

# City of Oakland Housing Element



January 1, 2007 - June 30, 2014

## *Final* Environmental Impact Report

State Clearinghouse Number: 2009092065



November 5, 2010



# City of Oakland Housing Element



January 1, 2007 - June 30, 2014

## *Final* Environmental Impact Report

State Clearinghouse Number: 2009092065

Prepared for:  
City of Oakland  
Community and Economic Development Agency  
Planning Division  
250 Frank H. Ogawa Plaza, Suite 3515  
Oakland, CA 94612  
(510) 238.3550

Prepared by:



an **ATKINS** company

475 Sansome Street, Suite 2000  
San Francisco, CA 94111  
(415) 362.1500

November 5, 2010





# CITY OF OAKLAND

Community and Economic Development Agency, Planning & Zoning Division  
250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California, 94612-2032

## NOTICE OF RELEASE AND AVAILABILITY OF HOUSING ELEMENT FINAL ENVIRONMENTAL IMPACT REPORT AND NOTICE OF PUBLIC HEARING TO CONSIDER RECOMMENDING ADOPTION OF THE 2007-2014 HOUSING ELEMENT

**PROJECT TITLE:** *2007-2014 Housing Element and Environmental Impact Report*  
**CASE NO.** ER 08-0009; State Clearing House Number 2009092065  
**PROJECT SPONSOR:** City of Oakland  
**PROJECT LOCATION:** Citywide

**DESCRIPTION OF PROJECT:** In accordance with State law, the City of Oakland (City) proposes to adopt a General Plan Amendment (GPA) for the *2007-2014 Housing Element*, as part of the City's General Plan. The City must accommodate 14,629 new housing units between January 2007 and June 2014 to meet its "fair share" of housing need, known as the Regional Housing Needs Allocation (RHNA). The City can accommodate the new housing without rezoning or further GPAs, through current opportunity sites, and with projects either built, under construction, approved or in predevelopment. Some Housing Sites may be on the Cortese List. At this hearing, the Planning Commission will consider certifying the EIR for the *Housing Element*, and consider recommending the *Housing Element* to the City Council for final adoption.

**ENVIRONMENTAL REVIEW:** The preparation of the Final EIR (FEIR) has been overseen by the City's Environmental Review Officer, and the conclusions and recommendations in the document represent the independent conclusions and recommendations of the City. Starting on Friday, November 5, 2010, copies of the FEIR will be available for review or distribution to interested parties at no charge at the Community and Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612, Monday through Friday, 8:30 a.m. to 5:00 p.m. Additional copies are available for review at the Oakland Public Library, Social Science and Documents, 125 14th Street, Oakland, CA 94612. The Final EIR may also be reviewed on the City's website at the "Current Environmental Review" page (paste this link into your browser):  
[www2.oaklandnet.com/Government/o/CEDA/o/PlanningZoning/s/Application/DOWD009157](http://www2.oaklandnet.com/Government/o/CEDA/o/PlanningZoning/s/Application/DOWD009157)

**PUBLIC HEARING:** The City Planning Commission will conduct a public hearing to consider recommending the *2007-2014 Housing Element* for adoption by the City Council on **November 17, 2010, at 6:00 p.m.** in Hearing Room 1, City Hall, 1 Frank H. Ogawa Plaza. This action consists of the certification of the Final EIR and consideration of recommending the 2007-2014 Housing Element to the City Council for adoption.

A Draft EIR was released for the project on August 16, 2010 to garner public comment, under the requirements of the California Environmental Quality Act (CEQA), pursuant to Public Resources Code Section 21000 et. seq. Copies of the DEIR are available for review, as indicated above for the FEIR. The Planning Commission held a public hearing to accept public comment on the Draft EIR on September 15, 2010, and the public comment period closed on September 30, 2010. Responses to the comments received at the hearing and by the end of the comment period are presented in the FEIR.

As previously stated, although not required under CEQA, the EIR also identified some 'project-level' significant and unavoidable impacts of development of residential housing under the 2007-2014 Housing

Element, such as Air Quality impacts relating to odors and gaseous toxic air contaminants; and Traffic impacts related to identified roadway segments impacts, previously identified impacted intersections, at-grade railroad crossings impacts, and identified State Highway impacts. Although certain future housing projects would be required to perform additional studies and must follow the feasible recommendations resulting from such studies, no further CEQA review would be required for above-identified project-level impacts, as such impacts have already been identified as Significant Unavoidable. Thus, specific residential developments would not have to prepare an EIR and/or Mitigated Negative Declaration solely based upon such impacts/recommendations. Further, the EIR also identifies project-level Less than Significant Air Quality impacts (for greenhouse gas emissions, carbon monoxide, and diesel particulate matter), which might occur as a result of specific housing development, but which would not result in a significant impact under CEQA. Therefore, future residential development projects would result in less-than-significant impacts and would not be required to undergo the aforementioned project-specific impact analysis under CEQA.

If you challenge the environmental document or other actions pertaining to the Housing Element in court, you may be limited to raising only those issues raised at the public hearings described above, or in written correspondence received by the Community and Economic Development Agency, on or prior to November 17, 2010.

For further information, please contact the case planner, Devan Reiff, Planner II, at (510) 238-3550 or [dreiff@oaklandnet.com](mailto:dreiff@oaklandnet.com).

November 5, 2010



Eric Angstadt,  
Deputy Director  
Community and Economic Development Agency  
Environmental Review Officer

# City of Oakland

## 2007–2014 Housing Element Final EIR

### Table of Contents

---

#### 1. INTRODUCTION

---

1.1	CEQA Process .....	1-1
1.2	New Information in the Final EIR .....	1-2
1.3	Organization of the Final EIR.....	1-2

---

#### 2. PROJECT SUMMARY

---

2.1	Project Summary .....	2-1
2.2	Surrounding Setting .....	2-1
2.3	Project Description .....	2-1
2.4	Summary of Minor Changes made to <i>Housing Element</i> .....	2-3

---

#### 3. CHANGES TO THE DEIR

---

3.1	Introduction.....	3-1
	Summary .....	3-1
1.	Introduction .....	3-1
2.	Project Description .....	3-1
3.1	Introduction to Environmental Analysis.....	3-2
3.2	Transportation/Circulation .....	3-2
3.3	Air Quality.....	3-2
3.4	Noise.....	3-4
3.5	Climate Change .....	3-4
4.	Other CEQA Considerations .....	3-4
5.	Alternatives .....	3-4
6.	Responses to the NOP/Initial Study and Public Hearing Comments .....	3-4

---

#### 4. COMMENTERS ON THE DEIR

---

4.1	Agencies, Organizations, and Individuals Commenting in writing .....	4-1
4.2	Commenters at the Planning Commission Public Hearing .....	4-1

---

#### 5. RESPONSES TO WRITTEN COMMENTS RECEIVED ON THE DEIR

---

5.1	Introduction.....	5-1
	Letter A1, East Bay Municipal Utility District.....	5-2
	Letter A2, California Energy Commission .....	5-11
	Letter B1, East Bay Housing Organizations (EBHO).....	5-14

	<u>Page</u>
<b>6. RESPONSES TO COMMENTS RECEIVED AT THE PUBLIC HEARING ON THE DEIR</b>	
6.1 Introduction.....	6-1
6.2 Responses to Comments .....	6-1

# Section 1

## Introduction

---

### 1.1 CEQA PROCESS

---

An Environmental Impact Report (EIR) is an informational document prepared by a Lead Agency (in this case, the City of Oakland) that contains environmental analysis for public review and for agency decision-makers to use in their consideration of discretionary actions. On August 16, 2010, the City of Oakland (Lead Agency) released for public review a Draft EIR (DEIR) for the City of Oakland 2007-2014 Housing Element. The 45-day public review and comment period on the DEIR began August 16, 2010 and the City of Oakland Planning Commission held a public hearing on the DEIR September 15, 2010. The public review and comment period ended on Thursday, September 30, 2010.

This Responses to Comments document, together with the DEIR and its Appendices, constitute the Final EIR (FEIR) for the project. Due to its length, the text of the DEIR is not included with this Response to Comments document; however, it is included by reference as part of the Final EIR.

The Oakland City Planning Commission will consider the FEIR before considering making a recommendation on the Housing Element. Before the Lead Agency may approve a project, it must certify that the FEIR adequately discloses the environmental effects of the proposed project, that the FEIR has been completed in conformance with the California Environmental Quality Act (CEQA), and that the decision-making body of the Lead Agency independently reviewed and considered the information contained in the FEIR. Certification of the FEIR would indicate the City's determination that the FEIR adequately evaluates the environmental impacts that could be associated with the proposed project.

The City of Oakland has prepared this document pursuant to CEQA Guidelines Section 15132 which specifies the following (and which also applies to Draft and Final EIRs):

The Final EIR shall consist of:

- (a) The Draft EIR or a revision of that draft.
- (b) Comments and recommendations received on the Draft EIR either verbatim or in a summary.
- (c) A list of persons, organizations, and public agencies commenting on the Draft EIR.
- (d) The response of the Lead Agency to significant environmental points raised in review and consultation process.
- (e) Any other information added by the Lead Agency.

This FEIR incorporates comments from public agencies and the general public and contains the Lead Agency's responses to those comments.

---

## 1.2 NEW INFORMATION IN THE FINAL EIR

---

If *significant new information* is added to an EIR after notice of public review has been given, but before final certification of the EIR, the lead agency must issue a new notice and re-circulate the EIR for further comments and consultation. (*Laurel Heights Improvement Association v. Regents of the University of California*, 6 Cal 4th 112, (1993)) None of the corrections or clarifications to the DEIR identified in this document constitutes *significant new information* pursuant to Section 15088.5 of the CEQA Guidelines. As a result, a Recirculation of the DEIR is not required.

Specifically, as required under CEQA Guidelines Section 15088.5, the new information, corrections or clarifications presented in this document do not disclose that:

1. A new significant environmental impact would result from the project or from a new mitigation measure [or standard condition] proposed to be implemented.
2. A substantial increase in the severity of an environmental impact would result unless mitigation measures [or standard conditions] are adopted that reduce the impact to a level of insignificance.
3. A feasible project alternative or mitigation measure [or standard condition considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.
4. The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Information presented in the DEIR and this document support the City's determination that recirculation of the DEIR is not required.

---

## 1.3 ORGANIZATION OF THE FINAL EIR

---

This FEIR contains information about the proposed project, supplemental environmental information, and responses to comments raised during the public review and comment period on the DEIR. Following this introductory section, the document is organized as described below.

- Section 2, Project Summary, summarizes the proposed project, including minor changes made since publication of the DEIR.
- Section 3, Changes to the DEIR, contains text changes and corrections to the DEIR initiated by the Lead Agency or resulting from comments received on the DEIR.
- Section 4, Commenters on the DEIR, lists all agencies, organizations and individuals that submitted written comments on the DEIR during the public review and comment period, and/or that commented at the Planning Commission Public Hearing on the DEIR.
- Section 5, Responses to Written Comments Received on the DEIR, contains each of the comment letter received on the DEIR and presents individual responses to the specific comments raised in each letter.

- Section 6, includes a summary of comments made at the Public Hearing on the DEIR and presents responses to the specific comments received.

**THIS PAGE INTENTIONALLY LEFT BLANK**

# Section 2

## Project Summary

---

### 2.1 PROJECT SUMMARY

---

In accordance with State law, the City of Oakland proposes to adopt a General Plan Amendment (GPA) for the City of Oakland General Plan – Housing Element Update 2007-2014 (proposed project, *2007-2014 Housing Element*, or *Housing Element*) as a part of the City’s *General Plan*. An updated Housing Element is required of each city in the State of California (State) to address the housing needs of all residents, in all income levels, over the planning period (2007-2014). The City’s previous Housing Element for the 1999-2006 planning period was adopted on June 15, 2004. The *2007-2014 Housing Element* identifies opportunities to improve and expand the City’s housing stock; it would not, however, result in the actual new construction or revitalization of housing units in the City.

### 2.2 SURROUNDING SETTING

---

The City of Oakland (City) is located in northern Alameda County (County) on the east side of the San Francisco Bay (Bay). The City is bounded by the cities of Berkeley and Emeryville to the north, the City of San Leandro to the south, the East Bay Regional Park District to the east, and the City of Alameda to the west. The City is approximately 15 miles east of the City and County of San Francisco, and 90 miles southwest of the City of Sacramento. Interstate 80 (I-80) provides access to the City from the northwest, while Interstates 580 (I-580) and 980 (I-980) provide access from the southeast.

