Final
Supplemental Environmental Impact Report

Trumark Dumbarton Transit Oriented Development Residential Project

SCH #2010042012

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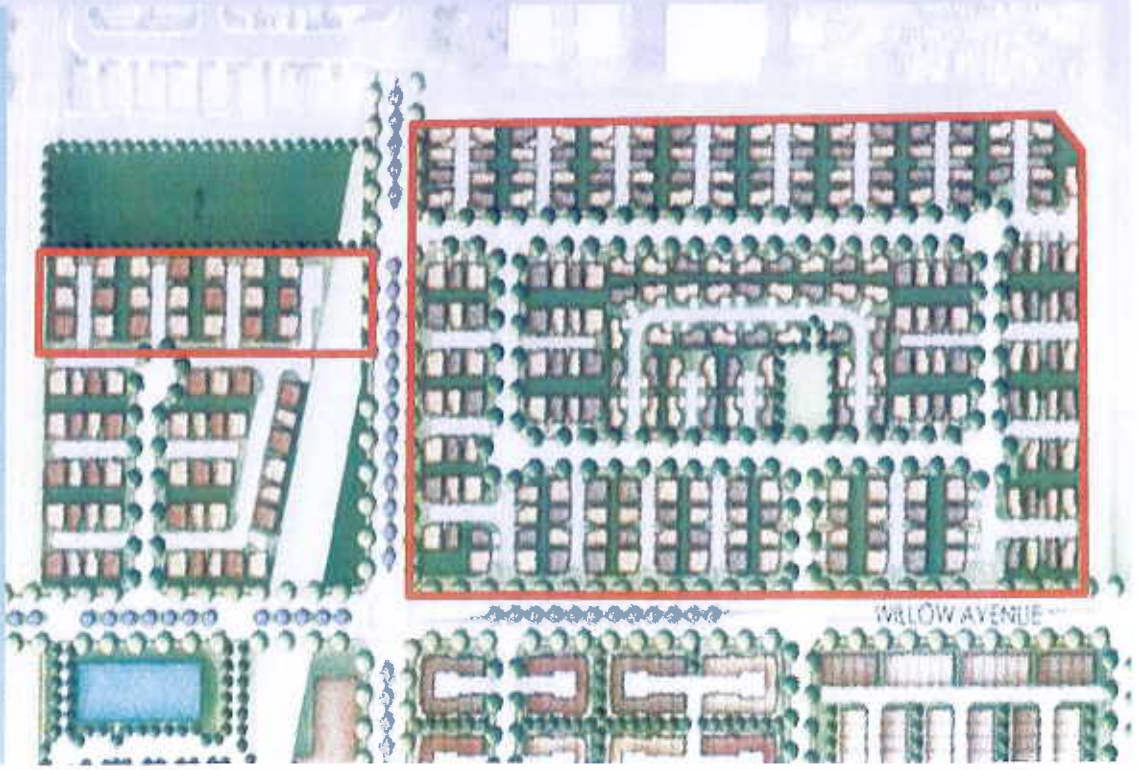

PREFACE

This document, together with the Draft Supplemental Environmental Impact Report (Draft SEIR), constitutes the Final Supplemental Environmental Impact Report (FSEIR) for the Trumark Dumbarton Transit Oriented Development Residential Project. The Draft SEIR was circulated to affected public agencies and interested parties for a 45-day review period from December 24, 2013 to February 7, 2014. This volume consists of comments received by the City of Newark on the Draft SEIR during the public review period, responses to those comments, and revisions to the text and figures of the Draft SEIR.

In conformance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the FSEIR provides objective information regarding the environmental consequences of the proposed project. The FSEIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The FSEIR is intended to be used by the City and any Responsible Agencies in making decisions regarding the project. The CEQA Guidelines advise that, while the information in the FSEIR does not control the agency's ultimate discretion on the project, the agency must respond to each significant effect identified in the Draft SEIR by making written findings for each of those significant effects.

According to the State Public Resources Code (Section 21081), no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

(a) The public agency makes one or more of the following findings with respect to each significant effect:

(1) Changes or alterations have been required in, or incorporated into, the project which will mitigate or avoid the significant effect on the environment.

(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities of highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

(b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

ORGANIZATION OF THE FINAL SEIR

This document, which includes responses to comments and text revisions, has been prepared in accordance with Section 15088 of the CEQA Guidelines. The Final SEIR included the following sections:

Section 1.0 List of Agencies, Organizations, and Individuals Who Received the Draft SEIR

The agencies, organizations, and individuals who received copies of the Draft SEIR are listed in this section.

Section 2.0 List of Comment Letters Received on the Draft SEIR

This section contains a list of all parties who submitted written comments on the Draft SEIR.

Section 3.0 Responses to Comments Received on the Draft SEIR

This section contains written comments received on the Draft SEIR and the responses to those comments.

Section 4.0 Revisions to the Text of the Draft SEIR

This section contains text revisions to the Draft SEIR. Text revisions can be made as a result of comments received during the Draft SEIR public review process, corrections or clarifications to the text, or to reflect modifications that have been made to the project to reduce impacts.

Section 5.0 Revisions to the Figures of the Draft SEIR

This section contains revisions to one or more figures contained within the Draft SEIR. Figure revisions can be made as a result of comments received during the Draft SEIR public review process, corrections or clarifications to the figure, or modifications that have been made to the project to reduce impacts.

Section 6.0 Copies of the Comment Letters Received on the Draft SEIR

This section contains copies of the comment letters received.

Section 7.0 Revised Appendices to the Draft SEIR

This section contains revisions to one or more of the technical appendices included in the Draft SEIR.

In accordance with CEQA and the CEQA Guidelines, the FSEIR will be made available to the public prior to consideration of certification of the Supplemental Environmental Impact Report. All documents referenced in this FSEIR are available for public review online at the City of Newark's website: http://www.ci.newark.ca.us/ and at the following locations:

City of Newark
37101 Newark Boulevard
Newark, CA 94560
(510) 578-4208
Hours available:
Monday - Friday: 8:00 a.m. to 5:00 p.m.
Closed on the following Fridays:
February 28; March 7, 14; April 11, 25

Newark Branch Library
6300 Civic Terrace Avenue
Newark, CA 94560
(510) 795-2627
Hours available: Sunday: 1 p.m. - 5p.m.
Tuesday and Thursday: 1 p.m. - 9 pm.
Wednesday and Friday: 10 a.m. - 6 p.m.
Saturday: 10 a.m. - 5 p.m.

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SECTION 1.0 LIST OF AGENCIES, ORGANIZATIONS, AND INDIVIDUALS WHO RECEIVED THE DRAFT SEIR

Copies of the Draft SEIR and/or Notice of Availability for the Draft EIR were sent to the following agencies, organizations and individuals:

AGENCIES

Alameda County Water District
Union Sanitary District
Alameda County Transportation Commission
Regional Water Quality Control Board, Region 2
California Department of Transportation, District 4
San Francisco Public Utilities Commission
California Department of Fish and Wildlife, Region 3
California Department of Parks and Recreation
California Department of Water Resources
California Department of Toxic Substances Control
California Department of Transportation
California Highway Patrol
California Native American Heritage Commission
California Resources Agency
San Francisco Bay Conservation and Development Commission

SECTION 2.0 LIST OF COMMENT LETTERS RECEIVED ON THE DRAFT SEIR

Shown below is a list of comment letters received on the Draft EIR. This list also identifies the date of the letter received. Complete copies of all the letters are included in *Section 6.0* of this Final SEIR.

A.	San Francisco Bay Regional Water Quality Control Board	February 7, 2014
B.	California Department of Toxic Substances Control	February 7, 2014
C.	Alameda County Water District	February 6, 2014
D.	San Francisco Public Utilities Commission	February 7, 2014
E.	Margaret Lewis	February 7, 2014
F.	CH2M Hill, on behalf of Honeywell International, Inc.	February 7, 2014
G.	Cargill	February 7, 2014

SECTION 3.0 RESPONSES TO COMMENTS RECEIVED ON THE DRAFT SEIR

The following section includes all the comments on the Draft EIR that were received by the City of Newark in letters and emails during the 45-day review period. The comments are organized under headings containing the source of the letter and the date submitted. The specific comments from each of the letters or emails are presented as "Comment" with each response to that specific comment directly following. Each of the letters and emails submitted to the City of Newark are attached in their entirety in *Section 6.0* of this document.

CEQA Guidelines Section 15086 requires that a local lead agency consult with and request comments on a Draft Environmental Impact Report (or Supplemental Environmental Impact Report) prepared for a project of this type from responsible agencies (government agencies that must approve or permit some aspect of the project), trustee agencies for resources affected by the project, adjacent cities and counties, and transportation planning agencies. Section 1.0 of this document lists all of the recipients of the Draft SEIR.

One of the comment letters received is from a public agency that may be a Responsible Agency under CEQA for the proposed project. The CEQA Guidelines require that:

> A responsible agency or other public agency shall only make substantive comments regarding those activities involved in the project that are within an area of expertise of the agency or which are required to be carried out or approved by the responsible agency. Those comments shall be supported by specific documentation. [§15086(c)]

Regarding mitigation measures identified by commenting public agencies, the CEQA Guidelines state that:

> Prior to the close of the public review period, a responsible agency or trustee agency which has identified what the agency considers to be significant environmental effects shall advise the lead agency of those effects. As to those effects relevant to its decisions, if any, on the project, the responsible or trustee agency shall either submit to the lead agency complete and detailed performance objectives for mitigation measures addressing those effects or refer the lead agency to appropriate, readily available guidelines or reference documents concerning mitigation measures. If the responsible or trustee agency is not aware of mitigation measures that address identified effects, the responsible or trustee agency shall so state. [§15086(d)]

The CEQA Guidelines state that the lead agency shall evaluate comments on the environmental issues received from persons who reviewed the Draft SEIR and shall prepare a written response to those comments. The lead agency is also required to provide a written proposed response to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report. This FSEIR contains written responses to all comments made on the Draft EIR received during the advertised 45-day review period.

A. RESPONSE TO COMMENTS FROM SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD (RWQCB), FEBRUARY 7, 2014.

COMMENT A-1: Thank you for the opportunity to comment on the Draft Supplemental Environmental Impact Report (SEIR) for the Trumark Dumbarton TOD Residential Project (Project) for development of Site A and Site B located within the Dumbarton Transit Oriented Development (TOD) Specific Plan Area. The Project proposes 27 homes at Site A (8375 Enterprise Drive) and 217 homes at Site B (8400 Enterprise Drive). As explained below, Sites A and B will require extensive and aggressive environmental cleanup prior to development to protect human health and safety.

As a Responsible Agency under California Environmental Quality Act (CEQA), the Regional Water Board is submitting comments on the SEIR for categories are germane to our agency's statutory responsibilities in connection with this Project. We rely on our Water Code authority to oversee the investigation and cleanup of sites in the Dumbarton TOD Specific Plan Area. We also consider and act on all proposals for case closure (i.e., no further action required).

Specifically, our comments pertain to the significant potential human health impacts posed by hazardous materials present in soil, soil gas, groundwater, airborne dusts and vapors in connection with this Project and the extensive volume of contaminated soil that has to be excavated from the site and transported offsite through City streets to the appropriate disposal facility. Additionally, we are commenting on cumulative impacts that were not considered in this SEIR, associated with similar cleanup projects for other contaminated sites in the Dumbarton TOD Specific Plan Area. These include: Gallade (Honeywell), Torian, FMC, Ashland, Romic, Newark Sportsmans' Club, and Cargill, where similar cleanup activities are needed prior to development.

The attached Regional Water Board comments are intended to guide the City of Newark and ensure that the environmental documentation adequately addresses the pollution in the Project area to protect human health and the environment.

Our past correspondence to the City of Newark regarding soil and groundwater cleanup issues in the Dumbarton TOD Specific Plan Area is listed below.

- May 22, 2008, Letter to City of Newark Regarding the Approved Conceptual Land Concept for the Area 2 Specific Plan.
- April 30, 20 l 0, Letter to City of Newark, NOP for Dumbarton TOD Specific Plan.
- June 30, 2011, Email to City of Newark, Draft EIR for Dumbarton TOD Specific Plan.
- July 27, 2011, Letter to City of Newark, Dumbarton TOD Specific Plan Final EIR.
- February 13, 2013, Letter to City of Newark, NOP for Newark General Plan Tune Up.
- March 8, 20 l3, Letter to City of Newark, NOP for Supplemental EIR for Dumbarton TOD Trumark Residential Project.
- September 27, 2013, Letter to City of Newark, General Plan Tune Up. Draft EIR for the City of Newark dated August 13, 2013.

If you have any questions regarding our comments, please contact Cherie McCaulou

(cmccaulou@.waterboards.ca.gov) in our Toxics Cleanup Division at (510) 622-2342.

RESPONSE A-1: This introductory cover letter identifies the San Francisco Bay Regional Water Board as a Responsible Agency and summarizes several points and issues raised in more detail in comments provided as attachments. Detailed responses to these issues are provided below responding to each specific comment. The comment concludes by listing a number of prior communications by the Regional Water Board to the City of Newark pertaining to the Dumbarton TOD Specific Plan and the two Trumark development sites that are the subject of the current SEIR, and these communications are on file with the City and available during normal business hours.

COMMENT A-2: Site A - Site Conditions

Please note the following clarifications for Site A site conditions.

- Development at Site A at 8375 Enterprise Drive, Newark, is dependent on successful soil and groundwater cleanup efforts by Honeywell International, Inc. (Honeywell). The Site Cleanup Requirements Order No. R2-2007-0005 adopted by the Regional Water Board requires Honeywell to remove soil, soil gas, and groundwater contamination originating at 8333 Enterprise Drive (current location of Gallade), which is the property immediately to the east of Site A and immediately west of residential homes on Aleppo Drive. The contamination is attributable to former hazardous waste facility operations by Baron-Blakeslee Inc. at 8333 Enterprise Drive.

- The contamination caused a significant groundwater plume, containing trichoroethene (TCE), tetrachoroethene (PCE) and other volatile organic compounds (VOCs) that has migrated from 8333 Enterprise Drive to the west and northwest, in particular Site A, Parcels F and G owned by FMC Corporation, and several existing single-family residences on Chestnut and Juniper Streets. The plume has also migrated easterly to the homes on Aleppo Drive that share a property line with the chemical plant.

- A land use covenant has been recorded against the title of 8333 Enterprise Drive which prohibits use of the property until the pollution has been abated. This industrial parcel would be redeveloped as a public park under the Dumbarton TOD Specific Plan. The land use covenant restricts the use of the property for commercial and industrial purposes only. A human health risk assessment for a park scenario has not been performed.

- Honeywell submitted a human health risk assessment for Site A in May 2013, which concluded excessive and unacceptable risks for residential use due to elevated TCE and PCE concentrations. This risk assessment may need to re-evaluate construction worker risks. Honeywell submitted an August 2013 Alternate Cleanup Plan consisting of: (1) shallow groundwater in-situ biodegradation, in lieu of in-situ chemical oxidation which failed; (2) vapor barriers to mitigate the excess risks of vapors coming from the groundwater as well as

other sources (contaminated soil and the neighboring parcel); and (3) soil excavation prior to development.

- A second human health risk assessment (September 2013) was performed by Honeywell for the existing residents on Aleppo Drive, Juniper Street and Chestnut Street. The assessment found no unacceptable risks to the existing residents. Staff has not yet concurred with the health risk assessment.

To mitigate the Significant Impact at Site A, the draft SEIR (on page 88) proposes amending Mitigation Measure 4.7-la of the *Dumbarton TOD Specific Plan EIR*, to address the specific conditions of Site A, as follows:

> MM HAZ-1: *Prior to the issuance of grading permits or building permits for development of Site A, a remediation plan and a risk management plan must be prepared and submitted for review by the RWQCB. The RWQCB will review the plans to confirm that implementation of the plans would achieve Cal-EPA approved risk management standards for residential use of risk less than 10-6 and health hazard index of less than 1.*

Regional Water Board Staff cannot confirm that implementation of remediation plan(s) would achieve the above referenced standards, unless the remediation plan is fully implemented and demonstrated to be effective. The final SEIR should add language (presented on the last page) that requires the remediation plan be implemented and completed, and demonstrated to be effective based on post-remedial monitoring that shows a significant reduction of VOC concentrations that are cause of the human health exposure risks. A risk management approach is suitable only after the Regional Water Board has determined that the vapor intrusion threats have been significantly reduced and water quality objectives will be met in a reasonable time period.

RESPONSE A-2: The commenter asks the City to note certain facts regarding Site A conditions. These comments do not state specific concerns about the adequacy of the Draft SEIR or otherwise comment on the contents of the Draft SEIR. Therefore, a response is not required. However, these comments have been noted for the record and will be provided to the Planning Commission and City Council for consideration.

The commenter also summarizes its view of the contents of a health risk assessment and alternative cleanup plan submitted by Honeywell independent of the Trumark Dumbarton TOD Residential Project SEIR process. This comment does not state a specific concern about the adequacy of the Draft SEIR or otherwise comment on the contents of the Draft SEIR. Therefore, a response is not required. However, this comment has been noted for the record and will be provided to the Planning Commission and City Council for consideration. The City notes that the August 2013 Honeywell Alternate Cleanup Plan (ACP) does include listed item (1), enhanced in-situ bioremediation [not biodegradation] at Site A, and listed item (3), soil excavation at 8333 Enterprise Drive. However, the ACP does not include listed item (2), vapor barriers. Instead, vapor barriers

and other measures are proposed in Honeywell's December 20, 2013 Conceptual Risk Management Plan.

The commenter also summarizes the current status of a second health risk assessment prepared by Honeywell independent of the Draft SEIR for the Trumark project. This comment does not state a specific concern about the adequacy of the Draft SEIR or otherwise comment on the contents of the Draft SEIR. Therefore, a response is not required. However, this comment has been noted for the record and will be provided to the Planning Commission and City Council for consideration. In sum, the commenter's bulleted notes generally provide additional detail regarding environmental conditions and remediation efforts within the Specific Plan area that do not alter the conclusions of the Draft SEIR.

The commenter also requests that Draft SEIR hazard mitigation measures be revised to require, among other things, that a remediation plan be implemented and completed and demonstrated to be effective prior to the issuance of grading or building permits. The City does not interpret this comment to request changes to the 2011 TOD Specific Plan EIR mitigation measures, but rather the mitigation measures crafted specifically for remediation of Site A and Site B and presented in the 2013 Draft SEIR. On April 30, 2010, the Regional Board provided comments on proposed mitigation measures for hazardous materials for the TOD Specific Plan EIR. Among other things, these comments requested that risk assessments be prepared, remediation and risk management plans be required. In response to these comments, the City revised Mitigation Measure 4.7.1a. (Final TOD EIR Response to Comment 5-3.) The commenter made no further requests for revisions after the City provided the commenter its proposed response in the Final TOD EIR prior to the City certifying the TOD EIR. Please see Response A-25 to Comment A-25 below for an explanation of the revisions that will be made to the SEIR mitigation measures.

The commenter further states specifically that "Regional Water Board Staff cannot confirm that implementation of remediation plan(s) would achieve the above-referenced standards, unless the remediation plan is fully implemented and demonstrated to be effective." Mitigation Measure HAZ -1 has been revised to not restrict the risk management standards that the Regional Water Board Staff could apply to Site A. The City also notes that the commenter appears to be identifying an issue with the wording of MM HAZ-1: arguably, Regional Water Board Staff cannot confirm with 100% certainty that future implementation of remediation plan(s) would achieve the above-referenced standards. Rather, Regional Water Board Staff presumably can only confirm that remediation plans and risk management plans appear to be appropriately designed to meet a given performance standard. Accordingly, MM HAZ-1 is amended with the deletion of the word "would" and the insertion of "should" in its place. Refer to **Section 4.0 Revisions to the Text of the Draft SEIR**.

This commenter further states that "A risk management approach is suitable only after the Regional Water Board has determined that the vapor intrusion threats have been significantly reduced and water quality objectives will be met in a reasonable time period." This comment's use of the terms "significant reduction" and "reasonable time period" appears to be citing RWQCB policies regarding site closure. However, the City notes that site closure is not being sought at this time. Further, this comment is inconsistent with the Cal/EPA DTSC Vapor Intrusion Mitigation Advisory, Oct. 2011 (attached as Appendix G to this FSEIR), which allows implementation of a risk management approach concurrently with remedial activities.

COMMENT A-3: Site A - Soil Contamination

The draft SEIR did not address the substantial soil contamination at 8333 Enterprise Drive, as discussed below:

- Soil contamination underlying Gallade's existing buildings and structures at 8333 Enterprise is required to be excavated prior to development, pursuant to Task C.6 of the Order R2-2007-0005. Removing this pollution source will prevent air impacts due to volatilization of chemical vapors from soil, leaching of contaminants to groundwater, and will reduce overall contaminant mass migrating offsite. A soil excavation work plan for this remedial task has not yet been submitted; however, such a work plan will be required pursuant to Task C.5 of the Order. The excavation of contaminated soil can only be performed after the Gallade buildings are demolished.

The final SEIR should mention the inevitable demolition of Gallade's buildings, and removal of contaminated soil considered a continuing source for adverse impacts to the neighborhood which persists at 8333 Enterprise (the property immediately to the east of Site A and immediately west of the single family homes on Allepo Drive).

The final SEIR needs to consider these potential impacts to existing residents when this work is carried out. Additionally, avoidance and mitigation measures including, air monitoring for toxic volatile vapors and dusts are needed to protect the existing residences and occupants from air quality impacts that will arise during soil removal.

RESPONSE A-3: The Commenter states that the Gallade Parcel must be excavated prior to development consistent with Order R2-2007-0005 and notes the environmental benefits of such excavation. Comment noted. The commenter also states that a work plan for such excavation will be required of the responsible party (neither the City nor Site A applicant Trumark) but has not yet been submitted. Comment noted. The commenter also states that excavation will require demolition of the structures on Gallade. Comment noted.

The commenter also requests that the SEIR mention the demolition of structures on the Gallade Parcel and the removal of contaminated soil from that site. As discussed on SEIR page 30, on September 8, 2011, the City of Newark certified

the Final Program Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan (TOD EIR). The SEIR explains it is "intended to supplement the Dumbarton TOD EIR by evaluating impacts specifically from Trumark Homes' project within the Specific Plan Area." Impacts related to the potential development of Gallade Parcel, as well as the other parcels within the Specific Plan Area, are analyzed in the TOD EIR. The appropriate level of additional CEQA review related to those parcels will occur prior to approval of discretionary actions permitting development on those parcels. (See SEIR p. 44, CEQA Guidelines §§ 15152 (c), 15168(c).) As authorized by CEQA Guidelines § 15168(d)(3), the SEIR focuses on impacts unique to the applications presently under consideration (i.e. residential development on Sites A and B). (SEIR p. 50) The SEIR informs readers that it is not intended as a stand-alone document addressing all topics, issues and impacts, and is only intended to disclose new information developed subsequent to the certification of the TOD EIR. The commenter should review the TOD EIR for information related to the impacts related to the potential redevelopment of the Gallade Parcel as a public park and for cumulative impacts related to development activities throughout the Specific Plan Area.

The TOD EIR discloses that the Specific Plan area includes the Gallade Parcel and the Specific Plan land use plan designates the Gallade Parcel for "Park & Recreational Open Space" uses. (Specific Plan Exhibit 4.1.) The TOD EIR analyzes the development of the Gallade Parcel at the same level of detail as other properties within the Specific Plan area and imposes mitigation measures to address the potential environmental impacts associated with development within the Specific Plan area.

The TOD EIR recognized that the adoption of the Specific Plan would facilitate the development of new uses including park and recreational open space uses. (TOD EIR at 4.2-17.) The TOD EIR concluded that due to the extent of the development allowed under the Specific Plan, and the amount of earthwork that would be involved, construction emissions would have the potential to be significant. The TOD EIR recommended detailed mitigation measures applicable to all projects within the Specific Plan Area to address construction related emissions and concluded that after imposition of these mitigation measures, the impact related to construction emissions would be less than significant. (TOD EIR at 4.2-21.)

Likewise, the TOD EIR concluded that operational emissions related to Specific Plan development would be less than significant after the imposition of mitigation that would be imposed at the building permit stage. (TOD EIR at 4.2-24.) The TOD EIR also concluded implementation of the Specific Plan would not conflict with regional plans. (TOD EIR 4.2-29.) The TOD EIR reaches similar conclusions for related cumulative impacts.

The TOD EIR provided extensive detail on the environmental conditions found on the Gallade Parcel and the plans to remediate it, including soil excavation in the former process building area upon completion of building demolition and slab removal. (TOD EIR at 4.7-14-16.) This analysis also generally described the requirements of RWQCB Order No. R2-2007-0005 related to the eventual remediation of the Gallade Parcel. The TOD EIR disclosed that there are eight properties, including the Gallade Parcel, in the TOD Specific Plan Area that are known to have contaminated groundwater and soils including VOCs, petroleum and gasoline, phosphorous, various metals, arsenic, PCB PAHs, and other chemicals. The TOD EIR concluded that the impact from a significant hazard to the public or the environment from these eight properties was potentially significant.

The TOD EIR recommended mitigation measures on future development in the Specific Plan area to address this potential risk. These measures include the requirement that a property owner of a contaminated parcel: 1) summarize available information regarding the magnitude and extent of soil and groundwater contamination at the subject property; 2) perform a data gap analysis; 3) based on the results of the data gap analysis, determine whether any additional investigation is needed to fill data gaps and, if so, propose and perform such investigation with the approval of the Oversight Agency; 4) provide either a Health Risk Assessment (HRA) or Feasibility Study (FS) containing an HRA to summarize potential risks to human health and the environment posed by the contamination with respect to the proposed development; 5) based on the HRA or as set forth in the FS, develop remedial options to address the identified risks based upon the proposed development, which remedial option may include engineering or institutional controls, and tentatively select the most appropriate remedial option to ensure that the proposed development will not present an unacceptable risk to human health or the environment as required by applicable environmental laws, as well as procedures for proper management of contaminated soil and groundwater that may be encountered during development; and 6) submit a report to the Oversight Agency for review and regulatory approval of the proposed remedial plan, including engineering and/or institutional controls, under applicable environmental laws. (TOD EIR 4.7-29.)

The TOD EIR concluded that after implementation of these mitigation measures and compliance with applicable Federal, State and local standards, the impact related to these eight properties would be less than significant. (TOD EIR at 4.7-28.) These mitigation measures would be imposed on all development within the Specific Plan Area, including the Gallade Parcel, unless they are revised during subsequent environmental review. The TOD EIR also considered whether the development permitted by the Specific Plan would result in cumulatively considerable impacts related to hazards and hazardous materials. (TOD EIR at 4.7-34-35.) The TOD EIR concludes that "[c]ompliance with Federal, State, and local regulations would ensure that potential contamination or exposure to hazardous substances is avoided or controlled to minimize the risks to the public

on a case-by-case basis, as the cumulative projects are implemented. Impacts in this regard would be less than significant with implementation of recommended mitigation measures and compliance with applicable Federal State, and local regulations." (TOD EIR at 4.7-24-35.)

At the Gallade Parcel, the majority of the mitigation measures imposed by the TOD EIR have already been implemented by Honeywell, as successor to the former operator at the property, Baron Blakeslee, Inc. However, the RWQCB or other oversight agency may request updating of some items near the time that final approval of remedial plans in relation to park development is sought. For example, an HRA has been performed in relation to risks under the current uses of the Gallade Parcel. After park plans are developed, the HRA will need to be updated to include an assessment of park-related uses. In addition, while the RWQCB Order requires Honeywell to submit a workplan for excavation of impacted soil in the vicinity of the Former Process Building and the Former Mixing Room, the workplan is not due until such time as the Gallade Parcel is redeveloped, and thus the workplan remains to be completed.

