

Second Final Partial Recirculated Environmental Impact Report

Visalia Walmart Expansion Project City of Visalia, Tulare County, California

Cumulative Toxic Air Contaminant Impact Analysis Only

State Clearinghouse No. 2008121133

Prepared for:



City of Visalia
Community Development Department
315 East Acequia Avenue
Visalia, CA 93291
559.713.4003

Contact: Paul Scheibel, Planning Manager

Prepared by:

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Contact: Dave Mitchell, Project Manager



November 2, 2015

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SECTION 1: INTRODUCTION

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, the City of Visalia, as the lead agency, has evaluated the comments received on the City of Visalia Walmart Expansion Project. The responses to the comments and other documents, which are included in this document, comprise the Second Final Partial Recirculated Environmental Impact Report (Second Final PREIR) for use by the City of Visalia in its review.

The Second Partial Recirculated Draft Environmental Impact Report (Second PRDEIR) was prepared to correct remaining deficiencies identified by the Tulare County Superior Court in its October 1, 2013 ruling. The Court ruled that the First PRDEIR did not adequately respond to the Court's April 12, 2012 ruling regarding impacts caused by cumulative toxic air contaminant emissions. For a more complete document history, see page 1-1 of the Second PRDEIR.

This document is organized into two sections:

- **Section 1 – Introduction.**
- **Section 2 – Responses to Written Comments on the Second Draft Partial Recirculated Draft Environmental Impact Report (PRDEIR):** Provides a list of the agencies, individuals, and organizations that commented on the Draft EIR. Copies of all of the letters received regarding the Second PRDEIR and responses thereto are included in this section.

The specific documents constituting the Final PREIR for the Visalia Walmart Expansion Project include the following:

- Draft EIR (October 2010) (provided under separate cover)
- Final EIR (April 2011) (provided under separate cover)
- First PRDEIR (September 2012) (provided under separate cover)
- First Final PREIR (March 2013) (provided under separate cover)
- Second PRDEIR (May 2015) (provided under separate cover)
- Responses to Written Comments on the Second PRDEIR (July 2015) (Section 2 of this document)

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SECTION 2: RESPONSES TO WRITTEN COMMENTS ON THE DRAFT PARTIAL RECIRCULATED EIR

2.1 - List of Authors

A list of public agencies, organizations, and individuals that provided comments on the Draft Partial Recirculated EIR 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.

Author

Author Code

State Agencies

State Clearinghouse SCH

Organizations

M.R. Wolfe & Associates, Inc..... Wolfe

Individuals

Ann Campbell and Charles Roudebush, Residents, Foxglen II SubdivisionCampbell

2.2 - Responses to Comments

2.2.1 - Introduction

In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15088, the City of Visalia, as the lead agency, evaluated the comments received on the Second Partial Recirculated Draft EIR (State Clearinghouse No. 2008121133) for the Visalia Walmart Expansion Project, and has prepared the following responses to the comments received. This Response to Comments document becomes part of the Final EIR for the project in accordance with CEQA Guidelines Section 15132.

2.2.2 - Comment Letters and Responses

The comment letters reproduced in the following pages follow the same organization as used in the List of Authors.

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Edmund G. Brown Jr.
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Ken Alex
Director

July 3, 2015

CLEARINGHOUSE
Page 1 of 2

Paul Scheibel
City of Visalia Community Development Department
315 East Acequia Avenue
Visalia, CA 93291

Subject: Visalia Wal-Mart Expansion
SCH#: 2008121133

Dear Paul Scheibel:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on July 2, 2015, 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

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SCH# 2008121133
Project Title Visalia Wal-Mart Expansion
Lead Agency Visalia, City of

Type EIR Draft EIR

Description Physical expansion of the existing 133,206 sf Walmart store by approximately 54,076 sf, increasing the total floor area to approximately 187,282 sf. The project involves the easterly expansion of the adjacent land for a total site area of 18.35 acres. The expanded store's operating hours will 24 hours per day, seven days per week, except for the tire and lube center which will continue to operate between 6:00 a.m. and 10:00 p.m., seven days per week.

Lead Agency Contact

Name Paul Scheibel
Agency City of Visalia Community Development Department
Phone (559) 713-4369 **Fax**
email
Address 315 East Acequia Avenue
City Visalia **State** CA **Zip** 93291

Project Location

County Tulare
City
Region
Lat / Long 36° 19' 20.3" N / 119° 16' 14.9" W
Cross Streets East Noble Avenue, Ben Maddox Way
Parcel No. 100-050-001, -007, -013, -014, -038
Township 18S **Range** 25E **Section** 33 **Base** MDB&M

Proximity to:

Highways SR-198, SR-63
Airports No
Railways San Joaquin Valley RR
Waterways Mill Creek, St. John's River
Schools Pinkham, Mineral King
Land Use Land Use - Vacant. Zoning - "Planned Shopping/Office Commercial (P-C-SO)." General Plan - "Planned Shopping/Office Comm."

Project Issues Air Quality; Cumulative Effects

Reviewing Agencies Resources Agency; Department of Fish and Wildlife, Region 4; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Office of Emergency Services, California; California Highway Patrol; Caltrans, District 6; Caltrans, Division of Transportation Planning; Air Resources Board; Regional Water Quality Control Bd., Region 5 (Fresno); Department of Toxic Substances Control; Native American Heritage Commission; Public Utilities Commission

Date Received 05/19/2015 **Start of Review** 05/19/2015 **End of Review** 07/02/2015

State Agencies

Governor's Office of Planning and Research State Clearinghouse and Planning Unit (SCH)

Response to SCH-1

The comment letter is the standard form letter issued by the Governor's Office of Planning and Research, State Clearinghouse and Planning Unit confirming that the Draft EIR was distributed to various state agencies, and that the City of Visalia has complied with statutory noticing obligations. No comments from state agencies were received. No further response is necessary.

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July 6, 2015

Via E-mail

Paul Scheibel, Planning Manager
City of Visalia
315 East Acequia Avenue
Visalia, CA 93291
E-mail: pscheibel@ci.visalia.ca.us

**Re: Second Partial Recirculated Draft EIR for Visalia Walmart
Expansion Project**

Dear Mr. Scheibel:

Please accept the following comments on the Second Partial Recirculated Draft Environmental Impact Report ("Second PRDEIR") for the Visalia Walmart Expansion project ("Project"), submitted on behalf of Visalia Smart Growth Coalition.

1

As you know, the Second PRDEIR was prepared to comply with the October 1, 2013 superior court ruling in *Visalia Smart Growth Coalition v. City of Visalia*, which held that the City had not prepared an adequate cumulative analysis of Toxic Air Contaminants ("TACs") in the First PRDEIR. The court held that the First PRDEIR did not comply with CEQA because it failed to take into account sources of TAC emissions located more than 1,500 feet from the Project in its cumulative impact analysis. We note that the First PRDEIR was itself prepared in respond to the court's earlier decision that the TAC analysis in the initial EIR had also violated CEQA because it had failed to take into account TAC emissions from any existing sources, considering only the effects from future sources in determining whether there would be a significant cumulative TAC impact.

2

In what is now its third analysis of cumulative TAC impacts from the project, the City finally acknowledges that the health risk from existing cumulative TAC sources is in fact "severe," and that it originates primarily from areas that are not within 1,500 to the Project site. *See* Second PRDEIR, Appendix M, p. 15. In particular, the average background risk in Visalia is 489 excess cancers in one million as of 2009. Second PRDEIR, p. 2-7. Because of higher than average background

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sources within 1,500 feet of the Project, at the Project site “[t]he risk from background and sources within 1,500 feet totals 513 in one million.” *Id.* at 2-8.

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CONT

Based on this, the City has now acknowledged that the risk is cumulatively significant because it is over five times higher than the City’s threshold for a significant cumulative impact, which is 100 excess cancers in one million. *Id.* at 2-26. The 100 in one million threshold is based on EPA guidance for an acceptable level of community level risk. *Id.* at 2-15. Because the cumulative cancer impact from TACs is significant, CEQA requires that the City exercise its land use permitting authority to reduce that risk as feasible by imposing mitigation on projects that make a “considerable contribution” to it.

4

Thus, having acknowledged that the cumulative TAC impact is significant in the first step of its revised cumulative impact analysis, the City must now proceed to the second step to determine whether the Project-caused incremental 3.3 excess cancers in one million is a considerable contribution that warrants mitigation. In doing so, the Second PRDEIR must honor CEQA’s requirement that the threshold for what should be deemed a considerable contribution, and thus require mitigation, must reflect the severity of the existing cumulative conditions. In particular, CEQA provides that “the greater the existing environmental problems are, the lower the threshold should be for treating a project’s contribution to cumulative impacts as significant.” *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 120. As explained below, the City has failed to conduct a legally adequate second step cumulative analysis.

5

I. The Second PRDEIR Uses An Outdated Health Risk Assessment Methodology.

In February 2015, the California Environmental Protection Agency’s Office of Environmental Health Hazard Assessment (OEHHA) released updated health risk assessment guidelines that require risk calculations for specific age groupings.¹ The new methods address higher age sensitivity factors for early life exposures, age-specific variances in time spent at home, and breathing rate as a function of body weight. These age-specific calculations will likely result in a two- to three-times higher lifetime excess cancer risk than originally estimated, putting the project-level cancer risk well above the 5 per million threshold indicated for this project. The Second PRDEIR’s analysis should be revised to adhere to the new OEHHA Guidelines.

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¹ OEHHA, February 2015. Air Toxics Hot Spots Program Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessment. Available at: http://oehha.ca.gov/air/hot_spots/hotspots2015.html

II. The Second PRDEIR Fails To Provided Facts And Analysis To Justify The Threshold Of Significance For “Considerable Contribution.”

The Second PRDEIR sates that no other agency can provide guidance in setting the second step threshold because none has provided a legally adequate approach or justified a threshold for cumulative analysis of TAC impacts that complies with CEQA. Second PRDEIR, pp. 2-18 to 2-21; Appendix M, pp. 8-12. Thus, the City must determine the second step threshold on its own and provide substantial evidence to support use of that threshold in a determination of significance. The City has failed, however, to adopt a step two threshold that reflects the severity of the cumulative TAC impact and thus fails to implement the “sliding scale” approach mandated by the Court in its 2013 Decision. Decision at 6:14 to 7:8. In particular, the Second PRDEIR fails to justify the 5 in one million excess cancer threshold that it applies to determine if the Project-caused TACs are a considerable contribution to the severe significant TAC impact.