The City encompasses 56 square miles of land and 24 square miles of water, and is mostly urbanized. Topography is varied; portions of the City are rolling or hilly, with elevations within the City limits rising from sea level to 1,760 feet at Grizzly Peak.

Most of the City’s existing urban development is located on the coastal shelf, near the Bay and Estuary, which varies in width from two to four miles. The City contains a wide range of residential, commercial, industrial, public, and open space land uses. Residential areas vary from very dense neighborhoods, exceeding 25,000 persons per square mile, to semi-rural neighborhoods with one-acre lots. The City has an estimated population of 420,183.<sup>1</sup>

### 2.3 PROJECT DESCRIPTION

---

The purpose of a Housing Element is to identify current and projected housing needs, and set goals, policies, and programs to address those needs. The *2007-2014 Housing Element* is an update to the Housing Element of the City’s *General Plan*. The current Housing Element was adopted by the City Council, and was subsequently certified as legally adequate by the State Department of Housing and

---

<sup>1</sup> 2008 data from the Demographics Research Unit of the State Department of Finance, Table E-5.

Community Development (HCD) in 2004. The *2007-2014 Housing Element* is a statement by the City of its current and future housing needs and proposed actions to facilitate the provision of housing to meet those needs at all income levels, and presents a comprehensive set of housing policies and actions between January 1, 2007 and June 30, 2014. The *2007-2014 Housing Element* satisfies the requirements of State law, and is consistent with the other elements of the City's *General Plan*, adopted in 1998.

The City must accommodate 14,629 new housing units between January 2007 and June 2014 to meet its "fair share" of the State's housing need. The allocation is equivalent to an annual need of 1,951 housing units for the seven-and-a-half-year planning period (2007-2014). Of the 14,629 new housing units required in Oakland's RHNA:

- 1,900 should be affordable to very low income households (those making below 50 percent of the median area income);
- 2,089 should be affordable to low income households (those making below 80 percent of the median area income);
- 3,142 should be affordable to moderate income households (those making below 120 percent of median area income); and
- 7,489 should be market rate units (or "above moderate income units").

The proposed project includes plans and implementation strategies to meet the City's RHNA of 14,629 units of varying affordability. The following categories of housing production summarize how the City intends to meet its target:

- **Units Constructed.** Since January 1, 2007, 1,128 units have been constructed, satisfying eight percent of the City's RHNA. It should be noted that these units are part of the project and help satisfy the *Housing Element's* RHNA target; however, under CEQA, these already constructed units are regarded as part of the existing built environment and are, thus, part of the setting against which new units (the remaining 13,501 units needed to meet the RHNA target) would be evaluated for their impacts.
- **Units with Planning Approvals.** The *2007-2014 Housing Element* identifies that between January 2007 and August 2008, 4,442 market-rate units had planning approvals (entitlements) and 563 affordable units were funded, but neither group has started construction. These 5,005 units represent 34 percent of the RHNA.
- **Units Planned.** During the same time period, there were 7,022 market rate units and 48 affordable units in pre-development, meaning either with a formal zoning pre-application on file with the City's Planning and Zoning Division, or, in the case of the affordable housing units, with preliminary funding commitments or site acquisition assistance from the City. These 7,070 units make up 48 percent of the RHNA.
- **Remaining Units.** Based on housing unit construction and approvals since January 1, 2007, the City has already committed to developing 90 percent of the units needed to satisfy the RHNA requirement in the planning period. The remaining 1,426 units required to meet the RHNA

allocation of 14,629 units could be accommodated on City-identified “Opportunity Sites.” There are approximately 185 Opportunity Sites along with sites where there are planning approvals and pre-development applications, divided into the 12 Planning Areas. The Opportunity Sites could potentially accommodate up to 8,672 units.<sup>2</sup> Nearly 100 percent of the City’s development capacity consists of higher density housing sites (densities exceeding 30 dwelling units per acre), all of which are located within developed areas already served with needed infrastructure, including sewer, water, stormwater, and transportation facilities.

As of the date of this FEIR, there are no applications with the City to develop any of these Opportunity Sites, so details on the intensity, orientation, massing, access, and other site-specific features of a potential development on these sites is, at best, informed speculation. Accordingly, many of the impacts associated with implementation of the *2007-2014 Housing Element* on sites where there are currently no development applications can be described only in general terms.

---

## 2.4 SUMMARY OF CHANGES MADE TO *HOUSING ELEMENT*

---

The Revised Draft *Housing Element* (June 3, 2009) has been changed, to summarize comments and staff responses to testimony received at the June 3, 2009 Planning Commission hearing, the October 19, 2009 Landmarks Preservation Advisory Board hearing, and the September 15, 2010 Planning Commission meeting on the Draft EIR. These are minor clarifying revisions and do not affect the analysis or conclusions of the EIR, and are described in detail in Appendix H of the *Housing Element*, and are summarized below:

### **June 3, 2009 Planning Commission hearing**

The Planning Commission unanimously voted after the June 3, 2009 public hearing to forward the *Housing Element* to the City Council, pending CEQA review. Appendix H of the *Housing Element* summarizes the Commissioner comments at this hearing, however, no major changes were made to the *Housing Element* as a result of Commissioner comments at this hearing. After the hearing, staff added more detail to these sections of the *Housing Element*:

- Senate Bill 2 (on page 6-5);
- removing constraints to building housing for those with disabilities (pg. 6-14);
- Oakland amendments to the California Building Codes (pg. E-15)

### **October 19, 2009 Landmarks Preservation Advisory Board EIR Scoping Session**

In response to public comment, staff refined the list of Housing Opportunity Sites (see Table C-9 in the *Housing Element*) to confirm that there were no sites that had historic resources. Further, staff added Table C-9a, showing Opportunity Sites that were either in the Local Register, or in Historic Preservation Districts.

---

<sup>2</sup> See Chapter 4 of *2007-2014 Housing Element*, “Methodology” section, “Group 4” discussion.

### **September 15, 2010 Draft EIR hearing**

At the September 15, 2010 public hearing to consider comments on the Draft EIR to the *Housing Element*, several commissioners raised concerns about the percentages of affordable housing in the RHNA, specifically, if Oakland was able to build enough housing for residents with the lowest incomes. Commissioners were also interested in the housing built in Oakland having Green Building techniques to save resources and energy. Appendix H of the *Housing Element* provides a detailed response to these concerns

- An explanation of the differences in the percentages of the “affordable” housing required by the RHNA in the *1999-2006 Housing Element* and the proposed *2007-2014 Housing Element*. (See page 4-3 of the *Housing Element*)
- Discussion of the City’s Green Building ordinance, adopted by the City Council on October 19, 2010.

**THIS PAGE INTENTIONALLY LEFT BLANK**

# Section 3

## Changes to the DEIR

---

### 3.1 INTRODUCTION

---

The changes presented in this section are initiated by the City of Oakland (Lead Agency) staff or by comments received on the DEIR. Changes include corrections, revisions or clarifications to information presented in the DEIR. Throughout this section, newly added text is shown in single underline format, and deleted text is shown in ~~strikeout format~~. For changes specifically initiated by comments received on the DEIR, an alpha-numeric designator for the comment is indicated in brackets.

Changes are listed generally in the order in which they would appear in the DEIR document. A revised Summary Table of Impacts, Mitigation Measures, Standard Conditions, and Residual Impacts, which shows proposed final text as modified from the DEIR, is presented in the end of this section.

As indicated in Section 1 (Introduction), the entirety of the Final EIR consists of the DEIR and its Appendices and this Response to Comments document. Thus, the DEIR changes presented in this section (including the revised Summary Table of Impacts, Mitigation Measures, Standard Conditions, and Residual Impacts) incorporate and supersede original text in the DEIR.

#### Summary

---

The following change was made to Mitigation Measure TR-1.2 in Table S-2 Summary of Impacts and Mitigation Measures on Page S-7 of the DEIR, to correct an editing error:

- Signal interconnect and communication w/ trenching (where applicable), or through (E) conduit (where applicable)- 600 feet maximum ~~minimum~~,
- Conduit replacement contingency,
- Fiber Switch,
- PTZ Camera (where applicable), and
- Signal timing plans.

The project sponsor shall fund, prepare, and install the approved plans and improvements.

#### 1. Introduction

---

No changes required.

#### 2. Project Description

---

No changes required.

### 3.1 Introduction to Environmental Analysis

---

No changes required.

### 3.2 Transportation/Circulation

---

The following change was made to Mitigation Measure TR-1.2 on Page 3.2-49 of the DEIR, to correct an editing error:

- Signal interconnect and communication w/ trenching (where applicable), or through (E) conduit (where applicable)- 600 feet ~~maximum~~ minimum,
- Conduit replacement contingency,
- Fiber Switch,
- PTZ Camera (where applicable), and
- Signal timing plans.

The project sponsor shall fund, prepare, and install the approved plans and improvements.

### 3.3 Air Quality

---

The Bay Area 2010 Clean Air Plan was adopted in September 2010, after the publication of the Draft EIR. As such, Section 3.3 Air Quality has been updated to reflect the adoption of the Clean Air Plan. These revisions do not change the analysis or conclusions in the DEIR.

The following changes were made to the first paragraph on Page 3.3-12 of the DEIR:

“BAAQMD is directly responsible for reducing emissions from stationary sources and for assuring that State controls on mobile sources are effectively implemented. It has responded to this requirement by preparing a sequence of Ozone Attainment Plans and Clean Air Plans that comply with the federal Clean Air Act and the California Clean Air Act to accommodate growth, reduce the pollutant levels in the Bay Area, meet federal and State ambient air quality standards, and minimize the fiscal impact that pollution control measures have on the local economy. The Ozone Attainment Plans are prepared to address the federal ozone standard and the Clean Air Plans are prepared to address the State ozone standard. The most recent *Ozone Attainment Plan* was adopted by the BAAQMD Board of Directors on October 2001 and demonstrates attainment of the federal ozone standard in the Bay Area by 2006. The current regional *Clean Air Plan* was adopted by the Board of Directors on December 20, 2000, ~~and a draft of and~~ and a new 2010 Clean Air Plan was released-adopted by BAAQMD in ~~March, 2010~~ September 2010. The 2010 ~~draft~~ Plan identifies the emissions control measures that would be adopted and/or implemented ~~through 2012~~ to reduce major sources of pollutants. The ~~2010-draft~~ plan includes 55 control measures to reduce air pollution in the Bay Area. In addition to the three traditional control measure categories, Stationary Source, Mobile Source, and Transportation Control measures, the 2010 Clean Air Plan identifies two new categories of control measures called: “Land Use and Local Impact” measures, and “Energy and Climate” measures. These planning efforts have substantially decreased the population’s exposure to unhealthful

ozone levels, even while substantial population growth has occurred within the Bay Area. The *Clean Air Plan* predicts that regional ozone concentrations will decrease by 1.2 percent per year or 9.0 percent over the twelve years after it was adopted. In ~~January 2006~~September 2010, BAAQMD adopted the ~~2005 Ozone Strategy~~2010 Clean Air Plan to identify additional steps needed to continue reducing ozone levels.”

The following changes were made to the fourth paragraph on Page 3.3-22 of the DEIR:

“The threshold of significance for operational impacts of a plan is consistency with the most recently adopted CAP. To determine consistency with the CAP, the proposed project must incorporate current air quality plan control measures as appropriate to the plan area, and the rate of increase in vehicle miles travelled (VMTs) or vehicle trips within the plan area must be less than the rate of increase in population within the plan area. For the purposes of this analysis, the control measures from the BAAQMD ~~2005 Ozone Strategy~~2010 Clean Air Plan were used and the population increase was determined relative to the Association of Bay Area Governments (ABAG) Projections 2007. A customized VMT was developed for the City of Oakland using the average Bay Area trip length,<sup>17</sup> as discussed in Section 3.2, Transportation, and Section 3.5, Climate Change.”

