

March 27, 2009

Exposition Metro Line Construction Authority
Attn: Monica Born, PE, Project Director
707 Wilshire Boulevard, 34th Floor
Los Angeles, CA 90017

Re: EXPOSITION CORRIDOR TRANSIT PROJECT PHASE 2
DRAFT ENVIRONMENTAL IMPACT REPORT COMMENTS
(State Clearinghouse No. 2007021109)

Via: Personal Delivery

Dear Ms. Born:

Thank you for the opportunity to comment on the Exposition Corridor Transit Project, Phase 2 (project). Neighbors for Smart Rail (NFSR) submits this letter in response to the draft environmental impact report (DEIR) for the project. NFSR hereby requests that these comments be included in the administrative record for the project.

EXECUTIVE SUMMARY.

The DEIR for the Expo Transit Project Phase 2 is inadequate as an informational document under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) and the State CEQA Guidelines (Guidelines) (14 Cal. Code Regs., § 15000 et seq.) for numerous reasons. The DEIR fails to consider a reasonable range of project alternatives, and fails to provide an adequate description of the project and an adequate description of the project's environmental setting. The DEIR is inconsistent in its methodology in its discussion of project impacts, and fails to completely disclose and analyze numerous direct and indirect project impacts to the environment, particularly to public safety and traffic. The DEIR also fails to adequately disclose and analyze the cumulative impacts of the project. As a result of these deficiencies, the full impacts of the project are not fully revealed to the public or decision-makers. Additionally, the proposed mitigation measures for the project are inadequate to mitigate significant project impacts, and are deferred to some future date. The DEIR does not analyze the environmental effects of the proposed mitigation measures, and thus the impacts from implementing the proposed mitigation measures are not revealed to the public or decision-makers.

NFSR has been involved in the Expo Transit Project Phase 2 since its inception. Members have attended every workshop and scoping meeting, and have provided Expo with numerous feasible options for mitigating the significant impacts of the project. These presented alternatives are environmentally superior to the proposed project, yet they have not been

analyzed in the DEIR. Once built, the impacts from the project will last for decades to come. A below-grade alignment would mitigate most of the significant impacts from the project. An aerial alignment would also mitigate significant impacts from the project, although not as many as a below-grade alignment.

The following comments show where the DEIR fails to adequately inform the public and decision-makers with the true scope and impact of the project, and fails to analyze the environmentally superior alternatives of a below-grade alignment or an aerial alignment. The inadequacies and information shortfalls in the DEIR must be remedied, and the public and decision-makers fully informed on the scope and environmental impacts of the project before the EIR is certified.

I. INTRODUCTION.

Neighbors for Smart Rail (NFSR) is a non-profit California corporation (26 U.S.C. § 501(c)(3)) comprised of a coalition of homeowners' associations, community groups and unaffiliated citizens who support the development of intelligent transportation solutions for Los Angeles that are safe, well-planned, efficient and conform to the highest federal standards for safety, environmental impacts, and transportation benefits. Our goal is to examine and influence the process of transportation planning in Los Angeles and thus to improve the final product. Though transportation projects may take years to plan and build, their benefits and impacts are measured in decades. Consequently, safety and public need and acceptance are the premise from which we composed our comments in response to the Exposition Corridor Transit Project Phase 2 Draft Environmental Impact Report (DEIR). NFSR has participated in every workshop and public meeting held by the Exposition Metro Line Construction Authority (Expo or Expo Authority). NFSR has enabled community stakeholders to participate by holding community information meetings, facilitating submission of stakeholder comments, attending stakeholder meetings throughout the Exposition Corridor, and by publishing information updates on the project continually. It is in the interest of our community and regional stakeholders that we submit our considered comments regarding the Expo DEIR. Our attempt has been to be thorough, but in no way should the comments be construed as exhaustive or dispositive.

The DEIR for the project has numerous, serious deficiencies that must be remedied before the project may be approved and the EIR certified as in compliance with all applicable laws, including CEQA and the State CEQA Guidelines. In particular the DEIR: (A) provides an inadequate study of project alternatives; (B) fails to account for significant potential impacts to public safety by applying the Metro Grade Crossing Policy; (C) provides an inadequate description of the project and the project's environmental setting; (D) utilizes improper thresholds of significance; (E) fails to adequately disclose and/or analyze project impacts, (F) fails to adequately analyze the cumulative impacts of the project; (G) fails to provide adequate mitigation measures for the project and fails to analyze the environmental impacts of the proposed mitigation measures; and (H) follows on the heels of procedural violations of CEQA.

II. COMMENTS ON THE EXPOSITION CORRIDOR PROJECT PHASE 2 DRAFT ENVIRONMENTAL IMPACT REPORT.

As a preliminary matter, CEQA and the Guidelines must be interpreted “in such a way as to ‘afford the fullest possible protection of the environment.’” (See *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 868.) “[T]he purpose of CEQA is not to generate paper, but to compel government at all levels to make decision with environmental consequences in mind.” (*Id.*) The EIR for any project serves a vitally important purpose: “[t]he EIR is the primary means of achieving the Legislature’s considered declaration that it is the policy of this state to ‘take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state.’ [Citation.]” (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 721.) The EIR is a document of accountability which is “intended ‘to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.’” (*Id.*) As the comments below will illustrate, the DEIR fails to demonstrate to the public, that the full adverse environmental effects of the project have been disclosed and analyzed.

(A). The DEIR Does Not Adequately Analyze a Reasonable Range of Feasible Project Alternatives.

CEQA states that “it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects” (§ 21002.)¹ The Guidelines further outline this mandate:

“An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.”

(Guidelines, § 15126.6, subd. (a).) Additionally, the EIR’s discussion of alternatives must focus on alternatives that are capable of avoiding or substantially lessening any significant environmental impacts, *even if those alternatives would be more costly.* (Guidelines, § 15126.6, subd. (b).)

The Guidelines also require an EIR to identify any alternatives that were considered by the agency, but were rejected as infeasible during the scoping process. (Guidelines, § 15126.6, subd. (c).) The EIR *must* explain the reasons why the agency chose to reject any alternatives. (*Id.*) “The fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are *sufficiently severe* as to render it impractical to proceed with the project.” (*Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1181, emphasis added (*Goleta I.*))

¹ All unnamed sections in this letter are to the Public Resources Code unless otherwise indicated.

Additionally, the EIR must include “sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project.” (Guidelines, § 15126.6, subd. (d).) The EIR must provide a quantitative, comparative analysis of the different alternatives. (See *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 733.)

A legally adequate EIR “must produce information sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned.’ [Citations.] It must contain sufficient detail to help ensure the integrity of the process of decisionmaking by precluding stubborn problems or serious criticism from being swept under the rug. [Citations.] ... An EIR which does not produce adequate information regarding alternatives cannot achieve the dual purpose served by the EIR, *which is to enable the reviewing agency to make an informed decision and to make the decisionmaker’s reasoning accessible to the public, thereby protecting informed self-government.*”

(*Id.*, emphasis added.) The DEIR does not discuss a reasonable range of feasible alternatives, improperly rejects suggested feasible below-grade and aerial design suggestions, and fails to provide sufficient information regarding a choice of alternatives that would significantly reduce or eliminate significant environmental impacts. The DEIR thus effectively sweeps the public’s concerns about the DEIR’s limited choice of alternatives under the rug.

1. A Below-Grade Alternative and an Aerial Alternative for the Exposition Right-of-Way Alignments Must be Studied.

During the scoping process, a significant percentage of the community members in the neighborhoods affected by the project specifically requested that below-grade and aerial alternatives be studied. These two alternatives were not analyzed or discussed in chapter 2 of the DEIR regarding project alternatives.² The below-grade alternative is not discussed at all, while the aerial alternative is mentioned only in a passing reference to a cost study that was conducted. The DEIR does not explain why these two alternatives were apparently rejected. Why were these two alternatives rejected? These two alternatives should be studied in the DEIR, because each of these alternatives can reduce or eliminate significant long-term adverse impacts of the two at-grade alternatives along the EXPO right-of-way (ROW) (LRT 1 and LRT 2) that were studied, particularly the below-grade alternative. Traffic, noise (crossing bells), vibration, safety (vehicular, pedestrian, emergency vehicle response time), aesthetic (light and glare, physically dividing a community with walls and rail) and other impacts to the environment along the Expo

² The DEIR focuses on six alternatives: (1) the no-build alternative, (2) the transit systems management (TSM) alternative (mostly adding new bus routes without building the light rail), (3) a light rail transit (LRT) alternative along the Expo ROW and then traveling on Olympic Blvd. in Santa Monica (LRT 1), (4) a light rail transit alternative along the Expo ROW and then traveling on Colorado Blvd. in Santa Monica (LRT 2), (5) a LRT alternative that travels along Venice and Sepulveda boulevards and then travels along Olympic Blvd. in Santa Monica (LRT 3), and (6) a LRT alternative that travels along Venice and Sepulveda boulevards and then travels along Colorado Blvd. in Santa Monica (LRT 4). (DEIR, page 2-1 – 2-10.)

ROW alignment would be further reduced or completely eliminated with a below-grade design. An aerial design would reduce traffic, safety, and noise impacts along the Expo ROW, though not as effectively or to the same degree as a below-grade design.

2. The West Los Angeles Community Plan Bus Transit System Alternative Must be Studied.

In analyzing alternatives, the EIR is held to a “rule of reason” to further the statutory purposes of CEQA. (See *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 570 (*Goleta II*)). Under *Goleta II*, an adequate alternatives analysis must contain a discussion of alternatives which (1) offer substantial environmental advantages over the project proposal, and (2) are feasible. (*Id.*) If the EIR proposes alternatives that are legally infeasible because they are precluded by other plans or policies, then the EIR’s alternatives analysis is flawed. (See *id.*)

To the extent the only real project choice offered by Expo Authority is confined to at-grade light rail, the DEIR has failed to offer a meaningful choice and a reasonable range of alternatives -- certainly considering the adopted West Los Angeles Community Plan (WLACP). The WLACP, adopted after extensive public review and input, provides for a bus transit system all along the Expo ROW connecting the Exposition Park/Coliseum area to Santa Monica. (See, e.g., Policy 10-2.1.)³ We also note that a new WLACP *proposal* by the City of Los Angeles seems to anticipate approval of the Expo Transit Project Phase 2 on the Expo ROW in either LRT 1 or LRT 2 (suggesting an even more limited choice). Is this proposed WLACP linked to the project? Are alternatives other than the locally preferred alternative (LRT 1 or LRT 2) eliminated before public hearings are held and official decisions made?

3. The DEIR Provides Inconsistent and Flawed Information Regarding the Different Alternatives.

a. Inconsistent and Incomplete Information.

An EIR must utilize a “quantitative, comparative analysis” of the relative environmental impacts of project alternatives. (See *Kings County*, 221 Cal.App.3d 692, 733.) In *Kings County*, the project applicant for a coal-fired cogeneration power plant had already signed a contract to use solid fuel as opposed to natural gas before conducting environmental review. (*Id.* at 735-736.) Because of the existence of the solid fuel contract, the EIR looked at a natural gas alternative, but did not discuss it in the same detail or in the same manner as the solid fuel alternative. (*Id.*) The court stated that the EIR’s treatment of the natural gas alternative to be deficient because it omitted “substantial information” about the use of natural gas, and therefore failed to provide an accurate comparison of project alternatives. (*Id.* at 734.) Not only did the court hold the EIR to be legally inadequate because of the inconsistent analysis of alternatives,

³ As such, the entire project, as a light rail concept and design, is inconsistent with the WLACP. This inconsistency should have been, but was not, discussed in the DEIR. (See Guidelines, § 15125, subs. (d), (e).)

but it also held that the existence of contracts or agreements prior to environmental review is no excuse for failing to adequately analyze project alternatives:

“[a]lthough applicants may enter into contracts and agreements prior to the completion of the environmental review process, such contracts or agreements cannot be used to avoid the scrutiny envisioned by CEQA. Environmentally superior alternatives must be examined whether or not they would impede to some degree the attainment of project objectives. (Guidelines, § 15126, subd. (d)(3).)”

(*Kings County*, 221 Cal.App.3d 692, 736-737.) In this case, the DEIR precludes informed decisionmaking, and does not present sufficient information to the public and government decision-makers because the cost/benefit analysis for the project does not compare similar design proposals for the alternatives. This inconsistent “apples and oranges” methodology results in skewed results, and an incomplete picture of the environmental impacts of the different alternatives presented in the DEIR. These inconsistencies must be remedied in the final EIR.

The DEIR asserts that LRT 1 and LRT 2 are identified as the environmentally superior alternatives and screens out LRT 3 and LRT 4. However, these conclusions are based partially upon the conclusions of a cost/benefit analysis that uses the cost of an aerial system and compares it to an at-grade system. Segment 1 of LRT 1 and LRT 2 uses at-grade crossings whereas Segment 1a of LRT 3 and LRT 4 uses aerial street crossings. The cost/benefit and cost effectiveness analysis must also take into account the cost of ongoing operations. At-grade light rail operation has greater safety risks in comparison to below-grade or aerial light rail operations because of increased potential for accidents resulting from collisions with motor vehicles, bicycles and pedestrians that result in property damage, personal injuries and loss of life. Therefore, the cost of operating at-grade light rail is increased by the costs related to such accidents. The final EIR needs to provide a safety risk analysis so that the safety implications of the different alternatives are known to the public and the decision-makers – this risk analysis is significant information that must be provided. (See *Kings County*, 221 Cal.App.3d 692, 734 [EIR which lacked substantial information about natural gas fuel alternative was legally inadequate].) Numerous studies have been conducted that calculate the cost per vehicle mile traveled as well as other methods of computing average cost. These costs should be calculated and incorporated into the final EIR to reflect the true costs of LRT Alternatives 1, 2, 3 and 4 as proposed. The final EIR conclusions in the cost/benefit and cost effectiveness could vary significantly from the conclusions provided in the DEIR and therefore, result in a different environmentally superior alternative.

Further, the 2001 Mid-City/Westside Transit Corridor Draft EIS/EIR studied light rail on Segment 1a, Alternatives 3 and 4, the Venice/Sepulveda route, between Robertson and Sawtelle. The 2009 DEIR makes no accounting of how the 2001 DEIR analysis, which designed the entirety of Segment 1a (Alternative #3 in the 2001 DEIS/DEIR) as an at-grade alignment from Robertson to Sawtelle, with a single property taking, changed to a radically different design which in 2009 necessitates up to 194 property acquisitions and 197 displaced residents. What physical, economic, demographic, or environmental changes in segment 1a (Alternatives 3 and 4) precipitated the radically different analysis of the feasible operation of light rail in the same

corridor 8 years later? Are there newly identified risks or impacts to the at-grade alignment on Segment 1a that were unidentified in 2001? If the 2001 at-grade alignment on Segment 1a (Alternative #3 in the 2001 DEIS/DEIR) was compared to the current at-grade alignment of Segment 1 (ROW), for ridership, access to transit dependent households, proximity to employment centers, traffic and land use impacts, and opportunity for Transit Oriented Development, would Segment 1 still be the environmentally preferred alternative? The changes in the project description on Segment 1a (Alternative #3 in the 2001 DEIR) from the 2001 DEIR to the 2009 DEIR further support that there was insufficient study of grade-separated alternatives on Segment 1, LRT 1 and LRT 2, DEIR 2009. Segment 1a has been more thoroughly studied than Segment 1 and with radically different conclusions. Segment 1 of LRT 1 and LRT 2 needs to be more thoroughly studied with all grade crossing options fairly evaluated or it cannot be determined to be environmentally superior. Additionally, the 2009 DEIR, page 1-2, section 1.1.4 states that the 2001 DEIS/DEIR “document addresses the Exposition Transit Corridor, which primarily follows the Metro-owned right-of-way (ROW) from downtown Los Angeles to Santa Monica.” What the 2009 DEIR does not say is that it was Segment 1a only, the Venice/Sepulveda route, which was studied in the 2001 document. The 2009 Expo DEIR misrepresents the project’s history by their omission of that fact. What are now LRT Alternatives 1 and 2, Segment 1 in the 2009 DEIR, were eliminated from consideration as a viable route in the 2001 DEIS/DEIR and was not studied. What has changed from 2001 to 2009 with regard to LRT 3 and LRT 4?

b. Flawed Assumptions and Calculations.

The DEIR also utilizes flawed ridership assumptions and calculations in its presentation of alternatives. The DEIR projects a higher ridership rate along the Expo ROW alignments (alternatives LRT 1 and LRT 2) than along the Venice/Sepulveda alignments (alternatives LRT 3 and LRT 4), however the largest percentage of ridership is comprised of workers using transit. Therefore, the ridership rate is inconsistent with the projected employment within commuting distance along each alignment based upon the employment density peak zone information provided in the DEIR. The employment density along the LRT 3 and LRT 4 routes (the Venice/Sepulveda alignments) is higher than the employment density along the LRT 1 and LRT 2 routes. The LRT 3 and LRT 4 routes include all three of the highest employment density transportation area zones (TAZs) bordered by any portion of the LRT routes. These TAZs contain more than 20,000 employees per square mile. Because the employment density along the LRT 1 and LRT 2 routes is equivalent to, or lower than the employment density along the LRT 3 and LRT 4 routes, ridership along LRT 1 and LRT 2 routes will be lower than the ridership along the LRT 3 and LRT 4 routes.

(B). Because the DEIR Applies the Metro Grade Crossing Policy, it Precludes the Consideration of Environmentally Superior Alternatives and Fails to Adequately Disclose Potentially Significant Project Impacts to Public Safety.

The California Public Utilities Commission, the state agency charged with approval of safety at rail crossings is a Responsible Agency under CEQA. In their evaluations of crossing applications submitted for crossing approval, the CPUC uses 8 criteria to determine the Practicability of a crossing before it is determined to be safe

enough for an at-grade crossing. The over riding presumption of the CPUC is that grade-separated crossings are safer than at-grade crossings. The burden of proving a crossing is safe at grade is on the Applicant, for example, in this case, the Exposition Construction Authority. Pursuant to Rules 3.11 and 3.7(c) of the Commission Rules of Practice and Procedure, “applications for an at-grade crossing of a light-rail crossing shall include a showing why a separation of grade is not practicable.” The eight criteria for judging practicability are:

1. A demonstration of public need for the crossing;
2. A convincing showing that Expo Authority has eliminated all potential safety hazards;
3. The concurrence of local community and emergency authorities;
4. The opinions of the general public, and specifically those who may be affected by an at-grade crossing;
5. Although less persuasive than safety considerations, the comparative costs of an at-grade crossing with a grade separation;
6. A recommendation by Staff that it concurs in the safety of the proposed crossing, including any conditions;
7. Commission precedent in factually similar crossings; and,
8. Environmental Impacts.