7

A. Rejection Of 10 In One Million Step Two Threshold.

The Second PRDEIR claims to evaluate three possible second step thresholds: 10 excess cancers, 5 excess cancers, and 1 excess cancer in one million. The consideration of 10 excess cancers, the threshold used by the air districts whose cumulative analysis procedures the Second PRDEIR admits do not comply with CEQA, is perfunctory. PRDEIR, Appendix M, p. 16 (while “[t]he amount of “risk deemed acceptable is a policy decision . . . [a]fter review of all factors, the City considers existing impacts sufficient to warrant a threshold lower than the 10 in a million”). The abbreviated discussion confirms that the 10 excess cancer threshold is included as a straw man, intended to make the selection of the 5 excess cancers appear more of a goldilocks-like compromise.

8

B. Rejection of 1 in one million threshold

The Second PRDEIR rejects the 1 in a million threshold because it is “excessively stringent based on the level of severity of the existing conditions.” Second PRDEIR, App. M, p. 16. Please explain at what level of cumulative risk a second step threshold of 1 excess cancer would be appropriate. Please explain how this determination was or would be made.

9

The City also rejected the 1 in a million threshold in the First PRDEIR, to which the Second PRDEIR refers. First PRDEIR, App. A, pp. 33-34; Second PRDEIR, Appendix M, p. 16. Please explain whether the Second PRDEIR adopts the reasoning of the First PRDEIR in rejecting the 1 in one million threshold.

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In rejecting the second step threshold of 1 excess cancer, the Second PRDEIR states that the “background risk of 489 in a million is not acceptable, but does not constitute a risk higher than other California urban areas” and that “no air agency has adopted or recommended a threshold this low even for areas with cancer risks that are triple that estimated for the project.” Second PRDEIR, Appendix M, p. 16. Please explain where the City of Visalia is ranked in terms of particulate pollution nationally and statewide. Please identify the agency, the cumulative cancer risk, and the agency’s cumulative impact threshold to which the PRDEIR refers when stating that “no air agency has adopted or recommended a threshold this low even for areas with cancer risks that are triple that estimated for the project.” Second PRDEIR, p. 16, emphasis added. What cumulative impact threshold did that agency adopt for areas with cancer risks that are triple that estimated for the project? On what analysis did that agency base that cumulative impact threshold? Was that analysis compliant with the Tulare Court’s October 1, 2013 decision?

11

Please explain why the claim that no other agency has adopted a threshold as low as one excess cancer in a million is relevant in light of the Second PRDEIR’s acknowledgement that no California air district has adopted thresholds for cumulative analysis of TACs that comply with CEQA’s requirements. For example, the Second PRDEIR, acknowledges the following defects in the approaches taken by other air districts:

- The SJVAPCD “GAMAQI cumulative approach proved infeasible to implement because determining whether a significant cumulative impact exists without the project is not possible without a quantitative cumulative threshold that considers existing conditions.” Appendix M, p. 8. Furthermore, “. . . without specifically defining what is cumulatively significant, the SJVAPCD approach would not satisfy the Court’s ruling.” Id. at 9.
- Only three air districts identify a project-level threshold to be used in cumulative analysis. Id. at 10. However, “[t]he practice of these three air districts [SJVAPCD, SCAQMD, SMAQMD] does not assist the City in its considering and setting an appropriate cumulatively considerable threshold that fulfills the two step approach.” Id. at 11. The approach of these districts “does not comply with CEQA” because they fail to first determine the cumulative significance of existing TACs before going to “the ‘second step’ of determining whether a project makes a cumulative considerable contribution . . .” Id. at 11.

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- “The BAAQMD approach does not comply with the two-step threshold needed when existing conditions present a significant cumulative impact without the project.” Id. at 11.

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CONT

In rejecting the second step threshold of 1 excess cancer the Second PRDEIR states that “[t]he existing sources near the project although important contribute a risk of only 23.9 in a million compared to the background risk of 489 in a million.” PRDEIR, Appendix M, p. 16. Please explain the relevance the geographic source of the TAC emissions that make up the cancer risk at the Project site in setting a step two threshold. In particular, why does it matter to the determination of an appropriate step two threshold that 23.9 excess cancers would be caused by cumulative sources within 1,500 feet of the Project whereas the other 489 excess cancers would be caused by sources farther than 1,500 feet? For example, how would the step two threshold differ if the 513 excess cancer risk was due entirely to sources farther than 1,500 feet from the Project site?

13

In rejecting the second step threshold of 1 excess cancer the Second PRDEIR states that “[t]he nearby sources are subject to regulations that will reduce their impact over time.” PRDEIR, Appendix M, p. 16. Please explain whether the “nearby sources” to which this statement refers are the sources within 1,500 feet of the Project. Please explain whether the other sources that contribute to the 513 excess cancer risk, i.e., those that are not “nearby sources,” are subject to the same regulations.

14

In rejecting the second step threshold of 1 excess cancer the Second PRDEIR states that “[t]he regulations in place to reduce the TAC impacts will take time to reduce the cumulative impact to less than 100 in a million . . .” Elsewhere, the Second PRDEIR states that “the cumulative risk levels will remain in excess of the 100 in a million cumulative threshold for some years to come.” Second PRDEIR, p. 2-23. Please explain when the regulations will reduce the cumulative impact to less than 100 in a million, if ever. In making this projection, please identify each regulation, the portion of the 513 excess cancers that are estimated to be caused by TACs at the project site that will be subject to that regulation, and the estimated reduction of the total TAC cancer risk that will be attained by that regulation. Please include in your response any regulations that would reduce the non-DPM TACs, taking into account the Second PRDEIR’s estimate that only 2/3 of the TAC risk is due to DPM. Second PRDEIR, p. 2-2.

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C. Adoption Of A 5 In One Million Threshold

In its discussion of the “justification for the cumulative contribution threshold” the Second PRDEIR identifies several factors that were “considered . . . when adopting a 5 in a million threshold for this Project . . .” Second PRDEIR, pp.

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2-21 to 2-23. The first factor identified is the severity of the cumulative TAC risk at 513 excess cancers in one million. *Id.* at 2-21. Please explain specifically how the severity of the total cumulative risk was taken into account in setting the particular threshold of 5 excess cancers.

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CONT

The second factor is “[w]hether existing impacts and impacts from sources near the Project site would warrant a lower cumulatively considerable threshold due to its location near large sources of TAC emissions.” *Id.* at 2-21, emphasis added. The “large sources” that the Second PRDEIR identifies as “near” the Project site are the SR-198 freeway, the rail line, and other businesses near the project, which contribute 23.9 excess cancers to the total risk of 513 excess cancers. Again, please explain why it is relevant that a small portion of the 513 excess cancers are generated by sources within 1,500 feet of the Project site whereas the majority of the cancer risk is due to sources farther away. How would the step two threshold for the Project differ if the cumulative sources generating the 513 excess cancers were entirely outside a 1,500 foot radius or entirely within that radius?

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The third factor identified is the “absence of guidance on suitable thresholds from other agencies.” *Id.* at 2-21. Please explain how this factor influenced the selection of the particular threshold of 5 excess cancers.

18

The fourth factor identified is the “existence of plans or regulations to reduce ambient TAC emissions, which will in turn reduce the severity of the significant existing cumulative impact.” *Id.* at 2-22. As requested above, please explain when the regulations will reduce the cumulative impact to less than 100 in a million, if ever. In making this projection, please identify each regulation, the portion of the 513 excess cancers that are estimated to be caused by TACs at the project site that will be subject to that regulation, and the estimated reduction of the total TAC cancer risk that will be attained by that regulation. Please include in your response any regulations that would reduce the non-DPM TACs, taking into account the Second PRDEIR’s estimate that only 2/3 of the TAC risk is due to DPM. Second PRDEIR, p. 2-2.

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The fifth and sixth factors relate the 5 excess cancer step two threshold in percentage terms to the actual cancer risk in Visalia, the acceptable risk, and the step two threshold used in the First PRDEIR. In particular, the Second PRDEIR observes that the 5 in one million threshold is 1 percent of the total cancer risk in the City, 5 percent of the EPA threshold for acceptable levels of community risk of 100 excess cancers, and “more stringent by half” than the step two threshold used in the First PRDEIR. Please explain whether and how these percentages were used to determine the step two threshold or whether the percentages were merely calculated after the threshold was set based on other considerations. If the City used a percentage to determine the step two threshold, which of the three percentages

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reported (i.e., the percent of the cumulative risk, the percent of the acceptable risk, or the percent of 10 excess cancer threshold) did it use and why? In adopting a policy to impose mitigation only on those projects generating at least 5 excess cancers, did the City take into account the efficacy of such a policy in reducing cumulative TAC impacts and/or attaining the acceptable risk level of 100 excess cancers? If so, how?

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CONT

After reciting these six factors, the Second PRDEIR states that the selection of the 5 in one million threshold “is a policy decision.” *Id.* at 2-22. Later in the discussion, the Second PRDEIR states that “the level of acceptable risk is strictly a policy decision.” Second PRDEIR, p. 2-23, emphasis added. Please explain whether the City’s selection of the step one threshold for the acceptable level of cumulative cancer risk in the community is also a policy decision. If so, please explain whether and how the step one policy decision is related to the step two policy decision.

21

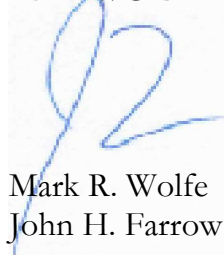
III. Conclusion

Visalia Smart Growth Coalition remains concerned that the Second PRDEIR has improperly relied on outdated risk assessment guidelines has not provided a coherent rationale for the step two threshold. Although the Second PRDEIR has finally acknowledged the existence of a significant and severe cumulative TAC impact in Visalia, the City does not propose to impose any mitigation on the Project even though it will materially contribute to that cumulative TAC impact. The City’s approach to the TAC problem will not demonstrably assist in its resolution because the Second PRDEIR does not provide any justification for the step two threshold. The City should circulate a revised PRDEIR that addresses these concerns.

