

EXHIBIT G

Chapter 2 - Response to Written Comments

A list of public agencies, organizations, and individuals that provided comments on the Draft SEIR is presented below. Each comment has been assigned a code. Individual comments within each communication have been numbered so comments can be cross-referenced with responses. Following this list, the text of the communication is reprinted and followed by the corresponding response.

List of Authors

Author

Author Code

State Agencies

No comments received

Regional Agencies

No comments received

Local Agencies

No comments received

Organizations

No comments received

Individuals

Bruce A. OwdomRDSEIR 1

Responses to Comments

In accordance with CEQA Guidelines Section 15088, the City, as the Lead Agency, evaluated the comments received on the Revised Draft SEIR (State Clearinghouse No. 2017031030) for the Producers Dairy Cheese Plant Project and has prepared the following responses to the comments received. This Response to Comments section becomes part of the Final SEIR for the Project in accordance with CEQA Guidelines Section 15132.

The comment letter reproduced in the following pages follows the same organization as used in the List of Authors above.

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August 30, 2017

Mr. Mike Sanchez, Assistant Manager
City of Fresno
Department of Development and Resource Management
2600 Fresno Street, Room 3065
Fresno, California 93721

Delivered by email to: Mike.Sanchez@fresno.gov and by U.S. Mail

RE: **REIVSED DRAFT** Supplement to the Tower District Specific Plan Final Environmental Impact Report (1991) for Producers Dairy Truck Parking Lot Enlargement Project prepared July 2017

Dear Mr. Sanchez:

Paul E. Pierce and I submit the following comments on the Revised Draft Supplement to the Tower District Specific Plan Final Environmental Impact Report (1991) prepared July 2017 (RDSEIR) for the proposed demolition of two historic structures and enlargement of the proponent Producer's Dairy truck trailer parking operation at 450 E. Belmont Avenue, Fresno, California, which is intended to service its production facility located at 144 E. Belmont Avenue.

On December 31, 2016, we commented at length on the Initial Study (IS) for this project. On April 24, 2017, we also commented on the inadequacy of the Draft Supplemental Environmental Impact Report (DSEIR). Unfortunately, our suggestion to revise the IS because of its glaring inadequacies was rejected, and the applicant chose to continue the environmental review process without completely describing and analyzing the proposed project in a revised IS. Just as the DSEIR failed to address the December 31, 2016 comments, our comments to DSEIR, dated April 24, 2017, that the DSEIR inadequately describes the "project," the RDSEIR fails again to completely describe the project and analyze its impacts. Further, the RDSEIR repeats fundamental flaws in its review and analysis. That fundamental flaw is the that the "project" actually involves a huge expansion at its production facilities in this neighborhood for which Producer's seeks a 123% increase in parking capacity for storage of its truck trailers at the 450 E. Belmont Avenue location.

We reiterate our repeated requests to receive and review, and to have incorporated in the official record of these proceedings, the full history of the contract under which the environmental work for this project is being performed, including all drafts, revisions, notes, and correspondence regarding the contract, by or among any agents or representatives of the City of Fresno, SOAR Environmental Consulting, Inc., and

RDSEIR
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RDSEIR
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/or Producers Dairy. As we have mentioned, we are concerned that this contract may violate Public Resources Code section 21082.1(a), which requires that:

RDSEIR
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"Any draft environmental impact report, environmental impact report, negative declaration, or mitigated negative declaration prepared pursuant to the requirements of this division **shall be prepared directly by, or under contact to, a public agency.**" [Emphasis added.]

We are informed that this contract is not so formed. Rather, the contract is formed between the consultant SOAR and the project applicant, Producers Dairy. The resulting IS, DEIR and DRSEIR and their biases in favor of the proposed project is astonishing. Please provide the requested documents immediately. Although Producers may have provided the actual contract between Producer's and its consultant, SOAR, the notes and other written history of this contract have not been provided. In addition, the distribution list of notices regarding this project has not been provided and thus, we are unable to confirm that persons entitled to notice have received it. Accordingly, we reserve our right to object that notice of this action has not complied with the law.

RDSEIR
1-3

We renew our repeated requests to receive and review legible site plans with dimensions and to scale, for both the subject property at 450 E. Belmont Avenue and 302 N. Thorne Avenue, the latter of which is the previous location of the applicant's permanent truck trailer parking. Although a portion of the Thorne Avenue property was apparently purchased by the High Speed Rail Authority, the City staff report prepared for the Council meeting on February 26, 2016, indicated that "[o]nce work is complete the current leased site (302 N. Thorne) truck parking will again be available." Neither the applicant nor the consultant have disputed this statement. RDSEIR, Response to Comments, Response, Seir1-5 states that "site plans for 1752 G Street and 302 N. Thorne Avenue are private plans and are not part of the proposed Project." Therefore, the RDSEIR has failed to disclose this critically important information.

The Resp. 1-5 also reveals only that the 302 N. Thorne Avenue site is "currently not used for delivery trailer parking. Therefore, site plans for the two sites do not fall under the scope of the Draft SEIR." However, truck trailer parking is not the defining feature of this project. The total scope of this project includes the integration of this grossly over-parked, proposed project and the production facility at 250 E. Belmont Avenue, the project's effects on the health and aesthetics of the people who live and work in the vicinity, and the status of the Thorne Avenue property and other sites that are more suitable for this project. Unfortunately, Producer's is apparently unwilling to consider better alternatives for itself and the protection of its neighbors.

The Tower District Specific Plan and The Tower District Specific Plan Final Environmental Impact Report (1991).

RDSEIR
1-4

Applicable provisions, goals and objectives of the TDSP which demonstrate the inconsistency of the proposed Project with the Plan were quoted in our earlier comments, dated April 24, 2017, and will not be repeated here. The TDSP is a conservation and preservation plan that protects the unique features and characteristics of the Tower District that will serve as defining building blocks for future, appropriate development to revitalize historic neighborhoods. In 1991, Producers' understood and agreed with these goals and objectives with respect to the historic structures on this site. That agreement became law by the

**RDSEIR
1-4**

unanimous vote of the City Council. Now Producers seeks to revoke unilaterally this agreement and law. This neighborhood needs land uses and economic development consistent with the TDSP, not in opposition to it.