In August 2013 Honeywell submitted to the RWQCB an Alternate Cleanup Plan (ACP) that proposed a remediation plan for shallow groundwater at the downgradient (western) edge of the Gallade Parcel and beneath Site A. The ACP was approved by the RWQCB in late August 2013. While implementation of the ACP is primarily intended to remediate groundwater at Site A (the Trumark Enterprise Parcel), it should also result in some remediation of groundwater at the Gallade Parcel. Enhanced in situ bioremediation (EISB) will be used to remediate VOC impacts at the downgradient edge of the Gallade Parcel and to the Enterprise Parcel to achieve residential ESLs, as specified in the approved ACP. EISB treatment involves the injection of an electron donor (a food source for microorganisms) through injection wells to stimulate microbial growth and ultimately dechlorinate PCE and TCE contaminants. Dechlorination would reduce PCE and TCE to their basic elements and render them non-toxic.

Construction and operation of the EISB system would involve drilling a series of injection wells at the downgradient edge of the Gallade Parcel and on the Enterprise Parcel, installing well equipment and the placement of a network of pipes and hoses connecting the wells with pumps and similar equipment. With the exception of the wells, equipment would likely be located above ground on temporary platforms or trailers. The set up and operation of the EISB system would involve a moderate amount of excavation and other construction which was analyzed in the Trumark Dumbarton TOD Residential Project SEIR.

As noted above, the TOD EIR requires that the agency with regulatory oversight of the project - in this case the RWQCB - review and approve the proposed remediation plan, prior to the issuance of grading or building permits for the project. The City of Newark would implement this requirement by requiring RWQCB approval of the remediation plan prior to issuing such permits. Further,

the addition of the mixing room footprint to potential excavation areas does not substantially increase the impacts identified in the TOD EIR.

The City also notes that the Gallade Parcel is subject to a DTSC covenant that limits the use of the Gallade Parcel to industrial and commercial uses. A variance to the covenant or removal of the covenant must be obtained pursuant to Health and Safety Code §§ 25223-25224 prior to the Gallade Parcel use as a park. These sections require DTSC to find that the proposed change in use would not result in (1) the creation or increase of significant present or future hazards to public health; (2) A significant diminution of the ability to mitigate any significant potential or actual hazard to public health; or (3) A long-term increase in the number of humans or animals exposed to significant hazards that affect the health, well-being, or safety of the public. For the covenant to be removed, DTSC must conclude that the hazardous waste that caused the land to be restricted or designated has since been removed or altered in a manner that precludes any significant existing or potential hazard to present or future public health.

The City also notes that the anticipated remedial activities for the Gallade Parcel required by RWQCB Order No. R2-2007-0005 have undergone CEQA review (by the RWCQB acting as lead agency) as part of the approval process for that order. (RWQCB Order No. R2-2007-0005, finding 17.) In that order, the commenter found that the activities required by Order No. R2-2007-0005 met the requirements of CEQA Guidelines Categorical Exemption Class 21. That finding required the commenter to conclude that its actions would not result in a significant effect due to unusual circumstances or in any cumulative impacts resulting from similar activities, i.e. the remediation of other parcels within the Specific Plan Area. CEQA Guidelines § 15300.2(b)-(c). As described above, the City reached similar conclusions in the TOD EIR.

There have been no project changes, changes in circumstances, or new information related to cumulative impacts or the Gallade Parcel that would meet the thresholds of CEQA Guideline Section 15162. Therefore, there is no need for further environmental review of these topics in the current SEIR for the Trumark residential project.

The commenter also suggests that additional mitigation measures should be required to protect existing residents from conditions on the Gallade parcel. Please see Responses A-2 and A-25 regarding revisions to the SEIR's hazard mitigation measures.

COMMENT A-4: Site A - Vapor Intrusion Risks

The very high TCE concentrations in groundwater underlying Site A pose a significant risk via vapor intrusion to any structures constructed above the plume, which adds to the vapor intrusion risk from soil gas due to vaporization from contaminated soil as long as that source is not removed. Recent

scientific evidence compiled by U.S. EPA indicates that exposing pregnant women to very low concentrations of TCE for just a few days dramatically increases the risk of fetal heart malformations. Therefore, the Regional Water Board has concerns over developing the property for residential use at this time.

The Regional Water Board recommends that significant groundwater remediation must be implemented and its success must be demonstrated with post remediation monitoring that includes collection of soil gas and groundwater samples for a period of time prior to occupancy of new buildings on the property. Previous attempts at remediation have not achieved remedial action levels for protection of vapor intrusion. In 2007, the remedial strategy, *in-situ chemical oxidation technology* was adopted in the Order (Task C.1) and implemented in 2007, but was deemed unsuccessful in 2011, despite promising results during initial pilot tests.

RESPONSE A-4: The commenter notes concerns regarding development of Site A for residential use at this time, due to high concentrations of TCE in groundwater underlying Site A. The Commenter also recommends that significant groundwater remediation be implemented and its success demonstrated prior to occupancy of new buildings at Site A. The City notes that a screening level Human Health Risk Assessment report regarding Site A was issued in May 2013 (included in the Draft SEIR as Appendix D-3), reporting vapor intrusion risks for potential future buildings in the range of $2x10^{-8}$ to $3x10^{-4}$, and an HI ranging from 0.0002 to 35 (with both ranges depending on location). The HHRA indicated that as a result, vapor intrusion mitigation measures should be considered for any future buildings on Site A. The City also notes that the 2011 Cal/EPA DTSC Vapor Intrusion Mitigation Advisory (VIMA), included as a new Appendix G to the SEIR, states that where risks are in excess of $1x10^{-4}$ (as they are at Site A in certain locations), vapor intrusion mitigation and source remediation are needed. Vapor intrusion mitigation is proposed for Site A in the December 2013 Honeywell Conceptual Risk Management Plan. Source remediation is being conducted pursuant to the 2007 Order and the August 2013 Alternate Cleanup Plan. Accordingly, it appears that activities consistent with the VIMA are being conducted. Further, the RWQCB has not provided new information indicating that the current and proposed activities are inconsistent with the VIMA or that when the proposed residences are built, risks will not be reduced below applicable thresholds. As a result, the City respectfully disagrees with the recommendation that significant groundwater remediation be implemented and its success demonstrated prior to occupancy of new buildings at Site A. Instead, according to the VIMA, vapor intrusion mitigation in conjunction with source remediation have been endorsed by the Cal/EPA as an appropriate means of addressing potential risk, and thus can be proposed by the parties in relation to the project sites.

COMMENT A-5: <u>Site A – Offsite Groundwater Plume Remediation</u>

We recently approved an August 2013 Alternate Cleanup Plan for in-situ biodegradation to remediated the offsite shallow groundwater plume. Pilot testing is underway to evaluate the likelihood of its success. We are looking forward to receiving the results to assess the feasibility of

this approach to remediate the TCE and PCB plume in a timely manner. There is no guarantee that the approved Alternate Cleanup Plan will lead to significant reductions in the pollutant concentrations, and meet the standards stated in MM-HAZ-1. Furthermore, the proposed remedial action has the potential to generate toxic or hazardous byproducts including methane. Methane in the subsurface can create pressure to push dangerous and explosive vapors along preferential pathways, including utility corridors such as the San Francisco Public Utilities Commission Hetch Hetchy pipeline or utility corridors serving the structures at the site, into the buildings. As long as the property remains undeveloped, the methane can simply move upward and vent into open air. Structures on the property along with their underground utilities could cause adverse effects of vapors. It is also possible that the plume may degrade into vinyl chloride, which is more carcinogenic than TCE.

RESPONSE A-5: The commenter notes that there is no guarantee that the August 2013 Alternate Cleanup Plan (prepared and submitted by Honeywell, independent of the Trumark project SEIR process) will lead to significant reductions in the pollutant concentrations, and meet the standards stated in MM HAZ-1. The City notes that while no remediation plan can guarantee significant reductions in pollutant concentrations, the RWQCB must have found the Alternate Cleanup Plan adequate; otherwise, the RWQCB presumably would not have approved the Plan. Moreover, the City notes that MM HAZ-1 includes both a remediation plan and a risk management plan. Hence, it is anticipated that a combination of remediation and risk management will be undertaken to meet the standards stated in MM HAZ-1. Please also see Response to Comment A-25 regarding revisions to the SEIR's hazard mitigation measures.

The commenter also notes concerns regarding potential risk of explosions due to potential methane generation and buildup as a result of groundwater remediation. The commenter has not provided new information, such as potential rate and mass of methane generation, or information regarding methane generation from TCE/PCE remediation at any other site, thus the City views such an impact as speculative. (See e.g. Parker Shattuck Neighbors v. Berkeley City Council (2013) 222 Cal.App.4th 768, 786 [commenter requests for further investigation of hazard impact without also providing evidence of such impact not substantial evidence of impact].) Nevertheless, in response to the commenter's concerns, MM HAZ-1 and MM HAZ-3 will be revised as stated in Response A-25 to clarify potential techniques that would be used to address methane vapor migration. Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

The commenter also speculates regarding potential generation of vinyl chloride as a result of groundwater remediation. The commenter has provided no evidence to support such a concern, such as potential rate and mass of vinyl chloride generation, or information regarding vinyl chloride generation from TCE/PCE remediation at any other site. The City notes that the Alternate Cleanup Plan approved by the RWQCB states that once the enhanced in-situ bioremediation remedy has been implemented, cis-1,2-DCE and vinyl chloride concentrations are expected to increase, although only vinyl chloride may increase in concentration

above its remedial action level (4 ug/L), possibly for several years, if the necessary microbial organisms are present in sufficient number. The City notes that the 4 ug/L remedial action level is close to the screening level for which such concentrations in groundwater should be evaluated for the potential to pose a risk to indoor air at future residential buildings (1.8 ug/L). The City further notes that such screening levels overestimate risk by orders of magnitude at sites where vapor intrusion mitigation measures, such as those proposed in the December 2013 Conceptual Risk Management Plan, are implemented. Further, Mitigation Measure HAZ-1 requires a risk management plan for Site A, which should reduce any risk to levels below that the RWQCB considers appropriate for residential land use. Thus, the City concludes that any risk from vinyl chloride generation is speculative and would be less than significant.

COMMENT A-6: Site A – Post Remediation Monitoring

Evaluating the effectiveness of the proposed in-situ biodegradation will require several years after full-scale implementation of the remedy. The uncertainty caused by past failures of remedial actions at the site, combined with the potential for the proposed treatment system to generate hazardous byproducts, such as methane, raises the concern that the proposed remedy may not be adequately protective. While the Regional Board has approved the Alternate Cleanup Plan, its success has yet to be determined. If the remedial action fails to perform as proposed, revisions to the cleanup plan and additional remedial actions may be required by the Regional Board.

Full restoration of the beneficial uses of groundwater in the TOD will take years, or possibly decades. Only after remediation has significantly reduced pollution concentrations and a demonstration has been made that concentrations will meet cleanup goals in a reasonable timeframe would it be appropriate to consider residential construction with vapor mitigation systems. The time frame needed to demonstrate the effectiveness of the remedial action may be substantially longer than currently envisioned by the developer.

RESPONSE A-6: The commenter notes concerns about the efficacy of the approved Alternate Cleanup Plan, and states that only after remediation has significantly reduced pollution concentrations and a demonstration has been made that concentrations will meet cleanup goals in a reasonable timeframe would it be appropriate to consider residential construction with vapor mitigation systems. The City notes that, as discussed in Response A-4, the Cal/EPA DTSC Vapor Intrusion Mitigation Advisory calls for vapor intrusion mitigation and source remediation to address risks calculated to be in the range calculated for Site A. The RWQCB has not provided new information indicating that the current and proposed activities are inconsistent with the VIMA or that when the proposed residences are built, risks will not be reduced below applicable thresholds, nor why the Cal/EPA DTSC Vapor Intrusion Mitigation Advisory guidance is not substantial evidence supporting the conclusion that vapor mitigation system may be appropriate for Site A. The City notes that the remediation and risk management plans for Site A will be reviewed by the commenter as a requirement of MM HAZ 1.

COMMENT A-7: Site B – Background

Development at Site B, the former Jones-Hamilton site at 8400 Enterprise Drive, is dependent on successful cleanup to residential standards. Thus far, cleanup actions and soil cleanup standards were based on continued commercial/industrial in accordance with Site Cleanup Requirements Order No. R2-2001-054 adopted by the Regional Water Board for this site. There is currently a land use restriction that prohibits residential use of the property. This Order has not yet been revised to reflect the new proposed land use. To support single-family housing at this site, the proposed cleanup includes extensive soil excavation and soil management to remove dioxins, furans, PCBs, pentachlorophenol, tetrachlorophenol, and several VOCs, in particular 1,2- dichloroethane (1,2-DCA), arsenic and other contaminants in order to reduce the human health risks for site future occupants.

RESPONSE A-7: The commenter summarizes the current status of the anticipated remediation of Site B and the current status of the groundwater plume under that site and adjoining property. These comments do not state specific concerns about the adequacy of the Draft SEIR or otherwise comment on the contents of the Draft SEIR. Therefore, a response is not required. However, these comments have been noted for the record and will be provided to the Planning Commission and City Council for consideration.

COMMENT A-8: Site B – Groundwater Contamination

A groundwater solvent plume also underlies Site B and poses vapor intrusion threats which will be reevaluated after soil removal actions are completed. The groundwater plume from Site B has also migrated offsite in a westerly direction, into the public right-of-way on Willow Street and onto 37555 Willow Street (location of Torian property and residential development). Groundwater cleanup standards have not been achieved. After development long-term monitoring, ongoing groundwater cleanup and environmental land use restrictions will be needed to protect human health and safety.

RESPONSE A-8: The commenter states that a groundwater contamination plume that underlies Site B has migrated offsite in a westerly direction, into the public right-of-way on Willow Street and onto 37555 Willow Street. The City notes that these comments do not state specific concerns about the adequacy of the draft SEIR or otherwise comment on the contents of the Draft SEIR. Therefore a response is not required. However, these comments have been noted for the record and will be provided to the Planning Commission and City Council for consideration. The City also notes that no document conclusively demonstrating such plume origin and migration has been identified. RWQCB Cleanup Order 01-054 for Site B states that the source of the DCA in groundwater at and near Site B is not clear because the Jones-Hamilton Company had no documented use of DCA, and because DCA was detected at higher concentrations on adjacent sites. In addition, the December 2012 Revised Remedial Actions and Cleanup Standards Report (RAW) [SEIR Appendix D-1] states that the DCA detected in the shallow ground water may be from off-site sources, based on the ground water grab

sample results collected near Willow Street in November 2012 on Site B, and the reported ground water flow direction at 37555 Willow Street at that time. The commenter further states that after development, additional actions will be required. Comment noted. The City also notes that the remediation and risk management plans for Site B will be reviewed by the commenter as a requirement of MM HAZ-1, among other oversight activities by the commenter.

COMMENT A-9: Site B – Soil Contamination

Recent testing for dioxins and related chemicals led to the discovery of significant pollution with these very toxic chemicals at Site B. Some of these contaminants may also be present at other properties within the Dumbarton TOD Specific Plan area, based on the new data collected at the adjacent Torian property at 37555 Willow Street. The magnitude and extent of the dioxin contamination is not yet known. All property owners in the TOD Specific Plan area will be required to conduct special studies to determine the source(s), extent and magnitude of these highly toxic contaminants. Dioxins are considered to be among the most toxic man-made chemicals. Until the contamination with dioxins and related chemicals is fully characterized, which would provide a better understanding of the likely sources and fate and transport mechanisms, the assumptions regarding the extent and toxicity of the contamination are necessarily conservative.

Air impacts from airborne dusts during soil excavation, profiling and trucking contaminated soil offsite do not seem to be adequately addressed. Additional mitigation measures are needed, including a requirement for a Certified Industrial Hygienist to monitor the cleanup site and vicinity for toxins associated with the cleanup actions.

RESPONSE A-9: The commenter summarizes the current testing status for dioxins on Site B. As anticipated by the TOD EIR, further characterization of contamination on Specific Plan parcels was anticipated and the remediation plan that will be approved by the commenter will ensure any risks from dioxins are reduced to a less than significant level, including appropriate data gap analysis. Please see Response A-19 below.

The commenter also suggests that a Certified Industrial Hygienist be required to monitor the cleanup site and vicinity. The City notes that according to the RWQCB Fact Sheet regarding Site B, a Community Protection Plan, signed by a certified industrial hygienist, will be required to present measures serving to protect the local residents and the environment from potential hazardous airborne contaminants and volatile vapors associated with the cleanup plan. The Plan will address all Site chemicals of concern, all potential exposure pathways, dust control, perimeter dust and air monitoring; storm water runoff management, emergency procedures, preparedness, and contingency plans. The Health and Safety Plan (HASP) included with the December 2012 Revised Remedial Actions and Cleanup Standards Report (RAW), referenced on page 93 of the Trumark project SEIR, addresses both on-site and off-site exposure risks, and provides that a Project Certified Industrial Hygienist (CIH) shall have the following responsibilities:

- Health surveillance of all site employees
- Assuring that safety procedures in effect are in compliance with all appropriate federal, state, and local regulations
- Maintaining personnel exposure and perimeter air monitoring records
- Ensuring that appropriate personal protective equipment is used
- Assuring that site control zones are enforced for all personnel
- Assuring that all personnel follow site rules
- The C.I.H. will maintain a safety log, which will be kept for all site activities. This log will include safety meeting topics, training records, air monitoring information, and any incidents related to employee or contractor health and safety. The C.I.H. has responsibility for implementing and enforcing all aspects of the HASP.

The commenter does not provide evidence that such requirements will be inadequate to prevent potential significant impacts related to remediation and construction activities or why the additional requirement that a certified industrial hygienist must be present on-site during each day of remediation activity to reduce impacts to a less than significant level. Further, MM HAZ 4 requires a health and safety plan meeting applicable regulatory standards to protect the safety of workers and the general. The City concludes that substantial evidence supports its determination that hazard risks will reduced to a less than significant level through implementation of the SEIR and TOD EIR hazard mitigation measures. Therefore the City concludes no further mitigation is required. Please also see Responses A-12, A-19 and A 25 below.

COMMENT A-10: Site B – Vapor Intrusion

The December 2012 Human Health Risk Assessment in Appendix D-1 of the SEIR found an unacceptable human health risk (3.1×10^{-4}) for vapor intrusion driven primarily by 1,2-dichloroethane and vinyl chloride. Vapor intrusion risks will be reevaluated upon completion of the proposed soil cleanup plan.

RESPONSE A-10: The commenter summarizes certain components of a human health risk assessment and states it will reevaluate vapor intrusion risks up completion of the proposed soil cleanup plan. These comments do not state specific concerns about the adequacy of the Draft SEIR or otherwise comment on the contents of the Draft SEIR. Therefore, a response is not required. However, these comments have been noted for the record and will be provided to the Planning Commission and City Council for consideration.

COMMENT A-11: Site B – Proposed Remediation

The responsible party has proposed to remove the concrete-asphalt cap that covers the two surface impoundments and to conduct an extensive soil excavation across the 21-acre site. The excavation poses potential risks for workers and for nearby residents. In addition, there are some concerns about proper risk mitigation while moving such a large volume of contaminated soil containing highly

toxic chemicals (dioxins, furans, PCP, etc.). Proposed soil cleanup for Site B includes the following: 44,000 cubic yards of soil excavation from the former detention pond area; 35,000 cubic yards of soil excavation in the vacant and undeveloped areas; and an estimated 30,000 cubic yards of soil excavation in the former facility area. Soil will be placed into 500 cubic yard stockpiles. All stockpiled soil must comply with Bay Area Air Quality Management District regulations and requirements. A total of 109,000 cubic yards of soil or 13,625 truckloads could be transported offsite for disposal from Site B.

Across the street at the adjacent Torian property at 37555 Willow Street, an additional 50,000 cubic yards of soil excavation will add an additional 6,250 truckloads for transport and offsite disposal, and at the Gallade Chemical site at 8333 Enterprise Drive an estimated 20,000 cubic yards of contaminated soil (720 truckloads) will be transported for offsite disposal. The Final SEIR should assess the additive and cumulative impacts to residents for soil excavations at 8333 Enterprise Drive and 37555 Willow Street. There will also be soil cleanups at FMC, Romic, Ashland, and possibly the Newark Sportsmans' Club and Cargill properties.

RESPONSE A-11: The commenter summarizes the proposed remediation plan and regulatory requirements for Site B. These comments do not state specific concerns about the adequacy of the Draft SEIR or otherwise comment on the contents of the Draft SEIR. Therefore, a response is not required. However, these comments have been noted for the record and will be provided to the Planning Commission and City Council for consideration.

The commenter states that 109,000 cubic yards of soil or 13,625 truckloads could be transported offsite for disposal from Site B. The commenter is correct that the SEIR identifies 109,000 cubic yards as a "worst case" scenario. The SEIR also informs readers that the current best estimate is 60,350 cubic yards to be transported offsite for disposal from Site B. This is a similar estimate to the estimate found in the commenter's February 2014 Fact Sheet regarding Site B contains an updated estimate of 61,000 cubic yards of soil to be transported offsite for disposal from Site B.

The commenter also states that the Trumark project SEIR should analyze the cumulative impacts associated with the remediation of the other properties in the Specific Plan Area in addition to Trumark's Site A and Site B. The cumulative impacts associated with such activities were analyzed in the TOD EIR in its Air Quality and Hazard impacts chapters which consider implementation of the entire Specific Plan. Please also see Response A-3.

COMMENT A-12: Summary – Significant Impacts and Mitigation and Avoidance

Air Quality (associated with hazardous materials contaminated soil) Page iv.
The Final SEIR should include language for Mitigation and Avoidance Measures similar to those listed under the Noise Category, in order to protect citizens from hazardous dusts, fumes, vapors, odors that occurs during soil excavation and off-hauling of contaminated soil.

Suggested language is listed below:

- "A certified/licensed industrial hygienist will develop and oversee implementation of an air monitoring program to ensure air quality standards are met throughout the duration of the Project, to ensure protection of human health and safety, for workers and existing residents, and visitors to the Project."

- "Public notices sent to the residents pertaining to the scheduled soil removal and offhauling days, and instructions for residents to minimize exposure to toxic airborne dusts, fumes, vapors, odors, etc."

- "A Procedure and phone numbers for notifying the City Building Inspection Division staff during regular construction hours and off-hour."

- "A sign posted on site pertaining the permitted construction days and hours, complaint procedures, and who to notify in the event of a problem."

- "The designation of an onsite construction compliance and enforcement manager for the project. The manager shall act as a liaison between the project and its neighbors to ensure compliance with air quality standards and nuisance conditions."

RESPONSE A-12: The commenter proposes additional detail for the Air Quality mitigation measures in the SEIR related to hazardous dusts, fumes, vapors, odors that may occur during soil excavation and off-hauling. The City understands this comment as addressing Site B, as the comment addresses issues potentially resulting from soil excavation and off-hauling, which is not planned for Site A. The SEIR contains a detailed analysis of construction-related air impacts on pages 54 through 58 of the SEIR. The air quality analysis conservatively assumes a worst case 109,850 cubic yards of soil would be exported from Site B. The SEIR concludes that criteria pollutants would be less than significant, therefore no mitigation is required. The SEIR also analyzes the health impacts associated with dust emissions related to remediation, grading and constrictions activities. The SEIR concludes that TOD EIR Mitigation Measure 4.2-1a and 4.2-1b, which require, among other things, dust control measures such as surface watering, material covering, road cleaning, and speed limits, ceasing activities under high wind conditions, truck tire washing, and limiting total construction activities occurring on a single day, will reduce impacts to less than significant levels. These mitigation measures also include measures similar to those proposed by the commenter. The developer will be required to post a publically visible sign with the 24-hour telephone number and person to contact at the construction firm regarding dust complaints. This person is required to respond and take corrective action within 48 hours. The Air District's phone number must also be posted to ensure compliance with applicable regulations. The commenter does not explain why such measures will be ineffective in addressing air quality impacts related to dusts, fumes, vapors, odors that may occur during soil excavation and off-

hauling. The City concludes that substantial evidence supports its conclusion that construction-related air quality impacts will be less than significant after mitigation and that no further mitigation is required. The City notes that the RWQCB Fact Sheet for Site B provides general notice regarding the planned soil removal and off-haul. Further, the City understands that shortly prior to the soil removal, the RWQCB and/or the Applicant may issue an additional fact sheet or notice regarding same. Please also see Responses A-2, A-9, A-19 and A-25.

COMMENT A-13: Section 1.0. Page 30. Introduction

The draft SEIR addresses only two parcels (Site A and Site B totaling 23.5 acres) in the 233-acre Dumbarton TOD Specific Plan Area. Additional cleanup actions will occur at Gallade (2-acres), Torian (42-acres), FMC (47-acres), Ashland (10-acres), SHH, LLC (6-acres), and possibly at Cargill (54.5 acres). There will be additive and cumulative impacts to citizens and residents as other contaminated properties in the TOD initiate cleanup activities, causing nuisance conditions associated with dusts, fumes, vapors, odors, and trucks hauling contaminated soil on the public streets all over again.

RESPONSE A-13: The commenter states that the SEIR addresses only two parcels and that citizens and residents will be impacted by cleanup activities in a serial fashion as the Specific Plan Area is developed. The SEIR is explains it is "intended to supplement the Dumbarton TOD EIR by evaluating impacts *specifically from Trumark Homes' project within the Specific Plan Area.*" Impacts related to the potential development of other parcels within the Specific Plan Area are analyzed in the TOD EIR. The appropriate level of additional CEQA review related to those parcels will occur prior to approval of discretionary actions permitting development on those parcels. (See CEQA Guidelines § 15168(c).) As authorized by CEQA Guidelines § 15168(d)(3), the SEIR focuses on impacts unique to the application (i.e. Trumark's proposed development of Site A and Site B) presently under consideration. (SEIR p. 50) The SEIR informs readers that it is not intended as a stand-alone document addressing all topics, issues and impacts, and is only intended to disclose new information developed subsequent to the certification of the TOD EIR. The commenter should review the TOD EIR for information regarding cumulative impacts related to development activities throughout the Specific Plan Area. Please also see Response A-3.

COMMENT A-14: Section 2.7, Page 33, 34. Project Related Approvals

Add the following agencies for Project related approvals:

- RWQCB for approval of proposals for cleanup and monitoring of hazardous materials, storm water construction permits, 401 and 404 Certifications.
- Union Sanitation District for permits to discharge contaminated groundwater.
- BAAQMD for excavation and aeration of contaminated soils.