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Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.



Mark R. Wolfe
John H. Farrow

MRW:hs

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Organizations

M. R. Wolfe & Associates)

Response to WOLFE-1

The commenter indicated that his firm is representing Visalia Smart Growth Coalition.

This is simply an introductory statement. No response is required.

Response to WOLFE-2

The commenter provided a brief recap of the litigation history that led to the need to prepare a Second Partial Recirculated Draft Environmental Impact Report for the project to address deficiencies in the previous cumulative TAC emissions analysis.

The First PRDEIR disclosed all existing sources, including background sources, but did not include the background risk levels in addition to sources within 1,500 feet of the project, in keeping with Bay Area Air Quality Management District's cumulative threshold approach recommended by the commenter in earlier correspondence. The Court found that approach not to be acceptable and required the City to properly apply the cumulative threshold to all TAC emissions impacting the City, taking into account the existing excess cancer risk attributed to TACs in the Visalia area as a baseline. Hence, the City prepared the Second PRDEIR, which includes an estimate of background emissions as well as emissions from sources near the project in determining whether a significant cumulative impact exists and, if so, whether the project's contribution to that impact is cumulatively considerable.

Response to WOLFE-3

The commenter restates the finding in the Second PRDEIR that average background cancer risk in 2009 was estimated at 489 in a million and 513 in a million when sources within 1,500 feet are added to the estimated background risk.

The City agrees that the existing level of impact from TAC emissions is significant and exceeds the cumulative threshold of 100 in a million. The First PRDEIR acknowledged that background emissions were high but focused the analysis on the localized impact within 1,500 feet of the project to determine if the area impacted by the project was subject to a disparately high impact above background levels. The Court ruling found that approach inadequate. The Second PREIR corrects the deficiency by first combining existing background and localized emission sources and then comparing them with the cumulative threshold. The result exceeds the 100 in a million cumulative threshold, thus triggering the second step of the cumulative analysis, which is to determine if the project's cumulative contribution to this existing significant impact is cumulatively considerable.

Response to WOLFE-4

The commenter concludes that because the cumulative cancer risk caused by TAC emissions is significant, CEQA requires the City to reduce that risk as feasible by imposing mitigation on projects that make a considerable contribution to the risk.

When a cumulative impact is significant without the project, use of the Step Two cumulative contribution threshold, as identified in Response to WOLFE-3, is required. Only projects that make a cumulatively considerable contribution to the impact are required to mitigate emissions to the extent feasible. The Second PRDEIR follows the approach described by the commenter in the first two sentences of paragraph. The Second PRDEIR found the existing cumulative impact without the project to be significant and applied a cumulative contribution threshold to the project's impact on the most impacted individual. The TAC analysis identified a project specific impact of 3.3 in a million excess cancer cases, which is less than the cumulative contribution threshold of 5 in a million adopted by the City for this project site in the Second PRDEIR. Because the project's cumulative contribution of 3.3 in a million is less than the 5 in a million threshold, no mitigation measures to reduce the impact are required. However, although not required as mitigation, the project will further reduce TAC emissions through the following:

- Walmart trucks are equipped with automatic shut-off after 3 minutes of idling.
- Signs will be posted advising truck drivers of State law that prohibits idling for more than 5 minutes.
- The Walmart heavy-duty truck fleet that will service the site is newer than the statewide average and produces lower than average PM emissions.

Response to WOLFE-5

The commenter states that the project impact of 3.3 in a million should be considered a significant cumulative contribution and should be required to implement mitigation measures. The commenter further states that in particular, CEQA provides that “the greater the existing environmental problems are, the lower the threshold should be for treating a project's contribution to cumulative impacts as significant.”

The commenter's assertion that the City's selection of a 5 in a million cumulative contribution threshold used in the Second PRDEIR is inadequate is merely an opinion with no information or evidence to support a more stringent threshold. The City, as the CEQA lead agency responsible for selecting the threshold, based its decision after careful consideration of substantial evidence, which was included in the Second PRDEIR. The existing cumulative TAC impact in Visalia is no greater than in other cities in the San Joaquin Valley, and, as described in the Second PRDEIR, the impact is less than half that experienced by the people living in the South Coast Air Basin. Nevertheless, after carefully considering all available information, the City determined that a cumulative contribution threshold that is half that recommended by the SJVAPCD, the South Coast Air Quality Management District (SCAQMD), and the Sacramento Metropolitan Air Quality Management District (SMAQMD) is appropriate for this project site because of several factors, including but not limited to: (1) existing, ambient air quality (which is well above the 100 in a million cumulative threshold); (2) the fact that State Route 198 is located approximately 600 feet from the project site, which

accounts for 55 percent of the total risk to nearby sensitive receptors; and (3) the fact that the project will involve sources of diesel exhaust, which is the primary source of TAC risk. The basis for the City's selection of the 5 in a million threshold is set forth in detail in Appendix M to the Second PRDEIR.

Response to WOLFE-6

The commenter claims that the health risk assessment (HRA) is out of date due to the release of new California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) in February 2015.

The sole issue requiring recirculation was proper application of the cumulative threshold of significance for TACs. The HRA was found to be adequate by the Court and was not revised in the Second PRDEIR. In any event, the OEHHA guidance is not directly applicable to HRAs prepared for development projects for CEQA purposes and in any case was not in place at the time the Notice of Preparation was released or when the HRA was prepared. CEQA does not require new analysis each time a new guidance document is released.

The purpose of OEHHA guidance is to assist air districts in complying with AB 2588 Air Toxics Hot Spots Information and Assessment Act. The guidance applies only to HRAs prepared by air districts for stationary/industrial emission sources. The document states: "the intent in developing this Guidance Manual is to provide HRA procedures for use in the Air Toxics Hot Spots Program or for the permitting of existing, new, or modified stationary sources." In addition, the published document states on each page "DO NOT CITE OR QUOTE." Traditionally, air districts have taken responsibility for interpreting OEHHA guidance and for determining if and how the guidance would apply to HRAs prepared for development projects. At the time the Second PRDEIR was circulated for public comment, no air district had developed procedures incorporating the new recommendations from OEHHA. The SJVAPCD issued a revision to its Risk Management Policy that included guidance for implementing new OEHHA modeling procedures for both stationary sources and development projects that was effective on July 1, 2015. The SCAQMD is in the process of revising its HRA guidance for development projects, which is expected to be in place by the end of the year. The BAAQMD indicates that it plans to incorporate the changes into its guidance in early 2016.

The commenter states that application of the new OEHHA guidance related to age sensitivity factors would increase cancer risk by two to three times and would put the project's cancer level risk above the 5 in a million project cumulative threshold.

Although the new age sensitivity factors may increase risk, other factors in the OEHHA guidance and modeling procedures being developed by the air districts compensate for the change by increasing the accuracy of other modeling assumptions. It is speculative to assume that the project would exceed the 5 in a million cumulative contribution without analysis to support this assertion. For example, OEHHA recommends using a 30-year exposure duration as the basis for estimating cancer risk at the

Maximally Exposed Individual Receptor (MEIR) in all HRAs. The project HRA used a 70-year exposure duration that would produce higher cancer risk than the OEHHA 30-year duration. Another example is the use of emission factors that incorporate the benefit of adopted regulations. The latest version of the ARB's mobile emission factor program EMFAC 2014 incorporates the benefit of regulations that reduce diesel particulate matter (DPM) as diesel vehicles complying with new regulations are purchased and brought into service. EMFAC 2014 emissions are substantially lower than the EMFAC 2011 emissions used in the project HRA. In addition, the project HRA followed SJVAPCD's previous guidance that assumes emission rates would remain the same from year 1 through year 70 of the analysis, which provided an overly conservative result. SJVAPCD's new guidance is to include a correction factor that accounts for improvement in emission rates with time.

Importantly for this discussion, the SJVAPCD's Risk Management Policy (APR-1905) and Health Risk Assessment Policy (APR-1906) revised the cancer risk threshold for development projects from 10 in a million to 20 in a million to compensate for the change in OEHHA guidance. Policy APR-1906 Framework for Performing Health Risk Assessments states "results performed for the purposes of complying with District requirements should be compared to the cancer risk of 20 in one million threshold for [Risk Management Review] RMR and CEQA determinations." In setting its new threshold, the SJVAPCD weighed all factors, including the effects of the new OEHHA guidance, existing risk levels, and declining emissions due to regulations currently in place and concluded that a 20 in a million threshold is appropriate.¹ Similarly, when the City considers this information in setting thresholds for future projects, it could arrive at cumulative contribution threshold different than the 5 in a million selected for this project that was based on information available at the time that threshold was selected for the Second PRDEIR.

The SJVAPCD Staff Report for the Update to the District's Risk Management Policy provided a comparison of risk reduction trends under its previous risk policy and the new OEHHA guidance that provides some perspective on the potential impact of the OEHHA guidance on ambient (background) risk. The important point for this discussion is that even with the potential increase in risk with the new guidance, the background risk is still about half that of the most conservative estimate disclosed

¹ The SJVAPCD's 2015 update to the Guidance for Assessing and Mitigating Air Quality Impacts states that risks over the individual project TAC thresholds of significance are also considered cumulatively significant.

in the PRDEIR. The risk amount displayed in Figure 2-1 provided below shows a background risk of approximately 250 in a million in 2014 with the new OEHHA guidance compared to the background risk of 489 in a million in the PRDEIR. This provides further support for the City’s selection of the 100 in a million cumulative threshold and 5 in a million cumulative contribution threshold in that the background risk remains conservative even with new OEHHA guidance.