**RDSEIR
1-5**

The RDSEIR falsely and disingenuously claims this project is "consistent with the applicable Tower district Specific Plan goals and objectives, zoning and land use" (Respns., SEIR 1-7.), and because it was zoned light industrial for 26 years, and has supported dairy factory operations for at least 88 years." Producer's finds itself in this position because it has broken its promises to the City of Fresno, the Tower District Specific Plan and its neighbors, especially the residential neighbors around this parking facility. 26 years ago Producers agreed to the mitigation measures enumerated in the Plan, in exchange for the light industrial zoning, as adopted by the TDSP and part of the zoning ordinance. This issue only arises now after 26 years because Producer's has failed to protect and preserve, or even stabilize, the historic structures as it agreed to do. Producer's also asks for a variance from established municipal law requiring a minimal set from the side walk to allow the parking of **14 more truck trailers** on this 1.83 acre parcel. Producer's asks the City Council to grant its request to escape its obligations made over 26 years ago.

Producer's claims that this project "complies" with the Plan is incredible. If the project complied with the Plan it would not be requesting amendments to the Plan and it would not be seeking a variance.

Producer's acts as if it is entitled to revise the TDSP simply because the previously proposed use for the property is no longer being proposed, "and, as such the mitigation measures are not applicable to the proposed Project." (Respns., SEIR 1-7.) The property did support dairy operations in the past, but it was not diesel refrigerator truck parking before Producer's. Indeed, it has been suggested to Producer's and the Lead Agency that a more appropriate use of this neighborhood space is local retail that promotes the health and opportunities of the surrounding residents. Producer's, unfortunately, is indifferent to its neighbors and maybe to its brand, purporting to be a helpful, hopeful friend.

**RDSEIR
1-6**

Response SEIR 1-15 is illustrative of the disdain this Project has for the TPSP. These words are not quoted here, but they are shockingly dismissive of the rule of law in our city. The TDSP and the zoning of and mitigations measures for this property were was duly adopted unanimously by the Fresno City Council in 1991. Now, because in Producer's view, all mitigation measures adopted into law are "not applicable," they should be avoided. How can this project be in "compliance" with the very specific plan that Producer's demands the city council modify?

The Project Description Is Inadequate and Fails to Disclose the Full Impact of the Project.

**RDSEIR
1-7**

The DSEIR fails to define and address adequately the project's impacts on neighborhood stability, pedestrian safety, family health, surrounding property values, and the historic fabric of the area, that arise from this intensity of use, including: dangerously heavy truck traffic where children walk to school; significant health impacts of significantly increased deadly diesel particulate matter (both PM2.5 and PM10); significant cumulative impacts, when increased DPM is added to proximate freeway pollution.

RDSEIR
1-8

The RDSEIR finally confirms what was ambiguous in the DSEIR-- that this industrial project will host a 24 hour operation of truck and trailer ingress and egress. Producer's does not deny that the operation will also include trailer maintenance, tire changes, cleaning, and the associated operation of powered maintenance equipment and tools in the midst of this residential neighborhood. The proposed project would also allow regular, heavy, and, normally prohibited, truck-trailer traffic on residential streets (Roosevelt and Ferger Avenues) to enter and exit the parking lot. The southern half of the perimeter of the subject property is surrounded by at least eight residential properties (See, RDSEIR, Figure 2, p. 25.)

RDSEIR
1-9

The project description and RDSEIR are inadequate because they fail to identify and analyze the loss of opportunities and property values incurred by the neighbors of the proposed expanded truck parking lot. Producer's may believe that neighbors' property values should not be considered under CEQA, but with any project a neighbor's condition and desire for fair treatment must be considered. Why is an already marginalized and disadvantaged community made to suffer the worst impacts of industrial, economic activity?

RDSEIR
1-10

The proposed project will **increase the number of parked truck trailers on the site from the current 30 to a new maximum of 67 trailers, a whopping 123% increase** of parked refrigerated truck trailers. The RDSEIR finally concedes that the project will "result" in an additional 20 round-trip truck-trailer trips per day, for a total of at least 70 round-trips daily seven days a week (for a total of 140 trips per day) and "approximately 182 truck movement events." (RDSEIR, p.55.) What this actually means is that there will be at least 140 truck trailer ingresses to and egresses from the site every day of the week, including weekends. In addition to the truck-trailer traffic on Belmont, Roosevelt and Ferger Avenues, there is the clanging and banging, associated with the so-called truck events on the site, that is, the noise emitted from the trucks' disconnecting and connecting to a trailers with the diesel engines idling and related maintenance work. Again, 24 hours, day and night.

RDSEIR
1-11

As noted above, the true and total scope of this project is integration and consolidation of this 1.83 acre parcel at 450 E. Belmont Avenue into an expanded production facility located at 250 E. Belmont Avenue. Producer's refusal to state whether the parking location at 302 N. Thorne Avenue will be available for parking in the future can only mean that it may be available for parking in the future. Producer's needs to disclose the status of this property. The Thorne Avenue property is within the scope of this project whether Producer's wants it to be or not.

The External Noise Mitigation Is Inadequate.

RDSEIR
1-12

The RDSEIR obscures the true facts which are that this project will increase daily truck trips to and from this site to at least 140 per day and because the number of parked trailers at the site would increase from 30 to 67, noise related to parking movement events within the project site will dramatically increase. None of these cumulative impacts is analyzed. The proposed mitigation measures are woefully inadequate to mitigate the overwhelming burden of such an increase in trucks and trailers. Furthermore, the applicant does not have a good record in fulfilling mitigation measures agreed to 26 years ago regarding this property. In its attempt to comply with the city's noise ordinance, the unconvincing mitigation such as a 12 foot sound wall

**RDSEIR
1-12**

clearly reveals the incongruity of this project with the neighborhood. Truck trailers parked in the middle and north rows will have the refrigeration units facing southbound directly at the adjacent residential neighborhood. To make this project "fit", the proponent is forced to seek a variance in order to place a fence at the very edge of the property line and within the required setback. By eliminating the normal setbacks for this project, it only moves its noise and pollution that much closer to its neighbors.