The following changes were made to the first and second paragraphs on Page 3.3-24 of the DEIR:

“The most recent BAAQMD AQP is the Bay Area ~~2005 Ozone Strategy~~2010 Clean Air Plan, which was adopted on ~~January 4, 2006~~September 15, 2010. The ~~2005 Ozone Strategy~~2010 Clean Air Plan is the ~~fourth~~fifth triennial update of BAAQMD’s original *1991 Clean Air Plan*. The ~~2005 Ozone Strategy~~2010 Clean Air Plan demonstrates how the San Francisco Bay Area will achieve compliance with the State ozone standard and how the region will reduce transport of ozone and ozone precursors to neighboring air basins. The ~~2005 Ozone Strategy~~2010 Clean Air Plan includes stationary source control measures, mobile source control measures, ~~and~~ transportation control measures, land use and local impact control measures, and energy and climate measures. The project is consistent with ~~2005 Ozone Strategy~~2010 Clean Air Plan Transportation Control Measure (TCM) #~~15D-3~~, Support Local Land Use Planning and Development Strategies, because most of the Housing Sites are located near major transit routes and facilities.

The ~~2005 Ozone Strategy~~2010 Clean Air Plan projections are based on analysis and forecasts of air pollutant emissions throughout the entire region. The forecasts rely on projections of population and employment made by ABAG, which are based on land use projections made by local jurisdictions (e.g., through the General Plan process). While the *Housing Element* identifies the housing units that would need to be developed in the 2007-2014 planning horizon, the *Housing Element* does not change the General Plan designations within the City. Therefore, the population and employment increase that would result from the proposed project would be consistent with projections used in the development of the ~~2005 Ozone Strategy~~2010 Clean Air Plan.”

<sup>17</sup> Average Bay Area Trip Length is 3.5 miles, on weekdays. Metropolitan Transportation Commission, Transportation Vision Plan 2035.

### 3.4 Noise

---

No changes required.

### 3.5 Climate Change

---

No changes required.

## 4. Other CEQA Considerations

---

No changes required.

## 5. Alternatives

---

No changes required.

## 6. Responses to the NOP/Initial Study and Public Hearing Comments

---

The following changes were made on DEIR Pages 6-1 through 6-7, under Section 6.2, starting on paragraph 3, Page 6-1, in response to EBMUD's comment letter, in the DEIR:

### Water Supply

The commentor states that the water supply analysis in the Initial Study does not reflect the most recent EBMUD Water Supply Management Program (WSMP) for the area, which was prepared ~~in October~~ during late 2008 and through part of 2009. The new Water Supply Management Program 2040 (WSMP 2040) was adopted in October 2009. As such, the below text has been edited to reflect the new WSMP 2040.

The strike-through text denotes text that has been deleted from the Initial Study and the underlined text denotes the text that has been added to the Initial Study. Additionally, the "water supply setting" section in the Utilities and Service Systems section, on pages 197 and 201-206 of the Initial Study, is revised as follows:

**Wastewater.** EBMUD also operates a water recycling facility at the MWWTP that treats wastewater for non-potable uses such as golf courses, agricultural uses and industrial uses (See Water Supply subsection, ~~above~~ below).

**Water Supply.** EBMUD is a publicly owned utility that provides potable water for the City of Oakland. It delivers water to approximately 1.3 million people in a 325-square-mile area that includes parts of Alameda and Contra Costa Counties.<sup>139</sup>

---

<sup>139</sup> All About EBMUD Brochure. East Bay Municipal Utility District, Public Affairs Office. 2007. Accessed June 25, 2009. [http://www.ebmud.com/about\\_ebmud/publications/all\\_about\\_ebmud/default.htm](http://www.ebmud.com/about_ebmud/publications/all_about_ebmud/default.htm).

The EBMUD water supply system collects water from the Mokelumne River, located on the western slope of the Sierra Nevada, and then transports, treats, and distributes water to customers in Alameda and Contra Costa counties. The supply system consists of a network of reservoirs, aqueducts, treatment plants, pumping stations, and distribution facilities. The reservoirs are collectively known as the “terminal reservoirs”, comprised of the Briones, Chabot, Lafayette, San Pablo, and Upper San Leandro reservoirs. Briones, San Pablo, and Upper San Leandro supply water to EBMUD customers throughout the year, whereas, the Chabot and Lafayette reservoirs serve as emergency supply sources. The EBMUD water system serves 1.3 million people in 20 incorporated cities and 15 unincorporated communities.

On an average annual basis, 90 percent of the water used by EBMUD comes from the Mokelumne River watershed. EBMUD has water rights and facilities to divert up to a daily maximum of 325 million gallons, which equates to approximately 364,000 acre-feet annually (AFA) from the Mokelumne River. The normal year water supply for 2005 was 222 mgd and is expected to increase to 232 mgd by the year 2040, according to the EBMUD’s Water Supply Management Program 2040 (WSMP 2040) adopted in October 2009.<sup>140</sup>

*Water Treatment.* EBMUD operates six water treatment plants with a combined capacity of 430 million gallons per day (mgd). The water treatment plants are Upper San Leandro in Oakland, San Pablo in Kensington, Sobrante in El Sobrante, and plants located in and named for Orinda, Lafayette, and Walnut Creek. The water treatment plant in Orinda has the largest water output of the six plants, with a capacity of 200 mgd, and serves most of the cities of Alameda, Albany, Berkeley, El Cerrito, Emeryville, Moraga, other parts of Oakland, Orinda, Piedmont, Richmond, and San Leandro. The Orinda WTP has a nominal capacity of 175 mgd.<sup>141</sup>

*Water Storage.* Water storage is required to meet water demand for periods when peak hour demand exceeds maximum daily supply rates. These high demand periods usually occur for four to six hours during hot summer days and for potentially longer periods during large fire events. EBMUD’s terminal reservoirs are located throughout the local water distribution system. EBMUD has 175 smaller water storage reservoirs throughout its service area. Water storage reservoirs allow treated water supply to be delivered at a relatively constant rate over a 24-hour period, accommodate hourly fluctuations in demand, and provide the required fire flows and emergency reserves in normal years. In order to meet projected storage requirements through buildout of the EBMUD service areas, additional water storage reservoirs will be needed. The exact sizes of these reservoirs and the timing of their construction are dependent upon the water usage patterns of future development and buildout projections (see Water Demands and Water Supply Planning and Reliability, below).

*Water Distribution System.* The water distribution system is composed of a system of pipes sized to deliver water at sufficient volumes and pressures. Generally, water distribution mains range

---

<sup>140</sup> East Bay Municipal Utilities District, *Water Supply Management Program-2040*. October 2009.

<sup>141</sup> East Bay Municipal Utilities District, Letter to City of Oakland, dated October 9, 2009. Re: Notice of Preparation of a Draft Environmental Impact Report for the City of Oakland General Plan, Housing Element Update 2007 – 2014.

from 4 inches to 12 inches in diameter and convey water for municipal, industrial, and fire services. Transmission mains are 18 inches and larger and are used to transport large volumes of water from the treatment plants throughout the distribution system. New development is required to provide an average water pressure of no less than 40 pounds per square inch (psi) and no more than 125 psi water service meter. Peak-hour pressure periods must be at least 30 psi, and during fire suppression periods, pressure must be at least 20 psi.

*Recycled Water Supply.* EBMUD is also expanding its recycled water programs, with the assistance of local municipalities. In 2008 EBMUD recycled 12 mgd of wastewater.<sup>143</sup> Use of recycled water is limited to non-potable uses, such as golf courses, agricultural uses, and industrial uses. EBMUD encourages the use of recycled water through recycled water rate discounts and low-interest loans to retrofit buildings to accommodate recycled water. The City of Oakland adopted a dual plumbing ordinance in 2002, which requires new developments to install a dual plumbing system to accommodate future recycled water use. It is estimated that recycled water demand will be up to 10 mgd in ~~2030~~ 2010.<sup>144</sup> As part of the current WSMP 2040 process, the EBMUD Board of Directors will consider an enhanced goal of recycling 20 mgd by year 2040, continuing EBMUD's long standing commitment to recycled water.

*Water Demands.* In 2009, EBMUD completed its WSMP 2040 which calculates future potable water demands up to the year 2040. The WSMP 2040 provided a methodology to prepare more accurate demand projections. Future water demands were projected through 2040 using existing and future demands for various land use categories and future changes in land use as stated in the respective general plans of communities within the service area.<sup>145</sup> The WSMP reflects the future land uses designated by adopted general and specific plans. The demand projections listed in WSMP were developed prior to the onset of the economic recession in December 2007.<sup>146</sup>

The following paragraph was removed from DEIR Page 6-8 and inserted on Page 6-4 (all footnotes have been adjusted to be consecutive):

EBMUDs demand surveys conducted throughout its service area during preparation of its WSMP 2040 accounted for the demands associated with implementation of multiple projects of differing densities at a variety of locations throughout the City of Oakland. Over the course of 20 years it is estimated that approximately 13,000 new units would be constructed and based on Table 1 of the Population and Housing section the majority of new construction would occur in the next 10 years; therefore, it reasonable to assume that buildout of the *2007-2014 Housing Element* was accounted for in EBMUD's WSMP 2040.<sup>147, 148, 170, 171</sup>

---

<sup>143</sup> East Bay Municipal Utility District, *Water Supply Management Program 2040*. October 2009. ~~2008. Annual Report 2008.~~ [http://www.ebmud.com/about\\_ebmud/publications/annual\\_reports/EBMUD%2008%20Annual%20Report.pdf](http://www.ebmud.com/about_ebmud/publications/annual_reports/EBMUD%2008%20Annual%20Report.pdf).

<sup>144</sup> East Bay Municipal Utilities District, *Water Supply Management Program 2040*. October 2009.

<sup>145</sup> East Bay Municipal Utilities District, *2005 Urban Water Management Plan*, pg 4.

<sup>146</sup> East Bay Municipal Utilities District, *Water Supply Management Program-2040*. October 2009 pg 4-2.

<sup>170</sup> <sup>147</sup> East Bay Municipal Utility District, Appendix A WSMP 2040 City of Oakland Planning Department Meeting Notes, August 2, 2007.

<sup>171</sup> <sup>148</sup> Jae Park, East Bay Municipal Services District, personal communication August 7, 2009 with PBS&J.

The following changes were made beginning on DEIR Page 6-4 (following insertion of paragraph above):

EBMUD anticipates the economic development and associated demand could be realized at a slower rate but over time, demand would average out close to the projected 2040 value.<sup>447 149</sup> In addition, continuation of drought, conservation measures or rationing policies and the local and regional economics will have an effect on the demands with EBMUD's service area.

By applying land use information, based on residential and non-residential land use categories, EBMUD forecasts that service area demands would be about ~~267~~ 304 mgd by 2030.<sup>448 150</sup> With implementation of conservation techniques and recycled water use, water demand could be reduced to approximately ~~232~~ 229 mgd, as shown in Table 6. Therefore, EBMUD would be able to meet normal year water supply projections through 2030.<sup>449 151</sup>

**Table 6**  
**East Bay Municipal Utility District Water Demands (mgd)**

	2010	2015	2020	2025	2030
Gross System Demands	251	266	280	291	304
Baseline Conservation	-25	-32	-40	-47	-55
Baseline Recycled Water	-10	-17	-19	-20	-20
System Demands (adjusted)	216	217	221	224	229

Source: WSMP 2040, October 2009, page 4-2.

*Water Supply Planning and Reliability.* There are many factors that affect the reliability of water supplies. The most important factors are the occurrences of hydrologic changes, mainly droughts, and the vulnerability of the Delta aqueducts. Other factors that could affect the availability of water supply include contamination, high turbidity, power outages, fires, and/or civil disturbances.

In October 2009, EBMUD adopted its long-term (WSMP 2040) that serves as a water supply planning guide through year 2040. The WSMP 2040 is a complex planning document that EBMUD will now use to assess supplies and analyze demands over a thirty-year planning horizon. Since inception of the WSMP 2040, EBMUD surveyed the jurisdictions in its service area to properly evaluate future demands, and investigated various supply reliability sources. Throughout this planning process, public relations materials were distributed and EBMUD conducted numerous public workshops in various jurisdictions. With the completion of the WSMP, EBMUD can compare its future supply and demand using land use based demand data

<sup>447 149</sup> East Bay Municipal Utilities District, *Water Supply Management Program-2040. October 2009 pg 4-2.*

<sup>1 448 150</sup> Assuming demand reductions through conservation and recycled water use. East Bay Municipal Utilities District, *Water Supply Management Program 2040. October 2009.*

<sup>449 151</sup> Normal year, as forecasted from April through the end of September, total system storage would be 500,000 AF or greater and East Bay Municipal Utilities District would not institute any Demand Management strategies.

and current and future supply information. As part of the process, EBMUD also prepared a Programmatic EIR for the WSMP 2040. The Programmatic EIR evaluated the impacts associated with implementation of the WSMP 2040; individual projects identified in the WSMP could be subject to project-specific environmental review. EBMUD ~~adopted~~ certified the WSMP 2040 Programmatic EIR on October 13, 2009.