Figure 2-1: San Joaquin Valley Cancer Risk Reduction Trends

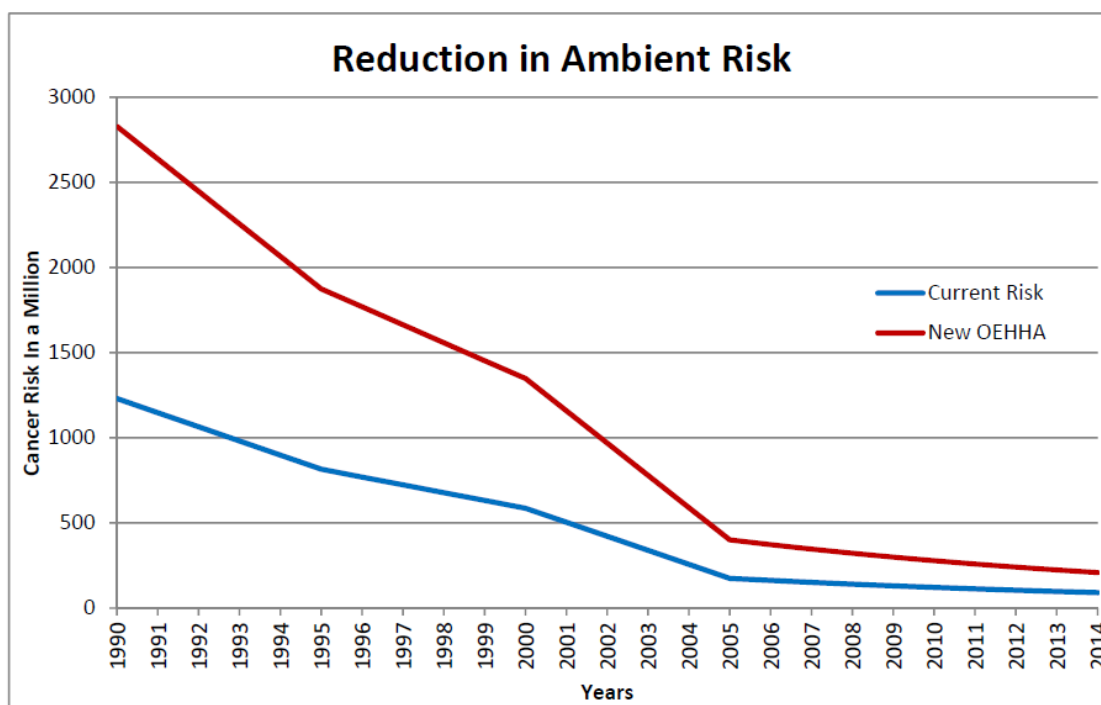


Figure 1 – Cancer Risk from Ambient Air, San Joaquin Valley (The California Almanac of Emissions and Air Quality, CARB, 2009)

Source: SJVAPCD Final Draft Staff Report Update to the District’s Risk Management Policy and Health Risk Assessment Guidance Document.

In summary, the OEHHA guidance was prepared for use by air districts in complying with AB 2588 Air Toxic Hotspot Program requirements and is not directly applicable to development projects and CEQA. The OEHHA guidance goes out of its way to minimize its application outside the intended use by air districts by stating on each page of the adopted document “do not cite or quote”. The Second PRDEIR was prepared and circulated for public comment prior to the adoption of the SJVAPCD policies incorporating information from the OEHHA guidance in HRAs prepared for development projects. The City is not required to revise its analysis every time new guidance is released. Requiring endless analysis is not consistent with the intent of CEQA. CEQA Guidelines 15151 Standards for Adequacy of an EIR states “An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible”. It is not reasonable to prepare a new analysis now based on guidance

that was not available at the time second PRDEIR was prepared and circulated for public review. Furthermore, based on the most recent SJVAPCD estimates of background risk and new modeling procedures it appears that the risk estimates used to support the thresholds for this project remain conservatively high and would not require consideration of a different threshold for this project.

Response to WOLFE-7

The commenter claims that the Second PRDEIR fails to provide facts and analysis to justify the thresholds of significance for considerable contribution. The commenter further states that the City has failed to adopt a Step Two threshold that reflects the severity of the cumulative TAC impact and thus fails to implement the “sliding scale” approach mandated by the Court in its 2013 Decision

The City was required to derive a cumulative contribution threshold approach that would be utilized for the project considering all factors, some of which support a lower threshold and others that support maintaining the 10 in a million threshold or selecting a higher threshold. The City carefully considered the severity of the cumulative TAC impact from regional and local sources near the project. The City considered air monitoring data and special studies prepared to identify the scope and extent of the existing impact. The City considered air quality dispersion modeling results that quantify the risk from nearby sources in addition to the background risk to determine if people living near the project are subject to impacts that are inordinately higher than other parts of the City and the region.² After weighing all factors, the City concluded that a cumulative contribution of 5 in a million was the appropriate threshold to apply in this case consistent with the Court’s 2013 decision that the Step Two threshold must consider the significance of the existing condition in setting the Step Two threshold. Further support and justification for adoption of the 5 in a million threshold may be found in Appendix M to the Second PRDEIR. While the commenter may disagree with the City’s approach, no facts or analysis is offered that would suggest the approach is incorrect.

Response to WOLFE-8

The commenter claims the evaluation of the Step Two cumulative contribution threshold was perfunctory and abbreviated. The commenter further states that the analysis of the 10 in a million threshold used by the three air districts was perfunctory and claims that the Second PRDEIR “admits” these thresholds do not comply with CEQA.

The commenter is attempting to over-complicate the threshold selection process. Impacts from TAC are measured in terms of increase in cancer risk per million people. The threshold can be any number above zero to comply with well-established case law that contribution of a single molecule in an area with unhealthy air quality should not be the threshold for finding a significant impact. The task undertaken in the Second PRDEIR was to identify the factors and data that should be weighed by decision makers in determining the amount of risk that is acceptable in light of existing conditions.

² Assessing impacts from sources within 1,500 feet provided a measure of impact from sources that may result in impacts above background levels. Emissions decline approximately 80 percent within 1,000 feet of a source and become indistinguishable from background emissions at distances beyond 1,000 feet.

The Second PRDEIR provides an in-depth examination of relevant factors and data available to reach its Step One conclusion:

1. Determine the severity of the existing impact. How does the impact in Visalia compare with other communities and to other standards?
2. Identify thresholds adopted by expert agencies with responsibilities related to TAC emissions to determine if they can be applied to the project in some way.
3. Determine if impacts are increasing or declining with time. Impacts that are getting worse are considered more severe than impacts that are declining.
4. Examine a range of threshold options based on the results of items one through three and select a threshold.

The commenter's statement that the Second PRDEIR "admits" that the air districts cumulative contribution thresholds do not comply with CEQA, and therefore, should not be considered by the City as an option, is without merit. Although the air districts' 10 in a million cumulative contribution thresholds were not developed using a formal two-step approach, consideration of this option in the City's deliberations is entirely appropriate based on its own review.

The threshold selection process was based on consideration of substantial evidence as required by CEQA. Additional documentation is provided in Appendix M to the Second PRDEIR.

Response to WOLFE-9

The commenter asks at what level of cumulative risk a Step Two threshold of 1 in a million would be appropriate.

The selection of the cumulative contribution threshold is based on the factors described in Response to WOLFE-8 above. There are no adopted standards or guidelines for determining the conditions that would require adoption of a specified level of cumulative contribution. The general CEQA principle is that the greater the existing environmental problems, the lower the threshold should be for considering a project's contribution to cumulative impacts as significant (*i.e.*, the sliding scale approach). The City based its selection of the 5 in a million threshold on its view of the severity of the existing, background TAC risk in the area, as well as numerous other factors that are discussed in detail in Appendix M to the Second PRDEIR. Other jurisdictions have viewed the same trends and regulatory information and, even in light of higher background impacts, have decided that a less stringent 10 in a million cumulative contribution threshold is appropriate. The City has reviewed the information and determined that 5 in a million is an appropriate threshold considering all evidence and factors that are unique to the project site. The City acknowledges that the nature of selection of a threshold is, in part, a policy decision. There is no clear-cut scientifically determined amount or standard that can define significance uniformly for all possible combinations of factors and conditions.

Response to WOLFE-10

The commenter requests an explanation as to whether the Second PRDEIR adopts the same reasoning as was provided in the First PRDEIR for rejecting the 1 in a million threshold.

The decision not to use the 1 in a million threshold option is based on the review of all information provided throughout preparation of the CEQA documentation for the project. However, the Second PRDEIR provides updated information regarding thresholds adopted by other agencies (page 2-18 and Appendix M page 8), background risk (page 2-5), and regulations in place at the time the Second PRDEIR was prepared (page 2-8). To our knowledge, no agency surveyed used a 1 in a million threshold. Thus, the additional facts contained in the Second PRDEIR continue to support the decision not to use the 1 in a million threshold.

Response to WOLFE-11

The commenter requests information regarding the comparison of emission thresholds used in other air districts and requests details regarding the threshold adoption processes for other agencies.

The information requested regarding air district thresholds is provided in the Second PRDEIR within Appendix M Table 2 on pages 8 and 9. If an agency beyond those listed in Table 2 has adopted a 1 in a million threshold as a project threshold or a cumulative contribution threshold, we were unable to locate it after reasonable effort. It is beyond the scope of a single air quality analysis for a single development project in the City of Visalia to research the threshold adoption process and factors considered in adopting those thresholds for every air district in California to satisfy the commenter's interest.

It is entirely sufficient that the analysis supporting the threshold of the Second PRDEIR examined the guidelines and consulted with staff at the largest air districts covering most of the State's population to identify their thresholds and conducted an in-depth search for available data on existing conditions. As was stated multiple times in the First and Second PRDEIRs and as recognized in the Court's ruling, data on toxic impacts is very limited and subject to a high degree of uncertainty. That being the case, the City is under no obligation to adopt any threshold from another agency but can choose to rely on the expertise of other agencies when available. In this case, the thresholds from other agencies did not meet the requirements of the Court's ruling, so the City was required to select a threshold based on its own review of the evidence available.

Response to WOLFE-12

The commenter questions whether the claim that no other agency has adopted a threshold as low as one in a million is relevant since no California air district has adopted thresholds for cumulative analysis of TACs that comply with CEQA's requirements.