RESPONSE A-14: The Commenter requests that certain agencies be added to the list of agencies for Project related approvals. The SEIR has been revised in response to this comment. However, the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit Order 2009-0009-DWQ) does not require RWQCB approval, rather a Notice of Intent is filed. The SEIR describes the project's potential impacts on wetlands for which a 404 permit may be required (thereby requiring 401 certification from the RWQCB) and noted that the project would obtain permits from the RWQCB and USACE as necessary. Therefore, these items are not were not included in the revision. Refer to **Section 4, Revisions to the Text of the Draft SEIR.**

COMMENT A-15: Section 3.2, Page 38. Project Location and Section 3.5.3 Page 44, Residential Development

The draft SEIR states, *"the industrial property at 8333 Enterprise Drive (current location of Gallade Chemical,) adjacent to Site A would be redeveloped as a public park. Use of this property as a public park was evaluated in the Specific Plan EIR only at a program level given the final cleanup activities to allow use of the site as a park were not sufficiently defined."*

The Final SEIR should recognize that there is a land use covenant on the proposed park parcel at 8333 Enterprise Drive, which restricts the use of the property for commercial and industrial purposes only. In addition to groundwater remediation, the contaminated soil under the buildings is required to be excavated pursuant to Task C.5 and C.6 of the Order R2-2007-0005. The Alternate Cleanup Plan referenced in the draft SEIR was submitted specifically to comply with Task C.1 to cleanup contamination in shallow groundwater zone, and it did not propose tasks for address site-wide contamination and soil excavation. The final SEIR should address the impacts to the nearby residents that will be exposed to hazardous dusts, vapors fumes, noise, etc. during the facility closure, building demolition, and cleanup actions for soil and groundwater at 8333 Enterprise Drive.

RESPONSE A-15: The commenter requests that the SEIR recognize that there is a land use covenant on the Gallade Parcel that restricts its use to commercial and industrial purposes only and that the use of the parcel as a public park would require remediation activities including excavation. Comment noted. The TOD EIR analyzed the potential redevelopment of the Gallade Parcel as a public park. Further, as noted by the commenter, Order R2-2007-0005 requires excavation and the ACP acknowledges such excavation is required. No further analysis of remediation activities on the Gallade Parcel is required in the Trumark project SEIR. Please see Response A-3.

The commenter also requests that the Trumark project SEIR address impacts related to the remediation of the Gallade Parcel. Please see Response A-3.

COMMENT A-16: 3.5.2, Page 40. Pollutant Remediation and Site Preparation

The draft SEIR states, *"The proposed project would include vapor intrusion engineering controls (e.g. vapor barriers, sub-slab depressurization, etc.) beneath the buildings for Site A to protect future development from vapor intrusion."*

The final SEIR should recognize that none of the sites in the Specific Plan Area have been remediated to safe levels for residential use. Many have shallow groundwater impacts and vapor intrusion threats, including Site B, which has not yet evaluated the vapor intrusion threats. The entire northern half of the Dumbarton TOD Specific Plan Area will also likely require vapor intrusion engineering controls, due to extensive groundwater pollution and very high levels of VOCs (e.g., including TCE, PCE, ethylene dibromide [EDB], 1,2-DCA, vinyl chloride, etc.) that pose vapor intrusion risks.

RESPONSE A-16: The commenter requests that the SEIR should note that none of the parcels within the Specific Plan Area have completed remediation activities for residential use and that portions of the Specific Plan Area may require vapor intrusion controls. Comment noted. The TOD EIR discusses the contamination issues associated with each parcel within the Specific Plan Area and discloses that remediation will be required for such parcels. Please also see Response A-3 and A-22.

COMMENT A-17: 3.5.2.1, Page 41. Site A – Trumark Property

The draft SEIR states, *"Removal and disposal of large amounts of contaminated soil from the site (Site A) is not anticipated. Approval by the RWQCB of the methods of remediating VOC impacts to the site and post-remediation requirements for residential use of the property would be required prior to development of Site A with residential uses."*

The final SEIR should recognize that large amounts of contaminated soil will be removed at the adjacent Gallade Chemical, 8333 Enterprise Drive, prior to development, pursuant to Site Cleanup Requirements Order No. R2-2007-0005.

RESPONSE A-17: The commenter requests that the SEIR address impacts related to the remediation of the adjacent Gallade Parcel. Please see Response A-3.

COMMENT A-18: 3.5.2.2, Page 41. Site B – Jones-Hamilton

The draft SEIR states that the *"implementation of the RAP and preparation of the site for subsequent development is expected to take six to twelve months."*

The final SEIR should recognize that the RAP is purely a soil cleanup plan and additional tasks related to vapor intrusion risks and cleanup of underlying groundwater pollution will be required to prepare the site for development.

RESPONSE A-18: The commenter requests the SEIR clarify that further action beyond soil remediation will be required. Page 41 of the SEIR is revised to state "After soil removal, further vapor intrusion controls and/or groundwater remediation may be

required to prepare the site for residential development." Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

COMMENT A-19: 3.5.2.2 Page 42. Removal of Soil Containing Dioxin

The draft SEIR does not thoroughly address human health risks related to the removal and transportation of soil containing dioxins.

Air monitoring and prevailing wind studies conducted by a certified industrial hygienist will be crucial elements of the project to demonstrate that potentially significant human health impacts have been properly addressed and mitigated.

RESPONSE A-19: The Commenter states that the SEIR does not thoroughly address human health risks related to the removal and transportation of soil containing dioxins, and suggests air monitoring and prevailing wind studies conducted by a certified industrial hygienist. The City respectfully disagrees. The SEIR thoroughly addresses the health risk associated with the disturbance and transport of soils on pages 43-44, 55-57, and 90-92. Mitigation Measure HAZ-4 addresses the risks to both workers and the general public during remediation activities. Remediation activities associated with dioxins are specifically discussed on pages 89 and 91 of the SEIR. The SEIR discloses that up to 35,000 cubic yards of soil could be removed from Site B to address dioxin contamination. Please also see Responses A-9,A-12, and A-25.

COMMENT A-20: Section 4.1.2.2, Pages 54, 55. Construction-Related Impacts and Dust Emissions and Section 4.1.2.2, Page 57. Community Health Risk

The draft SEIR *states that dust would be generated during remediation, grading and construction activities (at Sites A and B).*

The Final SEIR should assess the added significant impacts to sensitive receptors during building demolition and soil cleanup at 8333 Enterprise and at Torian at 37555 Willow Street, in addition to the proposed activities at Sites A and B. There will be additive and cumulative impacts to citizens and residents as other contaminated properties in the TOD initiate cleanup activities, causing nuisance conditions associated with dusts, fumes, vapors, odors, and trucks hauling contaminated soil on the public streets all over again. In order to ensure public health and safety, air monitoring throughout the project should be conducted under the supervision of a certified industrial hygienist, given the toxicity of TCE and dioxins.

The draft SEIR states that *the air quality analysis was based on the assumption that up to 109,850 cubic yards of soil could be exported from Site B and up to 59,000 cubic yards could be imported to the site.*

The final SEIR should also include exported soil volumes for the Torian property at 37555 Willow Street and at Gallade at 8333 Enterprise Drive.

RESPONSE A-20: The commenter requests that the SEIR analyze the impacts to sensitive receptors for remediation activities at the Gallade and Torian Parcels. The SEIR explains it is "intended to supplement the Dumbarton TOD EIR by evaluating impacts *specifically from Trumark Homes' project within the Specific Plan Area.*" Impacts related to the potential development of other parcels within the Specific Plan Area are analyzed in the TOD EIR. The appropriate level of additional CEQA review related to those parcels will occur prior to approval of discretionary actions permitting development on those parcels. (See CEQA Guidelines §§ 15152 (c), 15168(c).) As authorized by CEQA Guidelines § 15168(d)(3), the SEIR focuses on impacts unique to the application (i.e. Trumark's proposed development of Site A and Site B) presently under consideration. (SEIR p. 50) The SEIR informs readers that it is not intended as a stand-alone document addressing all topics, issues and impacts, and is only intended to disclose new information developed subsequent to the certification of the TOD EIR. The commenter should review the TOD EIR for information regarding cumulative impacts related to development activities throughout the Specific Plan Area. Please also see Response A-3.

The commenter also requests that an industrial hygienist supervise air quality during construction. Please see Responses A-2, A-9, A-19 and A-25.

COMMENT A-21: Section 4.5, Page 82. Hazards and Hazardous Materials

The draft SEIR indicates that this section is based on part on the *Final Site Cleanup Requirements Order No 98-067*. This referenced Order was rescinded when Order No. 01-054 for the Jones Hamilton Site was adopted in 2001. The most recent Orders for all the sites in the Dumbarton TOD are noted below:

- FMC Corporation, 8787 Enterprise Drive, SCR Order R2-2002-0060
- Ashland Inc., 8610 Enterprise Drive, SCR Order R2-2005-0038
- SHH, LLC (Former Romic), 37445 Willow Street, SCR Order R2-2008-0081
- Jones-Hamilton, 8400 Enterprise Drive, SCR Order R2-2001-0054,
- Honeywell (Former Baron-Blakeslee), 8333 Enterprise, SCR Order R2-2005-0004

The cleanup standards approved for these sites (except Honeywell) were based on continued industrial and commercial land and not residential use. Revised cleanup standards and amended Orders will have to be adopted by the Water Board.

RESPONSE A-21: The commenter identifies the most recent orders applicable to the parcels within the Specific Plan Area. Comment noted. Order No. R2-2001-0054 was included as Appendix D-4 to the Draft SEIR.

COMMENT A-22: Section 4.5.1.1, Page 82. Background

The draft SEIR references eight *'Hazardous Materials Sites' within the Dumbarton TOD*

PM) studied in the TOD EIR, and therefore, the traffic impacts from construction activity would be less than the operations of the Specific Plan upon development, and have been adequately disclosed. No further traffic analysis, therefore, was necessary as part of the Trumark project SEIR.

COMMENT A-24: Section 4.5.1.1, Page 83. Sites Impaired by Hazardous Materials

The draft SEIR is a piecemeal environmental review. It only assesses the impacts at two sites in the Dumbarton TOD Specific Plan Area, and as noted above it fails to address the cumulative impacts associated with cleanup activities at six or more other sites in this TOD area.

RESPONSE A-24: The commenter states that the SEIR consists of piecemeal environmental review because it only analyzes two sites within the Specific Plan Area. The City respectfully disagrees. As discussed on SEIR page 30, on September 8, 2011, the City of Newark certified the TOD EIR. The SEIR explains it is "intended to supplement the Dumbarton TOD EIR by evaluating impacts *specifically from Trumark Homes' project within the Specific Plan Area.*" Impacts related to the potential development of other parcels within the Specific Plan Area are analyzed in the TOD EIR. The appropriate level of additional CEQA review related to those parcels will occur prior to approval of discretionary actions permitting development on those parcels. (See SEIR p. 44, CEQA Guidelines §§ 15152 (c), 15168(c).) Thus, the City avoided any piecemeal review of environmental impacts associated with development within the Specific Plan Area by preparing and certifying the program TOD EIR. As stated in CEQA Guidelines § 15168, the advantage of such a program EIR is the "consideration of cumulative impacts that might be slighted in a case-by-case basis." The City is currently considering whether to make project-level approvals for Site A and Site B. Thus, CEQA Guidelines § 15168 instructs that the City would determine whether making such approvals would result in impacts not examined in the TOD EIR. The City determined that an SEIR should be prepared, and, as authorized by CEQA Guidelines § 15168(d)(3), the SEIR is focuses on impacts unique to the Trumark development applications presently under consideration. (SEIR p. 50.) Cumulative impacts associated with remedial activities were previously considered by the TOD EIR, therefore the City may properly rely on such analysis when making project-level approvals for Site A and Site B. (CEQA Guidelines §§ 15163(b); 15168(d)(3).)

The SEIR informs readers that it is not intended as a stand-alone document addressing all topics, issues and impacts, and is only intended to disclose new information developed subsequent to the certification of the TOD EIR. The commenter should review the TOD EIR for information related to development activities throughout the Specific Plan Area.

COMMENT A-25: Section 4.5.1.2, Page 85. Specific Plan EIR Mitigation Measures Applicable to the project, and Summary Table

The draft SEIR references the mitigation measures 4.7-1a – 1c identified in the Dumbarton TOD Specific Plan EIR that would apply to the proposed project. The mitigation measure 4.7-la falls short of the steps needed to properly investigate and remediated a property prior approving permits to grade or build on a particular parcel in the TOD Specific Plan Area. Additional mitigation and avoidance measures are needed to ensure that the proposed and approved cleanup activities are fully implemented, post-remedial monitoring is performed that demonstrates the remediation was effective at reducing site contaminants before grading or building permits are issued.

Suggested language to be incorporated into Mitigation Measure 4.7-1a is listed below:

- Prior to issuance of grading or building permits for Site A, excavation of contaminated soil at the adjacent property at 8333 Enterprise must be implemented, pursuant to the Order R2-2007-0005. If the soil excavation is not completed, the effectiveness of the proposed in-situ remedial actions at Site A is likely to be limited.
- Prior to issuance of grading or building permits for Site A and Site B, the following items should be completed (a) Implementation of the RWQCB approved remediation plan; (b) submission a start-up report to RWQCB; (c) submission of monthly progress reports to RWQCB; (d) submission of post-remediation monitoring reports to RWQCB until such time as a demonstration is made that cleanup standards will be met within a reasonable timeframe; (g) implementation of a risk management plan including engineered controls to mitigate residual pollutions as an interim measure, to protect human health and safety. Additional remediation and reporting will be required until residential cleanup standards are met or until the remediation is no longer cost-effective. If cleanup standards cannot be met in a reasonable timeframe, a revised human health risk assessment to evaluate the risks posed by residual contaminants in soil, soil vapor and groundwater and amended Remedial Action Plan should be submitted to the RWQCB for review and approval.
- Prior to issuance of grading or building permits, mitigation and avoidance measures are needed to ensure that utility corridors and public right of ways for Site A and Site B that may contain hazardous levels of VOCs and other hazardous contaminants are proper investigated, remediated, and prevented from acting as preferential pathways for vapor and groundwater migration.
- Post-construction mitigation measures are needed to ensure that future homeowners are protected from underlying residual pollution and financial responsibilities associated with any residual pollution. Mitigation measures should comply with DTSC's Vapor Intrusion Mitigation Advisory guidance document (Sections 6 and 7), and address the following:

i. Long-term risk management of pollution, long after the development is constructed;
ii. Inspection and monitoring of any engineered vapor mitigation systems to ensure the system are working effectively;
iii. Long-term groundwater monitoring, sampling, and reporting continues until the cleanup goals are reached;
iv. Proper abandonment of wells after the cleanup goal are reached; and

v. Periodic indoor air monitoring of buildings that are constructed over plumes with elevated levels of volatile organic compounds.
vi. Include measures to ensure protection of public utility corridors for abating hazardous vapors and for long-term treatment of contaminated groundwater, as appropriate.
vii. Create a system for community notification such as a website (see "www.Redfieldsite.org")

RESPONSE A-25: The commenter states that "The mitigation measure 4.7-1a falls short of the steps needed to properly investigate and remediated (sic) a property prior (sic) approving permits to grade or build on a particular parcel in the TOD Specific Plan Area", and that "Additional mitigation and avoidance measures are needed…" Please see Response A-2.

The commenter also provides specific requests for revisions to the SEIR's mitigation measures for hazards.

The commenter requests that the SEIR require that excavation of the Gallade Parcel be completed prior to issuance of any grading or building permits for Site A. The City respectfully disagrees this is an appropriate revision to MM HAZ-1. The timing of the remediation of the Gallade Parcel is uncertain, and not currently under the direct control of the City or the applicant. The construction activities on Site A are not dependent on remediation of the Gallade Parcel. The suggested text revision would also preclude the implementation of a remediation plan and risk management plan for Site A until an unknown future date as the plans will require grading and/or building permits. The remediation plan and risk management plan for Site A will address whether excavation of Gallade is required prior to occupancy to address any hazard risks to future occupants. The City concludes that occupancy of Site A would not occur until after the light industrial use on the Gallade Parcel has ceased operations. . Therefore, MM HAZ-1 is revised to require a condition of approval that occupancy of Site A will be delayed until the Gallade Parcel has ceased industrial operations. Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

The commenter proposes several suggested revisions to the hazard mitigation measures applicable to Site A and/or Site B. The commenter requests that these items be completed prior to the issuance of building or grading permits. Though the City has determined the *timing* requested is infeasible (for reasons provided above and below), the City will consider each subcomponent of the comment as a potential component of the plans currently required by the proposed mitigation.

(a). The Commenter requests that RWQCB approved remediation plans should be implemented prior to issuance of grading and building permits. The City notes that as to Site A, implementation of RWQCB approved remediation plans has been underway for several years, and implementation of an additional RWQCB approved remediation plan, Honeywell's August 2013 Alternate Cleanup Plan, has been underway for several months. Further, implementation of Honeywell's

December 2013 Conceptual Risk Management Plan (pending approval from the RWQCB) will require the issuance of building and/or grading permits.

As to Site B, adoption of the proposed mitigation measure – making grading permits contingent on "implementation" of a RWQCB approved remediation plan – would make any remediation impossible, because a grading permit is required to implement the proposed remediation plan, which consists mainly of excavation of impacted soil and replacement with imported fill soil. Therefore, the City concludes such a revision is infeasible. However, the City will revise the proposed mitigation measures to clarify that the required remediation plan and risk management plan construction phase components (as opposed to ongoing monitoring and reporting requirements) be implemented prior to occupancy. Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

(b.) The commenter requests that a "start-up report" be submitted. The City is unaware what would meet the definition of a "start-up report" but the remediation plans and risk management plans submitted to the commenter will include reporting and monitoring requirements. These requirements would presumably include submittals meeting the requirements of a "start up report". Mitigation Measure HAZ 1 is clarified to note that the remediation and risk management plans will contain monitoring and reporting requirements. Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

(c) and (d) The commenter requests monthly progress reports and post-remediation monitoring reports should be submitted to the RWQCB. Since the project sites are undergoing remediation and monitoring under RWQCB oversight, monthly progress reports are within the scope of RWQCB's authority to request from responsible parties. The commenter has not cited any inability of the RWQCB to require monthly progress reports. The City will revise the proposed mitigation measures to clarify that the required plans will include monitoring and reporting requirements. Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

(e) (designated "g" in letter). Commenter requests that prior to issuance of grading and building permits, a risk management plan including engineered controls be implemented. However, most or all engineered controls are integral to buildings, and thus cannot be implemented until after building permits are issued. Accordingly, adoption of the suggested revised mitigation measure would make the proposed mitigation infeasible, and would render the project infeasible, at least as to any location where "residual pollutions" are present (any remediation plan would likely permit "residual pollutions" at a certain level to remain in place so long as risks to human health are addressed). The City will revise the proposed mitigation measures to clarify that the required remediation plan and risk management plan construction phase components (as opposed to ongoing monitoring and reporting requirements) be implemented prior to occupancy. Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

The commenter states that "Additional mitigation and avoidance measures are needed to ensure that the proposed and approved cleanup activities are fully implemented, post-remedial monitoring is performed and demonstrates the remediation was effective at reducing site contaminants." The City will revise the proposed mitigation measures to clarify that the required remediation plan and risk management plan construction phase components (as opposed to ongoing monitoring and reporting requirements) be implemented prior to occupancy as they may be amended. The mitigation measures will also clarify that any amendments to such plans will require the same level of review and approval as the original plans. The mitigation measures will also clarify that the developer will be required to document the effectiveness of mitigation prior to occupancy. Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

The commenter states that mitigation measures are needed to ensure that utility corridors and public rights of way are investigated, remediated, and prevented from acting as preferential pathways for vapor and groundwater migration. The commenter does not propose any mitigation measures or explain why the TOD EIR and SEIR mitigation measures are inadequate. The City concludes that SEIR Mitigation measures MM HAZ 1 and 3 would apply to work associated with development of Site A and Site B, including any ancillary work in public rights of way and utility corridors. Because Site A and Site B are infill projects, neither Site A nor Site B requires major infrastructure improvements, such as a new water main, and work across parcel lines would be limited to utility connections and storm water drainage. Site A will require storm water, sanitary sewer and water connections to existing utilities on Enterprise Drive. Site B will require one storm water connection to the storm drain located on Willow Street near the southwest corner of the site, a sanitary sewer tie-in on Willow Street near the property boundary, and a water line lateral that will extend across Willow Street. There will also be one water connection on Enterprise Drive. The water line will be relatively shallow, with an approximately 6 foot deep trench. The RWQCB will review and approve the remediation plan and risk management plans for the projects. The City concludes that MM HAZ 1 through HAZ 5 will ensure that the limited utility connections in public rights of way or through adjacent private property will not result in significant hazard impacts and no further mitigation is required. The City also notes that offsite utility connections will be conducted by developer's contractors who will be subject to the health and safety plans meeting state and federal requirements.

The commenter suggests that post-construction mitigation measures are needed, and that they should comply with DTSC's Vapor Intrusion Mitigation Advisory (Section 6 and 7). The City notes that the particular suggested measures are within the purview and authorities of the commenter. Nevertheless MM HAZ-1 and MM-HAZ-3 are amended to clarify that prior to issuance of occupancy permits, a risk management plan consistent with DTSC's Vapor Intrusion

Mitigation Advisory shall be approved by the RWQCB or other oversight agency. Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

The commenter also requests that post-construction mitigation measures address seven specific items, some of which can be characterized as remediation-related, and some of which fall under the category of risk management. A response to each is provided below.

i. Long-term risk management of pollution, long after the development is constructed;

A risk management plan will be adopted for each of Site A and Site B. Long-term management of residual pollution is governed at Site A by the RWQCB's Final Site Cleanup Requirements Order No. R22007-0005, and at Site B by the RWQCB's Final Site Cleanup Requirements Order No. 00-54. The RWQCB has stated that it intends to adopt a new order governing Site B; such order would entail groundwater monitoring, sampling, and reporting until cleanup goals are reached.

ii. Inspection and monitoring of any engineered vapor mitigation systems to ensure the system are [sic] working effectively

This measure is consistent with DTSC's Vapor Intrusion Mitigation Advisory and inspection and monitoring requirements will be included in a risk management plan.

iii. Long-term groundwater monitoring, sampling, and reporting continues until the cleanup goals are reached;

Long-term groundwater monitoring, sampling, and reporting until cleanup goals are reached is required at Site A by the RWQCB's Final Site Cleanup Requirements Order No. R22007-0005, and at Site B by the RWQCB's Final Site Cleanup Requirements Order No. 01-54. The RWQCB has stated that it intends to adopt a new order governing Site B; such order would entail groundwater monitoring, sampling, and reporting until cleanup goals are reached.

iv. Proper abandonment of wells after the cleanup goals are reached;

Proper abandonment of wells is required by law and by RWQCB practice. No additional mitigation is necessary.

v. Periodic indoor air monitoring of buildings that are constructed over plumes with elevated levels of volatile organic compounds;

This measure is consistent with DTSC's Vapor Intrusion Mitigation Advisory and inspection and monitoring requirements will be included in a risk management plan.

vi. Include measures to ensure protection of public utility corridors for abating hazardous vapors and for long-term treatment of contaminated groundwater, as appropriate

This measure is consistent with DTSC's Vapor Intrusion Mitigation Advisory. In addition, the Honeywell Conceptual Risk Management Plan for Site A and the Remedial Action Workplan for Site B require installation of low-permeability plugs adjacent to residences to address the potential migration of vapors laterally along utility conduits and into residences. Potential hazardous vapors migrating along public utility corridors would be addressed by the same measures. MM HAZ-1 and MM HAZ-3 are amplified with the following:

Such plans shall address the potential migration of vapors laterally along utility conduits and into residences through physical controls. The extent of such physical controls shall be determined in response to soil vapor data generated prior to construction and designed to control migration of vapors to avoid significant risk to human health or structures. Such physical controls could include the installation of low-permeability backfill "plugs" adjacent to residences and along subsurface utilities beneath Sites A, or through an equally effective technique. Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

vii. Create a system for community notification such as a website (see www.Redfieldsite.org)

This measure is consistent with DTSC's Vapor Intrusion Mitigation Advisory and a system for community notification will be included in the risk management plans.

B. RESPONSE TO COMMENTS FROM THE CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC), FEBRUARY 7, 2014.

COMMENT B-1: Please consider the following comments from the Department of Toxic Substances Control (DTSC) in response to the Administrative Draft Supplemental Environmental Impact Report (Draft SEIR), Trumark Dumbarton Transit Oriented Development Residential Project, dated December 2013 (State Clearinghouse No. 2010042012).

Our comments support our sister agency, the San Francisco Regional Water Quality Control Board (RWQCB) on application of two DTSC guidance documents to the project: Vapor Intrusion Guidance (VIG; DTSC, 2011a) and Vapor Intrusion Mitigation Advisory (VIMA; DTSC, 2011b). The RWQCB is the lead regulatory agency for remediation of the former Baron Blakeslee site that is adjacent to the Trumark parcel, while DTSC is the lead agency for the post-closure permit at the former Baron Blakeslee site.

Our comments on Section 4.5 that pertain to the Trumark parcel (Site A) are as follows:

1) Based on information presented in the Draft SEIR, Human Health Risk Assessment (HHRA; CH2M Hill, 2013b), and Alternate Cleanup Plan (ACP; AMEC, 2013), it is not clear if remediation proposed in the ACP will be completed before construction of single-family homes at the Trumark parcel. In addition, contamination will remain in place even if the ACP achieves its target remedial action levels, as the remedial action levels in the ACP were developed for the former Baron Blakeslee site, not the Trumark parcel. The ACP and associated remedial action levels do not account for future land use scenarios at the Trumark parcel. Therefore, before construction of residential homes at the Trumark parcel, the human health risks should be re-evaluated to ensure that public health is protected. Additional remediation at the Trumark parcel, along with vapor intrusion (VI) mitigation, may be necessary to ensure that remaining contamination does not present a threat.

RESPONSE B-1: The commenter states that it is not clear if remediation proposed in the ACP will be completed before construction of homes on Site A. The commenter also recommends that human health risks should be re-evaluated before construction of homes at Site A, and suggests that additional remediation and vapor intrusion mitigation may be necessary. Honeywell's December 20, 2013 Conceptual Risk Management Plan provides that construction of homes on Site A can proceed prior to reaching remedial goals for impacted soil and groundwater, and provides multiple vapor intrusion mitigation measures. MM HAZ-1 requires the RWQCB to review and approve remediation and risk management plans prior to issuance of building or grading permits that are designed to be protective of human health and risks to human health will be reevaluated at that time.

COMMENT B-2:

2) VI mitigation is not intended to be a sole remedial alternative for a VOC contaminated site. In accordance with the VIMA, mitigation measures are an interim step that allow building occupancy concurrent with subsurface remediation. Monitoring of the mitigation systems will be necessary to

demonstrate the protection of public health while the cleanup activities transpire. Once the subsurface has been restored to appropriate health based concentrations, building mitigation can be terminated.

RESPONSE B-2: The commenter states that vapor intrusion mitigation is not intended to be a sole remedial alternative for a VOC contaminated site, and that monitoring of mitigation systems is required. Comment noted. The City notes that under the August 2013 Alternative Cleanup Plan, groundwater remediation is to be conducted at Site A, and that the VIMA calls for monitoring of various aspects of vapor intrusion mitigation systems. Please also see Responses A-4 and A-25.

COMMENT B-3:

3) Section 4.5.1.1, Presence of Hazardous Material Sites, page 83, states that "the analysis of hazards and hazardous materials impacts contained in this SEIR is limited to the potential environmental impacts from … development of Site A [the Trumark Parcel] with residential uses and engineered controls to mitigate impacts to the site from an adjacent property…" The Draft SEIR discusses remediation of Site B (the former Jones Hamilton site) but does not address remediation of the Trumark Parcel. Given current soil gas and groundwater concentrations present at Site A and the adjacent former Baron Blakeslee site, remediation is a necessary component of redevelopment and should be included. The text should acknowledge remediation under the ACP and potential additional remediation plans.

RESPONSE B-3: The commenter suggests that the SEIR should discuss remediation activities at Site A. The SEIR discusses proposed remediation activities on Site A on SEIR pages 86 through 88 in the section entitled "Remediation Actions/Preparation for Residential Development." This discussion includes information regarding remediation techniques proposed in the ACP to achieve residential ESLs, including bio remediation. Further detail regarding proposed remediation activities may be found in the August 2013 Alternative Cleanup Plan, approved by the RWQCB in August 2013.

