered the identified means of lessening or avoiding the project's significant effects and to explain its decision allowing those adverse changes to occur."<sup>54</sup> The City has not met its burden of showing that it considered means to lessen or avoid the Project's significant impacts on the Ballona Creek SEA.

**7. Recommendations**

We believe further analysis of the Project's water quality and surface water drainage plans must be completed to satisfy CEQA requirements. The final EIR must address the deficiencies identified above, including compliance with SWRCB and LARWQCB regulations and orders, as well as applicable state and federal water requirements.

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<sup>51</sup> See SWRCB Order No. 90-5.

<sup>52</sup> See LARWQCB Basin Plan (1994) page 1-17.

<sup>53</sup> PRC § 30107.5.

<sup>54</sup> *Village of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1035.

**D. The Air Quality Section of the DEIR Is Inadequate Because of the Increased Danger to Local Children.**

We find the Air Quality mitigation proposed in the DEIR completely inadequate because of the increased dangers that the proposed Project presents to the health of local residents, particularly children.

**I. Air Quality Is Directly Linked to Children's Health.**

The population surrounding the proposed Project includes a large number of children. At least 50,000 children live within a mile of the Staples Center -- and 44% of those children live below the federal poverty line.<sup>55</sup> Children are most vulnerable to the impacts of air quality, and children with asthma and other existing respiratory illnesses have been shown to actually suffer from reduced lung capacity.

According to the DEIR, "Construction-related daily emissions would exceed SCAQMD significance thresholds for No<sub>x</sub>, CO, ROC, and PM<sub>10</sub>."<sup>56</sup> The construction period has been estimated to last for *seven years*.<sup>57</sup> Thus a neighborhood child entering kindergarten at the onset of the construction period would be exposed to these "temporary" impacts until she graduated from the sixth grade.

For health planning purposes, the County of Los Angeles has established eight Service Planning Areas ("SPAs"). The proposed Project is located in SPA 4 and borders SPA 6. SPA 4 is estimated to have more than 11,000 children ages 5-11 with asthma and SPA 6 has approximately 9,200 children with asthma. However, these estimates were derived from self-report in a household survey conducted in Los Angeles, and do not account for undiagnosed asthma. Research studies have found a prevalence of 10% to 30% undiagnosed asthma and asthma-related symptoms in children in urban communities.<sup>58</sup>

A recent joint study by scientists from the Department of Preventative Medicine, University of Southern California School of Medicine, Sonoma Technology Inc., Air Resources Board of the State of California, and the National Institute of Environmental Health Sciences shows that common air pollutants -- particularly NO<sub>2</sub> and PM<sub>10</sub> -- slow asthmatic children's lung development over time. The ten-year-long study, is considered one of the nation's most

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<sup>55</sup> 1990 Census Data.

<sup>56</sup> DEIR, p. 219.

<sup>57</sup> See, e.g., DEIR p. 113, Table 3.03.

<sup>58</sup> Source: St. John's Well Child Center

comprehensive studies to date of the long-term effects of air pollutants on children.<sup>59</sup> The study period is not that much longer than the proposed construction period for this Project.

The study's findings are based on research in 12 Southern California communities, including Upland and San Dimas, which had the highest levels of NO<sub>2</sub> and PM<sub>10</sub> and which are similar to those provided by the Central Los Angeles monitor, located in downtown Los Angeles. Charts comparing the pollutant levels for the area surrounding the proposed Project and those in the study are provided in *Appendix 9*, along with a copy of the study's results published in *Environmental Health Perspectives*, September 1999.

These problems and figures relate to existing problems with existing levels of air pollutants ***without those contributed by the construction period of the Project.*** The South Coast Air Quality Management District recently found that 90% of the carcinogenic risk in the Basin is due to mobile source emissions (cars, trucks, etc.), including 70% attributable to diesel particulate emissions, or PM<sub>10</sub>.<sup>60</sup> It has been estimated that out of 125,000 cancer cases nationwide based on a lifetime exposure to diesel exhaust, Los Angeles ranks first with over 16,000.<sup>61</sup> As we know from the DEIR, No<sub>x</sub>, CO, ROC, and PM<sub>10</sub> will be present in large measure throughout the long construction process, adding to an already heavily polluted environment. These cumulative impacts, and their severe impacts on the health of low-income children in the Project area, make it essential that adequate mitigation measures are developed and implemented.

## 2. Recommendations

We propose the following mitigation measures:

- The Project Applicant should provide air filters in all local schools within a mile of the Project site.
- The Project Applicant should identify day care centers within a mile of the Project site and provide air filters for those centers.

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<sup>59</sup> W. James Gauderman, Rob McConnell, Frank Gilliland, Sephaie London, Duncan Thomas, Edward Avol, Hita Vora, Kiros Berhane, Edward B. Rappaport, Fred Lurmann, Helene G. Margolis, and John Peters, "Association between Air Pollution and Lung Function Growth in Southern California Children," received in original form September 23, 1999 and in revised form May 2, 2000.