The eighth criterion is “Environmental Impacts.” This new criterion was adopted in December of 2008 as a result of a CPUC Evidentiary Hearing on Phase 1 of the Exposition Light Rail project in South Los Angeles. Administrative Law Judge, Honorable Kenneth J. Koss explained, “Our overall concern here are cases where construction of a grade-separation might cause new unmitigable adverse environmental impacts. In today's decision, for example, we considered temporary air quality impacts related to construction, as well as permanent impacts related to visual impacts and historical resources. Areas impacted by the construction of grade separations also could include: noise and vibration, hydrology, land use and land acquisition, among others.” In effect, these issues are being examined almost three years after the record of decision had been issued on the Phase 1 project. The single biggest rail safety protection on the Expo Phase 1 project, grade separations at many highway intersections, was not evaluated in the FEIR/FEIS for that project. The DEIR for Phase 2 is proceeding with the same deficient environmental review under CEQA. Knowing quite well the regulations of the CPUC, Expo continues to gamble the health and safety of citizens in the Expo Corridor by deferring environmental review of the crossings until the line is essentially planned, contracts have been awarded and construction has begun. All this with the hope that the CPUC, the only state agency with oversight over the safety of local rail crossings, will be leveraged to approve at-grade crossings by Expo Authority laments about budget over runs and delays if the at-grade crossings are not approved.

The Expo Authority in applying the Metro Grade Crossing Policy, which pre-determines most crossings at grade before any environmental study is conducted, forces the deferred consideration of environmental issues. The Expo crossing applications submitted to the CPUC must then go through evaluation pursuant to the Standards of Practicability, now including

environmental review. If the CPUC orders additional Phase 2 grade separations, then those crossings will now be obliged to go through an additional environmental evaluation which undermines the public review process guaranteed by the CEQA. The safety of the crossing alternatives should be raised and addressed in the initial environmental process. By determining the crossings at grade **prior** to CPUC evaluation, Expo has the opportunity to change the environment within which the CPUC must evaluate grade-separated crossings. Once Expo has issued contracts, begun engineering, ancillary projects and construction of alignments, new elements such as scheduling, cost over runs, and delay are then leveraged to force the CPUC to determine safety on a changed environmental playing field. Additionally as the CPUC recognizes the “domino effect,” that any changes in a crossing (i.e., requiring a grade separation) may impact related crossings and thus force further grade crossings. This likely sequence of events results in the threat of increased costs and project delay. Often the result is a compromise that doesn’t, in fact, “eliminate all potential safety hazards” but rather eliminates just enough risk to validate **not** grade separating in the face of extra cost and delay. So, what may have been an environmentally superior alternative is not the superior economic choice and a bargain is struck. The decision is thus legislative, not environmentally or safety based, nor based on improved transit benefits or life cycle costs.

The application of the Metro Grade Crossing Policy prematurely eliminates grade-separated alternatives, which may be environmentally superior, by using an insufficient standard (individual traffic lane volumes) to purge grade-separated crossings before CEQA/NEPA evaluation. Thus the environmental impacts of at-grade rail compared to grade-separated rail may never be evaluated at all because of economic interests, which become weightier as a project progresses. The Grade Crossing Policy undermines the CEQA/NEPA Alternative Analysis criteria, and the CPUC safety criteria by initially making the crossing design decisions outside the evaluative processes of those regulatory bodies.

The Grade Crossing Policy is not a safety based policy. According to 20 year veteran and former lead NTSB accident investigator, Russell Quimby, “...as far as I can tell, the policy has nothing whatsoever to do with safety and is concerned almost entirely with Metro’s operational convenience regardless of safety concerns... under Metro’s Grade Crossing Policy, proposed crossings are subject to a three-phase process to determine whether they should be at grade or grade separated. In the first phase, traffic volume and train frequency are used to put crossings into one of three categories: at grade, grade-separated, or “further analysis required.” In other words, if the traffic volume and train frequency were deemed sufficiently high, the crossing was grade separated; if traffic volume and/or train frequency were low, the crossing was designated at grade. The only “further analysis required” involved further refinements to already designated at-grade crossings. The self-evident purpose of this policy appears to be to establish whether or not trains can be conveniently operated from a scheduling perspective, i.e., will the rail operator be able to send trains through the intersection at the desired frequency without seriously disrupting vehicle traffic patterns. The policy cannot seriously be described as a safety policy because traffic volume and train frequency alone tell you very little about the safety of a rail crossing, particularly when traffic volume is reported on a per lane basis. As far as Metro’s Grade Crossing Policy is concerned, for purposes of grade classification, a crossing that

intersects a single lane street going in one direction with no pedestrian traffic is analyzed identically to a crossing that intersects twelve lanes going in six directions with peak pedestrian traffic in the thousands per hour. As long as train headways and per lane traffic volumes fall within acceptable standards, a crossing will be designated at grade with no need for further review or analysis. The Metro Grade Crossing Policy is a logical operational policy from a rail perspective, but it does not nor should not replace a responsible comprehensive system safety analysis which should include a human performance study...factors beyond train frequency and vehicle traffic must be taken into consideration to create designs that are reasonably safe for the public – and particularly for children.”

U.S.C. Professor, Dr. Najmedin Meshkati, a world renowned “Human Factors” professor and researcher, quoted in his recent sworn testimony before the CPUC from *How Well Can Child Pedestrians Estimate Potential Traffic Hazard?* a seminal research article by Sarkar, S, et al., “because they are unable to appreciate interrelationships among duration, velocity, and distance until about the age of 11” Children’s hazardous decisions while crossing roads can be attributed to their “short attention span for failure to orient themselves. Children also forget instructions during times of impulsive behavior or confusing conditions.”

Professor Meshkati goes on to say, “Good alignment choices and design geometry are essential for safe LRT operation. The LRT alignment must be chosen carefully with full consideration given to motor vehicle and pedestrian travel patterns and roadway operating conditions. Where the geometry is poor, traffic control devices may provide relatively little safety benefit. Accident analysis indicates that most collisions (92%) occur in shared rights-of-way under 35 mph even though these alignments account for the smallest percentage of the total system mileage (31%). This is because shared rights-of-way have the greatest potential for conflicts.”

Has Expo undergone any additional safety analysis beyond the application of the GCP in its decision to construct an at-grade crossing at Overland at Northvale/Exposition crossing within 75 feet of Overland School? What other criteria has Expo used to determine at-grade crossings at Bagley, Westwood, Military, Sepulveda, and Barrington?

The Metro Grade Crossing policy quite clearly eliminates CEQA evaluation of what may be environmentally superior alternatives by predisposing analysis of the crossings to an at-grade alignment. Many land use considerations, noise and vibration considerations, community division, and other impacts under CEQA are thus limited to a lesser number of choices for environmental review. That undermines the stated policy of CEQA which favors the alternatives that more fully mitigate environmental impacts. CEQA states that superior alternatives may not be eliminated because of cost even if the alternative would constitute a change in the project. In taking this approach, Expo is in fact, transferring the cost of light rail projects onto the communities in the Expo Corridor by imposing impacts that would have been mitigated by a more thorough analysis, but will not or can’t be mitigated with at-grade crossings and alignments. Expo is abrogating its obligations to safety in the design and implementation of their projects to LADOT, CPUC, LAUSD and the individual stakeholders along the corridor. If one were to calculate the costs to all of the responsible agencies and to the community to try and impose “after the fact” safety on the sub-standard designs Expo offers up, it might be determined

that Expo is not building their projects for less, they are simply redistributing the costs off their books and onto those of other agencies and individuals. This is further evident in the “Memorandum of Understanding with the City of Los Angeles” which states that any thing other than Expo’s basic project design would be considered a “betterment” and thus an expense borne by the City. Similarly, when USC sought more compatible design elements on the light rail portion adjacent to campus they, too, were informed of their need to pay for anything above the basic design. LAUSD sought the improved safety of grade separations near Dorsey High School and Foshay Learning Center in recent CPUC Evidentiary Hearings on grade crossing applications on Expo Phase 1. Expo agreed to grade separate only if LAUSD paid for the changes.

The cost calculations for grade separations compared to at-grade crossings in the DEIR are flawed.

(C). The DEIR Must Provide an Adequate Project Description, and an Adequate Description of the Project’s Environmental Setting.

An EIR must contain an adequate project description. (See Guidelines, § 15124.) The project description must be accurate and consistent throughout the EIR. “An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.” (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) An EIR that fails to provide all relevant information regarding a project precludes informed decision-making and informed public participation, and thereby thwarts the statutory goals of the EIR process. (See *San Joaquin Raptor*, 27 Cal.App.4th 713, 721-722.)

1. The DEIR Does Not Disclose Whether the Project Could Even Legally Be Built.

The DEIR must include a list of permits and other approvals required to implement the project, and a list of related environmental review and consultation requirements required by federal, state, or local laws. (See Guidelines, § 15124, subd. (d)(B)-(C).) “To the fullest extent possible, the Lead Agency should integrate CEQA review with these related environmental review and consultation requirements.” (Guidelines, § 15124, subd. (d)(C).) The project description in the DEIR should disclose whether the project could legally be built in conformance with applicable CPUC and other approving agency policies. For example, do the project’s numerous at-grade crossings conform to the CPUC’s policies? The court in *Central Delta Water Agency v. State Water Resources Control Board* (2004) 124 Cal.App.4th 245 invalidated an approval of the State Water Resources Control Board (SWRCB) to issue a permit to appropriate water. Among other things, the court noted that the Water Code required the SWRCB to identify the end user of the water, and the court invalidated the SWRCB approval for failing to identify the end user. Because the SWRCB was required to identify the end user according to the Water Code, the court ordered the SWRCB to disclose and analyze the environmental effects of the project relevant to this end user. (*Id.* at 253, 259-264, 272.) Like the applicant in *Central Delta Water*, the DEIR does not disclose whether the project could legally be built as proposed – that is, does the project as currently designed conform to all

applicable CPUC regulations and all other applicable policies? Will the project be planned in conformance with CPUC regulations mandated for safe distance separation between parallel tracks? Does the height clearance of 15 feet above the Sawtelle elevated crossing as it passes under the I-405 conform with CPUC and LADOT standards? Will Expo be seeking waivers from Responsible Agencies that may increase safety or security risks to passengers, pedestrians or vehicles by diminishing established distancing criteria?

2. The DEIR Improperly Restricts the Study Area for the Project and thus Fails to Adequately Disclose the Environmental Setting of the Project.

The DEIR must also adequately describe the “environmental setting” of the project. (Guidelines, § 15125.) The DEIR must describe the physical environmental conditions in the vicinity of the project, from both a local and a regional perspective. (Guidelines, § 15125, subd. (a))

“Knowledge of the regional setting is critical to the assessment of environmental impacts. Special emphasis should be places on environmental resources that are rare or unique to that region and would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the *full environmental context*.”

(Guidelines, § 15125, subd. (c), emphasis added.) In *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, the court held that an EIR for a landfill project that failed to disclose the volume of water in an aquifer underlying the proposed landfill did not conform to Guidelines section 15125, subdivision (c). (See *Cadiz*, 83 Cal.App.4th 74, 92-94.) “The amount of ground water at stake must be disclosed to the public and government agencies. As the years pass, it is anticipated that the public’s demand for water will increase and the potable water contained in the aquifer, if any, will increase in value.” (*Id.* at 94.) The court stated that the public had a right to know whether the water in the aquifer would be contaminated. (*Id.*) Because the EIR failed to include this information, the court invalidated the EIR. (*Id.* at 95.)

In this case, the DEIR defines the Project Study areas as ½ mile on either side of all alignments, however, the DEIR did not study that defined area for all impacts, and indeed should not have even limited the study to such a small field considering the 7-8 mile length of the project and the great number of traffic impacts identified in an already congested corridor. In fact, though Expo defined the impact study area as ½ mile from the ROW, many critical arterial roadways and intersections are left out of the Traffic Study Area. Like the demand for water in *Cadiz*, the demand for travel on the public roadways will also increase dramatically over the years. One only needs to travel on surface streets or the freeways on the West Side to know that space on the roadways is a particularly scare resource in the Los Angeles area. However, the DEIR fails as a disclosure document if it impairs the public’s ability to discern the true effects of the project on not only traffic congestion, but also safety, aesthetics, parking, and greenhouse gas (GHG) emissions, because it artificially limits the study area in the DEIR to ½ mile on either side of the ROW and evaluates an even smaller traffic study area. Regarding traffic in particular, the inexcusable failure of the DEIR to disclose the true nature of traffic congestion, and the

projects impacts on that traffic congestion on the West Side due to the artificial limitation of the study area renders the DEIR inadequate as a disclosure document. As in *Cadiz*, the public has a right to know the true impact the project will have on the surrounding environment. Why is the study area so limited? What is the Traffic Study area even smaller?

3. The DEIR Fails to Describe the I-10 Circulation Improvement Project.

In *San Joaquin Raptor*, 27 Cal.App.4th 713, 723-726, 729 the court held that an EIR's project description was misleading and incomplete because it failed to include a description of a nearby nature preserve. This omission was serious because it precluded and adequate discussion of project impacts:

“[w]ithout an understanding of the proximity of these habitats to the site, one cannot adequately assess the impacts the development project will have on the waterfowl residing in these ecologically sensitive areas or critically analyze the FEIR's conclusions concerning these impacts and the sufficiency of proposed mitigation measures. Thus, the description of the environmental setting is not only inadequate as a matter of law but it also renders the identification of environmental impacts legally inadequate and precludes a determination that substantial evidence supports the Board's finding that the environmental impacts ... had been mitigated to insignificance.”

(*Id.* at 729.) The DEIR fails to include the I-10 Circulation Improvement Project (CIP) in its project description. (See also section F(5), *infra.*) This omission in the project description, like the omission in *San Joaquin Raptor*, renders the DEIR legally inadequate. The I-10 CIP will possibly be impacted by the Expo Transit Project Phase 2 and vice-versa. At a minimum it is a “related” project, and must be fully disclosed by the DEIR, because in the I-10 CIP project is in part a response to the traffic impacts caused by the Washington/National Station and the parking and proposed future high-density developments adjacent to that station. What are the growth inducing impacts of the I-10 CIP project? (See Guidelines § 15358 [defining indirect impacts]). Therefore, if it is dependent it should have been included in the project description and is not. Is the planning and operation of LRT 1 and LRT 2 dependent upon the completion of the I-10 Circulation Improvement Project (CIP)? Is the planning and operation of LRT 3 and LRT 4 dependent upon the completion of the I-10 Circulation Improvement Project (CIP)?

(D). The DEIR Utilizes Improper Thresholds of Significance.

CEQA requires that agencies adopt standards or criteria for determining whether a given impact is “significant”. (§ 21082, see Guidelines, § 15064.7.) These standards are known as “thresholds of significance.” (Remy et al., Guide to CEQA (11th ed. 2006), page 210.) However, in preparing an EIR, “the agency must consider and resolve every fair argument that can be made about the possible significant effects of a project, irrespective of whether an established threshold of significance has been met with respect to any given effect.” (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109.)

Specifically regarding traffic, agencies must consider *all* of the substantial evidence

supporting a fair argument of significant impacts to traffic, and thus may not rely exclusively on established traffic standards in determining whether an increase in traffic from a project will result in significant traffic impacts. (See *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 342; Remy, at 214-215.) “A threshold of significance is not conclusive, however, and does not relieve a public agency of the duty to consider the evidence under the fair argument standard. [Citations.] A public agency cannot apply a threshold of significance or regulatory standard ‘in a way that forecloses the consideration of any other substantial evidence showing that there may be a significant effect.’” (*Id.* at 342.)

The DEIR uses an inadequate and flawed threshold of significance for the traffic analysis. One of the traffic thresholds of significance described on page 3.1-5 in the DEIR states that the proposed project would cause an increase in the average vehicle delay for the intersection by four seconds or more for intersections already operating at LOS E or LOS F under the No Build conditions. What it does not clarify is that the four second delay is based upon an average over the entire operational period of the light rail which runs from 4:00 a.m. to 2:00 a.m. Therefore, the results are skewed to show a lesser impact because they include many hours of the day outside the AM and PM peak periods and include time periods very late at night or very early in the morning when there is almost no traffic. The threshold of significance should be revised to reflect a four second delay in peak periods only (6:00 a.m. – 9:00 a.m. and 4:00 p.m. – 7:00 p.m.) and the traffic study and EIR should be revised to reflect analysis based upon this threshold of significance.

The DEIR also states in Table 3.2-14 that the Sepulveda Boulevard/Exposition Boulevard Intersection will increase from a 20.5 second delay to a 55.0 second delay – an increase of 34.5 seconds – and yet there is no impact? The accuracy of the data is questionable when the intersections selected show decreases in delays for all intersections even though the crossing gate arms for the trains will be down for 42 to 82 seconds every 5 minutes during peak periods (and with two trains heading east and west on two sets of tracks, this “gate-down” time is most likely to be 82 seconds every 5 minutes during peak periods, since the trains are unlikely to pass each other at exactly the same time). Although added lanes will allow more stacking of vehicles on Westwood and Sepulveda Boulevards, it does not change the fact that traffic, including emergency vehicles, cannot proceed until the arms are up again.

(E). The DEIR Does Not Adequately Disclose all Project Impacts.

The DEIR must identify and disclose the possible significant environmental impacts of the proposed project. (See Guidelines, §§ 15126, subd. (a), 15126.2, subd. (a).) The EIR must disclose and analyze reasonably foreseeable significant direct and *indirect* physical changes in the environment which may be caused by the project. (See Guidelines, §§ 15064 subd (d), 15126.2 subd. (a).) Additionally, the DEIR should be prepared with a “sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences.” (Guidelines, § 15151.) A good faith, reasoned analysis is necessary, “[c]onclusory statements unsupported by factual information will not suffice.” (Guidelines, § 15088.) A discussion of impacts is only acceptable if it provides “sufficient information and analysis to allow the public to discern the basis for the

agency's impact findings." (*Californians for Alternatives to Toxics v. Department of Food and Agriculture* (2005) 136 Cal.App.4th 1, 13.)

It is vitally important that the DEIR adequately disclose and analyze all project impacts:

"The EIR is therefore 'the heart of CEQA.' [Citations.] An EIR is an 'environmental "alarm bell" whose purpose is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.' [Citations.] The EIR is also intended 'to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action.' [Citations.] Because the EIR must be certified or rejected by public officials, it is a document of accountability."

(*San Joaquin Raptor*, 27 Cal.App.4th 713, 721.) If the agency scrupulously follows its duties under CEQA to identify and disclose the potential significant environmental impacts of the project and then make appropriate findings, the public will know the basis on which the responsible public officials either approve or reject environmentally significant action. (See *Id.*) "*The EIR process protects not only the environment but also informed self government.*" (*Id.*, emphasis in original.) In this case, the project will be built right in the middle of communities, dividing them in some cases. The EIR *must* disclose, analyze and *mitigate* significant adverse environmental impacts. "CEQA requires an EIR to reflect a good faith effort at full disclosure." (*Endangered Habitats League, Inc. et al. v. County of Orange et al.* (2005) 131 Cal.App.4th 777, 792 [holding an EIR which failed to utilize the proper method of traffic analysis under the existing general plan, and which failed to utilize adequate legal standards which would allow for the adequate disclosure of project effects to biological resources].) To fail to make this good faith effort at full disclosure, not only violates CEQA and risks exposing the public to undisclosed or analyzed environmental impacts for decades to come, but inhibits informed self-government. (See *Id.* at 722.)

