

ANGEL LAW

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CITY CLERK
CITY OF CULVER CITY

August 8, 2024

City of Culver City
ATTN: City Clerk's Office
9770 Culver Blvd.
Culver City, CA 90232

Via Email to city.clerk@culvercity.org and submitted in-person

Re: **Appeal of Planning Commission's Adoption of Resolution No.
2024-P007**

Dear City Clerk:

Angel Law serves as legal counsel for Sol y Luna Montessori School (**Sol y Luna**). We write to appeal the Culver City (**City**) Planning Commission's adoption of Resolution No. 2024-P007, which approved a Conditional Use Permit Modification (**CUP/M**) (P2021-0135-CUP/M) and a Class 32 categorical exemption from the California Environmental Quality Act (**CEQA**) for Costco Wholesale Corporation's (**Costco** or **Applicant**) gas station expansion and relocation project.

Sol y Luna is a preschool for children ages 2.5 to 5, where the curriculum includes mathematics, language, science, gardening, geography, and sensorial and practical life skills. While playing and learning at Sol y Luna, preschoolers spend a substantial amount of time in the school's outside yards.

Sol y Luna is located within the Venice neighborhood of the city of Los Angeles at 2551 Walnut Avenue, directly across the street from a Culver City commercial center (at 13431-13463 Washington Boulevard) which is home to a Costco warehouse, a Costco gas station, a vehicle repair facility, other commercial uses, and, at the southwestern end, two vacant commercial structures. Costco recently applied to the City for:

- A CUP/M to allow for the following **Project**:
 - Demolition of the existing 8-dispenser (16 fueling positions) Costco gas station (including decommissioning and removal of 3 underground gasoline storage tanks and 1 fuel additive storage tank) and demolition of the two vacant commercial structures at the southwestern end of the commercial center;

- Construction of a new, expanded 15-dispenser (30 fueling positions) Costco gas station (including placement of 3 new underground gasoline storage tanks, 1 new fuel additive storage tank, and a vapor processing unit) to be relocated in place of the two vacant commercial structures; and
 - Construction of new electric vehicle charging stations (with associated parking stalls) in place of the existing 8-dispenser Costco gas station.
- A Class 32 categorical exemption from CEQA.

The new Costco gas station, along with all its accompanying toxic emissions (from gasoline and idling cars) would sit a mere 213 feet from Sol y Luna and 186 feet from Morning Glory Preschool. (See Google Maps screenshots below.)



As Commissioner Jones pointed out during the Planning Commission hearing, the California Air Resources Board (**CARB**) recommends that local agencies “[a]void siting new sensitive land uses within 300 feet of a large gas station (defined as a facility with a throughput of 3.6 million gallons per year or greater).”¹ Relocating and expanding a gas station so that it is less than 215 feet away from two sensitive preschools flies in the face of this recommendation and unnecessarily puts the health of growing children at risk. It is *well understood* that close proximity to gas stations is detrimental to human health, especially the health of children.²

¹ *Air Quality and Land Use Handbook: A Community Health Perspective*, California Air Resources Board (2005) at p. 4.

² See, e.g., *Exposure to Benzene: A Major Public Health Concern*, World Health Organization (2019) WHO/CED/PHE/EPE/19.4.2 at p. 1 [“The main sources of benzene in the environment include automobile exhaust...and fuel evaporation from gasoline filling stations.”].

Below, we detail several concerns and inadequacies regarding the Planning Commission's approval of the Project. **We request, on appeal, the City Council deny the Class 32 categorical exemption and CUP/M and require the Applicant to conduct further environmental study under CEQA.**

Project Does Not Fit Within the Class 32 Categorical Exemption

The CEQA Guidelines (Cal. Code Regs., tit. 14 § 15000 et seq. [CEQA Guidelines]) provide for "a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA." (CEQA Guidelines, § 15300.) These are called categorical exemptions. *However*, in order to take advantage of a categorical exemption from CEQA, a project must "fit" the exemption. (See *California Farm Bureau Federation v. California Wildlife Conservation Board* (2006) 143 Cal.App.4th 173, 185, fn. 6 [Where "the specific issue is whether the lead agency correctly determined a project fell within a categorical exemption, [a court] must first determine as a matter of law the scope of the exemption and then determine if substantial evidence supports the agency's factual finding that the project fell within the exemption."].)

The Class 32 categorical exemption, also known as the "Infill Development Projects" exemption, contains five very specific criteria. This Project fails Class 32's fourth requirement:

- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

(CEQA Guidelines, § 15332.)

As Commissioners Carter and Jones articulated at the Planning Commission hearing, the common sense conclusion is that this Project will *at least* have a significant effect on air quality, especially considering the sensitive preschool populations playing and learning right across the street. Further, Commissioner Carter explained that Costco's offered traffic analysis doesn't comport with the exemplary phenomenon of expanded highways resulting in more cars using that highway -- if Costco doubles the size of its gas station, then there will be more cars using that expanded gas station. And Commissioner Jones pointed to -- within Costco's submittals -- other Costco gas station expansions that demonstrated that exact phenomenon.

At the Planning Commission hearing, Costco representatives and consultants repeatedly told the Commissioners that gas sales are not expected to increase with the expanded number of fueling positions because Costco functions on a member-based business model. Against common sense, Costco expected the public and the Commissioners to believe that its membership at this store will be stagnant and, for that reason, gas sales would not increase. A Costco Regional Manager even told the

Commissioners that this particular gas station does not reach the maximum sales limits set by the South Coast Air Quality Management District (**SCAQMD**) in Costco's Permit to Operate. Like many other statements given by Costco's team at the Planning Commission hearing, this one was disingenuous. In 2018, SCAQMD served Costco with a Notice of Violation (**Attachment 1**), citing the existing station for exceeding the throughput monthly limit of 1,200,000 gallons sold in the month of August. Then, in January of 2019, Costco obtained from SCAQMD a new Permit to Operate (**Attachment 2**) which allowed for a monthly throughput limit of 2,220,000 gallons per month -- a 1,020,000 gallon per month increase.

Further, this Regional Manager, when pressed by Commissioner Jones, stated that they wouldn't know how much more gas the expanded station would sell until the station actually opens. He guessed a 10% increase. Which is it? Stagnant gas sales or increased gas sales? Did local Costco membership grow in 2018 such that the Applicant had to get a new permit allowing increased monthly throughput? Why wouldn't membership grow again now? Or why wouldn't more current members use this gas station once the traffic conditions and wait times supposedly improve? Costco's conclusions just don't make sense.

On top of common sense, Costco's submitted Air Quality / Health Risk Technical Report (**Air Quality Report**) is faulty and inadequate in its analysis of the Project's air quality impacts on sensitive receptors. (See **Attachment 3**, Clark & Associates Comment Letter.) Dr. Clark's comment letter points out that: (1) the Air Quality Report fails to identify all relevant sensitive receptors (including Sol y Luna) near the Project site; (2) the Air Quality Report fails to calculate exposures to a majority of the volatile organic compounds (**VOCs**) present in vehicle exhaust and fueling operation vapor loss; (3) the Air Quality Report's insignificance conclusion on increased cancer risk from the Project is not supported by the Air Quality Report's own data and relies on a method that intentionally downplays the risk; and (4) the traffic analysis inappropriately claims a trip reduction credit for businesses that have been closed for over a year. Please refer to Attachment 3 for Dr. Clark's expert opinion.

Regarding the claimed trip reduction credit, the Applicant's Class 32 Report (**CE Report**) cites *North County Advocates v. City of Carlsbad* (2015) 241 Cal.App.4th 94 for the proposition that "these [now vacant building] uses are considered to be part of the CEQA baseline even though the buildings are currently unoccupied." (CE Report at 2, fn. 1.) However, the CE Report takes for granted what is the "[C]ity's 'quintessentially ... discretionary' baseline determination." (*North County Advocates v. City of Carlsbad* (2015) 241 Cal.App.4th 94, 104.) Costco and its consultants painted this traffic baseline assumption as the City's only option to consider. But the City would have just as much of a right to rely on a traffic analysis that *does not* include this trip credit for vacant commercial buildings. Of course, why would Costco even give the City the chance to consider numbers unfavorable to Costco's goals? At the very least, Costco should have presented analyses with and without this trip reduction credit.

As Commissioner Jones pointed out at the Planning Commission meeting, Costco's numbers don't seem to add up. And, as Dr. Clark's letter reveals, Costco's air quality and traffic analyses are flawed. Thus, substantial evidence does not support the Planning Commission's approval of the Class 32 categorical exemption for this Project. In fact, substantial evidence supports denial of the Class 32 exemption.

Unusual Circumstances Exception to Categorical Exemptions

Even if the Project did fit within the Class 32 categorical exemption -- which it doesn't -- there are exceptions to the categorical exemptions. (CEQA Guidelines, § 15300.2.) If an exception applies, then the exemption is invalid. One such exception states that "[a] categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (*Id.*, subd. (c).) "A party invoking the exception may establish an unusual circumstance without evidence of an environmental effect, by showing that the project has some feature that distinguishes it from others in the exempt class, such as its size or *location*. In such a case, to render the exception applicable, the party need only show a reasonable possibility of a significant effect due to that unusual circumstance." (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105, italics added.)