<sup>60</sup> Mobile Air Toxic Emissions Study II, March 2000, p. ES-3.

<sup>61</sup> See State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials, *Cancer Risk from Diesel Particulate: National and Metropolitan Area Estimates for the United States* (March 15, 2000).

- Provide supplemental funding to local health clinics to offset the increased loads from increased asthma and respiratory problems in the community.
- During construction, all vehicles used on-site must be clean fuel vehicles -- no diesel vehicles should be used.
- All non-road equipment required on site during construction should be retrofitted to minimize diesel emissions into the environment, including  $\text{No}_x$ , CO, ROC, and  $\text{PM}_{10}$ . This includes adding particulate traps where necessary.
- The Project Applicant should comply with applicable Proposition 65 notice requirements in the event that construction activities utilize toxic materials, or cause toxic materials to be released into the air, including fugitive dust.
- Because of the health risks involved and heavy cumulative impacts experienced by local residents, the Project Applicant should be required to water, enclose, cover or treat greater silt content more than that required by manufacturer specifications during construction.
- To ensure these measures are followed, we request that regular meetings be convened with community residents and the appointed construction relations officer so that resident concerns can be addressed on an ongoing basis.
- Beyond the construction period, and during the proposed operations stage of the Project, we request that clean fuel shuttles be provided by the applicant or appropriate city agencies from blue and red line Metro stations and Union Station to the Project site. Such a service will ease both air quality impacts as well as traffic and parking congestion.
- Implement the Commuter Choice Program, which provides employers and employees with federal pre-tax transportation benefits, at the Project Site (explained in more detail below, in section E).
- Provide alternative-fuel refueling stations (electric, natural gas, etc.) for 5% of total parking capacity as an added incentive for both employees and visitors to the Project site.

### **3. Conclusion**

The air quality impacts of the construction period of the Project will have a deleterious impact on the health of low-income minority children who live near the Project area, particularly the 20,000 plus who have asthma. We hope that the mitigation measures outlined above will be appropriately addressed in the final EIR.



**E. The Transportation/Circulation Section of the DEIR Is Incomplete and Not Reflective of Community Resident Experiences.**

Between July 2000 and January 2001, FCCEJ conducted one-on-one interviews, surveys, and small group meetings regarding traffic with approximately 200 residents in the affected area in order to ascertain concerns, experiences, and hardships caused by the substantial increase in traffic associated with events of the existing Staples Center. These findings have been shared with Staples Center executives and the Los Angeles Department of Transportation ("DOT"), yet no mitigating activity has yet occurred.

Residents have noted substantial, dangerous increases in traffic and congestion along the following corridors, particularly during Staples Center events:

- Olympic Blvd. From Western Avenue to Figueroa
- 11<sup>th</sup> Street from Alvarado Street to Figueroa
- 12<sup>th</sup> Street from Alvarado Street to Figueroa
- Pico Boulevard from Hoover Street to Figueroa
- Union Avenue from Wilshire Blvd to Venice Blvd.
- Bixel Street from 3<sup>rd</sup> Street to the 110 Freeway entrance south 8<sup>th</sup> Street
- Lucas Street from 6<sup>th</sup> Street to 7<sup>th</sup> Street
- Hope Street from Venice Blvd. To 3<sup>rd</sup> Street
- Flower Street from Venice Blvd. To 3<sup>rd</sup> Street
- Grand Avenue from Venice Blvd to 3<sup>rd</sup> Street
- Olive Street from Venice Blvd to 3<sup>rd</sup> Street

It is of great concern to our members who live near the proposed Project site that even more traffic is anticipated and will not be mitigated at the same time that they feel that current conditions are untenable for a residential community. We find that the current experience makes the need to mitigate traffic impacts for the proposed Project all the more important, and it is of particular concern that these impacts have been and will be born disproportionately by low-income people of color.

The primary focus of the traffic analysis in the DEIR has been regarding traffic flow for a regional event center. Very little attention has been paid to the impact that increased traffic will have on the lives of residents living in the areas surrounding the proposed Project.

**1. Recommendations**

It is our position that until discussions with Staples Center and DOT regarding the community impacts of traffic produce tangible results, the Project should not move forward, since it will only exacerbate what is already widely viewed as an untenable negative environmental and public safety impact.

In the meantime, we recommend the following mitigation measures:

- Completion of a focused traffic study evaluating the impact of the Project on the residential neighborhoods.
- Addition of speed bumps on impacted residential streets to slow traffic related to Staples Center and proposed Project traffic, and discourage commercial and construction traffic.
- Provide suitable facilities for securing bicycles, for both Project occupants and visitors.