The DEIR concludes that only construction air quality and the aesthetic impacts of the Westwood Boulevard Station are significant unavoidable impacts after mitigation for Segment 1 of LRT Alternatives 1 and 2. The DEIR is flawed in its conclusions, and fails to provide the level of specificity of disclosure and analysis required by the Guidelines. (Guidelines, §§ 15146, 15147, 15151.) There are several significant impacts in other environmental issue areas. The main environmental issues areas of concern are: (1) traffic, (2) safety, (3) parking, (4) noise, (5) aesthetics, (6) water quality/hydrology, (7) air quality, (8) economic/social impacts, (9) light and glare, (10) impacts to the Sara Berman Greenway, (11) loss of privacy, (12) impacts from radio towers, (13) compliance with applicable regulations/plans, (14) land use, (15) construction impacts, (16) community facilities, (17) growth-inducing impacts and (18) GHG impacts. Furthermore, many of these significant impacts are avoidable. These impacts could be reduced or eliminated with a below-grade design for Segment 1 for Expo Phase 2 Alternatives LRT 1 and 2.

1. Traffic

NFSR has retained the services of a registered traffic engineer, Robert M. Shanteau, Ph.D, P.E., to review, evaluate and comment on the DEIR and traffic study. Mr. Shanteau's letter and associated attachments regarding the traffic analysis are incorporated herein by reference. NFSR requests that the issues raised in Mr. Shanteau's letter dated March 25, 2009 be addressed in the final EIR. NFSR raises additional issues outlined below.

a. The DEIR's Treatment of Traffic Impacts Fails to Disclose the Full Impact of the Project on Regional Traffic Congestion, and Fails to be Consistent with its Own Defined Study Area.

The DEIR fails to provide a "sufficient degree of analysis" that would allow decision makers and the public to discern the true impact of the project on regional traffic congestion. (See Guidelines, § 15151.) The DEIR's treatment of traffic impacts is inadequate and misleading because it does not include or study several key intersections that will be impacted by LRT Alternatives 1 and 2. As mentioned above, the DEIR narrows the traffic study area to a ½ mile radius within the traffic study area around all Alternative alignments. However, the intersection of Pico and Westwood Boulevards is only three tenths of a mile (0.3 miles) from the Expo ROW, where it intersects Westwood Boulevard, and it is not included in the 86 study intersections. The intersection of Pico and Overland Avenue is four tenths of a mile (0.4 miles) from the Expo ROW (at Overland), and is not studied in the DEIR. The intersection of Pico and Manning Avenue is ½ mile (0.5 miles) from the Expo ROW (at Manning), and is not studied in the DEIR. The intersection of Westwood Boulevard and National Boulevard is ½ mile (0.5 miles) from the Expo ROW (at Westwood), and is not studied in the DEIR.

West Los Angeles is highly congested. The north/south streets along the Expo ROW are heavily impacted with existing traffic. They will be impacted even more significantly with motorists waiting for light rail trains to cross a given thoroughfare at grade level and for crossing gates to rise, particularly with trains crossing each street every 5 minutes during peak periods (and with two trains heading east and west on two sets of tracks every 5 minutes, the frequency is actually every 2 ½ minutes during peak periods, since the trains are unlikely to pass each other at exactly the same time). Westwood and Overland are north/south streets that support a significant portion of the traffic between the I-10 Freeway and the destinations of major employment centers, including UCLA, (community of) Westwood, Century City and Rancho Park. Although the intersection of Pico and Motor Avenue is about 1.5 miles away from the Expo ROW (at Motor), Motor Avenue is the main thoroughfare in and out of the Cheviot Hills neighborhood. At a minimum, traffic counts and analysis should occur at the intersections of Pico and Westwood, Pico and Overland, Pico and Manning, Pico and Patricia, Pico and Motor, and Westwood and National, regardless of whether or not they are within ½ mile of the Expo ROW, because of the potentially significant impact to the levels of service (LOS) for north/south streets. How would the project impact the above-mentioned intersections and traffic flow on the West side?

Additionally, if the project will cause significant congestion on surface streets, what are

the impacts to traffic circulation for drivers getting on and off the I-10 and I-405? Were adjacent freeway entrances and exits analyzed for traffic impacts if they were not within the ½ mile or less impact study area?

b. Light Rail Will Not Reduce Traffic Impacts.

The construction and operation of the light rail on the Expo ROW either in LRT Alternative 1 or 2 will not reduce traffic impacts, but in fact, will increase them, particularly if constructed at grade. The proposed use of at-grade crossings at Overland Avenue, Westwood Boulevard, Military Avenue, and Sepulveda Boulevard will increase traffic congestion impacts and create greater delays at numerous intersections in the vicinity of Segment 1 of LRT 1 and LRT 2 than the existing conditions. These delays and increased traffic congestion are a result of the wait times for vehicles traveling northbound and southbound on the above-mentioned streets. One of the project objectives described on DEIR page 1-5 is to “[s]pur redevelopment and revitalization plans...” Additionally, the anticipation of a light rail line is fostering efforts to increase density in the West Los Angeles area which will cause growth inducing impacts. Any benefit of increased ridership on light rail would be exceeded by the increased residential and commercial growth that would be promoted, and when combined with restricted vehicular movement and significant vehicle queuing on already impacted north/south streets, would create even greater traffic impacts than exist today. Therefore, at-grade crossings should not even be a consideration for the Expo Transit Project Phase 2. A below-grade alignment would eliminate the significant impacts to the north/south streets (Overland, Westwood, Military and Sepulveda) within Segment 1 of Expo Transit Project Phase 2 LRT Alternatives 1 and 2 caused by an at-grade alignment.

The DEIR also argues that traffic congestion would decrease because people would utilize the light rail rather than drive. However, this assumption ignores the increase in traffic expected over the next several decades, and ignores a fundamental traffic concept known as “latent demand.” This concept states that even if public transit is constructed, and a number of people take public transportation rather than drive, that the “vacancies” on the roadway from those former drivers would only be filled by the drivers who wanted to drive before the light rail was built, but could not because of the congestion. The DEIR thus assumes that the demand for space on the public streets will decrease, however it does not take into account the “latent demand” for Los Angeles area streets and freeways. What is the latent demand for space on the regional surface streets and freeway system, and how will this latent demand impact traffic congestion in the area if the project were to be built?

c. NFSR Concurrs with the Los Angeles Department of Transportation’s Letter, Dated March 3, 2009.

The Los Angeles Department of Transportation (LADOT) issued a letter dated March 3, 2009 addressed to Chief Executive Officer Richard D. Thorpe of the Exposition Construction Authority. (See attachment D.) The letter discusses several topics, including, but not limited to, traffic methodology, traffic volumes, vehicle queuing, the elimination of on-street parking and parking impacts, all of which must be addressed in the DEIR. The discussion in the letter is

consistent with our concerns regarding the impacts to north/south traffic flow, parking impacts for residents, and operational safety for vehicles, pedestrians, and light rail trains. We concur with the concerns they raised regarding major issue areas and their findings relating to individual crossings. All of the concerns raised in their March 3, 2009 letter must be addressed in the DEIR. Their concerns (discussed below) reflect significant traffic impacts that would be eliminated if Segment 1 of the Expo Transit Project Phase 2 LRT Alternatives 1 and 2 were designed below grade. Therefore, the DEIR should include an alternative and analysis with a below-grade design on the Expo ROW.

LADOT outlines specific concerns regarding the modeling methodology and assumptions used in the DEIR and that the traffic impacts discussed in the DEIR under-represent the associated safety risk of traffic queuing across the tracks. The methodology and assumptions used in the DEIR must be revised to use the Synchro simulation model, which examines the 95% traffic queue length based on the nationally recognized Highway Capacity Manual, to ensure that the risk of queuing on the tracks occurs no more than 5% of the time. Furthermore, LADOT states that a higher peaking factor be used consistent with MTA's Grade Crossing Policy to assess critical queue lengths and to ensure that the queue length is not exceeded more than 5% of the time. The DEIR traffic study must use HCM's Synchro modeling methodology and assumptions to comply with nationally recognized standards and must use peaking factors consistent with MTA's Grade Crossing Policy.

LADOT states that queue-cutter signals in general can cause negative impacts both upstream and downstream from nearby signalized intersections. LADOT also states that queue-cutter signals can adversely impact operations at nearby adjacent signals due to short signal spacing and that their analysis demonstrates that motor vehicle traffic would extend upstream of the tracks into adjacent signalized intersections, thus creating intersection gridlock in some cases. LADOT states that motor vehicle traffic extending sufficiently downstream of the tracks would need to override the synchronized timing for east-west traffic in other cases. Additionally, they indicate that queue-cutter signals would need to operate in red (due to long queues) frequently, even without trains approaching, thus disrupting traffic flow for the north/south vehicular traffic.

LADOT more specifically states in their letter that northbound traffic flow on Overland Avenue would be significantly impacted with long delays at the queue-cutter signal and the traffic progression along Overland Avenue would be greatly diminished due to the extensive activation of the proposed queue-cutter signal, with and without approaching trains, if light rail operated at grade on the Expo ROW. LADOT's simulations indicate that northbound traffic would still queue to Coventry Place and block the intersection. According to LADOT, these impacts would occur even with the addition of a new northbound lane and a new southbound lane. LADOT's modeling indicated that stopped traffic would exceed the storage between Ashby Avenue and the train tracks northbound during the AM and PM peak periods even with these two additional lanes (one in each direction).

The elimination of daytime parking on Overland Avenue and Westwood Boulevard is proposed to mitigate traffic impacts caused by an at-grade light rail system. The elimination of daytime parking access to residences that front Overland Avenue and Westwood Boulevard is a

significant impact. It eliminates the ability of residents to receive deliveries, visitors, and service calls during daytime hours because of the extensive walking distances that would be involved, and therefore creates an unmitigatable impact and a taking of property rights. LADOT raises a concern that the DEIR proposes Sepulveda Boulevard be widened to an 80-foot roadway (seven lane cross section) with an additional northbound and southbound lane between Richland Avenue and Tennessee Avenue without determining its feasibility.

LADOT raises the concern that there would still be significant peak period queuing for northbound (AM and PM peak periods) and southbound (PM peak period) traffic between the rail crossing and Pico Boulevard. LADOT also states that the southbound traffic approaching the track, during the PM peak period and the northbound traffic approaching Pico Boulevard during the AM peak period would adversely impact the operation of Pico Boulevard, since southbound queues would virtually extend to Pico Boulevard and northbound queues would disrupt the north-south signal timing. Additionally, the DEIR does not use correct traffic volumes for analysis because it does not take into consideration that Sepulveda Boulevard serves as an alternate route to the Interstate 405 Freeway when traffic incidents occur on the Freeway.

d. Overland Avenue Bridge Widening.

The Overland Avenue Bridge (Bridge No. 53-1616), located over the 10 Freeway between National Boulevard and National Place, is proposed to be widened adding a northbound lane to the existing lanes. The Overland Avenue Bridge is scheduled to be widened over a period of 18 months beginning in July 2009 with completion expected in December 2010. Although the construction is not anticipated to overlap with the proposed construction start time for the Expo ROW in the proposed Expo Transit Project Phase 2, which is proposed to be scheduled from 2011 to 2015, it is not uncommon for roadway, bridge, and freeway improvement projects to not complete construction within the anticipated construction timeline. Construction timelines are frequently delayed because of unanticipated job site conditions including complications arising from replacing or re-routing existing infrastructure (storm drains, sewer lines, water lines, etc.), weather conditions, and lack of availability of construction materials. Therefore, if the Expo Transit Project Phase 2 Light Rail Alternatives 1 or 2 should be implemented, mitigation measures should be added to prohibit work on Overland Avenue and Westwood Boulevard along the Expo ROW until the Overland Avenue Bridge Widening is completed. Furthermore, the DEIR did not study potential impacts of simultaneous construction of the Overland Avenue Bridge and the proposed Expo Transit Project Phase 2 along the Expo ROW (Segment 1 of LRT Alternative 1 and LRT Alternative 2) nor did it study the changes in traffic flow and air quality impacts both during construction and during operation of both projects. Concurrent construction would cause greater cumulative impacts to residential neighborhoods, Palms Park, Palms Park Recreation Center, Palms Park Library, Notre Dame Academy, and local businesses due to anticipated traffic lane restrictions, parking removal, additional queuing, and delay accessing the I-10 Freeway. Increased cut-through traffic in adjacent neighborhoods during a cumulative construction period should be anticipated and suitable mitigation devised. The Los Angeles Department of Transportation (DOT) has stated in public documents that the purpose of the Overland Avenue Bridge Widening project is to facilitate more cars traveling northbound on Overland Avenue that are coming from the south on

Overland, the I-10, and the I-405 and that the traffic demand is expected to increase. The Overland Avenue Bridge is only mentioned in the “No-Build” Alternative in the DEIR and does not appear to be studied. LRT Alternatives 1 and 2 must include a comprehensive study of all potential impacts of the construction and operation of the Overland Avenue Bridge Widening project in conjunction with LRT Alternatives 1 and 2 and any additional alternatives that may be added to the DEIR and studied that run along the Expo ROW alignment. The DEIR discussion and analysis should take into account that by widening the Overland Avenue Bridge by one lane in the northbound direction, Overland Avenue traffic flow will improve in the vicinity of the bridge, at least temporarily. Further, the DEIR must also discuss and analyze any additional traffic impacts that would occur over time as a result of the Overland Avenue Bridge Widening Project, and how these impacts relate to cumulative traffic impacts that affect the Expo Transit Project Phase 2 LRT Alternative 1 and Alternative 2 analysis. When traffic flow improves on an arterial corridor as a result of road widening projects, commuters migrate to using the widened road if parallel arterial corridors are highly congested. Therefore, since Westwood and Sepulveda Boulevards are highly congested and operate at an unacceptable level of service now (both operate at LOS F in the PM Peak Period), it can be anticipated that traffic volumes on Overland Avenue will increase over time as commuters increase their usage of Overland as a north/south arterial corridor. Higher per lane traffic counts may change the at-grade determination of the Metro Grade Crossing Policy on the crossing proposed for Overland at Northvale/Exposition resulting in a grade separation determination.

2. Safety

The DEIR must fully disclose and analyze all potential impacts to public safety, including the potentially disastrous impacts that could occur as a result of not grade-separating the project. When a train or light rail runs through an urban area, the potential for collisions with vehicles, bicyclists, and pedestrians are great. The DEIR must disclose these safety implications, and implement mitigation measures that will actually mitigate these risks to public safety. CEQA requires identification and mitigation of a project that would “substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections). A significant and catastrophic impact is likely to occur at every at-grade train crossing. Do train safety warning devices and crossing gates eliminate all safety hazards of at-grade rail? Underground crossings eliminate a greater number of safety hazards than any at-grade crossing, with every imaginable safety mitigation installed. Why, then is an underground alignment not studied in the DEIR? Why were underground crossing eliminated from being chosen as the environmentally superior alternatives they are?

a. Other State Policies and Regulations Recognize the Safety of Grade Separation.

Other regulations and policies in California recognize the safety implications of running a train at grade through an urban area, and advocate for grade separation. The DEIR does not disclose this. Public Resources Code Section 21080.13 states “This division shall not apply to any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation.” This statute was added to CEQA because of the fact

that railroad grade separation provides greater public safety and is environmentally superior. The California Public Utilities Commission (CPUC) has its own policy requiring grade-separation crossings. The “CPUC Railroad Safety Action Plan” addresses prevention by increased state safety oversight. The CPUC’s Railroad Safety Action Plan shows a graph of train accidents from 1997-2005, which increased from 105 to 228 accidents a year during that period. Furthermore, California Streets and Highways Code Section 190 requires California’s annual budget to include \$15 million specifically to fund projects to grade separate or alter existing public at-grade crossings. This program is commonly known as the Grade-Separation Fund Program, and was enacted to retroactively repair at-grade crossings because of the public safety issue. In fact, on February 20, 2009, the CPUC approved Commissioner Chong’s Revised Alternate Proposed Decision to require a pedestrian bridge at Farmdale by Dorsey High School on the Expo Phase 1 Transit Project route to specifically address this public safety issue at an at-grade crossing. This action by the CPUC is clear evidence that an at-grade alignment, especially around school sites, is extremely hazardous.

b. There is a Significant Safety Risk to School Age Children at Overland Elementary School that the DEIR Does Not Disclose or Address.

Overland Avenue Elementary School, which is located on the Expo ROW Alternatives 1 and 2, sits 75 feet from the street-level Expo crossing at Northvale Road and is subject to an equivalent public safety risk as Dorsey High School. Although the number of students at Overland Avenue Elementary School is one-third of the Dorsey High School population, the Overland students are as young as 4 years old. The use of an at-grade crossing in the immediate vicinity of Overland Avenue Elementary School poses a significant safety hazard, particularly to young school age children, that has not been adequately addressed in the DEIR. The Expo Transit Project Phase 2 DEIR should study two additional alternatives, as originally requested during the scoping process, that analyze both a below-grade and an aerial alternative along the Expo ROW.

The DEIR improperly concludes that right-of-way accidents would not be a significant impact for pedestrians, particularly school age children, because of the installation of crossing barriers and fencing. This contradicts other sections of the DEIR that state walls would only be installed if necessary for noise and aesthetic mitigation compliance. Since the installation of walls and/or fences is not being proposed under any circumstances along the entire length of the project, the use of crossing gates would not sufficiently protect the children who must cross the path of the proposed light rail line. The DEIR should fully disclose these risks to Overland Elementary School, and should propose adequate mitigation measures to mitigate the risks to school children in the form of a below-grade or aerial alternative along the Expo ROW. If the light rail is below or above grade, the risk that school children will inadvertently enter the tracks when the light rail is coming is adequately mitigated. (See section A, *supra*; section G, *infra*.)

c. Reduced Neighborhood Access for Vehicles and Emergency Service Providers Increases Public Health and Safety Risks and Increases Traffic Impacts on Selected Streets.

The DEIR Expo ROW design (both LRT 1 and LRT 2 Alternatives) includes restricted access on certain streets in the area. Limiting access affects traffic circulation, increases traffic on other streets and further slows the ability for emergency responders to access neighborhoods in a timely fashion to provide service for medical emergencies, fires, and crime. The proposed street modifications that would limit egress from residential neighborhoods also increase public safety risks for residents who need to evacuate the area in a natural disaster such as an earthquake or a manmade disaster such as a train wreck or an explosion. The south side of Exposition Boulevard between Military Avenue and Westwood Boulevard will be greatly restricted with an at-grade train crossing at Military and only right-turns allowed at Westwood. These restrictions will increase the response time for fire personnel coming from Fire Station 92 located on the south side of Pico between Manning and Prosser Avenues that serves the neighborhood. The DEIR concludes that there will be no impact on fire department response time when, in fact, the traffic impacts of Expo Phase 2 LRT Alternatives 1 or 2 on the traffic on Pico Boulevard, where the fire station is located, are not studied as that location on Pico Boulevard falls outside of the traffic study area. If traffic in the vicinity of Fire Station 92 is not studied then it is incorrect to conclude that there will be no delays to emergency response time from that station.