Here, it is unusual that a gas station (and an expanded one at that) would be *located* within 200-250 feet of two preschools caring for vulnerable toddlers. This circumstance certainly distinguishes the Project from other infill gas station projects. And Dr. Clark's expert opinion certainly provides *at least* a "reasonable possibility" of the Project's significant effect on this preschool population.

The Planning Commission's adopted Resolution No. 2024-P007 conclusively finds no unusual circumstances. It gives no reasoning for this finding. The Staff Report to the Planning Commission does not mention the exceptions to CEQA categorical exemptions. The CE Report (at p. 19) concludes that the unusual circumstances exception does not apply because the Project "is permitted under the zoning and General Plan" and "constitutes infill development within a portion of an existing commercial shopping center along a major commercial thoroughfare and in close proximity to significant transportation facilities." The CE Report states that "[t]here are no features of the Proposed Project, such as its size or location, that distinguish it from others in the exempt class," and "[t]he relocated fuel facility is *generally* consistent with other gas stations in the City and other Costco fuel facilities in the area, *including the existing fuel facility on the Project Site*." (*Id.*, italics added.)

The word "generally" is doing a lot of work there. And there is no detail in the CE Report to support this conclusion. Generally, other gas stations in the area ("including the existing fuel facility") are located this close to two separate preschools? The existing

fuel facility *definitely* isn't this close. How is the expanded gas station consistent with other gas stations? What other gas stations were taken into account to come to this conclusion?

There is no substantial evidence supporting the Planning Commission's "unusual circumstances" finding. There is substantial evidence to find that the "unusual circumstances" exception applies.

Lack of Required Findings for a CUP/M

In order for a CUP/M to be approved, the Culver City Municipal Code (**CCMC**) Section 17.530.020, subdivision (E) requires the City to make the finding, among others, that "[t]he establishment, maintenance or operation of the proposed use will not be detrimental to the public interest, health, safety, or general welfare, or injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located."

In its adopted Resolution No. 2024-P007, the Planning Commission found:

"The requested CUP modification approval for the relocation and expansion of the fueling station will result in an *improvement* to the site and property in the vicinity, as well as to the public interest, safety, and welfare, *by optimizing the operations of the existing fueling station use....* Further, the proposed relocation and expansion of the fueling station through this approval, and subject to the conditions of approval attached as Exhibit A, will not be detrimental to the public interest, health, safety, or general welfare or injurious to persons, property or improvements in the surrounding industrial zoning district or vicinity and *will not create negative on-site or off-site impacts.*" (Resolution at 4, italics added.)

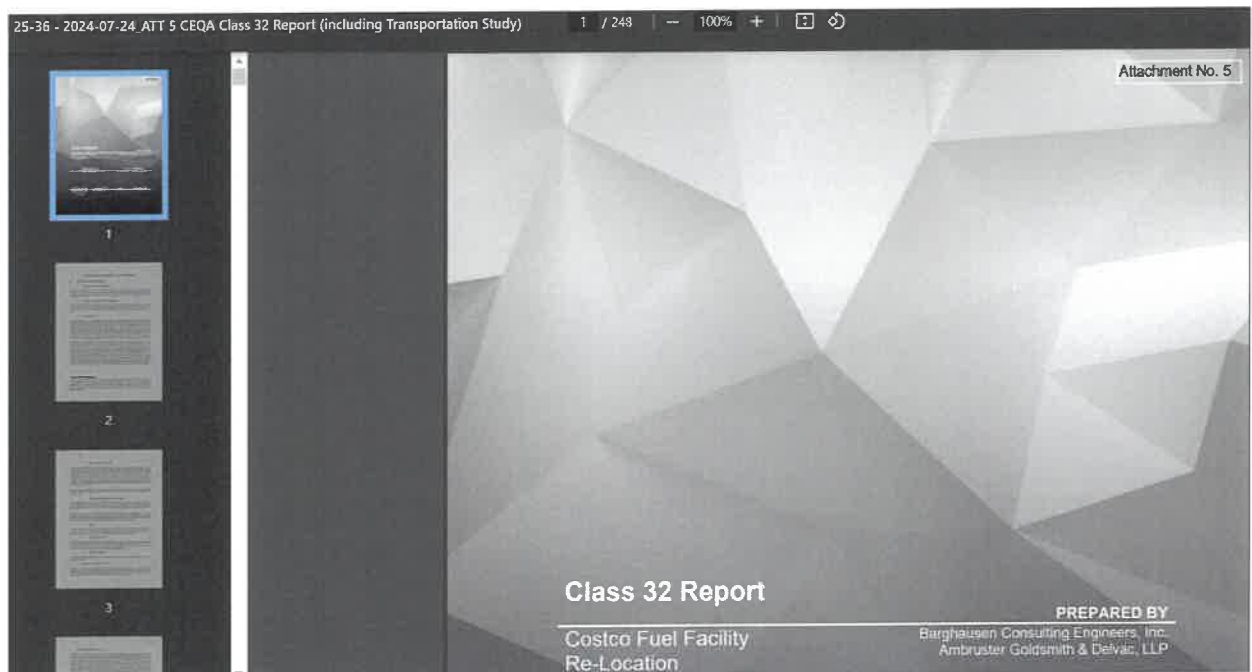
Given all of the above, these findings are not supported by substantial evidence. To find that this Project would "improve" the public interest, safety, and welfare assumes that "public" means "Costco." To find that the Project "will not create negative...off-site impacts" ignores the common sense and public testimony heard at the Planning Commission meeting. Now, with Dr. Clark's expert opinion, this finding cannot be made with such certainty, if at all.

Documents Not Included in Staff Report or Attachments

Finally, it appears the public, and possibly the Planning Commissioners as well, were not provided with all the information supposedly relied upon by the Planning Commission to approve the CUP/M and Class 32 exemption. Page 20 of the CE Report lists five (5) attachments:

1. Culver City Costco Fuel Station On-Site Relocation Transportation Study prepared by Kittelson & Associates, dated May 29, 2024.
2. Costco Fuel Station Relocation Project prepared by Acoustical Engineering Services, Inc., Inc., dated May 2024.
3. Costco Culver City Project Air Quality/Health Risk Technical Report prepared by Ramboll Americas Engineering Solutions, Inc., dated May 2024.
4. Preliminary Final Hydrology/MS4 Study Costco Culver City Gas Station Relocation for the Proposed Project, prepared by Fuscoe Engineering, Inc., dated September 29, 2022, revised May 31, 2024.
5. Limited Phase II Environmental Site Assessment 13431 and 13455 Washington Boulevard Culver City Gasoline Station Relocation prepared by Kleinfelder, dated December 1, 2021.

However, Attachments 2 through 5 listed above were not included in the CE Report. Only the Transportation Study was included. See screenshot below, titled "CEQA Class 32 Report (including Transportation Study)."



We know Attachments 2 through 5 were not posted on the City's online docket because (1) the CE Report is 248 pages long (see above), and the Air Quality Report alone is 444 pages long; and (2) we had to request that Planner Gabriela Silva send us these missing Attachments, and she kindly obliged.

How could the Planning Commission find that the Project would not result in significant effects to air quality, noise, or water if the studies purporting to back up that finding were not in the record? Resolution No. 2024-P007 explicitly states: "WHEREAS, the Planning

Commission adopts the findings in Attachment No. 5 of the staff report demonstrating that pursuant to CEQA Section 15332, Class 32 – In-Fill Development Projects, the Project is Categorically Exempt and no CEQA exceptions apply.” (Resolution at 1.) Attachment 5 of the staff report did not and does not include the evidence supporting its own findings.

Even more, how could the public properly participate in the hearing without having access to all the relied upon information?

Conclusion

We request the City Council deny the Class 32 categorical exemption and CUP/M and require the Applicant to conduct further environmental study under CEQA.

Sincerely,

ANGEL LAW



Frank P. Angel



Cooper Kass

ATTACHMENT

1



South Coast Air Quality Management District
21865 COPLEY DRIVE, DIAMOND BAR, CA 91765-4178

P 68407

NOTICE OF VIOLATION

DATE OF VIOLATION		
Month:	Day:	Year:
08	31	2018

Facility Name: Costco Wholesale		Facility ID# 116146	Sector: WE
Location Address: 13415 Washington Blvd		City: Culver City	Zip: 90230
Mailing Address: 18215 72nd Avenue South		City: Kent	Zip: 98032

YOU ARE HEREBY NOTIFIED THAT YOU HAVE BEEN CITED FOR ONE OR MORE VIOLATIONS OF THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (SCAQMD) RULES, STATE LAW OR FEDERAL LAW. IF PROVEN, SUCH VIOLATION(S) MAY RESULT IN THE IMPOSITION OF CIVIL OR CRIMINAL PENALTIES.

EACH DAY A VIOLATION OCCURS MAY BE HANDLED AS A SEPARATE OFFENSE REGARDLESS OF WHETHER OR NOT ADDITIONAL NOTICES OF VIOLATION ARE ISSUED.