We look forward to an ongoing dialogue with the Project Applicant and DOT to determine appropriate solutions to the problems identified by community residents.

**F. The Parking Section of the DEIR Is Inadequate.**

According to the DEIR, on a peak day, "The on-site visitor need of 7,363 spaces would exceed the on-site supply of 5,310 spaces" -- **a shortfall of 2,053 spaces.**<sup>62</sup> The DEIR claims that this shortfall will be solved by the existence of off-site parking lots, and that many visitors already seem to prefer off-site parking to avoid high parking fees.

We find this to be a temporary solution at best. If the economic recovery of downtown materializes, as purported by the Project Applicant, there is no guarantee that local parking lot owners will not build out or develop their surface and other parking lots to higher and best uses. This is, in fact, what the Project Applicant is doing. They are building out existing surface parking lots to a higher and better use.<sup>63</sup>

FCCEJ conducted an intensive outreach campaign between June 2000 and January 2001 to determine community concerns, experiences, and hardships caused by the substantial increase in traffic associated with events of the existing Staples Center. That investigation revealed that a number of local residents live in older buildings in the area and depend on street parking. These residents are no longer able to park on the following streets due to recently imposed parking restrictions since the beginning of Staples Center operations, which cause great hardship:

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<sup>62</sup> DEIR, p. 291.

<sup>63</sup> The Project Applicant makes much of the fact that it is building almost entirely upon existing surface parking lots. (DEIR, p. 52-53.) However, as discussed above, and noted briefly in the DEIR, those parking lots were mixed use buildings and "residential areas" only four years ago. (DEIR, p. 43.) Although the applicant is building on parking lots now, those lots used to be affordable housing units, occupied by almost 200 low-income Latino families who were displaced by the Community Redevelopment Agency to accommodate construction of the Staples Center.

- Georgia Street from Olympic Blvd to James M. Wood
- Francisco Street from Olympic Blvd to James M. Wood
- Olympic Blvd from Figueroa Street to Georgia Street

Discussions with the Staples Center development team have resulted in their cooperation in developing preferential parking alternatives for these impacted tenants, although this process has not yet yielded results. It is extremely important that visitors to the area do not displace residents who presently have to park blocks from their buildings with small children, groceries, and elderly or disabled relatives in tow.

### 1. Recommendations

#### *Parking*

For the short term, the Lead Agency should make no approvals for this project until the existing unmitigated parking problems with the Staples Center are resolved.

For the long-term, and with respect to the issues raised in the DEIR, a more specific parking plan must be developed to fulfill the long term parking needs of the Project. The plan should address, at minimum, the following questions:

- What is the specific plan for the replacement parking while the surface parking is being converted?
- What specific parking spots will be made available to Staples Center season/premier ticket holders and the general public while the surface parking currently used is re-configured as the Project?
- What will the traffic plan be for the replacement parking situation during construction?
- What streets and areas will be affected during that time?
- Where are the 16 separate off-street lots the Project Applicant controls?<sup>64</sup>

It is evident that the issues of parking, parking access, and ingress and egress will have major impacts on local traffic and community. Like the pedestrian safety section (discussed below), the parking section of the DEIR includes vague reference to a Construction Management Plan that

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<sup>64</sup> DEIR, p. 292.

will be developed at a later date and without public participation.<sup>65</sup> As we have stated elsewhere in our comments, we need to have more information and specifics about this Construction Management Plan so that we can adequately analyze potential community impacts and determine what appropriate mitigation proposals. We hope the final EIR will answer the questions identified above, and include the more specific information we are seeking.

### *Commuter Choice*

Changes in the 1998 Federal Tax Code makes Commuter Choice incentive strategies universally available as potential Transportation Control Measures to meet Clean Air Act requirements in areas that fail to meet the National Ambient Air Quality Standards to protect public health. As documented in the DEIR, "The City of Los Angeles is included in the South Coast Air Basin, which has been designated as a non-attainment area for certain pollutants that are regulated under the [Clean Air Act]."<sup>66</sup> As a result, we believe the Commuter Choice incentive program is uniquely suited for implementation at the Project site, to both improve air quality and relieve some of the parking congestion projected to occur at the Project site.

The 1998 Federal Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) gives new incentives to reward employees and employers who help reduce traffic and pollution problems. The Commuter Choice provisions in TEA-21, Section 9010, modify the Internal Revenue Code and enable employers to offer employees options for qualified transportation fringe benefits. There are three principal Commuter Choice options: (1) Employees can purchase up to \$65 dollars per month in transit benefits using pre-tax income (an amount that increases to \$100 in 2002) which slashes the effective cost of transit. (2) Employers can offer tax-free subsidies for their employees' transit costs, with the same limits. And (3) employers can now offer cash in lieu of parking -- "cashing-out" old, inflexible parking subsidies.