The Transportation and Traffic Section, Section 4.3.1, Is Flawed and Must Be Rejected.

The RDSEIR repeats the same error as the DSEIR. The transportation discussion is not factually based and therefore is not relevant for purposes of this RDSEIR. The discussion bases its projected benefits for reduction of vehicle miles travelled to the current, temporary parking location at H and Tuolumne Streets. In the DSEIR, Producer's utilized another temporary parking lot at 1752 G Street, now it uses the temporary parking lot at H and Tuolumne Streets for its calculations. The RDSEIR should use Producer's last permanent parking location at 302 N. Thorne for any such analysis. The present analysis is inadequate.

**RDSEIR
1-13**

The calculation of a reduction in vehicle miles travelled under the proposed project is not factually based and cannot be accepted as a valid impact reduction. Further, the RDSEIR still contains no information or discussion about the impacts of the massive, at least daily 140 truck trailer trips on pedestrians in the neighborhood, including children walking northbound through the proposed traffic maze of trucks, to nearby John Muir Elementary School and Fresno High School. The RDSEIR does not analyze the creation of the new proposed exit and traffic on Ferger Avenue and the impact of that new feature on that street specifically and throughout the neighborhood in general.

The RDSEIR Again Fails to Consider Adequately Dangerous Air Quality Impacts of the Project.

**RDSEIR
1-14**

The RDSEIR and its Appendix I, p. 7, conclude that the proposed project viewed under the Small Project Analysis Level (SPAL) does not reach a "threshold of CEQA significance for criteria pollutant emissions," and "would result in a less than significant impact." The RDSEIR further concludes that, in any event, any diesel exhaust emissions, one of the most deadly vehicle emissions, on an annual project emission basis is 3.68 lbs, and below the 4.3 lbs. annual emission threshold. The RDSEIR at page 6, Appendix J, RSP SEIR1-20, argues that because these deadly emissions are estimated to be **only 14% below** the threshold required for a full health risk assessment of the project, it is exempt from conducting an official Health Risk Assessment. Producer's ignores the health impacts of the proposed project on its residential neighbors and sensitive receptors by avoiding this critical issue and not conducting an HRA. Without any fact based analysis, Producer's is willing, by 14% margin, to risk that sensitive populations, like residential neighbors, will not contract a deadly disease or condition caused by dangerous, toxic emissions from this project especially Diesel Particulate Matter.

**RDSEIR
1-15**

The California Air Resources Control Board classifies Diesel Particulate Matter as a separately toxic air pollutant, though DPM also contains PM2.5 and PM10. CARB's "Methodology for Estimating the Potential

RDSEIR
1-15

Health Impacts from Diesel Truck Idling Operations” prescribes assessing exposed individuals’ cancer health risks “based on hours of diesel engine idling operations and downwind distance of the receptor.” Accordingly, California restricts siting of new schools near major highways and busy traffic corridors. (California Education Code, sec. 7213.c.2.C) See Comment Letter, dated December 31, 2016, Appendix A. The Lead Agency should not countenance this project. It would not be permitted in North Fresno.

RDSEIR
1-16

In addition, we reserve the right to further comment on the applicability of the SPAL exemption when the acreage of the total project, including 250 E. Belmont, 450 E. Belmont, and 302 N. Thorne Avenue, when they are ascertained. It is believed that the total acreage exceeds the SPAL exemption acreage limit.

The Alternative Analysis Continues to be Incomplete and Inadequate.

RDSEIR
1-17

The RDSEIR continues inexplicitly to cite an infeasible relocation alternative which no one, but the consultants and the applicant, has suggested and is clearly “infeasible.” (CEQA, Guidelines, Sec. 15126.6) The RDSEIR continues to choose relocation as the environmentally superior alternative despite its infeasibility.

The applicant’s opposition to the so-called façade alternative is that it would lose 14 parking spaces by retention of the facades. (RDSEIR, p. 78.) As Figure 14 reveals, the applicant’s massive expansion of parking, to 67 trailer parking spaces, on the site and even with the demolition of the historic buildings, Producer’s still requires and has applied for a variance to utilize all the area in the normally required setback. The City of Fresno Development Code, section 15-313 provides in pertinent part:

“Front setbacks shall be measured from the back of the sidewalk (including instances where the back of the sidewalk lies within the project parcel) to the portion of the structure that is closest to the front of the lot.”

According to the Development Code Table 15-1303-2, the minimum setback in an Employment District (including light Industrial uses) is 15 feet. The existing historic façade of the building on Belmont is 9’9” from the property line (the back of the sidewalk), and 10’ from the back of the sidewalk on Roosevelt Avenue. Applicant is seeking a variance from standard and rational measures of setback, followed by projects every day in the city, to ignore set back requirements and locate its proposed fence at the property line.

RDSEIR
1-18

Producer’s complains that the loss of 14 parking spaces (or 26%) in the façade alternative would “not meet the project proponent [sic] objectives...” In other words, Producer’s is not willing to compromise on any aspect of this project, no matter what it holds for this neighborhood and its people.

The RDSEIR continues earlier failures to analyze and consider adequately the façade alternative. For example, the RDSEIR, page 77, claims that the difference in cost between demolishing both historic buildings and preserving and retrofitting the facades is \$112,000. However, this cocktail napkin calculation, without any good faith analysis, fails to consider the savings achieved from eliminating the cost of any construction of any fence where the facades sit and the cost of the awful “monument.” The facades would provide a better visual barrier to the mass of truck trailers parked compared to the “steel tube fencing” proposed. (RDSEIR, p.

