

## Appendix J

### Response to Draft SEIR 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. Owdom .....SEIR 1

#### Responses to Comments

In accordance with CEQA Guidelines Section 15088, the City, as the Lead Agency, evaluated the comments received on the Draft SEIR (State Clearinghouse No. 2017031030) for the Producers Dairy Cheese Plant Project and has prepared the following responses to the comments received.

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



EDMUND G. BROWN JR.  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



KEN ALEX  
DIRECTOR

April 25, 2017

Mike Sanchez  
City of Fresno  
2600 Fresno Street  
Fresno, CA 93721-3604

Subject: Producers Dairy Cheese Plant  
SCH#: 2017031030

Dear Mike Sanchez:

The State Clearinghouse submitted the above named Supplemental EIR to selected state agencies for review. The review period closed on April 24, 2017, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2017031030  
**Project Title** Producers Dairy Cheese Plant  
**Lead Agency** Fresno, City of

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**Type** SIR Supplemental EIR

**Description** Producers propose to remove two boarded-up buildings at 450 E. Belmont Ave totaling approx 12,500 sf. The purpose of this proposed project is to secure additional parking for Producers Dairy delivery trailers due to the loss of delivery trailer parking at the southwest corner of Tuolumne St and H St to the High Speed Rail project. Producers proposes to replace the existing wall and chain link fence situated on the north half of the parcel with a decorative iron and brick pilaster security fence. Additionally, producers propose to construct a 12-ft high cinderblock sound wall situated on the south half of the parcel. The project will result in an additional 20 vehicle trips per. Project construction is proposed to commence with the controlled demolition of the existing buildings, removal of their foundations, and removal of the existing perimeter fence and wall. The second stage is proposed to consist of constructing a 12-ft high sound wall and security fence surrounding the parcel as well as paving the property, installing new utility poles, paving new sidewalks, and new gates.

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**Lead Agency Contact**

**Name** Mike Sanchez  
**Agency** City of Fresno  
**Phone** (559) 621-8003 **Fax**  
**email**  
**Address** 2600 Fresno Street  
**City** Fresno **State** CA **Zip** 93721-3604

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**Project Location**

**County** Fresno  
**City** Fresno  
**Region**  
**Lat / Long** 36° 45' 1" N / 119° 48' 22" W  
**Cross Streets** E. Belmont Ave and N Roosevelt Ave  
**Parcel No.** 459-032-15, 05  
**Township** 4S **Range** 20E **Section** 14S **Base** MD

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**Proximity to:**

**Highways** 41, 99, 180  
**Airports** Chandler  
**Railways** BNSF, UPRR  
**Waterways** Dry Creek Canal  
**Schools** FUSD  
**Land Use** light industrial

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**Project Issues** Archaeologic-Historic; Noise; Traffic/Circulation

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**Reviewing Agencies** Resources Agency; Department of Fish and Wildlife, Region 4; Department of Parks and Recreation; Central Valley Flood Protection Board; Department of Water Resources; Resources, Recycling and Recovery; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 6; Air Resources Board; Regional Water Quality Control Bd., Region 5 (Sacramento); Native American Heritage Commission; Public Utilities Commission

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**Date Received** 03/10/2017 **Start of Review** 03/10/2017 **End of Review** 04/24/2017

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# Producers Draft SEIR Comment Letter #1

**Bruce A. Owdom**  
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April 24, 2017

Mr. Mike Sanchez, Assistant Manager  
Ms. Bonique Emerson  
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](mailto:Mike.Sanchez@fresno.gov) ; [BoniqueE@fresno.gov](mailto:BoniqueE@fresno.gov) and by U.S. Mail

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

Dear Mr. Sanchez and Ms. Emerson:

Robert Boro and I submit the following comments on the Draft Supplement to the Tower District Specific Plan Final Environmental Impact Report (1991) prepared March 2017 (DSEIR) for the proposed demolition of two historic structures and enlargement of the proponent Producers Dairy truck trailer parking operation at 450 E. Belmont Avenue, Fresno, California.

