

4.5 HAZARDS & HAZARDOUS MATERIALS

4.5.1 Introduction

This section of the EIR discusses any potential hazards that currently exist in the area surrounding the Project Site, or that could exist as a result of the Proposed Project. Information about existing conditions was derived from site visits, a Phase I Environmental Site Assessment (ESA) prepared for the Project Site (Appendix E), and a review of the City of San Bernardino General Plan.

4.5.2 Environmental Setting

The 17.37-acre Project Site is located in the northeastern section of the City of San Bernardino within southwestern San Bernardino County. Specifically the Project Site is located on the south side of Highland Avenue, on the west side of Arden Avenue, and on the north side of 20th Street. The Project Site was previously developed with residential apartment buildings, totaling 296 units in the 1960's, however the buildings were demolished in 2007 and the site remains mostly vacant.

There are two schools that occur within ¼-mile of the Project Site, both within the San Bernardino Unified School District. Emmerton Elementary School is located directly south of the Project Site (across 20th Street), and provides educational services from Kindergarten through 3rd Grade. Colonel Joseph C. Rodriguez Prep Academy School, located at 1985 North Guthrie Street, immediately southwest of the Project Site, provides educational services to students from 4th through 8th grade.

4.5.3 Applicable Policies, Plans, and Regulations

Federal

The management of hazardous materials and hazardous wastes in the City of San Bernardino, as they relate to public safety and environmental protection, occurs within the context of a complex interaction of federal, State, and local requirements. The primary federal agencies with responsibility for hazardous materials management include the U.S. Environmental Protection Agency (EPA), U.S. Department of Labor Occupational Safety and Health Administration (OSHA), and the U.S. Department of Transportation (DOT). Federal laws governing the transport, storage, and use of hazardous materials at the proposed CUP include the following:

- Resources Conservation and Recovery Act (RCRA) - hazardous waste management;
- Hazardous and Solid Waste Amendments Act (HSWA) - hazardous waste management;
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) - cleanup of contamination;
- Superfund Amendments and Reauthorization Act (SARA) - cleanup of contamination;

- Emergency Planning and Community Right-to-Know (SARA Title III) – business inventories and emergency response planning;
- Toxic Substances Control Act (TSCA) – tracks and screens industrial chemicals; and
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) – controls pesticide distribution, sale, and use.

Specific requirements for implementation of these statutes are codified in Title 40 of the Code of Federal Regulations (CFR). Additional regulations that apply to workplace safety and transportation of hazardous materials are contained in CFR Titles 29 and 49, respectively

State

The California Environmental Protection Agency (Cal/EPA) has established regulations governing the use of hazardous materials in the State. Within Cal/EPA, the Department of Toxic Substance Control (DTSC) has primary hazardous materials regulatory responsibility, but can delegate enforcement responsibilities to local jurisdictions that enter into agreements with DTSC, for the generation, transport, and disposal of hazardous materials under the authority of the Hazardous Waste Control Law (HWCL). State regulations applicable to hazardous materials are contained primarily in Title 22 of the California Code of Regulations (CCR). Title 26 of the CCR is a compilation of those chapters or titles of the CCR that are applicable to hazardous materials management.

Also within the “umbrella” of Cal/EPA, the California Integrated Waste Management Board (IWMB) is responsible for protecting the public's health and safety and the environment through management of the solid waste generated in California. Solid waste regulations are generally enforced through local enforcement agencies (usually county agencies). The IWMB works in partnership with local government, industry, and the public to reduce waste disposal and ensure environmentally safe landfills. Solid waste management provisions are outlined in the Public Resources Code, Division 30.

The California Highway Patrol (CHP) and the California Department of Transportation (Caltrans) are the enforcement agencies for hazardous materials transportation regulations. The California Department of Industrial Relations, Division of Occupational Safety and Health Administration (Cal/OSHA) assumes primary responsibility for developing and enforcing work place safety regulations within the State. Cal/OSHA standards are more stringent than federal OSHA regulations, and are presented in Title 8 of the CCR.

The California Office of Emergency Services (Cal/OES) is the state office responsible for establishing emergency response and spill notification plans related to hazardous materials accidents. In addition, Cal/OES regulates businesses by requiring specific businesses to prepare an inventory of hazardous materials, and to prepare risk management plans through the California Accidental Release Prevention Program (Title 19 of the CCR).