Although the thresholds for TAC emissions adopted by the air districts surveyed do not distinguish between direct project impacts and cumulative impacts, air district expertise in TAC emissions and the historical use of their thresholds by local agencies makes them valuable information for the City

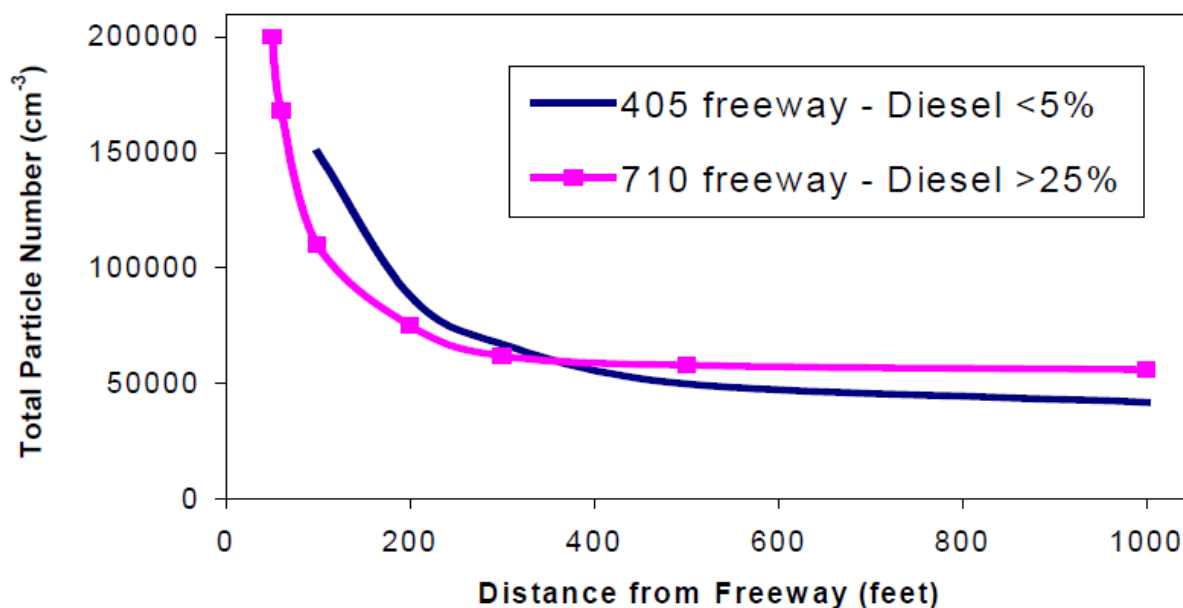
to consider. Thresholds utilized by other air districts are just one piece of information used in determining the appropriate threshold.

Response to WOLFE-13

The commenter requests an explanation of the relevance of the geographic source of the TAC emissions that make up the cancer risk at the project site in setting a Step Two threshold.

The impacts from sources within 1,500 feet are important because they provide a more complete picture of impacts that are experienced by the sensitive receptors (people) impacted by the project. This also reflects the fact that TACs decline rapidly with distance from the source. In contrast, the background risk does not reflect the impact at any particular location. Locations with large sources nearby can be expected to experience risk higher than the background risk. This is explained in greater detail in the First Final PREIR response to comments for the commenter's previous letter and in the illustration from the ARB Air Quality Land Use Handbook shown below. Assessing impacts from sources within 1,500 feet provided a measure of impact from sources that may result in impacts above background levels. Emissions decline approximately 80 percent within 1,000 feet of a source and become indistinguishable from background emissions at distances beyond 1,000 feet. Figure 2-2 illustrates this concept of decline in emission concentrations with distance.

Figure 2-2: Decrease in Concentration of Freeway Diesel PM Emissions with Distance



Adding risk from sources within 1,500 feet to the background risk provides the most accurate representation of cumulative risk at a specific location. If there were no sources besides the project within 1,500 feet, the cumulative impact would be determined by the background risk plus the project risk.

Response to WOLFE-14

The commenter requests an explanation of the effect of regulations that reduce emissions over time on sources that are within 1,500 feet and sources beyond 1,500 feet and whether they are the same.

The sources of TAC emissions contributing to the cumulative impacts within 1,500 of the project and the rest of the air shed are subject to the same regulations. Thus, if regulations cause emissions to reduce over time, the emissions from sources within 1,500 feet and beyond 1,500 would be expected to be reduced at the same rate.

The specific sources within 1,500 feet of the project are identified in the TAC analysis results presented in the Second PRDEIR Table 2-3 on page 2-29. The risk from sources within 1,500 feet is based on dispersion modeling with emission data from each source. The background risk is based on monitoring data collected from the Visalia monitoring station that is considered representative of air quality in the City of Visalia, a special TAC study conducted in Fresno, and the ARB Almanac data. The emissions and associated risk measured at the monitoring station and special study includes those from mobile sources, stationary sources, local and regional transport, and mixing of emissions that remain airborne for long periods. The mobile sources are subject to ARB regulations. The stationary sources are subject to SJVAPCD regulations.

Response to WOLFE-15

The commenter requests a new analysis that quantifies the reductions anticipated from every program or regulation adopted to reduce TAC emissions by source and to provide a timeline to achieve a 100 in a million cumulative risk.

The request is beyond the scope of a reasonable analysis required to support an EIR. However, the Second PRDEIR includes a thorough discussion of TAC emission trends and state percentage reduction projections anticipated from the ARB Diesel Risk Reduction Plan. Progress has been rapid and is accelerating. As reported on page 2-8 of the Second PRDEIR, the SJVAPCD 2015 GAMAQI indicates that today's cancer risk in the Air Basin is under 200 in a million, which is substantially lower than the estimate based on monitoring data of 489 in a million presented in the First Final PRDEIR. The 2013 ARB Almanac included emission inventory trends and a forecast of DPM emissions for the San Joaquin Valley, which was included on page 2-5 of the Second PRDEIR. The ARB predicts that DPM emissions will decline from 6 tons per day in 2015 to 3 tons per day in 2025 resulting in a 50 percent decline in the next 10 years. Based on SJVAPCD's estimate of current risk and ARB's estimate of future emissions, the cumulative risk could decline to below 100 in a million by 2025 if the projected trends continue. As described in the First and Second PRDEIRs, TAC emissions are subject to a high degree of uncertainty. DPM emission concentrations cannot be directly measured and the TAC monitoring network is sparse. Risk estimates are also subject to revision as new protocols for estimating cancer risk are introduced. The time required to reduce risk to below 100 in a million may be longer or shorter depending on how emissions are measured and cancer risk is estimated. However, it is clear that absolute quantities of TAC emissions have declined

and will continue to decline in the future with adopted regulations. Therefore, it is appropriate to consider the reductions expected from regulations as one factor in setting a cumulative contribution threshold.

The two statements quoted by the commenter are offered in an order that makes them appear inconsistent with one another, but their consistency becomes clear if they are read in the opposite order. When read that way, it becomes clear that the Second PRDEIR states that TAC levels are expected to stay above 100 in a million for some years to come, but that TAC levels are estimated to drop over the next several years and that some data suggests that excess cancer risks could drop below 100 in a million in the future.

Response to WOLFE-16

The commenter requests an explanation of specifically how the severity of the total cumulative risk was taken into account in setting the particular threshold of 5 excess cancers in a million.

The commenter appears to request a quantitative method for determining the threshold rather than the qualitative method used by the City. Because there is no quantitative standard for TAC emissions, there can be no quantitative scale for measuring cumulative risk against cumulative contributions; any desire for such a scale must therefore yield to qualitative assessments of acceptable risk. The policy makers' decision reflects the interpretation of facts and then consensus among the group to reach a threshold number. The logic behind the selection of 5 in a million is set forth in Appendix M to the Second PRDEIR. The important point is that the City considered the existing TAC risk of 513 in a million, with the caveats regarding: (i) uncertainty along with the other factors described in the Second PRDEIR; (ii) the fact that State Route 198 is located approximately 600 feet from the project site, which accounts for 55 percent of the total risk to nearby sensitive receptors; and (iii) the fact that the project will involve sources of diesel exhaust, which is the primary source of TAC risk, and concluded that a cumulative contribution of 5 in a million was appropriate.

Response to WOLFE-17

The commenter requests an explanation regarding why it is relevant that a small portion of the 513 excess cancers are generated by sources within 1,500 feet of the project site whereas the majority of the cancer risk is due to sources farther away. Specifically, the commenter asks how the Step Two threshold for the project would differ if the cumulative sources generating the 513 excess cancers were located entirely outside a 1,500-foot radius or entirely within that radius.

As was described in the Second PRDEIR, the analysis of sources within 1,500 feet of the project site is relevant because it provides a measure of the existing and planned probable impact on the same sensitive receptors that will be directly impacted by the project in addition to background risk. The analysis of sources within 1,500 feet provides a more conservative and accurate analysis, as it adds the potential risks to sensitive receptors within the immediate project area to the background risk, which is important to providing an accurate picture of the relevant emissions. The emissions from

sources beyond 1,500 cannot be distinguished above background levels due to the effects of dispersion and are represented in background risk estimates. The City based its decision on the available facts, one of which is the 23.9 in a million risk from existing sources within 1,500 feet. Inclusion of this data contributes important information consistent with the EIR's purpose as an informational document.

Response to WOLFE-18

The commenter requests an explanation regarding how the absence of suitable thresholds from other agencies influenced the selection of the particular threshold of 5 excess cancers.

The City prefers to use thresholds adopted by agencies with expertise in the resource in question whenever possible as encouraged by CEQA Guidelines 15064.7(c). Air quality is a highly complex topic that benefits from the use of agency expertise. If the SJVAPCD had adopted an acceptable two step cumulative contribution threshold supported by substantial evidence, the City would have likely utilized it when preparing the original EIR for the project. However, since no other agency has a two-step cumulative threshold, it was incumbent on the City to use its own review of the evidence available to establish a two-step cumulative threshold for the project. The City considered the fact that three major air districts (SJVAPCD, SMAQMD, and SCAQMD) consider a risk of 10 in a million a significant cumulative contribution as one factor in its decision. However, the three air district thresholds bypass "Step-One" that is required to determine a level of risk that should be considered a significant cumulative impact, and instead go directly to the cumulative contribution of 10 in a million, which is the same as their project threshold. Therefore, no air district had published guidance on how to address a situation where the background, ambient risk already exceeds the threshold, and what threshold should be used when an existing, cumulatively significant impact exists without the project. The Court required the City to undertake this inquiry.