DESCRIPTION OF VIOLATIONS

#	Authority*	Code Section or Rule No.	SCAQMD Permit to Operate or CARB Registration No.	Condition No. (If Applicable)	Description of Violation
1	☒ SCAQMD ☐ CH&SC ☐ CCR ☐ CFR	203(b)	N28070	29	Gasoline throughput exceeded 1,200,000 monthly limit in August 2018
2	☐ SCAQMD ☐ CH&SC ☐ CCR ☐ CFR				
3	☐ SCAQMD ☐ CH&SC ☐ CCR ☐ CFR				
4	☐ SCAQMD ☐ CH&SC ☐ CCR ☐ CFR				
5	☐ SCAQMD ☐ CH&SC ☐ CCR ☐ CFR				

Served To: Don Casimere	Phone: 310 823-8046	Served By: Karen Woullard	Date Notice Served: 10/25/2018
Title: Marketing Manager	Email:	Phone No: ☒ 909-396-2265 ☐ 310-233-	Email: Kwoullard @aqmd.gov

*Key to Authority Abbreviations:

SCAQMD - South Coast Air Quality Management District
CCR - California Code of Regulations

CH&SC - California Health and Safety Code
CFR - Code of Federal Regulations

Method of Service:

☒ In Person

☐ Certified Mail

ORIGINAL

What is a Notice of Violation?

A Notice of Violation is issued by an SCAQMD Air Quality Inspector to inform a business that a failure to comply with one or more applicable federal, state, and/or local (SCAQMD) air pollution rules and regulations or legal requirements is being alleged.

What happens when I receive a Notice of Violation?

If you are operating in violation of one or more applicable federal, state, and/or local (SCAQMD) air pollution rules and regulations or legal requirements, each day or part of a day that you operate in violation is considered a separate violation even if only one Notice of Violation has been issued. Continuing to operate in violation may subject you to substantial civil or criminal penalties. **It is in your best interest to resolve any compliance problem immediately before you resume operation.**

What if I need to continue to operate the equipment named in the Notice of Violation?

If continued operation of equipment cited in the Notice of Violation is necessary, you may be able to obtain a variance from SCAQMD's Hearing Board. A **variance** is an administrative order that allows a company to continue operating without penalties while it takes appropriate steps to meet air pollution control requirements. Proof of specific legal circumstances must be provided before a variance can be granted. Timeliness in seeking such relief will be considered by the Hearing Board. Additional information concerning variances can be found in California Health & Safety Code §§ 42350-42359.5 and at <http://www.aqmd.gov/home/about/hearing-board>.

During a hearing for a variance, you may be represented either by yourself or by your attorney or consultant. You will have the opportunity to present evidence and testimony, and to cross-examine any SCAQMD witness.

If you fail to comply with any order of the Hearing Board, you may be subject to additional civil or criminal penalties set forth in California Health & Safety Code §§ 42400 *et seq.* and 42402 *et seq.*

How are Notices of Violation resolved?

The SCAQMD General Counsel's office reviews each alleged violation and, based on the facts, determines how best to resolve the allegation. Options available to the General Counsel's office include:

- **Minor Source Penalty Assessment Program**

Certain Notices of Violation may be eligible for resolution through SCAQMD's Minor Source Penalty Assessment Program if they are issued to a minor source or for violations other than emitting air toxics or creating a public nuisance involving injury or property damage.

If your case is handled by this program, you will receive a letter or phone call from an investigator in the SCAQMD General Counsel's office offering to settle your violation. Settlement terms usually call for a penalty payment and written proof of current compliance. The investigator's name and telephone number are included in the initial settlement letter in the event you would like to discuss the case.

Be prepared to describe any facts about the violation that you believe SCAQMD should know in considering your case. Sharing your knowledge of the facts, possible causes for the violation and plans to avoid future violations will help the investigator arrive at an appropriate disposition.

Be sure to respond by the date indicated in the letter to avoid further legal action.

If the Minor Source Penalty Assessment Program fails to result in a settlement, your Notice of Violation may be referred to an SCAQMD attorney and handled under the procedures for Civil Prosecution or resolved through a Small Claims Court.

- **Civil Prosecution**

If your case is handled as a civil matter, it will be reviewed by an attorney from the SCAQMD General Counsel's office, who will typically make first contact with you through a letter that asks for information about your case. If the allegations in the Notice of Violation cannot be informally resolved, the SCAQMD is authorized to file a civil lawsuit in court to recover civil penalties. In cases involving serious harm or danger, however, SCAQMD may immediately commence a legal action for civil penalties and a court-ordered injunction. A **mandatory injunction** is a court order compelling a person and/or company to take specific action. A **prohibitory injunction** is a court order compelling a person and/or company to refrain from taking a specific action. Injunctions, which may even lead to shutting down a business, may be sought by SCAQMD to prevent continuing or serious violations or damages from occurring.

- **Criminal Prosecution**

If SCAQMD determines that criminal prosecution is appropriate, the case will be referred to the appropriate state or federal law enforcement agency. That agency will determine if criminal prosecution is warranted.

Civil and Criminal Penalties

Penalties are determined by California Health & Safety Code §§ 42400 *et seq.* and 42402 *et seq.*

Available Resources

You can obtain SCAQMD Rules, permit application forms, and detailed information about SCAQMD and the Hearing Board using the resources provided below:

Contact Numbers	Useful Links
General Information:	
SCAQMD Headquarters General Number (909) 396-2218	About SCAQMD http://www.aqmd.gov/home/about
General Counsel's Office (909) 396-3400	Enforcement Authority http://www.aqmd.gov/home/about/authority/enforcement
	Compliance Notices http://www.aqmd.gov/home/regulations/compliance/compliance-notices
	SCAQMD Rules http://www.aqmd.gov/home/regulations/rules
Obtaining Permit or Billing Information:	
Small Business Assistance (800) 388-2121	Getting Permits http://www.aqmd.gov/home/permits
Permit Information (909) 396-2468	Permit Forms http://www.aqmd.gov/home/permits/permit-application-forms
Billing Services (866) 888-8838	Permitting Fees http://www.aqmd.gov/home/permits/fees
(909) 396-2900	
Variances:	
Clerk of the Hearing Board (909) 396-2500	The Hearing Board http://www.aqmd.gov/home/about/hearing-board

ATTACHMENT

2



South Coast Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4178
PERMIT TO OPERATE

page 1
Permit No.
N31692
A/N 599552

This initial permit must be renewed ANNUALLY unless the equipment is moved, or changes ownership.
If the billing for annual renewal fee (Rule 301.f) is not received by the expiration date, contact the District.

Legal Owner
or Operator:

ID 116146
COSTCO WHOLESALE CORPORATION/COSTCO GASOLINE #479
c/o BARGHAUSEN CONSULTING ENGINEERS, INC.
18215 72ND AVENUE SOUTH
KENT, WA 98032

Equipment Location: 13415 WASHINGTON BOULEVARD, CULVER CITY, CA 90230

Equipment Description:

Fuel Storage and Dispensing Facility Consisting of:

- 1) 16 - Gasoline Bellows-less Nozzles Dispensing 32 Products Equipped with Assist Phase II Enhanced Vapor Recovery (EVR) System Including Veeder-Root In-Station Diagnostics (ISD) System with Software Version Number 1.05 or Newer (VR-202-F/W).
- 2) 3 - Gasoline Underground Storage Tanks, Each 30,000 Gallon Capacity, Equipped with a Remote Additive Fill and Phase I Vapor Recovery System OPW (VR-102-E/R), 3 Methanol Compatible.
- 3) 1 - Fuel Additive Underground Storage Tank, 1,500 Gallon Capacity, Not Equipped with Phase I Vapor Recovery System, 1 Methanol Compatible.

Conditions:

SECTION I: GENERAL CONDITIONS

1. Operation of this equipment shall be in compliance with all data and specifications submitted with the application under which this permit was issued, unless otherwise noted below.
2. This equipment shall be properly maintained and kept in good operating condition at all times.

SECTION II: PHASE I VAPOR RECOVERY SYSTEM AND TESTING REQUIREMENTS

3. Except for diesel transfers, Phase I vapor recovery systems shall be in full operation whenever gasoline fuel is being transferred into the storage tanks.
4. A static torque test of rotatable phase I adaptors shall be conducted to quantify the amount of static torque required to start the rotation of the rotatable of the rotatable phase I adaptors. The test shall be conducted in accordance with the test procedure method outlined in TP-201.1B (October 8, 2003) as a performance test and as a reverification test. Results shall be submitted to the SCAQMD, Office of Engineering and Compliance within seventy-two (72) hours of test.
5. Depending on the system configuration, either a leak rate test of drop tube/drain valve assembly shall be conducted to quantify the pressure integrity of both the drop tube and drain valve seal or a leak rate test of drop



South Coast Air Quality Management District
Certified Copy

FILE COPY



PERMIT TO OPERATE

CONTINUATION OF PERMIT TO OPERATE

tube overfill prevention device and drain valve shall be conducted to quantify the pressure integrity of the drop tube overfill prevention device and the pressure integrity of the spill container drain valve. Either test shall be conducted in accordance with test procedure method TP-201.1C (October 8, 2003) or TP-201.1D (October 8, 2003), respectively. Results shall be submitted to the SCAQMD, Office of Engineering and Compliance within seventy-two (72) hours of test.