Additionally, changes and restrictions to the existing traffic patterns will increase cut-through traffic, especially on Brookhaven Avenue, and to some degree on Coventry Place, as these will be the only two east/west streets intersecting Westwood (between Exposition and National Boulevards) where residents can turn left and head north on Westwood in the West-of-Westwood neighborhood bounded by Westwood, Military, Expo ROW and the I-10 Freeway. A similar problem relating to limited street access and response times for emergency services will occur for the Westwood Gardens neighborhood bounded by Westwood, Overland, Expo ROW and the I-10 Freeway, where prohibited left turns from Exposition Boulevard (south of the Expo ROW) onto northbound Overland Avenue will redirect all northbound traffic exiting that neighborhood to Coventry Place. The redirection will create high volumes of cut-through traffic on the smaller side streets and likely queuing and delay at Coventry Place.

d. Crossing Geometry and Possibility of Derailment.

The DEIR should include evaluation and mitigation of derailment risk at the Overland Avenue and Northvale Road/Exposition Crossing. DEIR Drawing RW-006 shows the ROW as currently owned by MTA and proposes an expanded Expo ROW accomplished by the apparent acquisition of property, owned or recently owned, by the City of Los Angeles. Moving the Expo ROW and train movement several feet closer to Overland Avenue Elementary School removes an important buffer to train derailment hazards to the school population and property, as well as vehicles and other pedestrians on Northvale Road.

Further, the CPUC requires a minimum line-of-sight at any at-grade railroad crossing and the current diagonal crossing at Overland Avenue and Exposition/Northvale has an insufficient line of sight. Due to the houses and trees along the east side of Overland Avenue from Dunleer Place to the Expo ROW near Northvale Road, the northbound Overland Avenue drivers have no visual warning of a train approaching other than the mechanical gates and possible LED warning

lights. A catastrophic incident involving student pedestrians lined up waiting to cross the street is predictable, in the likelihood of a mechanical failure of the gates or lights, and a northbound driver's failure to perceive or obey the traffic or warning lights. The risk to vehicles and train passengers is increased as well. Given that Overland Avenue Elementary School classrooms and a kindergarten yard are less than 75 feet from the possible impact site, a sufficient crash wall that would protect the school site from the risk of train derailment should be devised and installed at a minimum, prior to the testing or revenue service of the train.

Although the DEIR does indicate a Sound Wall (DEIR Drawing CI-600) flanking the Expo ROW at the approach to the curve and crossing of Overland at Northvale/Exposition, the type and nature of the wall is not discussed. Though mitigation of propulsion noise and wheel squeal in the area of Overland Avenue Elementary School would be required for an at-grade or elevated Expo ROW alignment, adding yet another impediment to a safe line-of-sight at the Overland at-grade crossing would create significant risk to northbound drivers on Overland resulting in the increased possibility of a catastrophic incident, including a train derailment. Further, since no wall or other mitigation is possible at this location for the safety of students, their families, and other pedestrians, an underground crossing should be implemented. The cost of mitigation should be considered insignificant when it is weighed against the loss of human lives.

The DEIR does not show any property taking at that site that would sufficiently improve the line-of-sight. If such property takings were required a severe adverse environmental impact to the cohesion of the neighborhood would result. (See Guidelines, Appendix G, § IX, subd. (a) [would the project “physically divide an established community”].) The line of homes along Overland Avenue provides neighborhood cohesion and is an integral part of the existing intact Westwood Gardens community. Further, the row of homes and mature plantings provides a buffer blocking the noise and visual blight of the train's at-grade passage behind them. The removal of those homes would severely impact the east facing homes and properties directly across Overland Avenue by exposing them to increased noise and visual intrusion.

To ensure that there are no property takings that result in severe environmental impacts NFSR requests that an underground crossing be built at this intersection. An elevated crossing might eliminate some of these concerns but it is likely to create other adverse impacts for which no mitigation can be found.

e. Risk of Terrorist Attack.

As the largest metropolitan area on the West Coast, Los Angeles is a prime target for terrorist attacks. The DEIR must adequately assess the safety risk to members of the community that would result from a terrorist attack on an at-grade, or even aerial light rail running through communities and next to schools. A below-grade alignment would significantly mitigate the risk to these communities from a terrorist attack on the light rail.

3. Parking

a. Parking Impacts on Residential Neighborhoods and Adjacent Commercial Streets from Parking Areas Adjacent to the Westwood Boulevard Rail Station/Elimination of the Two Proposed Parking Lots at The Westwood Boulevard Rail Station.

Parking impacts would occur as a result of the implementation of the proposed parking area adjacent to the Westwood Boulevard Station that are not being mitigated completely, yet the DEIR concludes that the impacts will be less than significant after mitigation. For example, the Westwood Boulevard Station will have 170 parking spaces adjacent to the station on the north and south side of the rail tracks. The study identifies 286 spaces are needed based upon parking surveys conducted during the daytime on weekdays. Determining the need based upon parking survey information limited to daytime hours is insufficient to produce accurate and complete information. Commuters who would access light rail transportation at the Westwood Boulevard Station would park either in the station lot or in the surrounding neighborhood. It is reasonable to expect that they would not leave their vehicles only during the daytime hours, but predictably commuter parking would extend into the evening hours, overlapping with residents' parking needs when they return home from work. Therefore, the parking demand surveys and analysis should also include and be based upon evening hours to reflect the true demand and extent of the impact and thus determine whether the proposed mitigation measure would be sufficient. Additionally, the accuracy and reliability of the parking surveys are questionable when the surveys state that only one car was parked on the south side of Ashby between Westwood and Overland. Ashby Avenue is a heavily congested street that has very little parking available on either side of the street at any time during daytime, evenings and weekends. It is currently the case that opposing traffic on Ashby must often give way to oncoming cars as the narrow width of Ashby does not permit clearance for 2 cars passing when there are cars parked on both sides of the street, which is often the case. The proposed mitigation measure (MM TR-4) also limits the responsibility of Metro to that of paying for any studies and signage costs incurred by the local jurisdictions if permit parking is required. However, the mitigation measure EXPO proposes specifically excludes any cost incurred by the residents to pay for permit parking. Such permit parking would not be needed if the Westwood Boulevard station were not built there, or if sufficient parking was provided in the first place. Addressing a foreseeable impact and relegating the cost of mitigation to those impacted does not fulfill agency obligations under CEQA. (See section G, *infra*.)

Furthermore, the access to the southern side of the Expo ROW is provided from both Westwood and Overland with circulation impacts occurring through the neighborhood especially to the south. The Westwood Boulevard station is located in close proximity to the Sepulveda station, only ½ mile away. The Westwood Boulevard station should be limited to a pedestrian station only and it should not provide parking. Westwood Boulevard is served by several bus lines that have bus stops on the east and west sides of the street at Ashby as well as other bus stops at Pico and Westwood less than ½ mile away. The Sepulveda station should be designed to provide adequate parking for vehicular needs in the neighborhood. Eliminating the two proposed parking lots at the Westwood Boulevard Station would eliminate the impacts described above as

well as minimize the light and glare impacts (see section E(9), *infra*) and flood hazard impacts (see section E(6), *infra*).

b. Parking Lots And Station Placement Unfairly Burden West Los Angeles Residential Communities.

Given the excessive cost of property within the study area Expo concluded that the parking "plan" would be limited to placing parking only on "public rights-of-way or on property that would be acquired for project-related features such as stations or guideways" (DEIR, page 2-63). The result is that parking is simply squeezed in wherever there is space without apparent regard to ridership, convenience or neighborhood impacts. Most of the proposed station parking is concentrated in the West Los Angeles portion of the Expo ROW, instead of developing a parking plan for the EXPO Transit Project Phase 2 that would distribute passenger loads to meet passenger demand and to encourage a more balanced traffic flow to and from each station. The number of parking spaces proposed for the City of Santa Monica (DEIR, Table 3.2-30) is 320 spaces maximum. This is woefully inadequate to serve the ridership demand in Santa Monica, and will likely result in increased demand for parking at stations in West Los Angeles. The placement of 250 parking spaces at the Expo/Bundy Station, 260 spaces at the Expo/Sepulveda Station, and 170 spaces at the Expo/Westwood Station will almost guarantee that passengers from the eastern part of Santa Monica will drive to and park at those locations, imposing a disproportionate burden of traffic, noise, and air quality impacts on the neighboring single-family residential communities in West Los Angeles. The security lighting, station activity and constant traffic circulation 22 hours a day will create noise, congestion, and loss of privacy. The assumptions in the DEIR regarding the Phase 2 alignment appear to be that most, if not all passengers want to go to Santa Monica, and that only 320 people in Santa Monica will drive to a station to take the train. Expo needs to re-evaluate the over saturation of stations and parking lots within West Los Angeles. At a minimum, passengers embarking from Santa Monica should be able to do so from within their own borders. Therefore parking lots need to be considered for the 17th Street Stations on Segment 3 or 3a, the Olympic and 26th Street Station, or an additional station with parking should be planned for eastern Santa Monica. Expo has not studied the adverse cumulative impacts of concentrating so many stations and parking in such a confined and congested area. Expo indicates that the community near the Westwood Station will experience, among other impacts, an increase in buses routed down Westwood to access the LRT station planned there. The removal of the station and 170 car parking lot at that location should be considered as mitigation for the cumulative impacts discussed elsewhere in this letter.

c. Parking and Circulation Impacts Around Overland Avenue Elementary School.

Traffic circulation around Overland Avenue Elementary School and access to the student drop-off zone would be significantly impacted by the implementation of the EXPO Transit Project LRT Alternatives 1 or 2. The elimination of left turns from Northvale Road onto Overland Avenue southbound would create severe vehicle queuing on Northvale both in the morning and afternoon drop-off times at Overland Avenue Elementary School. There is not enough distance between Northvale and Ashby Avenue on Overland to accommodate vehicle

queuing for right turns amid the rush of northbound cars which would be crossing the Expo ROW at regular intervals subsequent to train gates lifting. The DEIR incorrectly identifies the student drop-off zone location as Ashby Avenue. The student drop-off zone is located on the westbound side of Putney Road. Putney Road is a short block that dead ends at Northvale, causing cars that are leaving the drop-off zone to exit onto Northvale in either a northbound or southbound direction. Vehicle queuing on Northvale at Overland is likely to back up the entire length of this short block to Putney Road, blocking right turns from Putney Road onto Northvale and thus creating extended vehicle queuing and blockage in the drop-off zone itself. The large number of pedestrians in the area before and after school compounds the possibility of a catastrophic incident.

Additionally, the removal of the teachers' parking lot on Northvale Road, which currently accommodates about 20 cars on land co-owned by MTA and the City of Los Angeles will create an adverse impact on street parking in the area and sufficient parking alternatives have not been positively identified in the DEIR.

The service area for LAUSD school deliveries is on Ashby Avenue. Parking for those deliveries will be impacted by the elimination of the teachers' parking lot which will create a higher demand for existing street parking. Additionally, there are parking restrictions on Overland Avenue between Cushdon and Ashby that will add to the parking impacts around the school when combined with the loss of the teachers' parking lot. The bus waiting/loading areas in front of Overland Avenue Elementary School currently service LAUSD buses from the Los Angeles Center for Enriched Studies (L.A.C.E.S), Overland Star Program buses and Overland Camp buses, and city buses from Santa Monica, Culver City and Los Angeles. The surrounding residential neighborhood will be impacted by drivers circling around the school looking for parking spots. Private school buses also pick up students on Ashby Avenue across the street from Overland Avenue Elementary School. The DEIR has failed to account for and study the service access for Overland Avenue Elementary School deliveries and bus circulation and use of Ashby Avenue. Contracting agencies/owners of the various bus services need to be contacted to obtain information regarding bus schedules, waiting/loading periods, and the numbers of pedestrian passengers so that impacts can be determined and mitigated. Counts of vehicles dropping off passengers also need to be taken to be used in determining impacts.

4. Noise Impacts.

a. Overland Avenue Elementary School/Marshall P. Riddick Youth Center/Daycare Facilities.

The DEIR does not discuss or analyze the two licensed daycare facilities at 2701 Overland Avenue (less than 50 feet from the Expo ROW on the northwest corner of Overland Avenue and Richland Avenue) and at 10737 Richland Avenue (adjoining the Expo ROW). Children are sensitive receptors susceptible to noise impacts. Daycare facilities within a half-mile of the Expo ROW must be studied for noise impacts. The noise of the crossing bells and wheel squeal will be disruptive to learning activities at Overland Avenue Elementary School, the Marshall P. Riddick Youth Center and the two daycare facilities, if the EXPO Transit Project Phase 2 is built at grade along the Expo ROW. The DEIR should study a below-grade

alternative as it would eliminate the impact of the crossing bells to these four facilities.

b. Other Noise Impacts.

The DEIR fails to adequately disclose the direct and indirect impacts to residential neighborhoods, such as Cheviot Hills and Rancho Park. These impacts, and the inadequate mitigation measures proposed to lessen their effects, are discussed in section G below.

5. Aesthetics

a. Scenic Vista along Westwood Boulevard Between Pico and National Boulevards Not Identified, Analyzed, or Mitigated in the DEIR.

The aesthetics section of the DEIR does not address the scenic vista of Westwood Boulevard and the Liquidambar trees that line the boulevard. The Westwood Boulevard scenic vista needs to be studied in the DEIR and the Liquidambar trees should be retained. Preserving the Liquidambar trees could occur if the LRT1 and LRT2 Alternatives use a below-grade design (or possibly an aerial design) and Westwood Boulevard is not widened. The proposed mitigation which addresses removing the existing mature Liquidambar trees is inadequate. In the case that some trees must be removed, a mitigation measure should be added to require that a qualified arborist evaluate such trees to determine if they can be relocated. Failing that, a mitigation measure should require replacement of any removed trees with the largest mature trees feasible, preferably 54" to 72" box size.

b. Maintenance Facilities.

The maintenance facility appears properly located in a light industrial area that would not conflict with visual aesthetics for the residential community on the south of the facility if attention were given to the architectural details of the office building indicated in the project description (DEIR MF-100). The residences are currently adjacent to a large parking lot so additional parking should create minimal impact and disruption. However, given the planned 24-hour operation, the main entrance to the parking area should be moved to Stewart Street to minimize traffic noise for neighbors to the south of the proposed facility. Shared access by easement through the Santa Monica College parking lot should be considered. Given the need to minimize noise impacts to the residential community, efforts should be made to limit all diesel and gas engine traffic at the site in evening hours. Electric vehicles and necessary charging stations should be incorporated into the design and operations for intra-property travel and delivery, especially at night, to minimize noise and CO2 emissions on the property that might disturb residents nearby. The vehicle service entrance must be limited to operation between 8:00 a.m. and 6:00 p.m. unless the entrance can be moved to a location not immediately adjacent to the residences.

Architecture of the facility should avoid an industrial boxlike design which would be incompatible with the residential community adjacent. Landscaping and design of any walls facing the residences should be designed to mitigate any external visual representation of the

industrial nature of operations within. Creating a park like or garden setting for the property facing the south would enhance the bike path, the neighborhood and the working environment for employees. A solid flat block wall built around the perimeter that is industrial in nature should be avoided in favor of a wall that has articulation and setbacks. Existing mature trees should be preserved where possible and integrated into the landscaping.

Necessary maintenance operations like horn testing and brake testing that might require the discharge of persistent or loud noises should be confined to the hours of 8:00 a.m. to 6:00 p.m. so as not to create a nuisance to residents. Night time lighting for security of operations or parking lots should be directed downward or shaded in such a way as not to intrude on the adjacent homes. Communications within the property must be accomplished without the use of loudspeakers or other intrusive communication devices. There should be no bells, horns, sirens or other amplified means used to indicate shift changes or other facility operations. To minimize intrusive noise from the Traction Power Substation (TPSS) it should be located farthest from the residents as possible and, if necessary to mitigate noise or vibration, placed within an external sound proofed enclosure.

Further, the proposed maintenance facility appears properly located in a light industrial area. Neighbors For Smart Rail has concerns regarding the possibility of reconsidering the location of the maintenance facility because of concerns raised in recent public hearings in Santa Monica. Should the Exposition Metro Line Construction Authority reconsider the location of the maintenance facility elsewhere along the Expo ROW, a different location for the maintenance facility may pose new potentially significant impacts. This would change the Phase II project description and require additional analysis in the DEIR, thus requiring a new public notice and additional public hearings, and recirculation of the DEIR pursuant to the requirements of CEQA.

c. Expo/Westwood Station Architectural Design.

NFSR is concerned with the station design as envisioned by the DEIR, Section 4.2.2. The ROW from the National/Palms station to Sepulveda Boulevard passes through mostly single-family neighborhoods. These well established neighborhoods with mature landscaping contain homes built from the 1920's to the present. The predominant range of architectural styles include: Spanish, Mediterranean, Tudor, Cape Cod, Ranch, and traditional. There is a small number of post modern homes throughout the area. The DEIR descriptions of cast concrete and steel structures and the renderings of Phase 1 station canopies and station design seem very industrial and starkly incompatible with the surrounding residential area. The proposed Westwood station location and design would be particularly intrusive visually if great care were not taken to integrate the design into the uniquely residential setting of the ROW. Elimination of the station, or the use of an underground station would reduce or eliminate the visual intrusion of an incompatible architectural design. An elevated alignment and station design would create unmitigable aesthetic impacts and neighborhood division.

6. Water Quality/Hydrology and Flood Control.

The DEIR and the Hydrology/Water Quality Technical Background Report conclude that

“Implementation of LRT Alternatives 1 and 2 could substantially alter the existing drainage pattern of the site or area in a manner that would cause substantial localized flooding, or increase runoff that would contribute to exceedance of the capacity of stormwater drainage systems” and that “Implementation of LRT Alternatives 1 and 2 may place structures within a 100-year flood hazard area that could impede or redirect flood flows, or otherwise expose people and/or property to water-related hazards, such as flooding.” The DEIR is very general in its discussion and analysis of the mitigation and technical requirements needed to address the significant impacts of the 100-year storm event and on-site flooding at the proposed Expo/Westwood Boulevard station. Furthermore, the DEIR provides an inadequate discussion and analysis of what type of stormwater detention system would be needed (e.g., a series of small concrete swales or a large concrete basin) and what measures, if any, could be implemented to avoid the need for a stormwater detention system entirely. The DEIR must provide an expanded study and analysis of hydrology/water quality, and flood control issues.

The DEIR and the Hydrology/Water Quality Technical Background Report include a proposed mitigation measure, MM WQ-1, that states “The Expo Authority shall grade the Expo/Westwood station and associated station parking facility and provide a stormwater drainage system with detention facilities and/or pervious pavement adequate to convey runoff from the Expo/Westwood station during a 100-year storm event to prevent on-site flooding. The Expo Authority shall also implement stormwater detention facilities and/or pervious pavement for parking lots to reduce the off-site peak runoff from the Expo/Westwood Boulevard station and associated parking lots to existing condition levels. All detention facilities shall be designed to drain within 48 hours to minimize vector control and human safety concerns....” If the Expo/Westwood Boulevard station is limited to a pedestrian only station with an at-grade platform and no surface parking lots, and Segment 1 of EXPO Phase 2 Transit Project LRT Alternative 1 or 2 is built below grade, flood hazard impacts would be further reduced and vector control impacts would be eliminated since a stormwater detention facility would no longer be needed. Therefore, the Expo/Westwood Boulevard station should be limited to a pedestrian only station with an at-grade platform and no surface parking lots, and Segment 1 of EXPO Phase 2 Transit Project LRT alternatives 1 and 2 should be built below grade.