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August 30, 2017
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**RDSEIR
1-18**

29, 30.) The preservation of the facades would also preserve an economic opportunity at a later date to build modern buildings behind the historic facades. Such façade projects are well-known and exist all over the world.

**RDSEIR
1-19**

We reiterate: the project, as proposed, is really the continuation of a familiar and discriminatory development practice in Fresno that pre-dates the 1991 TDSP and has decimated west Fresno over the past decades. With the approval of government bodies, influential Industrial interests are allowed to expand their uses incrementally into residential areas at the expense of those residents. As a result, these residents are exposed to greater and greater pressures from heavy industrial traffic, congestion, noise and toxic pollution of all kinds. Would encroachment of an industrial use into a residential neighborhood such as proposed here be permitted in North Fresno?

Very truly yours,

[s/ Bruce A. Owdom]

Bruce A. Owdom, Attorney at Law

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Responses to Comments

on

Producers Dairy Cheese Plant Revised Draft Supplement to an Environmental Impact Report (Revised Draft SEIR)

The public comment period for the Producers Dairy Cheese Plant Revised Draft Supplement to the Tower District Specific Plan Final Impact Report (Revised Draft SEIR) was from August 1, 2017 to August 30, 2017. During that time, one comment letter was received. The responses to that letter are listed below.

Response RDSEIR 1-1

The Initial Study for the Project was published on November 30, 2016 with a public comment period from December 1 to December 31, 2016. A single public comment letter on the Initial Study was received on December 31, 2016. The public letter and its responses were published on the City of Fresno website on March 10, 2017. In accordance with CEQA §15143, if the Lead Agency subsequently receives information inconsistent with the finding in the Initial Study, effects can be discussed further in the EIR. Information received from public comments on the Initial Study was incorporated into the Draft SEIR, which was published on March 10, 2017. The Draft SEIR was available to the public for comment for a forty-five (45) day period from March 10 to April 24, 2017. A single public comment letter on the Draft SEIR was received on April 24, 2017. The public letter and its responses were published on the City of Fresno website on August 1, 2017. Information received from public comments on the Draft SEIR was incorporated into the Revised Draft SEIR, which was published on August 1, 2017. The Revised Draft SEIR was available for public comment from August 1 to August 30, 2017, and received a single comment letter. Information received from public comments on the Revised Draft SEIR was incorporated into the Final SEIR.

As described in Sections 1.2 and 3.1 of the Revised Draft SEIR, the Project site is located at 450 E. Belmont Avenue in Fresno, California. The Project site at 450 E. Belmont Avenue consists of three parcels totaling 1.83 acres, currently being utilized for parking a maximum of 30 delivery trailers. After development, the Project will consist of the same three parcels; however, the site will accommodate parking for a maximum of 67 delivery trailers (Section 6.3.1 of the Revised Draft SEIR). The full Project Description can be found in Section 3.1 of the Revised Draft SEIR. Additionally, as mentioned in Section 3.1, and as described in greater detail in Section 4.3 of the Revised Draft SEIR, the Project will result in increased vehicle round-trips per day from the current 50 round-trips to a total of 70 round-trips per day, for a total increase of 20 vehicle round-trips per day. The Project site activities do not impact the Producers' production facility at 250 E. Belmont Avenue in Fresno, California.

Response RDSEIR 1-2

A copy of the August 2016 contract between Soar Environmental Consulting and Producers Dairy (Producers) was provided to Patience Milrod, representing the Tower District Preservation Committee, by the City of Fresno via email on January 3, 2017. Additionally, CEQA Guidelines § 15084(d)(3) specifically allow for the Lead Agency (City of Fresno) to choose the following arrangement: "accepting a Draft [EIR] prepared by the applicant, **a consultant retained by the applicant**, or any other person." (Emphasis added). The City of Fresno received a Revised Draft SEIR prepared by Soar Environmental Consulting in July 2017, reviewed the Revised Draft, and exercised its discretion as the Lead Agency to approve and publish the Revised Draft SEIR. Please also see Initial Study Responses 1-1 and 1-2. Additionally, the November 30, 2016 Notice of Preparation, the March 10, 2017 Notice of Availability, and the August 1,

2017 Notice of Recirculation and Availability were all sent out by "Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll" in accordance with CEQA Section 21092 (b)(3)(C). A copy of the direct mailing list will be provided.

Response RDSEIR 1-3

Site plans for the Project Site at 450 E. Belmont Avenue are located in Figure 4 of the Revised Draft SEIR. As stated in Draft SEIR Response 1-5, the City of Fresno was not made party to any site relocation discussions between the California High-Speed Rail and Producers Dairy. The site plans for 1752 G Street and 302 N. Thorne Avenue are private plans not submitted to the City and are not part of the proposed Project. The property at 302 N. Thorne Avenue was acquired by the California High-Speed Rail and is not presently being used for delivery trailer parking; therefore, site plans for the two sites do not fall under the scope of this Revised Draft SEIR. The Producers Dairy production facility at 250 E. Belmont Avenue is not part of the Project site. Please see Section 3.1 of the Revised Draft SEIR, and RDSEIR Response 1-3 above for more explanation as to why the Project site is only 450 E. Belmont Avenue.

Response RDSEIR 1-4

The Project's consistency with the Goals and Objectives of the Tower District Specific Plan were analyzed in Section 6.10 (Land Use and Planning) of the Initial Study, and the Project was found to be consistent with the applicable Tower District Specific Plan goals and objectives, zoning, and land use. Please see Section 6.5 of the Initial Study and 4.1 of the Revised Draft SEIR for more details regarding the Project's impacts to cultural resources.

