

Exhibit M – Additional Letters Received



December 21, 2022

City of Fresno Planning Commission and
Jennifer Clark, Planning Director
2600 Fresno St.
Fresno, CA 93721

Sent via e-mail

RE: Appeal Director's Approval of Development Permit Application No. P22-00565

Dear Commissioners and Ms. Clark:

Leadership Counsel for Justice and Accountability is a non-profit organization that works alongside residents that live in communities of Fresno that have for far too long suffered the consequences of poor land use planning and decisions. These decisions are made by the city and its representatives, similar to this Development Permit Application No. P22-00565, with persistent discriminatory patterns of practice that focus only on the needs and benefits of industrial development and without any regard to how the disadvantaged communities that they are developing in are being impacted.

Leadership Counsel for Justice and Accountability request that you postpone your decision on this matter as we have been informed by the City Planner that the Applicant would like to discuss the concerns of the community and we need an opportunity to speak with the developer and the community members of South Central Fresno after the holidays. **Please postpone to the Planning Commission Hearing date of January 18th, 2023.**

The undersigned individuals and organizations oppose any decision to approve Development Permit Application No. P22-00565. The undersigned individuals and organizations have an interest in ensuring that this project's environmental and human impacts are fully mitigated in compliance with the California Environmental Quality Act ("CEQA"), the Fresno Municipal Code, and other relevant laws and regulations, and that the project benefits and does not harm the residents of the City and County of Fresno, in particular, residents who live, work, worship, recreate, and attend school in the vicinity of the project site.



The proposed project is not consistent with the General Plan's Program Environmental Impact Report nor does it meet the requirements of the CEQA guidelines under CCR 14 section 15183.

This project can not be streamlined through the use of an Environmental Assessment as proposed by the Planning Department because it is not consistent with the existing General Plan, community plan, and zoning per Section 15183 of the State of California California Environmental Quality Act (CEQA). The Planning Department claims that this project is consistent with the Program Environmental Impact Report (PEIR) of the General Plan, however, this is false. The proposed project inappropriately tiers from the General Plan's Program EIR ("GP PEIR"). Earlier analyses of environmental impacts may only be tiered from a Program EIR if an effect has already been adequately analyzed. CEQA Guidelines §15063(c)(3)(D). The GP PEIR failed to analyze environmental impacts adequately. For example, the GP PEIR fails to adequately analyze the environmental setting, air quality impacts or identify sufficient mitigation to address air quality impacts. In addition, the GP PEIR inadequately analyzes GHG emissions, transportation, and groundwater impacts. The environmental assessment upon which the project relies continually points to impacts addressed through the City's general plan PEIR but fails to acknowledge that the PEIR itself was flawed. As a result, the project requires a full environmental impact report. When a project does not meet the requirements necessary for streamlining then either: a Negative Declaration stating that there are no significant impacts that will incur to the environment or an Environmental Impact Report which assesses the significant impacts must be completed.

Approving this project before the South Central Specific Plan is complete is inappropriate.

The Planning Department is attempting to prematurely approve a project when they are completely aware of the fact that the current South Central Specific Plan is not complete. The purpose of this South Central Specific Plan is to ensure that the planning of our city is done so in an equitable and safe way that ensures the health and safety of the disadvantaged communities of South Central Fresno.

A decision to approve the environmental assessment of this proposed project will only continue to concentrate industrial development up to the property lines of sensitive uses in South Central Fresno neighborhoods. Without a completed SCSP with prescribed protections, which starts



with a completed environmental impact review, the community will only suffer further degradation of environmental quality, exacerbate poor public health outcomes, undermine housing quality, drive displacement in these neighborhoods and widen Fresno's deep and historic racial disparities. The City must not proceed with its efforts to further cement unjust land use patterns in City policy.

The citing of this proposed development is within the AB617 Community Air Protection Planned boundary.

South Central Fresno community area was awarded funding by the California Air Resources Board under AB617 (C. Garcia) Community Air Protection Plan. This is nothing to be proud of as a city. The city of Fresno received this competitive grant due to the South Central Fresno area being one of the most polluted areas in all of California. AB617 funding supports the creation of emission reduction programs in the South Central Fresno area in an attempt to right the wrongs of Fresno's racially biased land use practices that resulted in an overconcentration of industrial development. This does not mean that because the San Joaquin Valley Air Pollution Control District is overseeing the implementation of AB617, that the City should continue to approve planned projects that will increase the pollution in an already overburdened area.