6. A leak rate and cracking pressure test of pressure/vacuum relief vent valves shall be conducted within ten (10) days after the start of operation of the phase I EVR equipment and at least once every three (3) years thereafter to determine the pressure and vacuum at which the pressure/vacuum vent valve actuates, and to determine the volumetric leak rate at a given pressure. The test shall be conducted in accordance with the test procedure method TP-201.1E (October 8, 2003). Results shall be submitted to the SCAQMD, Office of Engineering and Compliance within seventy-two (72) hours of test. This test result shall be kept on site for three (3) years and made available to District representatives upon request.

SECTION III: PHASE II VAPOR RECOVERY SYSTEM AND TESTING REQUIREMENTS

7. Except for diesel transfers, Phase II vapor recovery systems shall be in full operation whenever fuel is being transferred into motor vehicles, as defined in Rule 461.
8. A static pressure integrity test shall be conducted to demonstrate that the storage tanks, the remote and/or nozzle vapor recovery check valves, associated vapor return piping and fittings are free from vapor leaks. The test shall be conducted in accordance with CARB test procedure method TP-201.3 (March 17, 1999), as a performance test and as a reverification test. Results shall be submitted to the SCAQMD, Office of Engineering and Compliance within seventy-two (72) hours of test.
9. The static pressure leak decay test TP-201.3, shall be conducted in accordance with the most recent version of Exhibit 8 of CARB Executive Order VR-202. Verification of completing each step as outlined shall be documented by submitted a copy of Exhibit 8 to the SCAQMD, Office of Engineering and Compliance within seventy-two (72) hours of test.
10. The phase II vapor recovery system shall be installed, operated, and maintained such that the maximum allowable pressure through the riser, and underground piping does not exceed the dynamic back pressure described by the California Air Resources Board Executive Order by which the system was certified:

NITROGEN FLOWRATES
(CFH)
60

DYNAMIC BACK PRESSURE
(INCHES OF WATER)
0.50

Dynamic back pressure tests shall be conducted as a performance test to determine the phase II system vapor recovery back pressures. The tests shall be conducted in accordance with CARB test procedure TP-201.4, Methodology 4 and 6 (July 3, 2002); as a performance test. This test shall be a one-time test and the results kept permanently on site. Results shall be submitted to the SCAQMD, Office of Engineering and Compliance within seventy-two (72) hours of test.

11. A static pressure performance test for the Healy clean air separator using both the vacuum decay procedure and the positive pressure procedure shall be conducted to quantify the vapor tightness of the Healy clean air separator tank pressure management system. These tests shall be conducted in accordance with the latest version of Exhibit 4 of CARB Executive Order VR-202 as a performance test and reverification test. Results shall be submitted to the SCAQMD, Office of Engineering and Compliance within seventy-two (72) hours of test.



South Coast Air Quality Management District
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South Coast Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4178
PERMIT TO OPERATE

page 3
Permit No.
N31692
A/N 599552

CONTINUATION OF PERMIT TO OPERATE

12. A vapor to liquid volume ratio test shall be conducted to quantify the vapor to liquid (V/L) volumetric ratio of the Healy clean air separator system. The test shall be conducted in accordance with the latest version of Exhibit 5 of CARB Executive Order VR-202, as a performance test and reverification test. Results shall be submitted to the SCAQMD, Office of Engineering and Compliance within seventy-two (72) hours of test.
13. A nozzle bag test shall be conducted on the Healy phase II EVR nozzles to verify the integrity of the vapor valve. The test shall be conducted on any newly installed or replaced Healy phase II EVR nozzles and in accordance with the latest version of Exhibit 7 of CARB Executive Order VR-202. Results shall be submitted to the SCAQMD, Office of Engineering and Compliance within seventy-two (72) hours of test.

SECTION IV: IN-STATION DIAGNOSTICS SYSTEM AND TESTING REQUIREMENTS

14. An ISD operability test shall be conducted in accordance with the latest version of Exhibit 9 for the Veeder-Root ISD system of CARB Executive Order VR-202 to verify the equipment's operability for vapor containment monitoring and vapor collection monitoring. The test shall be conducted as a performance test and reverification test. Furthermore, the ISD operability test shall be conducted immediately whenever a vapor pressure sensor or a vapor flow meter is replaced. Results shall be submitted to the SCAQMD, Office of Engineering and Compliance within seventy-two (72) hours of test.
15. Within two (2) hours of detecting the first ISD warning alarm by the ISD system, the facility attendant shall notify the responsible company official or their designee and request immediate service to correct the problem. All information relating to the alarm event and reporting shall be immediately recorded on an SCAQMD approved form and shall be made available to the District representative upon request. Only persons authorized by the applicable CARB certification Executive Orders shall be allowed to make vapor recovery or ISD system repairs.
16. If a second ISD warning alarm occurs indicating that the same problem still exists or if a failure alarm occurs where gasoline dispensing is terminated, the ISD system may be reset to allow for vehicle fueling to resume only if:
 - A) The fueling point(s) associated with the problem that triggered the failure alarm is isolated and not operated until the required repairs have been completed; or
 - B) An order for abatement or other administrative relief has been issued by the SCAQMD Hearing Board allowing gasoline dispensing to continue; or
 - C) All required repairs to correct the problem that triggered the second warning or failure alarm have been completed, and the necessary applicable tests or procedures have been performed:

DISPLAYED MESSAGE

ISD VAPOR LEAKAGE
ISD GROSS PRESSURE

APPLICABLE TEST(S) OR PROCEDURE(S)

TP-201.3, TP-201.1C, or TP-201.1D
Dispenser vapor line integrity test (Section B-3
installation, operation, maintenance manual)
Exhibit 4 (Executive Order VR-202)



South Coast Air Quality Management District
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PERMIT TO OPERATE

CONTINUATION OF PERMIT TO OPERATE

Hnn: GROSS COLLECT
Hnn: DEGRD COLLECT
ISD SENSOR OUT
ISD SETUP

Exhibit 5 (Executive Order VR-202)
Exhibit 9 (Pressure sensor only Executive Order VR-202),
or
Flow rate verification
(Section 1.2.3; Installation, operation, maintenance
manual)

Exhibit 5 (Executive Order VR-202)
Exhibit 5 (Executive Order VR-202)
Section 2 (ISD Install, setup & operation manual)
Section 3 (ISD Install, setup & operation manual)

At a minimum, all information relating to the alarm event, course of action taken, repairs made, and tests or procedures performed shall be immediately recorded on an SCAQMD approved form and shall be made available to the District representative upon request.

17. The clear test after repair (reset) function for the Veeder-Root ISD system shall only be utilized once after the first ISD warning alarm or if the owner/operator has completed either condition 16A, 16B, or 16C above.
18. There shall be no gasoline dispensing if the ISD system is shut off, tampered with, disconnected, or otherwise disabled.

SECTION V: GENERAL REQUIREMENTS

19. All Phase I and Phase II vapor recovery equipment at this facility shall be installed, operated and maintained to meet all California Air Resources Board certification requirements.
20. New equipment installations and subsequent service and repairs for any certified component for which this permit was issued, shall only be performed by a current and certified person who has successfully completed the manufacturer's training course and appropriate International Code Council (ICC) certification. Completion of any SCAQMD training course does not constitute as a substitute for this requirement. Proof of successful completion of any manufacturer training course shall be with the manufacturer.
21. Unless SCAQMD Rule 461 requires a more frequent testing or inspection schedule, the owner/operator shall be responsible to perform the scheduled weekly, quarterly, and annual inspections as outlined in the CARB approved Installation, Operation, and Maintenance manual for both the phase I and phase II EVR system, as well as all the required vapor recovery system tests as per the current and appropriate CARB Executive Order.
22. The SCAQMD shall be notified electronically or other means as specified by the Executive Officer at least seventy-two (72) hours prior to any of the above mentioned testing requirements. Such notification shall include the name of the owner or operator, the name of the contractor, the location of the facility, and the scheduled start and completion dates of the tests to be performed.





South Coast Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4178
PERMIT TO OPERATE

page 5
Permit No.
N31692
A/N 599552

CONTINUATION OF PERMIT TO OPERATE

23. A copy of the pass/fail test results shall be sent electronically or other means as specified by the Executive Officer within seventy-two (72) hours after each test is conducted. Furthermore, the final test results demonstrating compliance shall be submitted electronically or other means as specified by the Executive Officer within fourteen (14) calendar days from the date when all tests were passed. The test report shall include at a minimum all the required records of all tests performed, test data, current SCAQMD facility ID number of the location being tested, the equipment permit to operate or application number, the SCAQMD ID number of the company performing the tests, a statement whether the system or component tested meets the required standards, and the name, SCAQMD tester ID number and signature of the person responsible for conducting the tests.
24. The testing for the above mentioned tests shall be conducted in accordance with the most recent Rule 461 amendment or CARB Executive Order requirements, whichever is more stringent.
25. All records and test results that are required to be maintained by Rule 461 shall be kept on site for four (4) years and made available to District representatives upon request.
26. This gasoline storage and dispensing facility shall not operate more than 16 hours in any one calendar day.