The 1991 Ice Cream plant project originally proposed for 450 E. Belmont Avenue was halted in 1991, apparently due to the discovery and subsequent removal of Underground Storage Tanks under the south building (See Initial Study Figure 18, Pages 45 and 66). The current proposed Project is still governed by the same rules and regulations as the originally proposed 1991 Ice Cream plant project. The current Revised Draft SEIR does not seek to "revoke" the Tower District Specific Plan, Tower District Specific Plan Final Environmental Impact Report (FEIR), or Project Site specific mitigation measures in the Tower District FEIR. Rather, the Revised Draft SEIR seeks to update and amend the Tower District FEIR to allow for changes to a *single* property (the Project site) within the entire programmatic level Tower District FEIR. No other changes are proposed for any other portion of the Tower District FEIR and no changes are being proposed to the Tower District Specific Plan.

The Tower District FEIR contains nine mitigation measures specific to 450 E. Belmont Avenue project site, and the factory expansion that was proposed in 1991. Three of the original mitigation measures (6, 8, and 9) have been retained as Mitigation Measures LUP 1, NOI 4, and TRA 4 respectively. The other six Site specific mitigation measures of the 1991 proposed factory expansion are not applicable to the proposed Project. For example, the original mitigation measure 8 regulates the height of a "future high density frozen storage building". This building is no longer proposed, and as such the mitigation measure is not applicable to the proposed Project.

Response RDSEIR 1-5

The Project requires a variance to utilize the full 1.83 acres of the Project site in order to meet the parking goals for the Project. As noted in Section 3.1 of the Revised Draft SEIR, the Project applicant has filed Variance Application No V-17-001 with the City of Fresno. Approximately 1.37 acres of the 1.83-acre Project site is currently used for parking. The Project will expand the parking by approximately 0.46 acres through the removal of the two deteriorated, boarded-up buildings on the Project site. Please see Response RDSEIR 1-4 for more details.

Response RDSEIR 1-6

Please see Response RDSEIR 1-4 for more details.

Response RDSEIR 1-7

As previously stated in Response SEIR 1-19, "Per City traffic design, the closest crosswalk across E. Belmont Avenue is at the intersection of N. Palm Avenue and E. Belmont Avenue. Additionally, the Project site and the immediate surrounding residential neighborhood south of E. Belmont Avenue are not Priority Pedestrian Areas as shown in Figure 51, Inset 4 of the City of Fresno Active Transportation Plan."

The Initial Study and the Revised Draft SEIR analyzed all potential impacts of the Project, and found the only section to have a Significant Impact was Cultural Resources, as discussed in Sections 6.5 of the Initial Study and Section 4.1 of the Revised Draft SEIR. Neighborhood stability impacts were analyzed in Sections 6.10 (Land Use and Planning) and 6.13 (Population and Housing) of the Initial Study. The Project was found to have no significant impacts for either section. Pedestrian safety was analyzed in Section 6.16 of the Initial Study, and Section 4.3 of the Revised Draft SEIR (especially Page 70). Per City traffic design, the closest crosswalk across E. Belmont Avenue is at the intersection of N. Palm Avenue and E. Belmont Avenue. Additionally, the Project site and the immediate surrounding residential neighborhood south of E. Belmont Avenue are not Priority Pedestrian Areas as shown in Figure 51, Inset 4 of the City of Fresno Active Transportation Plan. Family health is not a separate section of analysis under CEQA. However, potential Project impacts to family health are analyzed under Sections 6.3 (Air Quality), 6.8 (Hazards and Hazardous Materials), 6.9 (Hydrology and Water Quality), and 6.12 (Noise) of the Initial Study. These sections were found to have a less than significant impact. The Project's impact to historic resources are analyzed in Section 6.5 of the Initial Study and 4.1 of the Revised Draft SEIR. The Project was found to have a Significant Impact in this section. Truck traffic is analyzed in Sections 6.16 of the Initial Study and 4.3 of the Revised Draft SEIR. The proposed Project would result in 20 additional truck round-trips per day (See Table 15 of the Revised Draft SEIR). Air Quality impacts are analyzed in Section 6.3 of the Initial Study and further clarification regarding Air Quality is included in Appendix I (Additional Air Quality Data) of the Revised Draft SEIR. It should be noted that Mitigation Measure NOI- 2 prohibits the operation of trailer refrigeration units on the Project Site. Additionally, property values are not currently a category of consideration under CEQA.

Response RDSEIR 1-8

Noise and vibration impacts were re-analyzed in Section 4.2 of the Revised Draft SEIR and found that the noise and vibration impacts would be less than significant with Project mitigation. E. Belmont Avenue is a designated truck route per the September 25, 2005 Designated Truck Routes map. N. Roosevelt Avenue and N. Ferger Avenue are not designated truck routes per the same map. As shown in Figure 12 of the Revised Draft SEIR, delivery trailer traffic will be restricted on N. Roosevelt Avenue and N. Ferger Avenue to approximately 175 feet between Belmont Avenue and the proposed entrance/exit to the Project site. Therefore, the Project site's traffic will only travel in front of two residential buildings on N. Roosevelt Avenue, and one residential building on N. Ferger Avenue. Additionally, See Section 4.3 of the Revised Draft SEIR for Transportation and Traffic details. Finally, Producers does not perform trailer maintenance, tire changes, and operation of power maintenance equipment and tools on the Project site. These activities are normally performed at the garage on Producers' production facility at 250 E. Belmont Avenue. To be clear, trailer maintenance, tire changes, cleaning, and operation of power maintenance equipment/tools on 450 E. Belmont Avenue are **not** proposed Project activities. Cleaning of delivery trailers is currently performed on the Project site, and will continue to be performed on the Project site under the proposed Project. Runoff will be filtered before entering the storm drain.

Response RDSEIR 1-9

Property values are not a category of consideration under CEQA. The public, including neighbors surrounding the Project site, were invited to the September 20, 2016 and December 19, 2016 meetings held near the Project site. Public comments were also gathered during three public comment periods totaling 105 days. All members of the public were invited to provide input and comment on the Project. All public comments received during the two public meetings and during the 105 days of public comment period were responded to individually, and can be found in the various appendices and documents related to this Revised Draft SEIR.