Utilizing Commuter Choice would be a win-win proposition for all involved □ employers get a tax break, employees get an additional pre-tax benefit, and the region benefits with cleaner air. In correspondence with staff of the Senate Environment and Public Works Committee in 1999, the EPA Office of Mobile Sources estimated that a national commuter choice program assuming a 5-10% employee participation rate would generate:

- A reduction in commute vehicle miles traveled ("VMT") of 1.6 to 3.2%
- Reductions in VMT of 10,000,000,000 to 20,000,000,000 miles
- Emission Reductions of:  
*HC: 27,000-54,000 short tons*  
*CO: 240,000-480,000 short tons*

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<sup>65</sup> DEIR, p. 294.

<sup>66</sup> DEIR, p. 208.

*NOx: 16,800-33,600 short tons  
CO2 1,180,000- 2,360,000 metric tons*

In other areas, Commuter Choice programs have been shown to unite the diverse interests of environmentalists, business, labor, and transit and highway advocates. Most realize that Commuter Choice is good for business and for communities. Commuter Choice is a voluntary incentive that boosts travel options and supports more efficient use of the roads and transit we already have. It can provide quick relief to traffic-strained communities and will expand market opportunities for new forms of access to suburban jobs. Low- and moderate-income workers benefit particularly, since commuting costs represent a larger relative burden on them, and they tend to be more reliant on ride-sharing and transit.

The Alliance for Clean Air and Transportation, a new national group representing a diverse array of sectors, including the road builders, automobile industry, environmentalist and health groups, the American Association of State Highway and Transportation Officials, Highway User Federation, American Automobile Association, the National Association of Regional Councils, the United States Department of Transportation, and the Environmental Protection Agency, in February 2000 adopted a consensus goal of making Commuter Choice benefit programs a standard part of the American worker benefit program over the next five years.

We believe implementing Commuter Choice at the Project site would relieve concern regarding employee parking, provide additional worker benefits, and help improve air quality in an already overburdened area.

We propose the following mitigation measures to offset what impacts we have already identified:

- The Project Applicant and the City should guarantee that street parking be set aside for a local resident permit program and should formally agree to ensure that the resident permit program continues through the construction period and well into the operation of the Project.
- The Project Applicant should provide carpool incentives for both employees and visitors to the Project to reduce traffic congestion and parking demand.
- Provide preferred parking for carpools and vanpools for both employees and visitors.
- Reduce parking rates for more than two people in a car coming to the Project site.
- Beyond the construction period, and during the proposed operations stage of the Project, we request that clean fuel shuttles be provided by the applicant or appropriate city agencies from blue and red line Metro stations and Union Station to the Project site.

Such a service will ease air quality impacts as well as relieve traffic and parking congestion.

- Through coordination of Project Applicant with Los Angeles Metropolitan Transit Authority, provide better bus service from major arterials to the Project Site.
- Provide clean fuel shuttles from other congregation sites including employee satellite lots and shared use parking lots.
- Implement Commuter Choice Programs, including parking cash out, tax credit and other incentives for employer subsidies of transit fares, and tax incentives for employee purchase of transit and van benefits.
- Provide discounted pre-paid transit fare instruments designed for effective Commuter Choice promotion (e.g. \$65/month regional passes) and reduced transit fares.

We look forward to the mitigation measures outlined above being appropriately addressed in the final EIR.

**G. The Pedestrian Safety Section of the DEIR Is Incomplete.**

FCCEJ specifically asked for analysis of pedestrian safety as it related to community residents in its NOP letter, which was echoed by Environmental Defense in its comments to the NOP. However, the DEIR included very little analysis of the pedestrian safety impacts for people who live near Staples Center. With one exception, the only issues discussed were pedestrian safety impacts upon visitors to the Project site, not the impacts on people who live in the area.<sup>67</sup>

As highlighted in the FCCEJ comments regarding the Notice of Preparation, pedestrian safety is of serious concern to residents living near the Staples Center. Community residents are already negatively impacted by increased traffic congestion when Staples hosts events. Community members worry about the safety of their children, the elderly and others who routinely walk in the neighborhoods during the course of their daily lives. Their health and safety is threatened by rushing cars, crowded streets, and insufficient lighting at night.

These concerns are well founded. A review of Los Angeles Police Department records show that accidents involving pedestrians rose by 57% between 1998 (before Staples began operations) and 2000 (the first year of operations). Overall traffic accidents in the area rose 34% during the same period.

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<sup>67</sup> DEIR, 295-305.

These numbers bear out in other studies as well, showing that pedestrian safety is a serious issue locally and statewide. In October of 2000, the Surface Transportation Policy Project published a pedestrian safety study in California. That study, "Dangerous by Design: Pedestrian Safety in California," is provided in *Appendix 10* and found that pedestrians throughout California are in serious danger navigating streets and intersections that are increasingly built for speed and traffic. According to the report, state hospitalization records show that Latinos and African-Americans, especially children, are at the highest risk from pedestrian-vehicle collisions. A disproportionate number of pedestrians who are hospitalized are also low-income. Los Angeles County was by far the most dangerous area for pedestrians, accounting for the greatest number of pedestrian fatalities and injuries in the state in 1999 -- 203 pedestrian deaths and 5,377 injuries.