Response to WOLFE-19

The commenter requested an explanation of when regulations will reduce the cumulative impact to less than 100 in a million, if ever. Further, the commenter requested that, in making this projection, the response please identify each regulation, the portion of the 513 excess cancers that are estimated to be caused by TACs at the project site that will be subject to that regulation, and the estimated reduction of the total TAC cancer risk that will be attained by that regulation. The commenter also requested that any regulations that would reduce the non-DPM TACs be included in the response.

The commenter has asked for a level of detail that is not reasonable for a project specific EIR. The Second PREIR includes overall estimates of risk reductions and the predicted timeframe for achieving the reductions provided by the ARB and the SJVAPCD that are adequate for use as a factor for consideration in setting thresholds. For example, the ARB developed overall emission reduction estimates based on implementation of regulations that reduce DPM TAC. The regulations require new manufacturers to meet increasingly stringent emission standards that result in declining emissions as new cleaner vehicles and equipment enter the fleet and older dirtier vehicles and

equipment are retired from service. The reductions estimated by ARB are based on usage rates, historic replacement rates and the emission reduction achieved by each engine subject to the regulations. The regulations also require fleet operators to retrofit existing equipment with pollution controls that reduce DPM. The retrofit regulations are implemented on schedules for different types of vehicles and equipment and fleet sizes. The reductions are based on population and usage estimates for each type of vehicle and equipment and the emission reductions required by each compliance date in the regulation. A breakdown of the individual reductions from each regulation would not add important information for the City to consider and is beyond the scope of a project EIR. As was discussed earlier in Response to WOLFE-15, the SJVAPCD reported in the 2015 GAMAQI that the cancer risk using current risk assessment methodologies has dropped from about 1,200 in a million in 1990 to under 200 in a million today.

The most recent detailed TAC risk assessment for the San Joaquin Valley was included in ARB's 2009 Air Quality Almanac. Figure 2-2 provides the results of the risk assessment from the 2009 Air Quality Almanac. This data was the primary source of information used in the First and Second PRDEIRs to estimate non-DPM TAC risk and is referenced in both documents. The non-DPM chemicals posing the greatest risk were benzene, 1,3-butadiene, carbon tetrachloride, formaldehyde, and hexavalent chromium risk based on the last year of data, and was estimated at 119 in a million excess cancer cases. Regulations have been adopted by the ARB and the SJVAPCD to reduce these emissions. However, detailed quantification of risk reduction or each pollutant provided in the ARB 2009 Air Quality Almanac was not available for years after 2007.

Figure 2-1: San Joaquin Valley Air Basin Annual Average Concentrations and Health Risk

		Annual Average Concentrations and Health Risks																	
TAC	Conc./Risk ²	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Acetaldehyde	Annual Avg	1.94	1.84	1.38	1.73	1.29	0.54	1.28	1.19	1.3	1.56	1.09	1.15	1.24	1.34	1.14	1.42	1.33	1.15
	Health Risk	9	9	7	8	6	3	6	6	6	8	5	6	6	7	6	7	6	6
Benzene	Annual Avg	2.45	2.11	1.36	1.32	1.33	1.16	0.73	0.71	0.76	0.69	0.63	0.538	0.552	0.463	0.372	0.374	0.362	0.318
	Health Risk	227	196	126	122	123	107	68	66	71	64	58	50	51	43	34	35	34	29
1,3-Butadiene	Annual Avg	0.409	0.36	0.236	0.339	0.323	0.264	0.222	0.195	0.233	0.177	0.158	0.15	0.146	0.095	0.08	0.082	0.069	0.065
	Health Risk	154	135	89	127	121	99	83	73	88	67	59	56	55	36	30	31	26	24
Carbon Tetrachloride	Annual Avg	0.128	0.129		0.109		0.098	0.077		0.114		0.096	0.086	0.091	0.097				
	Health Risk	34	34		29		26	20		30		25	23	24	26				
Chromium, Hexavalent	Annual Avg			0.23	0.21	0.19	0.28	0.13	0.11	0.1	0.1	0.12		0.086	0.078	0.083	0.076	0.05	0.083
	Health Risk			34	31	29	42	20	16	15	15	18		13	12	13	11	8	12
para-Dichlorobenzene	Annual Avg		0.11	0.11	0.13	0.11	0.11	0.1	0.13			0.11	0.13	0.15	0.15	0.15	0.15	0.15	
	Health Risk		7	7	9	7	8	7	9			7	9	10	10	10	10	10	
Formaldehyde	Annual Avg	2.45	1.81	1.46	1.67	1.8	2.1	2.96	2.77	2.86	3.44	2.61	3.08	3.13	3.02	2.27	2.52	2.78	2.51
	Health Risk	18	13	11	12	13	15	22	20	21	25	19	23	23	22	17	19	20	18
Methylene Chloride	Annual Avg	0.76	0.59	0.55	0.76	0.59	0.61	0.54	0.53	0.52	0.5	0.53	0.27	0.16	0.14	0.11	0.12	0.11	0.1
	Health Risk	3	2	2	3	2	2	2	2	2	2	2	<1	<1	<1	<1	<1	<1	<1
Perchloroethylene	Annual Avg	0.126	0.133	0.104	0.473	0.067	0.068	0.068	0.056	0.039		0.076	0.052	0.039	0.033	0.027	0.032	0.032	0.026
	Health Risk	5	5	4	19	3	3	3	2	2		3	2	2	1	1	1	1	1
Diesel PM ³	Annual Avg	(2.6)					(1.7)					(1.3)							
	Health Risk	(780)					(510)					(390)							
Average Basin Risk	w/o Diesel PM	450	401	280	360	304	305	231	194	235	181	196	169	184	157	111	114	105	90
	w/ Diesel PM	(1230)					(815)					(586)							

1 Concentrations for Hexavalent chromium are expressed as ng/m3 and concentrations for diesel PM are expressed as ug/m3. Concentrations for all other TACs are expressed as parts per billion.

2 Health Risk represents the number of excess cancer cases per million people based on a lifetime (70-year) exposure to the annual average concentration. It reflects only those compounds listed in this table and only those with data for that year. There may be other significant compounds for which we do not monitor or have health risk information. Additional information about interpreting the toxic air contaminant air quality trends can be found in Chapter 1, Interpreting the Emission and Air Quality Statistics.

3 Diesel PM estimates are based on receptor modeling techniques, and the estimates are available only for selected years. Currently, the estimates are being reviewed.

Table 5-55

As shown in the table above, benzene presented the highest risk of the non-DPM chemicals. Benzene is emitted by evaporation of fuel and vehicle exhaust, manufacturing processes and cigarette smoke. Gasoline dispensing stations are a large source of benzene and are subject to ARB and SJVAPCD regulations to limit evaporative emissions. The ARB adopted, Benzene Airborne Toxic Control

Measure (ATCM) for Retail Service Stations in 1988. The SJVAPCD last amended rule 4622 Gasoline Transfer into Motor Vehicle Fuel Tanks and Gasoline Transfer into Stationary Storage Containers, Deliver Vessels, and Bulk Plants on December 19, 2013. State and federal motor vehicle tailpipe standards that are intended to reduce volatile organic compound (VOC) emissions also reduce benzene. Many new vehicles qualify as partial zero emitting vehicles because of the installation of onboard vapor recovery systems and combustion related controls. Regulations will require an increasing number of zero emission electric vehicles with no VOC emissions. The combined effect of these regulations is continued reductions in benzene emissions.

The following information regarding regulations to control non-DPM TAC emissions is from the SJVAPCD's 2014 Annual Report on District's Air Toxic Program published in March 2015:

ATCM for Hexavalent Chromium for Decorative and Hard Chrome Plating and Chromic Acid Anodizing Facilities. This revision to the existing ATCM for chrome plating operations became effective on October 24, 2007. It established new, more stringent emission limitations that depend upon size and nearness to sensitive receptors, limited the use of chemical fume suppressants, and adopted new housekeeping, education, monitoring, recordkeeping, and reporting requirements.

ATCM for Perchloroethylene Emissions from Dry Cleaning Operations. The ARB adopted an ATCM for dry cleaners using perchloroethylene (perc) on January 25, 2007. The amendments will phase out the use of perc dry cleaning machines and related equipment by January 1, 2023.

ATCM for Composite Wood Products. Formaldehyde is produced on a large scale worldwide. One major use includes the production of wood binding adhesives and resins. On April 26, 2007, ARB approved an ATCM to reduce formaldehyde emissions from composite wood products including hardwood plywood, particleboard, medium density fiberboard, thin medium density fiberboard, and also furniture and other finished products made with composite wood products.

Other ATCMs

The following ATCMs have been adopted by the SJVAPCD as regulations:

- Chromium Plating and Chromic Acid Anodizing Facilities
- Hexavalent Chromium – Cooling Towers
- Ethylene Oxide – Sterilizers and Aerators
- Dioxin – Medical Waste Incinerators
- Fluorides – Phosphoric Acid Plants
- Asbestos-Containing Material for Surfacing Applications
- Toxic Metals from Non-Ferrous Metal Melting
- Perchloroethylene from Dry Cleaning Operations

The implementation of air toxic air control measures on stationary sources and the State's mobile source control program are expected to achieve continued reductions that will result in reduced cancer risk in the coming years. TAC emissions and risk estimates are subject to high levels of uncertainty making prediction of an attainment date speculative. Such a prediction would be beyond the scope of this Second PRDEIR and the level of analysis required by CEQA for an individual development project. See Response to WOLFE-15 for additional discussion regarding TAC emission reduction trends.

Response to WOLFE-20

The commenter requests an explanation of how the comparison of the 5 in a million threshold, total cumulative risk in the City, and the EPA 100 in a million threshold for acceptable community risk were used in determining the 5 in a million cumulative contribution threshold. The commenter also asks if the efficacy of a 5 in a million threshold in attaining the acceptable risk level of 100 in a million was taken into account.