COMMENT B-4:

4) Section 4.5.2.1, third paragraph, page 86, states that tetrachloroethene (PCE) and trichloroethene (TCE) are the primary constituents of concern (COCs) in soil at the Trumark Parcel, and that TCE is the primary COC in groundwater. Please add that PCE and TCE are the primary COCs in soil gas at the Trumark parcel.

RESPONSE B-4: The commenter notes that PCE and TCE have been identified as the primary constituents of concern in soil gas at Site A instead of in soil. The SEIR is revised as follows on page 86: "Based on the frequency of detection, the concentrations detected, and the toxicity, PCE and TCE are considered the primary COCs in soil on Site A, PCE and TCE are considered the primary COCs in soil vapor, and TCE is considered the primary COC in the ground water beneath the site." Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

COMMENT B-5:

5) Section 4.5.2.1, second paragraph on page 88, states that "the project proposes to install engineered vapor barrier controls as part of residential development of Site A [the Trumark Parcel] to mitigate risks to future residents until groundwater remediation is complete." As indicated in VIMA, vapor barrier controls are not able to completely eliminate vapor intrusion due to the likelihood of punctures, perforations, tears, and incomplete seals. Thus, vapor barriers by themselves are not an acceptable vapor intrusion mitigation system for the protection of public health. Instead, a sub-slab depressurization system (SSD) should be proposed, in accordance with VIMA. Be advised that SSDs require an operation and maintenance plan including inspections, a contingency plan, performance metrics, and on-going monitoring. Please see VIMA for a complete description of additional conditions to protect public health. In addition, mitigation measures will be necessary until monitoring indicates protective concentrations of soil gas and indoor air have been achieved, and the subsurface contaminants no longer poses a threat to occupants of overlying buildings.

RESPONSE B-5: The commenter states that engineered vapor barriers are not considered adequate to completely eliminate potential vapor intrusion, and that per the VIMA, additional mitigation measures, such as a sub-slab depressurization system, are needed. Honeywell's December 20, 2013 Conceptual Risk Management Plan provides for multiple layers of mitigation, including engineered vapor barriers and a sub-slab depressurization system. The SEIR also requires the RWQCB to confirm that the proposed remediation and risk management plans are designed to meet applicable residential use risks. The SEIR is revised to clarify that engineered vapor barriers are not the sole technology proposed to address vapor intrusion.

SEIR page 88 is revised to state "The project proposes to install multiple layers of mitigation, including engineered vapor barriers and a sub-slab depressurization system." Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

COMMENT B-6:

6) In Section 4.5.2.1, page 88, the Draft SEIR proposes to revise Mitigation Measure (MM) HAZ-1 to read "Prior to the issuance of grading permits or building permits for development of Site A [Trumark Parcel], a remediation plan and a risk management plan must be prepared and submitted for review by the RWQCB. The RWQCB will review the plans to confirm that implementation of the plans would achieve Cal-EPA approved risk management standards for residential use of risk less than 10^{-6} and health hazard index of less than 1." Review and approval of the plans is not sufficient to ensure a less than significant impact. Grading or building permits should not be issued until the RWQCB certifies that target risks and hazard quotients have been achieved for future residents on the Trumark Parcel, through mitigation and/or remediation.

RESPONSE B-6: The commenter suggests that grading and building permits should not be issued until the RWQCB certifies that target risks and hazard quotients have been achieved for future residents on Site A, through mitigation and/or remediation. Please see Responses A-2 and A-25.

COMMENT B-7:

7) Section 4.5.2.1, page 88, text references preparation of a risk management plan. The risk management plan should be prepared in accordance with VIMA so that design, implementation, monitoring, operation and maintenance, contingency planning, public participation, and roles and responsibilities are clearly defined for the life of VI mitigation measures.

RESPONSE B-7: The commenter suggests that the risk management plan be prepared in accordance with the VIMA. Please see Responses A-4 and A-25.

COMMENT B-8:

8) The draft SEIR does not account for the findings of the Additional Site Investigation Report (ASIR; CH2M Hill, 2013a) that identified impacts to the Newark Aquitard and Newark Aquifer beneath the Trumark parcel. The SEIR should consider how the proposed pilot study and remediation activities for the Newark Aquitard and Newark Aquifer will be impacted by redevelopment of the Trumark parcel.

RESPONSE B-8: The commenter suggests that a proposed pilot study and remediation activities for the Newark Aquitard and Newark Aquifer beneath Site A could be affected by the proposed development of Site A. The implementation of EISB in shallow ground water beneath the Site A is expected to reduce concentrations of VOCs in the upper portion of the Newark Aquitard as a result of back-diffusion of VOCs from soil to ground water. As noted in the ACP, additional injections of electron donor into the shallow ground water for continuation EISB are possible after development. With respect to the VOCs detected in Newark Aquifer ground water, monitored natural attenuation (MNA) is being performed in accordance with the current site cleanup order and will be compatible with the planned development of Site A. Therefore, remedial activities for the Newark Aquitard and Aquifer are not expected to be significantly impacted by the planned redevelopment of Site A.

C. RESPONSE TO COMMENTS FROM THE ALAMEDA COUNTY WATER DISTRICT (ACWD), FEBRUARY 6, 2014.

COMMENT C-1: The Alameda County Water District (ACWD) wishes to thank you for the opportunity to comment on the Draft Supplemental Environmental Impact Report (SEIR.) for the Dumbarton Transit-Oriented Development (TOD) Trumark Residential Development.

ACWD has reviewed the Draft SEIR and would appreciate your consideration of the following comments:

1. Water System Infrastructure: As ACWD commented on the Draft Environmental Impact Report for the Dumbarton TOD Specific Plan and on the Notice of Preparation for this SEIR, in order to extend the public water distribution system to meet water service requirements of the Dumbarton TOD Project and adequately integrate the project into ACWD' s water system, significant public water system improvements will be required. At least one additional water main connection between the North side of the existing railroad right-of-way and the project site at either Willow Street or Hickory Street will be required. Based on the information provided in the draft Specific Plan for the Dumbarton TOD, it appears that a connection within Willow Street is most likely. Whichever particular development within the Dumbarton TOD Project area performs improvement work adjacent to the railroad right-of-way at either Willow Street or Hickory Street will be responsible for installing this water main connection and obtaining any necessary permits and approvals from the railroad. In addition, one or more new water mains will need to be constructed across the existing San Francisco Public Utilities Commission (SFPUC) right-of-way. Similarly, those particular developments within the Dumbarton TOD Project area performing improvement work adjacent to the SFPUC right-of-way will be responsible for installing the water main connection(s) crossing SFPUC right-of-way and obtaining any necessary permits and approvals from SPFUC.

   Given the location and proposed development of Site "A" shown on the Figure 3-4 of the Draft SEIR, the District will require the project to install both a water main extension crossing of the SFPUC right-of-way and a water main connection extending from the project into Willow Street to connect to the existing 16-inch water main within Willow Street on the North side of the railroad right-of-way. In lieu of the requirement for both water mains to be installed for system looping, the District may consider requiring only one connection across either SFPUC or railroad right-of-way if the project proponents can secure a perpetual, irrevocable easement dedicated to ACWD for the water system across either right-of-way.

   The construction of such railroad and SFPUC crossings will require significant trenching, excavation and dewatering and may result in impacts to the environment stemming from pumping and discharge of contaminated groundwater (including the effects of plume migration resulting from such pumping), production and handling of contaminated excavation spoils, construction noise, dust and other factors. **The SEIR should address any associated environmental impacts that may arise from construction of these required connections.**

Other onsite and offsite water system extensions and/or improvements may similarly be required in order to meet fire flow requirements or other ACWD standards and requirements. Any public water system extensions necessary to serve developments within the Dumbarton TOD Project area must meet ACWD public water system installation and design standards, including ACWD' s *Standard Specifications for Water Main Installation and Development Specifications for Public Water System Extensions*. ACWD requests that the City and project proponents coordinate closely with ACWD throughout the planning and development of the Dumbarton TOD Project.

RESPONSE C-1: The commenter informs the City of anticipated water supply connections to Site A and Site B. This comment does not state a specific concern about the adequacy of the Draft SEIR or otherwise comment on the contents of the Draft SEIR. The City has not determined the specific locations where utility connections will occur because construction-level drawings have not yet been prepared or reviewed, however, the SEIR project description generally discloses that utility improvements will be made as part of the development of both Site A and Site B. (See e.g., SEIR p. 44 ["utility connections would be included in the project."") As discussed in response to comment A-25, the project applicant/developer for Sites A and B will install off-site utility connections, and mitigation measures have been adopted regarding potential environmental impacts that may arise from construction of off-site utility connections. Further, the TOD EIR disclosed that new utility infrastructure, including utility connections, would be required as part of development within the Specific Plan Area. (See, e.g., TOD EIR pp. 4.12-18 through 21.) The commenter does not explain why the analysis and mitigations of impacts and development within the Specific Plan Area, including the 20 acres of public rights of way, is inadequate to address standard utility connections from Site A and Site B. See responses to comments A-25 and C-2.

COMMENT C-2:

2. Hazards and Hazardous Materials: The installation, long-term operation, and maintenance of utilities to serve the project may include, but is not limited to, significant dewatering, disposal of groundwater, deep soil excavation, transportation and disposal of excavated soil, utilities submerged in groundwater, and worker exposure to soil and groundwater. The Draft SEIR does not adequately identify the hazards or hazardous materials sites remaining within the project area, after remediation activities are completed, that may continue to pose a risk to the health and safety of workers during the installation, long-term operation, or maintenance of all utilities required to serve the project. **This analysis should be included in the SEIR.** The ability to install a public water system within the project area would be conditioned upon confirmation that the soil or groundwater does not pose a risk to the health and safety of workers either during installation of the public water system or during long-term routine operation and maintenance of such a system. **Any mitigation required to eliminate such hazards or potential hazards, such that that the soil or groundwater does not pose a risk to the health and safety of workers during installation, and during long-term routine operation and maintenance of utility systems, must be identified and described in the**

SEIR. The proposed mitigation should not rely on extraordinary measures by the utility to protect worker health and safety, such as unusual personal protective equipment, unusual soil or groundwater treatment or disposal requirements, or decontamination of tools and equipment required for potable water system maintenance. If specific measures are to be identified in a Risk Management Plan, the SEIR should require ACWD approval of the plan as part of the mitigation.

RESPONSE C-2: The commenter states that the Draft SEIR does not adequately identify the hazards or hazardous materials sites remaining within the project area, after remediation activities in relation to Site A and Site B are complete, in relation to worker health and safety during the installation, long-term operation, or maintenance of utilities, and suggests additional analysis in the SEIR. The City understands this comment as related to utility corridors and public rights of way adjacent to Site A and Site B. As an initial matter, CEQA caselaw indicates that worker safety is not a significant effect on the environment that must be addressed in an EIR or other CEQA document. (*Parker Shattuck Neighbors v. Berkeley City Council* (2013) 222 Cal.App.4th 768, 782 ["we note that it is far from clear that adverse effects confined only to the people who build or reside in a project can ever suffice to render significant the effects of a physical change"].) Nonetheless, the City notes that there are currently utility corridors and utilities in the project area, which presumably must be maintained regardless of the project, and employers, such as the commenter, are required by state and federal law to provide adequate protection to their employees.

The City notes that each contractor shall be responsible for the health and safety of their employees as well as for compliance with all applicable federal, state, and local laws and guidelines (see e.g. 29 C.F.R. 1910.120.) OSHA guidance explains:

"Workers, such as utility workers, who must perform duties at a hazardous waste site that has not yet been characterized but where contamination is expected, do fall under the scope of 29 CFR 1910.120. These workers must work under the direction of an on-site supervisor and a site-specific safety and health plan, and must be fully trained and protected pursuant to the HAZWOPER standard. When additional information becomes available through site characterization which verifies that there is minimal or no risk of employee exposure to hazardous substances, a lesser degree of PPE and worker training may be acceptable.

When site characterization shows that the area to be serviced by workers is free of potential exposure, or the proposed work assignments would not expose any of the work crew to hazardous substances, the activity can be carried out as a normal maintenance or construction operation.

... The utility contractor is bound to provide at least the minimum number of training hours specified. On a hazardous waste site that has many site specific peculiarities the employer may need to train employees beyond the 40 or 24 hour minimum set by the standard. Employees must be provided training that prepares them for their job functions and responsibilities, as stated in the general requirements in 29 CFR 1910.120(e)."[1]

The City further notes that the project applicant/developer for Sites A and B will install off-site utility connections (see Response A.25 on this topic). Accordingly, the City does not anticipate that project development will entail work by the ACWD personnel or contractors. Nevertheless, Mitigation Measures HAZ-1 through HAZ-3 are amended to clarify that construction risk management plans will be required for on-site and off-site utility work. Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

Management of soil and ground water during installation of utilities on-site and off-site by the developer will be performed in accordance with the required Construction Risk Management Plans (RMP) at Sites A and B, and also in accordance with the RAW and Addenda at Site B. The RMPs are required to present protocols for the handling, evaluation and appropriate disposal of excavated soil and pumped water, and worker health and safety measures, in accordance with regulatory agency requirements, and will be provided to ACWD for its review as to areas in which ACWD personnel or contractors will perform work. The City concludes that substantial evidence supports its conclusion that compliance with MM HAZ-1 through HAZ-3 and applicable federal, state, and local laws and regulations will reduce risk associated with existing contamination on Site A and B, and adjacent rights of way where utility connections would be made, to a less than significant level. Please see also Response A-25.

In addition, the City notes that the TOD EIR addressed hazardous substance issues in the Specific Plan area as a whole, including the off-site areas cited in the comment, and proposed mitigation measures to address hazardous impacts in both the TOD EIR and SEIR. The commenter also does not explain why MM HAZ-1 through MM HAZ-4 are inadequate to address the commenter's concerns.

COMMENT C-3:

3. Well Protection/Destruction: Reference is made to Section 3.5.2, Pollutant Remediation and Site Preparation (pages 40 thru 43). ACWD's records indicate the existence of 47 wells in Site A and 24 in Site B (not 22 as reported in the SDEIR). **Therefore, ACWD requests a mitigation measure that requires project proponents to develop a plan for the protection or destruction of wells that must be reviewed and approved by ACWD prior**

[1] (Frequently Asked Questions: HAZWOPER available at https://www.osha.gov/html/faq-hazwoper.html#faq1)

to issuance of grading permits to ensure compliance with ACWD Ordinance No. 2010-01.

In order to protect the groundwater basin, each well located within the property must be in compliance with ACWD Ordinance No. 2010-01. If the well(s) are to remain, a letter so indicating must be sent to ACWD and will require a permit for inactive classification if the wells will not be used for a period of twelve (12) months. If the well(s) are: 1) no longer required by any regulatory agency; 2) no longer monitored on a regular basis; or 3) damaged, lost, or the surface seal is jeopardized in any way during the construction process, the well must be destroyed in compliance with ACWD Ordinance No. 2010-01.

RESPONSE C-3: The commenter suggests that mitigation measures are needed to govern protection or destruction of wells in relation to the project. The City notes that project development plans call for mass grading at both Site A and Site B, and thus that all existing wells will require proper destruction and replacement under RWQCB and ACWD oversight, and that permits from ACWD will be required for such activities. To that end, the SEIR (pg.34, SEIR Section 2.7 Project-Related Approvals) indicates that well decommissioning permit(s) will be needed from the ACWD, and on pg.92 describes that wells would be decommissioned in accordance with ACWD standards, and that a plan for destruction and replacement of the wells is included in the RAP. The destruction of wells would also be regulated by Newark Municipal Code Chapter 13.04, which regulates the destruction of wells so that such wells "will not cause pollution or contamination of groundwater or otherwise jeopardize the health, safety or welfare of the people of the city." TOD EIR and SEIR also require RWQCB approval of remediation plans, which would include proper well destruction and replacement. Accordingly, no further mitigation is required.

COMMENT C-4:

4. Climate Action Plan: Reference is made to the City of Newark's Climate Action Plan, January 2010 Initial Framework. ACWD agrees with the City that planning related to sea level rise is important for the region and for ACWD. **ACWD recommends the SEIR more thoroughly address the potential impacts of sea level rise and adaptation.**

RESPONSE C-4: The commenter requests that the SEIR more thoroughly address the potential impacts of seal level rise and adaptation. The TOD EIR Section 4.6 addressed potential future sea level rise, and determined that the City's municipal code flood elevation standards would protect against potential future sea level rise consistent with FEMA forecast ranges. The commenter does not explain how the analysis in the TOD EIR is deficient or identify any information that would implicate the thresholds found in CEQA Guidelines § 15162 that would require further environmental review of this topic. The City notes that the project elevations are compliant with the City's municipal code flood elevation standards and concludes that substantial evidence supports its

determination that no further environmental review is required for sea level rise and adaptation. See also Response A.3.

COMMENT C-5:

5. ACWD Contacts: The following ACWD contacts are provided so that the City can coordinate with ACWD as needed during the CEQA process:

- Steven Inn, Groundwater Resources Manager at (510) 668-4441, or by e-mail at steven.inn@acwd.com, for coordination regarding ACWD's groundwater resources.
- Rangarajan Sampath, Groundwater Resources Engineer at (510) 668-4411, or by e-mail at rangarajan.sarnpath@acwd.com, for coordination regarding cleanup sites.
- Michelle Myers, Well Ordinance Supervisor, at (510) 668-4454, or by e-mail at michelle.myers@acwd.com, for coordination regarding groundwater wells and drilling permits.
- Ed Stevenson, Development Services Manager, at (510) 668-4472, or by e-mail at ed.stevenson@acwd.com, for coordination regarding public water systems and water services.

RESPONSE C-5: The commenter provides contact information. Comment noted

D. RESPONSE TO COMMENTS FROM THE SAN FRANCISCO PUBLIC UTILITIES COMMISSION (SFPUC), FEBRUARY 7, 2014.

COMMENT D-1: As a Responsible Agency under the provisions of Section 15096 of the CEQA Guidelines, the San Francisco Public Utilities Commission (SFPUC) submits its comments regarding the Dumbarton Transit Oriented Development for the Trumark Residential Project Supplemental Environmental Impact Report (SEIR).

The SFPUC commented on the Notice of Preparation for the SEIR in a letter dated March 7, 2013. That letter is attached. We stated that the SEIR should list the SFPUC as a Responsible Agency and cited the SFPUC Pipeline Right of Way (ROW) Requirements which we provided with the letter. We commented that the SFPUC does not permit any structures on our ROW, nor does the SFPUC allow the ROW to be used as the sole access to any development as this creates future access problems in the event our pipelines require repair or replacement. The SEIR has not addressed our comments as the site plans for the development still show the only access road on the SFPUC ROW. Furthermore the SEIR does not include a Utilities and Services section, as required in subsection XVII of Appendix G of the CEQA Guidelines. This section should be included in the SEIR and potential Impacts to the SFPUC's ability to maintain and repair its pipelines should be analyzed in this section.

RESPONSE D-1: The Commenter states that it is a responsible agency. The commenter is listed as a responsible agency on SEIR page 31-32, 34. The City notes that the developer has provided both the City and the commenter evidence of its property rights to obtain access over the commenter's property in the form of a 45 foot wide access and utility easement; therefore no right of way approval appears to be required for access. The developer will be required to obtain approval from the commenter for the installation of landscaping and other frontage improvements outside of the 45 foot easement area. The commenter has concerns that the site plan indicates an access road will be provided over the commenter's right of way. The commenter does not explain with any specificity how a single public access to Site A could result in a significant impact on the physical environment. The commenter states that it does not permit sole access because it creates future access concerns. As explained above, the developer holds an access easement, therefore no permit is required. Commenter will be required to not substantially interfere with future resident and visitors access to Site A during maintenance activities, and any logistical difficulty in avoiding such interference is an economic and business concern outside the scope of CEQA. Commenter is correct that access over the commenter's right of way within the developer's access easement area will be the sole public access to Site A unless at some future time secondary public access is provided through adjoining private property. The City notes that an Emergency Vehicle Access (EVA) that will not be available to the general public will be provided over the adjacent FMC Parcel (to the west) and Figure 3-4 has been revised to show such access. Refer to **Section 5.0 Revisions to the Figures of the Draft SEIR.**

Commenter states that the SEIR is required to contain a utilities and services section. That is incorrect. The City has determined that there is no new information, changes in circumstances, or changes in the Specific Plan project that would result in new or substantially increased environmental impacts related to utilities than analyzed in the TOD Specific Plan EIR. (CEQA Guidelines § 15162.) Please also see Response A-3. The TOD EIR thoroughly analyzes impacts to utilities and services in Chapter 4.12 and concludes such impacts would be less than significant after mitigation. The proposed development within Site A and Site B is consistent with the Specific Plan and such development potential impacts to utilities and services falls within the scope of impacts analyzed in the TOD EIR. The commenter cites no evidence that new information, project refinements or other changes in circumstances would alter the conclusions in the TOD EIR. The commenter requests that the SEIR analyze the commenter's ability to maintain and repair its pipelines. The commenter provides no evidence that such concerns are environmental rather than economic in nature, which is outside the scope of CEQA, or if environmental in nature that there is any evidence that the project would result in significant impacts to the environment. For example, the City is unaware of any evidence that providing access to Site A from Enterprise Drive would require major infrastructure that would result in significant physical impacts to the environment through its installation. Therefore, the City concludes that substantial evidence supports its decision to not include a utilities and services section in the SEIR. Please also see Response A-25 for its discussion of utility work associated with the project.

COMMENT D-2: The developer's representative presented the proposed project in a formal SFPUC Project Review meeting on June 14, 2013 and stated that the developer was seeking an emergency vehicle access (EVA) across an adjacent property but such an EVA is not shown in the SEIR. Also since that meeting, the project site plan, as shown in the SEIR, has been changed. The developer should schedule a presentation of the revised project at a future Project Review meeting. The contact for Project Review arrangements is Ms. Joanne Wilson at jwilson@sfwater.org.

RESPONSE D-2: The commenter states that an EVA access is not shown in the SEIR. Figure 3-4 has been revised to show such access. The commenter requests a project review meeting. This comment does not state a specific concern about the adequacy of the Draft SEIR or otherwise comment on the contents of the Draft SEIR. Therefore, a response is not required. However, this comment has been noted for the record and will be provided to the Planning Commission and City Council for consideration. The City anticipates that the developer will have further meetings with the SFPUC to address any outstanding issues. Refer to **Section 5.0 Revisions to the Figures of the Draft SEIR.**

COMMENT D-3: We reiterate that while a January 1974 Parcel Map No. 1317 depicts a crossover right over SFPUC property this does not grant the property owner the right to construct a road and related improvements across our fee owned-property without a Land Engineering Permit from the SFPUC, and this will not be granted without provision of an EVA, among other conditions, which

will be determined after the project is presented at Project Review. The SEIR should show a revised project site plan including an EVA. Please contact Brian Morelli, Right of Way Manager, at (415) 554-1545 or bmorelli@sfwater.org for any questions regarding our specific ROW requirements.

The SFPUC appreciates the opportunity to comment on the Supplemental Environmental Impact Report for the Dumbarton Transit Oriented Development Trumark Residential Project as a Responsible Agency under CEQA. Please feel free to contact me at (415) 554-3232 or itorrey@sfwater.org or Ms. YinLan Zhang at 415-487-5201 or vzhang@sfwater.org if you have questions about our comments.

RESPONSE D-3: The commenter states that it will not issue a land engineering permit unless an EVA access is provided. As noted in Response D-2, an EVA that will not be available to the general public will be provided over the adjacent FMC Parcel (to the west) and Figure 3-4 has been revised to show such access. This comment does not state a specific concern about the adequacy of the Draft SEIR or otherwise comment on the contents of the Draft SEIR. Therefore, a response is not required. However, this comment has been noted for the record and will be provided to the Planning Commission and City Council for consideration. The City notes that the commenter's July 2, 2013 project review minutes confirm that the developer will obtain approval from commenter to conduct testing to determine SFPUC's location and depth and that the developer will submit plans to the SFPUC for review. The minutes also indicate that the developer will need to obtain authorization to maintain landscaping and sidewalks on the commenter's right of way. The City anticipates that the developer will have further meetings with the commenter to address any outstanding issues as requested by commenter. Refer to **Section 5.0 Revisions to the Figures of the Draft SEIR.**

E. RESPONSE TO COMMENTS FROM MARGARET LEWIS, FEBRUARY 7, 2014.

COMMENT E-1: I have a few comments to make on the supplemental EIR for the proposed Trumark development on Area 2 AKA Dumbarton TOD.

Page 43 of the document states that contaminated soils could be transported to the nearest Class 2 disposal facility, one of which could be the Dumbarton Landfill. Where is the Dumbarton Landfill? I cannot find it on a list of landfills in Alameda County or anywhere for that matter. Is this a typo or is the city intending to open a new landfill in Newark?

RESPONSE E-1: The commenter asks if references to the "Dumbarton Landfill" is a clerical error or if a new landfill is planned. The reference is a clerical error and has been corrected in the Final SEIR by removing reference to a "Dumbarton Landfill". Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

COMMENT E-2: None of the maps showing the proposed development of the two sections of the Trumark property contain a vehicle access point for Site A which is adjacent to Gallade Chemical. It appears that when development occurs on the parcel to the west of Site A that a street coming off of Willow and heading east would provide vehicle access to Site A. But until that parcel is developed, Site A is landlocked with no access. Is this what the city intends to happen?

RESPONSE E-2: The commenter requests clarity regarding vehicular access to Site A. Please see response to comment D.1. Vehicular access will be provided from Enterprise Drive and an Emergency Vehicle Access provided from Willow Street, as shown on Figure 3-4, as revised. Refer to **Section 5.0 Revisions to the Figures of the Draft SEIR.**

COMMENT E-3: In only giving approvals for small sections of Area 2 there is no coordinated cleanup of contaminated soils and groundwater. It is done in a piecemeal fashion that puts future residents and the public at risk of exposure from soil and groundwater contamination. This document states that part of the Trumark site is on the Cortese List of Hazardous Waste sites. This is also known as the California Superfund list. Does the city really believe the highest and best use of a Superfund site is residential? If so, this is alarming and irresponsible planning.

RESPONSE E-3: The commenter states that approving projects on Site A and Site B results in the piecemeal environmental review. Please see responses to comments A.3 and A.24. The commenter notes the status of Site A as a Cortese List of Hazardous Waste Site and asks if residential is the highest and best use of the site. This comment does not state a specific concern about the adequacy of the Draft SEIR or otherwise comment on the contents of the Draft SEIR. Therefore, a response is not required. However, this comment has been noted for the record and will be provided to the Planning Commission and City Council for consideration. The City notes that the policy decision to permit residential development on Site A was made with the adoption of the Dumbarton TOD Specific Plan and the

potential hazard impacts associated with residential development on this site are thoroughly addressed in the TOD EIR and SEIR.

COMMENT E-4: The reasons for stating no alternative location exists because housing must be built on Area 2 makes no sense. The city claims there will be rail service and thus this is a transit development. No rail service is planned in the foreseeable future. Neither is bus service planned to serve future residents. Therefore Area 2 is not a transit development. The city should look at the NewPark Mall Master Plan area where the city wants to bring in residential of various densities. The mall area is not a Superfund site and has easy freeway access. Shopping is already in place. There are also the vacant lots across from the Newark post office as well as the Ruschin school site which the school district has up for immediate sale.