The DEIR states, rather starkly, "It is anticipated that construction-related traffic would be largely freeway-oriented and would use the shortest routes from the Project site to minimize travel time and maximize ease of ingress and egress for the trucks. *The movement of construction vehicles would have the potential to affect pedestrians living and working near the Project site, Staples Center and the Convention Center.*"<sup>68</sup> However, the DEIR contains no discussion of what exact routes those trucks would take, or how residents living and working near the site will be educated or protected from the construction vehicle movement. In fact, impacts to residents living near the Project site are not addressed at all, other than a vague reference to a Construction Management Plan that will be developed at some later date, without benefit of public input or participation.<sup>69</sup>

#### 1. Recommendations

To better evaluate the pedestrian impacts on people who will be actually living with these impacts day-to-day over many years, rather than only periodic visitors, we request a much more comprehensive and detailed pedestrian safety plan be developed by the Project Applicant and included in the final EIR.

In mitigation, we propose:

- The Project Applicant should provide a detailed construction management plan as part of the final EIR, showing what routes construction vehicles will be taking from the freeways to the Project site so that the potential negative impacts to residents in the area can be properly evaluated.

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<sup>68</sup> DEIR, p. 300, emphasis added.

<sup>69</sup> DEIR, p. 304.

- The construction management plan should also show how residents who live and work in the area will be protected throughout the construction period, currently scheduled to last several years.
- Better lighting, especially near bus stops and transit centers, should be utilized to increase pedestrian safety.
- Pedestrian thoroughfares heavily used by both visitors and residents in the area should include blinking, lighted, and weight-sensitive crosswalks such as those recently installed along Pico Boulevard in Santa Monica.

We look forward to the City's response to our pedestrian safety mitigation proposals in the final EIR.

#### **H. The Noise Section of the DEIR Is Inadequate.**

The DEIR states that "with the recommended mitigation, noise associated with construction activity would be reduced to the degree technically feasible. Nevertheless, impacts are likely to occur on the sensitive receptors located nearest to the Project site. Apartments located north, east, and south of the Project Site would occasionally experience high construction noise levels. This construction-related noise would constitute a significant unavoidable adverse impact of the Project."<sup>70</sup>

Many of the sensitive receptors located nearest to the Project site are members of FCCEJ who are already suffering from adverse noise impacts from the existing Staples Center which attracts crowds of up to 21,000 people to their neighborhood, for example, during a Lakers game. The overwhelming majority of these residents are tenants who live in apartments located very close to the proposed construction site.

Again, the seven-year projected construction period increases the severity of the impact. Historically, in Los Angeles, the average tenure of a renter is approximately five years. It is conceivable that in the current tight housing market, this may be as long as seven years today. This means that most tenants, including young children, who live near the existing Staples Center would experience abnormal and unacceptable noise levels for their entire tenure in their unit.

Due to the length of time that construction noise will affect the neighborhood, we find it unacceptable that no mitigation is proposed to protect the residents who live near the Project site.

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<sup>70</sup> DEIR, p. 357.



On February 6, 2001, the Los Angeles Board of Airport Commissioners approved an agreement to soundproof 11,000 homes near Los Angeles International Airport.<sup>71</sup> Although we offer no opinion as to whether such soundproofing is sufficient mitigation for the people living near the airport, we propose that a similar investment be made by the Project Applicant to protect neighboring residents who will be impacted by projected construction noise levels.

**1. Recommendations**

We propose the following strategies for noise mitigation:

- Provision of double-paned glass windows in all impacted apartment units.
- Provision of air conditioning in all impacted apartment units.
- Provision of construction schedule to community residents within a five-mile radius of the Project construction site.

We look forward to the City's response to our mitigation proposals in the final EIR.

**I. The Parks and Recreation Section of the DEIR Are Inadequate.**

**1. More Open and Green Space Is Needed in the Project Site Area.**

The DEIR states, "The Project would not meet the Department of Recreation and Parks planning standard of four acres [of open space] per 1,000 residents. Therefore, the Project would have a significant impact on parks and recreation facilities."<sup>72</sup> The Project Applicant proposes to mitigate this impact by paying "required fees to the City of Los Angeles Recreation and Parks Department for the purpose of providing future parks and open space in the Central City area."<sup>73</sup> However, the Project Applicant also wants a credit for such fees for making certain open space available on a *limited basis* to the public.<sup>74</sup> We believe this is an inappropriate solution for the neighborhood, which is by any standard considered "park-poor."