The data from both CalEnviroScreen 3.0 and 4.0 confirm that the location of this proposed project is in the top 1% of the most pollution overburdened communities. South Central neighborhoods experience high rates of poverty and lack of access to basic amenities and services, such as decent quality affordable housing, parks, green space, high performing schools, grocery stores, medical services, and more. And yet, the city of Fresno's planning department brings to the Planning Commission, yet another project to increase the burdens of pollution in an area whose communities have already proven that it can not continue down this path of disproportionate pollution burdens in communities of color.

This proposed project will have significant negative impacts to the residents of the City and County of Fresno due to the increase of heavy industrial uses and increased heavy duty truck traffic.

The decision to approve this permit application will perpetuate the citing of heavy industrial uses in and near communities of color. Residents have described to this Planning Commission on multiple occasions that the continual citing of heavy industrial projects near their homes causes



severe environmental, safety, and detrimental long term health impacts. This facility will increase the amount of heavy duty truck traffic that will operate 24/7. It will impact the safety of residents, increase noise pollution, increase levels of PM2.5 and NOx emissions, and increase dust and vibrations of homes, schools , and religious institutions.

Currently, a citywide heavy duty Truck Reroute Study is in progress which is one of the community emission reduction measures of the AB617 Community Air Protection plan. This study will identify routes of heavy duty trucks that need to be removed from going through neighborhoods to reduce exposure to air pollutants.

Despite years of community advocacy calling for protections from further industrial development in South Central Fresno neighborhoods, ongoing local planning processes considering land use changes, and focused efforts and investments by the San Joaquin Air Pollution Control District, CARB, the Attorney General's Office, and other state agencies and departments, the City of Fresno Planning Department still continues the discriminatory patterns of practice of approving permits, like this facility for Coca Cola Distribution.

We ask that this Planning Commission deny the consideration of this Environmental Assessment and Permit Application# P22-00565 as well as pause on the approval of such applications that are perpetuating the environmental injustices of South Fresno.

Sincerely,

Ivanka Saunders
Policy Advocate
Leadership Counsel for Justice and Accountability

Laura Moreno
Executive Director
Friends of Calwa

Nayamin Martinez
Director
Central California Environmental Justice Network



Rosa DePew
Resident of South Central Fresno

Panfilo Cerrillo
Resident of South Central Fresno

Katie Taylor
Resident of South Central Fresno

Kevin D Hamilton, RRT,ACS
CEO
Central California Asthma Collaborative

RESPONSE TO COMMENTS ON THE REYES CCB PROJECT

The City of Fresno (Lead Agency) received a comment on the Environmental Checklist in Support of CEQA Guidelines Section 15183 Streamline Project Consistent with a Community Plan or Zoning ("15183 Consistency Checklist") as part of the Appeal of the decision of approval of the Reyes CCB Project (P22-00565) ("Project, "proposed Project") which was approved on October 28, 2022.

This document has been prepared in accordance with California Environmental Quality Act (CEQA) as amended (Public Resources Code Section 21000 et seq.) and the Guidelines for Implementation of the California Environmental Quality Act (State CEQA Guidelines) (Cal. Code Regs., tit. 14, § 15000 et seq.) and represents the independent judgment of the Lead Agency.

The following appeal letter was submitted to the City prior to the Appeal of the Planning Commission Approval Hearing:

1. Leadership Counsel for Justice and Accountability, Friends of Calwa, Central California Environmental Justice Network and Central, Received December 21, 2022 (5 pages)

The appeal letters and responses to comments are included in the public record and are available to the Lead Agency decision-makers for their review and consideration prior to making their decision whether to approve the proposed Project.

CEQA Guidelines Section 15183 Streamline Analysis

CEQA Guidelines Section 15183 allows a streamlined environmental review process for projects that are consistent with the densities established by existing zoning, community plan or general plan policies for which an EIR was certified. As noted in 15183 Consistency Checklist, the proposed Project is consistent with the land use designation and densities established by the Fresno General Plan ("GP") for which an EIR was certified. The provisions contained in Section 15183 of the CEQA Guidelines are presented below.