RESPONSE E-4: The commenter states that Area 2 is not a transit development due to lack of rail and bus service and suggests areas outside the Specific Plan Area that the commenter believes are more appropriate for residential development. The policy decision to permit residential development on Site A and B was made with the adoption of Dumbarton TOD Specific Plan. The commenter does not identify any new information, changes in circumstances, or project changes that would require the City to revisit this policy decision under CEQA Guidelines § 15162. (See *Bowman v. City of Petaluma* (1993) 185 Cal.App.3d 1065, 1082-1083.) Therefore, the SEIR properly rejects an alternative outside the Specific Plan Area for being infeasible for policy reasons. In addition to the reasons stated in the SEIR, an alternative outside the Specific Plan area would be infeasible for policy reasons because an alternative outside the Specific Plan area would not effectuate the City of Newark's General Plan and other applicable planning and zoning goals, policies, and objectives for the Specific Plan Area. Further, an alternative outside the Specific Plan Area would not foster compact, connected, safe and walkable neighborhoods with convenient access to a future, planned transit station along the Dumbarton Rail Corridor, parks and open space, and commercial services within the Specific Plan Area. As stated in the TOD EIR on page 3-21, the "vision of the proposed Dumbarton TOD Specific Plan is to create a livable community that integrates a wide variety of housing types and densities with a neighborhood retail center, employment opportunities and connectivity to parks, open space, the future transit station and commercial services." As part of the Specific Plan approval, Site A and Site B were designated in the Specific Plan's land use plan for residential use. The commenter appears to question this policy decision made in 2011, however, such policy disagreement does not implicate the adequacy of the SEIR related to project-level approvals on the land previously designated residential. The City notes that, though the timing of future transit improvements is uncertain, it remains City policy to serve the Specific Plan Area with improved transit services, including improved interim bus service prior to construction of the transit center.

F. RESPONSE TO COMMENTS FROM CH2M HILL, ON BEHALF OF HONEYWELL INTERNATIONAL, INC., FEBRUARY 7, 2014.

COMMENT F-1: Page xx, table summarizing significant environmental impacts and associated mitigation measures

There is no clear basis for the document's use of an increased lifetime cancer risk of one-in-one million (10^{-6}) as a threshold of significant impact for VOCs in soil and groundwater at Site A. Use of this risk threshold is not consistent with other regulatory guidance, including the BAAQMD guidelines for assessing significance of public health impacts referenced in the SEIR, DTSC's 2011 Vapor Intrusion Mitigation Advisory, and language in the 2007 Site Cleanup Requirements for the Gallade facility. The threshold of significance for cancer risks associated with VOCs in soil and groundwater should be stated in a manner consistent with the applicable regulatory guidance.

RESPONSE F-1: The commenter suggests that the threshold of significance should be stated in a manner consistent with the applicable regulatory guidance. In a related comment at the closing of the letter, the commenter notes that the DTSC Vapor Intrusion Mitigation Advisory refers to a risk management range of 1x10-6 to 1x10-4, rather than a single target risk level of 1x10-6 as stated in the Draft SEIR. The City acknowledges that applicable regulatory guidance such as the DTSC Vapor Intrusion Mitigation Advisory refers to a risk management range of 1x10-6 to 1x10-4 and a health hazard index of less than 1. However, the City notes that environmental oversight agencies have substantial discretion, and that risk management decision-making can be complex and that environmental oversight agency risk assessment and risk management practices are evolving and subject to change. Accordingly, the City revises MM HAZ-1, in part, as follows (Refer to **Section 4.0 Revisions to the Text of the Draft SEIR)**:

Prior to the issuance of grading permits or building permits for development of Site A, a remediation plan and a risk management plan, with monitoring and reporting requirements, must be prepared and submitted for review by the RWQCB. The RWQCB will review the plans to confirm that implementation of the plans ~~would~~ should achieve ~~Cal-EPA approved~~ risk management standards applied by the RWQCB for residential use ~~of risk less than 1x10-6 and health hazard index of less than 1~~. RWQCB will also review any amendment of such plans to confirm that implementation of the plans should achieve ~~Cal-EPA approved~~ risk management standards applied by the RWQCB for residential use ~~of risk less than 1x10-6 and health hazard index of less than 1.~~

COMMENT F-2: Page xxvi, 2nd to last paragraph

The description of the FMC properties should be more specific as to which particular FMC parcels would be used for the Location Alternative. The statement "*It is likely that the remediation action needed to prepare these sites for residential development would involve similar remediation as the project proposes for Site B.*" may not apply to each of the FMC parcels.

RESPONSE F-2: The commenter states that the Location Alternative should be more specific regarding which FMC parcels would be involved. The SEIR states the Location Alternative could be located on any parcel with a medium density designation. This includes the FMC parcels with APN 092-0100-004-02 and 092-0101-001. No text revision is required.

COMMENT F-3: Page 33, Section 2.5, Assessor's Parcel Numbers

There is a discrepancy in the parcel number for Site A between the parcel number in this paragraph, 092-0140- 008, and the parcel number in Figure 3-2, 092-0140-006.

RESPONSE F-3: The commenter notes a discrepancy between the parcel number for Site A identified in the text on Page 33 and as identified in Figure 3-2. The discrepancy is a clerical error (APN 092-0140-006 is correct) and has been corrected in the Final SEIR. Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

COMMENT F-4: Page 40, Section 3.5.2, Pollutant Remediation and Site Preparation

The text states *"The extent of work necessary to prepare Site A for development will depend on the success of remediation of the adjoining property."* Given that the residential development of Site A will include the installation of pre-emptive vapor intrusion mitigation systems, the extent of work necessary to prepare Site A for development should not be strictly dependent on remediation efforts at adjoining properties.

RESPONSE F-4: The commenter states that the extent of work is not "strictly" dependent on the extent of remediation on adjoining property. Comment noted. The City agrees that multiple factors are involved in designing remediation and risk management plans, including the extent of remediation on adjoining properties. Please see Response A.4.

COMMENT F-5: Page 40, Section 3.5.2.1, Pollutant Remediation and Site Preparation, Site A – Trumark

The first sentence states *"...that groundwater contamination beneath the Site A would be sufficiently remediated to allow development of the site with residential uses."* Given that vapor intrusion mitigation systems will be installed in each of the residential structures to be constructed at Site A, the residential development of Site A should be allowed to proceed after the start of groundwater remediation. We believe this action is correctly stated on Page 88, 2nd paragraph *"The project*

proposes to install engineered vapor barrier controls as part of residential development of Site A to mitigate risks to future residents until groundwater remediation is complete."

RESPONSE F-5: The commenter requests a text revision related to the extent of groundwater remediation on Site A required prior to development. Please see response to comment A4. No text revision is required

COMMENT F-6: In addition, the vapor intrusion engineering controls associated with the proposed project are described in further detail in a conceptual risk management plan for the development of the Trumark parcel, submitted in draft to the RWQCB on December 20, 2013, in accordance with Mitigation Measure 4.7-1a in the Dumbarton Transit Oriented Development Specific Plan EIR (City of Newark, 2011). A statement acknowledging that a draft conceptual risk management plan for the Trumark parcel has been submitted to the RWQCB should be included in the SEIR. The fundamentals of the conceptual risk management plan were discussed among Trumark, Honeywell, and the RWQCB, and an agreement was reached in concept.

RESPONSE F-6: The commenter suggests that a statement acknowledging that a draft conceptual risk management plan for Site A has been submitted to the RWQCB should be included in the SEIR. The Conceptual Risk Management Plan that was submitted on December 20, 2013 by Honeywell to the RWQCB is described in Response A-4, which is a part of the Final SEIR.

COMMENT F-7: Page 44, Section 3.5.3, Pollution Remediation and Site Preparation, Residential Development

The third paragraph states *"A new public park will be located immediately to the east of Site A [the Trumark parcel] at the current location of the Gallade Chemical Company facility."* The SEIR does not specify the timing for development of Site A in relation to the new public park. Specifically, will building and grading permits for Site A development be approved by the City, prior to the development of Gallade as a public park?

RESPONSE F-7: The commenter raises a question regarding whether the building and grading permits for Site A will be approved by the City prior to the development of the Gallade property as a public park. Building and grading permits may be issued prior to the development of the Gallade property as a public park as the timing of redevelopment of the Gallade property is uncertain. Mitigation Measure HAZ-1 requires that remediation and risk management plans be approved for Site A prior to issuance of a building or grading permit. Such plans will analyze the extent of remediation required on the Gallade Parcel prior to development. As stated in Response A-25, the City concludes that occupancy of Site A would not occur until after the light industrial use on the Gallade Parcel has ceased operations. .. Please see Response A-25.

COMMENT F-8: Page 88, Section 4.5.2.1, Impacts, Site A – Trumark Property

The statement, *"[t]he project proposes to install engineered vapor barrier controls as part of residential development of Site A to mitigate risks to future residents until groundwater remediation is complete,"* appropriately reflects Cal-EPA's approach to addressing vapor intrusion risks associated with future development, as outlined in the California Department of Toxic Substances Control (DTSC) Vapor Intrusion Mitigation Advisory.

The approach to the engineering controls for vapor intrusion has been provided to the RWQCB as part of the conceptual risk management plan. A brief description of those engineering controls should be incorporated into this section.

The mitigation measure for HAZ-1 identifies a target increased lifetime cancer risk of less than 1 x 10^{-6} as representing a less than significant impact. While this is described as a Cal-EPA approved risk management standard, the regulatory basis for this risk threshold has not been defined or documented in this SEIR. It is inconsistent with the vapor intrusion risk management framework outlined in DTSC's *Vapor Intrusion Mitigation Advisory*, and is inconsistent with language presented in the 2007 Site Cleanup Requirements (see page 6), both of which refer to the risk management range of 1 x 10^{-6} to 1 x 10^{-4} for making cleanup decisions. In addition, the SEIR refers to the BAAQMD's risk management threshold of a 1 x 10^{-5} as a target risk level. The cancer risk level being used as a threshold of significance requires more justification than is currently provided in the document.

RESPONSE F-8: The commenter suggests that a summary of Honeywell's Conceptual Risk Management Plan be incorporated into Section 4.5.2.1 of the SEIR. A summary is provided in Response A-4 and A-25, which is part of the Final SEIR. The final part of this comment involving the appropriate target risk level threshold is addressed in Response F-1.

G. RESPONSE TO COMMENTS FROM CARGILL, FEBRUARY 7, 2014.

COMMENT G-1: On behalf of Cargill, Incorporated ("Cargill"), thank you for the opportunity to comment on the Administrative Draft - Supplemental Environmental Impact Report – Trumark Dumbarton Transit Oriented Development Residential Project dated December 2013 ("SEIR"). Cargill wishes to offer the following comments to correct a few inaccuracies contained in the SEIR.

Namely, the SEIR identifies Cargill Parcel 1 of Tentative Parcel Map 9873 (see Figure 3-2 of the SEIR) (the "Cargill Site") as a potential alternative site for the residential project analyzed in the SEIR, as well as property owned by FMC Corporation. In so doing, the SEIR states that:

> As noted in the Dumbarton TOD Specific Plan EIR, these sites are known to be impaired by hazardous materials, generally in the form of soil and/or groundwater contamination. It is likely that the remediation actions needed to prepare these sites for residential development would involve similar remediation as the project proposes for Site B.

SEIR at page 119.

As discussed below, this statement is factually inaccurate and does not represent the conditions of the Cargill Site.

The Dumbarton TOD Specific Plan EIR ("Specific Plan EIR") analyzes four limited areas of the Cargill Site for potential impacts from hazards and hazardous materials in connection with buildout of the Dumbarton TOD Specific Plan: (1) the former Newark Sportsman's Club (Hickory Street), (2) the Newark Police Pistol Range (Hickory Street), (3) the Leslie Salt/FMC Magnesia Waste Pile Site (Hickory Street), and (4) the Hill Parcel (Hickory Street). See Specific Plan EIR at pages 4.7-6 through 4.7-11.

Former Newark Sportsman's Club - Remediated and No further Action Necessary

With respect to the former Newark Sportsman's Club (approximately 18 acres located west of Hickory Street which was leased by the Club from Cargill from 1969 through 1995), the Specific Plan EIR notes that use as a recreational outdoor shooting range resulted in "surficial and shallow soil deposition of lead shot, residual total lead, and clay pigeon debris containing elevated levels of polycyclic aromatic hydrocarbons (PAHs)." Specific Plan EIR at page 4.7-6. After the discovery of "very little contamination" below 0.5 feet of soil depth and "limited" debris, Cargill performed a voluntary Remedial Action Workplan consisting of soil excavation and confirmation sampling in 2002 and 2003. On March 10, 2004, the Regional Water Quality Control Board issued a letter certifying that soil remediation activities had achieved cleanup objectives and that *no additional remedial action was necessary."* Specific Plan EIR at page 4.7-7 (emphasis added).

Newark Police Pistol Range - Small and limited (405 tons) clean-up required

Next, the Specific Plan EIR analyzed potential impacts from a small portion of the Cargill Site leased by the City of Newark from Cargill for use as a pistol range for the Newark Police Department. In

2001, the City conducted a Phase II Soil and Groundwater Investigation which identified lead concentrations in shallow soils exceeding State hazardous waste criteria. "As the depth of contamination was limited," the investigation concluded that excavation and removal of the upper three feet of impacted soil was the most cost effective remedy. See Specific Plan EIR at page 4.7-8. The amount of soil estimated to be removed is approximately 405 tons, in contrast with the estimated 91,000 tons of soil which will need to be removed from Site B for the project analyzed in the SEIR. See SEIR at page 43. In other words, the soil to be removed from the Newark Police Pistol Range site is 0.45 percent of the soil which will need to be removed from Site B.

Leslie Salt/FMC Magnesia Waste Pile Site - Remediated and Clean-up Completed According to Remedial Action Plan

As the Specific Plan EIR notes, FMC and its predecessor Westvaco deposited certain waste materials from their adjacent facility onto a portion of the Cargill Site, which was leased from Cargill from 1929 to 1969, resulting in a magnesia waste pile containing concentrations of heavy metals. After a series of investigations and removal actions conducted by FMC and Cargill, the Department of Toxic Substance Control ("DTSC") certified that all hazardous waste had been removed from this area. In 2002, the City of Newark issue a case closure for the site after the majority of non-hazardous waste magnesia material was removed. Only "scattered piles" of non-hazardous magnesia material remain at a total quantity of approximately 500 to 1000 cubic yards, in contrast with the 60,350 cubic yards of soil which must be removed from Site B of the SEIR project. See Specific Plan EIR at pages 4.7-9, -10 and SEIR at page 43.

Hill Parcel - Serpentine Rock -Naturally occurring materials

Finally, the Specific Plan EIR describes an investigation of a portion of the Cargill Site known as the "Hill Parcel" (west of Hickory Street) which contains serpentine bedrock and naturally occurring asbestos ("NOA"). The investigation concluded that "[t]hese naturally occurring materials are not regulated as a hazard if left in place." At the most, if and when the Hill Parcel is developed for residential use, "all earthmoving and trenching should be performed in compliance with regulatory requirements then in effect." There is no present hazard posed by the Hill Parcel.

In sum, the Cargill Site contains very limited areas of soil impacted by lead (approximately 405 tons), naturally occurring asbestos which must be properly managed if and when the site is developed and no evidence of groundwater contamination. The Cargill Site bears no resemblance whatsoever to the Site B analyzed in the SEIR.

Based upon this evidence, the SEIR cannot reasonably conclude that the Cargill Site is "impaired by hazardous materials," contains "groundwater contamination" and that "it is likely that the remediation actions needed to prepare [the Cargill Site] for residential development would involve similar remediation as the project proposes for Site B." The potential impacts of removing 91,000 tons of soil are not similar to the potential impacts of removing 450 tons of soil. This statement in the SEIR should therefore be removed, at least as it pertains to the Cargill Site. Or, alternatively, this statement in the SEIR should be revised, at least as to the Cargill Site, as follows:

As noted in the Dumbarton TOD Specific Plan EIR, the Cargill ~~se~~ sites contains limited areas of soils impacted by lead from a shooting range utilized by the Newark Police Department and naturally occurring asbestos ~~are known to be impaired by hazardous materials, generally in the form of soil and/or groundwater contamination~~. Although nowhere near the scale of the removal which would be required for Site B, it is therefore possible that development of the Cargill Site for medium density residential use would entail some limited removal of soils, estimated to be approximately 450 tons of lead impacted soil versus the estimated 91,000 tons of soil which would need to be removed from Site B. ~~It is likely that the remediation actions needed to prepare these sites for residential development would involve similar remediation as the project proposes for Site B.~~

RESPONSE G-1: The Location Alternative discussion focused on two other sites in the Dumbarton TOD Specific as potential location alternatives, the Cargill property and the FMC property, see SEIR Section 7.2.3 Location Alternative. This comment concerns the SEIR's discussion of the Cargill site. The quoted text from the SEIR concerning the need for soil and/or groundwater remediation was addressing both sites (Cargill and FMC), and intended to convey that each site would need some amount of remediation prior to development with residential uses as contemplated by the TOD Specific Plan.

Figure 4-2, Note 2 is based on information in the certified 2011 Dumbarton TOD Specific Plan EIR, and as discussed in more detail in the TOD Specific Plan EIR, past uses of the Cargill site resulted in contamination, and naturally-occurring asbestos is present in the South Hill area. As stated in the prior comment (Comment G-1), remedial activities have been conducted on certain portions of the Cargill site, although as noted in the prior response (Response G-1), it is unclear to the City whether the actions were designed to achieve residential standards. As stated in Comment A-22, according to the RWQCB, none of the sites in the Specific Plan Area have been remediated to safe levels for residential use. Therefore, it is premature to state, as requested in the revised text provided in the comment, that the various portions of the Cargill site have been remediated and closed for residential use. That determination will be made in the context of the City's review and approval of residential development application(s) for the Cargill site consistent with the TOD Specific Plan, and in compliance with the TOD EIR's mitigation measures pertaining to investigating and remediating sites with soil and/or ground water contaminants.

The comment takes issue with the SEIR's generalized discussion of the Cargill site, and provides much more detailed information concerning the specific conditions and past remedial actions taken on several of the portions of the Cargill property. It is not clear from the comment whether the various remedial actions taken for the noted Cargill site areas were designed to achieve residential standards, although that is considered unlikely given the actions predated the adoption of the Specific Plan, when the site was first designated for residential use.

The commenter is correct that there is the *potential* for remediation activities associated for preparing the Cargill site for residential use may be lower than for Site B, but the City cannot conclude at this time that the Location Alternative *would* have lower remediation obligations. As has happened with the Trumark parcels, the nature and magnitude of activity will be determined, in coordination with the property owners and regulatory agencies, at the time residential applications are filed, additional site investigations are performed specifically addressing the proposed residential use, and site conditions are compared against then-current regulatory standards for residential use. The SEIR has been clarified its discussion of the Location Alternative. Refer to **Section 4.0 Revisions to the Text of the Draft SEIR.**

COMMENT G-2: Figure 4-2

Similarly, Figure 4-2 of the SEIR depicts the Cargill Site as containing a number of hazardous substances, including "lead, polycyclic aromatic hydrocarbons, magnesia, heavy metals and naturally-occurring asbestos." As noted above, the Cargill Site no longer contains polycyclic aromatic hydrocarbons, and the remaining, limited areas containing magnesia at the Hill Parcel consist of non-hazardous material. The reference to PAHs within Figure 4-2 should therefore be stricken.

Figure 4-2 also contains the following Note 2 which is highly misleading and inaccurate:

> Portions of the Cargill property supported various land uses that resulted in site contamination, including the Newark Police Pistol Range (Lead), Newark Sportsman's Club (Lead, PAHs) and Leslie Salt/FMC (Metals, magnesia). The Cargill property also includes naturally-occurring asbestos in the South Hill area.

In light of the actual current and environmental status of these areas, discussed above, we request that Note 2 of Figure 4-2 be revised as follows:

> Portions of the Cargill property historically supported various land uses that resulted in limited site contamination, including the Newark Police Pistol Range (Lead), Newark Sportsman's Club (Lead, PAHs) (site remediated and closed) and Leslie Salt/FMC (Metals, magnesia) (site remediated and completed according to RAP). The Cargill property also includes non-hazardous, naturally-occurring asbestos in the South Hill area.

RESPONSE G-2: Figure 4-2, Note 2 is based on information in the certified 2011 Dumbarton TOD Specific Plan EIR, and as discussed in more detail in the TOD Specific Plan EIR, past uses of the Cargill site resulted in contamination, and naturally-occurring asbestos is present in the South Hill area. As stated in the prior comment (Comment G-1), remedial activities have been conducted on certain portions of the Cargill site, although as noted in the prior response (Response G-1), it is unclear whether the actions were designed to achieve residential standards. As stated in Comment A-22, according to the RWQCB,

none of the sites in the Specific Plan Area have been remediated to safe levels for residential use. Therefore, it is premature to state, as requested in the revised text provided in the comment, that the various portions of the Cargill site have been remediated and closed for *residential* use. That determination will be made in the context of the City's review and approval of residential development application(s) for the Cargill site consistent with the TOD Specific Plan, and in compliance with the TOD EIR's mitigation measures pertaining to investigating and remediating sites with soil and/or ground water contaminants.

COMMENT G-3:

Finally, Cargill wishes to point out that the proponent of the project analyzed in the SEIR does not own or control the Cargill Site, as the SEIR itself notes. See SEIR at page 120.

***

Thank you again for the opportunity to comment on the draft SEIR. Should you have any questions regarding any of the comments contained in this letter, please do not hesitate to contact me.

RESPONSE G-3 This comment concurs with the SEIR's statement that the project proponent (Trumark) does not own or control the Cargill site. No further response is required.

SECTION 4.0 REVISIONS TO THE TEXT OF THE DRAFT SEIR

This section contains revisions to the text of the *Draft Supplemental Environmental Impact Report, Trumark Dumbarton Transit Oriented Development Residential Project*, dated December 2013. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Page xx, ***Summary of Significant Impacts and Mitigation Measures***; Mitigation Measure HAZ-1 is revised as follows:

Prior to the issuance of grading permits or building permits for development of Site A, a remediation plan and a risk management plan, with monitoring and reporting requirements, must be prepared and submitted for review by the RWQCB. The RWQCB will review the plans to confirm that implementation of the plans ~~would~~ should achieve ~~Cal-EPA approved~~ risk management standards applied by the RWQCB for residential use ~~of risk less than 1x10-6 and health hazard index of less than 1~~. RWQCB will also review any amendment of such plans to confirm that implementation of the plans should achieve ~~Cal-EPA approved~~ risk management standards applied by the RWQCB for residential use ~~of risk less than 1x10-6 and health hazard index of less than 1.~~

In addition, a Construction Risk Management Plan (CRMP) with protocols for the handling, evaluation and appropriate disposal of excavated soil and pumped water in accordance with regulatory agency requirements, and protocols governing worker health and safety, will be either integrated into other plans or will be developed as a stand-alone document, and will address on-site and off-site development and maintenance of utilities. The CRMP shall be provided to RWQCB, City and ACWD for review and comment. The City shall provide the CRMP to all contractors performing subsurface work in the areas covered by the CRMP.

Also, remediation plan and risk management plan construction phase components (as opposed to ongoing monitoring and reporting requirements) shall be implemented prior to occupancy. Prior to issuance of occupancy permits, a risk management plan consistent with DTSC's Vapor Intrusion Mitigation Advisory shall be approved by the RWQCB or other oversight agency.

Such plans shall address the potential migration of vapors laterally along utility conduits and into residences through physical controls. The extent of such physical controls shall be determined in response to soil vapor data generated prior to construction and designed to control migration of vapors to avoid significant risk to human health or structures. Such physical controls could include the installation of low-permeability backfill "plugs," or through an equally effective technique, adjacent to residences and along subsurface utilities beneath Sites A.

Certificates of Occupancy for the residences will not be issued until the developer submits to RWQCB documentation on the installation and performance testing of vapor intrusion mitigation measures and the light industrial uses on the Gallade Parcel have ceased operations. **(Less Than Significant Impact with Mitigation)**

Page xx, ***Summary of Significant Impacts and Mitigation Measures***; Mitigation Measure HAZ-2 is revised as follows:

MM HAZ – 2: Prior to the issuance of building permits for development of Site B, all pre-construction elements of the Remedial Action Plan conditionally approved by the RWQCB

on July 30, 2013, as it may be amended, and any addenda, must be met, including required pre-construction contingent submittals listed in the RWQCB conditional approval. **(Less Than Significant Impact with Mitigation)**

Page xx, ***Summary of Significant Impacts and Mitigation Measures***; Mitigation Measure HAZ-3 is revised as follows:

MM HAZ – 3: Prior to the issuance of building permits for development of Site B, all pre-construction elements of the Remedial Action Plan conditionally approved by the RWQCB on July 30, 2013, as it may be amended, and any addenda, must be met, including required pre-construction contingent submittals listed in the RWQCB conditional approval. Prior to issuance of occupancy permits, a risk management plan consistent with DTSC's Vapor Intrusion Mitigation Advisory shall be approved by the RWQCB or other oversight agency. Such plan shall address the potential migration of vapors laterally along utility conduits and into residences through physical controls. The extent of such physical controls shall be determined in response to soil vapor data generated prior to construction and designed to control migration of vapors to avoid significant risk to human health or structures. Such physical controls could include the installation of low-permeability backfill "plugs," or through an equally effective technique, adjacent to residences and along subsurface utilities beneath Sites B.

In addition, a Construction Risk Management Plan (CRMP) with protocols for the handling, evaluation and appropriate disposal of excavated soil and pumped water in accordance with regulatory agency requirements, and protocols governing worker health and safety, will be either integrated into other plans or will be developed as a stand-alone document, and will address on-site and off-site development and maintenance of utilities. The CRMP shall be provided to RWQCB, City and ACWD for review and comment. The City shall provide the CRMP to all contractors performing subsurface work in the areas covered by the CRMP. **(Less Than Significant Impact with Mitigation)**

Page 33, ***Section 2.5 Assessor's Parcel Numbers*** is revised as follows:

The project would be located on APN 092-0140-~~008~~ 006 (Site A) and APNs 092-0116-060, -058, and -059 (Site B).

Page 33-34, ***Section 2.7***; Project Related Approvals is revised as follows:

Regional Water Quality Control Board

- Approval of proposals for remediation, mitigation, cleanup and monitoring of hazardous substances

Union Sanitation District

- Discharge permit

Bay Area Air Quality Management District

- Authority to Construct and Permit to Operate

Page 41, *Section 3.5.2.2 Project Description*; Pollutant Remediation and Site Preparation on Site B, is revised as follows:

Implementation of the RAP and preparation of the site for subsequent development is expected to take six to twelve months and would involve the following corrective actions, which are described in detail below:

- Removal of Capped Soil exceeding residential cleanup goals in Former Evaporation Pond
- Removal of Soil exceeding residential cleanup goals in the vacant/undeveloped portions of the site
- Soil Excavation at Location of Former Chemical Production Plant, testing the soil and removing soil that does not meet residential standards
- Groundwater Management and Groundwater Well Replacement

After soil removal, further vapor intrusion controls and/or groundwater remediation may be required to prepare the site for residential development.

Page 43-44, *Section 3.5.2.2;* Transport and Disposal of Contaminated Soil, is revised as follows:

The nearest Class 2 ~~facilities are the Dumbarton Landfill and~~ facility is the Altamont Landfill in eastern Alameda County.