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<sup>71</sup> "L.A. Inglewood Agree on Airport Noise, Traffic Issues," *Los Angeles Times*, February 7, 2001.  
(Appendix 11)

<sup>72</sup> DEIR, p. 394.

<sup>73</sup> DEIR, p. 394.

<sup>74</sup> DEIR, p. 393.

Los Angeles has fewer acres of park per thousand residents than any other major city in the country. There are also vast disparities in access to parks and recreation. In the Figueroa Corridor, containing approximately the same number of people as a city council district, only .48 acres of parks per thousand residents is available, whereas a Westside City Council District averages 1.7 acres of park space. The DEIR acknowledges that there are not enough parks and open space in the Project site area, stating: "The *General Plan Framework EIR* reveals that . . . the distribution and number of neighborhood parks are inadequate, particularly in the central San Fernando Valley, South Central Los Angeles, and the Harbor Gateway."<sup>75</sup>

The Project site is located within the South Park Area of the *Central City Community Plan*, **which has an open space deficiency estimated at 216.4 acres.**<sup>76</sup> The Project Applicant admits it will only increase the problem by adding over 2,000 people to an area starved for more green and open space.<sup>77</sup>

This dearth of parks and playgrounds throughout Los Angeles hurts all aspects of our City, especially in central city areas which are predominantly inhabited by low-income people of color. The economic vitality of the region, a healthy environment, and basic fairness dictate more parks and playgrounds should be developed for Los Angeles. Parks, playgrounds and schools that provide green spaces and healthy environments can help alleviate the worst conditions of the urban core. For instance, local law enforcement in Los Angeles has long recognized the role that park and recreation programs play in preventing gang violence.

A 1992 study by the Los Angeles County District Attorney concluded that young people join gangs for obvious reasons, including the fact that they "have been excluded by distance and discrimination from adult-supervised park programs."<sup>78</sup> The study recommends that "alternative activities like recreation" should be part of every gang prevention strategy. Organized sports like youth soccer leagues "fill those idle hours that seduce adolescent boys into trouble ... At the least, they can keep older gang members busy during prime-time-crime hours .... At the most, they can keep marginal boys too busy for gangs, or give them an excuse not to join."

The families and children living near the Project site do not have enough green and open space in their community, and many do not have adequate access to cars or to a decent transit system that

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<sup>75</sup> DEIR, p. 388.

<sup>76</sup> DEIR, p. 391, emphasis added.

<sup>77</sup> DEIR, p. 393.

<sup>78</sup> "Gangs, Crime and Violence in Los Angeles: Findings and Proposals from the District Attorney's Office." 1992.

would enable them to reach parks in other neighborhoods. To be blunt, the local residents are deprived of the simple joys of playing in the park.

**2. More Green Space and Trees Would Offset the "Urban Heat Island" Effect.**

Aside from the community benefit of adding additional green space in the area, increased green space would offset the "urban heat island" effect, well documented by the United States Environmental Protection Agency:<sup>79</sup>

The Urban Heat Island concept is attributed to meteorologist Luke Howard (1818). On a summer day, the average temperature in a typical American city is about 3 to 5 °F hotter than the surrounding area. Up to 30% of land in cities is covered by energy-absorbing artificial structures. This concrete and asphalt jungle absorbs heat during the day and releases it into the atmosphere at night, heating the night sky. Adding to the urban heat island effect is heat released into the urban atmosphere by combusive processes from vehicles, industrial activity and the heat that escapes from commercial and domestic air conditioning. Just prior to sunrise, urban areas are on average 7°F warmer than adjacent rural areas in summer and 6°F. in winter.

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<sup>79</sup> *Cities Are Heat Islands*, The Zunis Foundation, 1998; see also EPA Region III Green Cities: Urban Heat Island website at <http://www.epa.gov/greenkit/pavement.htm>.

To avoid this heat island effect, the EPA Green Cities Program suggests adding green space, especially trees, in urban environments. The benefits of adding trees to the urban environment are more than just aesthetic.<sup>80</sup> Studies of urban forests have shown that city trees provide benefits worth many times the cost of their planting and upkeep, even as they just "sit there." Tree root systems hold soil in place, preventing erosion. Trees can absorb stormwater that might otherwise result in flash flooding. A city's urban forest can reduce peak storm runoff by 10 to 20 percent, according to the United States Forest Service. Trees also help cleanse the environment. During photosynthesis, trees absorb, or sequester, carbon dioxide and convert it into oxygen for us to breathe. One acre of trees provides enough oxygen for 18 people, and absorbs as much carbon dioxide as a car produces in 26,000 miles. Trees also remove sulfur dioxide and nitrogen oxide, two major components of acid rain and ozone pollution, from the air.