15183. Projects Consistent with a Community Plan or Zoning

- a) *CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies.*
- b) *In approving a project meeting the requirements of this section, a public agency shall limit its examination of environmental effects to those which the agency determines, in an initial study or other analysis:*
 - 1) *Are peculiar to the project or the parcel on which the project would be located,*
 - 2) *Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent,*
 - 3) *Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action, or*
 - 4) *Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.*
- c) *If an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, as contemplated by subdivision I below, then an additional EIR need not be prepared for the project solely on the basis of that impact.*
- d) *This section shall apply only to projects which meet the following conditions:*

- 1) The project is consistent with:
 - A. A community plan adopted as part of a general plan,
 - B. A zoning action which zoned or designated the parcel on which the project would be located to accommodate a particular density of development, or
 - C. A general plan of a local agency, and
 - 2) An EIR was certified by the lead agency for the zoning action, the community plan, or the general plan.
- e) This section shall limit the analysis of only those significant environmental effects for which:
- 1) Each public agency with authority to mitigate any of the significant effects on the environment identified in the planning or zoning action undertakes or requires others to undertake mitigation measures specified in the EIR which the lead agency found to be feasible, and
 - 2) The lead agency makes a finding at a public hearing as to whether the feasible mitigation measures will be undertaken.
- f) An effect of a project on the environment shall not be considered peculiar to the project or the parcel for the purposes of this section if uniformly applied development policies or standards have been previously adopted by the City or county with a finding that the development policies or standards will substantially mitigate that environmental effect when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect. The finding shall be based on substantial evidence which need not include an EIR. Such development policies or standards need not apply throughout the entire City or county, but can apply only within the zoning district in which the project is located, or within the area subject to the community plan on which the lead agency is relying. Moreover, such policies or standards need not be part of the general plan or any community plan, but can be found within another pertinent planning document such as a zoning ordinance. Where a City or county, in previously adopting uniformly applied development policies or standards for imposition on future projects, failed to make a finding as to whether such policies or standards would substantially mitigate the effects of future projects, the decision-making body of the City or county, prior to approving such a future project pursuant to this section, may hold a public hearing for the purpose of considering whether, as applied to the project, such standards or policies would substantially mitigate the effects of the project. Such a public hearing need only be held if the City or county decides to apply the standards or policies as permitted in this section.
- g) Examples of uniformly applied development policies or standards include, but are not limited to:
- 1) Parking ordinances.
 - 2) Public access requirements.
 - 3) Grading ordinances.
 - 4) Hillside development ordinances.
 - 5) Flood plain ordinances.
 - 6) Habitat protection or conservation ordinances.
 - 7) View protection ordinances.
 - 8) Requirements for reducing greenhouse gas emissions, as set forth in adopted land use plans, policies, or regulations.
- h) An environmental effect shall not be considered peculiar to the project or parcel solely because no uniformly applied development policy or standard is applicable to it.
- i) Where the prior EIR relied upon by the lead agency was prepared for a general plan or community plan that meets the requirements of this section, any rezoning action consistent with the general plan or community plan shall be treated as a project subject to this section.
- 1) "Community plan" is defined as a part of the general plan of a City or county which applies to a defined geographic portion of the total area included in the general plan, includes or references each of the mandatory elements specified in Section 65302 of the Government Code, and contains specific development policies and implementation measures which will apply those policies to each involved parcel.

- 2) *For purposes of this section, “consistent” means that the density of the proposed project is the same or less than the standard expressed for the involved parcel in the general plan, community plan or zoning action for which an EIR has been certified, and that the project complies with the density-related standards contained in that plan or zoning. Where the zoning ordinance refers to the general plan or community plan for its density standard, the project shall be consistent with the applicable plan.*
- j) *This section does not affect any requirement to analyze potentially significant offsite or cumulative impacts if those impacts were not adequately discussed in the prior EIR. If a significant offsite or cumulative impact was adequately discussed in the prior EIR, then this section may be used as a basis for excluding further analysis of that offsite or cumulative impact.*

Project-Specific Environmental Review

The 15183 Consistency Checklist includes a discussion and analysis of any peculiar or site-specific environmental impacts associated with construction and operation of the proposed Project. The Checklist identifies the applicable City of Fresno development standards and policies that would apply to the proposed Project during both the construction and operational phases and explains how the application of these uniformly applied standards and policies would ensure that no peculiar or site-specific environmental impacts would occur. None of the environmental factors analyzed were determined to be affected by the proposed Project, as indicated by the 15183 Consistency Checklist. Furthermore, the 15183 Consistency Checklist provides substantial evidence that the proposed Project does not result any significant impacts, or any impacts triggering further environmental review pursuant to Section 15183(b). The comments have failed to provide any substantial evidence in support of a fair argument that the City has failed to meet the requirements of CEQA Guidelines Section 15183 or that the City has failed to adequately review the environmental effects designated by that provision. No further environmental review is necessary and an Negative Declaration or an EIR is not required.