Page 44, *Section 3.5.3*; Residential Development on Site A, is revised as follows:

The proposed project would construct twenty-seven single family homes on Site A. The new residences would be arranged in blocks of four or five homes each, with access provided by three lanes extending east from a new street perpendicular to Enterprise Drive. The average lot size would be approximately 1,925 square feet. Sidewalks, landscaping and utility connections would be included in the project. An Emergency Vehicle Access (EVA) lane would provide secondary access to Site A for emergency and public utility vehicles from Willow Street, via a controlled access point. The EVA lane would be located within an easement crossing the adjoining parcel to the west (the FMC parcel; APN 092-0100-004-02). The conceptual location for the EVA is shown on Figure 3-4. Construction of the approximately 20 foot wide EVA is expected to occur prior to development of the FMC site with residential uses, as planned for under the Specific Plan. The EVA could be reconfigured by future development plans for the FMC property, or integrated into residential development on the site. As such, the EVA would be compatible with, and in the range of development anticipated for the FMC site and the environmental impacts of constructing the EVA are encompassed in the TOD EIR's analysis of constructing residential uses on that property consistent with the Specific Plan. Site-specific surveys as required by the TOD EIR will be

completed prior to the City's approval of the specific EVA alignment, and what is depicted in Figure 3-4 is conceptual, and as noted above, subject to change. See Figure 3-4, as revised.

Page 82, *Section 4.5*; Hazards and Hazardous Material is revised as follows:

This section is based ~~e~~in part on the *Dumbarton TOD Specific Plan EIR*, the *Revised Remedial Actions and Cleanup Standards Report* prepared by Cornerstone Earth Group in December, 2012, the *Environmental Evaluation and Remedial Action Summary, 2.1 Acre Enterprise Drive Parcel, Newark, California* by Cornerstone Earth Group, December, 2012, the *Human Health Risk Assessment for the Trumark Parcel, Former Baron Blakeslee, Inc. facility, Newark, California,* prepared by CH2M HILL, May, 2013, San Francisco Bay Regional Water Quality Control Board *Final Site Cleanup Requirement Order No.* ~~98-067~~ R2-2001-054, and San Francisco Bay Regional Water Quality Control Board *Conditional Approval of Revised Remedial Action and Cleanup Standards Report*, May 2013, and the *Alternate Cleanup Plan, Former Baron Blakeslee, Inc. Facility, 8333 Enterprise Drive, Newark California* by AMEC Environmental and Infrastructure, Inc., August 2013, and *Approval of Alternate Cleanup Plan, former Baron Blakeslee Facility, 8333 Enterprise Drive, Newark, Alameda County*, San Francisco Bay Regional Water Quality Control Board, August 29, 2013. There reports are included in Appendices D-1 – D-7.

Page 82, *Section 4.5.1*; Background is revised as follows:

The Specific Plan EIR identified eight different "Hazardous Materials Sites" within the specific plan area that had hazardous material impacts or hazardous natural features (e.g. naturally occurring asbestos). Most of these properties were impacted by previous businesses operating on the site that stored and processed chemicals. Figure 4.2 identifies properties in the Specific Plan area with a history of hazardous materials contamination. Remediation of contamination on the sites ~~has been~~ is either in the planning phases or is currently underway on most of the sites, though no site has completed remediation activities to residential levels to date. For the purposes of this SEIR, hazards and hazardous materials impacts affecting Site A and Site B only were evaluated.

Page 86, *Section 4.5.2.1*; Site Conditions is revised as follows:

Based on the frequency of detection, the concentrations detected, and the toxicity, PCE and TCE are considered the primary COCs in soil on Site A, PCE and TCE are considered the primary COCs in soil vapor, and TCE is considered the primary COC in the ground water beneath the site. Dissolved VOCs are present in both the shallow ground water zone of the affected area and, to a lesser extent, the underlying Newark Aquifer.

Page 88, *Section 4.5.2.1*; Impacts, Site A is revised as follows:

Groundwater remediation would continue on adjacent parcels after initiation and completion of the ACP. The project proposes to install multiple layers of mitigation including engineered vapor barriers and a sub-slab depressurization system ~~controls~~ as part of

residential development of Site A to mitigate risks to future residents until groundwater remediation is complete.

Page 88, ***Section 4.5.2***; Impacts; Site A; Mitigation Measure HAZ-1 is revised as follows:

MM HAZ-1: Prior to the issuance of grading permits or building permits for development of Site A, a remediation plan and a risk management plan, with monitoring and reporting requirements, must be prepared and submitted for review by the RWQCB. The RWQCB will review the plans to confirm that implementation of the plans would should achieve ~~Cal-EPA approved~~ risk management standards applied by the RWQCB for residential use ~~of risk less than 1x10-6 and health hazard index of less than 1~~. RWQCB will also review any amendment of such plans to confirm that implementation of the plans should achieve ~~Cal-EPA approved~~ risk management standards applied by the RWQCB for residential use ~~of risk less than 1x10-6 and health hazard index of less than 1.~~

In addition, a Construction Risk Management Plan (CRMP) with protocols for the handling, evaluation and appropriate disposal of excavated soil and pumped water in accordance with regulatory agency requirements, and protocols governing worker health and safety, will be either integrated into other plans or will be developed as a stand-alone document, and will address on-site and off-site development and maintenance of utilities. The CRMP shall be provided to RWQCB, City and ACWD for review and comment. The City shall provide the CRMP to all contractors performing subsurface work in the areas covered by the CRMP.

Also, remediation plan and risk management plan construction phase components (as opposed to ongoing monitoring and reporting requirements) shall be implemented prior to occupancy. Prior to issuance of occupancy permits, a risk management plan consistent with DTSC's Vapor Intrusion Mitigation Advisory shall be approved by the RWQCB or other oversight agency.

Such plans shall address the potential migration of vapors laterally along utility conduits and into residences through physical controls. The extent of such physical controls shall be determined in response to soil vapor data generated prior to construction and designed to control migration of vapors to avoid significant risk to human health or structures. Such physical controls could include the installation of low-permeability backfill "plugs," or through an equally effective technique, adjacent to residences and along subsurface utilities beneath Sites A.

Certificates of Occupancy for the residences will not be issued until the developer submits to the RWQCB documentation on the installation and performance testing of vapor intrusion mitigation measures and the light industrial uses on the Gallade Parcel have ceased operations. **(Less Than Significant Impact with Mitigation)**

Page 92, ***Section 4.5.2.2***; Impacts; Site B; Mitigation Measure HAZ-2 is revised as follows:

> **MM HAZ – 2:** Prior to the issuance of building permits for development of Site B, all pre-construction elements of the Remedial Action Plan conditionally approved by the RWQCB on July 30, 2013, as it may be amended, and any addenda, must be met, including required pre-construction contingent submittals listed in the RWQCB conditional approval. **(Less Than Significant Impact with Mitigation)**

Page 92, ***Section 4.5.2.2***; Impacts; Site B; Mitigation Measure HAZ-3 is revised as follows:

> **MM HAZ – 3:** Prior to the issuance of building permits for development of Site B, all pre-construction elements of the Remedial Action Plan conditionally approved by the RWQCB on July 30, 2013, as it may be amended, and any addenda, must be met, including required pre-construction contingent submittals listed in the RWQCB conditional approval. Prior to issuance of occupancy permits, a risk management plan consistent with DTSC's Vapor Intrusion Mitigation Advisory shall be approved by the RWQCB or other oversight agency. Such plan shall address the potential migration of vapors laterally along utility conduits and into residences through physical controls. The extent of such physical controls shall be determined in response to soil vapor data generated prior to construction and designed to control migration of vapors to avoid significant risk to human health or structures. Such physical controls could include the installation of low-permeability backfill "plugs," or through an equally effective technique, adjacent to residences and along subsurface utilities beneath Sites B.
>
> In addition, a Construction Risk Management Plan (CRMP) with protocols for the handling, evaluation and appropriate disposal of excavated soil and pumped water in accordance with regulatory agency requirements, and protocols governing worker health and safety, will be either integrated into other plans or will be developed as a stand-alone document, and will address on-site and off-site development and maintenance of utilities. The CRMP shall be provided to RWQCB, City and ACWD for review and comment. The City shall provide the CRMP to all contractors performing subsurface work in the areas covered by the CRMP. **(Less Than Significant Impact with Mitigation)**

Page 119-120, ***Section 7.2.3*** Location Alternative is revised as follows:

> Under the Location Alternative, the project would be developed on either the Cargill or FMC properties (Figure 3-2). As noted in the *Dumbarton TOD Specific Plan EIR*, these sites are known to be impaired by hazardous materials, generally in the form of soil and/or groundwater contamination. It is unknown what assessment and ~~likely that the~~ remediation actions would be needed to prepare these sites for residential development ~~would involve similar remediation as the project proposes for Site B~~, though future review by an oversight agency consistent with TOD EIR MM 4.7-1a may determine that such impacts would be lower. As noted in the Specific Plan EIR, portions of the FMC and Cargill site support wetland plant communities, and have the potential to also contain Condon's tarplant and other biotic resources. These sites may also support special status species such as Western Burrowing Owl, or Salt Marsh Harvest Mouse. Given the extensive site work typically

associated with remediation and site development, it is unlikely that implementation of the project on one of these alternative sites would avoid potential impacts to biotic resources present on these sites, although impacts on Site A and Site B would be avoided.

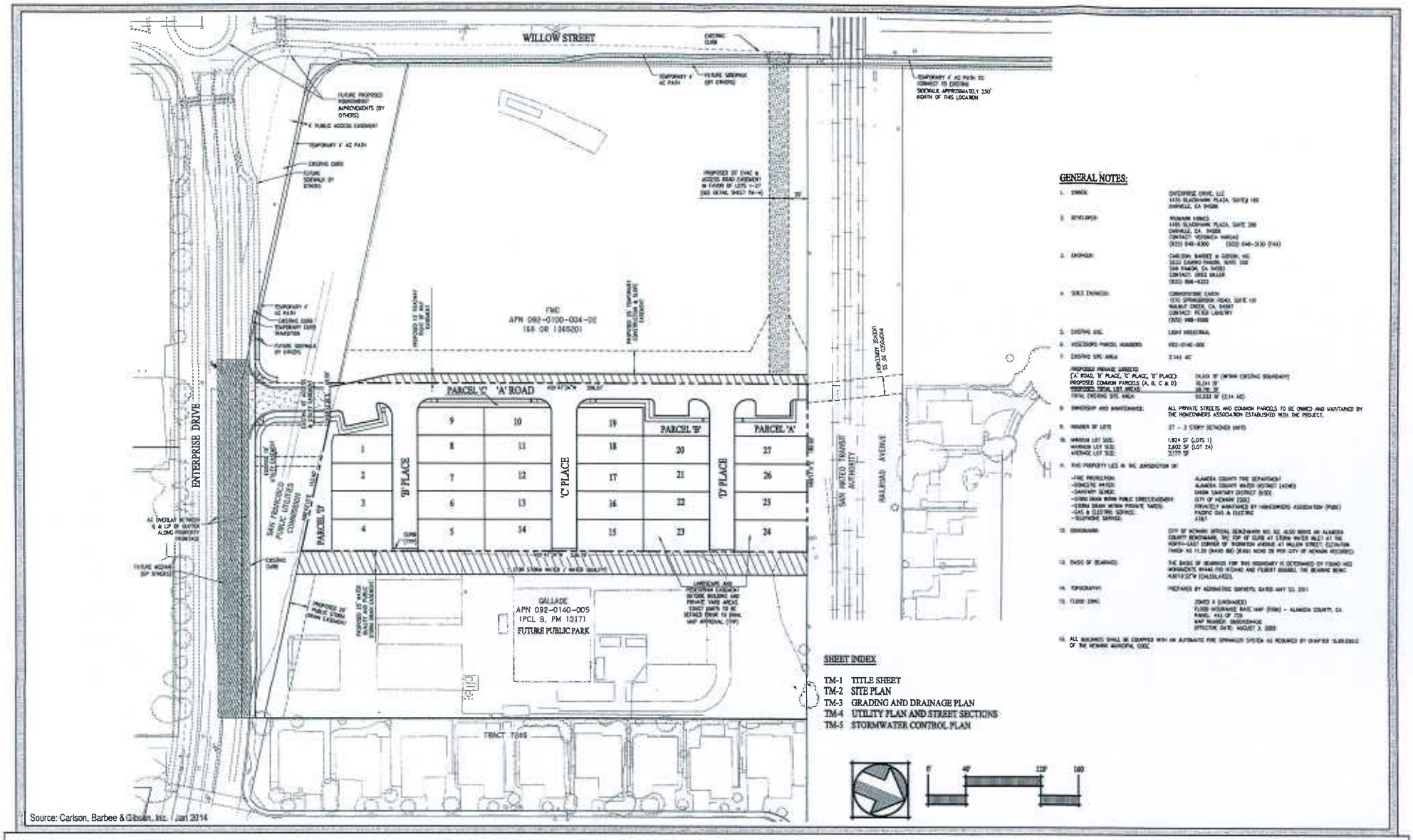
The Location Alternative would reduce the potential exposure of future residents to airborne hazardous substances in the event of an accidental release from either of two facilities located in the vicinity of the project. As described in Section 4.4, *Hazards and Hazardous Materials*, under the alternative accidental release scenario (the accidental release of a portion of a hazardous substance as compared to a total release), the area of exposure to toxic levels of Nitrogen Dioxide would not extend to the FMC or Cargill properties (See Figure 4.4).

Thus, the Location Alternative would avoid the significant unavoidable impact under an alternative hazardous substance release scenario. Under a worst-case release scenario, the Location Alternative sites would be subject to a significant unavoidable impact from the potential exposure of future residents to airborne hazardous substances (See Figure 4.5).

~~While d~~ Development of the project on either the Cargill or FMC properties would result in a reduced risk from the accidental release of hazardous substances.~~, all other impacts would be similar to those of the proposed project~~. None of the potential alternative locations, however, are controlled by the project proponent, therefore implementation of the project on an alternative location would not be feasible unless and until controlled by the applicant. Finally, the City determined in 2011 that Site A and Site B should be developed with residential uses. Thus, the Location Alternative would potentially delay certain impacts, but many of the impacts associated with the proposed project would likely eventually occur as development applications are submitted in the future to implement the policy goals contained in the TOD Specific Plan.

SECTION 5.0 REVISIONS TO THE FIGURES OF THE DRAFT SEIR

This section contains a revised Figure 3-4 to the *Draft Supplemental Environmental Impact Report, Trumark Dumbarton Transit Oriented Development Residential Project*, dated December 2013.



Source: Carlson, Barbee & Gibson, Inc. / Jan 2014

SITE "A" DEVELOPMENT PLAN

FIGURE 3-4

SECTION 6.0 COPIES OF THE COMMENT LETTERS RECEIVED ON THE DRAFT SEIR

This section contains copies of the comment letters received on the Draft SEIR.

California Water Boards

San Francisco Bay Regional Water Quality Control Board

February 7, 2014
RB File Nos. 01S0157, 01S0294

Terrence Grindall
(terrence.grindall@newark.org)
Community Development Director
City of Newark
37101 Newark Boulevard
Newark, CA, 94560

Subject: **Comments on Draft Supplemental Environmental Impact Report (SEIR) dated December 2013 for Trumark Dumbarton Transit Oriented Development (TOD) Residential Project (SCH #2010042012)**

Dear Mr. Grindall:

Thank you for the opportunity to comment on the Draft Supplemental Environmental Impact Report (SEIR) for the Trumark Dumbarton TOD Residential Project (Project) for development of Site A and Site B located within the Dumbarton Transit Oriented Development (TOD) Specific Plan Area. The Project proposes 27 homes at Site A (8375 Enterprise Drive) and 217 homes at Site B (8400 Enterprise Drive). As explained below, Sites A and B will require extensive and aggressive environmental cleanup prior to development to protect human health and safety.

A-1

As a Responsible Agency under California Environmental Quality Act (CEQA), the Regional Water Board is submitting comments on the SEIR for categories are germane to our agency's statutory responsibilities in connection with this Project. We rely on our Water Code authority to oversee the investigation and cleanup of sites in the Dumbarton TOD Specific Plan Area. We also consider and act on all proposals for case closure (i.e., no further action required).

Specifically, our comments pertain to the significant potential human health impacts posed by hazardous materials present in soil, soil gas, groundwater, airborne dusts and vapors in connection with this Project and the extensive volume of contaminated soil that has to be excavated from the site and transported offsite through City streets to the appropriate disposal facility. Additionally, we are commenting on cumulative impacts that were not considered in this SEIR, associated with similar cleanup projects for other contaminated sites in the Dumbarton TOD Specific Plan Area. These include: Gallade (Honeywell), Torian, FMC, Ashland, Romic, Newark Sportsmans' Club, and Cargill, where similar cleanup activities are needed prior to development.

The attached Regional Water Board comments are intended to guide the City of Newark and ensure that the environmental documentation adequately addresses the pollution in the Project area to protect human health and the environment.

Our past correspondence to the City of Newark regarding soil and groundwater cleanup issues in the Dumbarton TOD Specific Plan Area is listed below.

A-1

- May 22, 2008, Letter to City of Newark Regarding the Approved Conceptual Land Concept for the Area 2 Specific Plan.
- April 30, 2010, Letter to City of Newark, NOP for Dumbarton TOD Specific Plan.
- June 30, 2011, Email to City of Newark, Draft EIR for Dumbarton TOD Specific Plan.
- July 27, 2011, Letter to City of Newark, Dumbarton TOD Specific Plan Final EIR.
- February 13, 2013, Letter to City of Newark, NOP for Newark General Plan Tune Up.
- March 8, 2013, Letter to City of Newark, NOP for Supplemental EIR for Dumbarton TOD Trumark Residential Project.
- September 27, 2013, Letter to City of Newark, General Plan Tune Up. Draft EIR for the City of Newark dated August 13, 2013.

If you have any questions regarding our comments, please contact Cherie McCaulou (cmccaulou@waterboards.ca.gov) in our Toxics Cleanup Division at (510) 622-2342.

Sincerely,

Digitally signed by Stephen Hill
Date: 2014.02.07 15:34:48 -08'00'

Bruce Wolfe
Executive Officer

Attachment A – Staff Comments on Hazardous Materials Impacts for Site A and Site B
Attachment B – Specific Comments on the SEIR
cc w/ attach:

- City of Newark, Building Division, Attn: Ray Collier (ray.collier@newark.org)
- Alameda County Water District, Attn: Steven Inn (steven.inn@acwd.com)
- Department of Toxic Substances Control, Attn: Lora Jameson (lora.jameson@dtsc.ca.gov
- DTSC, Attn: Michael Esaghian (mesaghian@dtsc.ca.gov)
- Bay Area Air Quality Management District, Attn: Jaclyn Winkel (Jwinkel@baaqmd.gov
- Ashland, Inc., Attn: Michael Dever (mbdever@ashland.com)
- SHH LLC, Attn: Peter Schneider (pds5000@aol.com)
- FMC Corporation, Attn: James Bodamer (jbodamer@fmc.com)
- Cargill, Inc., Attn: Penny Streff (penny_streff@cargill.com)
- Jones-Hamilton Co., Attn: Gerry Meyer (gmeyer@jones-hamilton.com)
- Trumark Commerical, Attn: Jessica Roseman (jrose@trumark-co.com)
- Honeywell International Inc., Attn: Benny DeHigh (benny.dehghi@honeywell.com)
- Integral Communities, Attn: Glenn Brown (gbrown@integralcommunities.com)

Attachment A
General Comments on Hazardous Materials Impacts at Site A and Site B
By Regional Water Quality Control Board (Toxics Cleanup Division)
For the
Draft Supplemental EIR on the Trumark Dumbarton TOD

COMMENTS ON 8375 ENTERPRISE DRIVE (SITE A)

Site A – Site Conditions

Please note the following clarifications for Site A site conditions.

- Development at Site A at 8375 Enterprise Drive, Newark, is dependent on successful soil and groundwater cleanup efforts by Honeywell International, Inc. (Honeywell). The Site Cleanup Requirements Order No. R2-2007-0005 adopted by the Regional Water Board requires Honeywell to remove soil, soil gas, and groundwater contamination originating at 8333 Enterprise Drive (current location of Gallade), which is the property immediately to the east of Site A and immediately west of residential homes on Aleppo Drive. The contamination is attributable to former hazardous waste facility operations by Baron-Blakeslee Inc. at 8333 Enterprise Drive.

- The contamination caused a significant groundwater plume, containing trichoroethene (TCE), tetrachoroethene (PCE) and other volatile organic compounds (VOCs) that has migrated from 8333 Enterprise Drive to the west and northwest, in particular Site A, Parcels F and G owned by FMC Corporation, and several existing single-family residences on Chestnut and Juniper Streets. The plume has also migrated easterly to the homes on Aleppo Drive that share a property line with the chemical plant.

A-2

- A land use covenant has been recorded against the title of 8333 Enterprise Drive which prohibits use of the property until the pollution has been abated. This industrial parcel would be redeveloped as a public park under the Dumbarton TOD Specific Plan. The land use covenant restricts the use of the property for commercial and industrial purposes only. A human health risk assessment for a park scenario has not been performed.

- Honeywell submitted a human health risk assessment for Site A in May 2013, which concluded excessive and unacceptable risks for residential use due to elevated TCE and PCE concentrations. This risk assessment may need to re-evaluate construction worker risks. Honeywell submitted an August 2013 Alternate Cleanup Plan consisting of: (1) shallow groundwater in-situ biodegradation, in lieu of in-situ chemical oxidation which failed; (2) vapor barriers to mitigate the excess risks of vapors coming from the groundwater as well as other sources (contaminated soil and the neighboring parcel); and (3) soil excavation prior to development.

- A second human health risk assessment (September 2013) was performed by Honeywell for the existing residents on Aleppo Drive, Juniper Street and Chestnut Street. The assessment found no unacceptable risks to the existing residents. Staff has not yet concurred with the health risk assessment.

To mitigate the Significant Impact at Site A, the draft SEIR (on page 88) proposes amending Mitigation Measure 4.7-1a of the *Dumbarton TOD Specific Plan EIR*, to address the specific conditions of Site A, as follows:

> MM HAZ-1: *Prior to the issuance of grading permits or building permits for development of Site A, a remediation plan and a risk management plan must be prepared and submitted for review by the RWQCB. The RWQCB will review the plans to confirm that implementation of the plans would achieve Cal-EPA approved risk management standards for residential use of risk less than 10-6 and health hazard index of less than 1.*

A-2

Regional Water Board Staff cannot confirm that implementation of remediation plan(s) would achieve the above referenced standards, unless the remediation plan is fully implemented and demonstrated to be effective. The final SEIR should add language (presented on the last page) that requires the remediation plan be implemented and completed, and demonstrated to be effective based on post-remedial monitoring that shows a significant reduction of VOC concentrations that are cause of the human health exposure risks. A risk management approach is suitable only after the Regional Water Board has determined that the vapor intrusion threats have been significantly reduced and water quality objectives will be met in a reasonable time period.

The following sections provide supporting information for our above recommendation.

Site A - Soil Contamination

The draft SEIR did not address the substantial soil contamination at 8333 Enterprise Drive, as discussed below:

- Soil contamination underlying Gallade's existing buildings and structures at 8333 Enterprise is required to be excavated prior to development, pursuant to Task C.6 of the Order R2-2007-0005. Removing this pollution source will prevent air impacts due to volatilization of chemical vapors from soil, leaching of contaminants to groundwater, and will reduce overall contaminant mass migrating offsite. A soil excavation work plan for this remedial task has not yet been submitted; however, such a work plan will be required pursuant to Task C.5 of the Order. The excavation of contaminated soil can only be performed after the Gallade buildings are demolished.

A-3

The final SEIR should mention the inevitable demolition of Gallade's buildings, and removal of contaminated soil considered a continuing source for adverse impacts to the neighborhood which persists at 8333 Enterprise (the property immediately to the east of Site A and immediately west of the single family homes on Allepo Drive).

The final SEIR needs to consider these potential impacts to existing residents when this work is carried out. Additionally, avoidance and mitigation measures including, air monitoring for toxic volatile vapors and dusts are needed to protect the existing residences and occupants from air quality impacts that will arise during soil removal.

Site A - Vapor Intrusion Risks

The very high TCE concentrations in groundwater underlying Site A pose a significant risk via vapor intrusion to any structures constructed above the plume, which adds to the vapor intrusion risk from soil gas due to vaporization from contaminated soil as long as that source is not removed. Recent scientific evidence compiled by U.S. EPA indicates that exposing pregnant women to very low concentrations of TCE for just a few days dramatically increases the risk of fetal heart malformations. Therefore, the Regional Water Board has concerns over developing the property for residential use at this time.

A-4

The Regional Water Board recommends that significant groundwater remediation must be implemented and its success must be demonstrated with post remediation monitoring that includes collection of soil gas and groundwater samples for a period of time prior to occupancy of new buildings on the property. Previous attempts at remediation have not achieved remedial action levels for protection of vapor intrusion. In 2007, the remedial strategy, *in-situ chemical oxidation technology* was adopted in the Order (Task C.1) and implemented in 2007, but was deemed unsuccessful in 2011, despite promising results during initial pilot tests.

Site A - Offsite Groundwater Plume Remediation

We recently approved an August 2013 Alternate Cleanup Plan for *in-situ biodegradation* to remediated the offsite shallow groundwater plume. Pilot testing is underway to evaluate the likelihood of its success. We are looking forward to receiving the results to assess the feasibility of this approach to remediate the TCE and PCE plume in a timely manner. There is no guarantee that the approved Alternate Cleanup Plan will lead to significant reductions in the pollutant concentrations, and meet the standards stated in MM-HAZ-1. Furthermore, the proposed remedial action has the potential to generate toxic or hazardous byproducts including methane. Methane in the subsurface can create pressure to push dangerous and explosive vapors along preferential pathways, including utility corridors such as the San Francisco Public Utilities Commission Hetch Hetchy pipeline or utility corridors serving the structures at the site, into the buildings. As long as the property remains undeveloped, the methane can simply move upward and vent into open air. Structures on the property along with their underground utilities could cause adverse effects of vapors. It is also possible that the plume may degrade into vinyl chloride, which is more carcinogenic than TCE.

A-5

Site A - Post Remediation Monitoring

Evaluating the effectiveness of the proposed in-situ biodegradation will require several years after full-scale implementation of the remedy. The uncertainty caused by past failures of remedial actions at the site, combined with the potential for the proposed treatment system to generate hazardous byproducts, such as methane, raises the concern that the proposed remedy may not be adequately protective. While the Regional Board has approved the Alternate Cleanup Plan, its success has yet to be determined. If the remedial action fails to perform as proposed, revisions to the cleanup plan and additional remedial actions may be required by the Regional Board.

A-6

Full restoration of the beneficial uses of groundwater in the TOD will take years, or possibly decades. Only after remediation has significantly reduced pollution concentrations and a demonstration has been made that concentrations will meet cleanup goals in a reasonable

A-6 timeframe would it be appropriate to consider residential construction with vapor mitigation systems. The timeframe needed to demonstrate the effectiveness of the remedial action may be substantially longer than currently envisioned by the developer.

COMMENTS ON 8400 ENTERPRISE DRIVE (SITE B)

Site B - Background

Development at Site B, the former Jones-Hamilton site at 8400 Enterprise Drive, is dependent on successful cleanup to residential standards. Thus far, cleanup actions and soil cleanup standards were based on continued commercial/industrial in accordance with Site Cleanup Requirements Order No. R2-2001-054 adopted by the Regional Water Board for this site. There is currently a

A-7 land use restriction that prohibits residential use of the property. This Order has not yet been revised to reflect the new proposed land use. To support single-family housing at this site, the proposed cleanup includes extensive soil excavation and soil management to remove dioxins, furans, PCBs, pentachlorophenol, tetrachlorophenol, and several VOCs, in particular 1,2-dichloroethane (1,2-DCA), arsenic and other contaminants in order to reduce the human health risks for site future occupants.