On December 31, 2016, we commented at length on the Initial Study (IS) for this project. Unfortunately, our suggestion to revise the IS because of its glaring inadequacies was rejected and , the applicant chooses to continue the environmental review process without completely describing the proposed project in a revised IS. The DSEIR fails to attach a copy of or even mention our December 31, 2016 comments and thus repeats fundamental flaws in its review and analysis.

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 /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:

“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.]

SEIR 1-3

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 DEIR and its bias in favor of the proposed project is astonishing. Please provide the requested documents immediately.

We believe the notice distribution list for the proposed project is incomplete because it appears that residents in the area and within 300 feet of the project have not received notice. In addition, the address for the author is incorrect and has been since October 2014. Please provide a revised and complete distribution list for this project, so we can insure that residents and property owners in the project area have received notice.

SEIR 1-4

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 the 302 N. Thorne Avenue, 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. The staff report further suggests, without evidence, that some trailer parking will be lost. But, more importantly, it directly states that parking will be available. Site plans for both properties are required, and must be included in the official record of these proceedings, in order to ensure that a legally sufficient analysis of alternatives for the project is performed. Please provide these site plans immediately.

SEIR 1-5

We further renew our request for all notes taken by the consultant at the September 20, 2017 public meeting. Please provide these notes. (It appears that notes from the December 19, 2016 scoping meeting are attached to the DSEIR.)

SEIR 1-6

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

The DSEIR proposes to revise the TDFEIR by eliminating specific mitigation measures for development of the project site agreed to by the proponent and adopted by the City of Fresno in 1991, 26 years ago. In the revealing words of the DSEIR at page 7, “The language has now been updated to fit the Proposed Project.”

SEIR 1-7

The DSEIR at page 22 acknowledges that the proposed project falls within the boundaries of the Tower District Specific Plan but fails throughout to address and analyze the specific provisions of the Tower District Specific Plan and whether the proposed project is consistent with the goals and objectives of the TDSP. Instead, the DSEIR seeks to “fit” its analysis to the project and ignore the basic tenets of the TDSP. For example, Goal I, page 2-1 and Goal II, page 2-2 of the TDSP provide that there are historic and mutually

SEIR 1-7	<p>supportive relationships between the Tower District and the central area and are dependent on adjacent stable neighborhoods and that neighborhoods in the southern part of the Tower District are historically related to the Tower District and the Central Area. (TDSP, p.2-1, et seg.) The TDSP provides in its Goals, Objectives &amp; Policies in part:</p>
SEIR 1-8	<p><b>GOAL I RESTORE AND REINFORCE THE HISTORICAL AND MUTALLY SUPPORTIVE RELATIONSHIPS BETWEEN TOWER DISTRICT NEIGHBORHOODS AND THE CENTRAL AREA.</b> ....the health and vitality of the Central Area are dependent upon adjacent, stable residential neighborhoods.</p> <p><b>OBJECTIVE 1</b> .... Not surprisingly, given the development history of the overall Tower District area as Fresno’s first street car suburb, <u>these neighborhoods between Belmont Avenue and Divisadero Street contain as many, if not more, historic resources than comparable –sized areas elsewhere in the Tower District.</u> (TDSP, p.2-1) [Emphasis added.]</p> <p>.....</p> <p><b><i>Policy 2 Recognize that neighborhoods to the west and east of Fulton Street, and Van Ness Avenue between the proposed Route 180 corridor and Divisadero Street, are historically related to the Tower District as well as the Central Area.</i></b></p>
SEIR 1-9	<p><b>GOAL II CONSERVE AND ENHANCE EXISTING RESIDENTIAL NEIGHBORHOODS.</b></p> <p><b>Objective 1</b> Stabilize neighborhoods to prevent any further loss or erosion of character-defining elements....</p> <p><b><i>Policy 1 Revise or eliminate land use or zoning designations which inhibit new economic activity and investment opportunities for the benefit of the Tower District</i></b></p>
SEIR 1-10	<p><b>GOAL III RESPECT AND FURTHER ENHANCE THE HISTORIC CHARACTER OF THE TOWER DISTRICT AS A PLACE NOT DOMINATED BY THE AUTOMOBILE.</b></p> <p>.....</p> <p><b>Objective 1</b> Support existing and promote new neighborhood-serving, pedestrian-oriented retail service businesses within Tower District, following historic patterns of development.</p>
SEIR 1-11	<p><b>GOAL IV CONSERVE AND REVITALIZE THE TOWER DISTRICT’S HISTORIC AND ARCHITECTURAL RESOURCES.</b> (TDSP, p. 2-12.)</p> <p>Nowhere does the DSEIR mention or address these goals and the associated objectives and policies set forth in the TDSP, and for good reason. The Goals and Objectives of the TDSP are clearly contrary to and</p>