Although State CEQA Guidelines Section 15088 does not require a Lead Agency to prepare written responses to comments received, the City of Fresno has elected to prepare the following written responses with the intent of providing a comprehensive and meaningful evaluation of the proposed Project. The number designations in the responses are correlated to the bracketed and identified portions of each comment letter.

Comment Letter O1: Leadership Counsel for Justice and Accountability, Friends of Calwa, and Central California Environmental Justice Network December 21, 2022



December 21, 2022

City of Fresno Planning Commission and
Jennifer Clark, Planning Director
2600 Fresno St.
Fresno, CA 93721

Sent via e-mail

RE: Appeal Director's Approval of Development Permit Application No. P22-00565

Dear Commissioners and Ms. Clark:

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O1.1

Leadership Counsel for Justice and Accountability request that you postpone your decision on this matter as we have been informed by the City Planner that the Applicant would like to discuss the concerns of the community and we need an opportunity to speak with the developer and the community members of South Central Fresno after the holidays. **Please postpone to the Planning Commission Hearing date of January 18th, 2023.**

The undersigned individuals and organizations oppose any decision to approve Development Permit Application No. P22-00565. The undersigned individuals and organizations have an interest in ensuring that this project's environmental and human impacts are fully mitigated in compliance with the California Environmental Quality Act ("CEQA"), the Fresno Municipal Code, and other relevant laws and regulations, and that the project benefits and does not harm the residents of the City and County of Fresno, in particular, residents who live, work, worship, recreate, and attend school in the vicinity of the project site.



The proposed project is not consistent with the General Plan's Program Environmental Impact Report nor does it meet the requirements of the CEQA guidelines under CCR 14 section 15183.

This project can not be streamlined through the use of an Environmental Assessment as proposed by the Planning Department because it is not consistent with the existing General Plan, community plan, and zoning per Section 15183 of the State of California California Environmental Quality Act (CEQA). The Planning Department claims that this project is consistent with the Program Environmental Impact Report (PEIR) of the General Plan, however, this is false. The proposed project inappropriately tiers from the General Plan's Program EIR ("GP PEIR"). Earlier analyses of environmental impacts may only be tiered from a Program EIR if an effect has already been adequately analyzed. CEQA Guidelines §15063(c)(3)(D). The GP PEIR failed to analyze environmental impacts adequately. For example, the GP PEIR fails to adequately analyze the environmental setting, air quality impacts or identify sufficient mitigation to address air quality impacts. In addition, the GP PEIR inadequately analyzes GHG emissions, transportation, and groundwater impacts. The environmental assessment upon which the project relies continually points to impacts addressed through the City's general plan PEIR but fails to acknowledge that the PEIR itself was flawed. As a result, the project requires a full environmental impact report. When a project does not meet the requirements necessary for streamlining then either: a Negative Declaration stating that there are no significant impacts that will incur to the environment or an Environmental Impact Report which assesses the significant impacts must be completed.

O1.2

Approving this project before the South Central Specific Plan is complete is inappropriate.

The Planning Department is attempting to prematurely approve a project when they are completely aware of the fact that the current South Central Specific Plan is not complete. The purpose of this South Central Specific Plan is to ensure that the planning of our city is done so in an equitable and safe way that ensures the health and safety of the disadvantaged communities of South Central Fresno.

O1.3

A decision to approve the environmental assessment of this proposed project will only continue to concentrate industrial development up to the property lines of sensitive uses in South Central Fresno neighborhoods. Without a completed SCSP with prescribed protections, which starts



with a completed environmental impact review, the community will only suffer further degradation of environmental quality, exacerbate poor public health outcomes, undermine housing quality, drive displacement in these neighborhoods and widen Fresno's deep and historic racial disparities. The City must not proceed with its efforts to further cement unjust land use patterns in City policy.

O1.3
Cont.

The citing of this proposed development is within the AB617 Community Air Protection Planned boundary.