Response RDSEIR 1-10

As mentioned in Section 3.0 of the Revised Draft SEIR, Project Description, the proposed Project "will result in an additional 20 vehicle round-trips per day (from 50 round-trips per day to 70 round-trips per day)". To clarify, this calculates to a 40% increase in vehicle round-trips per day. Please see Table 15 of the Revised Draft SEIR, and Section 4.3 (Transportation and Traffic) for more details. See Section 4.2 (Noise and Vibrations) of the Revised Draft SEIR for further details regarding noise impacts which show the Project will have a less than significant impact for noise and vibration impacts.

Response RDSEIR 1-11

302 N. Thorne Avenue is not used for delivery trailer parking by Producers due to the 302 N. Thorne Avenue site being acquired by the California High-Speed Rail, and does not fall under the scope of this Project. Please see Responses RDSEIR 1-1 and 1-3 for more details regarding the size and scope of the Project, especially in relationship to 205 E. Belmont Avenue and 302 N. Thorne Avenue.

Response RDSEIR 1-12

Noise and Vibrations results are discussed in Section 4.2 of the Revised SEIR. Specifically, an Acoustic Study was conducted for the Project and is included as Appendix G to the Revised Draft SEIR. By incorporating Mitigation Measures Nos. 1 through 4 of the Acoustic Study in Section 4.2 of the Revised Draft SEIR, the Project would result in a noise increase of less than 3 dB. In accordance with the City of Fresno General Plan Implementing Policy NS-1-j, the threshold for significant noise impacts is an increase of 3 dB or more above existing ambient noise levels. Therefore, the Project is below the Significant Impact Threshold set forth by the City of Fresno for Noise impacts. See the Revised Draft SEIR Section 4.2.4 and 4.2.5 for the Noise and Vibration Impact Discussion and Cumulative Impact analysis.

Response RDSEIR 1-13

Transportation and Traffic Impacts were analyzed in Section 6.16 of the Initial Study and Section 4.3 of the Revised Draft SEIR. At the time of its preparation, the Initial Study found the proposed Project would result in an overall reduction of transportation and traffic impacts by reducing Vehicle Miles Traveled (VMT) by 2.8 miles for each individual round-trip. CEQA § 15125(a) requires an environmental analysis to be conducted on a Project's local environment as it exists at the time the environmental analysis is commenced. Specifically, the environmental conditions shall be "as they exist at the time the notice of preparation is published". The Notice of Preparation for the Producers Dairy SEIR was published on November 30, 2016; and therefore, the staging site at the time of the Notice of Preparation, located at 1752 G Street, was used for calculating traffic impacts instead of the former 302 N. Thorne Avenue site. During the preparation of the Draft SEIR, the delivery trailer parking was relocated from 1752 G Street to the parking lot at the southwest corner of H Street and Tuolumne Street in the City of Fresno (APN 466-230-335U). The driving distance from the original staging/parking site at 302 N. Thorne Avenue to the

production site at 250 E. Belmont Avenue is 0.6 miles. The driving distance from the Project site at 450 E. Belmont Avenue to the production site at 250 E. Belmont Avenue is 0.2 miles. The Project site is 0.4 miles closer to the production site than the original parking location at 302 N. Thorne Avenue. The change in current delivery trailer parking represents a 33% overall reduction of VMT. The analysis of impacts to Transportation and Traffic is discussed in Section 4.3 of the Revised Draft SEIR.

As per Figures 9 through 12 in the Revised Draft SEIR, all proposed truck traffic immediately near the Project site will be confined to E. Belmont Avenue, and only the first approximately 175 feet of N. Roosevelt Avenue and N. Ferger Avenue as necessary to reach the proposed site entrance and exit. The only difference in local traffic immediately adjacent to the site is the new exit on N. Ferger Avenue. Again, the trucks on N. Ferger Avenue will only drive the first approximately 175 feet needed to reach E. Belmont Avenue from the proposed site exit. As shown in Revised Draft SEIR Figure 12, at no point will truck traffic be allowed on N. Roosevelt Avenue and N. Ferger Avenue south of the Project site entrance and exit.

Again, pedestrian safety was analyzed in Section 6.16 of the Initial Study, and Section 4.3 of the Revised Draft SEIR (especially Page 70). Per City traffic design, the closest crosswalk across E. Belmont Avenue is at the intersection of N. Palm Avenue and E. Belmont Avenue. Pedestrians wishing to cross E. Belmont Avenue to access John Muir Elementary School (0.27 miles north of the Project site) and Fresno High School (1 mile north of the Project site) are advised to use the pedestrian crosswalk at the intersection of N. Palm Avenue and E. Belmont Avenue. Additionally, the Project site and the immediate surrounding residential neighborhood south of E. Belmont Avenue are not Priority Pedestrian Areas as shown in Figure 51, Inset 4 of the City of Fresno Active Transportation Plan.

Please also see Response RDSEIR 1-7 for more details.

Response RDSEIR 1-14

Additional Air Quality Data is included in Appendix I of the Revised Draft SEIR. As stated in Section 1.6 of the Revised Draft SEIR, the proposed Project is 95.4% below the SPAL Vehicle Trips per Day threshold for Industrial Projects, and is 84.3% below the threshold for the SPAL Project Footprint threshold for Industrial Projects.

Section 1.6 of the Revised Draft SEIR incorrectly summarized the Project's Total Particular Matter (PM) emissions at 3.7 lbs. per year. This is incorrect, and was an administrative error. The correct numbers for PM10 and PM2.5 are calculated in Appendix I of the Revised Draft SEIR, and specifically located in Table 9 of Appendix I. The correct annual project emissions are 1.89 lbs. per year for PM10 and 1.81 lbs. per year for PM2.5. The Project Total PM emissions are 1.89 lbs. per year, and as such is 43% below the 4.3 lbs. per year threshold for a Health Risk Assessment.

Response SEIR 1-20 in Appendix J to the Revised Draft SEIR does *not* state the PM emissions are 3.68lbs per year. Instead, Response SEIR 1-20 correctly states "The PM10 annual project emissions for the proposed Project are calculated to be 1.89 lbs., and the PM2.5 annual project emissions are calculated to be 1.81 lbs. (Table 9 of Appendix I to the Revised Draft SEIR). The PM10 and PM2.5 annual emissions are therefore below the 4.3 lbs. threshold, and the proposed Project does not require a full Health Risk Assessment."