SEIR 1-11

in opposition to, the proposed project. The DSEIR misleads the reader by its failure to disclose and discuss the conservation principles of the TDSP and an analysis of them in relation to the proposed project. The entire analysis of this proposed project is flawed and inadequate for its failure to disclose and analyze the TDSP.

SEIR 1-12

As with the earlier flawed Initial Study, the DSEIR fails to analyze fully and accurately the harmful impact this proposed project will have on the surrounding historic neighborhood and its residents bounded by Highway 180, Belmont Avenue, Broadway Avenue, and Palm Avenue. As a result, the proposed mitigation measures miss the mark by a wide margin. This neighborhood needs land uses consistent with the TDSP, not in opposition to it.

As we commented on the IS in our supplemental comment, dated January 10, 2017, the proposed project, if approved, will impose at least 150 truck trips per day at the announced rate indicated in the IS, that is, at least six trucks trips per hour during peak commute times and 12 truck trips per hour at other times. (IS, 2.) It is unknown and unexplained how the applicant arrived at 70 truck trips per day in the DSEIR project description, which is for this reason unclear and inadequate. The proposed project will increase the number of parked truck trailers from the current 30 to a new maximum of 67 trailers, a whopping 123% increase of parked refrigerated truck trailers. At least some parked trailers will have refrigeration units running at all hours.

SEIR 1-13

The DSEIR fails to address the 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 exhaust; significant cumulative impacts, when increased diesel pollution is added to proximate freeway pollution.

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

SEIR 1-14

As previously mentioned, the project is not only the demolition of historic resources which were deemed qualified by the City of Fresno's Historic Preservation Commission for listing on the City's historic register. The project is also the increased truck traffic, which in turn creates the air and noise pollution, which in turn endanger public health and reduce property values, which in turn destabilizes the neighborhood in direct contravention of the goals and objectives of the TDSP.

With respect to the impact on historic resources, The DSEIR concedes "[b]ecause the demolition of the two buildings on the Proposed Project site are considered to historical resources, the impact associated with the demolition of the existing buildings on the Proposed Project site would be significant. **Significant impact on historical resources.**" (p. 38-39, sec. 4.1.4)

SEIR 1-15

The proposed project is a willful avoidance of the Tower District Specific Plan, and its directed treatment of the subject property. At the time of the adoption of the TDSP in 1991, Producers was the owner of the property and agreed to the mitigation measures for the property as adopted in the FEIR in exchange

SEIR 1-15

for changing the land use from general commercial to light industrial which was consistent with the use of limited and temporary trailer parking at the time. But Producers also agreed to the specific mitigation measures listed in the FEIR, including retaining and reusing the existing buildings on the site or replacing them with new buildings compatible with the existing buildings and the surrounding commercial area and neighborhood. It's visually obviously that the present use and the proposed expansion are incompatible with the adjacent small, independently owned shops and residences. It is the industrial anomaly on that portion of Belmont Avenue. [See, DSEIR, Figure 3 (site zoning map) and TDFIER attachment, pages 7-1/ 7-6, and Exhibits L-1 and L-2 attached.] Now 26 years later, Producers proposes to revoke its agreement and rescind its unfulfilled obligations of mitigation for the subject property, and instead impose an even greater health and safety burden on its neighbors.

SEIR 1-16

The DSEIR still does not reveal critical information about the operation, such as, whether the operation will include the washing and servicing of vehicles and what equipment is utilized, the hours of such operation, what lighting is proposed and how that lighting will affect the surrounding neighborhood.