South Central Fresno community area was awarded funding by the California Air Resources Board under AB617 (C. Garcia) Community Air Protection Plan. This is nothing to be proud of as a city. The city of Fresno received this competitive grant due to the South Central Fresno area being one of the most polluted areas in all of California. AB617 funding supports the creation of emission reduction programs in the South Central Fresno area in an attempt to right the wrongs of Fresno's racially biased land use practices that resulted in an overconcentration of industrial development. This does not mean that because the San Joaquin Valley Air Pollution Control District is overseeing the implementation of AB617, that the City should continue to approve planned projects that will increase the pollution in an already overburdened area.

O1.4

The data from both CalEnviroScreen 3.0 and 4.0 confirm that the location of this proposed project is in the top 1% of the most pollution overburdened communities. South Central neighborhoods experience high rates of poverty and lack of access to basic amenities and services, such as decent quality affordable housing, parks, green space, high performing schools, grocery stores, medical services, and more. And yet, the city of Fresno's planning department brings to the Planning Commission, yet another project to increase the burdens of pollution in an area whose communities have already proven that it can not continue down this path of disproportionate pollution burdens in communities of color.

This proposed project will have significant negative impacts to the residents of the City and County of Fresno due to the increase of heavy industrial uses and increased heavy duty truck traffic.

The decision to approve this permit application will perpetuate the citing of heavy industrial uses in and near communities of color. Residents have described to this Planning Commission on multiple occasions that the continual citing of heavy industrial projects near their homes causes

O1.5



severe environmental, safety, and detrimental long term health impacts. This facility will increase the amount of heavy duty truck traffic that will operate 24/7. It will impact the safety of residents, increase noise pollution, increase levels of PM2.5 and NOx emissions, and increase dust and vibrations of homes, schools, and religious institutions.

Currently, a citywide heavy duty Truck Reroute Study is in progress which is one of the community emission reduction measures of the AB617 Community Air Protection plan. This study will identify routes of heavy duty trucks that need to be removed from going through neighborhoods to reduce exposure to air pollutants.

Despite years of community advocacy calling for protections from further industrial development in South Central Fresno neighborhoods, ongoing local planning processes considering land use changes, and focused efforts and investments by the San Joaquin Air Pollution Control District, CARB, the Attorney General's Office, and other state agencies and departments, the City of Fresno Planning Department still continues the discriminatory patterns of practice of approving permits, like this facility for Coca Cola Distribution.

We ask that this Planning Commission deny the consideration of this Environmental Assessment and Permit Application# P22-00565 as well as pause on the approval of such applications that are perpetuating the environmental injustices of South Fresno.

O1.5
Cont.

Sincerely,

Ivanka Saunders
Policy Advocate
Leadership Counsel for Justice and Accountability

Laura Moreno
Executive Director
Friends of Calwa

Nayamin Martinez
Director
Central California Environmental Justice Network

RESPONSE TO COMMENT LETTER O1: Leadership Counsel for Justice and Accountability, Friends of Calwa, Central California Environmental Justice Network and Central

O1.1: The comment states that they request that the decision on the Project be postponed to the PC Hearing date of January 18, 2023. The comment also states that the individuals and organizations oppose any decision to approve the Project.

This comment does not express any specific concern or question regarding the adequacy of the CEQA document. No further response is required.

O1.2: The comment states that the Project is not consistent with the existing general plan and inappropriately tiers from the General Plan's Program EIR. The comment states that the GP EIR fails to adequately analyze the environmental setting, air quality impacts or identify sufficient mitigation measures to address air quality impacts. The comment also states that the Project requires a full EIR.

The Project is consistent with the land use designation and the Program Environmental Impact Report (PEIR) prepared for the City's 2021 General Plan Amendment (2021 GP PEIR). The General Plan and PEIR are the basis for consistency with CEQA Guidelines Section 15183. The Project is also consistent with the site's current zoning designation. As discussed in the Environmental Checklist, the PEIR assumed full development and buildout of the Project site, consistent with the uses and development standards proposed by the Project. The cumulative impacts associated with buildout of the City as envisioned in the GP, including the Project site, were fully addressed in the PEIR. Pursuant to Public Resources Code Section 21167.2, the City's General Plan Final EIR must be conclusively presumed to be valid with regard to its use for later activities unless any of the circumstances requiring supplemental review exist. Therefore, a full EIR is not required.

O1.3: The comment states that the Planning Department is attempting to prematurely approve a project when the current South Central Specific Plan is not complete. The comment also states that the approval of the Project will continue to concentrate industrial development up to the property lines of sensitive uses in South Central Fresno neighborhoods.