The State Water Resources Control Board (SWRCB) and the Regional Water Quality Control Boards (RWQCB) regulate surface and groundwater quality according to the provisions of State

and federal legislation including the Porter-Cologne Water Quality Act, the Toxic Pits Cleanup Act, Underground Tank Law, and Clean Water Act. The Proposed Project petroleum-related activities and underground storage tanks are located within the jurisdiction of the Santa Ana RWQCB (Region 8).

California Accidental Release Prevention (CalARP) Program: The purpose of the CalARP program (CCR Title 19, Division 2, Chapter 4.5) is to prevent the accidental release of regulated substances. CalARP covers certain businesses that store or handle more than a certain volume of specific regulated substances at their facilities. The list of regulated substances is found in Section 2770.5 of the CalARP regulations. The businesses that use a regulated substance above the noted threshold quantity must implement an accidental release prevention program, and some may be required to complete a Risk Management Plan (RMP). RMPs are a detailed engineering analysis of the potential accident factors present at a business and the mitigation measures that can be implemented to reduce this accident potential. The purpose of an RMP is to decrease the risk of an off-site release of a regulated substance that might harm the surrounding environment and community. An RMP includes the following components: safety information, hazard review, operating procedures, training, maintenance, compliance audits, and incident investigation. The RMP must consider the proximity to sensitive populations located in schools, residential areas, general acute care hospitals, long-term health care facilities, and child day-care facilities, and must also consider external events such as seismic activity. CalARP regulations became effective on January 1, 1997, and include the provisions of the federal Accidental Release Prevention program (Title 40, CFR Part 68) with certain additions specific to the State pursuant to Article 2, Chapter 6.95, of the Health and Safety Code. Although Cal/OES is responsible for implementing the provisions of the CalARP program, in most cases, local governments would have the lead role for working directly with business in this program. Local government implementing agencies will be represented by the CUPA.

Local

Certified Unified Program Agency (CUPA): In 1994, SB 1082 was enacted in a State-wide effort to consolidate the six hazardous materials related programs. These programs are as follows: Business Emergency Plan/Hazardous Materials Handler, Hazardous Waste Generators, Underground Storage Tanks, California Accidental Release Prevention Plans, Aboveground Storage Tanks, and Uniform Fire Code Hazardous Materials Management Plans. The result of this effort evolved into what is now called the CUPA program. The intent was to streamline and provide coordination, consistency and consolidation of the six programs so that a businesses would have one permit, one fee, and one inspection. The County of San Bernardino Fire Department, Hazardous Materials Management Division (HMMD) is the CUPA for the City of San Bernardino responsible for regulating hazardous materials business plans and chemical inventory, hazardous waste and tiered permitting, underground storage tanks, and risk management plans.

City of San Bernardino General Plan

The City of San Bernardino General Plan identifies that the regulatory responsibility of hazardous waste in the City of San Bernardino belongs primarily to the San Bernardino County

Department of Environmental Health. Hazardous waste falls into four general categories of materials that have some distinct characteristics in the types of danger they present. These include materials that are:

- toxic
- explosive
- reactive
- corrosive

The City's goals and policies for hazardous materials and uses are designed to ensure the protection of the public health, safety, and welfare, and environmental resources in the City. Planning practices emphasize waste reduction, recycling, proper management of hazardous materials, siting of facilities, and effective emergency response.

Goal 10.1 Protect the environment, public health, safety, and welfare from hazardous wastes.

Policies:

10.1.1 Employ effective emergency preparedness and emergency response strategies to minimize the impacts from hazardous materials emergencies, such as spills or contamination.

10.1.2 Ensure the protection of surface and groundwater quality, land resources, air quality, and environmentally sensitive areas through safe transportation of waste through the City and comprehensive planning of hazardous materials, wastes, and sites.

10.1.3 Execute long-range planning programs to protect resources and the public from the potential impacts that could be created by the use, storage, transport, and disposal of hazardous waste and materials.

4.5.4 Project Impact Analysis and Mitigation Measures

4.5.4.1 Thresholds of Significance

The Initial Study Checklist for the Proposed Project was utilized to identify the primary thresholds of significance relating to CEQA issues. As such, the Proposed Project would have a significant effect on Public Health and Safety if it would:

- Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.
- Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.
- Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

- Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment.
- For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area.
- Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.
- Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

4.5.4.2 Issues Identified to Have No Impact

The Initial Study Checklist for the Proposed Project that was circulated with a Notice of Preparation (NOP) identified the following threshold areas where no impacts would occur as a result of the Proposed Project. No additional information was received during the NOP review period to change the conclusions of the Initial Study.

Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

The Proposed Project may alter or impair traffic circulation surrounding the Project Site. The California Emergency Services Act requires cities to manage and coordinate emergency and recovery activities within its jurisdictional boundaries. The City of San Bernardino's Emergency Operations Plan includes policies and procedures that are to be administered, in coordination with the County of San Bernardino, in the event of a disaster. The Proposed Project would not impair implementation of, or physically interfere with the City's emergency response and/or evacuation plan; therefore, no impact would occur

Expose people or structures to a significant risk of loss, injury, or death involving wildland fires; including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

The Project Site does not occur in a wildland fire hazard area as shown on Figure S-9 in the City's General Plan. The Site and surrounding area are urbanized and not near forested or grassland areas; therefore, no impacts related to wildland fires would occur.

For a project located within an airport land use plan or, where such a plan has not been adopted within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area.

The Project Site is not located within an airport land use plan or within two miles of a public airport or public use airport. The nearest airport to the Project Site is the San Bernardino

International Airport located at 294 South Leland Norton Way, in San Bernardino, approximately 2.02 miles to the south. The Proposed Project would not result in an airport safety hazard for people residing or working in the project area. No impacts would result.

4.5.4.3 Issues Determined to Have a Less Than Significant Impact

Be located on a site which is included on a list of hazardous material sites compiled pursuant to Government Code §65962.5 and, as a result, would it create a significant hazard to the public or environment.

A Phase I Environmental Site Assessment was performed on the subject property by Stechmann Geoscience, Inc., in March of 2011 According to the Phase I Environmental Site Assessment; the Project Site was not listed in any of the databases for hazardous sites searched. Therefore, less than significant impacts are anticipated.

4.5.4.4 Issues Determined to Have Potentially Significant Impacts

The Initial Study Checklist for the Proposed Project that was circulated with a Notice of Preparation (NOP) identified the following thresholds areas where impacts associated with the Proposed Project could potentially be significant thereby warranting additional analysis in the Draft EIR. For each issue, the potential impact is provided in a numbered impact statement, followed by analysis, and mitigation measures if the impact is determined to remain significant after the analysis.

Impact HM-1:

The Proposed Project could create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous material.

Impact: Potentially Significant

The majority of the retail/commercial uses proposed on-site have a negligible potential to create a significant hazard to the public or the environment due to the use of hazardous materials. However, minor commercial uses on-site may include a self-serve gas station which would result in the transportation and distribution of potentially hazardous petroleum fuel and related products. Association with this use is the transport, storage, use, and handling of all hazardous or potentially hazardous materials. Storage and use of petroleum products on-site are regulated by various governmental agencies within the State of California which require appropriate permits and monitoring and reporting to a number of agencies including:

City of San Bernardino

- City of San Bernardino – Fire Prevention Information/Inspection – all businesses are inspected annually to ensure conformance with the Uniform Fire Code.
- City of San Bernardino – Wastewater Discharge Permit – may be required if a commercial/industrial facility discharges waste into the sewer;

- City of San Bernardino – permit for underground storage tank;

County of San Bernardino

- San Bernardino County Fire Department – approval of a Business Emergency/Contingency Plan;
- San Bernardino County Department of Environmental Health Services – Environmental Protection Agency hazardous waste generator/handler permit; and
- South Coast Air Quality Management District (SCAQMD) – permits to construct/operate an auto fueling station, including underground storage tanks.

State of California

- State of California – an Air Tank Permit is required for businesses using any or all of the following: 1) pressurized tanks with a volume greater than 1.5 cubic feet and containing greater than 150 PSI (pounds per square inch) of air; 2) Steam boilers over 15 PSI; and/or 3) retail stationary propane tanks.
- State of California – an EPA Identification Number is required for all businesses that generate, surrender to be transported, transport, treat, or dispose of hazardous waste.
- State of California – Registration with the Board of Equalization (BOE) is required for all hazardous materials stored within an underground storage tank. Appropriate fees are collected at the time of registration.
- State of California Water Resources Control Board, Underground Storage Tank Program (UST) – State of California Water Resources Control Board regulates and permits all underground storage tanks to protect public health and safety and the environment from releases of petroleum and other hazardous substances from tanks. There are four program elements including Leak Prevention, Cleanup, Enforcement, and Tank Tester Licensing.
- Waste Discharge Requirements (WDR's): Any facility or activity that discharges, or proposes to discharge waste that may affect groundwater quality or from which waste may be discharged in a diffused manner (e.g., erosion from soil disturbance) must first obtain waste discharge requirements from the Regional Water Quality Control Board.