The DSEIR tells us in three locations (pp. 2, 4, 22) that "[t]he proposed hours of operations will be 7:00 am to 10:00 pm." However, at p.56, the DSEIR contradicts the earlier statements, by stating that "[t]he applicant may, however, utilize the project area **north of the project site entrance at any hour of the day for truck movements as well [sic] the usage of idling refrigeration trailers.**" [Emphasis added.] So, buried in the body of the document, within a mitigation discussion, the reader of this DSEIR learns for the first time the true scope of the proposed operation: a 24 hour, around the clock movement of trucks and trailers, and idling refrigeration units. The applicant should completely and accurately disclose the true scope of this project, its plans for the future and address and analyze the impacts of that operation on the surrounding neighborhoods.

Moreover, the project description and DSEIR are inadequate because it fails to identify and analyze the loss of opportunities and property values incurred by the neighbors of the proposed expanded truck parking lot.

#### **The External Noise Mitigation Is Inadequate.**

SEIR 1-17

The DSEIR obscures the true facts which are that this project will increase daily truck trips to at least 150 per day (at least 5 days per week) 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. Further, the noise emitted from many idling refrigeration units will combine into a deafening roar. None of these cumulative impacts are 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 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



SEIR 1-17 | 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.**

SEIR 1-18 | The DSEIR repeats the same error as the Initial Study. The transportation discussion is not factually based and therefore is not relevant for purposes of this DSEIR. The discussion bases its projected benefits for reduction of vehicle miles travelled on a current, temporary parking location at H and Tuolumne Streets. The DSEIR should use applicant's last permanent parking location at 302 N. Thorne for any such analysis. The present analysis is inadequate.

SEIR 1-19 | The DSEIR fails to disclose the temporary nature of the parking on H Street and, as noted in the staff report dated February 25, 2016, that the site at 302 N. Thorne will again be available for parking. Therefore, 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 DSEIR contains no information or discussion about the impacts of the massive increase in truck trailer trips on the pedestrian traffic in the neighborhood, including children walking northbound through the proposed traffic pattern of trucks, to nearby John Muir Elementary School and Fresno High School. In addition, the DSEIR does not analyze the creation of the new proposed exit on Ferger Street and the impact of that new feature on that street specifically and throughout the neighborhood in general.

**The DSEIR Inadequately Considers Air Quality Impacts of the Project.**

SEIR 1-20 | The DSEIR concludes 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." Accordingly without any analysis, the DSEIR does not address this hazardous pollution issue further. To reach its conclusion, the DSEIR misrepresents the SPAL standard. The SPAL is a screening level analysis only. In order to meet the SPAL screening standard, the review must "verify that the project is not a source or near a source of hazardous air pollutants or odors" and must "mitigate cumulative impacts with measures appropriate for the site." Neither the number of vehicle trips nor project size as set forth in SPAL is a threshold of significance as the applicant contends. The Lead Agency has the responsibility to identify and avoid potential land use conflicts, such as potential exposure of sensitive receptors to sources of toxic air contaminants, sources of hazardous materials, and potential odors. The GAMAQI supports a more focused approach:

Note that even if a project is on the SPAL list, it does not relieve the Lead Agency from assessing a project for other potential significant air quality impacts. Some industrial and commercial projects may have impacts related to toxic air contaminants, hazardous materials, or odors. Projects containing sensitive receptors such as residential, subdivisions, schools, hospitals, and so on must assessed for exposure to pollutants from existing or planned industrial and commercial development. When a project falls under the

SPAL, the lead agency should use the information in the initial study checklist, or whatever format used, to justify a finding of less than significant air quality impacts. The initial study should also verify that no sensitive receptors would be exposed to substantial pollutant concentrations as a result of the project. (GAMAQI, pp. 85-86.)

GAMAQI also states that the location is a major factor in determining if a project will have localized air quality impacts. "The potential for adverse air quality impacts increases as the distance between the source of emissions and receptors decreases. Receptors include sensitive receptors and worker receptors. Sensitive receptors refer to those segments of the population most susceptible to poor air quality (i.e., children, the elderly, and those with pre-existing serious health problems affected by air quality)." Warehouse distribution centers are listed as an example of land use projects that have the potential to cause long-term public health risk impacts. Given that the proposed project creates new toxic emissions in the vicinity of sensitive receptors, the DSEIR, at a minimum, must apply a screening analysis to determine whether a full Health Risk Assessment (HRA) is required. The HRA would then provide the information needed to determine if the project met the risk threshold. The GAMAQI adopts the same 10/million risk threshold for Toxic Air Contaminants as the Office of Environmental Health Hazard Assessment.