The City prepared streamlined review for the Project pursuant to CEQA Guidelines Section 15183, which applies to certain projects consistent with a community plan or zoning. The Project is consistent with the land use designation and the Program Environmental Impact Report (PEIR) prepared for the City's 2021 General Plan Amendment (2021 GP PEIR). The General Plan and PEIR are the basis for consistency with CEQA Guidelines Section 15183. The Project is also consistent with the site's current zoning designation. Therefore, future revisions to the South Central Specific Plan are not relevant to the proposed Project. This comment does not express any specific concern or question regarding the adequacy of the CEQA document. No further response is required.

O1.4: This comment states that the community was awarded funding by CARB under AB 617. The comment also states that data from CalEnviroScreen 3.0 and 4.0 confirms that the location of the Project is in the top 1% of the most pollution overburdened communities. The comment also states that the Project would increase the burden of pollution within the area.

The CalEnviroScreen score cited by the commenter includes other environmental and socioeconomic indicators, not just air quality emissions. These indicators are: Pesticides, Toxic Releases, Traffic, Drinking Water Contaminants, Lead in Housing, Cleanups, Groundwater Threats, Hazardous Waste, Impaired Water, Solid Waste, Education, Housing Burden, Linguistic Isolation, Poverty, and Unemployment. As this score includes other environmental and socioeconomic indicators, it does not in and of itself provide evidence that the Project would trigger any significant CEQA impacts.

As discussed in Section 3, Air Quality, the project conducted an operational Health Risk Assessment (HRA) which found that all health risk levels to nearby residents from operation-related emissions of Toxic Air Contaminates (TACs) would be well below the SJVAPCD's HRA thresholds. As shown in Table 5, the maximum cancer risk from Project construction to off-site sensitive receptors would be 5.21 in one million, less than the threshold of 20 in one million. The worker receptor risk would be lower at 1.07 in one million. The total chronic hazard index would be 0.059 for the worker receptor and 0.005 for the sensitive receptor, which is below the threshold of 1.0. In addition, the total acute hazard index would be nominal (0.000), which would also not exceed the threshold of 1.0. As these results show, all health risk levels to nearby residents from construction-related emissions of TACs would be below the SJVAPCD's HRA thresholds. As shown in Table 6, the maximum cancer risk for the sensitive receptor from Project operations would be 3.04 in one million, less than the threshold of 20 in one million. The worker receptor risk would be lower at 1.39 in one million. The total chronic hazard index would be 0.006 for the worker receptor and nominal (0.000) for the sensitive receptor, which is below the threshold of 1.0. In addition, the total acute hazard index would be nominal (0.000), which would also not exceed the threshold of 1.0. As these results show, all health risk levels to nearby residents from operation-related emissions of TACs would be well below the SJVAPCD's HRA thresholds. As such, the Project will not cause a significant human health or cancer risk to nearby residences, requiring no mitigation.

O1.5: The comment states that the Project will perpetuate the citing of heavy industrial uses in and near communities of color. The comment states that the Project will increase the amount of heavy-duty truck traffic that will operate 24 hours 7 days a week. The comment also states that safety will be impacted, noise pollution will increase, levels of PM_{2.5} and NO_x emissions will increase along with dust and vibration of homes, schools, and religious institutions. The comment requests that the Planning Commission deny the consideration of this Environmental Assessment as well as pause the approval of applications that are perpetuating the environmental injustices of South Fresno.

The Project trip generation was evaluated using trip rates from the Institute of Transportation Engineers (ITE) and estimated that the Project would generate fewer than 100 peak hour trips (59 AM and 84 PM peak hour PCE trips) as shown on the provided Project Trip Generation (see Table 17 in the 15183 Consistency Checklist). See also Section 11, *Land Use and Planning* of Checklist, Table 12: *Project Consistency with General Plan*, which demonstrates the Project's consistency with the objectives and policies from the General Plan (including Policy MT-2-I and Policies on Noise and Safety) and would result in no new impacts, as the impacts are less than significant. As discussed in Section 13, *Noise*, Although the Project has the potential to operate 24 hours a day and continuous during any given day, noise levels would be below the City's more restrictive nighttime commercial use ambient noise standard of 60 dBA Leq. While the Project noise level impact analysis was completed to show compliance with nighttime noise level standards, the commercial uses are likely to be open during daytime and evening hours. As analyzed, the Project noise levels would not exceed the City's ambient noise standards, therefore impacts would be less than significant.