Response RDSEIR 1-15

See Response RDSEIR 1-14.

Response RDSEIR 1-16

The total acreage of the Project site is 1.83 acres, and only includes the three parcels at 450 E. Belmont Avenue, 250 E. Belmont Avenue and 302 N. Thorne Avenue are not part of the Project site. See Responses RDSEIR 1-1, 1-3, and 1-14 for more details.

Response RDSEIR 1-17

CEQA §15126.6(c) requires an examination of project alternatives with the fewest potential environmental impacts that meet the majority of the basic Project Objectives. The North Building Relocation Alternative is analyzed in the Revised Draft SEIR as a possible alternative which may preserve the potential culturally significant building, but may also allow for the full use of the Project site for delivery trailer parking. CEQA §15126.6 requires the identification of the environmentally superior alternative.

Response RDSEIR 1-18

The Project requires a variance to utilize the full 1.83 acres of the Project site to meet the parking goals for the Project. Approximately 1.37 acres of the 1.83-acre Project site is currently used for parking. The Project will expand the parking by approximately 0.46 acres through the removal of the two deteriorated, boarded-up buildings on the Project site. As noted in Section 3.1 of the Revised Draft SEIR, the Project applicant has filed Variance Application No V-17-001 with the City of Fresno.

The \$112,000 estimated cost difference between A) demolishing the historic buildings, and B) preserving and retrofitting the North Building façades is based upon conservative cost estimates derived from discussions with nine local architectural & engineering firms presented with the proposed work (Appendix C of the Draft SEIR). The \$112,000 estimated cost difference does not include an approximated \$45,000 initial fee to complete the structural engineering and testing required to evaluate the degradation of the structures and develop a final set of drawings for the buildings (Appendix A of the Initial Study). The bricks that comprise the building walls are over 88 years old, and as shown in the Schematic Condition Assessment (Appendix A of the Initial Study), the exact condition of the walls cannot be known until an engineering and testing is completed. The \$45,000 estimate for the engineering and testing is an unrecoverable cost that may be added to the \$112,000 estimated cost difference. Additionally, there is a probability that the report may demonstrate the need for further retrofitting, thus increasing the \$112,000 estimated difference further. Given the age of the buildings and lack of structural continuity between the three major phases of construction in the north building, the walls would likely require significant retrofitting and potential replacement of numerous bricks to properly ensure public safety, thereby reducing cultural significance and increasing costs.

Response RDSEIR 1-19

The Project site has been used for dairy manufacturing and transportation since the brick factory buildings were built in the late 1920's. As of 1991, the site has been zoned as Light Industrial; therefore, the proposed Project is not an encroachment of an industrial use into a residential neighborhood because the Site has been used for dairy manufacturing and transportation for the past 88 years. Please see Responses RDSEIR 1-1 through 1-18 for more details.

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December 27, 2017

Mr. Mike Sanchez, Assistant Manager
City of Fresno
Department of Development and Resource Management
2600 Fresno Street
Fresno, California 93721

Delivered by email to: Mike.Sanchez@fresno.gov and by U.S. Mail

RE: Appendix L – Changes to the Final SEIR for Producers Dairy Truck Parking Lot Enlargement Project

Dear Mr. Sanchez:

I submit the following comments on “Appendix L- Changes to the Final SEIR” to the Tower District Specific Plan Final Environmental Impact Report (1991). The project includes the proposed demolition of two historic structures and enlargement of the proponent Producer’s Dairy truck trailer parking operation at 450 E. Belmont Avenue, Fresno, California, which is intended to service its production facility located at 144 E. Belmont Avenue.

Appendix L proposes modifications to the 1993 Statement of Covenants Affecting Land Development entered into by the City of Fresno and the Shehady family, the owner of the project site. (This comment will hereafter refer to the project proponent as Producer’s.) This covenant was agreed to by the City and Producer’s and recorded in the official records as a covenant running with the land. That is, any successive owner of the land would be bound by the covenants or agreements. The Covenants between the City and Producer’s allowed new construction as part of the development of the site, but also required Producer’s to rehabilitate and reuse the historic buildings and incorporate them into the new development. The agreed-upon use the property did not include massive, fleet parking of truck trailers.

As the Covenants state in pertinent part,

“E. The City of Fresno desires to obtain covenants from the Covenantor [Producer’s] to insure that the Subject Property is not developed, used, or maintained in such a way as to adversely affect adjoining properties.”

RZ 1-1

.....” [T]he Covenantor hereby covenants that the Subject Property shall be held, conveyed, encumbered, used, occupied, developed, maintained, and improved subject to the to the following covenants, conditions, and restrictions, which are for the purpose of enhancing attractiveness, usefulness, value, and desirability of the Subject Property, the surrounding property, and the public at large and to minimize possible adverse effects on the public health, safety, peace and general welfare....”

“2. The conditions of this Statement are intended to benefit the public and public properties. Accordingly, the City of Fresno shall have the right to enforce this Statement by any legal or equitable means against the Covenantor and such person or persons in actual possession of the Subject Property who directly or who through any agent violate the terms hereof.....”

RZ 1-1
(cont.)

.....
“4. The foregoing conditions shall remain in full force and effect until such time as the City of Fresno, pursuant to the district amendment procedure of the Fresno Municipal Code, finds the enforcement of such condition (sic) is no longer equitable.” Therefore, the conditions shall be enforced until the City finds the conditions no longer equitable.

The Covenants, now under attack by this project, is an integral part of the larger plan and enforcement mechanism of the overarching Tower District Specific Plan. The TDSP supersedes other general zoning laws. Therefore, this project also requires the TDSP to be amended, for the sole reason to allow this project.