The GAMAQI recommends that lead agencies use the California Air Pollution Control Officers Association (CAPCOA) guidance to comply with CEQA and especially to determine when to perform a HRA. CAPCOA also recommends buffer zones between sensitive receptors and various land uses to reduce health impacts from air pollution, specifically,

"Avoid siting new sensitive land uses within 1000 feet of a distribution center (that accommodates more than 100 trucks per day, more than 40 trucks with operating transport refrigeration units (TRUs) per day, or where TRU unit operations exceed 300 hours per week). Take into account the configuration of existing distribution centers and avoid locating residences and other new sensitive land uses near entry and exit points." (CAPCOA, p. 9, Table 2.)

The California Air Resources Board Air Quality & Land Use Handbook estimates the **Range of Relative Cancer Risk for those within 1000 feet of a distribution center as 500/million—50 times higher than the GAMAQI risk threshold.** (Handbook, at p. 6, Table 1-2.)

Not only does the DSEIR fail to catalogue air quality impacts, it predictably proposes nothing whatsoever to mitigate those completely foreseeable impacts on the surrounding neighborhood. As GAMAQI provides:

"Projects where significant numbers of diesel powered vehicles will be operating such as truck stops, transit centers, and warehousing may create risks from toxic diesel particulate emissions. These facilities and vehicles are not subject to District permit and so may need mitigation measures adopted by the Lead Agency to reduce this impact. Measures such as limiting idling, electrifying truck stops to power truck auxiliary equipment, use of diesel particulate filters, and use of alternative fuel heavy-duty trucks have been required by some jurisdictions." GAMAQI, p. 122.

SEIR 1-22 | This project concentrates toxic air contaminants in a residential neighborhood, exposing sensitive receptors to carcinogenic air pollutants. The DSEIR must be revised and document the air quality impacts of this operation as required by the Office of Environmental Health Hazard Assessment.

**The Alternative Analysis Is Incomplete and Inadequate.**

SEIR 1-23 | The DSEIR continues inexplicitly to advance a relocation alternative which no one, but the consultants and the applicant, has suggested. The DSEIR even chooses relocation as the environmentally superior alternative despite its infeasibility.

SEIR 1-24 | The applicant's opposition to the so-called façade alternative is now apparently based on the new disclosure that it would purportedly lose 14 parking spaces by retention of the facades. (DSEIR, p. 76.) As Figure 14 reveals, the applicant's massive expansion of parking on the site requires it to obtain and utilize all the area of 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."

SEIR 1-25 | 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. This is just one more indication of how desperately but clearly this project presents as the wrong project for this neighborhood site.

SEIR 1-26 | As we commented in response to the IS, (which comments are included in the official record), the most obvious and the most appropriate alternative is to preserve and adaptively reuse the existing buildings for a general commercial use. Again, the applicant and its consultants refuse to consider this alternative and refuse to consider and analyze the value provided by the availability of federal and state tax credits and the use of the California Historic Building Code in the reuse alternative. This is the only alternative that would preserve historic resources, be consistent with the Tower District Specific Plan, and add economic opportunities in a distressed neighborhood. The DSEIR concedes that the proposed project would **not** result in economic or employment growth. It provides no new employment opportunities or infrastructure such as roads, utilities, or housing which are all items that could be used in this neighborhood. (DSEIR, p. 83.) Thus, the question is what does this project offer the surrounding community? Without an analysis of the adaptive reuse alternative, the reader will not have adequate information to know if possible economic and redevelopment benefits would accrue and provide opportunities for residents and others who live on three sides of and are most affected by the project site.