The DEIR and the Hydrology/Water Quality Background Technical Report state that “Removing the proposed project alignment from the FEMA-defined 100-year flood hazard area or mitigating potential flooding, would ensure that the LRT system is not exposed to service disruption during a flood event and that people and structures are not exposed to flood risks.” The DEIR and the Hydrology/Water Quality Background Technical Report contend that either action would reduce the impacts to “no adverse impact.” The DEIR and the Hydrology/Water Quality Background Technical Report include a mitigation measure, MM WQ-2, with alternate language in MM WQ-2(a) and MM WQ-2(b) to provide for each of the two respective options to reduce the impacts to “no adverse impact.” MM WQ-2(a) states “The Expo Authority shall conduct a detailed topographic survey of the Segment 1 (Expo ROW) within the Federal Emergency Management Agency (FEMA)-defined 100-year flood hazard area, including Westwood Boulevard, and extending at least 50 feet beyond the proposed project ROW. The Expo Authority shall consult with the Los Angeles County Department of Public Works and/or FEMA to determine the current flood elevations within this area. The Expo Authority shall

submit an application to FEMA for a LOMA, removing the proposed project alignment from the FEMA 100-year flood hazard area.” While MM WQ-2(a) provides an option to removed the proposed project alignment from the FEMA 100-year flood hazard area by obtaining approval of an application for a Conditional Letter of Map Revision from FEMA, MM WQ-2(a) or the alternate option MM-WQ-2(b) does not discuss measures that could be taken to reduce flood hazard impacts. If the Westwood Boulevard Station is limited to a pedestrian only station with an at-grade platform and no surface parking lots, and Segment 1 of EXPO Transit Project Phase 2 LRT Alternatives 1 and 2 is built below grade, flood hazard impacts would be further reduced. Therefore, the Westwood Boulevard Station should be limited to a pedestrian only station with an at-grade platform and no surface parking lots, and Segment 1 of EXPO Transit Project Phase 2 LRT Alternatives 1 and 2 should be built below grade.

MM WQ-2(b) states “The Expo Authority shall design drainage and flood protection improvements to remove the portion of the LRT Alternative from the Federal Emergency Management Agency (FEMA)-defined 100-year flood hazard area, including Westwood Boulevard, and extending at least 50 feet beyond the proposed project ROW..... Implementation of Segment 1 (Expo ROW) would use fill material, or place other structures (such as station platforms) in the floodplain, that could impede flood flows or reduce flood storage capacity. Therefore, MM WQ-2(b) shall not include use of fill material within an existing floodplain unless sufficient additional detention and flood storage is also provided.....” Once again, if the Westwood Boulevard Station is limited to a pedestrian only station with an at-grade platform and no surface parking lots, and Segment 1 of EXPO Transit Project Phase 2 LRT Alternatives 1 and 2 is built below grade, flood hazard impacts would be further reduced. Therefore, the Westwood Boulevard Station should be limited to a pedestrian only station with an at-grade platform and no surface parking lots, and Segment 1 of EXPO Transit Project Phase 2 LRT Alternatives 1 and 2 should be built below grade.

Finally, the DEIR discusses design options evaluated during project development relating to Segment 1 of the Expo ROW on Pages 2-55 and 2-56. The DEIR discusses the existing Overland storm drain and states that the requirement to day-light the 2,942 cfs flow from the existing storm drain structure to the surface would involve a distance of approximately 15 feet and would require an enormous and costly pump station. It further states that a large swale would be required to clean the water from the storm drain and would require either raising the existing street elevations to provide culverts for the water to flow below the streets, or constructing three new vehicular bridges. Public Resources Code Section 15126.6(b) discusses the purpose of developing alternatives to the proposed project. It states that "Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly." Therefore, a below-grade design for Segment 1 of the EXPO Transit Project Phase 2 LRT Alternatives 1 and 2 should be analyzed in the DEIR and cannot be eliminated simply on the basis of cost.

7. Air Quality Impacts to Sensitive Receptors: Overland Avenue Elementary School/Marshall P. Riddick Youth Center/Daycare Facilities/ Palms Park.

Some land uses and population groups are considered more sensitive to changes in air quality than others. The California Air Resources Board (CARB) has identified the following people who are most likely to be affected by air pollution: children under the age of 14, the elderly over the age of 65, athletes, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive population groups that may include individuals with a low tolerance for air quality pollutants such that negative health impacts could occur. Locations that may contain a high concentration of these sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, elementary schools, and outdoor park and recreation facilities. These locations are called sensitive receptors. There are several sensitive receptors along the Expo ROW Segment 1 of LRT Alternatives 1 and 2 within the 0.5 mile radius used in the DEIR. They include: Overland Avenue Elementary School (10650 Ashby Avenue), the Marshall P. Riddick Youth Center (2634 Overland Avenue), two licensed daycare facilities (2701 Overland Avenue, 10737 Richland Avenue), Notre Dame Academy Elementary School (2911 Overland Avenue), Notre Dame Academy High School (2851 Overland Avenue), Palms Park, Palms Park Preschool, Palms Park After School Daycare, and the Palms Recreation Center. The Marshall P. Riddick Youth Center, the two licensed daycare facilities, and Palms Park were not identified or studied in the DEIR. The air quality impacts to these sensitive receptors and community resources needs to be analyzed in the DEIR.

Additionally, the premise discussed on page 33 of the Air Quality Technical Background Report regarding Impact AQ-5 is false. Impact AQ-5 states that “Implementation of the proposed project would not result in increased traffic congestion; therefore traffic volumes would not result in an increase in localized CO concentrations at nearby intersections (that could affect sensitive receptors) to levels that exceed national or state standards” and claims that there would be no adverse affect since there would be no increase in traffic congestion. The project would not decrease traffic congestion for several reasons, including but not limited to: traffic delays caused by vehicle queuing while waiting for light rail trains to cross streets at grade and increased development that may occur because of the operation of the light rail. Traffic delays caused by queuing of vehicles may create CO hotspots that would exceed Southern California Air Quality Management District (SCAQMD) thresholds. The DEIR only identifies significant air quality impacts during construction activities and not during operation of the light rail. The basis for these conclusions appears flawed and numerous sensitive receptors will be affected. The DEIR needs to re-evaluate the traffic information that is the basis for this conclusion and make corrections to the DEIR.

8. Economic and Social Effects: Division of an Existing Community.

Guidelines section 15131, subdivision (b) states that “[e]conomic or social effects of a project may be used to determine the significance of physical changes caused by the project. For example, if the construction of a new freeway or rail line divides an existing community, the construction would be the physical change, but the social effect on the community would be the basis for determining that the effect would be significant.” The construction of either LRT

alternative 1 or LRT alternative 2 would divide an existing community. There will be significant economic and social effects for both the residential community and the business community. These significant effects will result from the traffic delays for vehicles proceeding across the Expo ROW during AM and PM peak hour periods caused by the frequency of trains (effectively every 2 ½ minutes) and the duration of time (42 to 82 seconds) that it takes light rail trains to cross Overland Avenue, Westwood Boulevard, Military Avenue, and Sepulveda Boulevard at grade. Additionally, the sound walls that would be needed for LRT alternatives 1 and 2 also add physical barriers in the middle of the community. These sound walls would not be needed with a below-grade design. Major employment centers north of the Expo ROW, including UCLA and the business districts in Westwood, Century City and Rancho Park will be impacted. Residents south of the Expo ROW will find it difficult and discouraging to access and use businesses north of the Expo ROW, including, but not limited to, the business districts in Rancho Park, Westwood, and Century City, the Westside Pavilion mall, and neighborhood-serving shops and restaurants along Pico and Westwood Boulevards. Access to UCLA will also be difficult for residents who are located south of the Expo ROW, which may cause economic and social impacts by discouraging residents from enjoying academic, cultural and sports activities at the university. Conversely, residents north of the Expo ROW will find it difficult to access and use businesses south of the Expo ROW, including, but not limited to neighborhood-serving shops, restaurants, and markets along National and Sepulveda Boulevards. The substantial time delays in crossing the Expo ROW tracks will also have a significant social effect on residents visiting their neighbors on the opposite side of the tracks within the Rancho Park, Westside Gardens, and Cheviot Hills communities. These impacts are not addressed in the DEIR. The DEIR must analyze these impacts. The DEIR should analyze a below-grade design for the project along the LRT Alternative 1 and LRT Alternative 2 alignments since the economic and social impacts identified above could be eliminated.

9. Light and Glare Impacts from Rail Stations (Westwood Boulevard Station).

Light and glare impacts will occur for residents along the south side of Ashby and for residents whose properties adjoin the south side of the Expo ROW between Westwood and Overland. This will result from the security and parking lot lighting at the proposed station. These impacts would be eliminated if a station was not proposed at this location. Exterior lighting must be designed to minimize offsite glare in the surrounding residential neighborhoods. A mitigation measure must be provided that requires parking lot and station security lighting to be designed with shields that direct light downward. Additionally, vehicles entering and exiting the proposed Westwood Boulevard Station parking lot would create a new light source that will intrude on adjacent homes along the Expo ROW in the vicinity of the station. This would be a significant impact that could be eliminated by not providing a parking lot.

10. Impacts to the Sara Berman Greenway.

The Sara Berman Greenway is located along the perimeter of the Expo ROW between Westwood Boulevard and Military Avenue. The DEIR identifies and analyzes impacts to the Sara Berman Greenway only during construction. The DEIR does establish mitigation (Mitigation Measure MM CON-9) which states “To the extent possible, the Expo Authority shall

protect the Sara Berman Greenway during construction of Segment 1 (Expo ROW) (LRT Alternatives 1 and 2), including the placement of a construction barrier around the perimeter of the Greenway, and notifying contractors of restrictions. Substantial damage to the Greenway caused by construction activities shall be repaired as appropriate during or after the course of construction, which could include the provision of replacement landscaping.” This mitigation measure should be modified to include specific language that replacement landscaping must include the use of the largest commercial-sized box trees available, but no smaller than 48-inch box trees, if trees are irreparably damaged or destroyed. Further, the mitigation measure should include language that species would be replaced with the same species, or a similar species that is compatible with the plant palette, if the same species is not available, to the satisfaction of the West-of-Westwood HOA Executive Board and the affected residents along the Expo ROW. The replacement landscaping should also include the shrubs and other plant material, such as the Agave plant groupings. Substantial damage such as chipping, cracking and other defacement could also occur to the large boulders and rock outcroppings that are part of the Sara Berman landscaping improvements. Mitigation Measure MM CON-9 should more specifically address what protections will be provided to all plant material and the large boulder/rock outcroppings. The mitigation should include continuous fencing between the Expo ROW and the Sara Berman Greenway, on both the north and south roadways of Exposition Boulevard. Additionally, such fencing should not be installed along the exact perimeter of the Sara Berman Greenway, but should be inset (three feet or more) on the Expo ROW to provide full access for periodic maintenance (weeding, removal of trash and debris, etc.) to be performed on the Sara Berman Greenway. The potential aesthetic impacts to the Sara Berman Greenway should be discussed and analyzed in the Aesthetics Section of the DEIR. The Sara Berman Greenway is located within “Visual Character Area C” described in the DEIR. No discussion or analysis is provided in the DEIR to discuss the aesthetic impacts of installing the light rail at grade nor any impacts that would result from any proposed mitigation of the at-grade light rail. The DEIR must discuss and analyze these potentially significant aesthetic impacts to the Sara Berman Greenway.

11. Loss of Privacy.

Residents along the Expo ROW will lose much of their existing privacy if Segment 1 of the EXPO Transit Project Phase 2 is constructed with an at-grade alignment where train passengers and employees have unblocked views of the homes and yards of residents along the Expo ROW. This would result in a "taking" of the assumption of a certain level of privacy that homes along the Expo ROW currently have. The DEIR provides no mitigation for the loss of privacy for homes along the Expo ROW that would result from the construction of an at-grade train alignment. Additionally, it does not provide mitigation for the loss of privacy that would occur for residents near the proposed station at Westwood Boulevard. As proposed, the station would sit on a raised platform that could intrude on the privacy of back yards of homes even when fenced. Track design and alignment as well as the design of stations and parking must maintain the privacy of homes and their yards adjacent to the Expo ROW. An underground alignment, that does not include stations and parking in residential areas would mitigate most privacy issues. An elevated alignment would create additional privacy issues and thus could not be considered mitigation. The elimination of the station and parking at Westwood and Exposition would mitigate some privacy issues between Overland Avenue and Westwood

Boulevard.

12. Radio Towers.

Expo identifies the placement of up to two radio towers (DEIR, page 2035) to support communications, one located just west of Motor Avenue on the shoulder of the I-10 Freeway (DEIR, Drawing No. T-007) on the Caltrans ROW and one west of the Expo/Sepulveda Station located within the Exposition ROW (DEIR, Drawing T-005). The aesthetic impact of having a 70-foot radio tower adjacent to a single or multi-family residential community and the visibility of the tower have not been adequately addressed in the DEIR. A DEIR map page is provided for the tower west of Motor Avenue but no tower is indicated on the page. Please clarify whether either or both of the proposed tower locations serve the needs of the project if Alternative 3 or 4, the Venice/Sepulveda route, is chosen. Will the proposed location of the towers be adjacent to any schools or LADOT identified Safe Routes to School? Do radio towers emit a significant amount of microwave or EMF transmissions that they may pose a health hazard at any identifiable distance? Has the amount of EMF, Radio Frequency, or microwave transmissions from the towers been measured in conjunction with the EMF transmission already in the environment and/or the EMF transmission of the catenary system of the proposed project in the two areas? What is the "footprint" of the towers at their base? Is the base of either of the proposed towers enclosed in security housing to prevent the tower from becoming an attractive nuisance? Will the design of any housing of the structure be integrated into the natural or built environment so that it mitigates any visual intrusion? The towers are specified as up to 70 feet high. Will either of the towers interfere with or pose a hazard for aircraft in any flight vector approaching or taking off from Santa Monica Airport? Will either of the radio towers interfere with the radio signal or communications between pilots and the communications tower at Santa Monica Airport? Will either of the radio towers interfere with wireless computer networks, cell phone usage, Bluetooth connections, GPS systems, or portable telephone usage? Please revise the DEIR to address the above issues raised in this comment.

13. Compliance with Applicable Regulations/Plans.

a. FTA Regulations and Economic Analysis.

The Exposition Construction Authority has stated that it will comply with FTA regulations regardless of the fact that they have withdrawn from seeking Federal environmental clearance (subject to NEPA Requirements) on the Expo Transit Project Phase 2. If that is indeed the case, as it is recognized that the proposed Expo Transit Project Phase 2 may have economic impacts, those impacts should be included in the DEIR to be compliant with NEPA regulations, and thus with FTA environmental standards. The Expo Transit Project Phase 2 may cause substantial displacement of businesses and individuals, disrupt business activities, and influence regional construction costs. Because of the size and scope of the Expo Transit Project Phase 2, the Exposition Construction Authority, as the lead agency, should include a detailed economic impact analysis for impacts to home values which might result in taxation changes, possibility of displacement of homes and businesses, costs of disruption to businesses during both construction and operation, and any influence on regional construction costs.

b. Consistency with the West Los Angeles Community Plan.

The DEIR does not list any incompatibility with the West Los Angeles Community Plan (WLA Community Plan). The WLA Community Plan, Objective 10.2-1, *Policies*, currently envisions and describes use of the Exposition ROW as a busway with stations 1-2 miles apart. The DEIR describes a quite different project for the ROW. A light rail train with stations as close as ½ mile and parking lots for 170-260 cars is incompatible with the land uses identified in the WLA Community Plan. Expo is fueled by electricity generated by the burning of fossil fuels. Does that conform to the WLA Community Plan that requires the use of non-polluting or low emission fuels on transit vehicles? Objective 12-2 supports the protection of and improvement of pedestrian oriented street segments. How will the train warning devices and train horns every 2½ -5 minutes, at the at-grade crossing on Overland, Westwood, Military and Sepulveda, enhance the pedestrian experience? How will it impact their safety?

The WLA Community Plan Urban Design Principles call for undergrounding utilities wherever possible, and screening mechanical and electrical equipment from view. Does the introduction of Overhead Contact Systems (catenary) and TPSS facilities along the ROW in residentially zoned neighborhoods, as described in the DEIR, comply with the WLA Community Plan?

Will the parking facilities envisioned by Expo be constructed in compliance with design elements specified by the WLA Community Plan for setbacks, landscape buffers, ingress and egress locations?

14. Land Use Impacts.

a. Inadequate Discussion of Additional Potentially Significant Land Use Impacts Caused By Aesthetic and Noise Mitigation Measures.

CEQA requires that the environmental effects of the proposed mitigation measures be disclosed and analyzed. (See Guidelines, § 15126.4, subd. (a)(1)(D).) The use of sound walls and landscaping required by proposed aesthetic and noise mitigation measures identified above, will conflict with the CEQA Guidelines sections which relate to physically dividing a community. (See Guidelines, § 15131, subd. (b); Guidelines, appen. G, § IX, subd. (a).) The proposed project as mitigated in LRT 1 and LRT 2 will physically and visually divide the existing intact community. The DEIR only identifies a land use/planning impact as a construction impact and not as an operational impact. The DEIR states that “Implementation of the proposed project would result in the physical division of a community through temporary access restrictions.” and proposes a mitigation measure, MM CON-6, which would institute a traffic control plan and specifies not scheduling access restrictions to the total hours of operation of a business on any given day of operation. The DEIR should be revised to correctly conclude that LRT 1 and LRT 2, as mitigated with sound walls and traffic circulation restrictions, will physically divide the existing residential community and create a significant impact that is avoidable. This impact could be avoided if the project did not include at-grade crossings and

used a below-grade design (see section A, *supra*). The DEIR should study a below-grade alternative, which would not physically divide the existing residential community.

b. Maximization of Uses In An Urbanized Area.

Implementation of a below-grade light rail design would maintain much needed open space that could be used for a bicycle path, both as an additional alternative transportation mode and as a recreational amenity. Furthermore, more usable land would be retained that could be used for passive and active open space uses (e.g., a jogging trail, etc.).