Trees are natural buffers to harsh weather conditions. Well-forested lands are consistently at least 2 to 4 degrees cooler during the summer and 1 to 2 degrees warmer during the winter than deforested land. This temperature reduction can significantly lower smog production, according to the U.S. Department of Energy. Trees reduce noise pollution by acting as a buffer and absorbing urban noise. An U.S. Department of Energy study reports that a 100 foot wide and 45 foot tall patch of trees can reduce noise levels by 50 percent.<sup>81</sup>

### 3. Recommendations

The lack of sufficient green and open space in the Project area is alarming, and exacerbating the problem cannot simply be dismissed as an unfortunate by-product of Project development. The need for green and open space in the Project site area is undisputed. What is less clear is how the Project Applicant will mitigate this problem, which will only be exacerbated by the addition of thousands of new residents and multiple thousands of Project visitors over time.

In mitigation, we propose the following:

- The Project Applicant should not claim credit for required fees by providing limited open space at the site, which will only be "accessible to the public *on a limited basis*"<sup>82</sup> Rather the Project Applicant should pay all applicable fees.
- Provide shade on at least 30% of non-roof impervious surface on the Project site, including parking lots, walkways, plazas, etc.

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<sup>80</sup> W.C. Sullivan and S.E. Kuo, "Do Trees Strengthen Community, Reduce Domestic Violence?," Technology Bulletin, R8-PR56: U.S. Department of Agriculture, Forest Department, Southern Region, Southern Station and Northeastern Area (1996).

<sup>81</sup> *The Benefits of Urban Trees*, EPA Region III Green Cities, *supra*.

<sup>82</sup> DEIR, p. 393, emphasis added.

- Provide shade using native or climate tolerant trees and large shrubs, vegetated trellises or other exterior structures supporting vegetation.
  - In the Project design, substitute vegetated surfaces for hard surfaces, and explore elimination of blacktop and the use of new coatings and integral colorants for asphalt to achieve light colored surfaces.
- J. The Solid Waste Section of the DEIR Fails to Provide Sufficient Information about the Project's Solid Waste Management Plan.**

We applaud the Project Applicant's stated intent to comply with the California Solid Waste Reuse and Recycling Access Act of 1991 (AB 939) with a Recycling and Resource Recovery Plan. However, we are concerned with management of the solid waste that will be generated during the proposed seven-year construction phase. In addition, according to the DEIR, approximately 31,179 pounds of solid waste will be generated per day when the Project is fully operational □ or 15 tons of waste per day.<sup>83</sup>

The Project will be a major new source of waste, and needs to have an active plan to enable the city to meet the AB 939 guidelines. Outstanding questions include: what guarantees are being contemplated to assure that all Project tenants will comply with the recycling requirements set forth by the Project Applicant? What streets will be used to transport the solid waste from the Project site to the identified landfills? Will those streets be used both during construction and during Project operations?

We request answers to these inquiries, as well as a better explanation of the Project Applicant's waste reduction plan, in the final EIR. We also request that the final EIR include a plan showing what spaces will be provided for waste separation and storage of waste awaiting hauling. Because numerous different uses are being proposed for the site (restaurants, theaters, retail, etc.), different strategies must be implemented to ensure waste minimization at those different locations, and different waste, separation, storage plans may be required. We request a more detailed plan for waste minimization for construction and diverse operations at the Project.

### **1. Recommendations**

We propose the following mitigation measures:

- Before construction, develop and implement a waste management plan, quantifying material diversion by weight. Recycle and/or salvage at least 80% of construction, demolition and land clearing waste.

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<sup>83</sup> DEIR, p. 415.

- Submit a construction waste management plan for approval by the Solid Resources Citywide Recycling Division prior to completion of the permitting process.
- Create a plan for setting aside space on the construction site for the different bins required for sorting of construction waste, and training of workers for their use.
- Increase demand for building products that are manufactured locally, reducing the environmental impacts resulting from transportation, and supporting the local economy.
- Specify a minimum of 50% of building materials that are manufactured regionally within a radius of 100 miles.
- Develop and implement an on-site organic waste plan for composting. Such compost could be used later on-site in landscaping maintenance.
- Provide easily accessible areas that serve all aspects of the Project dedicated to the separation, collection and storage of materials for recycling, including at minimum paper, glass, plastics and metals.

We look forward to the City's response to our mitigation proposals in the final EIR.

**K. Analysis of Environmental Impact on Public Emergency Services Is Inadequate**

The DEIR claims that "a significant impact to LAFD fire prevention and suppression services and/or emergency protection services would occur if the proposed Project: ... generates ... traffic levels that would substantially increase emergency response time to the Project site or neighboring properties."<sup>84</sup> The DEIR also explains that "during the post-event period of events at the STAPLES Center and the Los Angeles Convention and Exhibition Center, traffic could result in considerable congestion at many area streets and intersections in the vicinity of the Project site," and that this "traffic congestion could potentially cause significant delays in LAFD emergency response times for responses within or through the project site." Mitigations are proposed for the Project.