The comparison of the 5 in a million cumulative contribution threshold with other important risk benchmarks (total risk of 513 in a million and the 100 in a million EPA acceptable risk threshold) provided another piece of evidence weighed by the City. No scoring system was developed to rank factors by importance as the use of such a scoring system or weighting criteria would still require a qualitative policy decision on the value of each criteria instead of the global approach used by the City. The percentage comparisons presented on page 2-22 of the Second PRDEIR are measures of stringency. The comparison of the 5 in a million cumulative contribution threshold and the 10 in a million cumulative contribution threshold options with existing risk (513 in a million) and the EPA threshold of acceptable risk (100 in a million) provides another piece of information for consideration by decision makers.

The cumulative contribution threshold is not required to solve the cumulative impact problem, but triggers CEQA requirements for mitigation and requiring EIRs for projects. The cumulative contribution threshold is applied to the nearest sensitive receptor, which is at the point of maximum impact from the project. In reference to the proposed project, mitigation would be required to reduce impacts on the maximally impacted receptor to the extent feasible if the impact exceeded 5 in a million. The amount of reduction that could be achieved by such mitigation is dependent on the availability of feasible measures to reduce project impacts, which would be different for each project. For this project, the operative question is whether the cumulative contribution of 5 in a million is the appropriate threshold. After careful consideration, the City concluded that 5 in a million is the appropriate threshold in light of all factors.

It should be noted that all points farther from the site than the location of the maximally impacted individual receptor experience a smaller risk contribution from the project due to the effects of dispersion. Based on the project's risk contribution of 3.3 in a million and the rule of thumb that

emissions decline approximately 80 percent within 1,000 feet, the risk contributed to receptors would be 0.66 in a million at 1,000 feet.

In general, cumulative TAC emissions will primarily be reduced by regulations applicable to the existing and new vehicles and stationary sources that emit TACs. Reductions from mitigation measures applied to individual projects primarily benefit the sensitive receptors most impacted by the projects and would not substantially affect regional background emissions. The efficacy of any cumulative contribution threshold in reducing emissions is itself cumulative depending on the number of projects that include TAC emissions subject to the threshold proposed in the City over time, and whether feasible mitigation is available to reduce the impact for each project. The number of projects that have the potential to exceed the threshold depends on the volume of emissions produced by each individual project and the distance to sensitive receptors from the sources at the project site, which is only known when a project is proposed.

Since the project did not exceed the cumulative contribution threshold, it was not required to identify mitigation measures or to quantify the potential reductions from unknown mitigation measures. Requiring analysis to determine the benefits of mitigation measures that are not needed to reduce an impact that is already at less than significant levels is not required by CEQA. The discussion in the Second PRDEIR regarding regulations in place to reduce TAC emissions from diesel engines is pertinent. These regulations are expected to reduce DPM emissions in the San Joaquin Valley by 50 percent in the next 10 years. The diesel trucks accessing the project site would be subject to these regulations; therefore, project impacts and cumulative impacts would be expected to be reduced by a similar amount.

Although mitigation is not required because the project's impacts are not cumulatively considerable, the project will incorporate a limitation on truck idling, and will use a newer than average truck fleet that include advanced particulate controls (i.e., 5 years old and newer that meet the latest most stringent vehicle standards). Additionally, Walmart trucks are equipped with automatic shutoff devices that turn off the engines after 3 minutes of idling. (Note that Walmart has no control over trucks operated by independent vendors that serve the project and therefore cannot require that those trucks would exceed applicable regulations.).

Response to WOLFE-21

The commenter requests an explanation regarding whether the City's selection of the Step One threshold for the acceptable level of cumulative cancer risk in the community is also a policy decision. The commenter requested an explanation of whether and how the step one policy decision is related to the Step Two policy decision.

The City considered the same substantial evidence in determining the 100 in a million cumulative threshold as was used in determining the 5 in a million cumulative contribution threshold. In establishing both the Step One and Step Two thresholds, the City looked at thresholds adopted by

other agencies for guidance to assist it in formulating the appropriate threshold to use here. For the Step One threshold, the City's looked at the EPA's policy decision supported by substantial evidence to adopt 100 in a million as an acceptable community risk threshold. The 100 in a million threshold adopted by EPA is described in the preamble to the benzene National Emissions Standards for Hazardous Air Pollutants (NESHAP) rulemaking (54 Federal Register 38044, September 14, 1989), and was incorporated by Congress for EPA's residual risk program under Clean Air Act (CAA) section 112(f). Examining policy decisions based on regulatory contexts other than CEQA provide facts that can be considered in setting thresholds. EPA's status as an agency with expertise in air quality provides support for using this threshold. The selection of 100 in a million by the BAAQMD as a cumulative threshold provides additional support for its use, although the BAAQMD is less stringent than the City used here because it only includes sources within 1,000 feet. The City's level of existing impact and the State and air district regulatory programs in place to reduce the impact was also considered as part of available evidence in the process of selecting the cumulative threshold.

Response to WOLFE-22

The commenter summarizes the previous comments regarding use of the new OEHHA guidelines, disagreement over the rationale for the cumulative contribution threshold, and conclusions regarding whether a significant impact exists that would require mitigation.

As discussed in Response to WOLFE-3, the OEHHA guidelines are prepared for use by air districts complying with AB 2588 Hot Spot requirements for stationary sources permitted by the air districts and make no mention of their use on HRAs prepared for CEQA impact analysis for development project. Air district interpretation of the OEHHA guidelines and its incorporation into the analysis procedures and significance thresholds for development projects was not accomplished until after the Second Draft PREIR was circulated for public review. It should be noted that interpretation of the guidelines resulted in changes to both SJVAPCD analysis procedures and significance thresholds (20 in a million) as described in Response to WOLFE-3.

CEQA does not require an EIR to be revised every time a new study or guidance document is released. CEQA Guidelines 15126.2(a) states that "in assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced". The TAC analysis was not at issue in the Court's ruling and reflects the existing physical conditions in the affected area at the time environmental analysis commenced and is consistent with guidance in place at the time the First and Second PRDEIR were prepared.

The Second PREIR includes substantial evidence that was used to support the selection of the cumulative contribution threshold. The interpretation and weighting of each factor considered in reviewing the substantial evidence used in selecting the threshold is a policy decision fully within the discretion of the City.

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JUL -6 2015

COMM. DEVELOP
CITY OF VISALIA



City of Visalia Planning Division

315 E. Acequia Ave.

Visalia, CA 93291

To the Planning Division,

July 5, 2015

This letter is written in response to the Second Partial Recirculated Draft EIR ("Second PRDEIR") currently under public review.

The Second PRDEIR fails to address several issues. Firstly, the report discusses in great detail the risks of additional diesel and other automotive exhaust toxins that will pollute the air of the adjacent neighborhoods. The report does state that there will be an additional risk of cancers and respiratory disease, but states that because the risk is lower than that of Highway 198 nearby, those risks are to be dismissed. We reject this analysis outright. There is NO additional cancer risk that can be justified in the name of profits for a company where those at risk for these additional cancers and diseases do not share in those profits. Wal-Mart already has a Super-Wal-Mart-sized store in existence in Visalia in a location that was zoned for exactly that use. The current store site was never meant to be expanded to the point where diesel trucks would be delivering goods (as well as toxic fumes) within 30 feet of a resident's backyard. The space adjacent to the homes nearby was originally zoned for the type of use that would have precluded this type of exposure (doctors' offices and the like) and the homeowners nearby never expected to be faced with this kind of danger. No wall of any height or trees of any maturity will prevent toxic by-products of exhaust from spilling over into the airspace of the neighborhood.

1

The Second PRDEIR also attempts to quantify the risks mentioned above. We reject the data used and the basic analysis of the numbers used in the document. There is no proven scientific method to accurately predict the responses of individuals to the increased risks of the toxic exhaust fumes. Certain individuals may be more susceptible (due to genetic factors, concurrent disease states, age, or other causes) to development of disease and/or fatal conditions than other individuals. The document does not present any information indicating that those who would most be affected were medically assessed for these risks. In addition, there is no way to predict who may live in the houses that are most affected by these toxins in the future, so those risks cannot be quantified. It is therefore impossible to state that the increased risks to nearby individuals is negligible, as the report attempts to conclude.

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Lastly, even if the report is deemed to be accurate by some, one must ask what level of increased risk of cancer and respiratory disease is acceptable to those living nearby? We contend that most people would answer that NO additional cancer risk is acceptable. We urge the members of the Planning Commission to consider these questions for themselves: What level of additional risk of cancer are the members willing to accept for their families? Would each of them be comfortable sending their children out to play in a backyard where diesels are dumping particulate matter and carcinogens into the air a matter of a few feet away? What justification, other than corporate profit and City tax revenues, could justify exposing one's family to ANY increased risk of serious or fatal disease?

2
CONT

Sincerely,

Handwritten signature of Ann Campbell in black ink.

Ann Campbell

Charles Roudebush

Residents, Foxglen II subdivision

PO Box 7990

Visalia, CA 93290

annchuck@comcast.net

Visalia Walmart Expansion Project

Notice of Availability of Second Partial Recirculated Draft Environmental Impact Report

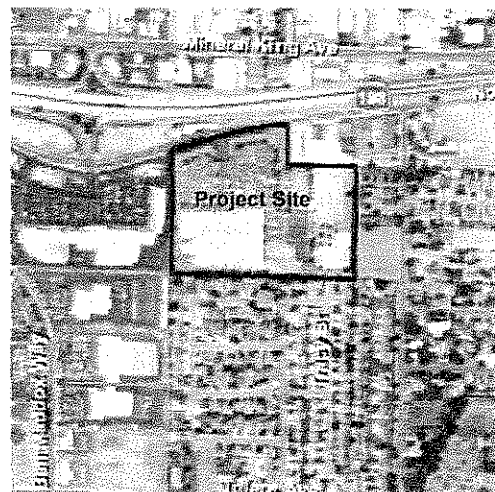


Project Summary:

The project consists of the expansion of the existing Walmart store located at 1819 East Noble Avenue by 54,076 square feet, adding a grocery component and increasing the total floor area to 187,282 square feet. The project will also remodel the existing store and site. The expanded store's operating hours will be 24 hours per day, seven days per week; the tire and lube center will continue to operate from 6:00 A.M. and 10:00 P.M., seven days per week.