SECTION VI: GASOLINE THROUGHPUT REQUIREMENTS

27. The maximum quantity of gasoline dispensed from the gasoline storage tank at this facility shall not exceed 2,220,000 gallons in any one calendar month nor 26,640,000 gallons in any one calendar year.
28. Records of monthly annual fuel dispensed shall be prepared, shall be retained on site for two years, and shall be made available to District representatives upon request.
29. The owner/operator shall submit the facility's monthly gasoline throughput data for the previous calendar year to the Executive Officer on or before March 1 following each calendar year.

NOTICE

In accordance with Rule 206, this permit to operate or copy shall be posted on or within 8 meters of the equipment.

This permit does not authorize the emission of air contaminants in excess of those allowed by Division 26 of the Health and Safety Code of the State Of California or the rules of the Air Quality Management District. This permit cannot be considered as permission to violate existing laws, ordinances, regulations or statutes of other government agencies.

EXECUTIVE OFFICER

By LAKI TISOPULOS, PhD/JM04
01/06/2019

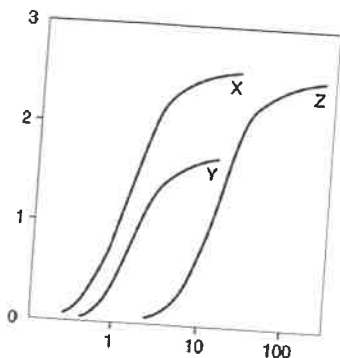


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ATTACHMENT

3



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August 7, 2024

Angel Law

2601 Ocean Park Boulevard, Suite 205
Santa Monica, CA 90405

Attn: Messer. Cooper Kass and Frank Angel

Subject: Comments On Categorical Exemption For The Class 32 Report Of The Costco Fuel Facility Re-Location And Expansion At 13463 Washington Boulevard, Culver City, CA 90292

At the request of Angel Law (Angel), Clark and Associates (Clark) has reviewed materials related to the 2024 Class 32 Categorical Exemption (CE) from Culver City (the City) of the above referenced project.

Clark's review of the materials in no way constitutes a validation of the conclusions or materials contained within the plan. If we do not comment on a specific item this does not constitute acceptance of the item.

Project Description:

According to the City's CE Report¹, the existing Culver City Costco fuel station with 16 vehicle fueling positions is located in the south-east corner of the 13463 Washington Boulevard facility. The Proposed Project will relocate the gas station to the area with two currently unoccupied buildings that housed a Verizon mobile phone store, Subway, a GNC shop, and a Starbucks Coffee. This relocation moves the fueling facility adjacent to the homes and businesses located on Walnut Avenue.

The Proposed Project would involve the construction of a new 13,000-square-foot fuel canopy, the installation of 15 new multiproduct

¹ Barghausen Consulting Engineers, Inc. & Amruster Goldsmith & Delvac, LLP. 2024. Supporting Analysis For A Class 32 Exemption. Pg. 2

dispensers (MPDs), three 40,000-gallon underground gasoline storage tanks (USTs), one (1) 1,500-gallon fuel additive UST, a new controller enclosure, a vapor processing unit, and associated site improvements, such as parking and landscaping. The relocated gasoline station will increase the number of dispensers from 8 dispensers (16 fueling positions) to 15 dispensers (30 fueling positions). According to the Class 32 CE Report² there would be no increase in throughput (i.e., the total amount of gasoline to be dispensed yearly). The existing fuel facility will be demolished and removed from the site, and the existing commercial buildings will be demolished. The existing underground storage tanks and piping will be decommissioned and removed by State-certified contractors. Following demolition, the existing fuel facility site will be improved with additional parking for the Costco Warehouse. The facility is anticipated to receive up to eight nighttime fuel deliveries per night, spread out evenly between 10:00 p.m. and 6:00 a.m. (i.e., one fuel delivery per hour).

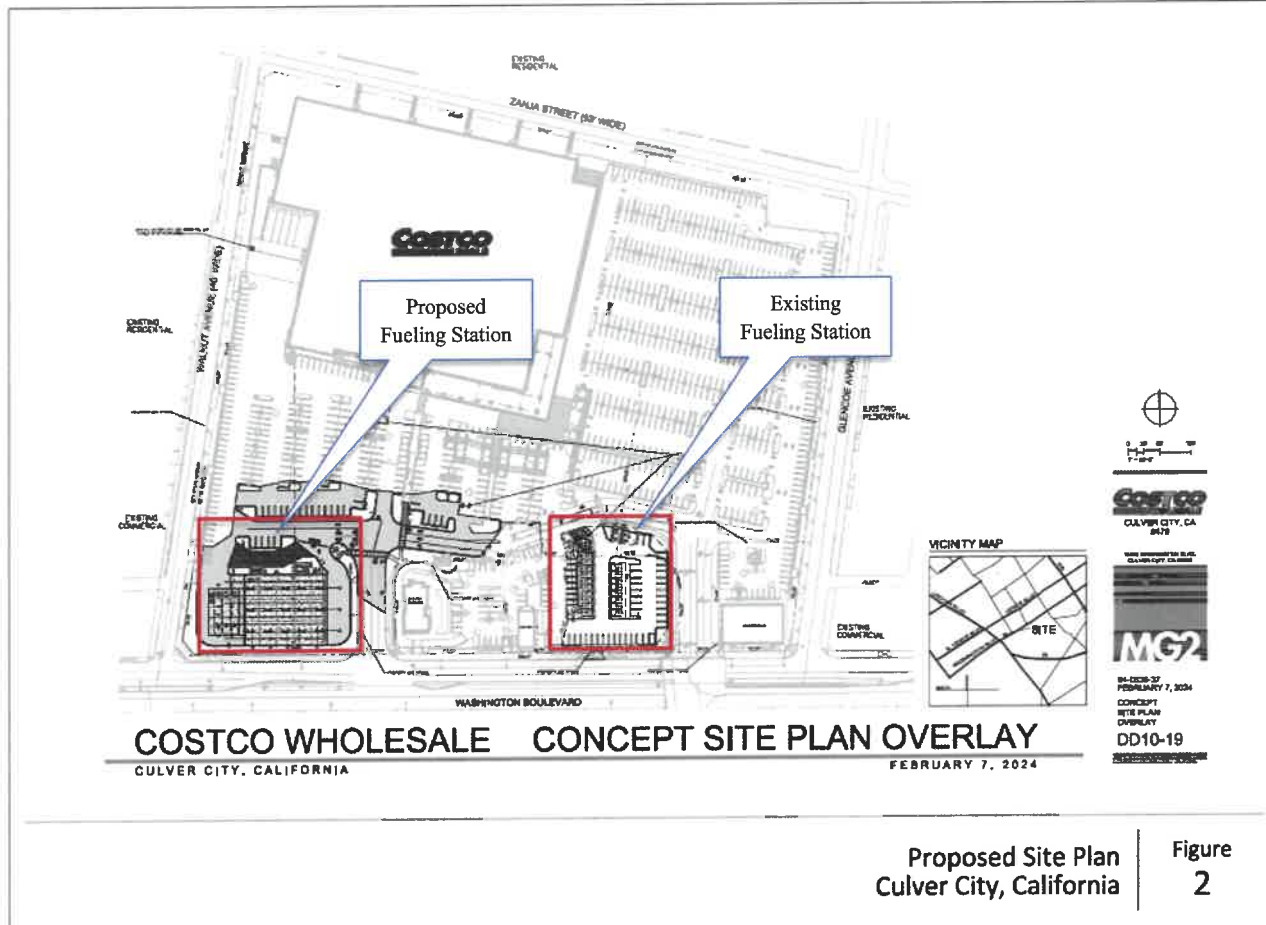


Figure 1: Site Location Map

² *ibid*

According to the CE Report, the proposed project would not have a significant effect on the environment. The Air Quality/Health Risk Technical Report prepared by Ramboll³ for the Project concluded that the Project's unmitigated regional construction emissions would not exceed South Coast Air Quality Management District (SCAQMD) regional significance thresholds for volatile organic compounds (VOCs), oxides of nitrogen (NO_x), carbon monoxide (CO), oxides of sulfur (SO_x), respirable particulate matter (PM₁₀) or fine particulate matter (PM_{2.5}). The study also concluded that local emissions also would not exceed the SCAQMD local significance thresholds (LSTs) for NO_x, CO, SO_x, PM₁₀, or PM_{2.5}. The Air Quality study also concluded that emissions from the Project's construction and operations are expected to have a less than significant health risk impact, and that the project's potential to expose sensitive receptors to substantial CO concentrations would be less than significant. These conclusions are in conflict with the facts provided within the CE Report.

Specific Comments

1. The Air Quality And Health Risk Analysis Used In The CE Fails To Identify All Relevant Sensitive Receptors Near The Project Site.