Mr. Mike Sanchez, Assistant Manager

April 24, 2017

Page 9

SEIR 1-27

The project, as proposed, is really a continuation of a development practice in Fresno that pre-dates the 1991 TDSP and has decimated west Fresno over the past decades. Industrial uses are allowed to expand into neighboring 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,

Bruce A. Owdom, Attorney at Law

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# **Responses to Comments on Producers Dairy Cheese Plant Draft Supplement to an Environmental Impact Report (Draft SEIR)**

The public comment period for the Producers Dairy Cheese Plant Draft Supplement to the Tower District Specific Plan Final Impact Report (Draft SEIR) was from March 10, 2017 to April 24, 2017. During that time, one comment letter was received. The responses to that letter are listed below.

## **Response SEIR 1-1**

A single public comment letter on the Initial Study was received on December 31, 2016. The public letter and its response were published on the City of Fresno website on March 10, 2017. All CEQA documents for the Producers Dairy Project, including public comment letters and response to comment letters, can be found under the City of Fresno's "Plans & Projects Under Review" webpage, located at <https://www.fresno.gov/darm/planning-development/plans-projects-under-review/>. Additionally the single public comment letter for the Initial Study can be found directly at <https://www.fresno.gov/darm/wp-content/uploads/sites/10/2016/10/01.-Producers-Initial-Study-Comment-Letter-w-.pdf> and the response to the comment letter on the Initial Study can be found directly at <https://www.fresno.gov/darm/wp-content/uploads/sites/10/2016/10/Producers-Dairy-Initial-Study-Response-to-Comments.pdf>. A complete Project description can be found in Section 3.0, Project Description, of the Draft SEIR. Additionally, 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.

## **Response SEIR 1-2**

Please see Response SEIR 1-1.

## **Response SEIR 1-3**

A copy of the August 2016 contract between Soar Environmental Consulting and Producers Dairy was provided to Patience Milrod by the City via email on January 3, 2017. Additionally, CEQA Guidelines § 15084(d)(3) specifically allows 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." The City received a draft of the Draft SEIR prepared by Soar Environmental Consulting, reviewed the draft, and exercised its discretion as the Lead Agency to approve and publish the Draft SEIR. Please also see Initial Study Responses 1-1 and 1-2.

## **Response SEIR 1-4**

Per CEQA §§ 21092, 21092(b)(3), 21092(b)(3)(B), and 21092(b)(3)(C) respectively, the Notice of Availability of a Draft Supplement to an Environmental Impact Report (NOA) was published on March 10, 2017. The NOA was provided to "the last known name and address of all organizations and individuals who have previously requested notice", by "Posting of notice by the lead agency on- and off-site in the area where the project is to be located", and by conducting "Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll."

**Response SEIR 1-5**

Site plans for the Project Site located at 450 E. Belmont Avenue are located in Figure 4 of the Draft SEIR. The City 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. Additionally, 302 N. Thorne Avenue is currently not used for delivery trailer parking. Therefore, site plans for the two sites do not fall under the scope of this Draft SEIR.

**Response SEIR 1-6**

The notes for the September 20, 2017 meeting do not exist. No community outreach event for this Project is currently scheduled for September 20, 2017. All notes from the September 20, 2016 public meeting are located in Appendix B of the Draft SEIR titled "Community Outreach Minutes". These notes can be found directly at <https://www.fresno.gov/darm/wp-content/uploads/sites/10/2017/03/Appendix-B-Community-Outreach-Minutes-111516.pdf>. All notes from the December 19, 2016 Scoping Meeting are located in Appendix E of the Draft SEIR titled "Producers Dairy Scoping Meeting Minutes".

**Response SEIR 1-7**

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 these original mitigation measures (6, 8, and 9) have been retained as Mitigation Measures LUP 1, NOI 4, and TRA 4 respectively. The other mitigation measures were specific to the 1991 proposed factory expansion, and as such 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. 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. The Project is consistent with the applicable Tower District Specific Plan goals and objectives, zoning, and land use. The site has supported dairy factory operations for at least 88 years, including the parking of dairy trucks on the Project site.

**Response SEIR 1-8**

See Response SEIR 1-7.

**Response SEIR 1-9**

See Response SEIR 1-7.

**Response SEIR 1-10**

See Response SEIR 1-7.