What the DEIR fails to point out is that significant delays in emergency response already exist due to Staples Center event traffic, and that these may already be life-threatening, as discussed in FCCEJ member St. John's Well Child Center's comments on the DEIR, which state:

"For example, yesterday, during the Grammy Awards event at the Staples Center, one of the children at the clinic who is under six years old, had to be hospitalized because of a series of asthma attacks. Because of the traffic instigated and unmitigated by the Grammy event, an ambulance was unable to reach the clinic. The response time was significantly extended because of the event at the Staples Center and could have resulted in serious injury or death to this emergency patient. Luckily, members of the clinic carried the child south along Figueroa, walking six blocks until traffic was less congested and the ambulance could reach the child."

It is important to note that this clinic has been in the community at the same location for 38 years and is expanding in place with the assistance of a City community facilities improvement grant. Thus, it should be anticipated that emergency health circumstance will not only continue, but increase.

We request that the Lead Agency investigate further the negative impacts that existing traffic has on emergency response in the community surrounding the Staples Center and to incorporate these findings into the proposed mitigation for the Project.

**L. The Alternative Site Analysis Included in the DEIR Is Inherently Flawed.**

As required by CEQA, the DEIR includes analysis of Project alternatives, including an Alternative Site scenario.<sup>85</sup> The site chosen for analysis is the Cornfields Site, located northeast of Chinatown. However, the use and future of the Cornfields Site is currently being litigated in

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<sup>84</sup> DEIR, p. 362-363.

<sup>85</sup> DEIR, p. 5, pp. 482-491.

state court as a CEQA matter.<sup>86</sup> The Cornfields Site is also under a federal civil rights investigation by HUD. The existence of these legal challenges was not mentioned in the DEIR analysis and the potential impact of the ongoing litigation and federal investigation was not discussed at all. While the fact of these challenges may not amount to negative environmental impacts under CEQA, they do call into question the feasibility of the Cornfields Site as a project alternative. For this reason, we request that another site be used for alternative site analysis in the final EIR.

CEQA requirements support revised analysis of the alternative site. The alternatives presented in an EIR must be potentially feasible.<sup>87</sup> The term "feasible" is defined in Public Resources Code § 21061.1 as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological facts." Off-site alternative considerations include site suitability, economic viability, availability of infrastructure, general plan consistency, other plan or regulatory limitations, jurisdictional boundaries, whether the project proponent already owns the site, and whether the project proponent can acquire, control or have access to the site if it does not own it.<sup>88</sup>

The legal challenges involving the Cornfield Site means that it cannot, with certainty, be "capable of being accomplished in a successful manner within a reasonable period of time." Because the Cornfield Site is not a legally feasible alternative site, we request that an environmental impact analysis of a different site be completed and included in the final EIR.

In addition, the most obvious alternative -- one that improves existing housing and retail in the community; that integrates neighborhoods uses with regional attractions; that combines old and new buildings, residents and uses -- has been completely overlooked. We believe this is due in part to the parochial nature of the specific plan boundaries which only include property controlled by the Project Applicant, rather than taking a broader view of the impacted area and Project possibilities. We strongly suggest that both the Lead Agency and the Project Applicant study international best practices of how older neighborhoods and regional attractions have been designed to complement each other and coexist before this yet unexamined alternative is dismissed.

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<sup>86</sup> *Friends of the Los Angeles River, et al. v. City of Los Angeles*, Los Angeles Supr. Ct. Case No. BS 065205 (2000). FCCEJ Coalition members Environmental Defense and Concerned Citizens of South Central Los Angeles are named plaintiffs in this action.

<sup>87</sup> 14 Cal. Code Regs § 15126.6(a).

<sup>88</sup> *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 576.



### III. CONCLUSION

We hope the questions and mitigation measures suggested in these comments will be taken seriously and fully addressed in the final EIR. In spite of our comments, some may argue that because the Project site is located in a downtown area designated as mixed-use, the residents nearby have somehow acquiesced to a more polluted environment. Such an argument is simplistic and unfair. Simply because the residents affected here are low-income and minority populations, living where housing is affordable, does not mean that they have implicitly waived their right to a meaningful public participation process, nor to the environmental quality of their communities.

Access to decision-makers and project-related environmental mitigation measures are often enjoyed by wealthier residents in other areas of Los Angeles. In fact, the demographics and location of the affected population near the Project site argue otherwise -- because such populations have for years been denied the opportunities to impact the decisions that affect their day-to-day quality of life, their environmental and economic vitality should be protected that much more fiercely.

We expect and hope that the Lead Agency and the Project Applicant will hold this Project to the highest environmental justice standards.

Sincerely,



Jerilyn Lopez Mendoza

Staff Attorney

Environmental Defense

Environmental Justice Project Office

*on behalf of the Figueroa Corridor Coalition for Economic Justice*