Site B - Groundwater Contamination

A groundwater solvent plume also underlies Site B and poses vapor intrusion threats which will be reevaluated after soil removal actions are completed. The groundwater plume from Site B has also migrated offsite in a westerly direction, into the public right-of-way on Willow Street and

A-8 onto 37555 Willow Street (location of Torian property and residential development). Groundwater cleanup standards have not been achieved. After development long-term monitoring, ongoing groundwater cleanup and environmental land use restrictions will be needed to protect human health and safety.

Site B – Soil contamination

Recent testing for dioxins and related chemicals led to the discovery of significant pollution with these very toxic chemicals at Site B. Some of these contaminants may also be present at other properties within the Dumbarton TOD Specific Plan area, based on the new data collected at the adjacent Torian property at 37555 Willow Street. The magnitude and extent of the dioxin contamination is not yet known. All property owners in the TOD Specific Plan area will be

A-9 required to conduct special studies to determine the source(s), extent and magnitude of these highly toxic contaminants. Dioxins are considered to be among the most toxic man-made chemicals. Until the contamination with dioxins and related chemicals is fully characterized, which would provide a better understanding of the likely sources and fate and transport mechanisms, the assumptions regarding the extent and toxicity of the contamination are necessarily conservative.

Air impacts from airborne dusts during soil excavation, profiling and trucking contaminated soil offsite do not seem to be adequately addressed. Additional mitigation measures are needed, including a requirement for a Certified Industrial Hygienist to monitor the cleanup site and vicinity for toxins associated with the cleanup actions.

A-10

Site B – Vapor Intrusion

The December 2012 Human Health Risk Assessment in Appendix D-1 of the SEIR found an unacceptable human health risk (3.1×10^{-4}) for vapor intrusion driven primarily by 1,2-dichloroethane and vinyl chloride. Vapor intrusion risks will be reevaluated upon completion of the proposed soil cleanup plan.

A-11

Site B – Proposed remediation

The responsible party has proposed to remove the concrete-asphalt cap that covers the two surface impoundments and to conduct an extensive soil excavation across the 21-acre site. The excavation poses potential risks for workers and for nearby residents. In addition, there are some concerns about proper risk mitigation while moving such a large volume of contaminated soil containing highly toxic chemicals (dioxins, furans, PCP, etc.). Proposed soil cleanup for Site B includes the following: 44,000 cubic yards of soil excavation from the former detention pond area; 35,000 cubic yards of soil excavation in the vacant and undeveloped areas; and an estimated 30,000 cubic yards of soil excavation in the former facility area. Soil will be placed into 500 cubic yard stockpiles. All stockpiled soil must comply with Bay Area Air Quality Management District regulations and requirements. A total of 109,000 cubic yards of soil or 13,625 truckloads could be transported offsite for disposal from Site B.

Across the street at the adjacent Torian property at 37555 Willow Street, an additional 50,000 cubic yards of soil excavation will add an additional 6,250 truckloads for transport and offsite disposal, and at the Gallade Chemical site at 8333 Enterprise Drive an estimated 20,000 cubic yards of contaminated soil (720 truckloads) will be transported for offsite disposal. The Final SEIR should assess the additive and cumulative impacts to residents for soil excavations at 8333 Enterprise Drive and 37555 Willow Street. There will also be soil cleanups at FMC, Romic, Ashland, and possibly the Newark Sportsmans' Club and Cargill properties.

Attachment B
Specific Comments to the Draft SEIR on the Trumark Dumbarton TOD By Regional Water Quality Control Board (Toxics Cleanup Division)

Summary - Significant Impacts and Mitigation and Avoidance

Air Quality (associated with hazardous materials contaminated soil) Page iv.

The Final SEIR should include language for Mitigation and Avoidance Measures similar to those listed under the Noise Category, in order to protect citizens from hazardous dusts, fumes, vapors, odors that occurs during soil excavation and off-hauling of contaminated soil.

Suggested language is listed below:

- "A certified/licensed industrial hygienist will develop and oversee implementation of an air monitoring program to ensure air quality standards are met throughout the duration of the Project, to ensure protection of human health and safety, for workers and existing residents, and visitors to the Project."

A-12

- "Public notices sent to the residents pertaining to the scheduled soil removal and off-hauling days, and instructions for residents to minimize exposure to toxic airborne dusts, fumes, vapors, odors, etc."
- "A Procedure and phone numbers for notifying the City Building Inspection Division staff during regular construction hours and off-hours".
- "A sign posted on site pertaining the permitted construction days and hours, complaint procedures, and who to notify in the event of a problem."
- "The designation of an onsite construction compliance and enforcement manager for the project. The manager shall act as a liaison between the project and its neighbors to ensure compliance with air quality standards and nuisance conditions".

Section 1.0, Page 30, Introduction

The draft SEIR addresses only two parcels (Site A and Site B totaling 23.5 acres) in the 233-acre Dumbarton TOD Specific Plan Area. Additional cleanup actions will occur at Gallade (2-acres), Torian (42-acres), FMC (47-acres), Ashland (10-acres), SHH, LLC (6-acres), and possibly at Cargill (54.5 acres). There will be additive and cumulative impacts to citizens and residents as other contaminated properties in the TOD initiate cleanup activities, causing nuisance conditions associated with dusts, fumes, vapors, odors, and trucks hauling contaminated soil on the public streets all over again.

A-13

Section 2.7, Page 33, 34, Project Related Approvals

Add the following agencies for Project related approvals:

- RWQCB for approval of proposals for cleanup and monitoring of hazardous materials, storm water construction permits, 401 and 404 Certifications.
- Union Sanitation District for permits to discharge contaminated groundwater.

A-14

A-14

- BAAQMD for excavation and aeration of contaminated soils.

Section 3.2, Page 38. Project Location and Section 3.5.3 Page 44. Residential Development
The draft SEIR states, *"the industrial property at 8333 Enterprise Drive (current location of Gallade Chemical,) adjacent to Site A would be redeveloped as a public park. Use of this property as a public park was evaluated in the Specific Plan EIR only at a program level given the final cleanup activities to allow use of the site as a park were not sufficiently defined."*

A-15

The Final SEIR should recognize that there is a land use covenant on the proposed park parcel at 8333 Enterprise Drive, which restricts the use of the property for commercial and industrial purposes only. In addition to groundwater remediation, the contaminated soil under the buildings is required to be excavated pursuant to Task C.5 and C.6 of the Order R2-2007-0005. The Alternate Cleanup Plan referenced in the draft SEIR was submitted specifically to comply with Task C.1 to cleanup contamination in shallow groundwater zone, and it did not propose tasks for address site-wide contamination and soil excavation. The final SEIR should address the impacts to the nearby residents that will be exposed to hazardous dusts, vapors fumes, noise, etc. during the facility closure, building demolition, and cleanup actions for soil and groundwater at 8333 Enterprise Drive.

3.5.2, Page 40. Pollutant Remediation and Site Preparation
The draft SEIR states, *"The proposed project would include vapor intrusion engineering controls (e.g. vapor barriers, sub-slab depressurization, etc.) beneath the buildings for Site A to protect future development from vapor intrusion".*

A-16

The final SEIR should recognize that none of the sites in the Specific Plan Area have been remediated to safe levels for residential use. Many have shallow groundwater impacts and vapor intrusion threats, including Site B, which has not yet evaluated the vapor intrusion threats. The entire northern half of the Dumbarton TOD Specific Plan Area will also likely require vapor intrusion engineering controls, due to extensive groundwater pollution and very high levels of VOCs (e.g., including TCE, PCE, ethylene dibromide [EDB], 1,2-DCA, vinyl chloride, etc.) that pose vapor intrusion risks.

3.5.2.1, Page 41. Site A – Trumark Property
The draft SEIR states, *"Removal and disposal of large amounts of contaminated soil from the site (Site A) is not anticipated. Approval by the RWQCB of the methods of remediating VOC impacts to the site and post-remediation requirements for residential use of the property would be required prior to development of Site A with residential uses".*

A-17

The final SEIR should recognize that large amounts of contaminated soil will be removed at the adjacent Gallade Chemical, 8333 Enterprise Drive, prior to development, pursuant to Site Cleanup Requirements Order No. R2-2007-0005.

3.5.2.2, Page 41. Site B – Jones-Hamilton

A-18

The draft SEIR states that the *"implementation of the RAP and preparation of the site for subsequent development is expected to take six to twelve months".*

A-18

The final SEIR should recognize that the RAP is purely a soil cleanup plan and additional tasks related to vapor intrusion risks and cleanup of underlying groundwater pollution will be required to prepare the site for development.

3.5.2.2 Page 42. Removal of Soil Containing Dioxin

The draft SEIR does not thoroughly address human health risks related to the removal and transportation of soil containing dioxins.

A-19

Air monitoring and prevailing wind studies conducted by a certified industrial hygienist will be crucial elements of the project to demonstrate that potentially significant human health impacts have been properly addressed and mitigated.

Section 4.1.2.2, Pages 54, 55. Construction-Related Impacts and Dust Emissions and Section 4.1.2.2, Page 57. Community Health Risk

The draft SIER *states that dust would be generated during remediation, grading and construction activities (at Sites A and B).*

A-20

The Final SEIR should assess the added significant impacts to sensitive receptors during building demolition and soil cleanup at 8333 Enterprise and at Torian at 37555 Willow Street, in addition to the proposed activities at Sites A and B. There will be additive and cumulative impacts to citizens and residents as other contaminated properties in the TOD initiate cleanup activities, causing nuisance conditions associated with dusts, fumes, vapors, odors, and trucks hauling contaminated soil on the public streets all over again". In order to ensure public health and safety, air monitoring throughout the project should be conducted under the supervision of a certified industrial hygienist, given the toxicity of TCE and dioxins.

The draft SEIR states that *the air quality analysis was based on the assumption that up to 109,850 cubic yards of soil could be exported from Site B and up to 59,000 cubic yards could be imported to the site.*

The final SEIR should also include exported soil volumes for the Torian property at 37555 Willow Street and at Gallade at 8333 Enterprise Drive.

Section 4.5, Page 82. Hazards and Hazardous Materials

The draft SEIR indicates that this section is based on part on the *Final Site Cleanup Requirements Order No 98-067.* This referenced Order was rescinded when Order No. 01-054 for the Jones Hamilton Site was adopted in 2001. The most recent Orders for all the sites in the Dumbarton TOD are noted below:

A-21

- FMC Corporation, 8787 Enterprise Drive, SCR Order R2-2002-0060
- Ashland Inc., 8610 Enterprise Drive, SCR Order R2-2005-0038
- SHH, LLC (Former Romic), 37445 Willow Street, SCR Order R2-2008-0081
- Jones-Hamilton, 8400 Enterprise Drive, SCR Order R2-2001-0054,

- Honeywell (Former Baron-Blakeslee), 8333 Enterprise, SCR Order R2-2005-0004

A-21 The cleanup standards approved for these sites (except Honeywell) were based on continued industrial and commercial land and not residential use. Revised cleanup standards and amended Orders will have to be adopted by the Water Board.

Section 4.5.1.1, Page 82, Background

The draft SEIR references eight *'Hazardous Materials Sites" within the Dumbarton TOD Specific Plan Area, and states that "remediation of contamination on the sites has been or is currently underway on most of the sites".*

A-22 This in an incorrect statement. None of the sites in the Specific Plan Area have been remediated to safe levels for residential use. Many have shallow groundwater impacts and vapor intrusion threats. Torian has submitted soil cleanup plans 37555 Willow Street. SHH plans to excavate impacted soil, pending data gap investigations at 37445 Willow Street. As stated above (individual sites (i.e., Ashland, Romic, FMC, Newark Sportsmans Club, Cargill) begin cleanup efforts, the hazards and hazardous materials associated with cleanup and grading activities will pose additional impacts to the citizens living near the Specific Plan Area. The final SEIR should address cumulative and additive impacts posed by all the necessary soil excavation planned in the TOD Specific Plan Area.

Section 4.5.1.1, Page 83, Transport and Use of Hazardous Materials

A-23 The draft SEIR does not adequately address the traffic impacts posed by thousands of trucks hauling contaminated and non-contaminated soil along Willow Drive, Enterprise Drive, and Thornton Avenue. There appears to be no Phasing Plan for all the soil remediation and development activities to coordinate traffic and transporting of hazardous materials for all the sites in the Dumbarton TOD Specific Plan Area.

Section 4.5.1.1, Page 83, Sites Impaired by Hazardous Materials

A-24 The draft SEIR is a piecemeal environmental review. It only assesses the impacts at two sites in the Dumbarton TOD Specific Plan Area, and as noted above it fails to address the cumulative impacts associated with cleanup activities at six or more other sites in this TOD area.

Section 4.5.1.2, Page 85, Specific Plan EIR Mitigation Measures Applicable to Project, and Summary Table

A-25 The draft SEIR references the mitigation measures 4.7-1a – 1c identified in the Dumbarton TOD Specific Plan EIR that would apply to the proposed project. The mitigation measure 4.7-1a falls short of the steps needed to properly investigate and remediated a property prior approving permits to grade or build on a particular parcel in the TOD Specific Plan Area. Additional mitigation and avoidance measures are needed to ensure that the proposed and approved cleanup activities are fully implemented, post-remedial monitoring is performed that demonstrates the remediation was effective at reducing site contaminants before grading or building permits are issued.

Suggested language to be incorporated into Mitigation Measure 4.7-1a is listed below:

- Prior to issuance of grading or building permits for Site A, excavation of contaminated soil at the adjacent property at 8333 Enterprise must be implemented, pursuant to the Order R2-2007-0005. If the soil excavation is not completed, the effectiveness of the proposed in-situ remedial actions at Site A is likely to be limited.

- Prior to issuance of grading or building permits for Site A and Site B, the following items should be completed (a) Implementation of the RWQCB approved remediation plan; (b) submission a start-up report to RWQCB; (c) submission of monthly progress reports to RWQCB; (d) submission of post-remediation monitoring reports to RWQCB until such time as a demonstration is made that cleanup standards will be met within a reasonable timeframe; (g) implementation of a risk management plan including engineered controls to mitigate residual pollutions as an interim measure, to protect human health and safety. Additional remediation and reporting will be required until residential cleanup standards are met or until the remediation is no longer cost-effective. If cleanup standards cannot be met in a reasonable timeframe, a revised human health risk assessment to evaluate the risks posed by residual contaminants in soil, soil vapor and groundwater and amended Remedial Action Plan should be submitted to the RWQCB for review and approval.

- Prior to issuance of grading or building permits, mitigation and avoidance measures are needed to ensure that utility corridors and public right of ways for Site A and Site B that may contain hazardous levels of VOCs and other hazardous contaminants are proper investigated, remediated, and prevented from acting as preferential pathways for vapor and groundwater migration.

A-25

- Post-construction mitigation measures are needed to ensure that future homeowners are protected from underlying residual pollution and financial responsibilities associated with any residual pollution. Mitigation measures should comply with DTSC's Vapor Intrusion Mitigation Advisory guidance document (Sections 6 and 7), and address the following:

  i. Long-term risk management of pollution, long after the development is constructed;
  ii. Inspection and monitoring of any engineered vapor mitigation systems to ensure the system are working effectively;
  iii. Long-term groundwater monitoring, sampling, and reporting continues until the cleanup goals are reached;
  iv. Proper abandonment of wells after the cleanup goal are reached; and
  v. Periodic indoor air monitoring of buildings that are constructed over plumes with elevated levels of volatile organic compounds.
  vi. Include measures to ensure protection of public utility corridors for abating hazardous vapors and for long-term treatment of contaminated groundwater, as appropriate.
  vii. Create a system for community notification such as a website (see "www.Redfieldsite.org")

From: TERRENCE GRINDALL
To: Michael Rhoades
Subject: Fwd: DTSC comments on Draft SEIR, Trumark Dumbarton TOD
Date: Friday, February 07, 2014 9:26:23 AM

Terrence Grindall
Assistant City Manager
510-578-4208

Begin forwarded message:

From: "Jameson, Lora@DTSC" <Lora.Jameson@dtsc.ca.gov<mailto:Lora.Jameson@dtsc.ca.gov>>
Date: February 7, 2014 at 9:06:01 PST
To: "'terrence.grindall@newark.org<mailto:terrence.grindall@newark.org>'"
<terrence.grindall@newark.org<mailto:terrence.grindall@newark.org>>
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Subject: DTSC comments on Draft SEIR, Trumark Dumbarton TOD

Dear Mr. Grindall,

Please consider the following comments from the Department of Toxic Substances Control (DTSC) in response to the Administrative Draft Supplemental Environmental Impact Report (Draft SEIR), Trumark Dumbarton Transit Oriented Development Residential Project, dated December 2013 (State Clearinghouse No. 2010042012).

Our comments support our sister agency, the San Francisco Regional Water Quality Control Board (RWQCB) on application of two DTSC guidance documents to the project: Vapor Intrusion Guidance (VIG; DTSC, 2011a) and Vapor Intrusion Mitigation Advisory (VIMA; DTSC, 2011b). The RWQCB is the lead regulatory agency for remediation of the former Baron Blakeslee site that is adjacent to the Trumark parcel, while DTSC is the lead agency for the post-closure permit at the former Baron Blakeslee site.

B-1 Our comments on Section 4.5 that pertain to the Trumark parcel (Site A) are as follows:

1) Based on information presented in the Draft SEIR, Human Health Risk Assessment (HHRA; CH2M Hill, 2013b), and Alternate Cleanup Plan (ACP; AMEC, 2013), it is not clear if remediation proposed in the ACP will be completed before construction of single-family homes at the Trumark parcel. In addition, contamination will remain in place even if the ACP achieves its target remedial action levels, as the remedial action levels in the ACP were developed for the former Baron Blakeslee site, not the Trumark parcel. The ACP and associated remedial action levels do not account for future land use scenarios at the Trumark parcel. Therefore, before construction of residential homes at the Trumark parcel, the human health risks should be re-evaluated to ensure that public health is protected. Additional remediation at the Trumark parcel, along with vapor intrusion (VI) mitigation, may be necessary to ensure that remaining contamination does not present a threat.

B-2 2) VI mitigation is not intended to be a sole remedial alternative for a VOC contaminated site. In accordance

B-2 with the VIMA, mitigation measures are an interim step that allow building occupancy concurrent with subsurface remediation. Monitoring of the mitigation systems will be necessary to demonstrate the protection of public health while the cleanup activities transpire. Once the subsurface has been restored to appropriate health-based concentrations, building mitigation can be terminated.

B-3 3) Section 4.5.1.1, Presence of Hazardous Material Sites, page 83, states that "the analysis of hazards and hazardous materials impacts contained in this SEIR is limited to the potential environmental impacts from … development of Site A [the Trumark Parcel] with residential uses and engineered controls to mitigate impacts to the site from an adjacent property…" The Draft SEIR discusses remediation of Site B (the former Jones Hamilton site) but does not address remediation of the Trumark Parcel. Given current soil gas and groundwater concentrations present at Site A and the adjacent former Baron Blakeslee site, remediation is a necessary component of redevelopment and should be included. The text should acknowledge remediation under the ACP and potential additional remediation plans.

B-4 4) Section 4.5.2.1, third paragraph, page 86, states that tetrachloroethene (PCE) and trichloroethene (TCE) are the primary constituents of concern (COCs) in soil at the Trumark Parcel, and that TCE is the primary COC in groundwater. Please add that PCE and TCE are the primary COCs in soil gas at the Trumark parcel.

B-5 5) Section 4.5.2.1, second paragraph on page 88, states that "the project proposes to install engineered vapor barrier controls as part of residential development of Site A [the Trumark Parcel] to mitigate risks to future residents until groundwater remediation is complete." As indicated in VIMA, vapor barrier controls are not able to completely eliminate vapor intrusion due to the likelihood of punctures, perforations, tears, and incomplete seals. Thus, vapor barriers by themselves are not an acceptable vapor intrusion mitigation system for the protection of public health. Instead, a sub-slab depressurization system (SSD) should be proposed, in accordance with VIMA. Be advised that SSDs require an operation and maintenance plan including inspections, a contingency plan, performance metrics, and on-going monitoring. Please see VIMA for a complete description of additional conditions to protect public health. In addition, mitigation measures will be necessary until monitoring indicates protective concentrations of soil gas and indoor air have been achieved, and the subsurface contaminants no longer poses a threat to occupants of overlying buildings.

B-6 6) In Section 4.5.2.1, page 88, the Draft SEIR proposes to revise Mitigation Measure (MM) HAZ-1 to read "Prior to the issuance of grading permits or building permits for development of Site A [Trumark Parcel], a remediation plan and a risk management plan must be prepared and submitted for review by the RWQCB. The RWQCB will review the plans to confirm that implementation of the plans would achieve Cal-EPA approved risk management standards for residential use of risk less than 10-6 and health hazard index of less than 1." Review and approval of the plans is not sufficient to ensure a less than significant impact. Grading or building permits should not be issued until the RWQCB certifies that target risks and hazard quotients have been achieved for future residents on the Trumark Parcel, through mitigation and/or remediation.

B-7 7) Section 4.5.2.1, page 88, text references preparation of a risk management plan. The risk management plan should be prepared in accordance with VIMA so that design, implementation, monitoring, operation and maintenance, contingency planning, public participation, and roles and responsibilities are clearly defined for the life of VI mitigation measures.

B-8 8) The draft SEIR does not account for the findings of the Additional Site Investigation Report (ASIR; CH2M Hill, 2013a) that identified impacts to the Newark Aquitard and Newark Aquifer beneath the Trumark parcel. The SEIR should consider how the proposed pilot study and remediation activities for the Newark Aquitard and Newark Aquifer will be impacted by redevelopment of the Trumark parcel.

REFERENCES

AMEC. 2013. Alternate Cleanup Plan, Former Baron Blakeslee, Inc. Facility, 8333 Enterprise Drive, Newark, California. Prepared for Honeywell International, Inc. August 2013. Includes October 2 and 3, 2013 email correspondence between AMEC and RWQCB.

CH2M Hill. 2013a. Additional Site Investigation Report, Former Baron Blakeslee, Inc., Facility, 8333 Enterprise Drive, Newark, California. April 2013.

CH2M Hill. 2013b. Human Health Risk Assessment for the Trumark Parcel, Former Baron Blakeslee, Inc., Facility, 8333 Enterprise Drive, Newark, California. May 2013.

DTSC. 2011a. Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air (Vapor Intrusion Guidance). Final. October 2011.

DTSC. 2011b. Vapor Intrusion Mitigation Advisory. Final, Revision 1. October 2011.

B-8

If you have any questions, please contact me at 916-266-6523 or Mike Eshaghian at 818-717-6679.
Thank you,
Lora

Lora Jameson, P.G.
Sacramento Geological Services Unit
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826
916-255-6523
Lora.Jameson@dtsc.ca.gov<mailto:Lora.Jameson@dtsc.ca.gov>

ALAMEDA COUNTY WATER DISTRICT

43885 SOUTH GRIMMER BOULEVARD • P.O. BOX 5110, FREMONT, CALIFORNIA 94537-5110
(510) 668-4200 • FAX (510) 770-1793 • www.acwd.org

DIRECTORS

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General Manager

ROBERT SHAVER
Assistant General Manager-Engineering

SHELLEY BURGETT
Manager of Finance

STEVE PETERSON
Manager of Operations and Maintenance

February 6, 2014

Terrence Grindall
Community Development Director
City of Newark
37101 Newark Boulevard
Newark, CA 94560-3796

Dear Mr. Grindall:

Subject: Draft Supplemental Environmental Impact Report for the Dumbarton Transit-Oriented Development Trumark Residential Development

The Alameda County Water District (ACWD) wishes to thank you for the opportunity to comment on the Draft Supplemental Environmental Impact Report (SEIR) for the Dumbarton Transit-Oriented Development (TOD) Trumark Residential Development.

ACWD has reviewed the Draft SEIR and would appreciate your consideration of the following comments:

C-1

1. Water System Infrastructure: As ACWD commented on the Draft Environmental Impact Report for the Dumbarton TOD Specific Plan and on the Notice of Preparation for this SEIR, in order to extend the public water distribution system to meet water service requirements of the Dumbarton TOD Project and adequately integrate the project into ACWD's water system, significant public water system improvements will be required. At least one additional water main connection between the North side of the existing railroad right-of-way and the project site at either Willow Street or Hickory Street will be required. Based on the information provided in the draft Specific Plan for the Dumbarton TOD, it appears that a connection within Willow Street is most likely. Whichever particular development within the Dumbarton TOD Project area performs improvement work adjacent to the railroad right-of-way at either Willow Street or Hickory Street will be responsible for installing this water main connection and obtaining any necessary permits and approvals from the railroad. In addition, one or more new water mains will need to be constructed across the existing San Francisco Public Utilities Commission (SFPUC) right-of-way. Similarly, those particular developments within the Dumbarton TOD Project area performing improvement work adjacent to the SFPUC right-of-way will be responsible for installing the water main connection(s) crossing SFPUC right-of-way and obtaining any necessary permits and approvals from SPFUC.

   Given the location and proposed development of Site "A" shown on the Figure 3-4 of the Draft SEIR, the District will require the project to install both a water main extension crossing of the SFPUC right-of-way and a water main connection extending from the project into Willow Street to connect to the existing 16-inch water main within Willow Street on the North side of the railroad right-of-way. In lieu of the requirement for both water mains to be installed for system looping, the District

RECYCLED PAPER

may consider requiring only one connection across either SFPUC or railroad right-of-way if the project proponents can secure a perpetual, irrevocable easement dedicated to ACWD for the water system across either right-of-way.

The construction of such railroad and SFPUC crossings will require significant trenching, excavation and dewatering and may result in impacts to the environment stemming from pumping and discharge of contaminated groundwater (including the effects of plume migration resulting from such pumping), production and handling of contaminated excavation spoils, construction noise, dust and other factors. **The SEIR should address any associated environmental impacts that may arise from construction of these required connections.** C-1

Other onsite and offsite water system extensions and/or improvements may similarly be required in order to meet fire flow requirements or other ACWD standards and requirements. Any public water system extensions necessary to serve developments within the Dumbarton TOD Project area must meet ACWD public water system installation and design standards, including ACWD's *Standard Specifications for Water Main Installation* and *Development Specifications for Public Water System Extensions*. ACWD requests that the City and project proponents coordinate closely with ACWD throughout the planning and development of the Dumbarton TOD Project.