Plans and fees for the above applicable permits must be submitted, approved and issued by the respective agencies prior to the City issuing a Certificate of Occupancy. In addition, all new automobile fueling stations, and related equipment must be constructed to the following standards:

- All tanks, piping and vent/vapor piping must be double-walled and contain leak detection capability;
- All piping and venting must be sloped back to the storage tank sumps to prevent discharge;

- Each pump island must have a containment pan underneath them to prevent spilled fuel from escaping;
- All secondary containment systems are required to be tested;
- Best Available Containment Technology is a minimum requirement of the State Water Resources Control Board (as fueling stations age, they must be periodically updated to meet current requirements); and
- All equipment associated with underground storage tanks must be tested and approved by a third party laboratory and meet all state and local requirements.

Mitigation Measures

To ensure the provision of the highest level of protection to the health and safety of City of San Bernardino residents and the environment, the following mitigation measures shall be implemented for businesses as applicable.

Mitigation Measure HM-1:

Prior to issuance of occupancy permits for businesses that would use, store, or transport hazardous materials, the Project Applicant shall submit detailed building plans showing where storage areas would be located and where use would occur, to City and County agencies responsible for oversight and permitting such businesses. In conjunction with building plans the applicant shall propose a Business Plan Emergency Response Plan to be approved prior to occupancy.

Mitigation Measure HM-2:

All proposed tenant improvements or change of business/occupancy applications shall require the submittal of detailed site plans indicating the location of hazardous material storage areas. The Project Applicant shall concurrently submit a Business Plan Emergency Response Plan to be approved prior to occupancy.

Level of Significance After Mitigation

Implementation of Mitigation Measures HM-1 and HM-2 would reduce potentially significant impacts to a less than significant level.

Impact HM-2:

The transportation of gasoline to the Project Site could create a potentially significant hazard to the public or the environment through an upset and/or accident conditions involving the release of hazardous materials into the environment.

Impact: Potentially Significant Impact

The transportation and delivery of gasoline and diesel fuel is highly regulated by the United States Department of Transportation, California Department of Transportation, SCAQMD, and compliance with California Fire Code, Title 24, Part 9, Chapter 22 (locally codified through the Uniform Fire Code) which specifies the rules and regulations for motor fuel dispensing facilities and regulates the operational requirements necessary for both bulk fuel delivery to the gas station and fuel delivery to the individual vehicles. Adherence to the required federal, State, and local regulations would ensure that significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials would be reduced to a less than significant level

Mitigation: No Mitigation Required

Impact HM-3:

Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 miles of an existing or proposed school.

There are two schools that occur within ¼-mile of the Project Site, both within the San Bernardino Unified School District. Emmerton Elementary School is located directly south of the Project Site (across 20th Street), provides educational services from Kindergarten through 3rd Grade. Colonel Joseph C. Rodriguez Prep Academy School, located at 1985 North Guthrie Street, immediately southwest of the Project Site, provides educational services to students from 4th through 8th grade.

The proposed retail center may include the construction and operation of an automobile fueling station. The proposed sale of gasoline could expose employees, patrons and the schools to vapors containing benzene, a known carcinogen. Control of vapors associated with fueling stations is accomplished by state of the art pumps and nozzles. The station operator would be required to comply with all SCAQMD rules and regulations for operation of an automotive fueling station. These SCAQMD rules and regulations for example, require the use of Phase I vapor recovery systems for the distribution of fuel from a tanker truck to stationary storage tanks and Phase II vapor recovery systems for the collection of vapors from the stationary storage tanks to the automobile fuel tanks. These Phase I and Phase II recovery system prevents hydrocarbons and benzene from escaping into the atmosphere by creating a seal between the dispensing hose and the storage tank and capturing/recirculating into the storage tank any vapors generated as a result of the fueling or dispensing process. These systems would be in place and tested prior to Certificate of Occupancy and commencement of operation of the fuel dispensing systems.

Compliance with applicable State and SCAQMD rules and regulations would reduce the potential release of, or exposure to hazardous emissions to a less than significant level.

Mitigation: No Mitigation Required