15. Construction Impacts.

The DEIR indicates that the construction is anticipated to occur over a period of four years. Clarification should be provided as to the methodology used to determine the construction duration and if typical transportation construction delays are built into the estimated time. The construction impacts are significant when they extend over such a long period of time. The construction impact analysis is vague in several areas and does not provide a clear detailed discussion of the staging of trucks and equipment. There is no discussion of, or mitigation provided, relating to the length of time that vehicles can idle and that noise blankets should be required to muffle equipment noise. The DEIR is unclear if trucks are expected to drive on the right-of-way primarily and only enter onto streets where the right-of-way stops or where intersections occur. Further, there is no discussion of, or mitigation provided, that addresses trucks and equipment tracking mud and debris onto city streets. Wheel and street cleaning must occur on a daily basis with provisions for prompt clean up of any spills of earth or materials. Mitigation must be provided addressing all of these areas. The time during which construction can occur is also vague, only referencing daytime hours. The mitigation measures should address and limit the construction activities to construction hours from 8:00 a.m. to 6:00 p.m., Monday through Friday due to the anticipated long duration of the construction period (4 years). The mitigation measures only address the requirement that Metro coordinate Traffic Control Plans with the Cities of Los Angeles, Santa Monica and Culver City. In Segment 1 of LRT 1 and LRT 2, Metro should be required to coordinate traffic control plans with a designated representative of each affected Homeowners Association, the Westside Neighborhood Council, and the Westside Chamber of Commerce to address residential neighborhood and business concerns and impacts to the extent feasible. Mitigation Measure MM CON-4 should be revised to minimize the impacts of haul routes to residential neighborhoods and business areas during AM and PM peak periods, as well as minimizing conflicts during school arrival and dismissal times. A similar requirement should be provided for all segments of all alternatives.

16. Community Facilities: Palms Park Recreation Center, Daycare and Library/Safe Routes to School.

Although the Palms Park Recreation complex and Library are identified on the Publicly Owned Parks and Recreation Resources map (DEIR Figure 3.14) and the Community Facilities Map (DEIR, Figure 3.14-2), no impacts appear to have been studied or identified. The recreation center provides indoor and outdoor sports and recreation facilities, an outdoor playground, and a

picnic area. The recreation center provides a variety of social activities and classes for adults as well in the community room and auditorium. Children attend the Palms Park Daycare Program and the Palms Park After School Program.

The Palms Park recreation and daycare complex and Palms Library are heavily used with limited on-site parking availability. Many community meetings and special events are held in the library community rooms. Additionally, frequent sporting events, cultural events, and school and camp programs bring groups to the site as well. On-site parking is filled to capacity throughout the day and into the evening 7 days a week. There is limited street parking available in front of the park facilities. No other parking is available because the park is adjacent to the I-10 freeway and the back of the park fronts on the Expo ROW. The DEIR proposes to remove the parking on the east side of Overland Avenue from Northvale Road to Coventry Place, which would adversely impact access and use of the Palms Park Library and other facilities. The impact caused by the removal of parking needs to be studied and replacement parking needs to be identified.

The Safe Routes to Schools Program is a Federal-Aid program of the U.S. Department of Transportation's Federal Highway Administration (FHWA). The Program was created by Section 1404 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users Act (SAFETEA-LU). The SRTS Program is funded at \$612 million over five Federal fiscal years (FY 2005-2009) and is to be administered by State Departments of Transportation (DOTs). LADOT has identified and implemented several Safe Routes to School in the West Los Angeles area. The DEIR has failed to propose mitigation for impacts to the Safe Routes beyond student education and pedestrian crossing gates. Students walk from the Overland Avenue Elementary School to the Palms Park Recreation Center, Library and daycare facility daily. The street level (at-grade) train crossing planned for Overland Avenue at Northvale Road/Exposition will create substantial risk to the students walking each day. The students' route follows a LADOT identified Safe Route to School (DEIR, Table 3.2-39). The introduction of 3-coupled, 250-ton double train cars passing every 2 ½ to 5 minutes and blocking traffic from 42 to 82 seconds, 24 times per hour at street level will create severe adverse impacts to the Overland Avenue Elementary School students. The DEIR has not identified or studied the safety impacts of the construction, testing or operation of the train project on the children walking after school to Palms Park. The pedestrian gates are not sufficient to prevent children from crossing under them. Signage and LED lighting appropriate for adults may not be readily visible to small children, especially in the mid-afternoon when sunlight may distort or obscure the warning lights. The proposed MTA student train safety education lacks specificity and measurement of effectiveness. The DEIR needs to study the safety hazards resulting from the at-grade crossing and devise suitable mitigation for the identified impacts.

The DEIR lists ambient noise levels near the walking route to be less than 60 Ldn (dba) long-term (DEIR, Table 3.12-1), 67 Ldn (dba) short term (DEIR, Table 3.12-2). The noise level of a light rail horn is listed at 85 dba at 100 feet. The pedestrian storage area is within 10 feet of the light rail passing with the train horn, gate bells, and propulsion noise as the train passes at 35 miles per hour. Repeated exposure to adverse noise impacts to the hearing of students standing in the pedestrian areas of the intersection waiting to cross should be studied and mitigated if

impacts are identified. Wheel squeal on the curve along Northvale from Haddington to Dunleer Drive is likely to produce severe noise impacts even though the train is in a trench, and should be studied. Recently, plans for an outdoor amphitheater at Palms Park and other substantial park improvements have been completed. Intrusive wheel squeal would constitute a severe impact to such a facility and should be studied and mitigated.

17. Growth-Inducing Impacts.

A draft EIR must disclose and analyze the growth-inducing impacts of the proposed project. (§ 21100, subd. (b)(5); Guidelines, §§ 15126, subd. (d), 15126.2, subd. (d).) In disclosing growth-inducing impacts, the DEIR must discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. (Guidelines, § 15126.2, subd. (d); see Remy, at 460.)

The proposed WLA Community Plan, mentioned above, includes significant changes to land use patterns and an increase in work force housing and retail density with the stated goal of increasing transit oriented development (TOD), particularly along the Exposition, Pico, Sepulveda, and Westwood Boulevard corridors. Additionally, the WLA Community Plan proposes mixed-use development that includes first floor retail and multiple-family residential uses above the first floor on streets such as Ayres Avenue and Bentley Avenue, which are currently zoned “R-1” Single-Family Residential, and on Overland Avenue from Pico to Ashby with similar up-zoning on Esther Avenue. What are the growth inducing impacts and the significant environmental impacts that would occur with the adoption and implementation of the proposed WLA Community Plan concurrent with the proposed project? A predetermination of a Locally Preferred Alternative (LPA) prior to screening and environmental study is not permitted under CEQA. NFSR’s concern is that there is a premature elimination of alternatives with the goal of slanting environmental data to a predetermined LPA.

Further, why did the DEIR not study the growth inducing impacts of rail through the Expo ROW using the same information and criteria as the Los Angeles Planning Department? If the DEIR had utilized this method, the public and the decision-makers would have a better understanding of the true growth-inducing impacts of the project. Most of the TOD proposed by the Los Angeles Planning Department falls outside of the DEIR Traffic Study Area, and thus, no impacts were studied or identified, even though all of it is within Expo's ½ mile DEIR scope of study. The addition of work force housing and additional retail/commercial uses will add car trips and congestion to north/south streets which are currently performing at low LOS during peak periods. What are the adverse growth-inducing impacts to traffic, to aesthetics, to the cohesion of the existing community, and to local infrastructure that would be caused by the proposed WLA Community Plan changes in conjunction with the proposed project?

18. Greenhouse Gas Emissions/Global Climate Change

It is undisputed that the DEIR must discuss the impacts the project will have on Climate Change and Global Warming. In two recent California Superior Court Decisions, the court

found that an analysis of the direct and cumulative impacts of a project's impacts to global warming and climate change should be evaluated in the EIR.⁴ [1] Further, the DEIR itself sets forth the regulatory structure that requires analysis of GHG emissions and the project's effects on climate change in a CEQA environmental document.

The issue of climate change, and greenhouse gas emissions (GHG) is raised in the EIR, however the full magnitude of the effects the project will have on GHG emissions is severely understated. Only two short paragraphs touch upon the LRT alternatives' impacts on climate change. (DEIR at 3.5-6.) The DEIR concludes that there will be a decrease in vehicle miles traveled (VMT) and therefore, there will be a net decrease in GHG emissions, even though the light rail itself would indirectly contribute to climate change because it uses electricity generated by the burning of fossil fuels. No mention is made of the tons of GHGs that would be released into the atmosphere from idling cars stuck in traffic gridlock caused by the numerous at-grade crossings. No mention is made of the increased use of the freeway system and surrounding surface streets in spite of the ridership on the light rail. What would be the increase in GHG emissions from the thousands of idling cars? What would be the increase in GHG emissions from increased vehicles on the freeway system and the surrounding streets? Would the light rail eventually use renewable energy sources instead of electricity generated by the burning of fossil fuels? What are the GHG emissions from *construction* of the project? These questions must be answered in the EIR.

(F). *The DEIR Must Adequately Analyze the Cumulative Impacts of the Project.*

A cumulative impact consists of an impact which is created as a result of the combination of the project together with other past, present, or future projects causing related impacts. (Guidelines, § 15130, subd. (a)(1).) The EIR must discuss the cumulative impacts of the project *in combination* with past, present, and foreseeable future projects, and not in relation to them. (Guidelines §§ 15130, 15355.) The agency should also define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used. (Guidelines, § 15130, subd. (b)(3).)

The DEIR must take into account the effects from Phase I of the Expo light rail project, and must not use the existence of Phase 1 to justify the existence of Phase 2. If the two phases

⁴ In a 2007 Superior Court decision, the court held that an EIR's analysis of GHG emission was inadequate in light of Governor Schwarzenegger's executive order (S-3-05) on global warming and "the legislative requirement that greenhouse gas (GHG) emission be reduced to 1990 levels by the year 2020." (*Env. Council of Sac. et al v. State of California* (Super. Ct. Sacramento County, 2007, No. 07CS00967).) The relevant portion of this decision is attached to this letter as exhibit E. The Superior Court of Riverside County also found an EIR's discussion of a project's impacts to global warming inadequate where the EIR did not make a meaningful attempt to analyze such impacts. (*Ctr. for Biological Diversity et al v. City of Desert Hot Springs et al* (Super. Ct. Riverside County, 2008, No. RIC464585).) This decision is attached to this letter as exhibit F.

were so interdependent, then they should have been treated as one project in the first place.⁵ (See *Laurel Heights I*, 47 Cal.3d 376, 396 [stating: “an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable *consequence* of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects”], emphasis added.)

Additionally, an EIR may not trivialize a cumulative impact of a project by utilizing the “ratio theory.” (See *Kings County*, 221 Cal.App.3d 692, 720-721.) The ratio theory improperly compares the effects of a project in relation to the effects of related projects, instead of analyzing the combined, cumulative effects of the project with past, present, and foreseeable future projects. In *Kings County*, the court invalidated the use of the “ratio theory” by an EIR that analyzed air quality impacts. (*Id.*) The EIR concluded that because the project would only contribute a small amount of air pollution to the already degraded air basin that the project’s cumulative impacts were insignificant. In holding that an EIR must not trivialize cumulative impacts by looking at the ratio between the project’s potential impact and the magnitude of the overall problem, it stated:

“One of the most important environmental lessons evident from past experience is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant, assuming threatening dimensions only when considered in light of the other sources with which they interact. Perhaps the best example is air pollution, where thousands of relatively small sources of pollution cause a serious environmental health problem.” (*Id.* at 720.)

The DEIR asserts in the cumulative impact analysis section that all of the cumulative impacts are less than cumulatively considerable or would be reduced to less than significant. Because the analysis and conclusions in the impact analysis sections relating to the eighteen issues outlines above (see section E, *supra*) are based upon flawed or missing data, flawed

⁵ It is unfortunate that the project was split into “Phase I” and “Phase 2” and that two separate EIR’s were released. CEQA does not allow projects to be piecemealed in this manner. (See *Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal.App.3d 577, 592 [stating that agencies should not split projects into smaller segments for environmental review. This approach ensures “that environmental considerations not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences;” see *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 396 [establishing a two-part test for resolving the question of when an EIR must include future phases of a project in its analysis].) The Guidelines define “project” to mean “the whole of an action” that may result in either a direct or reasonably foreseeable indirect physical change in the environment. (Guidelines, § 15378, subd. (a).) The current project, Phase 2, was more than foreseeable in 2001 when Phase 1 and Phase 2 were separated – the initial project was conceived as one light rail project extending from downtown Los Angeles to the Pacific ocean. (DEIR at 1-2.) Nevertheless, this piecemealing of environmental review of the entire light rail project did occur.

implementation of methodology, and flawed assumptions, the conclusions in the cumulative impacts section are also necessarily flawed. The cumulative impact analysis section discussion should reflect any changes that are made throughout the DEIR and how the flawed or missing data, methodology, assumptions, and conclusions have been revised.

1. The DEIR Under-represents the Cumulative Impacts of the Project on Regional Traffic Congestion.

The Expo Transit Project Phase 2 proposes four at-grade rail crossings that are located in short succession within $\frac{3}{4}$ of a mile for the following streets: Overland Avenue, Westwood Boulevard, Military Avenue, and Sepulveda Boulevard. Three of these streets are arterial corridors; Military Avenue is a local residential collector street. The cumulative traffic impact of nearly simultaneous closures of all four streets where they intersect the Expo right-of-way will be significant since the light rail train crosses these streets as frequently as every 2 $\frac{1}{2}$ minutes with crossing gates preventing north/south traffic flow for up to 82 seconds per train crossing. There will be no unimpeded north/south arterial access to the I-10 Freeway between Robertson Boulevard and the I-405 Freeway for employment centers and residents on, or north of Pico Boulevard, and no unimpeded north/south access of any kind to the I-10 Freeway between the I-405 Freeway and Manning Avenue. The only north/south access will be limited to residential collector streets in Cheviot Hills, many of which have not been studied in the DEIR. LADOT has determined that the Overland Avenue at-grade crossing will experience severe adverse traffic impacts. LADOT did not study the cumulative impacts of the four intersections being closed virtually simultaneously within $\frac{3}{4}$ of a mile.

Guidelines section 15355, subdivision (b) states, "The cumulative impacts from several projects is the change in the environment, which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects...". The DEIR only studies the crossing closure impacts individually. Therefore, the cumulative impacts of the Expo light rail train crossing these four streets with the crossing gates down virtually simultaneously need to be studied.

Additionally, what are the cumulative effects of this project, combined with the effects of past, present, and future projects on traffic congestion on the I-405 and I-10 freeways? As mentioned above, congestion on surface streets often leads to congestion on freeway off-ramps, and thus backs up onto the freeway itself.

2. The DEIR Fails to Account for the Cumulative Effect of Noise on Residential Communities and on Nearby Schools.

The cumulative noise impacts of train whistles and crossing bells in such close proximity with train frequencies as often as every 2 $\frac{1}{2}$ minutes will severely impact the quiet residential communities of Cheviot Hills and Rancho Park (along Segment 1 of LRT Alternatives 1 and 2). There will be only short periods of time during the daytime and evening hours seven days a week when crossing bells and train whistles will not be heard ringing for the hundreds of adjacent homes that lie within $\frac{1}{2}$ mile of the alignment, thus permanently eliminating all quiet time and

affecting hundreds of residents' ability to sleep. Overland Avenue Elementary School classrooms and playground will also be subject to cumulative noise impacts because of the frequent repetitive noise of the train whistles and crossing bells. The severe adverse noise impacts could be mitigated completely with a below-grade alignment. An elevated alignment would relieve much of the crossing warning noise but conversely, would greatly increase distribution of the propulsion noise and wheel squeal in the residential communities.

The adverse impacts of excess noise around a school setting and the need for an EIR to adequately address cumulative increases in noise level has been clearly stated by the courts. In *Los Angeles Unified School District v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, the court held that an EIR for a project that would have increased the noise level around Canoga Park High School in the San Fernando Valley by 2 decibels (db) in a area which already exceeded the Department of Health's recommended maximum of 70db should not have used the improper ratio theory to find that the project's impacts to noise levels were insignificant. (*Id.* at 1024-1026.) Overland school playground and classrooms will suffer the continual cumulative impacts of not one, but four sequential crossings announcing the passage of 24 trains an hour. The increase in noise from the project must be considered *together with* projected increases in noise from traffic flow. The EIR must not "brush aside" the projected noise increases as insignificant without considering their cumulative impact, nor simply state that because future projects will comply with established standards and policies that the cumulative impacts are insignificant. (See *Id.* at 1027.) Simple compliance with an established policy does not necessarily mean there will be no impact. (See *Oro Fino Gold Mining Corp. v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881 [stating that conformity with a general plan's prohibitions on noise levels, and the expectation that a project will conform to the noise standards "does not insulate a project from EIR review where it can be fairly argues that the project will generate significant environmental effects"].)

3. The DEIR Fails to Adequately Disclose the Project's Cumulative Effects on Global Warming.

Just as the DEIR must analyze the project's effects on global warming through the increase in GHG emissions, so must the DEIR analyze the project's *cumulative* impacts on global warming. CEQA's counterpart at the federal level, the National Environmental Policy Act (NEPA), requires analysis of GHG emissions and a project's impact on global warming: the analysis of GHG emissions and its impact on climate change "is precisely the kind of cumulative impacts analysis that NEPA requires agencies to conduct." (*Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Administration* (9th Cir. 2007) 538 F.3d 1172, 1217.) The court in *Ctr. for Biological Diversity* utilized the same type of reasoning that *Los Angeles Unified* did in stating that even a minor increase in GHG emissions from a project can be considered significant: "[W]e cannot afford to ignore even modest contributions to global warming. If global warming is the result of the cumulative contributions of myriad sources, any one modest in itself, is there not the danger of losing the forest by closing our eyes to the felling on one of the individual trees?" [Citation.]" (*Id.*)

The DEIR's discussion of greenhouse gas emissions bases its conclusion on the fact that

“the proposed project would have an overall reduction in greenhouse gas emissions” and that “it would not contribute to cumulative effects” based on the flawed statement that “.... implementation of the LRT Alternatives would result in improvements in intersection level of service (LOS)....” The intersection LOS within the study area would not be improved with the spillback queuing that would occur on all north/southbound streets that are proposed for at-grade crossings (See exhibit A, LADOT letter dated March 3, 2009). This incremental increase in GHG emissions from idling cars is exactly the type of cumulative impact the DEIR should analyze. What are the cumulative effects of this increase in GHG emissions to global warming?

4. The Olympic West-Pico East Initiative.

The Olympic West-Pico East Initiative (“OWPEI”) is a plan to convert Olympic Boulevard and Pico Boulevards to one-way operation during AM and PM peak traffic periods between Centinela Avenue and Fairfax Avenue.

The OWPEI Initial Study was released for the 30-day NOP public comment period commencing on March 20, 2009 and ending on April 20, 2009. The key points of the project description follow. The proposed project includes re-striping the existing roadways without widening them. The one-way operation on Pico Boulevard would occur from 7 a.m. to 9 a.m. and from 4 p.m. to 7 p.m. The one-way operation on Olympic Boulevard would occur from 7 a.m. to 10 a.m. and from 3 p.m. to 7 p.m. Parking restrictions (no parking zones) would occur during these hours except as outlined below. Parking restrictions would be extended from 7:00 a.m. to 7:00 p.m. on Olympic Boulevard between Sawtelle Boulevard and Lauriston Avenue. No changes to existing parking restrictions would be imposed: 1) on the north side of Olympic Boulevard between Centinela Avenue and Bundy Drive; 2) on the south side of Olympic Boulevard between Centinela Avenue and Sawtelle Boulevard; and 3) on the north side of Pico Boulevard between Centinela Avenue and Gateway Boulevard. Left-turn signals would be added or removed to help accomplish the directional signal operation on Olympic and Pico Boulevards, while still allowing all current left-turns at signalized intersections. Twelve existing north-south arterials would be designated as cross-over streets with new left-turn signals facilitating movements between Olympic and Pico Boulevards. Signal timing would favor travel on westbound Olympic Boulevard and eastbound Pico Boulevard.