The main objective of the WSMP 2040 was to identify and recommend solutions to meet or overcome dry-year water demands now and through the year 2040. The WSMP 2040 Preferred Portfolio would provide two programs that 1) meet projected growth in customer demand through aggressive conservation and recycled water development; and 2) lowers customers rationing burdens during an extended drought through development of new supplemental supplies initiatives.

Future development in EBMUD's service area is expected to be infill projects that would increase the densities in those land use areas but would be more water efficient (high-efficiency fixtures) and conservation-oriented (recycled water). With this understanding, much of the new development could be met with existing water supplies used more efficiently.

The WSMP 2040 discusses current projects that EBMUD is currently engaged in to relieve rationing burdens currently imposed on customers during dry-years. Two main projects are either currently under construction, or in the planning, testing, or feasibility phases.<sup>152</sup> These projects include:

- The Freeport Regional Water Project (FRWP) would divert water from the Sacramento River and construct a regional water treatment plant in Sacramento County in order to guarantee water for East Bay customers in dry years. EBMUD contract amount in single dry years is 112,000 AF and 165,000 AF over a three-year drought condition.<sup>153,154</sup> EBMUD contract amount is 100 mgd during drought years.<sup>155</sup> It is anticipated that EBMUD would start receiving Sacramento River water by the end of 2009.<sup>156</sup>
- The Bayside Groundwater Project, which is a supplemental water supply project that would store water in a deep underground aquifer during wet years and extract some of that supply during times of drought. Phase 1 of the Bayside Groundwater Project, which will begin final testing in September 2009, would store an annual average of 1 mgd of water within a deep aquifer that extends beneath the City of San Lorenzo. After successfully operating Phase 1 for a period of time, EBMUD will consider a larger Phase 2 Bayside project that would have a capacity of between 2 and 10 mgd, allowing for even greater drought protection.<sup>157</sup>

---

<sup>152</sup> East Bay Municipal Utilities District, *2005 Urban Water Management Plan*, pg 2-13.

<sup>153</sup> Freeport Regional Water Authority website <http://www.freeportproject.org/index.php> accessed March 11, 2008.

<sup>154</sup> EBMUD, "Freeport Regional Water Project", [http://www.ebmud.com/water\\_&\\_environment/water\\_supply/current\\_projects/freeport/default.htm](http://www.ebmud.com/water_&_environment/water_supply/current_projects/freeport/default.htm), accessed August 25, 2008.

<sup>155</sup> EBMUD, "Freeport Regional Water Project", [http://www.ebmud.com/water\\_&\\_environment/water\\_supply/current\\_projects/freeport/default.htm#Major\\_Project\\_Elements](http://www.ebmud.com/water_&_environment/water_supply/current_projects/freeport/default.htm#Major_Project_Elements), accessed July 30, 2009.

<sup>156</sup> Freeport Regional Water Authority website <http://www.freeportproject.org/nodes/project> accessed October 24, 2008.

<sup>157</sup> EBMUD, "Bayside Groundwater Project", [http://www.ebmud.com/water\\_&\\_environment/water\\_supply/current\\_projects/bayside\\_groundwater/default.htm](http://www.ebmud.com/water_&_environment/water_supply/current_projects/bayside_groundwater/default.htm), accessed July 30, 2009.

In terms of reliability, these projects along with increasing conservation efforts would serve to bolster EBMUD's supply portfolio now and over a long-term planning horizon. In fact, as shown in Table 7, EBMUD is highly dependent upon the FRWP to overcome the 2010 and 2015 dry year deficits.

*Supply and Demand Comparisons.* In normal years, EBMUD currently supplies its customers with an annual average of about 222 mgd of water. In order to meet its customers' current and future water needs, EBMUD has to balance water supply and demand. At present, EBMUD's current supply is insufficient to meet customer needs in multiple year droughts despite water conservation measures and recycling programs. During the recent 1987 to 1992 drought, customers were subject to water use restrictions (rationing) each year. The 2005 UWMP stated that without additional supplies, water use restrictions would occur more frequently in the future.<sup>159</sup> EBMUD anticipates that dry year water supply deficiencies may not occur after 2010 when FRWP supplies are delivered to EBMUD. However, in the WSMP 2040, EBMUD continues to use water use restrictions as a necessary means to control demand in times of reduced supply in dry years. In fact, the WSMP states that "a reasonable level of rationing that would both provide for water supply reliability as well as minimize customer rationing burdens during an extended drought."<sup>160</sup> The existing rationing policy of no more than 25 percent of total customer demand remains within EBMUD's future supply and demand planning.<sup>161</sup> As stated above, EBMUD's Bayside project would further bolster local supplies.

~~EBMUD is currently preparing its WSMP 2040 for release in late 2009 or early 2010. The WSMP 2040 is a complex water supply planning document that EBMUD will use to assess supplies and analyze demands. Since inception of the WSMP 2040, EBMUD has surveyed the jurisdictions in its service area and conducted numerous public workshops to properly evaluate future demands and seek public support in its request to supply reliability. Upon completion of the WSMP EBMUD can then compare its future supply and demand situations using current demand data and supply information.~~

Table 7 represents the supply and demand conditions that EBMUD could expect under all hydrologic conditions. A single dry year (or Year 1 of "multiple dry years") is determined as a year that EBMUD would implement the Drought Management Program with the goal of achieving between 0 to 15 percent reductions in customer demand. With new supplies from the FRWP supply, rationing is reduced to five percent. For example, full use of FRWP supplies along with conservation would limit rationing to five percent and all customer demands would be met.

In the event of second year of a multiple dry year scenario, Between 2010 and 2015, FRWP water supplies and the Bayside Groundwater Project, along with aggressive conservation, would hold rationing above ~~near~~ EBMUD's goal of 25 percent. After 2015, rationing would increase to EBMUD's 25 percent goal and FRWP supplies would be needed to limit customer deficiencies to

<sup>159</sup> EBMUD, 2000 Urban Water Management Plan, pg 4-25

<sup>160</sup> East Bay Municipal Utilities District, Water Supply Management Program 2040. October 2009 pg 4-15.

<sup>161</sup> East Bay Municipal Utilities District, Water Supply Management Program 2040. October 2009 pg 4-15.

25 percent. In the third year of a multiple dry year, EBMUD can also achieve its 25 percent rationing goal and meeting system-wide demands with supplemental water supplies from FRWP.

**Table 7**  
**EBMUD Water Supply and Demand<sup>a</sup> in Normal, Dry, and Multiple Dry Years (MGD)**

<b>Supply and Demand</b>	<b>Year</b>				
	<b>2010</b>	<b>2015</b>	<b>2020</b>	<b>2025</b>	<b>2030</b>
Normal Year <sup>b</sup> Supply	>225	>229	>243	>254	>267
Demand	216	217	221	224	229
<i>Difference</i>	9	12	22	30	38
Supply: Single Dry Year or Multiple Dry Year -1	214	217	230	241	253
Demand with 5% Reduction <sup>c, d</sup>	214	217	230	241	253
<b>Difference</b>	0	0	0	0	0
Supply: Multiple Dry Year - 2	168	172	182	191	200
Demand with 25% Reduction <sup>c, d</sup>	168	172	182	191	200
<i>Difference</i>	0	0	0	0	0
Supply: Multiple Dry Year - 3	168	172	182	191	200
Demand with 25% Reduction <sup>d</sup>	168	172	182	191	200
<i>Difference</i>	0	0	0	0	0

*Source:* East Bay Municipal Utilities District, 2005 Urban Water Management Plan, Table 4-2 page 4-6. Updated by PBS&J to reflect FRWP supplies of up to 100 mgd in drought years beginning in late 2009. Since the FRWP is well under way this analysis assumes FRWP supplies will be available in all drought years from 2010 through 2030.

*Notes:*

- a. Supplemental supplies based on EBMUDSIM model results. Amount of water based upon EBMUD's Demand Management Program, provisions of the 1998 Settlement Agreement and the off setting of additional water supply system losses created by a supplemental supply. The actual need will be dependent on antecedent conditions and the severity of the actual drought. Any supplemental supply stored during the initial years of the drought is later released, diminishing the supplemental supply needs.
- b. Normal year, as forecasted from April through the end of September, total system storage would be 500,000 AF or greater.
- c. Year 2005 through completion of FRWP, EBMUD water supply system cannot adequately supply 95% of demand and may impose rationing up to 15% during the first year of a drought, supplemental supplies would be needed. Per mitigations in FRWP EIR rationing goal is 5% for single dry year or first dry year of a multiple dry year condition.
- d. Projected Supply data includes dry-year deliveries via FRWP beginning in 2010. EBMUD's deficiency goal is 25 percent.

## Section 4

# Commenters on the DEIR

### 4.1 AGENCIES, ORGANIZATIONS, AND INDIVIDUALS COMMENTING IN WRITING

The following lists correspondence received from public agencies, organizations, and individuals, generally in the order it was received by the City of Oakland. Within each chronological listing, correspondence is listed alphabetically.

**Table 4.1-1  
Public Agencies**

Designator	Agency/Signatory Name	Correspondence Dated
Letter A1	East Bay Municipal Utility District, William R. Kirkpatrick, Manager of Water Distribution Planning	September 21, 2010
Letter A2	California Energy Commission, Bill Pfanner, Supervisor, Local Energy and Land Use Assistance Unit	October 11, 2010

**Table 4.1-2  
Attorneys / Organizations**

Designator	Agency/Signatory Name	Correspondence Dated
Letter B1	East Bay Housing Organizations, Amie Fishman, Executive Director	September 30, 2010

### 4.2 COMMENTERS AT THE PLANNING COMMISSION PUBLIC HEARING

The following lists persons who provided verbal comments at the Public Hearing on the DEIR, held at the September 15, 2010, meeting of the Oakland Planning Commission. Speakers are listed generally in order of presentation.

#### Public Speakers (Listed in Order of Presentation)

- Jenny Wyants, Habitat for Humanity
- Kathleen Kwon, Project and Community Specialist, Habitat for Humanity
- Cindy Heavens, Project Manager, Satellite Housing
- Ener Chiu, East Bay Asian Local Development Corporation
- Shawn Rowland, Director of Resident Organizing, East Bay Housing Organization
- Alexandra Davidson, Intern, Greenbelt Alliance

- James Vann, Oakland Tenants Union
- Sanjiv Handa, East Bay News Service

**Planning Commissioners**

- Commissioner Zayas-Mart
- Commissioner Gibbs
- Commissioner Truong
- Commissioner Boxer

# Section 5

## Responses to Written Comments Received on the DEIR

---

### 5.1 INTRODUCTION

---

This section includes copies of the written comments received by hand-delivered mail or electronic mail during the public review period on the DEIR. Specific responses to the individual comments in each correspondence follow each letter or email. Consistent with the list of commenters presented in Section 4, correspondence received from public agencies is presented first, followed by those received from organizations and individuals.

Each correspondence is identified by an alpha and numeric designator (e.g., “Letter A1”). Specific comments within each correspondence are identified by an alphanumeric designator that reflects the alphabetic correspondence designator and the numeric sequence of the specific comment within the correspondence (e.g. “A-1.1” for the first comment in Letter A1). The set of responses immediately follows the correspondence.

Responses may reference a response to a comment presented in Section 6 (Responses to Comments Received at the Public Hearings on the DEIR).

Responses specifically focus on comments that pertain to the adequacy of the analysis in the DEIR or other aspects pertinent to the environmental analysis of the proposed project pursuant to CEQA. Comments that address topics beyond the purview of the DEIR or CEQA are noted as such for the public record. Where comments and/or responses have warranted changes to the text of the DEIR, these changes appear as part of the specific response and are repeated in Section 3 (Changes to the DEIR), where they are listed generally in order of where the revision would appear in the DEIR document.