According to the CE Report, the combined health risk from the construction and operational phases of the Project are less than the SCAQMD's risk significance threshold of 10 in 1,000,000 increased cancer risk for the maximally exposed individual resident (MEIR). Ramboll noted that it evaluated excess lifetime cancer risk and chronic hazard index (HIC) for off-site receptors from the construction phase and off-site sensitive receptors from the Project operational emissions. The report defines sensitive receptors as long-term health care facilities, rehabilitation centers, convalescent centers, retirement homes, residences, schools, playgrounds, daycare centers, and athletic facilities. The locations of all the receptors modeled in the analysis are provided in the figure below. The red triangles indicate the location of the 5 sensitive receptors identified by Ramboll. They include the Morning Glory Preschool located at 2552 Lincoln Boulevard (Venice, CA), St. Mark's Catholic School located at 912 Coeur D'Alene Avenue (Venice, CA), Grandview House Marina Preschool located at 2929 Washington Blvd (Marina Del Rey, CA), an unidentified home on Glyndon Avenue,

³ Ramboll. 2024. Costco Culver City Project Air Quality/Health Risk Technical Report. Costco Culver City, California. Dated May 2024.

and a business on Washington Boulevard (potentially the West Los Angeles Bicycle Assembly and E-Bike Assembly Services - Bicycle repair shop located at 13106 Washington Blvd #E Los Angeles, CA based on the approximate location in the attached figure).

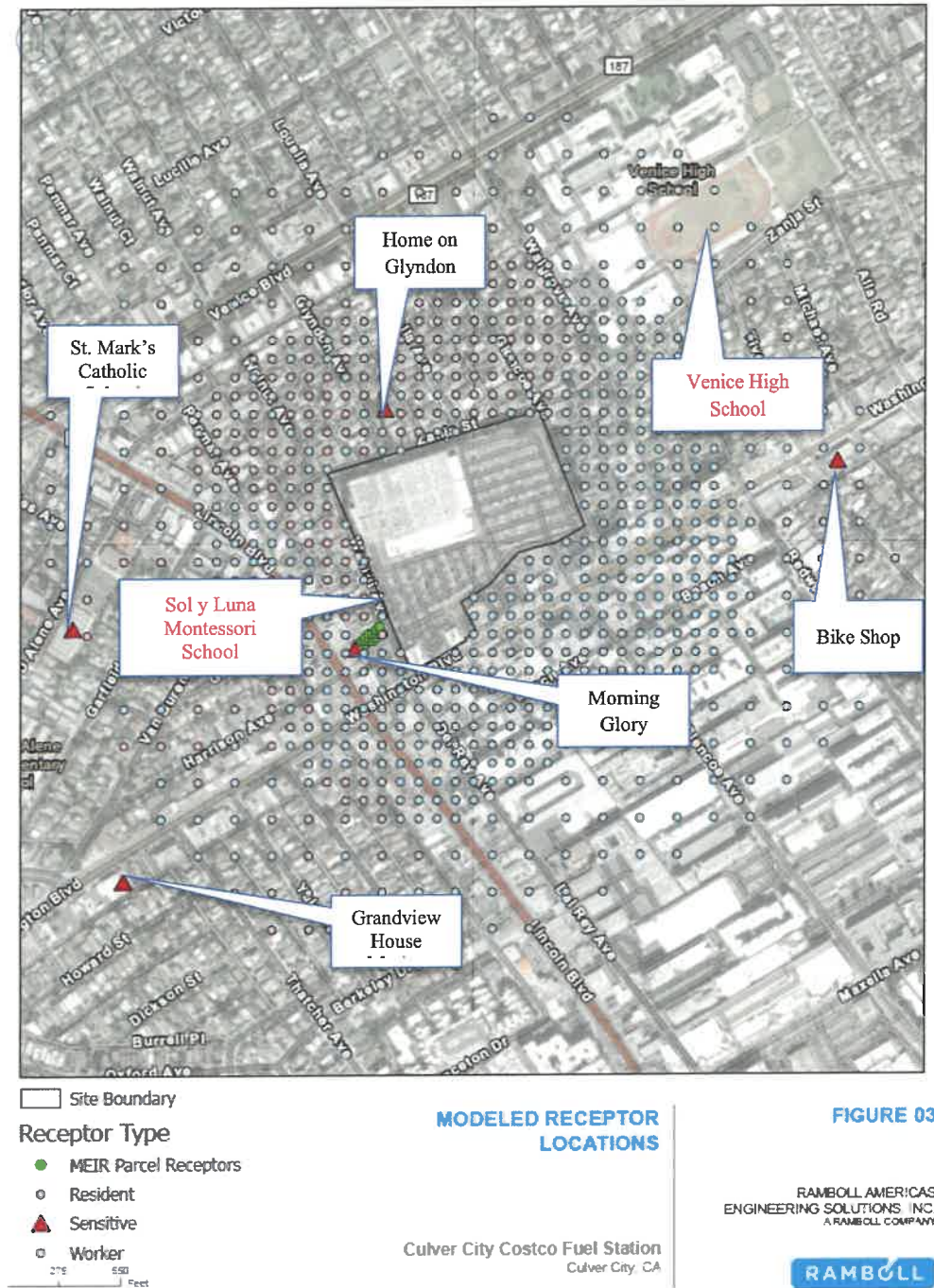


Figure 2: Sensitive Receptor Locations

The analysis fails to include two significant sensitive receptors in the figure above. Sol y Luna Montessori School, located at 2551 Walnut Avenue (less than 60 feet to the west edge of the regional

shopping center and 160 feet from the emergency generator located on the Project Site) and Venice High School, located at 13000 Venice Boulevard (located less than 1,500 feet to the east of the Project Site). Sol y Luna Montessori School has been at 2551 Walnut Avenue since 2016. Venice High School has been operational since 1911. Failing to include these significant receptors presents a challenge to the CE Report's conclusion that no significant impacts will occur to sensitive receptors in the area. The City's failure to include all sensitive receptors in the air quality analysis is clearly a flaw which must be resolved in an environmental impact report (EIR) for the Project.

2. The Air Quality/Health Risk Analysis Calculates Exposures To Only A Fraction Of The VOCs Present In Exhaust From Vehicles And Vapor Loss From Fueling Operations.

Table D-8 of the Ramboll report identifies a series of volatile organic compounds (VOCs) and polyaromatic hydrocarbons (POMs) in mobile source air toxic (MSAT) emissions. This list includes 7 VOCs (benzene (human carcinogen), 1,3-butadiene (human carcinogen), ethylbenzene (human carcinogen), acrolein (respiratory irritant), acetaldehyde (respiratory irritant), formaldehyde (human carcinogen), naphthalene (carcinogen)) and 15 POMs (Acenaphthene, Acenaphthylene, Anthracene, Benz[a]anthracene, Benzo[a]pyrene, Benzo[b]fluoranthene, Benzo[g,h,i]perylene, Benzo[k]fluoranthene, Chrysene, Dibenz[a,h]anthracene, Fluoranthene, Fluorene, Indeno[1, 2, 3-cd]pyrene, Phenanthrene, and Pyrene). The list of chemicals in Table D-8 includes carcinogens and non-carcinogenic compounds.

The California Air Resources Board's (CARB's) analysis of tailpipe emissions shows that in addition to simple alkane hydrocarbons, tailpipe emissions also contain the 7 VOCs listed above plus 7 additional air contaminants. The additional air contaminants include respiratory, neurotoxin, ocular, and gastrointestinal irritants. See CARB Table below:

CARB TOG Speciation Profile Run Exhaust ⁴		
CAS#	Chemical Name	Fraction
75070	Acetaldehyde	0.0028
107028	Acrolein	0.0013

⁴ <https://ww2.arb.ca.gov/speciation-profiles-used-carb-modeling>

CARB TOG Speciation Profile Run Exhaust ⁴		
CAS#	Chemical Name	Fraction
71432	Benzene	0.0247
106990	1,3-Butadiene	0.0055
100414	Ethylbenzene	0.0105
50000	Formaldehyde	0.0158
110543	Hexane	0.0160
67561	Methanol	0.0012
78933	Methyl Ethyl Ketone	0.0002
91203	Naphthalene	0.0005
115071	Propylene	0.0306
100425	Styrene	0.0012
108883	Toluene	0.0576
1330207	Xylenes	0.0480

The analysis present in the Ramboll report captures only a small fraction of the air contaminants identified in vehicle exhaust, leaving out the majority of compounds identified by CARB. The City therefore lacks supporting evidence for its conclusion that the emissions from the Project would not result in significant health effects to the receptors. The City's failure to perform such an analysis is clearly a major flaw in the Project Air Quality Analysis which must be resolved in an EIR.

3. The Health Risk Analysis Conclusion That Risks From The Combined Construction And Operational Emissions Are Below The SCAQMD's Risk Significance Threshold Is Not Supported By The Underlying Data From The Analysis

In Table 5-5 of the Ramboll report, the increased cancer risk to the maximally exposed individual resident (MEIR) is calculated to be 8.7 in 1,000,000. This risk is based on the assumed emissions from the construction phase (primarily from diesel particulate matter (DPM) emissions) and operational phase (primarily from volatile organic compounds released by fueling operations). Note 2 in Tables 5-3, 5-4, and 5-5 state that the MEIR risk was calculated using the spatial averaging of 5-meter spaced receptors within the MEIR property boundary. The same method is not identified as being performed for any other receptor in the analysis. A review of Appendix F to the report shows the calculated risk for each of the 869 receptors modeled by Ramboll.