**Response SEIR 1-11**

The proposed Project is consistent with the City of Fresno General Plan and the applicable Tower District Specific Plan goals and objectives, zoning, and land use. The site has been zoned as Light Industrial for 26 years, and has supported dairy factory operations for at least 88 years, including the parking of dairy trucks on the Project site. The Project's consistency with Land Use and Planning is analyzed in Section 6.10 of the Initial Study. The Project's transportation impacts are addressed in Section 4.3 of the SEIR. The

Project's impact on family health through hazards and hazardous materials is addressed in Section 6.8 of the Initial Study. Property values are currently not a category of consideration under CEQA.

#### **Response SEIR 1-12**

As mentioned in Section 3.0 of the SEIR, Project Description, the proposed Project "will result in an additional 20 vehicle trips per day (from 50 trips per day to 70 trips per day)". To clarify, this is a total of 70 round-trips per day, which calculates to a 40% increase in vehicle round-trips per day. It appears the commenter's conclusion of 150 truck trips per day was reached by extrapolating the total number of trips under Mitigation Measure TRA 1. To clarify, the goal of Mitigation Measure TRA 1 is to limit the *frequency*, not the total volume, of vehicle trips. Mitigation Measure TRA 1 limits the frequency of truck trips to no greater than (a) one every 10 minutes during the am and pm peak commute hours, and (b) one every five minutes during periods other than the am and pm peak commute hours. Therefore, the proposed Project would result in 70 vehicle round-trips per day. Please see Table 15 of the Draft SEIR, and Section 4.3 (Transportation and Traffic) for more details. See Section 4.2 (Noise and Vibrations) of the Draft SEIR for further details regarding refrigeration units, especially Mitigation Measure NOI 2 which prohibits the operation of trailer refrigeration units on the Project Site.

#### **Response SEIR 1-13**

See Response SEIR 1-14.

#### **Response SEIR 1-14**

The Initial Study and the Draft SEIR analyzed all 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 Draft SEIR. Truck traffic is analyzed in Sections 6.16 of the Initial Study and 4.3 of the Draft SEIR. The proposed Project would only result in 20 additional vehicle round-trips per day (See Table 15 of the 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 the Project will result in only 20 additional vehicle round-trips per day, and 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 SEIR 1-15**

As described in the Draft SEIR Section 1.1, the mitigation measures for the 450 E. Belmont Avenue project site were project-specific mitigation measures uncharacteristically added to the programmatic level Tower District FEIR. Those mitigation measures were specific to the 1991 project proposed in the Tower District FEIR; the expansion of factory operations at 450 E. Belmont Avenue. As the proposed Project is not the same as the original factory expansion project, not all mitigation measures in the Tower District FEIR are applicable to the proposed Project. Traffic is analyzed in Section 4.3 of the 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 Draft SEIR.

See Response SEIR 1-7 for more details.

#### **Response SEIR 1-16**

Changes to the Project description are evaluated in the Revised Draft SEIR. The proposed hours of operation are stated in Sections 1.3 (Page 4) and Section 3.1, (Page 22) of the Revised Draft SEIR. The

Project proponent has proposed new operational hours, which are contained in Section 1.3 and 3.1 of the Revised Draft SEIR. As for the Project Description, the applicant would conduct operations in compliance with City regulations. Additionally, lighting is discussed in Section 6.1.d (Page 30) of the Initial Study. Property values are currently not a category of consideration under CEQA.

See Response SEIR 1-14 for more details.

#### **Response SEIR 1-17**

Noise and Vibrations results are discussed in Section 4.2 of this Revised Draft SEIR. Specifically, an Acoustic Study was conducted for the Project and is included as Appendix G to the Revised Draft SEIR. The Acoustic Study and Section 4.2 of this Revised Draft SEIR found the Project, by incorporating Mitigation Measures NOI 1 through 4, would result in a noise increase of less than 3 dB. The City's threshold for significant noise impacts is an increase of 3 dB or greater above existing ambient noise levels (City General Plan Implementing Policy NS-1-j). Therefore, the Project is below the Significant Impact Threshold set forth by the City for Noise impacts. See the Revised Draft SEIR Sections 4.2.4 and 4.2.5 for the Noise and Vibration Impact Discussion and Cumulative Impact analysis. Additionally, see Responses SEIR 1-12 through SEIR 1-16. See Response 1-24 for details regarding setbacks and variance.