Letter A1



September 21, 2010

Devan Reiff, Project Manager  
City of Oakland  
Community and Economic Development Agency  
Planning Division  
250 Frank H. Ogawa Plaza, Suite 3315  
Oakland, CA 94612

Re: Notice of Availability of a Draft Environmental Impact Report – City of Oakland General Plan, Housing Element Update 2007 – 2014, Oakland

Dear Mr. Reiff:

A1.1

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Draft Environmental Impact Report (EIR) for the City of Oakland (City) General Plan, Housing Element Update 2007 – 2014. EBMUD provided written comments on the Notice of Preparation of a Draft EIR for the project on October 9, 2009 and these comments (see enclosure) still apply regarding water service, water conservation, water recycling and wastewater planning.

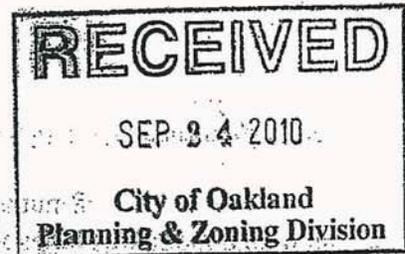
If you have any questions concerning this response, please contact David J. Rehnstrom, Senior Civil Engineer, Water Service Planning at (510) 287-1365.

Sincerely,

William R. Kirkpatrick  
Manager of Water Distribution Planning

WRK:AMW:SB  
sb10\_195.doc

Enclosure



October 9, 2009

Devan Reiff, Project Manager  
City of Oakland  
Community and Economic Development Agency  
250 Frank H. Ogawa Plaza, Suite 3315  
Oakland, CA 94612

Re: Notice of Preparation of a Draft Environmental Impact Report – City of Oakland General Plan, Housing Element Update 2007 – 2014, Oakland

Dear Mr. Reiff:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the City of Oakland (City) General Plan, Housing Element Update 2007 – 2014. EBMUD has the following comments.

#### GENERAL

On page 197, under Wastewater, third paragraph, the last word “above” in phrase inside parenthesis of the last sentence shall be replaced with “below”.

On page 201, under *Water Treatment* of the Water Supply subsection, delete the last sentence of the first paragraph “~~Orinda processes 119 mgd of untreated water, which accounts for approximately 63 percent of its total capacity.~~<sup>143</sup>” Based on the footnote, it seems that the output for the Orinda Water Treatment Plant was reflective for the single day for which the data was requested but can vary from day to day. The Orinda Water Treatment Plant has a nominal output of 175 million gallons per day.

A1a.1

On page 202, under *Recycled Water Supply* of the Water Supply subsection:

- Revise the last sentence of the first paragraph to read “*It is estimated that recycled water demand will be up to 10 mgd in 2010.*<sup>143</sup>”
- Change reference 143 in the footnote to the WSMP 2040. EBMUD recently published the WSMP 2040 which contains the most updated EBMUD water demand and supply information and can be downloaded from the website:  
[http://www.ebmud.com/water\\_&\\_environment/water\\_supply/water\\_supply\\_management\\_program/CEQA/default.htm](http://www.ebmud.com/water_&_environment/water_supply/water_supply_management_program/CEQA/default.htm)

- At the end of the first paragraph, insert the sentence: *"As part of the current WSMP 2040 process, the EBMUD Board of Directors will consider an enhanced goal of recycling 20 mgd by year 2040, continuing EBMUD's long standing commitment to recycled water."*

A1a.1  
Con't

As stated above, EBMUD published the WSMP 2040 plan which contains information superseding the information provided in the UWMP 2005 and the WSMP 2040 workshops. The *Water Demands* (pages 202 and 203), *Water Supply Planning and Reliability* (pages 203 through 205), as well as *Supply and Demand Comparison* (pages 205 and 206) sub-subsections of the Initial Study should be revised accordingly to reflect the updated information provided in the WSMP 2040.

### WATER SERVICE

The Notice of Preparation does not reference specific development projects. Any development project associated with the City of Oakland General Plan Housing Element Update will be subject to the following general requirements:

Main extensions that may be required to serve any specific development projects that will provide adequate domestic water supply, fire flows, and system redundancy will be at the project sponsor's expense. Pipeline and fire hydrant relocations and replacements due to modifications of existing streets, and off-site pipeline improvements, also at the project sponsor's expense, may be required depending on EBMUD metering requirements and fire flow requirements set by the local fire department. All project sponsors should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions of providing water service to the development. Engineering and installation of new and relocated pipeline and services requires substantial lead-time, which should be provided for in the project sponsor's development schedule.

A1a.2

Please note that depending on the size and/or square footage, the lead agency for future individual projects within the General Plan Housing Element Update areas should contact EBMUD to request a Water Supply Assessment (WSA) that meets the threshold of a WSA pursuant to Section 15155 of the California Environmental Quality Act Guidelines, and Section 10910-10915 of the California Water Code. EBMUD requires project sponsors to provide future water demand data and estimates for individual project sites for analysis of the WSA. Please be aware that the WSA can take up to 90 days to complete from the day on which the request is received.

The Notice of Preparation indicates the presence of hazardous materials throughout the City that are of potential concern. The project sponsor should be aware that EBMUD will not inspect, install or maintain pipeline in contaminated soil or groundwater (if groundwater is present at any time during the year at the depth piping is to be installed) that must be handled as a hazardous waste or that may pose a health and safety risk to construction or maintenance personnel wearing Level D personal protective equipment. Nor will EBMUD install piping in areas where

A1a.2  
Con't

groundwater contaminant concentrations exceed specified limits for discharge to sanitary sewer systems or sewage treatment plants. Applicants for EBMUD services requiring excavation in contaminated areas must submit copies of existing information regarding soil and groundwater quality within or adjacent to the project boundary. In addition, the applicant must provide a legally sufficient, complete and specific written remedial plan establishing the methodology, planning and design of all necessary systems for the removal, treatment, and disposal of all identified contaminated soil and/or groundwater.

EBMUD will not design the installation of pipelines until such time as soil and groundwater quality data and remediation plans are received and reviewed and will not install pipelines until remediation has been carried out and documentation of the effectiveness of the remediation has been received and reviewed. If no soil or groundwater quality data exists or the information supplied by the applicant is insufficient EBMUD may require the applicant to perform sampling and analysis to characterize the soil being excavated and groundwater that may be encountered during excavation or perform such sampling and analysis itself at the applicant's expense.

#### WASTEWATER

A1a.3

EBMUD's Main Wastewater Treatment Plant (MWWTP) and interceptor system are anticipated to have adequate dry weather capacity to treat the proposed wastewater flows from this project, provided that the wastewater meets the requirements of the current EBMUD Wastewater Control Ordinance. However, wet weather flows are a concern. EBMUD has historically operated three Wet Weather Facilities (WWFs) to provide treatment for high wet weather flows that exceed the treatment capacity of the MWWTP. On January 14, 2009, due to Environmental Protection Agency (EPA) and State Water Resources Control Board's (SQRCB) re-interpretation of applicable law, the Regional Water Quality Control Board (RWQCB) issued an order prohibiting further discharges from EBMUD's WWFs. Additionally, on July 22, 2009 a Stipulated Order for Preliminary Relief issued by EPA, the SWRCB, and RWQCB became effective. This order requires EBMUD to begin work that will identify problem inflow and infiltration (I/I) areas, begin to reduce I/I through private sewer lateral improvements, and lay the groundwork for future efforts to eliminate discharges from the WWFs.

Currently, there is insufficient information to forecast how these changes will impact allowable wet weather flows in the individual collection system subbasins contributing to the EBMUD wastewater system, including the subbasin in which the proposed project is located. As required by the Stipulated Order, EBMUD is conducting extensive flow monitoring and hydraulic modeling to determine the level of flow reductions that will be needed in order to comply with the new zero-discharge requirement at the WWFs. It is reasonable to assume that a new regional wet weather flow allocation process may occur in the East Bay, but the schedule for implementation of any new flow allocations has not yet been determined.

The lead agency should require the project applicant to incorporate the following measures into the proposed project: (1) replace or rehabilitate any existing sanitary sewer collection systems to

A1a.3  
Con't

reduce I/I, and (2) ensure any new wastewater collection systems for the project are constructed to prevent I/I to the maximum extent feasible. Please include such provisions in the environmental documentation for this project.

#### **WATER RECYCLING**

A1a.4

EBMUD's Policy 8.01 requires that customers use non-potable water for non-domestic purposes when it is of adequate quality and quantity, available at reasonable cost, not detrimental to public health and not injurious to plant life, fish and wild life to offset demand on EBMUD's limited potable water supply. The City is located within EBMUD's recycled water service boundaries. As part of the water supply planning, EBMUD will consider the feasibility of providing recycled water to the City for appropriate uses including landscape irrigation, commercial applications, industrial process uses, and other applications. EBMUD recommends that the City require developers of new or redevelopment projects within the City to coordinate and consult with EBMUD regarding the feasibility of providing recycled water for appropriate non-potable purposes.

#### **WATER CONSERVATION**

A1a.5

Individual projects within the General Plan Housing Element Update present an opportunity to incorporate water conservation measures. EBMUD would request that the City include in its conditions of approval a requirement that the project sponsor comply with Assembly Bill 325, Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). Project sponsors for individual projects should be aware that Section 31 of EBMUD's Water Service Regulations requires that water service shall not be furnished for new or expanded service unless all the applicable water-efficiency measures described in the regulation are installed at the project sponsor's expense.

If you have any questions concerning this response, please contact David J. Rehnstrom, Senior Civil Engineer, Water Service Planning at (510) 287-1365.

Sincerely,



William R. Kirkpatrick  
Manager of Water Distribution Planning

WRK:AMW:djr  
sb09\_213.doc

## Letter A1

---

### East Bay Municipal Utility District

#### William Kirkpatrick, Manager of Water Distribution Planning

**September 21, 2010**

**Response A1-1:** The comment regarding the content of the previous letter sent by East Bay Municipal Utility District (EBMUD) on October 9, 2009 addressing the Notice of Preparation (NOP) of the Draft Environmental Impact Report (DEIR) is noted. Revisions made to the Initial Study in response to the written comments contained in EBMUD's letter dated October 9, 2009 are located on Pages 6-1 through 6-9 of the DEIR, some additional revisions have been made to the Initial Study section as noted in Section 3 (Changes to the DEIR) of this document and detailed below in Responses A1a-1 through A1a-5.

**Response A1a-1:** The comment letter received from East Bay Municipal Utility District (EBMUD) on October 9, 2009 addressing the Notice of Preparation (NOP) of the Draft Environmental Impact Report (DEIR) included direct edits to the Utilities and Service Systems Section of the Initial Study. These revisions were made and included on Pages 6-1 through 6-9 of the DEIR. However, given that EBMUD resent the October 9, 2009 letter in response to the publication of the DEIR, that comment letter has been revisited.

As stated in Response A1-1, above, additional revisions have been made to the Utilities and Service Systems Section of the Initial Study and have been included in Section 3 (Changes to the DEIR).

As stated by the commenter, EBMUD has specific standards, policies and requirements for installation, operation, planning and maintenance of its water and wastewater facilities. In addition, as the water provider, EBMUD is also beholden to specific laws in the California Water Code. As such, EBMUD's specific comments in the October 9, 2009 letter regarding Water Service, Wastewater, Water Recycling and Water Conservation do not address the adequacy or sufficiency of the DEIR, rather the comments are intended to inform the City of Oakland of EBMUD's standards, policies and requirements for new or expanded water or wastewater services.

Also, as noted by the commenter, EBMUD's standards are applicable to individual development projects, on a project-by-project basis. Given that the DEIR for the Housing Element is programmatic and does not contain analysis of project-level impacts, or regulatory compliance, a discussion of EBMUD's standards is not required.

However, the following responses address the comments from EBMUD regarding Water Service, Wastewater, Water Recycling, and Water Conservation, and are included for informational purposes.

**Response A1a-2: Water Service.** As noted by the commenter, no specific development projects were identified or analyzed in the DEIR and analysis of project-level compliance with EBMUD's standard requirements is beyond the scope of this program-level EIR.