This comment also states that the approval of this Project will perpetuate environmental justice. The comment does not provide any substantial evidence that would, pursuant to CEQA, require any changes to the City's conclusion that the Project is consistent with the 2021 GP PEIR, pursuant to a 15183 Consistency Checklist.

Therefore, the commenter has failed to provide any substantial evidence in support of even a fair argument that the City has failed to meet the requirements of CEQA Guidelines Section 15183 or that the City has failed to adequately review the environmental effects designated by that provision. No further environmental review is necessary and an ND or EIR is not required.



February 1, 2023

City of Fresno Planning Commission and
Jennifer Clark, Planning Director
2600 Fresno St.
Fresno, CA 93721

Sent via e-mail

RE: Appeal Director's Approval of Development Permit Application No. P22-00565

Dear Commissioners and Ms. Clark:

Attached to this same email is a copy of our previous letter dated December 21, 2022. In addition, please review the following points of opposition.

The City is relying on the GP PEIR for its CEQA compliance for this project and others like it. Although insufficient in several areas, the GP PEIR is especially an inadequate CEQA document for addressing GHG (greenhouse gas) emissions.

The project lacks sufficient mitigation measures to address its Greenhouse Gas Emissions. The project would generate 1,148.7 metric tons of CO₂e between 2022 and 2024 in construction emissions. The project would then generate approximately 5,717.4 metric tons of CO₂e per year in operational emissions. Despite the high emission levels, the project states, "As shown in the Consistency Checklist, the proposed Project would be consistent with the applicable strategies from the GHG Reduction Plan Update." (page 72) The GP PEIR concluded that the implementation of the GP decreases greenhouse gas impacts with the implementation of mitigation measure GHG-1.1(the Checklist). As a result, the City argues that the PEIR concluded the GP would have a less than significant impact on GHGs.

Unfortunately for Coca-Cola, the City's GHG plan must not be relied upon to determine analysis streamlining. The CEQA Guidelines §15183.5(b) require that qualified plans must (1) quantify existing and projected GHG emissions resulting from activities in the area; (2) set a reduction target, based on substantial evidence, below which GHG emissions from activities covered by the plan would not be cumulatively considerable; (3) forecast projected emissions for activities covered by the plan; (4) specify reduction measures that substantial evidence demonstrates would achieve the reduction target; and (5) establish a monitoring mechanism. The Checklist used by the City and relied upon by Coca-Cola failed to accomplish any of the requirements. Therefore, despite doing a separate analysis to determine GHG emissions during construction and operation, Coca-Cola cannot rely on the Checklist because the information gathered by Coca-Cola cannot be framed within the GHG Plan under which to determine the level of significance and, in turn, mitigation measures.

By uncritically relying on the City of Fresno's General Plan Programmatic Environmental Impact Report (GP PEIR), Coca-Cola has relied on mitigation measures identified in the GP



PEIR which fail to actually reduce impacts below significant and fail to comply with CEQA. For example, to mitigate the project's significant GHG impacts, the PEIR relies entirely on the GHG Plan and its Consistency Checklist. The checklist fails to accomplish CEQA requirements and should, therefore, not be relied upon. Under CEQA, mitigation measures "must be fully enforceable through permit conditions, agreements, or other legally-binding instruments." Guidelines § 15126.4(a)(2); § 21081.6(b). CEQA requires that mitigation measures provide "specific performance standards the mitigation will achieve." Guidelines § 15126.4(a)(1)(B). ensure that feasible mitigation measures will actually be implemented ... and not merely adopted and then neglected or disregarded." *Lincoln Place Tenants Assn. v. City of Los Angeles* (2005) 130 Cal.App.4th 1491, 1508 (citing § 21002.1). Mitigation must be "effective," and the lead agency must "quantitatively or qualitatively ascertain or estimate the effect of the Project's mitigation measures on GHG emissions." *Friends of Oroville v. City of Oroville* (2013) 219 Cal.App.4th 832, 842; *Communities for a Better Env't*, 184 Cal.App.4th at 94; see generally Guidelines § 15370.

The Checklist did not set specific performance requirements, actions necessary to comply with the Checklist, or new requirements outside the scope of existing laws. It does not state how the checklist will lower GHG emissions nor estimate how much the checklist will lower GHG emissions. As a result, the Checklist should not be used for streamlining in this project or others.

Again, we request that this project not be approved.

Sincerely,

Ivanka Saunders
Leadership Counsel for Justice and Accountability