#### **Response SEIR 1-18**

Transportation and Traffic Impacts were analyzed in Section 6.16 of the Initial Study and Section 4.3 of the 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. CEQA § 15125(a) requires an environmental analysis to be conducted on a Project's local environment as it currently stands at the time the environmental analysis is commenced, not the environment at some point in the past. Therefore, the staging site at the time of the Initial Study, 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 466-230-33SU). 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 still 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% reduction of VMT and an overall reduction in VMT. The analysis of impacts to Transportation and Traffic is discussed in Section 4.3 of the Draft SEIR.

#### **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.

N. Roosevelt Avenue and N. Ferger Avenue are not designated truck routes per the September 25, 2005 Designated Truck Routes map. E. Belmont Avenue is a designated truck route on the same Designated Truck Routes map. As shown in Figure 12 of the Draft SEIR, delivery trailer traffic will be restricted on N.



Roosevelt Avenue and N. Ferger Avenue to only the approximately 175 feet between Belmont Avenue and the proposed entrance and 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.

See Response SEIR 1-18.

#### **Response SEIR 1-20**

A screening analysis to determine the necessity of a full Health Risk Assessment (HRA) was conducted and results are included as Appendix I (Additional Air Quality Data) to the Revised Draft SEIR. The screening analysis uses the SJVAPCD's Prioritization Calculator and air emissions data from the EMFAC 2014 Web Database. The screening determines the Project is under the carcinogens maximally exposed individual risk of the 10-in-one-million standards as set forth in Table 5 of GAMAQI. Use of the SJVAPCD Prioritization Calculator for Sensitive Receptors, and consultation with the SJVAPCD, determined the threshold for 10-in-one-million for diesel engine exhaust, particulate matter (PM) is 4.3 lbs. The PM<sub>10</sub> annual project emissions for the proposed Project are calculated to be 1.89 lbs., and the PM<sub>2.5</sub> annual project emissions are calculated to be 1.81 lbs. (Table 9 of Appendix I to the Revised Draft SEIR). The PM<sub>10</sub> and PM<sub>2.5</sub> annual emissions are therefore below the 4.3 lbs. threshold. As such, the proposed Project does not require a full Health Risk Assessment.

#### **Response SEIR 1-21**

The Project does not qualify as a distribution center as defined in the California Pollution Control Officers Association (CAPCOA) guidance for buffer zones as outlined in Table 2 of the guidance. Specifically, the Project has less than 100 trucks per day and will not have any operating trailer refrigeration units. See Response SEIR 1-20 and Appendix I of the Revised Draft SEIR for more details.

#### **Response SEIR 1-22**

See Response SEIR 1-20, 1-21, and Appendix I of the Revised Draft SEIR.

#### **Response SEIR 1-23**

CEQA §15126.6(c) requires an examination of project alternatives with the fewest potential environmental impacts and that meet most of the basic Project Objectives. This North Building Relocation Alternative is analyzed in the Draft SEIR because it is a potential alternative which could potentially not only preserve the significance of the cultural resources by preserving the 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 SEIR 1-24**

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 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.

#### **Response SEIR 1-25**

See Response SEIR 1-24.

**Response SEIR 1-26**

Preservation and rehabilitation of the North and South Buildings is analyzed in Section 5.6 of the Draft SEIR and was found to be both financially infeasible and not able to meet most of the basic goals and objectives for the Project. Additionally, as stated in Response SEIR 1-23, CEQA §15126.6(c) requires an examination of project alternatives which "...could feasibly accomplish most of the basic objectives of the project". Rehabilitation and reuse of the existing buildings for general commercial use would take up even more of the Project site than the North Building and South Building preservation alternative, and would not feasibly accomplish most of the basic objectives of the Project.

**Response SEIR 1-27**

The Project site has been used for dairy manufacturing and transportation since the brick factory buildings were built in the late 1920's. The proposed Project is not an encroachment of an industrial use into a residential neighborhood because the site is zoned as Light Industrial as of 1991, and has been used for dairy manufacturing and transportation for the past 88 years.