However, as listed in the DEIR the following Standard Conditions of Approval (SCAs) are applicable to development projects under the *2007-2014 Housing Element*, and would ensure that hazardous materials conditions on individual development sites would be identified:

SCA-61: Site Review by the Fire Services Division (DEIR, Appendix A, Page 110)

SCA-62: Phase I and/or Phase II Reports (DEIR, Appendix A, Page 110)

SCA-64: Environmental Site Assessment Reports Remediation (DEIR, Appendix A, Page 110)

SCA-66: Other Materials Classified as Hazardous Waste (DEIR, Appendix A, Page 111)

SCA-68: Best Management Practices for Soil and Groundwater Hazards (DEIR, Appendix A, Page 111)

SCA-69: Radon or Vapor Intrusion from Soil or Groundwater Sources (DEIR, Appendix A, Page 111)

Individual development projects would be required to comply with EBMUD requirements, as identified on a case-by-case basis.

**Response A1a-3: Wastewater.** The commenter requests that the City of Oakland require individual development projects to provide adequate wastewater collections systems that reduce infiltration/inflow (I/I) to the maximum extent feasible to offset sanitary sewer flows, particularly during wet weather. The requirements for specific development projects under the *2007-2014 Housing Element* are beyond the scope of this program-level DEIR. However, SCA-91 captures EMBUD's requirements, and is applicable to development projects under the *2007-2014 Housing Element*, as discussed in the Initial Study, found on DEIR Appendix A, Page 211.

**Response A1a-4: Water Recycling.** The commenter notes EBMUD's Policy 8.01 requiring uses of non-potable water for non-domestic purposes, where feasible. The feasibility of recycled water use for specific development projects under the *2007-2014 Housing Element* is beyond the scope of this program-level DEIR.

However the DEIR does cite policies which address use of recycled water, as stated in the Initial Study, on Pages 211 through 213 of Appendix A:

**“General Plan.** The *OSCAR Element* policies set forth below are intended to address future water demand:

**Open Space, Conservation and Recreation Element**

- *Policy CO-4.1:* Emphasize water conservation and recycling strategies in efforts to meet future demand.

- *Policy CO-4.2:* Require use of drought-tolerant plants to the greatest extent possible and encourage the use of irrigation systems which minimize water consumption.
- *Policy CO-4.3:* Promote the use of reclaimed wastewater for irrigating landscape medians, cemeteries, parks, golf courses, and other areas requiring large volumes of non-potable water.
- *Policy CO-4.4:* Encourage regional development patterns which make environmentally sound use of water resources.

**2007-2014 Housing Element.** The following actions and policies apply to water consumption and would be adhered to with the implementation of the *2007-2014 Housing Element*:

- *Action 7.4.2 Water Consumption.* Encourage, where feasible, best practices in the installation of water-efficient technologies, greywater systems and the use of water collected on-site. In affordable housing developments, this will reduce utility bills, freeing up more resources to pay rent or a mortgage.”

The coordination of project sponsors for individual development projects with EBMUD regarding the feasibility of providing recycled water for appropriate non-potable purposes would occur on a case-by-case basis. However, compliance with the OSCAR and Housing Element policies listed above would encourage use of recycled water.

**Response A1a-5: Water Conservation.** EBMUD requests that the City of Oakland include as a condition of approval that the project applicant comply with the Assembly Bill 325, Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). Project sponsors for individual projects should be aware that Section 31 of EBMUD's Water Service Regulations requires that water service shall not be furnished for new or expanded service unless all the applicable water efficiency measures described in the regulation are installed at the project sponsor's expense. The requirements for specific development projects under the *2007-2014 Housing Element* are beyond the scope of this program-level DEIR.

However, future development projects, in accordance with the *2007-2014 Housing Element* would likely participate in the LEED ND Programs. As a result, the project applicants would be incorporating features into the project that promote environmentally responsible, sustainable development, which reduces landscape-related water use by using native plant species and drought tolerant landscaping pursuant to General Plan *Policy CO-4.2*.

In addition, development under the *2007-2014 Oakland Housing Element* would comply with policies to address utilities and services, as stated in the Initial Study, on DEIR Appendix A, Pages 216 - 217:

Development resulting from the *2007-2014 Housing Element* would be infill development in built-up areas or redevelopment of existing sites. Compliance with *General Plan Policies I/C1.9, T5.1, D4.1, and N7.2* found in the *LUTE Element*, *LUTE EIR Mitigation Measure D.2-2* and Standard Condition of

Approval 91 would ensure that impacts to wastewater treatment standards are less than significant. Impacts related to stormwater drainage capacity would be less than significant, and compliance with *General Plan* Policy CO-1.1, and Actions CO-1.1.1, CO-6.1.2, and CO-5.3.2 in the *OSCAR Element*, Policy T5.3 from the *LUTE Element*, and SCA-78 and 80 would further reduce impacts.

Compliance with Policies CO-4.1, CO-4.2, CO-4.3, and CO-4.4 from the *OSCAR Element*, and Action 7.4.2. from the *2007-2014 Housing Element*, along with green building or LEED certification objectives could reduce impacts on potable water demands to less than significant. In terms of supply infrastructure and conveyance facilities, EBMUD manages the regional conveyance system used to transport potable water supplies to each jurisdiction and customers in its service area. EBMUD also manages and maintains all the WTPs; any improvements or expansions are ultimately the responsibility of EBMUD; therefore, impacts to facilities as a result of implementation of the *2007-2014 Housing Element* are less than significant. As stated previously, EBMUD demand surveys conducted during preparation of its WSMP 2040 accounted for demands associated with buildout of the *2007-2014 Housing Element* along with demands throughout its service area. Moreover, EBMUD has adequate supplies from its diversions on the Mokelumne River coupled with supplies from the FRWP to serve demands under all hydrologic conditions; therefore, cumulative impacts to water supplies are less than significant.

The compliance of individual development projects with Section 31 of EBMUD's Water Service Regulations will be determined by the City on a case-by-case basis.

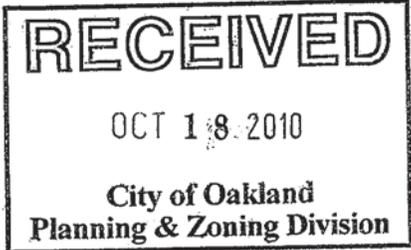
CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512  
www.energy.ca.gov



Letter A2

October 11, 2010



Devan Reiff  
City of Oakland - CEDA  
250 Frank H. Ogawa Plaza, Suite 3315  
Oakland, CA 94612

Dear Mr. Reiff:

The California Energy Commission has received the City of Oakland - CEDA's Draft EIR titled City of Oakland 2007-2014 Housing Element, SCH 2009092065 that was submitted on 8/16/2010 for comments due by 9/30/2010. After careful review, the California Energy Commission has no comment at this time and would like to share the following only as a resource of information.

The Energy Commission would like to assist in reducing the energy usage involved in your project. Please refer to the enclosed Appendix F of the California Environmental Quality Act for how to achieve energy conservation.

A2.1

In addition, the Energy Commission's *Energy Aware Planning Guide* is also available as a tool to assist in your land use planning and other future projects. For further information on how to utilize this guide, please visit [www.energy.ca.gov/energy\\_aware\\_guide/index.html](http://www.energy.ca.gov/energy_aware_guide/index.html).

Thank you for providing us the opportunity to review the City of Oakland - CEDA's Draft EIR. We hope that the above mentioned resources will serve helpful in your project's environmental review process.

If you have any further questions, please call Gigi Tien at (916) 651-0566.

Sincerely,

BILL PFANNER  
Supervisor, Local Energy & Land Use Assistance Unit  
Special Projects Office  
Fuels and Transportation Division  
California Energy Commission  
1516 Ninth Street, MS 23  
Sacramento, CA 95814

Enclosure

# Appendix F

## ENERGY CONSERVATION

### I. Introduction

The goal of conserving energy implies the wise and efficient use of energy. The means of achieving this goal include:

- (1) decreasing overall per capita energy consumption,
- (2) decreasing reliance on natural gas and oil, and
- (3) increasing reliance on renewable energy sources.

In order to assure that energy implications are considered in project decisions, the California Environmental Quality Act requires that EIRs include a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy.

Energy conservation implies that a project's cost effectiveness be reviewed not only in dollars, but also in terms of energy requirements. For many projects, lifetime costs may be determined more by energy efficiency than by initial dollar costs.

### II. EIR Contents

Potentially significant energy implications of a project should be considered in an EIR. The following list of energy impact possibilities and potential conservation measures is designed to assist in the preparation of an EIR. In many instances, specific items may not apply or additional items may be needed.

A. Project Description may include the following items:

1. Energy consuming equipment and processes which will be used during construction, operation, and/or removal of the project. If appropriate, this discussion should consider the energy intensiveness of materials and equipment required for the project.
2. Total energy requirements of the project by fuel type and end use.
3. Energy conservation equipment and design features.
4. Initial and life-cycle energy costs or supplies.
5. Total estimated daily trips to be generated by the project and the additional energy consumed per trip by mode.

B. Environmental Setting may include existing energy supplies and energy use patterns in the region and locality.

C. Environmental Impacts may include:

1. The project's energy requirements and its energy use efficiencies by amount and fuel type for each stage of the project's life cycle including construction, opera-

tion, maintenance and/or removal. If appropriate, the energy intensiveness of materials may be discussed.

2. The effects of the project on local and regional energy supplies and on requirements for additional capacity.
3. The effects of the project on peak and base period demands for electricity and other forms of energy.
4. The degree to which the project complies with existing energy standards.
5. The effects of the project on energy resources.
6. The project's projected transportation energy use requirements and its overall use of efficient transportation alternatives.

D. Mitigation Measures may include:

1. Potential measures to reduce wasteful, inefficient and unnecessary consumption of energy during construction, operation, maintenance and/or removal. The discussion should explain why certain measures were incorporated in the project and why other measures were dismissed.
2. The potential of siting, orientation, and design to minimize energy consumption, including transportation energy.
3. The potential for reducing peak energy demand.
4. Alternate fuels (particularly renewable ones) or energy systems.
5. Energy conservation which could result from recycling efforts.

E. Alternatives should be compared in terms of overall energy consumption and in terms of reducing wasteful, inefficient and unnecessary consumption of energy.

F. Unavoidable Adverse Effects may include wasteful, inefficient and unnecessary consumption of energy during the project construction, operation, maintenance and/or removal that cannot be feasibly mitigated.

G. Irreversible Commitment of Resources may include a discussion of how the project preempts future energy development or future energy conservation.

H. Short-Term Gains versus Long-Term Impacts can be compared by calculating the energy costs over the lifetime of the project.

I. Growth Inducing Effects may include the estimated energy consumption of growth induced by the project.

**Letter A2**

---

**California Energy Commission**

**Bill Pfanner, Supervisor, Local Energy and Land Use Assistance Unit**

**October 11, 2010**

**Response A2-1:** As noted by the commenter, the California Energy Commission (CEC) has no comments on the DEIR; therefore, no response is required. The CEC letter included some reference information on energy conservation, including Appendix F of the California Environmental Quality Act. The information provided by the CEC, including the cited guidelines, would be considered by the City of Oakland during review of specific development projects.



**EBHO**

**EAST BAY HOUSING ORGANIZATIONS**

538 NINTH STREET, SUITE 200, OAKLAND, CA 94607, TELEPHONE: (510) 663-3830

September 30, 2010

Devan Reiff, AICP  
CEDA Planning Division  
250 Frank H. Ogawa Plaza, Suite 3315  
Oakland CA, 94612

**RE: Comments on City of Oakland 2007-2014 Housing Element DEIR**

Devan Reiff,

B1.1 East Bay Housing Organizations (EBHO), a 26-year old non-profit membership organization, is the leading affordable housing advocacy coalition working throughout Alameda and Contra Costa Counties, and is based in Oakland. EBHO's mission is to preserve, protect and expand affordable housing opportunities for the lowest income communities through education, advocacy, organizing and coalition building. EBHO's membership includes more than 250 organizations and community leaders advocating for affordable housing development and favorable housing policies at the local and regional level. EBHO's broad-based membership includes non-profit affordable housing developers, architects, planners, contractors, homeless and housing advocates, service providers, fair housing agencies, tenant advocates, community and interfaith organizations and activists, clergy and congregations, labor unions, environmental organizations, lending institutions, intermediaries and policy organizations, and city and county agencies and staff.

After thorough review by EBHO and its member organizations, it is the collective response of our organization that this Housing Element submittal is incisive, comprehensive, innovative, and forward-looking in its projections. EBHO supports and recommends approval and submittal to the state of the Oakland Housing Element and (Draft) Environmental Impact Report at the earliest possible date. We are aware that it is overdue to the state, creating potential negative consequences of the lack of an approved Housing Element on grants and loans of state housing funds and project approval conditions.