The OWPEI is not addressed in the Expo Transit Project Phase 2 DEIR, even though the project has been in the planning stages for 2 years. The OWPEI must be analyzed in the DEIR and take into account traffic, safety, air quality, noise and other applicable impacts that would occur with the implementation of the OWPEI. On April 25, 2007, the City of Los Angeles Transportation Committee requested that LADOT analyze and address the potential impacts of the proposal put forth by Los Angeles County Supervisor Zev Yaroslavsky to convert the Olympic/Pico Corridor to one-way operation during peak traffic periods.

LADOT staff reviewed the proposal and evaluated several alternatives and produced a report on July 11, 2007 to the Transportation Committee. The alternatives evaluated included: no changes to the existing conditions and operation; reversible lane operation; AM and PM peak period lanes; directional signal operation; and preferential directional flow (off-

center striping). In an interdepartmental memorandum dated November 19, 2007, Rita Robinson, General Manager of LADOT, acknowledged the levels of existing traffic congestion on Olympic and Pico Boulevards and stated that the July 2007 LADOT report concluded that the congestion levels along the Olympic/Pico Boulevard Corridor are “most pronounced in the Westside area of the City westerly of La Cienega Boulevard.” The November, 2007 memorandum specified that existing travel speeds range from 12 to 18 miles an hour on Olympic and Pico Boulevards during AM and PM peak periods in the discussion of the preferential directional flow operation. The memorandum also indicated that “the peak period left-turn restrictions and lack of left-turn lanes of the proposal would constitute an extreme inconvenience in accessing residential areas and retail centers, and would invite unwanted commuter traffic in residential areas.”

The assumptions are that more traffic volume could presumably flow through a given intersection with one-way operation. However, this does not take into account two issues. First, the increased attractiveness of the “improved traffic flow” will result in increased demand and usage. Secondly, new traffic congestion will occur caused by vehicles queuing on the north/south streets waiting for light rail trains to pass at grade with the potential for traffic to back up through the intersections on Pico Boulevard on such streets as Overland, Westwood, Sawtelle, Sepulveda, and Barrington. Additional traffic congestion may occur from vehicles turning onto north/south arterials looking for parking, since parking would be essentially eliminated along the north and south sides of Pico Boulevard during peak periods. These peak periods are the same as for the proposed Expo Phase 2 light rail line when the highest frequency of at-grade train crossings would occur. All of these conditions would result in queuing at these Pico intersections in an east/west direction as well as north/south, creating significant traffic gridlock.

The Expo Transit Project Phase 2, as proposed, would be contrary to several of the goals of the West Los Angeles Transportation Improvement and Mitigation Specific Plan (WLA TIMP). Two relevant WLA TIMP goals that need to be addressed in the DEIR include: 1) Prevent Peak Hour Level of Service (LOS) on streets and intersections from reaching LOS “F” or, if presently at LOS “F” preclude further deterioration in the Level of Service; and 2) Promote neighborhood protection programs to minimize intrusion of commuter traffic through residential neighborhoods. These goals of the Mitigation Plan need to be addressed in the DEIR.

Since the OWPEI is not discussed in the DEIR, cumulative impacts are presumably not addressed. The OWPEI Initial Study indicates that “..., the improved traffic flow resulting from the proposed project may encourage additional commuters to utilize Olympic Boulevard and Pico Boulevard for west-east travel.” What is the cumulative traffic impact with the Expo Transit Project Phase 2? This should be analyzed in the DEIR. The OWPEI Initial Study also indicates there are potentially significant impacts in that the project could result in inadequate parking capacity along the project corridors. Therefore, potential cumulative impacts must be studied as there could be greater parking and circulation impacts from a greater number of drivers looking for parking near the transit stations and parking in

residential neighborhoods adjacent to Pico Boulevard businesses during the same peak periods.

The OWPEI Initial Study indicates that there are potentially significant air quality impacts in air emission concentrations at local intersections or along street segments within the project vicinity and for sensitive receptors near the project corridors including adjacent residences. The Initial Study indicates that there may be cumulatively considerable net increases of criteria pollutants because of changes in Westside travel and circulation patterns with the implementation of the OWPEI Project. What will the cumulative air quality impacts be if both of these projects are constructed? Additionally, the Initial Study indicates that there may be a significant impact because of a considerable increase in greenhouse gas emissions due to changes in vehicle miles traveled and travel speeds, and that this may conflict with applicable federal, state and local plans, policies, and regulations.

The OWPEI Initial Study also indicates that a substantial increase in permanent and temporary ambient noise levels in the project vicinity, above levels existing without the proposed project, would occur during the peak periods. What would be the cumulative impact with the Expo Transit Project Phase 2?

All of the impacts and cumulative impacts discussed above relating to the OWPEI Project must be analyzed and mitigated.

5. Cumulative Impacts of I-10

The DEIR fails to include the I-10/Robertson/National Area Circulation Improvement Project (I-10 Circulation Improvement Project) in the list of Cumulative Projects (I-10 Circulation Improvement Project). Is the I-10 Circulation Improvement Project in the SCAG Regional Transportation Plan for Los Angeles County? Is construction and completion of the I-10 Circulation Improvement Project necessary for the construction, completion, or revenue service of the Expo Transit Project Phase 2 if Alternative 1 or 2 is chosen as the LPA? Is construction and completion of the I-10 Circulation Improvement Project necessary for the construction, completion, or revenue service of the Expo Transit Project Phase 2 if Alternative 3 or 4 is chosen as the LPA? Is the I-10 Circulation Improvement Project part of the Expo Transit Project Phase 2, and if so, is the cost of the I-10 Circulation Improvement Project included in Expo Transit Project Phase 2's budget? What is the site description and project location of the area where the Expo Light Rail project may be affected by the I-10 Circulation Improvement Project? Is any part of the I-10 Circulation Improvement Project funded by MTA or Expo? What are the cumulative traffic impacts of Expo Transit Project Phase 2 construction combined with the I-10 Circulation Improvement Project? Are full or partial property acquisitions necessary for the completion of either of the two projects in any location where their environmental influence overlaps? The two projects are located in a predominately retail business district. Will there be economic impacts to area businesses as a result of the cumulative projects of Expo Transit Project Phase 2 and the I-10 Circulation Improvement Project? Have area businesses been notified about the Expo Transit Project Phase 2 and the possibility of cumulative economic impacts? What are the projected cumulative impacts of the two projects to traffic circulation on

and off of the I-10 Freeway of the two projects? What are the projected cumulative impacts to traffic circulation on Venice, Robertson, and Washington Boulevards?

(F). The DEIR Must Establish Adequate Mitigation Measures for the Project and Adequately Analyze the Environmental Effects of those Mitigation Measures.

The EIR must include a “detailed statement setting forth [¶] [m]itigation measures proposed to minimize the significant effects on the environment...” (§ 21100, subd. (b)(3); see Guidelines § 15126.4.) These mitigation measures must be “fully enforceable through permit conditions, agreements, or other measures.” (§ 21081.6, subd. (b); *Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261 [*Federation I*] [stating “[t]he purpose of [section 21081.6] is to ensure that feasible mitigation measures will actually be implemented as a condition of development, and not merely adopted and then neglected or disregarded. [Citation.] [Footnote.]”].) The EIR must also adequately disclose and demonstrate the effectiveness of the proposed mitigation measures by specifying “performance standards” for the mitigation measures, and support its conclusion with substantial evidence. (Guidelines, § 15126.4, subds. (a)(1)(A) & (B); *Federation I*, 83 Cal.App.4th 1252, 1261; see also *City of Marina v. Board of Trustees of California State University* (2006) 39 Cal.4th 341, 364 [holding an EIR that failed to demonstrate that the proposed mitigation measures, which took the form of developer fees, were adequate to actually mitigate the environmental effects of a project, and thus the EIR was legally inadequate: “a commitment to pay fees without any evidence that mitigation will actually occur is inadequate”].)

An agency cannot satisfy its CEQA obligations simply by *considering* the environmental impacts of a proposed project, it must go further. The California Supreme Court has emphasized that CEQA contains a *substantive mandate* that public agencies not approve project with significant environmental effects if “there are feasible alternative or mitigation measures” that can substantially lessen or avoid those effects. (*Mountain Lion Foundation v. Fish & Game Commission* (1997) 16 Cal.4th 105, 119, 134; see § 21002, 21081.) The agency must adopt a mitigation monitoring program that will ensure the enforceability and implementation of the proposed mitigation measures. (§ 21081.6, subds. (a) & (b).)

Also, the environmental effects of the mitigation measures themselves must be disclosed and analyzed. (Guidelines, § 15126.4, subd. (a)(1)(D); *Save Our Peninsula Committee v. Board of Supervisors* (2001) 87 Cal.App.4th 99, 130 [“[a]n EIR is required to discuss the [environmental] impacts of mitigation measures”].)

1. The Proposed Mitigation Measures for Mitigating Safety Hazards to School Children and Pedestrians are Not Adequate Nor Enforceable.

The DEIR states that educational programs, and compliance with “policies and procedures that have been developed to reduce the possibility of an accident,” would be utilized to prevent pedestrians, and school children from entering the tracks. (See DEIR, page 3.15-6.) Also fences, barriers, and signs would be utilized to discourage people from walking onto the tracks. However, as mentioned above, these fences and barriers would not run along the entire

length of the Expo ROW routes, thus at some points, there would not be fences or barrier to protect pedestrians. The DEIR also suggests that these measures “have been very effective in providing for both pedestrian and vehicular safety.” (DEIR, page 3.2-85.) However, as a measure of the “success” of these measures, the DEIR points out that only seven auto/train collisions at gated crossings, seven auto/train collisions at non-gated, traffic-signal-controlled crossings, and one non-gated crossing “incident” with a pedestrian have occurred on the Pasadena Gold Line which uses these mitigation measures. If fourteen collisions with vehicles, and one collision with a pedestrian is not “significant” then the thresholds of significance need to be adjusted. The loss of human life is surely a significant impact. If the proposed mitigation measures have allowed so many collisions in Pasadena, why would they perform any better on the Westside of Los Angeles? The DEIR itself shows that the proposed mitigation measures are not adequate. The EIR should fully disclose the inadequacy of the proposed mitigation measures, and their impacts on human safety. A below-grade or aerial alignment would prevent the tragedies that have occurred in Pasadena, and elsewhere around the Southern California region.

2. Inadequate Mitigation of Aesthetic and Noise Impacts.

Mitigation measures specified in the DEIR do not include a time frame to ensure that mitigation will occur prior to the impact, as required by CEQA. The DEIR discusses the use of a combination of a 4-foot high berm and 8-foot high wall with sound insulation material, or the use of just a sound wall, with no specifics to ensure that noise mitigation will occur to approved residential standards of 45 to 50 dbA. The measures also discuss mitigation through sound insulation techniques of retrofitting residents’ windows and doors. This option may not be acceptable to some residents and there is no discussion providing sufficient options to mitigate the identified noise impacts. Furthermore, the DEIR indicates that the noise and vibration impacts may not be completely mitigated. The EXPO Transit Project Phase 2 impacts sensitive receptors (children) at the Overland Avenue Elementary School which is located less than 100 feet away, across the street from the Expo ROW along Northvale. The DEIR identifies aesthetic and noise impacts for all LRT alternatives, however, the language in Mitigation Measure MM AES-2 only provides mitigation for Segment 1a of LRT 3 and LRT 4. Mitigation Measure MM NOI-1 does not require that the installation of the sound walls and landscaping or alternate mitigation be installed prior to operation of the EXPO Transit Project Phase 2 light rail line when the impact would occur. Mitigation Measure MM AES-2 must be reworded to include sound walls and landscaping requirements along Segment 1. Mitigation Measures MM AES-2 and MM NOI-1 must state that they will be implemented prior to operation of the EXPO Transit Project Phase 2 light rail line. Deferred mitigation is unacceptable to the community and an improper application of CEQA regulations.

a. Noise Evaluations, Conclusions And Mitigation Are Flawed.

The current noise barrier on DEIR Drawing T-006 begins just north of Palms Park as the elevation of the train begins to rise to street level. The noise mitigation area is indicated only for the south/west side of the Expo ROW. Although the houses that face Dunleer Place are within 50 feet of the ROW, the DEIR fails to fully evaluate and mitigate for adverse noise impacts. The

homes on Northvale Road, many less than 50 feet from the ROW, are at risk for severe noise impacts from both wheel squeal and the propulsion noise of the train traveling up to 55 miles per hour on this exclusive portion of the ROW. The entirety of the track as it exits the tunnel beneath the I-10 Freeway and passes Overland Avenue is on a curve which will produce substantial and prolonged wheel squeal. The DEIR measures sound from the light rail train to be close to 80 dBA at 100 feet and that does not consider wheel squeal. Many of the homes northeast of the ROW in Cheviot Hills are closer than 100 feet. The single long term ambient noise measurements taken on Northvale Road at Dunleer Place (DEIR, Table 3.12-1) averaged 65 Ldn (dBA). Noise from the train is estimated at 15 decibels louder, plus wheel squeal. That is considered severe by FTA Noise Impact Criteria (DEIR, Table 3.12-4). The cumulative impacts, given the proposed train frequency (24 times per hour) and duration (22 hours per day), will present intolerable noise intrusion to homes along Northvale Road and perhaps east on adjacent streets.

Long-term measurement sites L-2, L-3 and L-4 (DEIR, Table 3.12-2) in the residential community of Cheviot Hills are insufficient to capture the impacts of nighttime noise on sensitive receptors with recurrent frequent impacts as often as every 5-10 minutes at night from at-grade intersections, wheel squeal, and propulsion noise. Separate nighttime measurements should be made and averaged to get an accurate nighttime average ambient noise to more clearly reflect impacts. Even the short term measurements on LRT Alternative 1 and 2, Segment 1, (DEIR, Table 3.12-2) were taken mid-afternoon even though the three locations on Segment 1a, Venice/Sepulveda Alternatives 3 and 4, were measured at night showing higher short term ambient noise levels. Nighttime ambient noise was not measured in the DEIR when and where people would most likely be sleeping or engaged in quiet or passive activities where noise might be more intrusive. The FTA standard assumes that nighttime noise levels are significantly lower. When the major source of daytime noise is identified, in this case the I-10 Freeway, the dramatic nighttime reduction can be easily quantified. The DEIR is unclear as to whether or not the FTA standard of adding 10 dBA for nighttime occurrences (DEIR, page 3.12-4) is added for every passing train throughout the night. This needs to be clarified. Since the FTA places residences in Land Use Category 2, "where nighttime sensitivity to noise is assumed to be of most importance" (DEIR, Table 3.12-3), NFSR asks that the residential areas along or within ¼ mile of the Expo ROW, on both sides be measured for night time noise and that those measurements be used as a baseline for the added noise so the severe noise impacts to homes are not underestimated. The methodology used to study noise is flawed in that it gives insufficient empirical data on the land use categories most sensitive to noise impacts. Using averages when there are definable and notable differences in sensitivity to noise between day and night is unacceptable because it under reports noise impacts.

NFSR is concerned about the adequacy of measuring sound on one side of the Expo ROW at site LT-2 starting at 11:49 pm, lasting for 43 hours and measuring 2 morning and 2 evening rush hour periods on the I-10 Freeway (the primary noise source), and then a week later measuring across the street at site LT-3 for only 24 hours including a single morning and evening rush hour. When taking long-term measurements close to a freeway interchange with several on ramps and exits nearby, simultaneous comparative measurements must be made if mitigation is going to rely on those measurements. A single police action on the freeway, circling helicopters, or a car accident would boost the averaged measurements. The longer the measured time, the

more chance there is for the noise measurement to be elevated by single incidents. Noise measurements for locations on both sides of the Expo ROW need to be made concurrent in time to accurately evaluate the need for sound mitigation. Otherwise there is a likelihood of creating additional noise impacts by implementing mitigation at one location that will result in a reflected increase in noise on another. It is likely that a sound barrier placed only on the south/west side of the Expo ROW may amplify and exacerbate the adverse noise impacts to the homes and properties across Northvale Road.

b. Inconclusive Information Regarding the Adequacy of the Proposed Mitigation or Noise Impacts From Crossing Bells.

Noise and vibration will occur during the entire daily operational period: 22 hours a day from 4:00 a.m. to 2:00 a.m. Crossing bells, located within 50 feet or less of residences, will ring 22 hours a day with minimum intervals of 5 to 20 minutes when the light rail trains cross every street along the Expo ROW (and with two trains heading east and west on two sets of tracks, these minimum intervals are actually 2 ½ to 10 minutes, since the trains are unlikely to pass each other at exactly the same time). The DEIR proposes a mitigation measure (MM NOI-2) to reduce the significant noise impact based upon a performance standard established by the CPUC approved range. However, the DEIR does not adequately discuss whether the reduction anticipated with the use of the “Quacker” and the lowering to the bottom of the CPUC approved range is within an industry standard and an acceptable range of noise in close proximity to residential uses where people are sleeping (or trying to sleep). Since the proposed project would create noise impacts that would occur 22 hours a day, there would be an insufficient period of time for normal human sleeping patterns, unless the noise is fully mitigated. A below-grade or an aerial design, which does not require crossing bells, would completely eliminate the noise impact from bells.

c. Inadequate Mitigation For Noise Impacts From Wheel Squeal.

The DEIR identifies a significant noise impact resulting from wheel squeal, which would be moderate to severe in Segment 1 of the Expo ROW (LRT Alternatives 1 and 2). The proposed mitigation measure NOI-3 would only provide for rail and wheel lubrication for the first year of operation. After the first year, walls, landscaping and sound attenuation of windows and doors would be instituted as specified in mitigation measure NOI-1 if the sound levels continued to exceed the Federal Transportation Administration (FTA) moderate impact thresholds. This is not mitigation. Mitigation must be instituted before the impact occurs or simultaneously with the occurrence of the impact, not one year after it has occurred on an on-going basis. Guidelines section 15126.4(a)(1)(B) states that formulation of mitigation measures should not be deferred until some future time. While it also states that mitigation measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way, Guidelines section 15126.4(a)(2) also states that mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. Furthermore, you cannot claim to be mitigating an impact to less than significant if you allow the impact to exceed the threshold of significance for a year after operation.

d. Inconclusive Information Regarding the Adequacy of the Proposed Mitigation for Noise Impacts From Traction Power Substation (TPSS) Units/Electromagnetic Fields from TPSS Units/Appearance of TPSS Units.