In Table F-3 each of the receptors is identified by the x-coordinate and y-coordinate (using universal transverse mercator (UTM) system). For receptor 243, the MEIR, the risk is calculated to be 11.72 in 1,000,000. Note 1 to the table states that receptors 2, 8-11, 16-19, 24-28, 33, 34, and 41 were used for the spatial averaging of receptor 243.

Receptor	x-coordinate (m)	y-coordinate (m)	Receptor type	Max Cancer Risk (in a million)
2	366275	3762132	Resident	6.79
8	366270	3762137	Resident	6.14
9	366275	3762137	Resident	6.77
10	366280	3762137	Resident	7.52
11	366285	3762137	Resident	8.42
16	366275	3762142	Resident	6.72
17	366280	3762142	Resident	7.46
18	366285	3762142	Resident	8.34
19	366290	3762142	Resident	9.41
24	366280	3762147	Resident	7.35
25	366285	3762147	Resident	8.21
26	366290	3762147	Resident	9.23
27	366295	3762147	Resident	10.49
28	366300	3762147	Resident	12.07
33	366290	3762152	Resident	9.00
34	366295	3762152	Resident	10.18
41	366295	3762157	Resident	9.82
243	366298.73	3762145.77	Resident	11.72
Averaged				8.7

The method chosen intentionally downplays the risk calculated for the MEIR. It is clear that the risk associated with exposure to the emissions from the Project range from 6.14 to 12.07 depending on the location of the receptor. Using a reasonable maximum exposure (RME) or maximum exposure

approach as outlined in guidance from U.S. EPA^{5,6}, ATSDR⁷, OEHHA⁸, and DTSC⁹ would be a more appropriate approach to protect public health. This approach utilizes an exposure range based on the 90th and 99.9th percentiles of exposures. Given the ample evidence from the Ramboll report that emissions from the Project will expose sensitive receptors to substantial pollutant concentrations (Threshold 3 of the CEQA guidelines) it is clear that an EIR must be prepared for the Project in lieu of the CE.

4. The Traffic Analysis Incorrectly States That The Project Would Remove/Replace Four Existing Retail/Commercial Sites.

The VMT Analysis presented on page 9 of the CE Report states that the proposed Project relocates the existing fuel station on site and removes four existing retail/commercial uses on the site (Verizon store, Subway, GNC, and Starbucks). Each of those businesses have been closed/non-operational since at least the beginning of 2023. The CE report cannot claim that there is a reduction in the number of daily trips (331 daily trips) for Project given the long-term closure of those business. This inconsistency must be corrected in an EIR of the Project.

⁵ U.S. EPA. 2001. RAGS Volume I: Human Health Evaluation Manual (Part D, Standardized Planning, Reporting, and Review of Superfund Risk Assessments) (U.S. EPA 2001).

⁶ U.S. EPA. 2011. Exposure Factors Handbook. EPA/600/R-090/052F, National Center for Environmental Assessment, Washington, D.C.

⁷ ATSDR. 2021. Guidance for Inhalation Exposure, V5 — Sept 8, 2021

⁸ OEHHA. 2015. Toxics Hot Spots Program Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments

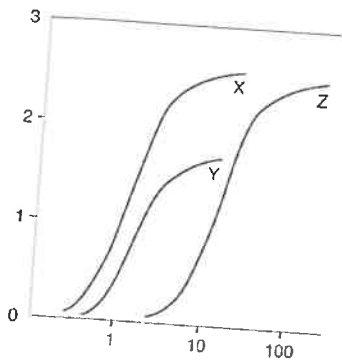
⁹ DTSC. 2019. Human Health Risk Assessment Note Number 1: Recommended DTSC Default Exposure Factors for Use in Risk Assessment at California Hazardous Waste Sites and Permitted Facilities. (DTSC/HERO, April, 2019).

Conclusion

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project may result in significant impacts if allowed to proceed. An EIR should be prepared to address these substantial concerns.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. J. Con". The signature is written in a cursive, flowing style with a horizontal line extending from the end.



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James J. J. Clark, Ph.D.

Principal Toxicologist

Toxicology/Exposure Assessment Modeling

Risk Assessment/Analysis/Dispersion Modeling

Education:

Ph.D., Environmental Health Science, University of California, 1995
M.S., Environmental Health Science, University of California, 1993
B.S., Biophysical and Biochemical Sciences, University of Houston, 1987

Professional Experience:

Dr. Clark is a well-recognized toxicologist, air modeler, and health scientist specializing in dose reconstruction. He has 30 years of experience in tying together environmental contaminants measurements to human health impacts. Using environmental fate and transport modeling (SCREEN3, CALPUFF, AEROMOD, ISCST3, Johnson-Ettinger Vapor Intrusion Modeling, RESRAD, GENII); exposure assessment modeling (partitioning of contaminants in the environment as well as PBPK modeling); Dr. Clark has testified in Federal and State courts on dose reconstructions for personal injury and in mass tort claims.

SELECTED AIR MODELING RESEARCH/PROJECTS

Client(s) – Multiple

Indoor Air Evaluations, California: Performed multiple indoor air screening evaluations and risk characterizations consistent with California Environmental Protection Agency's (Cal/EPA) Department of Toxic Substances Control (DTSC) and Regional Water Quality Control Board (RWQCB) methodologies. Characterizations included the use of DTSC's modified Johnson & Ettinger Model and USEPA models, as well as the attenuation factor model currently advocated by Cal/EPA's Office of Environmental Health and Hazard Assessment (OEHHA).

Client – Confidential

Dr. Clark performed a comprehensive evaluation of criteria pollutants, air toxins, and particulate matter emissions from a carbon black production facility to determine the impacts on the surrounding communities. The results of the dispersion model were used to estimate acute and chronic exposure concentrations to multiple contaminants and were be incorporated into a comprehensive risk evaluation.

Client – Confidential

Dr. Clark performed a comprehensive evaluation of air toxins and particulate matter emissions from a railroad tie manufacturing facility to determine the impacts on the surrounding communities. The results of the dispersion model have been used to estimate acute and chronic exposure concentrations to multiple contaminants and have been incorporated into a comprehensive risk evaluation.

EMERGING/PERSISTENT CONTAMINANT RESEARCH/PROJECTS

Client: City of Santa Clarita, Santa Clarita, California

Dr. Clark managed the oversight of the characterization, remediation and development activities of a former 1,000 acre munitions manufacturing facility for the City of Santa Clarita. The site is impacted with a number of contaminants including perchlorate, unexploded ordinance, and volatile organic compounds (VOCs). The site is currently under a number of regulatory consent orders, including an Imminent and Substantial Endangerment Order. Dr. Clark assisted the impacted municipality with the development of remediation strategies, interaction with the responsible parties and stakeholders, as well as interfacing with the regulatory agency responsible for oversight of the site cleanup.

Client – Confidential, Los Angeles, California

Dr. Clark is performing a comprehensive review of the potential for pharmaceuticals and their by-products to impact groundwater and surface water supplies. This evaluation will include a review if available data on the history of pharmaceutical production in the United States; the chemical characteristics of various pharmaceuticals; environmental fate and transport; uptake by xenobiotics; the potential effects of pharmaceuticals on water treatment systems; and the potential threat to public health. The results of the evaluation may be used as a briefing tool for non-public health professionals.

PUBLIC HEALTH/TOXICOLOGY

Client: Brayton Purcell, Novato, California

Dr. Clark performed a toxicological assessment of residents exposed to methyl-tertiary butyl ether (MTBE) from leaking underground storage tanks (LUSTs) adjacent to the subject property. The symptomology of residents and guests of the subject property were evaluated against the known outcomes in published literature to exposure to MTBE. The study found that residents had been exposed to MTBE in their drinking water; that concentrations of MTBE detected at the site were above regulatory guidelines; and, that the symptoms and outcomes expressed by residents and guests were consistent with symptoms and outcomes documented in published literature.

Client: Covanta Energy, Westwood, California

Evaluated health risk from metals in biosolids applied as soil amendment on agricultural lands. The biosolids were created at a forest waste cogeneration facility using 96% whole tree wood chips and 4 percent green waste. Mass loading calculations were used to estimate Cr(VI) concentrations in agricultural soils based on a maximum loading rate of 40 tons of biomass per acre of agricultural soil. The results of the study were used by the Regulatory agency to determine that the application of biosolids did not constitute a health risk to workers applying the biosolids or to residences near the agricultural lands.

Client: Kaiser Venture Incorporated, Fontana, California

Prepared PBPk assessment of lead risk of receptors at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

RISK ASSESSMENTS/REMEDIAL INVESTIGATIONS

Kaiser Ventures Incorporated, Fontana, California

Prepared health risk assessment of semi-volatile organic chemicals and metals for a fifty-year old wastewater treatment facility used at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

ANR Freight - Los Angeles, California

Prepared a comprehensive Preliminary Endangerment Assessment (PEA) of petroleum hydrocarbon and metal contamination of a former freight depot. This evaluation was as the basis for reaching closure of the site with lead regulatory agency.