We have several specific comments we would like addressed as this process moves forward:

The EIR should provide sufficient analysis to determine whether the sites identified for affordable housing development qualify for the infill exemption from CEQA provided by SB 1925 (2005) (Public Resources Code §21159.20 *et seq.*). The exemption requires certification of a community wide environmental review, which should be this EIR. Site specific criteria include:

- B1.2
- Availability of utilities
  - Absence of wetlands or wildlife habitat
  - Absence of harm to certain species

B1.2  
Con't

- Absence of toxic substances
- No significant historical resources
- Absence of fire and seismic hazards

B1.3

Mitigation Monitoring and Reporting Program (MMRP) (Page I-7)

EBHO welcomes introduction and implementation of the Mitigation Monitoring and Reporting Program (page I - 5), coupled with Oakland's Standard Conditions of Approval (SCA) (page I-7) as a mechanism to reduce the severity or eliminate identified significant impacts. The incidence of relatively straightforward projects having to prepare comprehensive EIRs when the identified impacts are known in advance and have similar effects, responses, and mitigations citywide would only produce extended time delays and additional expense added to sensitive project cost. EBHO strongly urges that the process of project review and approval for affordable housing developments be facilitated be made as easy as possible and that the language of the Housing Element and EIR be clear and strongly stated so as to facilitate obtaining CEQA clearances and to minimize the number of individual projects required to perform comprehensive EIRs.

B1.4

Significant Unavoidable Impacts: (AQ, Page 3.3-3)

Significant unavoidable impacts for residential development "could expose occupants at certain sites to substantial health risk from gaseous TACS emitted locally from stationary sources." The basic analysis shows that TACs are generally present over the city, and many are near transit corridors and other places that are otherwise desirable sites for housing. While the EIR finds there are no feasible mitigations, the listed alternate would prohibit housing development within 1,000 ft of gaseous TAC sources. The alternative is not feasible because it would essentially prohibit affordable housing development, or would result in prohibitively negative consequences for any developer attempting to construct affordable housing.

B1.5

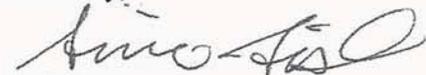
Health Risk Assessment: (AQ, Page 3.3-3)

Health Risk Assessments (HRAs) for residential projects located within 1000 feet of a source of diesel particulate matter that exceeds health screening criteria, under SCA-94, are required to follow HRA conclusions, and no further CEQA review is required. If these HRAs are a new requirement, or an existing requirement that has been made more complex, EBHO requests further review of the potential negative impacts of this requirement on affordable housing developments.

B1.6

Thank you for your consideration. Please feel free to contact me with any questions at 510-663-3830 ext. 323 or Amie@EBHO.org.

Sincerely,



Amie Fishman  
Executive Director

cc. Eric Angstadt, CEDA Planning Director

## Letter B1

---

### East Bay Housing Organizations (EBHO)

Amie Fishman, Executive Director

September 30, 2010

**Response B1-1:** The introductory paragraph is noted. Commenter supports and recommends approval of both the Housing Element and the Draft Environmental Impact Report at the earliest possible date.

**Response B1-2:** Commenter suggests that “the EIR should provide sufficient analysis to determine whether the sites identified for affordable housing qualify for the infill exemption from CEQA provided by SB 1925 (2005) [Public Resources Code Section 21159.21 et seq.]”

Public Resources Code Section 21159.21 et seq. allows for exemption of qualified housing projects from further CEQA review. Per Public Resources Code Section 21159.21 a ‘qualified housing project’ must meet all of the requirements of the applicable section [Public Resources Code Section 21159.22<sup>1</sup>, Section 21159.23<sup>2</sup>, or Section 21159.24<sup>3</sup>] as well as ten specific criteria [Public Resources Code Section 21159.21 (a) – (i)]. As noted by the commenter, one of these criterion is that a “community-level environmental review has been certified or adopted” [Public Resources Code Section 21159.21 (b)]. Here, the *2007-2014 Housing Element Environmental Impact Report*, once certified, would likely fulfill the requirement for a “community-level environmental review.”

Further, it is the intent of the City to use the *2007-2014 Housing Element Environmental Impact Report* as a first-tier environmental document for review of future housing development projects.

As stated on Page I-7 of the DEIR:

“This EIR will be used as a first-tier environmental document for the subsequent review of a variety of public and private residential development projects, and as previously indicated, may provide CEQA clearance for such projects.”

However, the *2007-2014 Housing Element Environmental Impact Report* is a program-level environmental analysis designed to evaluate the environmental impacts of the adoption and implementation of the proposed 2007-2014 Housing Element. Thus, it is beyond the scope of the 2007-

---

<sup>1</sup> Section 21159.22 allows for exemption of agricultural employee housing projects meeting specific criteria.

<sup>2</sup> Section 21159.23 allows for exemption of affordable low-income housing projects meeting specific criteria.

<sup>3</sup> Section 21159.24 allows for additional exceptions of residential projects meeting specific criteria.

2014 Housing Element Environmental Impact Report to clear each and every development project proposed on each and every Opportunity Site.

As stated on Page I-2 of the DEIR:

“[U]nder CEQA, program-level environmental review is used in environmental analyses for a series of actions that can be characterized as one large project because they are logically related. For some site-specific purposes, a program-level environmental document may provide sufficient detail to enable an agency to make informed site-specific decisions within the program, allowing an agency to carry out an entire program without having to prepare additional site-specific environmental documents. In other cases, the formulation of site-specific issues is unknown until subsequent design and the preparation of later project-level environmental documents.”

The City will determine the extent to which the *2007-2014 Housing Element Environmental Impact Report* provides environmental clearance and/or streamlining opportunities for future development projects on a case-by-case basis at the time the development application is submitted.

**Response B1-3:** The commenter indicates support for the implementation of the Mitigation Monitoring and Reporting Program and the City’s Standard Conditions of Approval; no response is required.

**Response B1-4:** The commenter restates a desire for streamlined CEQA review of affordable housing projects. Refer to Response B1-2, above.

**Response B1-5:** The commenter indicates that Alternative 2 would effectively prohibit the development of affordable housing given the reduced number and restricted locations of identified Housing Sites and thus should be rejected as infeasible. This is not a comment on the adequacy of the EIR, but rather on whether the proposed Housing Element should be adopted and Alternative 2 rejected.

Alternative 2 has been identified as the “Environmentally Superior Alternative” in accordance with CEQA Guidelines Section 15126.6(e)(2) because it would avoid the significant unavoidable impact associated with construction of housing within a 1000-foot radius of a source of gaseous toxic air contaminants (TACs).

In accordance with CEQA Guidelines Section 15093, the City may reject as infeasible an alternative that does not satisfy basic project objectives and it may approve a project with significant unavoidable impacts if it finds that such impacts are acceptable due to project benefits (i.e., overriding considerations). In preparing this Statement of Overriding Considerations, “CEQA requires the City to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental effects” [CEQA Guidelines Section 15093(a)]. If the City finds that “the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable’ [CEQA Guidelines Section 15093(a)].

Here, the City recognizes that many of the Housing Sites located near TAC sources have other desirable qualities, such as proximity to transit. Therefore, as part of the consideration of the proposed Housing Element, the City will consider whether to adopt a “Statement of Overriding Considerations” allowing development of housing on sites within 1000 feet of gaseous TAC sources.

**Response B1-6:** The City’s Standard Condition of Approval (SCA)-94 is not a new requirement resulting from the *2007-2014 Housing Element Environmental Impact Report*. SCA-94 was included in the City’s *Conditions of Approval & Uniformly Applied Development Standards Imposed as Standard Conditions of Approval*, as amended, September 17, 2008, although it has been slightly clarified to reflect new guidance from the BAAQMD.

# Chapter 6

## Responses to Comments Received at the Public Hearing on the DEIR

---

### 6.1 INTRODUCTION

---

The Planning Commission held a Public Hearing on the Draft Environmental Impact Report (DEIR) on September 15, 2010. This chapter presents a summary of the comments made at the Public Hearing, followed by the responses to each speaker's comments. As in Section 5, responses presented in this section generally focus on comments that pertain to the adequacy of the analysis in the DEIR or other aspects pertinent to the environmental analysis of the proposed project pursuant to the California Environmental Quality Act (CEQA). Comments that address topics beyond the purview of the DEIR or CEQA are noted, as such, for the public record and may be taken into consideration by the Planning Commission and the City Council prior to acting on the EIR or the Housing Element.

---

### 6.2 RESPONSES TO COMMENTS

---

The discussion that follows generally focuses on the portion of the Public Hearing that is relevant to the DEIR. Comments outside the purview of the DEIR are included for informational purposes only. Comments from the public and the City's responses to those comments appear first in this chapter; and comments from the Planning Commissioners and the City's responses appear at the end of the chapter.

Introductory comment from Eric Angstadt, Deputy Director of CEDA:

The City's intention with the Housing Element EIR is to clear as many of those impacts in advance that were identified as significant and unavoidable. The Bay Area Air Quality Management District (BAAQMD) has one and two mile recommended buffers around odor producers, but knows of no way to mitigate against those odors. It puts the City in an untenable position, in the EIR, of saying that the entire City is within one of the buffers for odor emitters. We believe this is one step in trying to combat that direction from the BAAQMD, and keep our policy of density through infill housing along transit corridors.

---

#### Public Comments and Responses

---

##### Jenny Wyant (Habitat for Humanity—East Bay)

- Is concerned with the limited income of certain demographics within the City and the relatively high cost of housing.
- Thanks the City for choosing Opportunity Sites that allow for more affordable housing.
- Appreciates the City's ongoing commitment to providing affordable housing.

**Response.** The commentor generally expresses concerns about providing housing for low-income residents. This is not a comment on the adequacy of the Draft EIR or the project's compliance with CEQA.

**Kathleen Quan (Habitat for Humanity—East Bay)**

- Urges Oakland to adopt the *2007-2014 Housing Element* as quickly as possible so that state funds can be administered for the 9507 Edes Avenue affordable housing development.
- Has applied for \$1.5 million in state funds through the following programs: CalHome, California Self-Help Housing Program (CSHHP), and the Building Equity and Growth in Neighborhoods Program (BEGIN).

**Response.** The commentor generally expresses support for the timely adoption of the *2007-2014 Housing Element*. This is not a comment on the adequacy of the Draft EIR or the project's compliance with CEQA.

**Cindy Heavens (Satellite Housing)**

- Is an advocate for the frail and elderly population.
- Average income of the population that she represents is approximately eleven thousand dollars per year.
- It is important that the Housing Element is adopted so that critical state housing funds can be accessed.
- Emphasizes that providing affordable housing is an integral part of creating a sound community and economy.
- Thanks the Commission for its support.

**Response.** The commentor generally expresses support for the timely adoption of the *2007-2014 Housing Element*. This is not a comment on the adequacy of the Draft EIR or the project's compliance with CEQA.

**Ener Chiu (resident, East Bay Asian Local Development Corporation)**

- Reiterates the sentiments of the previous speakers.
- Would like to clarify that once the Housing Element and its respective FEIR are adopted, individual housing projects will be able to bypass the EIR process for impacts that have already been determined as significant and unavoidable.
- How will the permitting and documentation process be implemented at the staff level?

**Response:** See Response to Comment B-1.2 in Section 5 for a discussion of use of the Housing Element EIR to provide future CEQA clearance for individual housing projects. The permitting and documentation process will be implemented by the City of Oakland Community and Economic Development Agency, Planning Division, in accordance with its standard policies and practices.

**Shawn Rowland (East Bay Housing Organizations)**

- In support of the Housing Element Update.
- Encourages staff to move forward as quickly as possible.

**Response.** The commentor generally expresses support for the timely adoption of the *2007-2014 Housing Element*. This is not a comment on the adequacy of the Draft EIR or the project's compliance with CEQA.

**Alexandra Davidson (Greenbelt Alliance)**

- Recognizes the Housing Element as the blueprint for building homes.
- Affordable housing is only ten percent of what it was two years ago.
- Emphasizes the need for more affordable housing and the key role the Housing Element plays in providing that.
- Encourages infill development to protect open space and reduce greenhouse gas emissions.