Noise from the TPSS Units will occur during the entire daily operational period, 22 hours a day from 4:00 a.m. to 2:00 a.m. Seven of the fifteen TPSS Unit locations in LRT Alternatives 1 and 2 will exceed thresholds of significance for noise impacts. In the DEIR, Mitigation Measure MM NOI-4 requires that noise impacts be eliminated by specifying a noise limit of 44 dBA at 50 feet from any part of the TPSS Units in the seven impacted locations, and restricting TPSS Units from being located closer than 20 feet from a residential land use. The mitigation measure is inadequate because it does not specify how the noise limit will be achieved and thus defers the formulation of the mitigation measure.

The TPSS units generate electromagnetic fields (EMF's) and are proximate to sensitive receptors in the residential community and at Overland Avenue Elementary School. Three TPSS units are located in Segment 1 of LRT Alternatives 1 and 2. TPSS Unit Location 7, Alternate B and TPSS Unit Location 3, Alternate A are both located proximate to single-family residential property. TPSS Unit Location 6, Alternate B is proximate to single-family residential property and Overland Avenue Elementary School. The DEIR makes general statements about light rail systems generating "relatively weak" EMF's but presents no site measurement data near Overland Avenue Elementary School for comparison, and no data on what might be considered weak, nor under what circumstances, nor to which sensitive receptors. Measurements of the EMF transmissions that exist presently at Overland Avenue Elementary School need to be taken and evaluated with the additional predicted EMF measurements of the TPSS units proposed along the Expo ROW proximate to the school. The analysis should include the EMF measurements from the overhead catenary system wires for the light rail combined with those of the TPSS unit in Alternate 1, Option A and the existing overhead power lines to determine if a significant adverse cumulative impact would be created. Additionally, the same analysis should be provided for Charnock Elementary School (on LRT Alternatives 3 and 4) and for homes along the Expo ROW that are proximate to TPSS units. Cumulative impact analysis for EMF transmissions should be provided for all sensitive receptor locations along the proposed routes. Mitigation should be proposed to reduce the impact to less than significant.

Additionally, the appearance of these TPSS Units is very industrial and should be screened from view with an attractive architecturally designed enclosure and landscaping. A mitigation measure must be provided that requires screening of the TPSS units with an architecturally designed enclosure and landscaping that eliminates the industrial appearance.

3. The DEIR Improperly Defers Formulation and Adoption of Mitigation Measures.

The DEIR must not defer the formulation and adoption of mitigation measures to some future date without specifying performance standards. (Guidelines, § 15126.4 subd. (a)(1)(B).) Deferral is permissible *only if* the agency adopts the performance standards, and “ ‘commits

itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan. [Citation.]’ [Citation.]” (*Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th 777, 793.) Deferral is impermissible when the agency simply requires a project applicant to obtain a scientific report and then comply with any recommendations that are made in that report. (See *Id.*)

For example, mitigation measure MM TR-4 states that mitigation will only happen *IF* a parking shortage occurs. Metro would then “work with the appropriate jurisdiction and affected communities” to assess the need for, and then implement a permit parking program. Meanwhile, a severe parking shortage is occurring. This is improper deferral of mitigation to a later date. Also, it is not clear that this mitigation measure would even be effective in mitigating the parking shortage. Where would all the project patrons park? Also in dozens of mitigation measures it states that “property would have to be acquired” to accommodate extra parking. What properties? How many spaces would be replaced? Does EXPO have enough funds to purchase these properties considering the project is funded with sales tax dollars, and we are in a recession?

4. Frequency of Train Operation Must Be Limited to Prevent Additional Potentially Significant Impacts That Were Not Identified or Analyzed in the DEIR.

The DEIR states that the frequency of train trips will be limited to a maximum of 5 minute headways. Once constructed, an increase in the frequency of train trips must not be allowed as there would be an increase in traffic, noise, vibration, safety and other impacts that would not have been properly analyzed and mitigated through the DEIR. A condition of approval must be provided that limits the frequency of train trips to the time periods and corresponding frequency identified in the DEIR.

5. Inadequate Mitigation of Vibration Impacts.

The DEIR proposes a mitigation measure (MM NOI-6) to mitigate significant vibration impacts of all LRT Alternatives. Although the mitigation measure does address the need for further site-specific testing during the design phase and discusses two options for ensuring mitigation to be determined by a qualified vibration scientist or engineer during the design phase, the mitigation measure does not clearly identify when the low impact frogs or resilient elements would be installed. Revise the mitigation measure to clarify that installation of the low impact frogs or resilient elements will be installed during the construction process and will be tested prior to operation. Additionally, the DEIR shows the light rail trains passing within 75 feet of Overland Avenue Elementary School “bungalow” classrooms. These temporary classrooms are not installed on permanent foundations and thus are subject to more vibration than a permanent building would be. How will vibration be mitigated for these buildings that lack standard foundations and are thus more prone to shaking? Overland Avenue Elementary School is 76 years old. Have the windows and hanging light fixtures been evaluated for safety and for disruptive vibration impacts from trains running as frequently as 2 ½ minutes so close to Overland School?

6. Inadequate Discussion of Construction Mitigation Measures.

The construction impacts discussed above should be mitigated to the maximum extent feasible on all LRT alternatives. Along Segment 1 of the LRT Alternative 1 and LRT Alternative 2 alignments, the construction will severely impact the residential community, the business community and several sensitive receptors (Overland Avenue Elementary School at 10650 Ashby Avenue, the Marshall P. Riddick Youth Center at 2634 Overland Avenue, and the two licensed daycare facilities at 2701 Overland Avenue and 10737 Richland Avenue). If the EXPO Transit Project Phase 2 Alternatives 1 or 2 is approved, the construction mitigation measures provided as Attachment “A” to this document must also be required. These mitigation measures should be considered for Alternatives 3 and 4 where applicable as well.

(H). The CEQA Process Must Allow for Full Public Participation.

One of CEQA’s core principles is that of public participation. “CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with *flexibility to respond to unforeseen insights that emerge from the process*. [Citation.] In short, a project must be open for public discussion and subject to agency modification during the CEQA process. (*Ibid.*) This process helps demonstrate to the public that the agency has in fact analyzed and considered the environmental implications of its action. [Citation.]” (*Concerned Citizens of Costa Mesa v. 32nd Dist. Agric. Ass’n* (1986) 42 Cal.3d 929, 935, emphasis added.)

1. Public Participation.

Guidelines section 15201 addresses requirements for public participation. It states “Public participation is an essential part of the CEQA process. Each public agency should include provisions in its CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issues related to the agency’s activities. Such procedures should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency.” Throughout the public comment period the DEIR was available on the www.buildexpo.org web site, and was also available at several libraries, including the Palms-Rancho Park Branch Library. However, none of the technical documents and other reports that are the basis for the analysis in the DEIR were made available to the public, neither on the web site, nor at the Palms-Rancho Park Branch Library. The technical documents include studies of the following potentially significant impact issue areas: traffic and circulation; aesthetics; air quality; biological resources; cultural resources (historical resources and archaeological resources); geology, soils and seismicity; hazards and hazardous materials; hydrology and water quality; land use planning; noise and vibration; paleontological resources; parks and community facilities; safety and security; socioeconomics; and energy resources. The other reports that were the basis for analysis in the DEIR include: Operating Plan and Assumptions, Operating and Maintenance Costs, Ridership Study, Patronage

Methodology. "Buildexpo.org" is the official web site for the EXPO Transit Project Phase 2 and all documents should have been made available to the public on that web site.

2. Public Hearings/Retention and Availability of Public Comments/Evaluation of and Response to Comments.

Guidelines section 15208 states that "[c]omments which may be received on a draft EIR or negative declaration under preparation shall also be considered and kept on file." Guidelines section 15088 addresses the requirements to evaluate and respond to comments on environmental issues received from persons who reviewed a draft EIR. Comments can only be considered and responded to as required by Guidelines section 15088 if those comments are properly recorded. Three public hearings were held to receive comments from the community on February 18th, February 23rd and February 25th. No presentation was provided to the community at the latter two public hearings on February 23rd and February 25th. More importantly, the MTA staff in charge of conducting the latter two public hearings did not inform the participants that their verbal comments were not being tape recorded, and only toward the end of the February 25th public hearing, after 45 speakers had delivered verbal comments (most of whom had spoken and then left the public hearing) did the MTA staff indicate that the comments were not being tape recorded and that the only method of recording the comments made by the public was by a stenographer who was having difficulty keeping up with the speed at which the verbal comments were delivered. At best, the MTA staff made an insufficient effort to inform the public in advance of the hearings that if they did not submit their comments in writing there was no guarantee that their concerns would be addressed. Many individuals left the public hearings unaware that their comments regarding the DEIR may not have been adequately recorded in the public record, and therefore may elicit an incorrect or inadequate response.

Though the Exposition Construction Authority held public meetings at some schools proximate to both alignments (Charnock School, Notre Dame Academy, Crossroads School), Overland Avenue Elementary School, the school most affected by Alternative 1 -1a, was not afforded a stakeholder meeting (DEIR, Table 8.8-1). Public notification of community workshops and meetings held by the Exposition Construction Authority on the Expo Transit Project Phase 2 were not distributed to the stakeholder families and staff at Overland Avenue Elementary School until after the screening process was complete, and then only 300 received notice in a school with a population closer to 500. As a result parents, students, volunteers, faculty, and staff at Overland Avenue Elementary School have been excluded in most of Expo's outreach efforts. School issues such as safety risks to pedestrians and vehicles in an at-grade train environment; traffic hazards; construction impacts; noise and vibration impacts; shade shadow and glare issues; possible placement and impacts of TPSS structures, including EMF transmissions to children as young as 4; school bus routes; Safe Routes to School, walking routes to Palm's Park Recreation Center's after school program; loss of the teacher parking lot; losses of parking on Overland Avenue proximate to the school; changes to drop off lane circulation; elimination of left turns from Northvale at Overland, and impacts to the Riddick Youth Center have not been explained to the Overland Avenue Elementary School population. As a result, comments from the Overland Avenue Elementary School community have not been sufficiently solicited or included in the evaluation and planning of the Expo Transit Project Phase 2.

Expo did a significant amount of public outreach according to the table on page 8-20. The table lists twenty-eight "One-on-One Stakeholder" meetings (DEIR, Table 8.8-1). Twenty of the twenty-eight entities listed in the DEIR are located in the City of Santa Monica. Additionally, one of the eight Los Angeles stakeholders' meetings with Expo was held at the Westside Pavilion, who's parent company Macerich Company is located in Santa Monica adjacent to the proposed 4th Street Terminus in Santa Monica. The Expo Transit Project Phase 2 will be impacting businesses, schools, and community facilities on Pico Boulevard from Motor Avenue to west of Sawtelle Boulevard. At Sawtelle Boulevard the small street facing businesses will be impacted by lengthy construction, the lowering of both Pico and Sawtelle Boulevards resulting in partial and full property acquisitions (DEIR, Section 2.4.3, page 2-22), changes in business access, pedestrian circulation, aesthetic issues like shade and shadow changes, increased traffic from at-grade impacts at the Exposition/Sepulveda Station and 260 car parking lot.

No meetings appear to have been held for the businesses along Pico Boulevard east of Sawtelle Boulevard to Motor Avenue or along Overland Avenue between Ashby Avenue and Pico Boulevard, and therefore, it is unclear as to how those businesses were notified of possible impacts of the project as proposed. Please clarify as to how those businesses, all within the ½ mile traffic study area, were notified of the project, or if they were not notified, why not. As the traffic study apparently leaves out study of traffic impacts east of Veteran Avenue on Pico Boulevard, as far as Motor Avenue, how will the environmental changes related to new traffic circulation impacts to those businesses be studied? Is it Expo's contention that there will be no impacts to those businesses? Are additional "One-on-One Stakeholder" meetings planned for the businesses within ½ mile of the Expo ROW? The public hearing process clearly did not provide equal notification and opportunity either to affected businesses or to the Overland Avenue Elementary School Community, and therefore, the public hearing process was inadequate.

3. Failure To Respond To Scoping Documents and Stakeholder Comments.

Neighbors for Smart Rail and the Cheviot Hills Homeowners Association, and their members submitted Scoping Comments prior to the Screening of Alternatives on the Expo Transit Project Phase 2. The Exposition Construction Authority has failed to sufficiently address many issues and concerns raised in those comments. The DEIR did not study below-grade (underground) and aerial alignments and crossings for all alternatives. The DEIR only studied elevated crossings and trenching for the Venice/Sepulveda route. The DEIR did not identify land use designations near Segment 1 in Alternatives 1 and 2 that would be consistent for Transit Oriented Development (TOD). The DEIR does not identify zoning changes that may be necessary to accommodate TOD's. The DEIR did not compare residential density, employment density, populations with no access to a vehicle or limited to one vehicle, employment density, household income for the Venice/Sepulveda Route versus the ROW to determine the potential ridership numbers predicted to be served by both alternatives. Though there is almost no multi-family housing save a couple of duplexes, and no major employment centers except a mall with a current 20% vacancy rate, Expo has determined that the station with the largest ridership, Westwood/Expo Station, should be right in the middle of a residential area. Support for this conclusion is unsubstantiated and fails to address the Scoping Comments. The DEIR failed to

address comments requesting that any use of the Expo ROW be studied for "cut-and-cover or fully enclosed subterranean" crossings and alignment. The DEIR failed to discuss the possibility and remedies for "Inverse Condemnation." The DEIR did not study the need for shuttle buses that may be required to bring passengers to those train stations on the Expo ROW which are neither near any employment centers nor multi-family housing. The DEIR did not sufficiently address comments regarding traffic methodology nor did it address all intersections identified for study by the NFSR and CHHA scoping comments, most of which are within ½ mile of the Expo ROW and proposed Alternative 1 and 2 alignments. The DEIR included assumptions that the light rail line would ease congestion and therefore improve air quality instead of providing verifiable data as to light rail impact on air quality as requested by the CHHA comments. The DEIR did not address CHHA comments not to have stations adjacent to residential property nor did it evaluate requests for parking facilities on the Expo ROW that are "subterranean or structured parking that is wrapped up with a multi-use development." The DEIR did not address concerns about public restrooms in the light rail environments. The DEIR fails to respond sufficiently to comments regarding cumulative projects. The DEIR does not respond sufficiently to comments regarding sound wall construction and materials. Noise mitigation responses are insufficiently addressed in the DEIR. The DEIR fails to address concerns and comments about ground borne vibration sufficiently. Damage or mitigation from lateral loading impacts is not discussed in the DEIR. Finally, the DEIR fails to respond sufficiently to comments regarding safety of pedestrians and vehicles; risk of terrorism; derailment of trains in the event of an earthquake; economic impacts; park impacts; emergency services; project life cycle costs; cost per passenger mile or opportunity costs of other uses of the ROW.

III. CONCLUSION.

There is no community consensus and even waning individual support for an at-grade light rail in West Los Angeles as people become increasingly aware of the safety and traffic hazards, quality of life impacts and the diminished transit benefits of at-grade rail. Expo's defense of this project is far too heavy on unsubstantiated assertions about air quality improvements attributed to the project when that can only result if traffic is reduced. To date there is no verifiable proof that any light rail project has reduced traffic anywhere. Conversely, the impacts of at-grade rail invariably lead to increased congestion on city streets whether it is light rail, commuter rail or freight. Expo claims that there will be an overall energy savings from use of light rail. How can that be when during rush hour every rail car packed with passengers going in a single direction returns near empty, and trains continue to travel whether there are passengers or not, making the average ridership 25 passengers even though the capacity is 600 passengers per 3 car train?

NFSR does not support at-grade crossings. The Los Angeles Unified School District Safety Committee is presenting a resolution to the School Board asking for the increased safety of grade separations at Phase 2 crossings where they pose an identified risk to school children. The City of Los Angeles City Council members Tom LaBonge and Bill Rosendahl have drafted and submitted a resolution to the City Council that stipulates no at-grade crossings in West Los Angeles on Expo Transit Project Phase 2. LADOT has twice submitted letters to Expo identifying the need to grade separate some crossings in Los Angeles. The Westside

Neighborhood Council, the Mar Vista Community Council, the West Los Angeles Neighborhood Council, the CD-11 Traffic Advisory Committee and many other Homeowner Associations and individuals have called for grade separations on Expo Transit Project Phase 2. The intransigence on the part of MTA and the Expo Authority in not even studying grade separations as a matter of safety and agency protocol is troubling. Simply stated, Expo has an obligation to pursue the least environmentally impacting alternatives on its projects. That can only be done if all alternatives are studied. Alternatives can not be ruled out as too costly if they are not studied, and Alternatives that are environmentally superior should not and cannot be ruled out because of cost.

The two 1.7 mile tunnels 60 feet under Boyle Heights on Metro Gold Line Eastside Extension, completed on time and within the \$1 billion budget with near 80% federal funding, tell us that MTA has the know how to build tunnels. The Seattle Central Link is boring 180 feet deep for two 1-mile light rail tunnels, so engineering difficulties with the Overland Storm Drain seem dubious. The passage of Measure R to fund what most people thought was the "Subway to the Sea" tells us that the county is willing to spend our tax dollars on underground transit. What is unclear is MTA's insistence on setting the bar so low as to continually put communities, pedestrians and traffic at risk for unconscionable impacts by forcing the dangers and risks of a 19th Century transportation mode on a city deserving of 21st Century safety and benefits.

Every reason MTA/Expo gives for building this line (quicker, cheaper) through single-family communities, dense pedestrian and vehicular traffic, impacting school safety and access to parks from downtown to Santa Monica, is a reason to grade separate the line. Every reason not to grade-separate this line is a reason not to build it at all.

Neighbors For Smart Rail and the coalition of homeowners' associations and individuals it represents look forward to a thorough review of our concerns herein recorded. It was with no small degree of disappointment that we carefully reviewed the Exposition Corridor Transit Project Phase 2 Draft Environmental Impact Report. We are hopeful that you will more carefully consider and more thoroughly respond to our comments on the DEIR submitted for your review. Thank you for the opportunity to comment on the DEIR.

Sincerely,

Terri Tippit, President
Neighbors For Smart Rail

Colleen Mason Heller, Vice President
Neighbors For Smart Rail

IV. ATTACHMENTS.

- A. Proposed Construction Mitigation Measures
- B. NFSR Scoping Comment Letter
- C. CHHA Scoping Comment Letter
- D. LADOT Letter dated March 3, 2009
- E. *Env. Council of Sac. et al v. State of California* (Super. Ct. Sacramento County, 2007, No. 07CS00967)
- F. *Ctr. for Biological Diversity et al v. City of Desert Hot Springs et al* (Super. Ct. Riverside County, 2008, No. RIC464585)
- G. Letter from Robert M. Shanteau, Ph.D, P.E., dated March 25, 2009 and attachments
- H. Testimony of Najmedin Meshkati dated August, 2008
- I. Memorandum from LADOT dated November 19, 2007
- J. LADOT Letter dated June 6, 2008
- K. Letter From City of Los Angeles Department of City Planning Dated March 27, 2009
- L. Testimony of Russell Quimby
- M. Bill Rosendahl Expo Resolution dated December 2008
- N. LAUSD Letter dated March 5, 2009