RZ 1-2

As we have previously commented, as part of the adoption of the TDSP, Producer’s was allowed to rezone the subject property to make it consistent with the truck trailer parking that was then occurring on the site. (Covenants, para. D.) The then-existing zoning did not permit trailer parking. The rezone was allowed only if Producer’s agreed to the Covenants’ conservation conditions on the site. Producer’s so agreed. The City wanted to insure that Producer’s complied with the conditions to rehab and reuse the historic structures and therefore required Producer’s to enter into the Covenants to ensure that Producer’s would comply with the conditions and the TDSP. For the last 26 years, Producer’s has benefitted from its consistent land use and zoning but has done nothing to comply with the conditions of development of the site as it agreed to do in the Covenants and in the TDSP. Now, Producer’s wants to renege blatantly on its promise and agreement to develop this site in a way that benefits “the public and public properties.” Rather Producer’s intends to industrialize further this historic residential neighborhood with all the attendant pollutants and risks of environmental and social harm that we have repeatedly recited in this review process.

RZ 1-3

Inexplicably, the City’s staff in this matter completely abdicates its responsibility to protect the public and the nearby neighborhood despite overwhelming equities in their favor. Appendix L simply provides for swapping out the conditions that Producer’s does not like and substituting ones that it does like. Nowhere in this process, has the City identified, analyzed or even discussed the equities in favor of the public and neighborhood residents. Unless, there is such analysis of the equities, there can be no factual basis for any City body to conclude that enforcement of the conditions in the covenant are no longer equitable.

RZ 1-3
(cont.)

By its terms, the Covenant may be modified only when the COF finds the enforcement of the conditions "no longer equitable." One is strained to find equities in favor of Producer's. It can be conceded that it owns the property and has an economic interest in using this site as it chooses. However, consider the residents and the "public." Residents living in this La Sierra Tract neighborhood have overwhelming equities in favor of enforcement of the existing conditions of development set forth in the Covenant relating to their health, safety, economic opportunity, and peace and quiet that would be undermined by the proposed project. The impacts of noise, air (including PM2.5), sound and view pollution, other health and safety risks and diminution in value of nearby properties, associated with this project were detailed in earlier comments and are incorporated here by reference.

RZ 1-4

In addition, there are other equities in favor of maintaining the status quo. Council Member Baines has announced that he will initiate negotiations between the principals of Producer's and the neighbors to reach a resolution. Council Member Soria has indicated that the covenant should remain in place until other options are considered. We are informed that the California High Speed Rail Authority has indicated a willingness to assist further in locating another, more suitable site for this project.

Please forward these comments to each member of the Planning Commission along with a copy of the Covenants. Thank you.

Very truly yours,

[s/ Bruce A. Owdom]

Bruce A. Owdom, Attorney

cc: Michael Murphy, SOAR (at) mimurphy@soarhere.com

Responses to Comments on Producers Dairy Cheese Plant Supplement to an Environmental Impact Report (SEIR) Appendix L

December 2017

The public comment period for the Producers Dairy Cheese Plant Supplement to the Tower District Specific Plan Final Impact Report (SEIR) Appendix L regarding Rezone Application No. R-17-021 was from November 27, 2017 to December 27, 2017. The City of Fresno received one comment letter during the 30-day period. The responses to that letter are listed below.

Response RZ 1-1

The Project site at 450 East Belmont Avenue is planned for light industrial uses and is zoned IL, Industrial Light (conditions of zoning). The proposed amending of the conditions of zoning can only be completed through the rezone application process, which is currently being conducted under Rezone Application No. R-17-021. The 1991 Tower District Specific Plan (TDSP) Final Environmental Impact Report (FEIR) is being supplemented by this SEIR. Section 1.7 of the Revised Draft SEIR sets forth the modifications this SEIR makes to the TDSP FEIR. However, the SEIR is not amending the TDSP itself.

Response RZ 1-2

The Project site is not a historically designated site nor is the residential neighborhood in the immediate area a historic district. The SEIR did examine air quality impacts as part of the proposed Project and determined that a Health Risk Assessment was not required. Section 6.10 of the Initial Study analyzed the consistency of the Project with Land Use and Planning, including zoning and a discussion of the Statement of Covenants. Section 6.10 concluded the Project impacts on Land Use and Planning was less than significant, but identified that the Statement of Covenants would need to be amended. The amendment is being conducted through Rezone Application NO. R-17-021. The environmental impacts of the Project have been analyzed throughout the Initial Study and SEIR, and were found to be less than significant with the incorporation of mitigation measures except for impacts to cultural resources. Details of impacts to cultural resources can be found in Section 4.1 of the Revised Draft SEIR.

Response RZ 1-3

The conditions of zoning that are proposed to be eliminated would no longer be applicable should the proposed Project be approved. These conditions centered on the preservation of the existing structures. The proposed Project will facilitate additional parking through the systematic removal of the current buildings. Furthermore, the SEIR addressed the feasibility of retaining said existing structures as part of the alternatives analysis.

The nine covenants in the Statement of Covenants are word-for-word copies of the Project site mitigation measures contained in the TDSP FEIR. These mitigation measures/covenants focus on the following issues: cultural resources, land use and planning, noise, and transportation and traffic. The Initial Study and the SEIR include a thorough analysis of Project impacts on the environment, including impacts on the local environment and surrounding community. Cultural resource impacts are analyzed in Sections 6.5 of the Initial Study and 4.1 of the Revised Draft SEIR. Land Use and Planning Impacts are

analyzed in Section 6.10 of the Initial Study. Noise impacts are analyzed in Sections 6.12 of the Initial Study and 4.2 of the Revised Draft SEIR. Transportation and Traffic impacts are analyzed in Sections 6.16 of the Initial Study and 4.3 of the Revised Draft SEIR.

Response RZ 1-4

While negotiations between the Project proponent and Project site neighbors remains an option, City of Fresno Development and Resource Management staff have not been a part of any discussions regarding a resolution. The suitability of potential Project alternatives was analyzed under Section 5 of the Revised Draft SEIR.