2. Hazards and Hazardous Materials: The installation, long-term operation, and maintenance of utilities to serve the project may include, but is not limited to, significant dewatering, disposal of groundwater, deep soil excavation, transportation and disposal of excavated soil, utilities submerged in groundwater, and worker exposure to soil and groundwater. The Draft SEIR does not adequately identify the hazards or hazardous materials sites remaining within the project area, after remediation activities are completed, that may continue to pose a risk to the health and safety of workers during the installation, long-term operation, or maintenance of all utilities required to serve the project. **This analysis should be included in the SEIR.** The ability to install a public water system within the project area would be conditioned upon confirmation that the soil or groundwater does not pose a risk to the health and safety of workers either during installation of the public water system or during long-term routine operation and maintenance of such a system. **Any mitigation required to eliminate such hazards or potential hazards, such that that the soil or groundwater does not pose a risk to the health and safety of workers during installation, and during long-term routine operation and maintenance of utility systems, must be identified and described in the SEIR.** The proposed mitigation should not rely on extraordinary measures by the utility to protect worker health and safety, such as unusual personal protective equipment, unusual soil or groundwater treatment or disposal requirements, or decontamination of tools and equipment required for potable water system maintenance. If specific measures are to be identified in a Risk Management Plan, the SEIR should require ACWD approval of the plan as part of the mitigation. C-2

3. Well Protection/Destruction: Reference is made to Section 3.5.2, Pollutant Remediation and Site Preparation (pages 40 thru 43). ACWD's records indicate the existence of 47 wells in Site A and 24 in Site B (not 22 as reported in the SDEIR). **Therefore, ACWD requests a mitigation measure that requires project proponents to develop a plan for the protection or destruction of wells that must be reviewed and approved by ACWD prior to issuance of grading permits to ensure compliance with ACWD Ordinance No. 2010-01.** C-3

In order to protect the groundwater basin, each well located within the property must be in compliance with ACWD Ordinance No. 2010-01. If the well(s) are to remain, a letter so indicating must be sent to ACWD and will require a permit for inactive classification if the wells will not be used for a period of twelve (12) months. If the well(s) are: 1) no longer required by any regulatory agency; 2) no longer monitored on a regular basis; or 3) damaged, lost, or the surface seal is

C-3 jeopardized in any way during the construction process, the well must be destroyed in compliance with ACWD Ordinance No. 2010-01.

C-4 4. Climate Action Plan: Reference is made to the City of Newark's Climate Action Plan, January 2010 Initial Framework. ACWD agrees with the City that planning related to sea level rise is important for the region and for ACWD. **ACWD recommends the SEIR more thoroughly address the potential impacts of sea level rise and adaptation.**

C-5 5. ACWD Contacts: The following ACWD contacts are provided so that the City can coordinate with ACWD as needed during the CEQA process:

- Steven Inn, Groundwater Resources Manager at (510) 668-4441, or by e-mail at steven.inn@acwd.com, for coordination regarding ACWD's groundwater resources.
- Rangarajan Sampath, Groundwater Resources Engineer at (510) 668-4411, or by e-mail at rangarajan.sampath@acwd.com, for coordination regarding cleanup sites.
- Michelle Myers, Well Ordinance Supervisor, at (510) 668-4454, or by e-mail at michelle.myers@acwd.com, for coordination regarding groundwater wells and drilling permits.
- Ed Stevenson, Development Services Manager, at (510) 668-4472, or by e-mail at ed.stevenson@acwd.com, for coordination regarding public water systems and water services.

Thank you for the opportunity to comment on the Draft Supplemental Environmental Impact Report for the Dumbarton Transit-Oriented Development Trumark Residential Project at this time.

Sincerely,

Robert Shaver
Assistant General Manager - Engineering

la/ps
cc: Steven Inn, ACWD
Ed Stevenson, ACWD
Michelle Myers, ACWD
Leonard Ash, ACWD

San Francisco
Water Power Sewer
Operator of the Hetch Hetchy Regional Water System

Bureau of Environmental Management
525 Golden Gate Avenue, 6th Floor
San Francisco, CA 94102
T 415.934-5700
F 415.934-5750

Date: February 7, 2014

Mr. Terrence Grindall
Community Development Director
City of Newark
37101 Newark Boulevard
Newark, CA 94560

RE: Supplemental Environmental Impact Report for Dumbarton Transit Oriented Development Trumark Residential Project

Dear Mr. Grindall:

As a Responsible Agency under the provisions of Section 15096 of the CEQA Guidelines, the San Francisco Public Utilities Commission (SFPUC) submits its comments regarding the Dumbarton Transit Oriented Development for the Trumark Residential Project Supplemental Environmental Impact Report (SEIR).

D-1 The SFPUC commented on the Notice of Preparation for the SEIR in a letter dated March 7, 2013. That letter is attached. We stated that the SEIR should list the SFPUC as a Responsible Agency and cited the SFPUC Pipeline Right of Way (ROW) Requirements which we provided with the letter. We commented that the SFPUC does not permit any structures on our ROW, nor does the SFPUC allow the ROW to be used as the sole access to any development as this creates future access problems in the event our pipelines require repair or replacement. The SEIR has not addressed our comments as the site plans for the development still show the only access road on the SFPUC ROW. Furthermore the SEIR does not include a Utilities and Services section, as required in subsection XVII of Appendix G of the CEQA Guidelines. This section should be included in the SEIR and potential Impacts to the SFPUC's ability to maintain and repair its pipelines should be analyzed in this section.

D-2 The developer's representative presented the proposed project in a formal SFPUC Project Review meeting on June 14, 2013 and stated that the developer was seeking an emergency vehicle access (EVA) across an adjacent property but such an EVA is not shown in the SEIR. Also since that meeting, the project site plan, as shown in the SEIR, has been changed. The developer should schedule a presentation of the revised project at a future Project Review meeting. The contact for Project Review arrangements is Ms. Joanne Wilson at jwilson@sfwater.org.

Edwin M. Lee
Mayor
Vince Courtney
President
Ann Moller Caen
Vice President
Francesca Vietor
Commissioner
Anson Moran
Commissioner
Art Torres
Commissioner
Harlan L. Kelly, Jr.
General Manager

We reiterate that while a January 1974 Parcel Map No.1317 depicts a crossover right over SFPUC property this does not grant the property owner the right to construct a road and related improvements across our fee owned-property without a Land Engineering Permit from the SFPUC, and this will not be granted without provision of an EVA, among other conditions, which will be determined after the project is presented at Project Review. The SEIR should show a revised project site plan including an EVA. Please contact Brian Morelli, Right of Way Manager, at (415) 554-1545 or bmorelli@sfwater.org for any questions regarding our specific ROW requirements.

The SFPUC appreciates the opportunity to comment on the Supplemental Environmental Impact Report for the Dumbarton Transit Oriented Development Trumark Residential Project as a Responsible Agency under CEQA. Please feel free to contact me at (415) 554-3232 or itorrey@sfwater.org or Ms. YinLan Zhang at 415-487-5201 or yzhang@sfwater.org if you have questions about our comments.

D-3

Sincerely,

Irina P. Torrey, AICP, Bureau Manager
Bureau of Environmental Management

Enclosure

Comment letter on NOP

Cc: Rosanna Russell, Real Estate Director, SFPUC
Brian Morelli, Right of Way Manager, SFPUC
Joanne Wilson, Senior Land Resources Planner

Attachment

San Francisco
Water Power Sewer
Operator of the Hetch Hetchy Regional Water System

Bureau of Environmental Management
525 Golden Gate Avenue, 6th Floor
San Francisco, CA 94102
T (415) 934-5700
F (415) 934-5750

March 7, 2013

Terrence Grindall
Community Development Director
City of Newark
37101 Newark Boulevard
Newark, CA 94560

RE: Notice of Preparation for Dumbarton Transit Oriented Development Trumark Residential Project; Supplemental Environmental Impact Report

Dear Mr. Grindall:

Under the provision of Section 15082 of the CEQA guidelines, the San Francisco Public Utilities Commission (SFPUC) hereby submits its comments regarding the Notice of Preparation for the Dumbarton Transit Oriented Development for the Trumark Residential Project; Supplemental Environmental Impact Report (SEIR).

The SEIR should list the SFPUC as a Responsible Agency and specify the location of the SFPUC Right of Way (ROW) in relation to the project and cite the SFPUC Pipeline Right of Way Requirements, which are enclosed. Please note that the SFPUC does not permit any structures on our ROW, nor does the SFPUC allow the ROW to be used as the sole access to any development. The project sponsor must obtain prior approval from the SFPUC for any development on our ROW. Please contact Brian Morelli, Right of Way Manager, at (415) 554-1545 or Bmorelli@sfwater.org regarding our specific requirements.

The SFPUC appreciates the opportunity to comment on the Notice of Preparation of the Supplemental Environmental Impact Report for the Dumbarton Transit Oriented Development Trumark Residential Project. Please contact YinLan Zhang at 415-487-5201 you have any questions about our comments.

Sincerely,

Irina Torrey, AICP, Manager
Bureau of Environmental Management

Enclosure

Cc: Rosanna Russell, Real Estate Director, SFPUC
Brian Morelli, Right of Way Manager, SFPUC

Edwin M. Lee
Mayor

Art Torres
President

Vince Courtney
Vice President

Ann Moller Caen
Commissioner

Francesca Vietor
Commissioner

Anson Moran
Commissioner

Harlan L. Kelly, Jr.
General Manager

San Francisco
Water Power Sewer
Services of the San Francisco Public Utilities Commission

San Francisco Public Utilities Commission
Pipeline Right of Way Requirements

- *Utilities*
  - No utility may be installed along, rather than across, the Right of Way. Only perpendicular crossings are permitted.
  - No aerial utility crossing over the Right of Way is permitted except in city streets.
- *Land Use, Structures, and Accessibility*
  - *Structures on the Right of Way are strictly prohibited*. No one shall construct or place any temporary or permanent structure or improvement in, on, under or about the Right of Way. For the SFPUC's purposes, asphalt, concrete and cementitious concrete driveways, sidewalks and parking areas, and fences are deemed "improvements," and are subject to SFPUC review and approval.
  - No use is permitted that would restrict access to Right of Way at any time by SFPUC staff, construction equipment or vehicles. This means that structures on adjacent property must be setback at least 10 feet from the Right of Way.
  - An adjacent property owner or tenant may not use the Right of Way fulfill its open space, setback, emergency access or other development requirements.
  - Any use where the Right of Way would provide an adjacent owner, tenant or licensee with its sole emergency access to the tenant or licensee's property is prohibited.
  - No use that would cause ponding on the Right of Way is permitted.
  - Any use that cannot effectively be displaced in a timely manner upon the SFPUC's request is disfavored.
  - Any use that may contaminate with hazardous materials the soils, water or natural habitat of SFPUC property is prohibited.

Edwin M. Lee
Mayor

Art Torres
President

Vince Courtney
Vice President

Ann Moller Caen
Commissioner

Francesca Vietor
Commissioner

Anson Moran
Commissioner

Harlan L. Kelly, Jr.
General Manager

- Any use that would increase the SFPUC's potential liability or diminish its security is disfavored.

- Any use inconsistent with any existing or future policies adopted by the SFPUC, as they may be amended or modified from time to time, is disfavored.

- *Restoration*

  The SFPUC is not responsible for restoring or replacing any vegetation or improvement on the Right of Way damaged or demolished so that the SFPUC may access, maintain or repair its pipelines. The SFPUC will restore the ground with soil compacted to SFPUC standards. The vegetation or improvement owner is responsible any additional work or the restoration.

- *Vegetation*

  No trees or large shrubs may be planted within the Right of Way. Other vegetation may only be installed with the SFPUC's prior written consent. For a list of plants that may be permitted in the Right of Way, please refer to SFPUC Integrated Vegetation Management Policy Section 13.005 at http://www.sfwater.org/index.aspx?page=431. The tenant or licensee is responsible for vegetation maintenance and removal.

- *Right of Way Loading Restrictions*

  The maximum loading on the Right of Way should not exceed traffic loading HS-20 on the paved surfaces when the pipeline has a minimum four-foot cover. Overburdened or additional live or dead loads such as load-bearing footings, pole foundations, or large boulders within the influence line of the pipe trench is prohibited.

- *Right of Way Cover Requirements*

  To prevent damage to the PUC's underground pipelines, an adjacent owner or tenant's use of vehicles and equipment within twenty feet (20') of each side of the centerline of the PUC's pipelines (measured on the surface) are subject to the restrictions stated in Exhibit B.

7 February, 2014

Terrence Grindall
Community Development Director
City of Newark
37101 Newark Blvd.
Newark CA 94560

Re: Supplemental EIR for Dumbarton Trumark (Sent via email; signed hard copy to follow)

Dear Mr. Grindall,

I have a few comments to make on the supplemental EIR for the proposed Trumark development on Area 2 AKA Dumbarton TOD.

E-1 Page 43 of the document states that contaminated soils could be transported to the nearest Class 2 disposal facility, one of which could be the Dumbarton Landfill. Where is the Dumbarton Landfill? I cannot find it on a list of landfills in Alameda County or anywhere for that matter. Is this a typo or is the city intending to open a new landfill in Newark?

E-2 None of the maps showing the proposed development of the two sections of the Trumark property contain a vehicle access point for Site A which is adjacent to Gallade Chemical. It appears that when development occurs on the parcel to the west of Site A that a street coming off of Willow and heading east would provide vehicle access to Site A. But until that parcel is developed, Site A is landlocked with no access. Is this what the city intends to happen?

E-3 In only giving approvals for small sections of Area 2 there is no coordinated cleanup of contaminated soils and groundwater. It is done in a piecemeal fashion that puts future residents and the public at risk of exposure from soil and groundwater contamination. This document states that part of the Trumark site is on the Cortese List of Hazardous Waste sites. This is also known as the California Superfund list. Does the city really believe the highest and best use of a Superfund site is residential? If so, this is alarming and irresponsible planning.

E-4 The reasons for stating no alternative location exists because housing must be built on Area 2 makes no sense. The city claims there will be rail service and thus this is a transit development. No rail service is planned in the foreseeable future. Neither is bus service planned to serve future residents. Therefore Area 2 is not a transit development. The city should look at the NewPark Mall Master Plan area where the city wants to bring in residential of various densities. The mall area is not a Superfund site and has easy freeway access. Shopping is already in place. There are also the vacant lots across from the Newark post office as well as the Ruschin school site which the school district has up for immediate sale.

Sincerely,

Margaret Lewis
36102 Spruce St.
Newark CA 94560

CH2M HILL
155 Grand Avenue
Suite 800
Oakland, CA
94612
Tel 510.251.2426
Fax 510.893.8205

February 7, 2014

City of Newark
37101 Newark Boulevard
Newark, CA 94560

Attn: Mr. Terrence Grindall

Subject: Comments on Trumark Dumbarton Transit Oriented Development Residential Project
Draft Supplemental Environmental Impact Report

Dear Mr. Grindall:

CH2M HILL is submitting the attached comments on the subject document on behalf of Honeywell International, Inc.

Should you require any clarification on these comments, please call me at (503) 327-8277 or Mr. John Lowe, our Vapor Intrusion Technical Consultant at (509) 464-7325.

Sincerely,

Tim Graves
Project Manager
CH2M HILL

cc: Benny Dehghi/Honeywell
John Lowe/CH2M HILL
Veronica Vargas/Trumark Homes
Cherie McCaulou/RWQCB

Page xx, table summarizing significant environmental impacts and associated mitigation measures

F-1 There is no clear basis for the document's use of an increased lifetime cancer risk of one-in-one million (10^{-6}) as a threshold of significant impact for VOCs in soil and groundwater at Site A. Use of this risk threshold is not consistent with other regulatory guidance, including the BAAQMD guidelines for assessing significance of public health impacts referenced in the SEIR, DTSC's 2011 Vapor Intrusion Mitigation Advisory, and language in the 2007 Site Cleanup Requirements for the Gallade facility. The threshold of significance for cancer risks associated with VOCs in soil and groundwater should be stated in a manner consistent with the applicable regulatory guidance.

Page xxvi, 2nd to last paragraph

F-2 The description of the FMC properties should be more specific as to which particular FMC parcels would be used for the Location Alternative. The statement "*It is likely that the remediation action needed to prepare these sites for residential development would involve similar remediation as the project proposes for Site B.*" may not apply to each of the FMC parcels.

Page 33, Section 2.5, Assessors Parcel Numbers

F-3 There is a discrepancy in the parcel number for Site A between the parcel number in this paragraph, 092-0140-008, and the parcel number in Figure 3-2, 092-0140-006.

Page 40, Section 3.5.2, Pollutant Remediation and Site Preparation

F-4 The text states "*The extent of work necessary to prepare Site A for development will depend on the success of remediation of the adjoining property.*" Given that the residential development of Site A will include the installation of pre-emptive vapor intrusion mitigation systems, the extent of work necessary to prepare Site A for development should not be strictly dependent on remediation efforts at adjoining properties.

Page 40, Section 3.5.2.1, Pollutant Remediation and Site Preparation, Site A – Trumark

F-5 The first sentence states "*...that groundwater contamination beneath the Site A would be sufficiently remediated to allow development of the site with residential uses.*" Given that vapor intrusion mitigation systems will be installed in each of the residential structures to be constructed at Site A, the residential development of Site A should be allowed to proceed after the start of groundwater remediation. We believe this action is correctly stated on Page 88, 2nd paragraph "*The project proposes to install engineered vapor barrier controls as part of residential development of Site A to mitigate risks to future residents until groundwater remediation is complete.*"

F-6 In addition, the vapor intrusion engineering controls associated with the proposed project are described in further detail in a conceptual risk management plan for the development of the Trumark parcel, submitted in draft to the RWQCB on December 20, 2013, in accordance with Mitigation Measure 4.7-1a in the Dumbarton Transit Oriented Development Specific Plan EIR (City of Newark, 2011). A statement acknowledging that a draft conceptual risk management plan for the Trumark parcel has been submitted to the RWQCB should be included in the SEIR. The fundamentals of the conceptual risk management plan were discussed among Trumark, Honeywell, and the RWQCB, and an agreement was reached in concept.

Page 44, Section 3.5.3, Pollution Remediation and Site Preparation, Residential Development

F-7 The third paragraph states *"A new public park will be located immediately to the east of Site A [the Trumark parcel] at the current location of the Gallade Chemical Company facility."* The SEIR does not specify the timing for development of Site A in relation to the new public park. Specifically, will building and grading permits for Site A development be approved by the City, prior to the development of Gallade as a public park?

Page 88, Section 4.5.2.1, Impacts, Site A – Trumark Property

The statement, *"[t]he project proposes to install engineered vapor barrier controls as part of residential development of Site A to mitigate risks to future residents until groundwater remediation is complete,"* appropriately reflects Cal-EPA's approach to addressing vapor intrusion risks associated with future development, as outlined in the California Department of Toxic Substances Control (DTSC) *Vapor Intrusion Mitigation Advisory*.

F-8 The approach to the engineering controls for vapor intrusion has been provided to the RWQCB as part of the conceptual risk management plan. A brief description of those engineering controls should be incorporated into this section.

The mitigation measure for HAZ-1 identifies a target increased lifetime cancer risk of less than 1×10^{-6} as representing a less than significant impact. While this is described as a Cal-EPA approved risk management standard, the regulatory basis for this risk threshold has not been defined or documented in this SEIR. It is inconsistent with the vapor intrusion risk management framework outlined in DTSC's *Vapor Intrusion Mitigation Advisory*, and is inconsistent with language presented in the 2007 Site Cleanup Requirements (see page 6), both of which refer to the risk management range of 1×10^{-6} to 1×10^{-4} for making cleanup decisions. In addition, the SEIR refers to the BAAQMD's risk management threshold of a 1×10^{-5} as a target risk level. The cancer risk level being used as a threshold of significance requires more justification than is currently provided in the document.

Cargill

February 7, 2014

VIA EMAIL

Mr. Terrance Grindall (terrence.grindall@newark.org)
Community Development Director
City of Newark
37101 Newark Blvd.
Newark, California 94560

Re: Cargill Comments on SEIR – Trumark DTOD Residential Project (SCH #2010042012)

Dear Mr. Grindall:

On behalf of Cargill, Incorporated ("Cargill"), thank you for the opportunity to comment on the Administrative Draft - Supplemental Environmental Impact Report – Trumark Dumbarton Transit Oriented Development Residential Project dated December 2013 ("SEIR"). Cargill wishes to offer the following comments to correct a few inaccuracies contained in the SEIR.

Namely, the SEIR identifies Cargill Parcel 1 of Tentative Parcel Map 9873 (see Figure 3-2 of the SEIR) (the "Cargill Site") as a potential alternative site for the residential project analyzed in the SEIR, as well as property owned by FMC Corporation. In so doing, the SEIR states that:

> As noted in the *Dumbarton TOD Specific Plan EIR*, these sites are known to be impaired by hazardous materials, generally in the form of soil and/or groundwater contamination. It is likely that the remediation actions needed to prepare these sites for residential development would involve similar remediation as the project proposes for Site B.

G-1

SEIR at page 119.

As discussed below, this statement is factually inaccurate and does not represent the conditions of the Cargill Site.

The Dumbarton TOD Specific Plan EIR ("Specific Plan EIR") analyzes four limited areas of the Cargill Site for potential impacts from hazards and hazardous materials in connection with buildout of the Dumbarton TOD Specific Plan: (1) the former Newark Sportsman's Club (Hickory Street), (2) the Newark Police Pistol Range (Hickory Street), (3) the Leslie Salt/FMC Magnesia Waste Pile Site (Hickory Street), and (4) the Hill Parcel (Hickory Street). See Specific Plan EIR at pages 4.7-6 through 4.7-11.

7220 Central Avenue
Newark, CA 94560-4205

Tel (510) 797-1820
Tel (800) 321-1458
Fax (510) 790-8189

Former Newark Sportsman's Club - Remediated and No further Action Necessary

With respect to the former Newark Sportsman's Club (approximately 18 acres located west of Hickory Street which was leased by the Club from Cargill from 1969 through 1995), the Specific Plan EIR notes that use as a recreational outdoor shooting range resulted in "surficial and shallow soil deposition of lead shot, residual total lead, and clay pigeon debris containing elevated levels of polycyclic aromatic hydrocarbons (PAHs)." Specific Plan EIR at page 4.7-6. After the discovery of "very little contamination" below 0.5 feet of soil depth and "limited" debris, Cargill performed a voluntary Remedial Action Workplan consisting of soil excavation and confirmation sampling in 2002 and 2003. On March 10, 2004, the Regional Water Quality Control Board issued a letter certifying that soil remediation activities had achieved cleanup objectives and that *no additional remedial action was necessary*." Specific Plan EIR at page 4.7-7 (emphasis added).

Newark Police Pistol Range - Small and limited (405 tons) clean-up required

Next, the Specific Plan EIR analyzed potential impacts from a small portion of the Cargill Site leased by the City of Newark from Cargill for use as a pistol range for the Newark Police Department. In 2001, the City conducted a Phase II Soil and Groundwater Investigation which identified lead concentrations in shallow soils exceeding State hazardous waste criteria. G-1 "As the depth of contamination was limited," the investigation concluded that excavation and removal of the upper three feet of impacted soil was the most cost effective remedy. See Specific Plan EIR at page 4.7-8. The amount of soil estimated to be removed is approximately 405 tons, in contrast with the estimated 91,000 tons of soil which will need to be removed from Site B for the project analyzed in the SEIR. See SEIR at page 43. In other words, the soil to be removed from the Newark Police Pistol Range site is 0.45 percent of the soil which will need to be removed from Site B.

Leslie Salt/FMC Magnesia Waste Pile Site - Remediated and Clean-up Completed According to Remedial Action Plan

As the Specific Plan EIR notes, FMC and its predecessor Westvaco deposited certain waste materials from their adjacent facility onto a portion of the Cargill Site, which was leased from Cargill from 1929 to 1969, resulting in a magnesia waste pile containing concentrations of heavy metals. After a series of investigations and removal actions conducted by FMC and Cargill, the Department of Toxic Substance Control ("DTSC") certified that all hazardous waste had been removed from this area. In 2002, the City of Newark issue a case closure for the site after the majority of non-hazardous waste magnesia material was removed. Only "scattered piles" of non-hazardous magnesia material remain at a total quantity of approximately 500 to 1000 cubic yards, in contrast with the 60,350 cubic yards of soil which must be removed from Site B of the SEIR project. See Specific Plan EIR at pages 4.7-9, -10 and SEIR at page 43.

Hill Parcel - Serpentine Rock -Naturally occurring materials

Finally, the Specific Plan EIR describes an investigation of a portion of the Cargill Site known as the "Hill Parcel" (west of Hickory Street) which contains serpentine bedrock and naturally occurring asbestos ("NOA"). The investigation concluded that "[t]hese naturally occurring materials are not regulated as a hazard if left in place." At the most, if and when the Hill Parcel is developed for residential use, "all earthmoving and trenching should be performed in compliance with regulatory requirements then in effect." There is no present hazard posed by the Hill Parcel.

In sum, the Cargill Site contains very limited areas of soil impacted by lead (approximately 405 tons), naturally occurring asbestos which must be properly managed if and when the site is developed and no evidence of groundwater contamination. The Cargill Site bears no resemblance whatsoever to the Site B analyzed in the SEIR.

G-1

Based upon this evidence, the SEIR cannot reasonably conclude that the Cargill Site is "impaired by hazardous materials," contains "groundwater contamination" and that "it is likely that the remediation actions needed to prepare [the Cargill Site] for residential development would involve similar remediation as the project proposes for Site B." The potential impacts of removing 91,000 tons of soil are not similar to the potential impacts of removing 450 tons of soil. This statement in the SEIR should therefore be removed, at least as it pertains to the Cargill Site. Or, alternatively, this statement in the SEIR should be revised, at least as to the Cargill Site, as follows:

> As noted in the *Dumbarton TOD Specific Plan EIR*, the Cargill ~~se~~ sites contains limited areas of soils impacted by lead from a shooting range utilized by the Newark Police Department and naturally occurring asbestos.~~are known to be impaired by hazardous materials, generally in the form of soil and/or groundwater contamination.~~ Although nowhere near the scale of the removal which would be required for Site B, it is therefore possible that development of the Cargill Site for medium density residential use would entail some limited removal of soils, estimated to be approximately 450 tons of lead impacted soil versus the estimated 91,000 tons of soil which would need to be removed from Site B.~~It is likely that the remediation actions needed to prepare these sites for residential development would involve similar remediation as the project proposes for Site B.~~

Figure 4-2

G-2

Similarly, Figure 4-2 of the SEIR depicts the Cargill Site as containing a number of hazardous substances, including "lead, polycyclic aromatic hydrocarbons, magnesia, heavy metals and naturally-occurring asbestos." As noted above, the Cargill Site no longer contains polycyclic aromatic hydrocarbons, and the remaining, limited areas containing magnesia at the Hill Parcel consist of non-hazardous material. The reference to PAHs within Figure 4-2 should therefore be stricken.

Figure 4-2 also contains the following Note 2 which is highly misleading and inaccurate:

> Portions of the Cargill property supported various land uses that resulted in site contamination, including the Newark Police Pistol Range (Lead), Newark Sportsman's Club (Lead, PAHs) and Leslie Salt/FMC (Metals, magnesia). The Cargill property also includes naturally-occurring asbestos in the South Hill area.

G-2

In light of the actual current and environmental status of these areas, discussed above, we request that Note 2 of Figure 4-2 be revised as follows:

> Portions of the Cargill property historically supported various land uses that resulted in limited site contamination, including the Newark Police Pistol Range (Lead), Newark Sportsman's Club (Lead, PAHs) (site remediated and closed) and Leslie Salt/FMC (Metals, magnesia) (site remediated and completed according to RAP). The Cargill property also includes non-hazardous, naturally-occurring asbestos in the South Hill area.

Finally, Cargill wishes to point out that the proponent of the project analyzed in the SEIR does not own or control the Cargill Site, as the SEIR itself notes. See SEIR at page 120.

G-3

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Thank you again for the opportunity to comment on the draft SEIR. Should you have any questions regarding any of the comments contained in this letter, please do not hesitate to contact me.

Sincerely

Paul Shepherd

Paul Shepherd
Cargill, Incorporated

SECTION 7.0 REVISED APPENDICES TO THE DRAFT SEIR

This section contains an additional Appendix to the *Draft Supplemental Environmental Impact Report, Trumark Dumbarton Transit Oriented Development Residential Project*, dated December 2013:

Appendix G: *Vapor Intrusion Mitigation Advisory*, Department of Toxic Substances Control /California Environmental Protection Agency, October 2011.

Appendix G included on attached CD