Kaiser Ventures Incorporated, Fontana, California

Prepared comprehensive health risk assessment of semi-volatile organic chemicals and metals for 23-acre parcel of a 1,100-acre former steel mill. The health risk assessment was used to determine clean up goals and as the basis for granting closure of the site by lead regulatory agency. Air dispersion modeling using ISCST3 was performed to determine downwind exposure point concentrations at sensitive receptors within a 1 kilometer radius of the site. The results of the health risk assessment were presented at a public meeting sponsored by the Department of Toxic Substances Control (DTSC) in the community potentially affected by the site.

Unocal Corporation - Los Angeles, California

Prepared comprehensive assessment of petroleum hydrocarbons and metals for a former petroleum service station located next to sensitive population center (elementary school). The assessment used a probabilistic approach to estimate risks to the community and was used as the basis for granting closure of the site by lead regulatory agency.

Client: Confidential, Los Angeles, California

Managed oversight of remedial investigation most contaminated heavy metal site in California. Lead concentrations in soil excess of 68,000,000 parts per billion (ppb) have been measured at the site. This State Superfund Site was a former hard chrome plating operation that operated for approximately 40-years.

Client: Confidential, San Francisco, California

Coordinator of regional monitoring program to determine background concentrations of metals in air. Acted as liaison with SCAQMD and CARB to perform co-location sampling and comparison of accepted regulatory method with ASTM methodology.

Client: Confidential, San Francisco, California

Analyzed historical air monitoring data for South Coast Air Basin in Southern California and potential health risks related to ambient concentrations of carcinogenic metals and volatile organic compounds. Identified and reviewed the available literature and calculated risks from toxins in South Coast Air Basin.

IT Corporation, North Carolina

Prepared comprehensive evaluation of potential exposure of workers to air-borne VOCs at hazardous waste storage facility under SUPERFUND cleanup decree. Assessment used in developing health based clean-up levels.

Past Professional Associations

American Public Health Association (APHA)

Association for Environmental Health and Sciences (AEHS)

American Chemical Society (ACS)

International Society of Environmental Forensics (ISEF)

Society of Environmental Toxicology and Chemistry (SETAC)

Publications and Presentations:

Books and Book Chapters

Sullivan, P., **J.J. J. Clark**, F.J. Agardy, and P.E. Rosenfeld. (2007). *Synthetic Toxins In The Food, Water and Air of American Cities*. Elsevier, Inc. Burlington, MA.

Sullivan, P. and **J.J. J. Clark**. 2006. *Choosing Safer Foods, A Guide To Minimizing Synthetic Chemicals In Your Diet*. Elsevier, Inc. Burlington, MA.

Sullivan, P., Agardy, F.J., and **J.J.J. Clark**. 2005. *The Environmental Science of Drinking Water*. Elsevier, Inc. Burlington, MA.

Sullivan, P.J., Agardy, F.J., **Clark, J.J.J.** 2002. *America's Threatened Drinking Water: Hazards and Solutions*. Trafford Publishing, Victoria B.C.

Clark, J.J.J. 2001. "TBA: Chemical Properties, Production & Use, Fate and Transport, Toxicology, Detection in Groundwater, and Regulatory Standards" in *Oxygenates in the Environment*. Art Diaz, Ed.. Oxford University Press: New York.

Clark, J.J.J. 2000. "Toxicology of Perchlorate" in *Perchlorate in the Environment*. Edward Urbansky, Ed. Kluwer/Plenum: New York.

Clark, J.J.J. 1995. Probabilistic Forecasting of Volatile Organic Compound Concentrations At The Soil Surface From Contaminated Groundwater. UMI.

Baker, J.; **Clark, J.J.J.**; Stanford, J.T. 1994. Ex Situ Remediation of Diesel Contaminated Railroad Sand by Soil Washing. Principles and Practices for Diesel Contaminated Soils, Volume III. P.T. Kostecki, E.J. Calabrese, and C.P.L. Barkan, eds. Amherst Scientific Publishers, Amherst, MA. pp 89-96.

Journal and Proceeding Articles

- Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008) A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, Volume 70 (2008) page 002254.
- Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008) Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, Volume 70 (2008) page 000527
- Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** (2007). "Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." *Environmental Research*. 105:194-199.
- Rosenfeld, P.E., **Clark, J. J.**, Hensley, A.R., and Suffet, I.H. 2007. "The Use Of An Odor Wheel Classification For The Evaluation of Human Health Risk Criteria For Compost Facilities" *Water Science & Technology*. 55(5): 345-357.
- Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** 2006. "Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006, August 21 – 25, 2006. Radisson SAS Scandinavia Hotel in Oslo Norway.
- Rosenfeld, P.E., **Clark, J. J.** and Suffet, I.H. 2005. "The Value Of An Odor Quality Classification Scheme For Compost Facility Evaluations" The U.S. Composting Council's 13th Annual Conference January 23 - 26, 2005, Crowne Plaza Riverwalk, San Antonio, TX.
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Silva, Gabriela

From: Frank Angel
Sent: Thursday, August 8, 2024 2:05 PM
To: Silva, Gabriela; Clerk, City
Cc: Cooper Kass; Lake McManus
Subject: Appeal of 07-24-2024 Planning Commission decision approving Costco Gas Station Expansion and Relocation Project and CEQA Exemption

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Dear Ms. Silva,

From the public records we received today in response to the California Public Records Act (CPRA) request we made on August 2, 2024, on behalf of our client Sol y Luna Day Care Center, we note that on March 26, 2020, the Project Review Committee tentatively determined that the above-referenced project would not be exempt from CEQA. Two years later, on May 25, 2023, the Project Review Committee turned around and stated: "Based on information and technical studies provided thus far, the project may qualify for a Categorical Exemption pursuant to the California Environmental Quality Act (CEQA) guidelines." The most recent Project Review Committee Comments we received (titled "Resubmittal Comments"), dated May 20, 2024, repeat: "Based on information and technical studies provided, the project may qualify for a Categorical Exemption pursuant to the California Environmental Quality Act (CEQA) guidelines."

Culver City Municipal Code (CCMC) section 17.500.030 provides: "*After acceptance of a complete application*, the project shall be reviewed in compliance with the California Environmental Quality Act (CEQA), to determine whether the proposed project is exempt from the requirements of CEQA, or is not a project as defined by CEQA, whether a negative declaration or a mitigated negative declaration may be issued, or whether an environmental impact report (EIR) shall be required." (Italics added.)

Thus, the May 25, 2023 Project Review Committee Comments cannot be the basis for the switch from an MND to a CEQA exemption. These comments make quite clear that the application then before the Project Review Committee was incomplete. Among many other things, the air quality study excluded nearby residences in the listing of receptors. Nor can the May 20, 2024 Resubmittal Comments be the basis for the CEQA exemption. At that time, as the Committee determined, the application was still incomplete for many reasons, including those stated in the May 20, 2024 Resubmittal Comments.

In our CPRA request we sought "[a]ll emails and other writings authored by any City official or employee regarding any review and any determination(s) made under Culver City Municipal Code (CCMC) section 17.500.030, for Conditional Use Permit Modification P2021-0135, to allow demolition of existing fueling station and two commercial structures; and the construction of a new expanded and relocated fueling station and associated project design features and site improvements at 13431-13463 Washington Blvd. (Project)."

The only records we received concerning CCMC section 17.500.030 are the March 26, 2020, May 25, 2023, and May 20, 2024 Project Review Committee documents. Thus, there appears to be no

record of any Project Review Committee meeting after May 20, 2024 or any other staff writing, memorializing or reflecting the CCMC section 17.500.030-mandated review and determination regarding whether the project at issue should be exempted from the requirements of CEQA, or whether a MND or EIR should be required.

This violation of CCMC section 17.500.030 presents further grounds for reversal of the Planning Commission decision, as the commission acted based on an approval recommendation that had not been vetted as mandated by section 17.500.030. Compliance with 17.500.030 is especially important when, as in this case, an applicant insists to have their project exempted from CEQA under Categorical Exemption 32, as that exemption is limited to projects that “would not result in any significant effects relating to traffic, noise, air quality, or water quality”; and that have a site that “can be adequately served by all required utilities and public services.”

We much appreciate your kind assistance in this matter, including your assistance with the City Clerk’s response to our CPRA request. We may in the future request the communications you and other staff members received from the applicant’s representatives, including Armbruster Goldsmith & Delvac LLP. Therefore, please make sure that all such communications are preserved.

Regards,

Frank P. Angel | O (310) 314-6433
2601 Ocean Park Blvd., Suite 205, Santa Monica, CA 90405
Angel Law
angellaw.com  

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From: Culver City Records Portal <messages@nextrequest.com>
Sent: Thursday, August 8, 2024 11:52 AM
To: Frank Angel
Subject: [Document Released to Requester] Culver City public records request #24-516

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

Culver City Public Records