**Response.** The commentor generally expresses support for the development of affordable housing and for infill development. This is not a comment on the adequacy of the Draft EIR or the project's compliance with CEQA.

**James Vann (Oakland's Tenant's Union)**

- Concerned that developers are suffering penalties because the updated Housing Element is already overdue.
- Emphasizes the mismatch between what residents can afford based on their AMI and what the Housing Element will provide in terms of affordable housing.
- Appreciates sections of the Housing Element that streamline the development process.
- Would like to compliment the staff for their work on the Housing Element.

**Response.** The commentor generally expresses support for the timely adoption of the *2007-2014 Housing Element*. This is not a comment on the adequacy of the Draft EIR or the project's compliance with CEQA.

**Sanjiv Handa (East Bay News Service)**

- Important to note that when the issues with the Port of Oakland first came up at the BAAQMD a few years ago, that the Port took a stance similar to that of Deputy Director Angstadt—that there are unique circumstances in Oakland.
- The BAAQMD and CARB responded by presenting, a year later, a letter to the Port Commission threatening to shut down Port operations unless emissions of criteria pollutants was addressed by January 1, 2010.

- The Port Commission responded by holding a confidential meeting from which five million dollars was released for the Clean Truck Program.
- There are many Air Quality issues in Oakland which are not identified in the Housing Element EIR.
- Ambulances idle for one to one and a half hours, in direct violation of California law restricting the idling of diesel engines to no more than five minutes within 100 feet of residential structures.
- In order to power onboard equipment police officers leave vehicles running for the entirety of patrol shifts.
- AC Transit drivers idle their busses during their breaks.
- Infill housing is desirable, but the speaker does not feel that the proper steps are being taken to ensure that the appropriate levels of infrastructure and enforcement are present to support such development.
- Cites example of unregulated double parking in front of high density housing units.
- Speculates that there are at least two groups contemplating litigation regarding the *2007-2014 Housing Element*.

**Response:**

*Air Quality.* The commenter appears to address the adequacy of the air quality analysis presented in the EIR, particularly, regarding the possible negative effects of diesel emissions.

DEIR, Section 3.3, Air Quality analyzes criteria air pollutants, toxic air contaminants (TACs), and odors. The analysis presented in the DEIR uses plan-level and some project-level BAAQMD CEQA Thresholds and Guidelines to determine the project effects with respect to air quality impacts. The City of Oakland has five Standard Conditions of Approval (SCA) regarding air quality impacts that are uniformly applied to all development projects, they are:

- SCA-26: Construction-Related Air Pollution Controls (Dust and Equipment Emissions)
- SCA-41: Asbestos Removal in Structures
- SCA-94: Exposure to Air Pollution (Toxic Air Contaminants: Particulate Matter)
- SCA-95: Exposure to Air Pollution (Toxic Air Contaminants: Gaseous Emissions)
- SCA-25: Parking and Transportation Demand Management

The applicable BAAQMD CEQA Thresholds for plan-level impacts are as follows. As project would have a significant impact with respect to air quality if it:

1. Fundamentally conflicts with the currently adopted Bay Area Clean Air Plan (CAP).
2. Does not identify special overlay zones around existing and planned sources of TACs and PM; and does not contain special overlay zones measured 500 feet from freeway and high-volume roadways containing 100,000 or more average daily vehicle trips; or does not identify goals,

policies, and objectives to minimize potential impacts and create overlay zones around sources of TAC's, PM, and hazards.

3. Does not identify the location, and include policies to reduce impacts of existing and planned sources of odors.

Project-level impact thresholds are not required under CEQA given that the *2007-2014 Housing Element* is a planning document. However, project-level significance standards for exposure to TACs and operational emissions of carbon monoxide (CO) are discussed on Pages 3.3-21 and 3.3-22 of the DEIR for informational purposes.

The environmental analysis of air quality impacts on Pages 3.3-23 through 3.3-49 of the DEIR considers plan-level impacts, project-level impacts, and cumulative impacts. Each potential impact associated with the proposed project is analyzed and a level of significance is determined and reported.

Potential health risks associated with exposure to particulate TAC's are analyzed under impacts AQ-2a, AQ-4a, and AQ-9. However, compliance with the City's SCA's, specifically SCA-94 (Indoor Air Quality), would reduce impacts to a less-than-significant level.

Potential health risks associated with exposure to gaseous TAC's are analyzed under impacts AQ-2b, AQ-4b, and AQ-9. Impacts related to gaseous TAC's cannot be mitigated by the City's SCA's and therefore would have the potential for significant and unavoidable health effects.

The effects of the proposed project from criteria air pollutants are discussed in impacts AQ-1 and the impact from increased traffic volumes on levels of CO are analyzed in impacts AQ-6 and AQ-8. The population growth for the plan area would not exceed the value given in the current Air Quality Plan (AQP) and therefore would have a less-than-significant impact on criteria air pollutants. Additionally, in a build-out scenario, increased traffic volumes would not result in CO concentrations greater than the applicable ambient air quality standards.

Exposure to odor nuisance is analyzed under impacts AQ-3, AQ-5, and AQ-10. Given that there is virtually no location within the City of Oakland that is outside of an odor-buffer area the City conservatively assumes that this may result in a significant and unavoidable impact.

The DEIR adequately addresses air quality impacts related to implementation of *2007-2014 Housing Element*. Project-specific air quality impacts for future development projects would be evaluated on a project-by-project basis.

*Idling Vehicles.* The commenter observes that ambulances, police patrol cars and AC Transit vehicles idle for lengths of time exceeding five minutes in direct violation of state law. California Administrative Code Title 13 Section 2485 prohibits idling of diesel-fueled commercial vehicles with gross vehicular weight ratings of greater than 10,000 pounds for more than five minutes, in any location. Title 13, Section 2485 Subsection (d) lists exceptions to the regulation including authorized emergency vehicles ((d)(J)), and commercial buses idling for up to 10 minutes prior to passenger boarding, or when passengers are onboard ((d)(A)(1) or (2)). Police patrol vehicles do not utilize diesel engines and therefore are not subject to the regulation cited above. Further, the impacts from Diesel Particulate Matter

(DPMs) were discussed on Pages 3.3-25 and 3.3-26 of the DEIR and were found to be less than significant.

*Infill Development and Parking Enforcement.* The commenter addresses the provision of adequate parking accommodations and enforcement in relation to the increases in housing density projected by the *2007-2014 Housing Element*. Although the State Court of Appeal has held that parking need not be considered a significant environmental impact under CEQA unless it would cause significant secondary effects, a discussion of parking impacts has been included for informational purposes in Section 3.2 of the DEIR. Estimates of the total parking demand for build out of the *2007-2014 Housing Element* are provided in Table 3.2-14 of the DEIR, although actual parking supply would be considered on a case-by-case basis. In order to balance parking supply and demand for individual development projects SCA-25 would be applied. SCA-25 (Parking and Transportation Demand Management) contains strategies for encouraging the use of alternative modes of transportation and reducing on-site parking, which upholds the City's "Transit First" policy.

## **Planning Commission Comments and Responses**

---

### **Commissioner Zayas-Mart**

- Does the construction of secondary housing units fulfill the city's Regional Housing Needs Allocation (RHNA) requirement?

**Response.** *Eric Angstadt, Deputy Director, Community and Economic Development Agency.* Secondary units are generally granted State exemptions from local regulation and they are not part of the RHNA strategy, nor would such units apply to the RHNA requirement. Opportunity sites have strict density requirements, in this case greater than or equal to 30 units per acre. Oakland's General Plan allows for easy satisfaction of housing requirements set forth by ABAG, yet still allows the construction of secondary units and regulates them as much as the State allows.

### **Commissioner Gibbs**

- What are Mullin Densities?

**Response.** *Devan Reiff, Planner, Community and Economic Development Agency.* The 'Mullin Density' refers to a state law from 2005, which amended Housing Element law, that said that any sites for housing included in a Housing Element had to be zoned for at least 30 units per acre (in an urban jurisdiction such as Oakland).

### **Commissioner Truong**

- Concerned that the Housing Element does not fully consider the public health impacts of Toxic Air Contaminants.
- Is the regulation of indoor air quality part of building requirements?
- Do indoor air quality regulations apply to single family homes?

**Response.** *Eric Angstadt, Deputy Director, Community and Economic Development Agency.* The City does not downplay the significant aspects of air quality that affect public health. The Air Board is mainly concerned with a single variable--air quality, and being away from things that promote the reduction of greenhouse gases and efficient infill development, those policies do make people safer. The City of Oakland has worked hard to create SCAs that make indoor air quality as safe as possible, although, we are always working toward reduction of those toxic site emitters. But as long as there are cars on freeways, there will be some degradation of air quality. In the buildout of Oakland, most of the major transit corridors (where future housing would be built) also closely parallel the major transportation routes (such as freeways). We continue to work on reduction of single vehicle trips through (promoting) infill development, which will have some benefit on air quality. We are aware of the air quality concerns, and are addressing them through the City's standard conditions.

We believe we have put all appropriate methods of improving indoor air quality in our Standard Conditions, which are uniformly applied across all development. Indoor air quality issues are generally addressed through regulations on HVAC systems, to help filter out the particulate matter, and the contaminants that can be filtered out. The City's SCAs are uniformly applied to all development projects, including single-family homes, to ensure that indoor air quality is as safe as possible.

### **Commissioner Zayas-Mart**

- Proud of the City for its approach and commitment to affordable housing, and other types of housing. Thanks planning staff for its effort, and the people attending tonight's hearing on behalf of the Housing Element.
- The issue of appropriate infrastructure development needs to be addressed at the federal level.
- Infrastructure issues should not stop the city from promoting sound housing policies and development. Hopes that in the future, the City will overcome difficult financial issues.
- How are the RHNA percentages decided upon and allocated to the city?
- Does Oakland participate in the discussions (with ABAG) about how to balance regional housing need? Oakland tends to have a higher level of lower-income housing than other cities, and some neighboring cities do not like to build affordable housing.
- Is the 80-120% of AMI category in the RHNA considered "workforce housing"?
- Wants to understand how the Oakland RHNA (in Section 2.5 of the Draft EIR) corresponds to what we consider "affordable housing".

**Response.** *Eric Angstadt, Deputy Director, Community and Economic Development Agency.* RHNA percentages are determined and allocated by ABAG. The City of Oakland has no control over the numbers of units of housing, or the percentage breakdown between affordable units in the RHNA. Those are presented to us by ABAG as the basis by which the City has to show it can accommodate that housing. The City of Oakland sends representatives to ABAG board, and we work closely with staff, but ultimately the RHNA is decided by ABAG and its board. (Responding to the question about "workforce housing"): Different people characterize RHNA percentages, differently. ABAG does the percentage of [Area Mean Income] AMI calculations, and doesn't try and put any labels on it (RHNA percentage

categories) beyond that. They do their allocation, based on their regional determinations, and then send it out to the cities.

### **Commissioner Truong**

- Oakland is not meeting its affordable housing needs.
- Housing is targeted at families who make twice as much as the median household in Oakland, therefore residents cannot afford housing which is being built.
- During the housing boom of the previous period, the City overbuilt market rate housing; need more working family housing. Would like to see that addressed in the Housing Element, how we can address building more working family housing.
- Encourages building density along public transportation corridors, and support the use of public transit, to improve air quality.
- Cognizant of the significant and unavoidable impacts related to air quality and encourages the city and the regional air quality control board to continue working on mitigation strategies.
- By looking at the overlap in buffer zones for TAC's, can now visually understand why one in five children in West Oakland have asthma.

**Response.** These comments pertain to non-CEQA issues, they will be considered in the adoption of the Housing Element.

### **Commissioner Boxer**

- This Commission will continue discussing affordable housing, as well as the City Council.
- Housing is more affordable now than it has been in the recent past because of the sharp decline in market value.
- Use public funds to acquire single family homes that are now approximately twenty-five percent less than they were four years ago.
- Use deed restrictions on the acquired homes to secure them as affordable housing units. Apply for more Federal funds to buy more homes during this historic opportunity.
- Thanks to the stakeholders for pushing the City in the right direction.

**Response.** *Eric Angstadt, Deputy Director, Community and Economic Development Agency.* The City is already in the process of acquiring single family homes and applying deed restrictions to them.

**THIS PAGE INTENTIONALLY LEFT BLANK**