Environmental Review: In June 2011, the City approved the Walmart Expansion project and certified its Environmental Impact Report (EIR). A subsequently-filed lawsuit claimed that the EIR violated the California Environmental Quality Act (CEQA) because it inadequately evaluated the topics of Cumulative Toxic Air Contaminant (TAC) emissions and Noise, and failed to adequately respond to public comments. The Court upheld the adequacy of the 2011 EIR with the exception of its evaluation of Cumulative TAC emissions, which the Court ordered the City to reconsider. No other sections of the 2011 EIR were found to violate CEQA. In response to the Court order, the City of Visalia prepared a Partial Recirculated Draft Environmental Impact Report ("PRDEIR") that addressed the project's potential to result in Cumulative TAC impacts. After City certification of the Final PREIR on March 18, 2013, the Court ruled on October 1, 2013 that the new cumulative analysis did not provide adequate analysis to address the Court's concern regarding existing air quality. The City has now prepared a Second PRDEIR to address the Court ruling. The Second PRDEIR addresses only the application of Cumulative TAC significance thresholds and provides additional documentation supporting the cumulative significance thresholds. No other sections of the 2011 EIR have been revised since the circulation of the Final EIR. While the 2011 EIR and First PRDEIR are not open to further public comment, they are posted on the City's website for informational purposes.

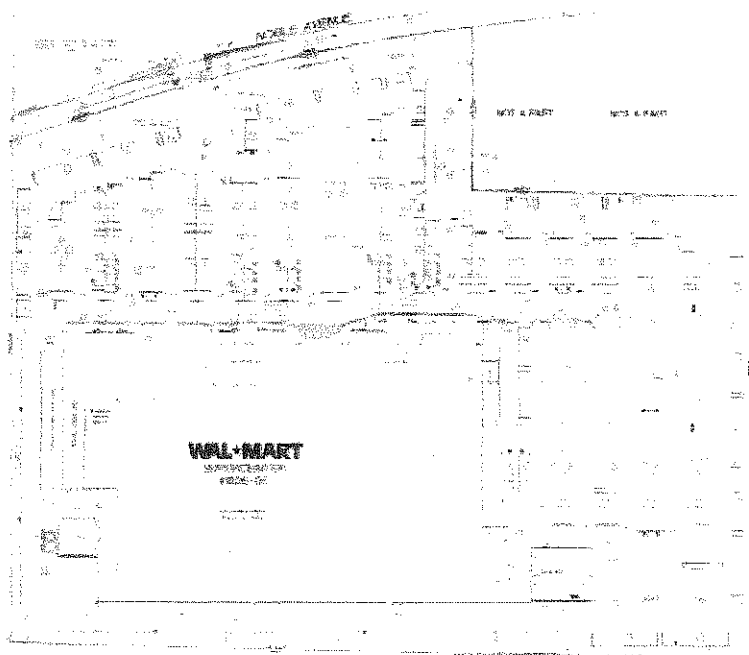
Project Location



Second Partial Recirculated Draft EIR Availability:

The Second Partial Recirculated Draft EIR is located on the City of Visalia web-site http://www.ci.visalia.ca.us/depts/community_development/planning/default.asp and in printed form at the City of Visalia Offices located at 315 E. Acequia Avenue, during regular business hours and at the Visalia Main Branch Library at 200 W. Oak Avenue during regular business hours.

Site Plan



Public Comment:

The Second Partial Recirculated Draft EIR will circulate for public review between Wednesday May 20, 2015, and Monday July 6, 2015. Pursuant to CEQA, the City of Visalia will respond to written comments on the Second Partial Recirculated Draft EIR. Written Comments should be submitted on or before 5:00 PM on July 6, 2015 to: City of Visalia, 315 E. Acequia Avenue, Visalia, 93291

Contact Information

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Individuals

Campbell, et al. (CAMPBELL)

Response to CAMPBELL-1

The commenter states that the Second PRDEIR fails to address several issues including:

- Disagreement over statement that risk of the project is lower than SR-198.
- No additional cancer risk can be justified.
- Walmart already has a Super Walmart-sized store.
- The site wasn't meant for expansion with deliveries within 30 feet of a residents backyard (previous zoning was for doctor's offices and the like).
- No wall or trees will prevent toxic exhaust from entering the neighborhood.

The TAC analysis was required to assess the existing TAC impacts from sources that currently expose residents to emissions without the new Walmart Expansion project to comply with CEQA. The Second PRDEIR reported the results of air quality modeling conducted in accordance with accepted guidance that showed the impact of each source within 1,500 feet of the project. The largest contributor within this distance is SR-198. We recognize that the residents will be subject to an increase in emissions from the project. The TAC analysis also was required to estimate the average background emissions for Visalia that are in addition to emissions within 1,500 feet. The average TAC cancer risk including background risk without the project for Visalia was estimated at 513 in a million and 516 in a million with the project. The Second PRDEIR recognized that these risk amounts reflect an existing significant cumulative impact.

When significant environmental impacts are a pre-existing condition without the project, CEQA allows Lead Agencies to use a non-zero significance threshold for the project's contribution to the existing impact. Without such a threshold, no projects with TAC emissions, including a single residential home, could be constructed without the preparation of an environmental impact report. It is not possible mitigate TAC emissions to zero because nearly every aspect of the economy and many household items produce TAC emissions. The City, after considering all information available concluded that an increase in cancer risk from a single project of greater than 5 in a million would result in a significant cumulative contribution to the existing impact at this location.

The other Walmart in Visalia located at 3750 S. Mooney Boulevard does not have a full grocery component that would make it a supercenter. That Walmart Store is 6.4 miles from the project site and serves a different part of the City of Visalia. Providing multiple store locations within a City provides goods and services closer to where the customers live resulting in shorter travel distances and fewer motor vehicle emissions.

The project is consistent with the site's current Commercial Regional zoning and meets City standards for the amount of development allowed for the site. The new loading dock that is required for the expansion replaces the existing loading dock, which is located in similar proximity to residents on the opposite end of the building. Walmart operates a relatively new truck fleet and replaces its trucks on a 5-year or shorter schedule that will help minimize TAC impacts on neighboring residences. Walmart trucks are equipped with automatic shutoff devices that turn off idling trucks after 3 minutes, whereas state regulations require trucks to idle no longer than 5 minutes.

The City agrees that walls and trees will not completely eliminate TAC emission impacts. No landscaping or walls beyond that required to comply with other City requirements have been proposed to mitigate TAC emissions. Although exposure to any TAC emissions is important, it is important to note that nearly all of the TAC health risk impacts to which residents would be subjected originate from areas other than the project site.

Response to CAMPBELL-2

The commenter rejects the modeling and risk estimation protocol used in the Second PRDEIR. The commenter states that there is no proven scientific method to accurately predict responses of individuals to the increased risk of exhaust fumes and lists factors that would affect susceptibility.

The TAC analysis was prepared in accordance with guidance for preparing health risk assessments provided by the SJVAPCD. The SJVAPCD guidance incorporated the OEHHA protocols for estimating the health impacts from exposure to TAC emissions in effect at the time the Second PRDEIR was prepared. The analysis used well accepted methods based on an adequate scientific method and provides the best risk assessment method available for use on development projects. Although, the assessment was based on the best information available, OEHHA recognized that risk assessment includes uncertainty and includes the following statement in its 2003 Guidance Manual for Preparation of Health Risk Assessments Health Risk.

OEHHA has striven to use the best science available in developing these risk assessment guidelines. However, there is a great deal of uncertainty associated with the process of risk assessment. The uncertainty arises from lack of data in many areas necessitating the use of assumptions. The assumptions used in these guidelines are designed to err on the side of health protection in order to avoid underestimation of risk to the public. Sources of uncertainty, which may either overestimate or underestimate risk, include: 1) extrapolation of toxicity data in animals to humans, 2) uncertainty in the estimation of emissions, 3) uncertainty in the air dispersion models, and 4) uncertainty in the exposure estimates. Uncertainty may be defined as what is not known and may be reduced with further scientific studies. In addition to uncertainty, there is a natural range or variability in the human population in such properties as height, weight, and susceptibility to chemical toxicants. Scientific

studies with representative individuals and large enough sample size can characterize this variability.

Thus, risk estimates generated by an HRA should not be interpreted as the expected rates of disease in the exposed population but rather as estimates of potential risk, based on current knowledge and a number of assumptions. Additionally, the uncertainty factors integrated within the estimates of noncancer RELs are meant to err on the side of public health protection in order to avoid underestimation of risk. Risk assessment is best used as a ruler to compare one source with another and to prioritize concerns.

It is beyond the scope of the EIR and available analytical tools to assess impacts based on the current health of specific individuals living near the project.

The commenter states that most people would conclude that no increase in cancer risk and respiratory disease is acceptable to those living nearby and that the impact cannot be justified. TAC emissions are generated from nearly all economic activity conducted in the City of Visalia and the San Joaquin Valley. The combination of emissions from widespread sources, transport, and mixing of emissions in the atmosphere and local sources produce a cancer risk estimated in the Second PRDEIR of 513 in a million. As described in detail in the previous comment letter (WOLFE), cancer risk is declining through the implementation of state and SJVAPCD regulations. Based on ARB inventory projections for diesel particulate matter (DPM), emissions will decline in the San Joaquin Valley by 50 percent in the next 10 years. Although the regulations will not eliminate the project's impact on nearby residences, the cumulative impact from all sources will be lower by an average of 5 percent per year ($50\% \div 10$ years). A 5- percent-per-year reduction in emissions applied to the high range risk estimate for DPM of 332 in a million (the DPM portion of risk from all TACs) would result in an annual risk *reduction* of 16.6 in a million. In other words, residents most impacted by the project will experience cumulative impacts from background emissions that are anticipated to be lower in risk by 16.6 in a million compared with project's impact of 3.3 in a million after the first year of operation. The sources of TAC emissions in the project are also subject to ARB regulations and would decline at a similar rate. Although emissions from the project increase risk to nearby residents, those same residents will be breathing increasingly cleaner air each year as regulations reducing all TAC emissions are implemented.

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